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ORDINANCE NO. 160937

An ordinance of the City of Gainesville, Florida, amending and creating new sections within Chapter 28, Article II of the Code of Ordinances relating to Non-Motorized Vehicles for Hire; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held by the City Commission of the City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Article II of Chapter 28 of the City Code of Ordinances is amended in its entirety to read as follows:

ARTICLE II. - NON-MOTORIZED VEHICLES

~~**DIVISION 1. - GENERALLY**~~

Sec. 28-30. - Definitions.

The definitions in ~~article I, section 28-2~~ 28-1, and any subsequent amendment thereto are hereby made applicable, in whole or in part, where appropriate apply to this article.

In addition, ~~the~~ following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Non-motorized vehicle means any vehicle propelled by human power which is used for transporting passengers if the driver receives direct or indirect compensation for providing such transportation and includes any vehicle to which a medallion has been issued pursuant to this chapter.

29 *Street* means any public street, avenue, road, alley, lane, highway, public park, sidewalk, or
30 other public place located in the City of Gainesville, except as prohibited in this article.

31 **Sec. 28-31. - Establishment of prohibited streets.**

32 The ~~vehicles for hire~~ VFH administrator shall establish a list of streets upon which travel by
33 non-motorized vehicles for hire is prohibited. Such list shall be provided to each driver along
34 with the driver's authorization permit. Should changes be made to the list at any time, a corrected
35 copy of the list will be furnished to each driver by registered mail. Enforcement of any newly
36 added prohibited streets will not be effective until ten business days after the new list has been
37 mailed.

38 **~~DIVISION 2. - VEHICLE REGULATIONS~~**

39 **Sec. 28-32 - Company license. ~~Non-motorized vehicle medallion.~~**

40 ~~(a) It shall be a violation for any person to operate any non-motorized vehicle upon any street~~
41 ~~within the City of Gainesville unless the owner of that non-motorized vehicle has first~~
42 ~~obtained a non-motorized vehicle medallion issued by the vehicles for hire administrator.~~

43 ~~(b) Such medallion shall, at all times during the period for which it is valid, be securely attached~~
44 ~~to a conspicuous place on the left rear portion of the non-motorized vehicle for which it is~~
45 ~~issued.~~

46 ~~(c) — Each medallion shall be valid for two years from the beginning of the month issued,~~
47 ~~unless sooner revoked as provided in this article. A fee shall be paid in advance for each~~
48 ~~medallion. The fee shall be as set forth in Appendix A of this Code of Ordinances and shall~~
49 ~~reasonably represent the costs, work, time, and process necessary to perform such administrative~~
50 ~~task.~~

51 It shall be unlawful for any company to provide VFH service in the city without obtaining
52 an annual license issued by the VFH administrator. A company shall pay the annual license fee
53 set forth in Appendix A at the time of application for the license and thereafter each year. A
54 company license is valid for one year from the date of issue and is non-transferable.

55 **Sec. 28-33 - Application for company license. ~~Liability insurance.~~**

56 ~~The owner of each medallion shall maintain a liability and property damage insurance policy~~
57 ~~insuring the non-motorized vehicle, in the amount of \$500,000.00 combined single limit for each~~
58 ~~accident, or bodily injury, death, and/or property damage written by a company authorized to~~
59 ~~transact business in the State of Florida and be rated A VII or higher by A.M. Best. Such policy~~
60 ~~indicating the liability amounts and the policy period must be provided to the vehicles for hire~~
61 ~~administrator prior to issuance or renewal of any permit. Each separate part of the non-motorized~~
62 ~~vehicle shall have a serial number affixed thereto and shall be listed on the insurance certificate.~~
63 ~~All such policies shall be kept in full force and effect at all times while any non-motorized~~

64 ~~vehicle is operated within the city, and must cover a minimum period of 12 months. Proof of~~
65 ~~such insurance must be maintained within the vehicle at all times when operated within the City~~
66 ~~of Gainesville.~~

67 (a) Application for the issuance or renewal of a company license shall be made in writing to
68 the VFH administrator on a form provided by the VFH administrator and signed and sworn to by
69 the owner or by its authorized agent. Each application for issuance or renewal of a company
70 license shall include:

71 (1) Proof of the insurance coverage required in section 28-35, if provided by the
72 company.

73 (2) Information on the third party provider responsible for completion of driver
74 background checks as required in section 28-38.

75 (3) If the applicant is a natural person: the applicant's full name, social security number,
76 residence address, business address, business e-mail address, business telephone number
77 and proof that the applicant is at least 18 years of age.

78 (4) If the applicant is a legal entity: the entity name, business address, business email
79 address and business telephone number; the date and state of formation; proof of active
80 status with the Florida Division of Corporations authorizing it to do business under the
81 laws of the State of Florida; and the full names, titles, residence addresses, personal e-
82 mail addresses and personal telephone numbers of its officers, partners or members.

83 (5) The name, mailing, physical and email addresses and telephone number of a natural
84 person(s) located within the State of Florida that the company has authorized to be its
85 agent and a point of contact for the city with regards to:

86 a. Filing applications and paying rates and charges on behalf of the company; and

87 b. Receiving and accepting all legal process, correspondence and notices from the
88 city pertaining to the company, or drivers operating for the company.

89 (6) A copy of the company adopted policy of non-discrimination in service and rates on
90 the basis of destination, race, color, national origin, religion, disability, gender, gender
91 identity, or sexual orientation with respect to passengers and potential passengers.

92 (7) Such other information as may be reasonably required by the VFH Administrator for
93 purposes of administration and enforcement of this article.

94 (b) If the applicant knowingly provides false statements of material facts or information on
95 the license application, in addition to any criminal charges, the applicant will automatically be
96 denied the company license and will be ineligible for a company license for a period of five

97 years. If the company license has been issued prior to the discovery of the false statements or
98 information, the company license shall be revoked and the company will be ineligible for a
99 company license for a period of five years.

100 (c) As a condition of maintaining its company license, each company:

101 (1) Shall keep accurate records of the company VFH operations for a minimum of the
102 past three years. Such records shall be submitted or made available for inspection or audit
103 as required in section 28-42.

104 (2) Shall notify the VFH administrator in writing within 15 days of any change to the
105 information provided in the license application.

106 (3) Shall not employ or contract with any driver who does not have a valid driver
107 authorization issued by the company.

108 (4) Shall provide each of its drivers with a copy of this article and inform each driver of
109 the driver and company obligation to comply with this article.

110 (5) Shall on its rate sheet provide passengers with a phone number provided by the VFH
111 administrator where the passenger may file a complaint regarding a potential criminal act
112 or violation of this article.

113 **Sec. 28-34 - License, verification and issuance. ~~Rates to be displayed.~~**

114 ~~Each non-motorized vehicle operated within the City of Gainesville shall prominently display,~~
115 ~~in a frame covered with clear plastic, a card or sign, printed in plain, legible letters or numbers~~
116 ~~which shall state whether gratuities or donations are accepted or contain the schedule of rates for~~
117 ~~the transportation services furnished by the driver; the city medallion number of such non-~~
118 ~~motorized vehicle, and the name and work address of both the medallion owner and the driver of~~
119 ~~such vehicle. No driver of any non-motorized vehicle may charge a fee which is not so posted.~~

120 Upon receipt of an application for the issuance or renewal of a company license, the VFH
121 administrator may verify all information provided in the application for compliance with all
122 applicable provisions of this article. The city will issue a company license if the company has
123 met the requirements set forth in this article and has paid the company license fee set forth in
124 Appendix A.

125 **Sec. 28-35. - Liability insurance required. ~~Vehicle safety and equipment standards.~~**

126 ~~(a) Non-motorized vehicles shall be not operated within the City of Gainesville except in~~
127 ~~compliance with all laws of the State of Florida in F.S. ch. 316 applicable to bicycles.~~

128 ~~(b) The vehicles for hire administrator and any law enforcement officer shall have the right to~~
129 ~~inspect or cause to be inspected any non-motorized vehicle as often as may be necessary for~~

130 the purpose of ascertaining and causing to be corrected any unsafe or unsanitary conditions or
131 any violations of this article.

132 (e) ~~No driver shall operate a non-motorized vehicle on any street unless the vehicle meets the~~
133 ~~following safety and equipment standards:~~

134 (1) ~~Tires.~~ Tires shall be of the size appropriate for the non-motorized vehicle for hire and
135 with no mismatched tires. There shall be no cuts into the tire or localized worn spots that
136 expose the ply. No tire is permitted when the tire has tread wear indicators that are visible.

137 (2) ~~Operational horn.~~ The vehicles for hire shall be equipped with an operational horn or
138 bell.

139 (3) ~~Brakes.~~ Each non-motorized vehicle shall be equipped with an operational brake or
140 brakes which will enable its driver to stop the vehicle within 15 feet from a speed of ten
141 miles per hour on dry, level, clean pavement. The brake systems shall demonstrate a
142 reasonable total braking force when tested, using the "quick stop method."

143 (4) ~~Headlights, tail lights, mirrors, turn signals and other requirements.~~ Every vehicle for
144 hire shall be equipped with the following operational equipment:

145 a. ~~A headlight capable of projecting a beam of white light for a distance at a minimum~~
146 ~~of 500 feet, which shall be clearly visible between the hours of sunset and sunrise~~
147 ~~and which must be illuminated at all times during operation;~~

148 b. ~~A red taillight affixed to the rear of the passenger compartment, which shall be~~
149 ~~clearly visible between the hours of sunset and sunrise from a distance of 600 feet to~~
150 ~~the rear of the non-motorized vehicle and which must be illuminated at all times~~
151 ~~during operation;~~

152 c. ~~A side-mounted mirror affixed to the non-motorized vehicle to reflect to the driver a~~
153 ~~view of the highway for a distance of at least 200 feet to the rear of the non-motorized~~
154 ~~passenger vehicle;~~

155 d. ~~A slow moving vehicle triangle on the rear of the vehicle or reflective tape which~~
156 ~~outlines the rear of the non-motorized vehicle from edge to edge;~~

157 e. ~~Turn signals lamps which indicators must be visible for a distance of at least 500 feet~~
158 ~~from the rear of the vehicle indicating right and left turns and which must be utilized~~
159 ~~when turning;~~

160 (5) ~~Company name.~~ The company or trade name and unit number shall be conspicuously
161 displayed on the exterior of each non-motorized passenger vehicle;

162 (6) ~~Trailer or sidecar.~~ No more than one trailer or sidecar may be attached to any vehicle.
163 Any such trailer or sidecar must be attached in a manner that meets the requirements of F.S. §
164 316.530(2).

165 The company or driver or both shall maintain a liability and property damage insurance
166 policy insuring the non-motorized vehicle in the amount of \$500,000.00 combined single limit
167 for each accident, or bodily injury, death, and/or property damage written by a company

168 authorized to transact business in the State of Florida and be rated A VII or higher by A.M. Best.
169 Such policy indicating the liability amounts and the policy period must be provided to the VFH
170 administrator prior to issuance or renewal of any permit. Each separate part of the non-motorized
171 VFH shall have a serial number affixed thereto and shall be listed on the insurance certificate.
172 All such policies shall be kept in full force and effect at all times while any non-motorized
173 vehicle for hire is operated within the city, and must cover a minimum period of 12 months.
174 Proof of such insurance must be maintained within the vehicle at all times when operated within
175 the city.

176 **DIVISION 3. - DRIVER REGULATION** —

177 **Sec. 28-36. - Rates to be displayed. Driver permit.**

178 ~~(a) It shall be a violation for any person to operate a non-motorized vehicle in or upon any street~~
179 ~~within the City of Gainesville unless such person has first obtained from the vehicles for hire~~
180 ~~administrator a driver's permit and has a valid Florida driver's license or complies with F.S. §~~
181 ~~322.04 and is, at a minimum 18 years of age.~~

182 ~~(b) The driver permit shall be issued in duplicate. One shall be prominently displayed in the non-~~
183 ~~motorized vehicle so as to be readily visible to a person of average visual acuity sitting in the~~
184 ~~rear passenger seat. The duplicate driver permit shall be worn on the exterior garment of the~~
185 ~~driver for identification purposes when the driver is outside of the non-motorized while on~~
186 ~~duty.~~

187 ~~(c) Each driver shall maintain a current mailing address on file at all times with the vehicles for~~
188 ~~hire administrator.~~

189 ~~(d) Each permit shall be valid for one year from the beginning of the month issued, unless sooner~~
190 ~~revoked as provided in this article. A fee shall be paid in advance for each permit. The fee~~
191 ~~shall be as set forth in Appendix A of this Code of Ordinances and shall reasonably represent~~
192 ~~the costs, work, time, and process necessary to perform such administrative task.~~

193 Each non-motorized VFH operated within the city shall prominently display, in a frame
194 covered with clear plastic, a card or sign, printed in plain, legible letters or numbers which shall
195 state whether gratuities or donations are accepted or contain the schedule of rates for the VFH
196 services furnished by the driver; the name and work address of both the VFH company and the
197 driver of such vehicle and a phone number provided by the VFH administrator where the
198 passenger may file a complaint regarding a potential criminal act or violation of this article. No
199 driver of any non-motorized vehicle may charge a fee which is not so posted.

200 **Sec. 28-37. - Vehicle safety and equipment standards. Prohibited conduct.**

201 The following acts by any driver are prohibited:

202 ~~(a) To operate a non-motorized vehicle: (a) while carrying a number of passengers that~~
203 ~~exceeds the number of passenger seats which such vehicle was designed to accommodate,~~
204 ~~or (b) while any passenger is standing or while any passenger is sitting anywhere other~~
205 ~~than in the passenger seat thereof; provided, however, that children aged five years old or~~

206 younger, may be seated in the lap of another passenger and will not count as an additional
207 passenger.

208 ~~(b) To collect fares, make change, or embark or disembark passengers while the non-motorized~~
209 ~~vehicle is in motion.~~

210 ~~(c) To operate, park, stand, or stop the non-motorized vehicle in a manner which violates any~~
211 ~~city ordinance or state law or disrupts the flow of vehicular traffic on any street.~~

212 ~~(d) To operate, maneuver, incline, spin, tilt, tip, slope, or position a human-powered non-~~
213 ~~motorized vehicle in any manner that would unnecessarily place a passenger in other than~~
214 ~~an upright, seated position.~~

215 ~~(e) To operate a non-motorized vehicle upon the sidewalk portion of a public right-of-way,~~
216 ~~except at the direction of a law enforcement officer.~~

217 ~~(f) To operate a non-motorized vehicle on any street listed on the prohibited streets list~~
218 ~~established by the vehicles for hire administrator or on any street posted at a speed greater~~
219 ~~than 30 miles per hour.~~

220 ~~(g) To operate a non-motorized vehicle with sound produced by a radio, tape player, CD~~
221 ~~player, DVD player, or other mechanical sound making device or instrument from the~~
222 ~~non-motorized vehicle so that the sound is plainly audible at a distance of 25 feet or more~~
223 ~~from such vehicle, Non-motorized vehicles shall not be eligible for a loudspeaker permit.~~

224 ~~(h) To operate or ride more than two abreast, except when overtaking and passing a bicycle~~
225 ~~or vehicle proceeding in the same direction.~~

226 ~~(i) To allow any passenger or occupant of the non-motorized vehicle to drink or consume~~
227 ~~alcoholic beverages or to possess an open container of alcoholic beverages.~~

228 (a) A non-motorized VFH shall not be operated within the city except in compliance with
229 Chapter 316, Florida Statutes.

230 (b) The VFH administrator and any law enforcement officer shall have the right to inspect
231 or cause to be inspected any non-motorized VFH as often as may be necessary for the purpose of
232 ascertaining and causing to be corrected any unsafe or unsanitary conditions or any violations of
233 this article. The VFH administrator or law enforcement officer has the authority to place a non-
234 motorized VFH out of service if it is deemed unsafe or hazardous.

235 (c) No driver shall operate a non-motorized VFH on any street unless the vehicle meets the
236 following safety and equipment standards:

237 (1) Tires. Tires shall be of the size appropriate for the non-motorized VFH and with no
238 mismatched tires. There shall be no cuts into the tire or localized worn spots that expose
239 the ply. No tire is permitted when the tire has tread wear indicators that are visible.

240 (2) Operational horn. The non-motorized VFH shall be equipped with an operational
241 horn or bell.

242 (3) Brakes. Each non-motorized VFH shall be equipped with an operational brake or
243 brakes which will enable its driver to stop the vehicle within 15 feet from a speed of ten
244 miles per hour on dry, level, clean pavement. The brake systems shall demonstrate a
245 reasonable total braking force when tested, using the "quick stop method."

246 (4) Headlights, taillights, mirrors, turn signals and other requirements. Every VFH shall
247 be equipped with the following operational equipment:

248 a. A headlight capable of projecting a beam of white light for a distance at a
249 minimum of 500 feet, which shall be clearly visible between the hours of sunset and
250 sunrise and which must be illuminated at all times during operation;

251 b. A red taillight affixed to the rear of the passenger compartment, which shall be
252 clearly visible between the hours of sunset and sunrise from a distance of 600 feet to
253 the rear of the non-motorized VFH and which must be illuminated at all times during
254 operation;

255 c. A side mounted mirror affixed to the non-motorized VFH to reflect to the driver a
256 view of the highway for a distance of at least 200 feet to the rear of the non-motorized
257 VFH;

258 d. A slow moving vehicle triangle on the rear of the non-motorized VFH;

259 e. Turn signal lamps which indicators must be visible for a distance of at least 500
260 feet from the rear of the non-motorized VFH indicating right and left turns and which
261 must be utilized when turning.

262 (5) Company name. The company or trade name and unit number shall be conspicuously
263 displayed on the exterior of each non-motorized VFH;

264 (6) Trailer or sidecar. No more than one trailer or sidecar may be attached to any non-
265 motorized VFH. Any such trailer or sidecar must be attached in a manner that meets the
266 requirements of Section 316.530(2), Florida Statutes.

267 **Sec. 28-38.- Company issued driver authorization. Receipt provided upon demand.**

268 ~~If requested by the passenger, the driver of a non-motorized vehicle shall deliver to the person~~
269 ~~paying for the hiring of the same, at the time of such payment, a receipt in legible writing~~
270 ~~containing the name of the driver, the vehicle medallion number, the total amount paid, and the~~
271 ~~date of payment.~~

272 Prior to operating a non-motorized VFH within the city, each driver is required to obtain an
273 annual driver authorization from the company. The company shall not issue a driver
274 authorization unless the company has verified that the driver meets all of the following

275 requirements. If the company issues a driver authorization and later determines the driver does
276 not meet the following requirements, the company shall immediately revoke the driver
277 authorization and suspend the driver from operating a VFH for the company.

278 (1) The driver possesses a valid Florida driver's license or a valid driver's license issued
279 by another state, if the driver is not otherwise required to obtain a Florida driver's license.

280 (2) The driver is at least 18 years old.

281 (3) The background check obtained by the company covers the preceding ~~seven~~ five
282 years and shows that:

283 a. The driver has not been convicted, pled nolo contendere, nor had adjudication
284 withheld for any violent felony or sexual battery.

285 b. The driver has not been convicted, pled nolo contendere, or had adjudication
286 withheld for a felony or misdemeanor in the last ~~seven~~ five years for any crime
287 involving the use or threat of use of force, prostitution, indecent exposure,
288 stalking, loitering, prowling, or any sexually related criminal offense, ~~or any~~
289 ~~felony offense involving the possession or sale of a controlled substance.~~

290 c. The driver is not under any form of community control, or probation as a sex
291 offender or under any status as a sex offender in any state.

292 (4) The driver does not have a physical or mental disability that would prevent him/her
293 from safely operating a VFH and performing the normal duties of a non-motorized VFH
294 driver.

295 **~~DIVISION 4. - ENFORCEMENT~~**

296 **Sec. 28-39 - Display of driver authorization. ~~Revocation; appeal.~~**

297 ~~(a) The city may revoke the non-motorized vehicle medallion and/or the driver permit to operate~~
298 ~~a non-motorized vehicle on any of the following grounds:~~

299 ~~(1) If the registration contains a false statement of material fact;~~

300 ~~(2) If the service owner and/or driver charges rates in excess of those required to be posted~~
301 ~~pursuant to this article.~~

302 ~~(3) If the non-motorized vehicle driver fails to display the driver's permit while operating the~~
303 ~~non-motorized vehicle as required by this article.~~

304 ~~(b) Three violations of the provisions of this article by any owner and/or driver of a non-motorized~~
305 ~~vehicle service within a one-year period shall result in the revocation of the non-motorized~~
306 ~~vehicle medallion and/or the driver's permit. A non-motorized vehicle medallion shall not be~~

307 ~~revoked for acts of an employee/driver in violation of this section unless the owner of the~~
308 ~~medallion actively participated in or had knowledge of the violation and took no corrective~~
309 ~~action against the employee/driver or unless repeated violations by an employee did not result~~
310 ~~in progressive discipline. The owner of the medallion shall maintain written documentation~~
311 ~~of all corrective action taken against an employee/driver for a minimum period of one year.~~
312 ~~In addition to the corrective action taken, the documentation shall detail the type and date of~~
313 ~~the specific ordinance/statutory violation. A driver permit may be revoked notwithstanding~~
314 ~~that the driver's violations may not be applicable against the owner of the medallion for~~
315 ~~purposes of the medallion's revocation.~~

316 ~~To revoke a permit:~~

317 ~~(1) The vehicle for hire administrator shall inform the owner of the motorized vehicle~~
318 ~~medallion and/or the holder of the driver permit in person or by U.S. mail at least ten days~~
319 ~~prior to the effective date of the revocation.~~

320 ~~(2) The owner and/or driver may file a written request for a due process hearing prior to the~~
321 ~~effective date of the revocation with the vehicle for administrator. Failure to request a~~
322 ~~hearing prior to the effective date of the revocation shall constitute a waiver by the owner~~
323 ~~and/or driver of any rights to a hearing and shall result in the revocation of the medallion~~
324 ~~or permit.~~

325 ~~(3) At the due process hearing, the non-motorized vehicle service owner and/or driver shall~~
326 ~~have the opportunity to present any testimony and/or documentation he/she believes~~
327 ~~negates or mitigates the revocation.~~

328 ~~(4) Upon a review of the evidence presented at the hearing, the vehicle for hire administrator~~
329 ~~may revoke the non-motorized vehicle medallion and/or driver's permit to engage in the~~
330 ~~business of non-motorized vehicle for hire service for the following time periods:~~

331 ~~a. First revocation Three months~~

332 ~~b. Second and third revocations Six months~~

333 ~~c. Fourth and subsequent revocation One year~~

334 ~~(e) Any non-motorized vehicle owner and/or driver whose medallion or permit to engage in non-~~
335 ~~motorized vehicle service has been revoked shall not be eligible to again obtain a medallion~~
336 ~~or permit from the vehicle for hire administrator for non-motorized vehicle service or~~
337 ~~operation until such revocation period has expired.~~

338 ~~(d) Any non-motorized vehicle service owner and/or driver whose medallion or permit to engage~~
339 ~~in the business of non-motorized vehicle service or operation has been revoked by the towing~~
340 ~~administrator may file an appeal within 15 days of the date of revocation pursuant to the~~
341 ~~appeals process specified below. The revocation shall become effective 15 days from the date~~
342 ~~of the final order of the city manager. The timely filing of an appeal shall stay the revocation~~
343 ~~of a permit.~~

344 ~~(e) Right of appeal. Any non-motorized vehicle service owner and/or driver whose medallion or~~
345 ~~permit to engage in non-motorized vehicle service has been revoked by the towing~~

346 administrator may appeal such decision to the city manager or designee. Such appeal shall be
347 taken by filing written notice with the chief of police or designee within 15 days after the
348 decision by the police chief to revoke such privilege. The notice of the appeal shall contain
349 the grounds for the appeal and shall contain information showing that either the finding is
350 contrary to the law or is not supported by competent substantial evidence. The chief of police
351 or designee shall transmit copies of the appeal to the city manager along with papers
352 constituting the record upon which the action appealed from is based. The filing of a notice of
353 appeal will not delay the effectiveness of any revocation. The city manager may decide to
354 uphold or reverse the decision of the vehicle for hire administrator. The decision of the city
355 manager shall be the final administrative action of the city.

356 Each driver shall prominently display on their exterior garment, or post in such a manner as
357 to be visible from the passenger seats, a driver's authorization, which shall contain a photograph
358 of the driver taken within one year, the driver's first name, the date the authorization was issued,
359 and the company the driver is authorized to work for.

360 **Sec. 28-40. - Prohibited conduct. Violation of ordinance; penalties; civil citation.**

361 ~~It is unlawful to engage in the non-motorized vehicle for hire service without compliance with~~
362 ~~requirements of this article. Law enforcement officers may issue a civil citation to non-motorized~~
363 ~~vehicle owners and/or drivers for violations of any section of this article.~~

364 The following acts by any driver are prohibited:

365 (a) To operate a non-motorized VFH: (a) while carrying a number of passengers that
366 exceeds the number of passenger seats which such vehicle was designed to accommodate, or (b)
367 while any passenger is standing or while any passenger is sitting anywhere other than in the
368 passenger seat thereof; provided, however, that children aged five years old or younger may be
369 seated in the lap of another passenger and will not count as an additional passenger.

370 (b) To collect fares, make change, or embark or disembark passengers while the non-motorized
371 VFH is in motion.

372 (c) To operate, park, stand, or stop the non-motorized VFH in a manner which violates any
373 city ordinance or state law or disrupts the flow of vehicular traffic on any street.

374 (d) To operate, maneuver, incline, spin, tilt, tip, slope, or position a human-powered non-
375 motorized VFH in any manner that would unnecessarily place a passenger in other than an
376 upright, seated position.

377 (e) To operate a non-motorized VFH upon the sidewalk portion of a public right-of-way,
378 except at the direction of a law enforcement officer.

379 (f) To operate a non-motorized VFH on any street listed on the prohibited streets list
380 established by the VFH administrator or on any street posted at a speed greater than 30 miles per
381 hour.

382 (g) To operate a non-motorized VFH with sound produced by a radio, tape player, CD
383 player, DVD player, or other mechanical sound making device or instrument from the non-
384 motorized vehicle so that the sound is in violation of Chapter 15 of this Code. A non-motorized
385 VFH shall not be eligible for a loudspeaker permit.

386 (h) To operate or ride more than two abreast, except when overtaking and passing a bicycle
387 or vehicle proceeding in the same direction.

388 ~~(i) To allow any passenger or occupant of the non-motorized VFH to drink or consume~~
389 ~~alcoholic beverages or to possess an open container of alcoholic beverages.~~

390 **Sec. 28-41. - Receipt provided upon demand. Criminal enforcement.**

391 ~~Any person who willfully refuses to sign or accept a notice of violation issued for any violation~~
392 ~~of this chapter shall be subject to the penalty provided in section 1-9 of this Code of Ordinances.~~
393 ~~Nothing herein shall prohibit the enforcement of any provision of state law which may apply to~~
394 ~~non-motorized vehicles or their drivers, including any provision of the state traffic laws.~~

395 If requested by the passenger, the driver of a non-motorized VFH shall deliver to the person
396 paying for the hiring of the same, at the time of such payment, a receipt in legible writing
397 containing the name of the driver, the total amount paid, and the date of payment.

398 **Sec. 28-42. - Enforcement, rules and regulations, complaints.**

399 (a) The VFH administrator is authorized to enforce this article, and to adopt rules and
400 regulations for the proper administration and enforcement of this article.

401 (b) In addition to all other powers and remedies provided by law, the VFH administrator or
402 law enforcement officer shall have the right to inspect the company records as necessary to
403 investigate and resolve a complaint received or when the VFH administrator has a reasonable
404 suspicion of a violation of this article.

405 (c) The VFH administrator shall have the right to audit the records of the company VFH
406 operations including, but not limited to, driver background checks, for purposes of verifying
407 compliance with this article.

408 **Sec. 28-43. Violations and penalties.**

409 Violations of the provisions of this article by a company or driver may be enforced by
410 revocation of any company license issued hereunder, civil citation pursuant to section 2-339
411 and/or by criminal citation pursuant to section 1-9 of this Code. Each violation shall be deemed a
412 separate and distinct offense and shall be penalized as a separate and distinct offense.

413 **Sec. 28-44 License revocation.**

414 (a) The city may revoke the company license which grants the privilege of any company to
415 conduct VFH services on any of the following grounds:

416 (1) If the company and/or any company driver fails to follow any requirements of this
417 article;

418 (2) If the original application or any other required documentation are found to contain
419 any false statements of material fact; or

420 (3) If the company and/or company driver fails to pay any fees or fines as specified in
421 this article Appendix A of this code.

422 (b) Violations occurring within a one-year period shall result in progressive penalties as
423 follows:

424 (1) First and second violations by a company or driver (if the violation is capable of
425 correction): Written warnings. The company or driver must correct the violation within
426 ten calendar days.

427 (2) Third and subsequent violations, or any violation not capable of being corrected, by a
428 company or driver: One year revocation of the company license, or as otherwise
429 expressly provided in this article.

430 (c) A company license may be revoked for acts of a driver in violation of this section, if the
431 company fails to take the action requested by the city with respect to the driver violations,
432 including and up to the company revoking the driver's authorization issued by the company. In
433 instances where a company had knowledge of a violation and took corrective action on its own
434 or as requested by the city, the company shall maintain written documentation of such actions for
435 a minimum period of one year from the date that the corrective action was taken.

436 (d) The procedure for revoking a company license is as follows:

437 (1) The VFH administrator shall provide written notice to the company by hand delivery
438 or by certified or registered mail at least 15 calendar days prior to the effective date of the
439 revocation. The written notice shall contain notice that the company may contest the
440 revocation by requesting a hearing as provided below. Service shall be deemed complete
441 if personally delivered upon the owner, agent or employee of the company, as applicable,
442 by any officer authorized by law to serve process or a duly appointed law enforcement
443 officer. The person serving process shall make proof of service within the time during
444 which the person served must respond to the process. If service cannot be personally
445 made within the city, then service may be made by notice to a registered agent of the
446 company or driver as applicable.

447 (2) The company may file a written request for a hearing prior to the effective date of the
448 revocation with the city manager or his designee. Failure to timely request a hearing shall
449 constitute a waiver by the company of any rights to a hearing. Upon request for a hearing,
450 the revocation shall be stayed until final administrative action has been effected.

451 (3) At the hearing, the company or driver (if the violations were committed by a driver)
452 shall have the opportunity to present evidence (consisting of testimony and/or written
453 documentation) they believe negates or mitigates the revocation.

454 (4) In conducting the hearing, the city manager or designee shall have the power to take
455 testimony under oath, require the production of books, paper, and other documents, and
456 receive evidence. Should a party refuse to provide documents as directed by the city
457 manager or designee, then there may be an adverse inference against the party who failed
458 to produce said documents. All parties shall have an opportunity to respond, to present
459 evidence and argument on all issues involved, to conduct cross-examination and submit
460 rebuttal evidence, and to be represented by counsel. Hearsay evidence may be used for
461 the purpose of supplementing or explaining other evidence, but it shall not be sufficient
462 in itself to support a finding unless it would be admissible over objection in civil actions.
463 Any party desiring the hearing be recorded shall be responsible for arranging and paying
464 the cost of a court reporter's attendance and services.

465 (5) If the city manager or designee finds, by a preponderance of the evidence, that the
466 company meets the requirements for license revocation, then the city manager or
467 designee shall uphold the revocation of the company and set the revocation date to begin
468 15 days from the date of the final administrative order, subject to a writ of certiorari
469 being filed pursuant to paragraph (8) below.

470 (6) If the city manager or designee finds that the company does not meet the requirements
471 for license revocation, then the city manager or designee shall rescind the revocation of
472 the company license.

473 (7) The city manager or designee shall provide written notice of the final order to the
474 company. The decision of the city manager or designee shall be the final administrative
475 action.

476 (8) The final administrative order of the city is subject to certiorari review in a court of
477 competent jurisdiction in Alachua County, Florida by the timely filing of a petition. Upon
478 the filing of a petition in the Circuit Court, the revocation of the permit shall be stayed
479 pending final disposition of the civil case.

480 (e) Any company whose company license has been revoked shall not be eligible to obtain a
481 company license until such revocation period has expired.

482 **Sec. 28-45. – Criminal enforcement.**

483 Any person who willfully refuses to sign or accept a notice of violation issued for any
484 violation of this chapter shall be subject to the penalty provided in section 1-9 of this Code.
485 Nothing herein shall prohibit the enforcement of any provision of state law which may apply to
486 non-motorized vehicles or their drivers, including any provision of the state traffic laws.

487 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
488 this Ordinance shall become and be made a part of the Code of Ordinances of the City of

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CODE: Words ~~stricken~~ are deletions made prior to First Reading; words ~~double-stricken~~ are deletions made after First Reading; words underlined are additions prior to First Reading; words double underlined are additions made after First Reading.

489 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered
490 or relettered in order to accomplish such intention.

491 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance
492 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
493 finding shall not affect the other provisions or application of the ordinance which can be given
494 effect without the invalid or unconstitutional provisions or application, and to this end the
495 provisions of this ordinance are declared severable.

496 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
497 such conflict hereby repealed.

498 **Section 5.** This ordinance shall become effective immediately upon final adoption.

499 **PASSED AND ADOPTED THIS _____ DAY OF _____, 2020.**

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501



LAUREN POE
MAYOR

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507 ATTEST:

Approved as to form and legality

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509



OMICHELE D. GAINNEY
CLERK OF THE COMMISSION

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514



NICOLLE M. SHALLEY
CITY ATTORNEY

515 This ordinance passed on first reading this 5th day of November, 2020.

516

517 This ordinance passed on second reading this 3rd day of December, 2020.