

DRAFT

11-27-07

ORDINANCE NO. _____
0-07-95

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4 **An ordinance of the City of Gainesville amending Chapter 28**
5 **Vehicles for Hire regulating vehicle-for-hire service within the**
6 **City of Gainesville; amending the definition of vehicle-for-hire**
7 **in Section 28-2; amending Section 28-3 to correct a scrivener's**
8 **error and eliminate the requirement for audited financial**
9 **statements, eliminating minimum number of vehicles**
10 **requirement and clarifying criminal history requirements;**
11 **amending Subsection (d) of Section 28-8 to consolidate**
12 **medallion provisions; amending Section 28-8.5 by removing**
13 **medallion language and redefining driver permit**
14 **requirements; amending Section 28-11 related to liability**
15 **insurance requirements; amending Section 28-21 related to**
16 **city manager's right of inspection; providing directions to the**
17 **codifier; providing a severability clause; providing a repealing**
18 **clause and providing an immediate effective date.**
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21 **WHEREAS**, at least 10 days notice has been given once by publication in a
22 newspaper of general circulation notifying the public of this proposed ordinance and of a
23 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

24 **WHEREAS**, a Public Hearing was held pursuant to the published notice
25 described at which hearing the parties in interest and all others had an opportunity to be
26 and were, in fact, heard;

27 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
28 **THE CITY OF GAINESVILLE, FLORIDA:**

29 **Section 1.** Section 28-2 of the Code of Ordinances is amended to read as follows:

30 **Sec. 28-2. Definitions.**

31 The following words and phrases when used in this chapter shall have the meanings
32 indicated unless the text indicates otherwise:

1 *Approved certified automobile mechanic* shall mean an automobile mechanic certified by
2 the National Association of Certified Mechanics or the Association of Service
3 Excellence.

4 *Barbiturate* or *barbiturates* shall include all hypnotic or somnifacient drugs, whether or
5 not derivatives of barbituric acids.

6 *Barbituric acid derivative* shall mean each of the salts and derivatives of barbituric acid,
7 also known as malonyl urea, and derivatives, compounds, mixtures or preparations
8 thereof.

9 *Central nervous system stimulants* shall mean amphetamine and desocyephedrine, and
10 any derivative, compounds, mixture or preparation thereof.

11 *Company* shall mean any person, association, corporation or other organization which
12 operates or intends to engage in the business of operating vehicles for hire.

13 *Conviction* shall mean the conviction by a court including an adjudication of guilt on a
14 plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

15 *Driver* shall mean an individual permitted to drive a vehicle for hire.

16 *Fees* shall mean nonrefundable payments required herein.

17 *For hire drivers permit* means the written authority granted by the city to drive a vehicle
18 for hire within the city limits.

19 *Limousine* shall mean any automobile, with chauffeur, contracted for with charges
20 prepaid, engaged in the transportation of persons for a consideration, that does not
21 operate regularly or at intervals over a designated route and that is not fitted with a meter
22 or device for calculating or measuring the distance traveled or the waiting time of such
23 vehicle and that is constructed so as to carry five or more passengers in the vehicle.

1 Commercial non-emergency medical transport vehicles (such as medivans) shall be
2 considered limousines for the purpose of this chapter.

3 *Manifest* shall mean a daily record prepared by a taxicab or limousine driver of all trips
4 made by the driver showing time and place of origin, destination, number of passengers,
5 and the amount of fare of each trip.

6 *Medallion* shall mean the tangible symbol that a permit has been granted to operate the
7 vehicle for hire to which it is physically attached.

8 *Narcotic drugs* shall mean coca leaves, opium, cannabis, marijuana, isonipecaine and
9 every synthetic substance known to have narcotic action.

10 *Occupational license* shall mean the license required of any business operating within
11 the city by chapter 25 of this Code.

12 *Revocation* shall mean the rescinding of a franchise.

13 *Shuttle vehicle* shall mean a vehicle for hire with a capacity of at least eight persons,
14 including the driver, which is not equipped with a taximeter and is not used as a taxicab
15 or for cruising.

16 *Suspension* shall mean the temporary rescinding of a franchise. The suspension may be
17 for a time certain or indefinite pending compliance with the terms of this chapter.

18 *Taxicab* shall mean a motor vehicle used as a public conveyance, subject to the rules and
19 regulations of this chapter.

20 *Taximeter* shall mean an instrument or device attached to a vehicle and designed to
21 measure mechanically or electronically the distance traveled by such vehicle, to record
22 the times said vehicle travels or is in waiting, and to indicate the fare to be obtained.

1 *Vehicle for hire (VFH)* shall mean any taxicab, shuttle, prearranged limousine and any
2 other motor vehicle with a driver transporting passengers for a fare, fee, or other charge
3 within the city limits. The term vehicle for hire excludes:

4 (1) School and church buses;

5 (2) Sightseeing cars and buses;

6 (3) Ambulances;

7 (4) Funeral home vehicles;

8 (5) Interstate buses;

9 (6) Horse drawn carriages;

10 (7) Bike drawn or person drawn carriages; ~~and~~

11 (8) Shuttles from hotels and motels which provide this as a service for guest.

12 (9) Passenger vehicles owned, operated, leased or controlled by a governmental
13 agency; and

14 (10) Vehicle-for-Hire services provided:

15 (a) as transportation services as outlined in Florida Statutes § 427.015(2) to the
16 Transportation Disadvantaged, as defined in Florida Statutes § 427.011(1)

17 (b) by a Transportation Operator, as defined in Florida Statutes § 427.011(6);

18 (c) pursuant to a contract authorized in Florida Statutes §427.0155, with the
19 Community Transportation Coordinator (CTC), as defined in Florida Statutes §

20 427.011(5) which contract is on file with the VFH Administrator; and

21 (d) the vehicles used to provide such services shall be clearly and distinctively
22 marked as disadvantaged transportation.

23 **Section 2.** Section 28-3 of the Code of Ordinances is amended to read as follows:

1 **Sec. 28-3. Application for franchise and franchise owner.**

2 (a) It shall be unlawful for any company as defined herein to operate or engage in the
3 business of operating vehicles for hire within the city without having first obtained a
4 franchise from the city manager or designee.

5 (b) It shall be unlawful for any driver as herein defined to operate a VFH under the
6 auspices of a company that doesn't have a valid franchise from the city.

7 (c) No company as defined herein shall operate or engage in the business of operating
8 vehicles for hire within the city without having first obtained a franchise from the city
9 manager or designee. An application shall be submitted on forms furnished by the city
10 containing appropriate information reasonably related to the business of operating
11 vehicles for hire.

12 (d) In order to secure or renew a franchise, the company applicant shall file an
13 application with the city manager or designee. Effective October 1, 2007, the application
14 shall be verified under oath and shall include a notarized checklist acknowledging
15 submittal of all information and documentation required by this chapter:

16 (1) The name and address of the company. If the company is a corporation or
17 partnership, the name and address of all officers, shareholders, partners or any principals
18 or owners with an interest greater than five percent of the company must be listed.

19 (2) Effective October 1, 2007, proof of compliance with F.S. § 865.09 (Fictitious
20 Name Act).

21 ~~(3) A current audited financial statement of the company, including the amounts~~
22 ~~of all unpaid judgments against the company and the nature of the transaction or acts~~

1 ~~giving rise to said judgment. The financial statement must be submitted by a certified~~
2 ~~public accountant.~~

3 ~~(4) The number of vehicles to be operated or controlled by the company. A~~
4 ~~minimum of two vehicles is required to be eligible for a franchise. The vehicles must be~~
5 ~~currently operating, licensed, and inspected, as required by this chapter. Each vehicle~~
6 ~~must conform to the United States Department of Transportation (USDOT) maximum~~
7 ~~passenger standards allowed for the vehicle to operate. Any franchise owner operating~~
8 ~~with less than the minimum number of vehicles on October 1, 2006, may continue to do~~
9 ~~so under that franchise, but must come into compliance upon renewal of the franchise.~~

10 ~~(53) The location of proposed depots and terminals.~~

11 ~~(64) Provide a log listing the year, make, model, vehicle identification number~~
12 ~~(serial number) and ownership status of all vehicles in the company's fleet. The vehicles~~
13 ~~must be currently operating, licensed, and inspected, as required by this chapter. Each~~
14 ~~vehicle must conform to the United States Department of Transportation (USDOT)~~
15 ~~maximum passenger standards allowed for the vehicle to operate.~~

16 ~~(75) Proof of proper amount of insurance coverage on the vehicles listed as~~
17 ~~provided in section 28-11, with the insurance coverage being filed with and approved by~~
18 ~~the city manager or designee.~~

19 ~~(86) Certified documentation from the department of highway safety and motor~~
20 ~~vehicles that each driver for the VFH company has a valid drivers license.~~

21 ~~(97) Certified documentation from the department of highway safety and motor~~
22 ~~vehicles of each driver's seven-year driver's license history.~~

1 (408) Criminal history report from the Florida Department of Law Enforcement
2 (FDLE) for the owner of the VFH company and each driver

3 (449) A schedule of rates to be charged, including regular and any special event
4 rates, baggage and other miscellaneous charges.

5 (4210) For all VFH companies operating as taxicabs, a description of the
6 franchise color scheme and insignia including a photograph or drawing accurately
7 reflecting the color scheme and insignia as required by section 28-8 of this chapter.

8 (4311) Such other information as the city manager may require.

9 **Section 3.** Subsection (d) of Section 28-8 of the Code of Ordinances is amended to read
10 as follows:

11 **Sec. 28-8. Identifying signs and medallions.**

12
13 (d) The medallion granted by the city manager/designee shall at all times be held and
14 registered with the city in the name of the owner and the privilege of operating the VFH
15 in the city is vested in the owner. So long as a vehicle is operated under the authority of a
16 franchise, the rights, requirements and responsibilities which attach to the medallion
17 remain with the franchise owner, not the owner of the vehicle who drives it and these
18 rights and responsibilities are unaffected by any agreement, understanding or contractual
19 arrangement between the franchise owner and a vehicle owner or driver. The medallion
20 supplied by the city designee shall remain with and be affixed to the issued VFH so long
21 as the vehicle is used as a VFH in the city or until the medallion is surrendered to the city
22 as required. Effective October 1, 2007, all VFH medallions shall be permanently affixed
23 to each VFH by the issuing authority in a conspicuous and uniform location the VFH

1 medallion is to be uniformly placed on the driver's side lower rear window. The annual
2 renewal sticker shall be placed directly next to the medallion.

3 **Section 4.** Section 28-8.5 of the Code of Ordinances is amended to read as follows:

4 **Sec. 28-8.5. Vehicle for hire driver permit requirements.**

5

6 (a) Effective October 1, 2007, no person shall operate a VFH within the city limits
7 without a current city VFH driver permit.

8 (b) Effective October 1, 2007, no franchise owner shall allow a franchise vehicle to be
9 operated by a person not in possession of a current city issued VFH driver permit.

10 Violations of this provision shall result in progressive penalties as follows:

11 (1) First violation--A written warning.

12 (2) Second violation--Three-month suspension of the franchise.

13 (3) Third violation--One-year suspension of franchise.

14 (4) Subsequent violations shall result in revocation of the franchise as provided
15 in subsection 28-6(c).

16 (c) Effective October 1, 2007, the VFH driver permit shall be issued in duplicate. One
17 shall be prominently displayed in the vehicle so as to be readily visible to a person of
18 average visual acuity sitting in the rear passenger seat. The duplicate VFH driver permit
19 shall be worn on the exterior garment of the VFH driver for identification purposes when
20 the driver is outside of the VFH while on duty. ~~The medallion granted by the city~~
21 ~~manager/designee shall at all times be held and registered with the city in the name of the~~
22 ~~owner and the privilege of operating the VFH in the city is vested in the owner. The~~
23 ~~rights, requirements and responsibilities which attach to the medallion remain with the~~
24 ~~owner so long as the vehicle for hire is operated under the authority of the permit and are~~

1 ~~unaffected by an agreement, understanding or contractual arrangement between the~~
2 ~~owner and a for hire driver, not the owner of the vehicle for hire, who drives the vehicle.~~
3 ~~The medallion supplied by the city designee shall remain with and be affixed to the~~
4 ~~issued VFH so long as the vehicle is used as a VFH in the city or until the medallion is~~
5 ~~surrendered to the city as required. The VFH medallion is to be uniformly placed on the~~
6 ~~driver's side lower back window. The annual renewal sticker shall be place directly next~~
7 ~~to the medallion.~~

8 (d) ~~Effective October 1, 2007, a VFH driver permit shall not be issued and shall be~~
9 ~~automatically revoked upon conviction for any violent criminal offense, or any criminal~~
10 ~~offense indicated on the taxi driver conviction reference guide. have been convicted, pled~~
11 ~~nolo contendere to, or had adjudication withheld for or been incarcerated after any~~
12 ~~conviction, plea of nolo contendere or adjudication withheld for any of the following:~~

13 1. Any capital felony, any first degree felony, sexual battery, any violent felony
14 involving the use of a gun or knife or which results in great bodily harm.

15 2. Within the previous ten years, any violent felony not referenced in subparagraph
16 “1” above .

17 3. Within the previous ten years, any felony or first degree misdemeanor directly
18 related to the business of towing motor vehicles; repossession of motor vehicles; motor
19 vehicle theft; car jacking or chop shops; or liens for recovering, towing, or storing
20 vehicles and vessels (§713.78, F.S.).

21 4. Within the previous five years, of either: (1) driving under the influence of
22 alcohol, a controlled substance, or a chemical substance, to the extent that normal
23 faculties are impaired; or (2) driving with an unlawful blood alcohol level.

1 ~~(e) Effective October 1, 2007, the following are disqualifying convictions and a permit~~
2 ~~shall not be issued to a driver who has such conviction(s) and shall be revoked for a~~
3 ~~driver who obtains such conviction(s):~~

4 ~~Any violent criminal offense including but not limited to F.S. ch. 784, Assault,~~
5 ~~Battery, Aggravated Battery; F.S. ch. 782, Vehicular Homicide, Murder; F.S. ch. 787,~~
6 ~~Kidnapping, False Imprisonment; F.S. ch. 794, Sexual Battery; F.S. ch. 806, Arson; F.S.~~
7 ~~ch. 812, Robbery; F.S. ch. 893, Conspiracy or principal to sell, or traffic in a controlled~~
8 ~~substance or any type of elderly abuse or child molestation. Any other similar violent~~
9 ~~criminal offense from another state that may not be listed exactly as Florida's state statute~~
10 ~~is written.~~

11 ~~The following list is considered disqualifying convictions and a permit shall not~~
12 ~~be issued to a driver if the conviction is within three years of the time the permit is~~
13 ~~sought: F.S., § 316.193, DUI, DWI; F.S. § 316.1935, Fleeing and Eluding a police~~
14 ~~officer; F.S. 316.027, Hit and Run; F.S. ch. 796, Prostitution; F.S. ch. 810, Burglary; F.S.~~
15 ~~ch. 800, Lewdness and Indecent Exposure; F.S. § 893.147, use, possession, manufacture,~~
16 ~~delivery or advertisement of drug paraphernalia.~~

17 **Section 5.** Section 28-11 of the Code of Ordinances is amended to read as follows:

18 **Sec. 28-11. Liability insurance required.**

19 No franchise shall be granted or continue in operation unless there is in full force
20 and effect a liability insurance policy issued by an insurance company authorized to do
21 business in the State of Florida for each vehicle ~~authorized in the minimum amount of~~
22 50,000/100,000/50,000 in not less than the minimum amounts as provided for under
23 Florida’s Financial Responsibility Law (§324.032 F.S.) Each franchise will maintain a

1 \$200,000.00 general liability policy for the company. The city, its elected and appointed
2 officers, employees and agents shall be named as additional insureds.

3 **Section 6.** Section 28-21 of the Code of Ordinances is amended to read as follows:

4 **Sec. 28-21. Inspection.**

5
6 The city manager or designee has the right to conduct an inspection for ordinance
7 compliance during anytime the vehicle for hire franchise is in operation or appears to be
8 in operation.

9 **Section 7.** It is the intention of the City Commission that Sections 1 through 6 of this
10 ordinance shall become and be made a part of the Gainesville Code of Ordinance, of the
11 City of Gainesville, Florida, and that the Section and Paragraphs of this ordinance may be
12 renumbered or re-lettered in order to accomplish such intentions.

13 **Section 8.** If any word, phrase, clause, paragraph, section or provision of this ordinance
14 or the application hereof to any person or circumstance is held invalid or unconstitutional,
15 such finding shall not affect the other provisions or applications of the ordinance which
16 can be given effect without the valid or unconstitutional provisions or application, and to
17 this end the provisions of this ordinance are declared severable.

18 **Section 9.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
19 such conflict hereby repealed.

20 **Section 10.** This ordinance shall become effective immediately upon adoption.

DRAFT

11-27-07

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PASSED AND ADOPTED this _____ day of _____, 2007.

PEGEEN HANRAHAN
MAYOR

ATTEST: Approved as to form and legality

CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2007.
This ordinance passed on second reading this ____ day of _____, 2007.