

**CITY OF GALVESTON
FRANCHISE APPLICATION**

Date: _____

Name of Applicant: _____

Address: _____

P.O. Box: _____ Telephone Number: _____

Application in respect of: Grant Renewal Other (please specify):

Maximum number of vehicles to be used on each day or occasion: _____

Please provide the following with the application:

1. An actual or pro forma statement and balance sheet showing the liabilities, and equity of the business.
2. A written description of the business history of the applicant, particularly in providing passenger transportation services, with an identification of any disciplinary actions taken against the applicant which pertain to transportation services.
3. A written description of the vehicles and the facilities that the applicant proposed to use in the sightseeing and tour operation.
4. A written description of the proposed operations, services, routes, schedules, and fares that the applicant intends to offer.
5. A description of the proposed insignia and color scheme for the applicant's sightseeing and tour vehicles and a description of the distinctive item(s) of apparel to be worn by the applicant's drivers.
6. Documentary evidence from an insurance company, authorized to do business in the state, indicating a willingness to provide liability insurance required by this chapter.
7. Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed franchise.
8. Proof of a permanent business telephone number and business office address within the city, at a location that complies with the city zoning standards.

Note: A franchise holder shall notify the director in writing of any proposed change of address of a sightseeing or tour vehicle franchise thirty (30) days prior to the change.

Sec. 35-216. - Application for a sightseeing and tour franchise.

- (a) An applicant shall make application to the director in the manner prescribed by this section. The applicant must be the person who will own, control, or operate the proposed sightseeing and tour service or be an authorized representative of a corporation, partnership, or business organization applying for a franchise. An applicant shall file with the director a written, verified application statement, to be accompanied by a nonrefundable application fee of one hundred fifty dollars (\$150.00), containing the following information:
- (1) The name, address, and verified signature of the applicant;
 - (2) The form of business under which the applicant operates and intends to operate the sightseeing and tour franchise;
 - (3) An actual or pro forma statement and balance sheet showing the liabilities, and equity of the business;
 - (4) A written description of the business history of the applicant, particularly in providing passenger transportation services, with an identification of any disciplinary actions taken against the applicant which pertain to transportation services;
 - (5) A written description of the vehicles and the facilities that the applicant proposed to use in the sightseeing and tour operation;
 - (6) A written description of the proposed operations, services, routes, schedules, and fares that the applicant intends to offer;
 - (7) A description of the proposed insignia and color scheme for the applicant's sightseeing and tour vehicles and a description of the distinctive item(s) of apparel to be worn by the applicant's drivers;
 - (8) Documentary evidence from an insurance company, authorized to do business in the state, indicating a willingness to provide liability insurance required by this chapter;
 - (9) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed franchise;
 - (10) Proof of a permanent business telephone number and business office address within the city, at a location that complies with the city zoning standards.
 - (11) Such additional information as the applicant desires to provide to assist in the evaluation of whether the requested operating authority should be granted; and
 - (12) Such additional information as the director considers necessary to assist or promote the implementation or enforcement of this chapter or the protection of the public safety.
- (b) A franchise holder shall notify the director in writing of any proposed change of address of a sightseeing or tour vehicle franchise thirty (30) days prior to the change.

Ord. No. 24-008 § 2-18-04.

ARTICLE III. - SIGHTSEEING AND TOUR FRANCHISES

DIVISION 1. - GENERAL PROVISIONS

Sec. 35-200. - Statement of policy.

It is the policy of the city to provide for and to promote safe, attractive, and professional sightseeing and tour services operating in the city. To this end, this article provides for the franchising and regulation of commercial sightseeing and tour services that use the city's roadways, alleys, and rights-of-way, so that these franchises may be operated to protect the public health and safety, to promote the public convenience and necessity, and to respect the concepts of free enterprise, economic development, and the creation of jobs.

(Ord. No. 14-008 § 2, 1-8-04)

Sec. 35-201. - General authority and duty of city manager; director.

The city manager and his delegates who may include a director and a taxicab inspector shall enforce the provisions of this chapter. The director shall implement and enforce this chapter as he determines necessary to discharge his duty under, or to effect the policies of this chapter.

(Ord. No. 14-008 § 2, 1-8-04)

Sec. 35-202. - Sightseeing and tour service franchise required.

It shall be unlawful for any person to operate a commercial sightseeing or tour service, or to drive or cause to be operated or driven any sightseeing or tour service motor vehicle, to include amphibious vehicles, upon and over the streets of the city, until such time as the city council by ordinance has approved the issuance of a franchise for such service and a sightseeing and tour franchise has been issued, or at a time when a franchise previously issued, has been suspended or cancelled. The owner of a business and the driver of a vehicle that violates this section shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). Each instance of a vehicle providing a sightseeing or tour service while not operating under a sightseeing and tour franchise shall be a separate offense.

(Ord. No. 14-008 § 2, 1-8-04)

Sec. 35-203. - Definitions.

The definition of a term in this section applies to each grammatical variation of the term. In this chapter, unless the context requires a different definition:

Bus means a motor vehicle that shall not have a taximeter, that:

- (1) Has a manufacturer's rated seating capacity of more than fifteen (15) passengers (including the driver); and
- (2) Is used for the transportation of persons from a location in the city to another location either inside or outside the city.

City chauffeur's license means a license issued to an individual by the director authorizing that individual to drive or operate a taxicab, limousine, bus, shuttle, amphibious vehicle, or other vehicle used to provide commercial sightseeing and tour services in the city.

Conviction means a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned.

Department means the department designated by the city manager to enforce and administer this chapter.

Director means the director of the department designated by the city manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.

Driver means an individual who drives or operates a taxicab, limousine, bus, shuttle or other vehicle used to provide commercial sightseeing and tour services in the city.

Franchise means a sightseeing and tour franchise granted by ordinance of city council authorizing a franchise holder and employees of the franchise holder to drive and operate specified sightseeing and tour vehicles under the terms and conditions found in the franchise agreement between the city and the franchise holder and the terms conditions, rules and regulations found in this chapter.

Franchise holder or holder means a person who is granted and holds a sightseeing and tour franchise under this article.

Lawful order means a verbal or written directive issued by the city manager, the director, or his representatives, to include city police department officers, or the taxicab inspector in the performance of official duties in the enforcement of this chapter and any rules and regulations promulgated under this chapter, or in the franchise agreement.

Legal resident means a citizen of the united states or a person residing in the United States in accordance with federal immigration laws.

Limousine means a motor vehicle that shall not have a taximeter, that is a luxury sedan with a manufacturer's rated seating capacity of not more than fifteen (15) passengers that is used for the transportation of persons from a location in the city to another location either inside or outside the city.

Operate means to drive or to be in control of a taxicab, limousine, bus, shuttle or vehicle used in providing a sightseeing and tour service in the city.

Operator means the driver of a taxicab, limousine, bus, shuttle vehicle, amphibious vehicle or a vehicle used in providing sightseeing and tour services; or the owner of a taxicab, limousine, bus, or shuttle; or the holder of a taxicab, limousine, bus, shuttle or a sightseeing and tour franchise.

Owner means the person to whom state license plates for a vehicle were issued.

Person means an individual; corporation; government or governmental subdivision; or agency, trust, partnership, or two or more persons having a joint or common economic interest in a sightseeing and tour franchise.

Shuttle means a van-type motor vehicle that shall not have a taximeter; that has a manufacturer's rated seating capacity of not less than seven passengers and not more than fifteen passengers and is used for the transportation of persons from a location in the city to another location either inside or outside the city.

Ord. No. 04-175 § 1-10.041

Secs. 35-204—35-210. - Reserved.

DIVISION 2. - SIGHTSEEING AND TOUR FRANCHISE

Sec. 35-211. - Sightseeing and tour franchise required.

- (a) No person shall furnish, operate, conduct, advertise for, or otherwise be engaged in the operation of a commercial sightseeing and tour vehicle service upon the public streets, highways, alleys, and right-of-way of the city without having first obtained a sightseeing and tour franchise in accordance with the terms and provisions of this article.
- (b) No person shall engage or hire a commercial sightseeing or tour vehicle service that he knows does not have a franchise from the city.

(Ord. No. 04-006 § 2 1-3-04)

Sec. 35-212. - Franchise term; operations authorized.

- (a) A sightseeing and tour service franchise shall normally be granted for a term of ten (10) years; however city council is vested with the discretion to grant a longer or shorter franchise term.
- (b) The enjoyment and exercise by a sightseeing and tour franchise holder of any and all rights to use the public streets and other highways of the city under the provisions of this article shall at all times be subject and subordinate to the dominant right of the public to use said streets and highways, and to the lawful exercise of control by the city over the use thereof. A franchise holder shall operate sightseeing and tour services only over and along routes heretofore approved by the director and city manager and shall observe such changes in such routes as the city manager may from time to time require.
- (c) A sightseeing and tour franchise shall be a non-exclusive franchise. A sightseeing and tour service franchise shall authorize the franchisee to operate a sightseeing and tour vehicle service under which persons picked up at a point or at various points are taken upon a route including stops at various points of public interest and eventually discharged at the place where they were picked up.
- (d) Proof that persons carried by a franchised sightseeing and tour service vehicle are discharged and leave the bus at points other than those at which they are picked up shall constitute grounds for termination of the franchise under the provisions hereinafter found in this article; provided, that should a sightseeing and tour vehicle service franchise have scheduled routes under which "pickups" are made at several points within the city, then passengers who are picked up and carried over an entire sightseeing route may be discharged at any of the scheduled discharge points within the city without constituting a violation of the terms of the franchise.

(Ord. No. 04-006 § 2 1-3-04)

Sec. 35-213. - Limitation on assignment, transferability of franchise.

A sightseeing and tour vehicle service franchise shall not be leased, assigned, or otherwise alienated except with the consent of the city council as expressed by ordinance.

(Ord. No. 04-006 § 2 1-8-04)

Sec. 35-214. - Grant of sightseeing and tour franchise.

- (a) A sightseeing and tour franchise shall be granted only by action of the city council as expressed by ordinance.
- (b) The director and the city manager must approve the application for a sightseeing and tour vehicle franchise before the franchise application shall be forwarded to the city council, however the city council has discretion to decline to consider and take action on a sightseeing and tour service franchise application that they receive from the city manager.
- (c) The director and the city manager are authorized to refrain from forwarding a franchise application to city council unless:
 - (1) The proposed sightseeing and tour service vehicle franchise is considered by these officials to be required by the public convenience and necessity; and
 - (2) The applicant qualifies for operating authority under section 35-215 of this chapter and is otherwise fit, willing, and able to operate the sightseeing and tour vehicle service franchise in accordance with the requirements of this article, any rules and regulations of the director, provisions of the franchise, and other applicable law.

(Ord. No. 04-006 § 2 1-8-04)

Sec. 35-215. - Qualifications for franchise holder.

- (a) To qualify for a sightseeing and tour vehicle franchise, an applicant must:
- (1) Be at least twenty-one (21) years of age;
 - (2) Be currently authorized to work full-time in the United States;
 - (3) Be able to communicate in the English language; and
 - (4) Not have been convicted or placed on probation or deferred adjudication for a crime:
 - a. Involving:
 1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
 2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
 3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
 4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
 5. Robbery as described in Chapter 29 of the Texas Penal Code;
 6. Burglary as described in Chapter 30 of the Texas Penal Code;
 7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony;
 8. Fraud as described in Chapter 32 of the Texas Penal Code;
 9. Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
 10. Public Indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
 11. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
 12. A violation of Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
 13. A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or
 14. Criminal attempt to commit any of the offenses listed in subsections (a)(4)a.1.—13.
 - b. For which:
 1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
 2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
 3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
 4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
 5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within

any 24-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or

6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any 24-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses.
- (b) An applicant who has been sentenced for an offense listed in subsection (a)(4), for which the required time period listed above has elapsed, may qualify for operating authority only if the director determines that the applicant is presently fit to provide a public transportation service and only if the offense or offenses the applicant was sentenced for was not a felony offense listed in subsections (a)(4)a.1.—6. In determining present fitness under this section, the director shall consider the following:
- (1) The extent and nature of the applicant's past criminal activity;
 - (2) The age of the applicant at the time of the commission of the crime;
 - (3) The amount of time that has elapsed since the applicant's last criminal activity;
 - (4) The conduct and work activity of the applicant prior to and following the criminal activity;
 - (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
 - (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
 - (7) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under subsection (b) of this section.

Ord. No. 2005-33-3-04

Sec. 35-216. - Application for a sightseeing and tour franchise.

- (a) An applicant shall make application to the director in the manner prescribed by this section. The applicant must be the person who will own, control, or operate the proposed sightseeing and tour service or be an authorized representative of a corporation, partnership, or business organization applying for a franchise. An applicant shall file with the director a written, verified application statement, to be accompanied by a nonrefundable application fee of one hundred fifty dollars (\$150.00), containing the following information:
- (1) The name, address, and verified signature of the applicant;
 - (2) The form of business under which the applicant operates and intends to operate the sightseeing and tour franchise;
 - (3) An actual or pro forma statement and balance sheet showing the liabilities, and equity of the business;
 - (4) A written description of the business history of the applicant, particularly in providing passenger transportation services, with an identification of any disciplinary actions taken against the applicant which pertain to transportation services;
 - (5) A written description of the vehicles and the facilities that the applicant proposed to use in the sightseeing and tour operation;
 - (6) A written description of the proposed operations, services, routes, schedules, and fares that the applicant intends to offer;

- (7) A description of the proposed insignia and color scheme for the applicant's sightseeing and tour vehicles and a description of the distinctive item(s) of apparel to be worn by the applicant's drivers;
 - (8) Documentary evidence from an insurance company, authorized to do business in the state, indicating a willingness to provide liability insurance required by this chapter;
 - (9) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed franchise;
 - (10) Proof of a permanent business telephone number and business office address within the city, at a location that complies with the city zoning standards.
 - (11) Such additional information as the applicant desires to provide to assist in the evaluation of whether the requested operating authority should be granted; and
 - (12) Such additional information as the director considers necessary to assist or promote the implementation or enforcement of this chapter or the protection of the public safety.
- (b) A franchise holder shall notify the director in writing of any proposed change of address of a sightseeing or tour vehicle franchise thirty (30) days prior to the change.

Ord. No. 14-001 § 2 1-8-04

Sec. 35-217. - Review of franchise application and approval.

- (a) Upon receipt of an application for a franchise, the director shall review the application and determine if the public convenience and necessity would be served by granting the franchise. The director may consider factors in addition to the application, including, but not limited to:
 - (1) The number, nature of services provided, schedules, and routes of sightseeing and tour vehicle franchises presently in operation in the city;
 - (2) The adequacy of existing sightseeing and tour services;
 - (3) Whether the franchise applicant proposes to provide novel, safe, higher quality or upgraded equipment and services compared to existing franchises;
 - (4) The likely effects that the proposed additional sightseeing and tour franchise will have on traffic conditions, neighborhood living conditions, and other aspects of community life;
 - (5) The fare(s) to be charged for each sightseeing and tour service provided, and;
 - (6) The character, experience, and fiscal status of the applicant.
- (b) The awarding of a sightseeing and tour franchise is a privilege and not a right. The applicant for a sightseeing and tour vehicle franchise has the burden of proving by clear, cogent and convincing evidence that the applicant is qualified and financially able to provide the equipment and services proposed in the application and that the public convenience and necessity require the issuance of the franchise applied for. The application shall be denied unless the director so finds.

Ord. No. 14-008 § 2 1-8-04

Sec. 35-218. - Procedure for granting of franchise by ordinance.

- (a) The director and the city manager shall not forward a franchise application to the city council if they determine that the application is not meritorious and the public convenience and necessity would not be served by granting the franchise. If the director and the city manager determine that the application is meritorious, the city manager shall forward the application to the city council.
- (b) The city council has discretion to review an application for a sightseeing and tour franchise forwarded from the city manager. If the city council chooses to consider and take action on the franchise application, the city council shall hold one (1) public hearing on the application for a sightseeing and tour service vehicle franchise. The public hearing shall be held at the time and place specified in the

notice published in a newspaper of general circulation in the city, which shall be published a minimum of ten (10) days prior to the date of the hearing.

- (c) The city council shall not grant or renew a franchise unless it finds and determines that the public convenience will be served by the issuance of a franchise. In all hearings the burden of proof shall be upon the applicant to establish clear and convincing evidence that the public convenience will be served by the granting or renewal of a sightseeing and tour franchise.
- (d) A sightseeing and tour vehicle franchise shall be granted and renewed only by ordinance of the city council.

Ord. No. 04-018 § 2 1-8-04

Sec. 35-219. - Limitations of franchise.

- (a) A sightseeing and tour franchise agreement when issued must state on its face the type of service for which it is issued. It may also contain other conditions and limitations determined necessary by the director, including, but not limited to:
 - (1) Number of vehicles authorized;
 - (2) Description of vehicles to be operated;
 - (3) The maximum number of passengers that may be transported in each vehicle;
 - (4) Place and times of loading or unloading passengers;
 - (5) Schedules and routes to be followed;
 - (6) Maximum fares to be charged;
 - (7) Operating procedures;
 - (8) Special conditions or limitations;
- (b) A franchise holder commits an offense if he fails to comply with the terms of the franchise agreement.

Ord. No. 04-028 § 2 1-8-04

Sec. 35-220. - Modifications to franchise.

- (a) A franchise holder desiring a change in the terms or conditions of the franchise shall file a written request stating the requested changes and reasons for the requested changes at least thirty (30) days prior to the date the change in terms are requested to take effect. A franchise holder who seeks to modify a franchise agreement that is up for renewal shall file a written request stating the requested changes and the reason for the requested changes at least forty-five (45) days prior to expiration of the current franchise agreement.
- (b) The director and the city manager may make minor or temporary changes to a franchise agreement. A modification of a franchise agreement that makes a permanent, material change in the terms or conditions of the franchise shall require action by city council.
- (c) In the event that a sightseeing and tour franchise expires at no fault of the holder before a ruling on the approval or denial of the renewal, the holder may continue to operate the franchise pending a final decision. The holder shall cease operations immediately upon denial of the request for renewal.
- (d) A franchise holder may file an appeal of the director's decision not to renew a permit in accordance with section 35-241 of this article.

Ord. No. 04-008 § 2 1-8-04

Sec. 35-221. - Suspension and revocation of franchise.

- (a) *Suspension and revocation of sightseeing and tour franchise.* The following regulations apply to the suspension or revocation of an annual permit:

- (1) The director may suspend or revoke an annual permit if the director determines that the holder:
 - a. Failed to comply with a correction order issued to the holder by the director, within the time specified in the order;
 - b. Intentionally or knowingly impeded the department or other law enforcement agency in the performance of its duty or execution of its authority;
 - c. Failed to comply with this chapter;
 - d. Does not qualify for operating authority under section 35-215 of this chapter;
 - e. Has been convicted of a violation of any city, state, or federal law, which violation reflects unfavorably on the fitness of the holder to perform a public transportation service;
 - f. Is under indictment for or has been convicted of any felony offense while holding taxicab, limousine, bus, or shuttle operating authority;
 - g. Substantially breached the terms of the annual permit;
 - h. Failed to pay franchise fees to the city when due.
 - (2) A suspension of a franchise does not affect the expiration date of the permit.
 - (3) After revocation of a franchise, a person shall be ineligible to apply for a sightseeing and tour franchise for a period of two (2) years.
- (b) *Reinstatement.* After suspension of a franchise, a holder may file an appeal in accordance with section 35-241 of this chapter. The director shall inspect the operation of the suspended holder to determine if the holder has corrected the deficiency causing the suspension. After inspection, the director shall submit his recommendation together with supporting facts to the city manager or his designee.

(Ord. No. 04-008 § 2 1-8-04)

Sec. 35-222. - Franchise fees.

During each calendar year period of a sightseeing and tour franchise, the franchise holder shall pay to the city a minimum fee of five hundred dollars (\$500.00) for each sightseeing and tour vehicle the franchise operates in the city or three (3) percent of the gross revenues the franchise realizes from the operation of the sightseeing and tour franchise if the said three (3) percent of gross receipts exceeds the minimum fee of five hundred dollars (\$500.00) for each sightseeing or tour vehicle. The five hundred dollar (\$500.00) minimum annual fee per sightseeing and tour vehicle shall be paid in full for the initial calendar year of the franchise when the franchise agreement is signed and by January 10th of each succeeding calendar year during the term of the franchise. By January 31st of the year after the end of each calendar year of the franchise, the franchise holder shall submit an annual financial statement which will be subject to audit by the city and if there is further consideration due the city, that amount shall be paid by the franchise holder to the city by March 1st after the end of the preceding calendar year.

(Ord. No. 04-009 § 2 1-8-04)

Sec. 35-223. - Special provisions of franchise.

This article governs the operation of sightseeing and tour vehicle services under a franchise with the city. This article, however, is not a limitation on the power of the director to incorporate in a sightseeing and tour franchise special provisions relating to the operation of a specific franchise. To the extent that a special provision conflicts with this article, the special provision controls.

(Ord. No. 04-008 § 2 1-8-04)

Secs. 34-224--35-230. - Reserved.

DIVISION 3. - CITY CHAUFFEUR'S LICENSE

Sec. 35-231. - City chauffeur's license required.

- (a) A person may not drive or operate a vehicle being used to provide commercial sightseeing and tour services inside the city without a valid city chauffeur's license.
- (b) A sightseeing and tour franchise holder or owner shall not employ or contract with a driver or otherwise allow a person to drive for a vehicle for hire owned, controlled, or operated by the franchise holder or owner unless the driver has a valid city chauffeur's license issued under this article.

(Ord. No. 64,008 § 2 1-8-04)

Sec. 35-232. - Qualification for city chauffeur's license.

- (a) To qualify for a city chauffeur's license, an applicant shall:
 - (1) Be at least twenty-one (21) years of age;
 - (2) Be currently authorized to work full-time in the United States;
 - (3) Hold a valid driver's license issued by the state;
 - (4) Be able to communicate in the English language;
 - (5) Not be afflicted with a physical or mental disease or disability that is likely to prevent the applicant from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety;
 - (6) Not have been convicted of more than four (4) moving traffic violations arising out of separate transactions, or been involved in more than two (2) automobile accidents in which it could be reasonably determined that the applicant was at fault, within any 12-month period during the preceding thirty-six (36) months;
 - (7) Present a certificate of completion evidencing that he has successfully completed the Galveston Hospitality Program sponsored by the park board of trustees or any successor educational program dealing with local hospitality standards as directed by the director.
 - (8) Not have been convicted or placed on probation or deferred adjudication for a crime:
 - a. Involving:
 - 1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
 - 2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
 - 3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
 - 4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
 - 5. Robbery as described in Chapter 29 of the Texas Penal Code;
 - 6. Burglary as described in Chapter 30 of the Texas Penal Code;
 - 7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony;
 - 8. Fraud as described in Chapter 32 of the Texas Penal Code;
 - 9. Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
 - 10. Public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;

11. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
 12. A violation of Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
 13. A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or
 14. Criminal attempt to commit any of the offenses listed in subdivision (a)(8)a.1. through 13. of this subsection;
- b. For which:
1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
 2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two years have elapsed since the date of successful completion of probation or deferred adjudication;
 3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
 4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
 5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any 24-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or
 6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any 24-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses;
- (9) Not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated:
- a. Within the preceding twelve (12) months; or
 - b. More than one time within the preceding ten (10) years;
- (10) Not be addicted to the use of alcohol or narcotics;
- (11) Be subject to no outstanding warrants of arrest;
- (12) Be sanitary and well-groomed in dress and person in compliance with section 35-254 of this chapter;
- (13) Have a valid contract with or be currently employed by a holder; and
- (14) Have successfully passed a written geography test covering knowledge of city streets, buildings, etc. to be administered by the taxicab inspector.
- (b) An applicant who has been sentenced for an offense listed in subsection (a)(8) or (9), for which the required time period provided by this article has elapsed, may qualify for a taxicab, limousine, or shuttle driver's license only if the director determines that the applicant is presently fit to engage in the occupation of a taxicab, limousine, or shuttle driver. In determining present fitness under this section, the director shall consider the following:

- (1) The extent and nature of the applicant's past criminal activity;
 - (2) The age of the applicant at the time of the commission of the crime;
 - (3) The amount of time that has elapsed since the applicant's last criminal activity;
 - (4) The conduct and work activity of the applicant prior to and following the criminal activity;
 - (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
 - (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
- (c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under subsection (b) of this section.

Pub. Act 2007-10 § 2-1-8.04

Sec. 35-233. - Investigation of application.

- (a) For the purpose of determining qualification under subsection 35-232(a)(5), the director shall require an applicant for an original city chauffeur's license to submit to a physical examination at applicant's expense conducted by a licensed physician and to furnish to the director a statement from the physician which certifies that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under section 35-232(a)(5). A city chauffeur's license may be renewed upon application without the applicant being required to submit to a physical examination unless the director requires that the applicant for renewal submit to a physical examination at the applicant's expense and to furnish to the director a statement from the physician as described above.
- (b) Upon request of the director, the police department shall investigate each applicant and furnish the director a report concerning applicant's qualification under subsection 35-232(a)(8). The municipal court shall furnish the director a copy of the applicant's motor vehicle driving record and a list of any warrants of arrest for the applicant that might be outstanding.
- (c) The director may conduct such other investigations, as he considers necessary to determine whether an applicant for a city chauffeur's license is qualified.

Pub. Act 2007-10 § 2-1-8.04

Sec. 35-234. - Issuance and denial.

- (a) If the director determines that an applicant is qualified, the director shall issue a license to the applicant.
- (b) The director shall delay until final adjudication the approval of the application of any applicant who is under indictment for or has charges pending for:
 - (1) Any offense listed in section 35-232(a)(8)a., or criminal attempt to commit any of those; or
 - (2) Any offense involving driving while intoxicated.
- (c) The director may deny the application for a city chauffeur's license if the applicant:
 - (1) Is not qualified under section 35-232
 - (2) Refuses to submit to or does not pass a medical or written examination authorized under sections 35-233 or 35-232
 - (3) Makes a false statement of a material fact in his application for a city chauffeur's license.
- (d) If the director determines that a license should be denied the applicant, the director shall notify the applicant in writing that his application is denied and include in the notice the reason for denial and a

statement informing the applicant of his right of appeal in accordance with section 35-241 of this chapter.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-235. - Expiration of city chauffeur's license; suspension or revocation of state driver's license.

- (a) A city chauffeur's license expires one (1) year from the date of issuance.
- (b) If a licensee's state driver's license is suspended or revoked by the state, his city chauffeur's license automatically becomes void. A licensee shall notify the director and the holder for whom he drives within three (3) days of a suspension or revocation of his driver's license by the state and shall immediately surrender his city chauffeur's license to the director.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-236. - Identification card requirements for vehicle for hire drivers.

- (a) After the chief of police has verified an applicant's fingerprints and after the director has authorized issuance of a city chauffeur's license, the city shall issue two (2) identification cards.
- (b) One card shall be at least one and three-fourths (1 3 / 4) inches by two (2) inches in dimension and shall contain the facial view photograph of the applicant. The card shall be displayed in a place conspicuous to passengers inside the vehicle for hire at all times.
- (c) The driver shall conspicuously display a city chauffeur's license (1) identification card on the clothing of the driver's upper body when operating a vehicle for hire.
- (d) A person desiring the issuance or renewal of taxicab identification cards shall pay an annual fee of ten dollars (\$10.00) to the city.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-237. - Duplicate city chauffeurs license.

If a city chauffeur's license is lost or destroyed, the director shall issue the licensee a duplicate license upon payment to the city of a duplicate license fee of ten dollars (\$10.00).

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-238. - Display of license.

A driver shall allow the director, his delegated representative, or a peace officer to examine the driver's city chauffeur's license upon request.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-239. - Suspension by designated representative.

- (a) If a representative designated by the director to enforce this chapter determines that a holder of a city chauffeurs license operating a sightseeing or tour vehicle has failed to comply with this chapter (except section 35-232) or a regulation established under this chapter, the representative may suspend the driver's city chauffeur's license for a period of time not to exceed three days by personally serving the licensee with a written notice of the suspension. The written notice must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the licensee of his right of appeal in accordance with subsection (b) and (c) of this section.
- (b) A suspension under this section may be appealed to the director or his assistant if the licensee requests an appeal at the time the representative serves notice of suspension. When appeal is requested, the suspension may not take effect until the director or his assistant provides a hearing.

- (c) The director may order an expedited hearing under this section, to be held as soon as possible after the licensee requests an appeal. The director may affirm, reverse, or modify the order of the representative. The decision of the director is final.

~~Ord. No. 14007 § 3 1-8-04~~

Sec. 35-240. - Suspension and revocation of city chauffeur's license.

- (a) If the director determines that a licensee has failed to comply with this chapter (except Section 35-232) or a regulation established under this chapter, the director may suspend the driver's city chauffeur's license for a definite period of time not to exceed 60 days.
- (b) If at any time the director determines that a licensee is not qualified under section 35-232, or is under indictment or has charges pending for any offense involving driving while intoxicated or any offense involving a crime described in subsection 35-232(a)(8)a. or criminal attempt to commit any of those offenses, the director shall suspend the city chauffeur's license until such time as the director determines that the licensee is qualified or that the charges against the licensee have been finally adjudicated.
- (c) A licensee whose city chauffeur's license is suspended shall not drive a vehicle for hire inside the city during the period of suspension.
- (d) The director shall notify the licensee and the holder in writing of a suspension under this section and include in the notice the reason for the suspension; the date the director orders the suspension to begin, the duration of suspension or if it is under subsection (b), and a statement informing the licensee of a right of appeal. The period of suspension begins on the date specified by the director or, in the case of an appeal, on the date ordered by the appeal hearing officer.
- (e) The director may revoke a city chauffeur's license if the director determines that the licensee:
 - (1) Operated a taxicab, limousine, bus, shuttle or sightseeing and tour vehicle inside the city a period in which the city chauffeur's license was suspended;
 - (2) Made a false statement of a material fact in an application for a city chauffeur's license;
 - (3) Engaged in conduct that constitutes a ground for suspension under subsection (a), and received either a suspension in excess of three (3) days or a conviction for violation of this chapter, two (2) times within the 12-month period preceding the occurrence of the conduct or three (3) times within the 24-month period preceding the occurrence of the conduct;
 - (4) Engaged in conduct that could reasonably be determined to be detrimental to the public safety;
 - (5) Used, possessed, or was under the influence of any form of alcoholic beverage or narcotic, or drug while on duty as a driver of a vehicle for hire, whether or not such drug or narcotic is defined as a dangerous drug or as a controlled substance under state or federal law;
 - (6) Was convicted of any felony offense while holding a city chauffeur's license.
- (f) A person whose city chauffeur's license is revoked shall not:
 - (1) Apply for another city chauffeur's license before the expiration of twelve (12) months from the date the director revokes the license or, in the case of an appeal, the date the appeal hearing officer affirms the revocation; or
 - (2) Drive any type of vehicle for hire described in this chapter inside the city.
- (g) The director shall notify the licensee in writing of a revocation and include in the notice the reason for the revocation, the date the director orders the revocation, and a statement informing the licensee of his right of appeal.
- (h) After receipt of notice of suspension, revocation, or denial of license renewal, the licensee shall, on the date specified in the notice, surrender his city chauffeur's license to the director and discontinue driving all vehicles for hire inside the city.

- (i) Notwithstanding subsections (c) and (h), if the licensee appeals the suspension or revocation under this section, the licensee may continue to drive a taxicab, limousine, bus, shuttle or sightseeing and tour vehicle pending the appeal unless:
 - (1) The city chauffeur's license of the licensee is suspended pursuant to subsection (b) or revoked pursuant to subsection (e)(6) of this section; or
 - (2) The director determines that continued operation by the licensee would impose an immediate threat to public safety.

(Ord. No. 04-008 § 2.1-8-04)

Sec. 35-241. - Appeal.

- (a) A person may appeal the following decisions of the director if he requests an appeal in writing and delivers it to the city manager not more than ten (10) business days after receiving notice of the director's action:
 - (1) A suspension or revocation of a sightseeing and tour franchise;
 - (2) A denial of renewal of a sightseeing and tour franchise.
 - (3) Denial of a city chauffeur's license application;
 - (4) Suspension of a city chauffeur's license under section 35-240; or
 - (5) Revocation of a city chauffeur's license.
- (b) The city manager or his designated representative shall act as the appeal-hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of the evidence presented at the hearing.
- (c) The hearing officer may affirm, modify, or reverse all or part of the action of the director being appealed. The decision of the hearing officer is final.

(Ord. No. 04-008 § 2.1-8-04)

Sec. 35-242. - Falsifying of a license.

A person commits an offense if he:

- (1) Forges, alters, or counterfeits a city chauffeur's license, badge, sticker, or emblem required by law; or
- (2) Possesses a forged, altered, or counterfeited city chauffeur's license, badge, sticker, or emblem required by law.

(Ord. No. 04-008 § 2.1-8-04)

Sec. 35-243. - Current mailing address of licensee.

An individual issued a city chauffeur's license shall maintain a current mailing address on file with the director. The licensee shall notify the taxi inspector of any change in this mailing address within five (5) business days of the change.

(Ord. No. 04-008 § 2.1-8-04)

Secs. 35-244—35-250. - Reserved.

DIVISION 4. - MISCELLANEOUS FRANCHISE HOLDER AND DRIVER REGULATIONS

Sec. 35-251. - Franchise holder's and driver's duty to comply.

- (a) *Franchise holder.* In the operation of a taxicab, limousine, bus, shuttle, or a sightseeing and tour service a franchise holder shall comply with the terms and conditions of the holder's franchise and, except to the extent expressly provided otherwise by the franchise, shall comply with regulations established under this chapter and article, and other law applicable to the operation of a sightseeing and tour service.
- (b) *Driver.* While on duty, a driver shall comply with the terms and conditions of the franchise agreement, this chapter and article, other law applicable to the operation of a motor vehicle in this state, and all legal orders issued by the franchise holder employing the driver.

Ord. No. 04-008 § 2 1-8-04

Sec. 35-252. - Franchise holder's duty to enforce compliance by drivers.

- (a) A franchise holder shall establish policies and take action to discourage, prevent, or correct violations of this chapter and all relevant laws by drivers who are employed by the holder.
- (b) A franchise holder shall not permit a driver who is employed by the holder to drive a taxicab, limousine, bus, shuttle or sightseeing or tour vehicle if the holder knows or has reasonable cause to suspect that the driver has failed to comply with this chapter and ordinance, the rules and regulations established by the director or other applicable law.
- (c) A franchise holder may not contract with a driver on an independent-contractor basis for driving or operating a sightseeing and tour service vehicle.

Ord. No. 04-008 § 2 1-8-04

Sec. 35-253. - Insurance-sightseeing and tour vehicles.

Every vehicle operated under a sightseeing and tour franchise issued under the provisions of this article shall at all times be covered by insurance policies against public liability and property damage which shall provide that the policy limits for bodily injury and death shall not be less than two hundred fifty thousand dollars (\$250,000.00) for bodily injury to one person or the death of one person, and seven hundred fifty thousand dollars (\$750,000.00) for bodily injury to, or death of all persons injured or killed in any one accident, and one hundred thousand dollars (\$100,000.00) for property damage or by an amount or amounts of insurance coverage required by the risk manager of the city in lieu of the above quoted amounts. Since the usual term of sightseeing and tour franchises covers ten (10) years, the city, through its risk manager is empowered to require a franchise holder to increase amounts of insurance coverage or to obtain additional types of insurance coverage when and as the risk manager deems appropriate. The franchise holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance issued by an insurance company authorized to do business in Texas, and covering each vehicle so used. The policy shall contain a clause requiring the insurer to give the city thirty (30) days notice prior to canceling insurance coverage to a franchise holder that is required by the city. If the insurance company gives such notice of cancellation, the franchise holder shall obtain new insurance before the expiration of the 30-day period; if the holder fails to do so, his franchise shall be immediately revoked. The franchise holder shall name the city as co-insured by endorsement. The policy shall name the city as and additional insured and include a waiver of subrogation and indemnification. The city hereby expressly assumes no responsibility for injury or damage done or caused to persons or property by reason of the operation of a sightseeing and tour service franchise granted by the city.

Ord. No. 04-008 § 2 1-8-04

Sec. 35-254. - Apparel to be worn by drivers and tour guides.

- (a) Each franchise holder shall have company dress standards for drivers, tour guides, or crewmembers of sightseeing and tour vehicles employed by the holder. These standards must be kept on file with the director and must include the following:

- (1) A driver or vehicle crew member may not wear:
 - a. Cut-offs;
 - b. Apparel with offensive or suggestive language;
 - c. Tank tops or halter tops; or
 - d. Outer apparel made of fishnet or undergarment material.
- (2) Only shorts with a finished hem are permitted.
- (3) Shoes must be worn at all times in the manner for which they were designed. A driver may not wear shoes or sandals without socks or hosiery and may not wear beach or shower thongs.
- (4) A driver and the driver's clothing must conform to basic standards of hygiene and be neat, clean, and sanitary at all times.
- (5) A driver's hair must be clean and neatly groomed. Facial hair must be neatly trimmed.
- (b) While on duty, a driver shall wear the item(s) specified by the franchise holder who employs the driver and shall comply with such other identification regulations prescribed in the holder's franchise.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-255. - Franchise holder's records and reports.

- (a) Each franchise holder shall maintain at a single location in the city business records for the holder's sightseeing and tour service. The director may specify methods used in maintaining the records, and the director may require maintenance of certain records, which he determines are necessary for monitoring the activities, operations, services, safety record of a holder, and computation an payment of franchise fees to the city. A holder shall make its records available for inspection by the director at reasonable times upon request.
- (b) Each holder shall submit to the director such annual and monthly reports concerning its sightseeing and tour franchise as the director determines necessary to evaluate the holder's operations.

(Ord. No. 04-008 § 2, 1-8-04)

Secs. 35-256—35-265. - Reserved.

DIVISION 5. - SERVICE REGULATIONS

Sec. 35-266. - Passenger limitations of sightseeing and tour vehicles.

A driver may not carry at the same time more persons than the designed seating capacity of the sightseeing and tour vehicle.

(Ord. No. 04-008 § 2, 1-8-04)

Sec. 35-267. - Conduct of drivers.

A driver shall:

- (1) Act in a reasonable, prudent, and courteous manner;
- (2) Maintain a sanitary and well-groomed appearance in compliance with subsection 35-254(a) of this chapter;
- (3) Not possess, consume, or be under the influence of an alcoholic beverage, narcotic drug, or other substance that could adversely affect the driver's ability to drive a motor vehicle;

- (4) Not smoke tobacco products while in the sightseeing and tour service vehicle;
- (5) Not interfere with the director in the performance of the director's duties;
- (6) Pull his vehicle to the curb when loading or unloading passengers;
- (7) Comply with lawful orders of the director issued in the performance of his duties.

(Ord. No. 04-030, § 2, 1-5-04)

Sec. 35-268. - Limitations on hours of work.

- (a) No driver permitted under this chapter shall drive more than twelve (12) hours in any one consecutive 24-hour period.
- (b) No franchise holder or owner shall allow any driver permitted under this chapter to drive for more than twelve (12) hours in any consecutive 24-hour period.

(Ord. No. 04-061, § 1, 1-5-04)

Sec. 35-269. - Duty to load or unload passengers at curb.

It shall be the duty of each sightseeing or tour vehicle driver to load or unload passengers at the curb unless a curbside transfer cannot be made safely.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-270. - Return of passenger's property.

- (a) Upon finding property in a vehicle for hire, left by a passenger, the driver shall immediately return the property to the owner. However, if the driver is unable to locate the owner or if the driver does not know the identity or whereabouts of the owner, the driver shall make a report of the property left in the taxicab to the franchise holder, and within a reasonable time, not to exceed two (2) hours from discovery of the property, deliver the property to the franchise holder's business office.
- (b) Upon receiving a claim of lost property, or upon discovery of lost, misplaced, or unclaimed property on a sightseeing or tour vehicle, the driver shall prepare a written report describing the lost property, the date and time of the loss, the name, address, and telephone number of the owner claiming the loss, the sightseeing or tour route the property was lost on, and the number of the sightseeing and tour vehicle. The holder shall keep the report on file for at least one (1) year and shall hold the property for not less than three (3) months.

(Ord. No. 04-005, § 2, 1-8-04)

Sec. 35-271—39-279. - Reserved.

DIVISION 6. - FARES

Sec. 35-280. - Rates of fare-sightseeing and tour vehicle services.

- (a) A holder of a sightseeing and tour franchise permit may charge only rates of fare, which have been approved by the city council. A franchise holder shall propose a change in its rates of fare by filing the proposal with the city secretary and the director for consideration by the city council.
- (b) The city council shall hold a hearing to consider the proposed change in rates of fare. After the hearing the city council may approve, disapprove, or modify the proposed change.
- (c) Rates of fare for sightseeing and tour routes authorized on a temporary basis by the city manager shall be set by the city manager.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-281. - Display of rate card by sightseeing and tour vehicles.

- (a) Sightseeing and tour vehicles shall post rates on the exterior of the vehicle for each tour offered to the public or provide to the prospective passenger in advance of such tour an information sheet or folder outlining the points of interest to be visited and the cost of each tour.
- (b) The director or city manager shall approve the content and size of the listing of rates and route information to be affixed to the exterior of sightseeing or tour vehicles.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-282. - Sightseeing and tour fare collection procedures.

- (a) A franchise holder shall sell tickets to sightseeing and tours, which are consecutively numbered so that tickets sold, and gross revenues collected by the holder may be verified and audited by the city. Upon the sale of each ticket for a sightseeing and tour service by a franchise holder the holder, his employee or his agent shall give the purchaser of the ticket a receipt showing:
 - (1) The name of the holder;
 - (2) The name of the sightseeing route or tour or service rendered;
 - (3) The total amount of fare paid;
- (b) An alternative method or methods of conducting sales and accounting for sales may be adopted as stipulated by the city manager to ensure that all sales are accounted for and that all gross receipts earned by the franchise holder are accurately reported to the city.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-283. - Rates of fare-adherence to franchise agreement.

- (a) A driver or franchise holder shall not charge a fare that is inconsistent with the rates authorized in the franchise agreement or as authorized by the city manager for temporary services that are not addressed in the franchise agreement.
- (b) A holder desiring to change the authorized rates of fare must submit a written request to the director.
- (c) The rates listed in the holder's franchise agreement must be strictly adhered to, and no change in rates may be implemented without approval of the city council.

(Ord. No. 04-008, § 2, 1-8-04)

Secs. 35-284—35-289. - Reserved.

DIVISION 7. - VEHICLES AND EQUIPMENT

Sec. 35-290. - Vehicle requirements and inspections.

- (a) The director may by regulation establish requirements for size, condition, and accessories of vehicles for hire used in a sightseeing and tour franchise.
- (b) The taxicab inspector shall inspect each vehicle for hire providing a sightseeing or tour service under this article for compliance with this chapter and regulations of the director, before it is placed in service, at regular inspections, and at such times as determined by the director or the taxicab inspector. The taxicab inspector shall complete a city inspection form and shall maintain such form as a public record. If any inspection reveals that the vehicle is unsafe or does not comply with the provisions of this article or state law the vehicle owner shall remove the vehicle from service.

- (c) A franchise holder, owner, or driver shall make a vehicle for hire available for inspection when ordered by the director or the taxicab inspector. It shall be unlawful for any person to refuse to allow the taxicab inspector to inspect any vehicle used as a vehicle for hire operating in the city pursuant to this chapter.
- (d) If, upon inspection, the taxicab inspector determines that a vehicle for hire used in providing sightseeing and tour services is not in compliance with this chapter or regulations of the director, the taxicab inspector shall order the sightseeing and tour service vehicle to be brought into compliance within a reasonable period of time and require it to be reinspected. The owner shall pay to the director a ten dollar (\$10.00) fee for each re-inspection of a vehicle for hire that is required before it is brought into compliance.
- (e) If a franchise holder, owner, or driver fails to make a taxicab, limousine, bus, or shuttle available for inspection or if the taxicab inspector determines that a vehicle for hire is not in compliance with this chapter or regulations of the director, the director may order the vehicle removed from service until it is made available for inspection and brought into compliance.
- (f) If the director determines that inspection of the mechanical condition or safety equipment of a vehicle for hire by an expert mechanic or technician is necessary, the holder, owner, or driver shall pay the cost of the inspection.
- (g) Before any vehicle for hire will be approved for sightseeing or tour service, the franchise holder or owner shall provide the taxicab inspector with a copy of the registration for the vehicle with the state, or a bill of sale if the vehicle is new and has not yet been registered, showing the name of the individual or holder owning the vehicle. The owner shown on the registration or bill of sale provided to the director shall notify the director of any change in ownership of the vehicle within ten (10) business days.
- (h) Inspections of vehicles for hire used in providing sightseeing and tour services under this article shall include, but not be limited to, the following items: vehicle identification number; date of purchase; foot brakes; emergency brake; head lamps; tail lamps; license plate lights; dome light; horn; windshield wipers; heating, ventilating, and air conditioning systems; current state inspection sticker; fire extinguisher; spare tire and trunk; the condition of the tires, passenger compartment, seating and upholstery, rearview mirrors; all windows; overall cleanliness; safety; condition of paint; color scheme; rate card; required signage; fumes; state license plates and registration sticker; speedometer readings; mileage; steering; muffler and tail pipe; condition of the body of the vehicle and fenders.
- (i) Each inspection may include a taxicab inspector ride-along inspection ride of up to one (1) hour's duration as deemed necessary by the taxicab inspector.

(Ord. No. 04-008 § 2 1-8-04)

Sec. 35-291. - Sightseeing and tour vehicle age limits.

- (a) Subject to the following exceptions, a holder, owner, or driver commits an offense if he operates any vehicle as a licensed sightseeing or tour vehicle in the city that is older than six (6) years:
 - (1) Regardless of the age of the vehicle, the city manager may waive this provision for special vehicles, such as classics and antiques. The city manager's decision shall be final;
 - (2) Any vehicle that is older than six (6) years but less than ten (10) years may be used as a sightseeing and tour vehicle upon permission of the taxicab inspector, subject to review by the director. The director's decision shall be final.
- (b) For purposes of this section, vehicle age, for a vehicle purchased used, will be calculated from January 1 of the model year of the vehicle. If the vehicle is purchased new, age will be calculated from the date of purchase and the holder, owner, or driver shall present to the taxicab inspector:
 - (1) A certified copy of the vehicle's title stating the date of purchase and an odometer reading of no more than one thousand (1,000) miles at the time of purchase; and
 - (2) A manufacturer's certificate, as defined in Chapter 501 of the Texas Transportation Code, certifying that the vehicle has not been previously titled and has not been previously subject to retail sale.

- (c) No vehicle may be placed in service for the first time as a taxicab, limousine, bus, or shuttle if it has been driven more than one hundred fifteen thousand (115,000) actual miles, which shall be determined from the odometer and title records.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-292. - Required equipment for sightseeing and tour vehicles.

Unless otherwise specified in the franchise agreement under which a sightseeing and tour service is operated or by regulation of the director, and in addition to other equipment required by this chapter, a holder, owner, or driver shall provide and maintain in good operating condition the following equipment for each taxicab, limousine, or shuttle or other type of vehicle operating a sightseeing and tour service:

- (1) Seat belts for each passenger, the number of which is determined by the designed seating capacity of the vehicle;
- (2) Heater and air conditioner, where appropriate;
- (3) Chemical-type fire extinguisher, of at least one-quart capacity, readily accessible for immediate use;
- (4) Lifesaving devices for passengers on amphibious vehicles that provide part of their sightseeing and tours services on bodies of water.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-293. - Vehicle color scheme and distinctive markings.

- (a) A franchise holder shall develop a color scheme and distinctive markings for sightseeing and tour vehicles operating under its authority, and shall submit the design to the taxicab inspector for approval to insure that the design is readily distinguishable from the design used by other holders.
- (b) After the taxicab inspector approves a design, the holder shall submit to the director a color photograph or drawing of a completely equipped sightseeing and tour vehicle using the approved design.
- (c) The franchise holder shall use only the approved design, as depicted in the photograph submitted, for vehicles operated under its authority unless written approval of a change is obtained from the director.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-294. - Required sightseeing and tour vehicle identification.

A franchise holder shall cause each sightseeing and tour vehicle operating under its franchise to be provided with the following uniform vehicle identification:

- (1) Every vehicle shall have stenciled, painted, or affixed on a door on the left and right sides of a sightseeing and tour vehicle, the name of the franchise holder, the name of the sightseeing or tour company, or the assumed name under which the franchise holder operates, together with the company's telephone number, address and the number assigned to the vehicle.
- (2) The number of the vehicle and the name of the franchise holder, the name of the sightseeing or tour company, or the assumed name under which the franchise holder operates, shall be stenciled, painted, or affixed upon the rear of any such vehicle. All such lettering shall not be less than two and one-half (2 1 / 2) inches in height and not less than five-sixteenths (5 / 16) inch stroke with such stencil or paint as will weather the elements. Such lettering, stencil and/or paint must be kept legible at all times.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-295. - Sightseeing and tour vehicle decals.

- (a) The franchise holder shall obtain a decal, for each of his sightseeing and tour vehicles, which shall indicate the right of that vehicle to operate as a sightseeing and tour vehicle in the city for the current

calendar year. A decal shall be attached to the front windshield of the vehicle or in another location approved by the director. A decal shall be issued when the five hundred dollar (\$500.00) minimum yearly franchise fee is paid to the city.

- (b) A person commits an offense if he:
 - (1) Operates a sightseeing or tour service vehicle with an expired decal or with no decal affixed to it;
 - (2) Attaches a decal to a vehicle that the city has not authorized to operate in the city as a sightseeing and tour vehicle;
 - (3) Forges, alters, or counterfeits a decal required by this section;
 - (4) Possesses a forged, altered, or counterfeited decal required by this section;
- (c) A decal assigned to one person is not transferable to another person or vehicle without consent of the director.

(Ord. No. 04-008, § 2, 1-8-04)

Secs. 35-296—35-299. - Reserved.

DIVISION 9. - ENFORCEMENT

Sec. 35-300. - Authority to inspect.

The director, and his delegates, to include the taxicab inspector, may inspect a taxicab, limousine, bus, shuttle or sightseeing and tour service vehicle operating under this chapter to determine whether the vehicle or service complies with this chapter, regulations established under this chapter, or other applicable law.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-301. - Removal of evidence of authorization.

Whenever a holder's franchise, or a driver's chauffeur's license is suspended, revoked, or denied or whenever a vehicle fails to pass inspection as a vehicle for hire, the director may remove or require the removal or surrender of all evidence of authorization as a franchise holder, city chauffeur's license driver, or vehicle for hire, including, but not limited to, the removal or surrender of licenses, decals, signs, insignia, radios, top lights, and meters if applicable.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-302. - Enforcement by police department.

Officers of the police department shall assist in the enforcement of this chapter. A police officer upon observing a violation of this chapter or the regulations established by the director, shall take necessary enforcement action to insure effective regulation vehicles for hire used in providing sightseeing and tour services.

(Ord. No. 04-008, § 2, 1-8-04)

Sec. 35-303. - Correction order.

- (a) If the director determines that a franchise holder violates this code, terms of its franchise agreement, a regulation established by the director, or other law, the director may notify the holder in writing of the violation and shall, by written order direct the holder to correct the violation within a reasonable period of time. In setting the time for correction the director shall consider the degree of danger to the public

health or safety and the nature of the violation. If the violation involves equipment that is unsafe or functioning improperly, the director shall order the holder to immediately cease use of the equipment.

- (b) If the director determines that a violation constitutes an imminent and serious threat to the public health or safety, the director shall order the holder to correct the violation immediately, and, if the holder fails to comply, the director shall promptly take or cause to be taken such action as he considers necessary to enforce the order immediately.
- (c) The director shall include in a notice issued under this section an identification of the violation, the date of issuance of the notice and the time period within which the violation must be corrected, a warning that failure to comply with the order may result in suspension or revocation of operating authority or imposition of a fine or both, and a statement indicating that the order may be appealed to the city manager.

(Ord. No. 04 008 § 2, 1-8-04)

Sec. 35-304. - Service of notice.

- (a) A franchise holder shall designate and maintain a representative to receive service of notice required under this chapter to be given a holder and to serve notice required under this chapter to be given a driver employed by a holder.
- (b) Notice required under this chapter may be given by any of the following methods:
 - (1) Notice to a franchise holder:
 - a. By personal service of the notice to a franchise holder or to the franchise holder's designated representative; or
 - b. By certified United States Mail, five-day return receipt requested, addressed to either the business address or home address of franchise holder listed in the franchise agreement; or,
 - c. By regular United States Mail to the business or home address of the franchise holder; or,
 - d. By personally delivering a notice addressed to the franchise holder to a driver of one of the franchise holder's sightseeing and tour vehicle drivers if said driver currently holds a city chauffeur's license.
 - e. Personal delivery of notice shall be by the director, his delegate, or the taxicab inspector;
 - (2) Notice to a driver of a vehicle for a sightseeing and tour vehicle:
 - a. By personal service of notice on the driver; or,
 - b. By certified United States Mail, five-day return receipt requested, to the home address of the driver listed in the driver's chauffeurs license application or to the business address of the franchise holder who employs the driver; or,
 - c. By regular United States Mail addressed to either the home address of the driver, or the business address of the franchise holder who employs a driver.
 - d. Personal delivery of notice shall be by the director, his delegate, or the taxicab inspector.
- (c) This section does not apply to notice served under subsection 35-239(a).

(Ord. No. 04-018 § 2, 1-8-04)

Sec. 35-305. - Appeal.

- (a) A holder may appeal a correction order issued under section 35-303 if an appeal is requested in writing not more than ten (10) days after notice of the order or action is received.
- (b) The city manager or his designated representative shall act as the appeal-hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal

hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of evidence presented at the hearing.

- (c) The hearing officer may affirm, modify, or reverse all or a part of the order of the director. The decision of the hearing officer is final.

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Sec. 35-306. - Criminal offenses.

A person commits an offense if he violates or attempts to violate a provision of this chapter and article applicable to him. A culpable mental state is not required for the commission of an offense under this chapter unless the provision defining the conduct expressly requires a culpable mental state. A separate offense is committed each day in which an offense occurs. An offense committed under this chapter is punishable by a fine of not more than five hundred dollars (\$500.00).

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