

AN ORDINANCE AMENDING THE PASSENGER VEHICLE FOR HIRE CODE

Whereas, council adopts this ordinance to expand regulation of vehicles operated for hire within the city;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1: Article VIII, Chapter 50 of the Durham City Code captioned “Passenger Vehicles for Hire” and consisting of sections 50-80 through 50-363 is hereby repealed.

Section 2: Article VIII, Chapter 50 of the Durham City Code captioned “Passenger Vehicles for Hire” is adopted as follows:

“ARTICLE III. - PASSENGER VEHICLES FOR HIRE

DIVISION 1. - GENERALLY

Sec. 50-80. - Purpose.

The purpose of this article is to regulate passenger vehicles for hire, in order to preserve the health and welfare of the citizens and the protection of their property.

Sec. 50-81. - Definitions.

The following words and phrases shall, for the purpose of this article, have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the passenger vehicle for hire administrator or designee of the administrator.

Business association means any partnership, corporation, limited liability company, or other business association allowed under the Statutes of North Carolina.

Business day means weekdays and excludes Saturdays, Sundays and legal holidays. Weekday means every day of the week except Saturday and Sunday. Legal holiday is a holiday observed by city government of the city. See sections 42-16(a) and 42-16(b) for more information on such holidays.

Call or demand means communication made by or on behalf of a prospective passenger that he or she wants transportation service from a passenger vehicle for hire that is within sight of the prospective passenger, in which the communication is made by gesture, sign, signal, or sound, including voice and such communication is not related to a prearranged trip.

Cruising means the movement of a passenger vehicle for hire over public streets or public vehicular areas in search of passengers or for the purpose of attracting passengers.

Driver means any person who drives a passenger vehicle for hire.

Driver's permit means the permit issued by the administrator to any person to enable that person to drive a passenger vehicle for hire.

Individual owner-driver means a person, self-employed, who engages in the business of operating a single passenger vehicle for hire, as its owner and driver. The term includes all operating permit holders who hold no more than one such operating permit.

Limousine means any motor vehicle that meets the manufacturer's specifications for a luxury limousine and that provides limousine service as defined in this section. The administrator may consider the following information when determining whether the vehicle's body style matches that of a limousine: *manufacturer's certificate as defined in N.C.G.S. 20-4.01(20) or the description of the vehicle on the registration card issued by the North Carolina Division of Motor Vehicles*. Every limousine shall have a minimum of four seats or one continuous sofa-styled seating area located behind the driver of the vehicle.

Limousine sedan means those vehicles that provide executive transportation services by prearrangement and are necessarily limited to full-sized luxury sedans. The administrator shall maintain a list of all the types of vehicles that will be approved to operate as a limousine sedan.

Limousine service means the service regularly rendered to the public, not over fixed routes, which furnishes transportation by limousines for hire, based on a fee determined by increments of time and contracted for by telephone or other prearrangement with a limousine company.

Manifest means a daily record, prepared by the driver of the passenger vehicle for hire of all trips, showing time and place of origin and destination of each trip and the amount of fare.

Medallion means a nontransferable numbered insignia to provide exterior identification that a particular passenger vehicle for hire has a valid operating permit associated with it.

Operating permit means the permit, issued by the city manager, under which a person may operate a passenger vehicle for hire.

Operating permit holder means the vehicle owner and/or the supporting services provider to whom an operating permit for the operation of a passenger vehicle for hire has been issued.

Para-transit vehicle means any passenger vehicle for hire that only provides transportation to passengers with disabilities or physical impairments for compensation by prearrangement with the passenger vehicle for hire company. A para-transit vehicle shall not include any transportation services to passengers with disabilities or physical impairments being offered by any government person or by

medical facilities exclusively to the patients of the medical facility.

Passenger means any person who engages a passenger vehicle for hire to carry the person from one destination to another.

Passenger vehicle for hire means any passenger vehicle with a seating capacity of 15 persons or less and for which a fee is charged by contract, agreement, or a fixed meter rate for services originating within the city limits.

Passenger vehicle for hire commission means a commission consisting of seven members appointed by the city council to hear appeals concerning passenger vehicle for hire driver permits, operating permits, suspensions, revocations, citizen complaints and passenger vehicle for hire service.

Passenger vehicle for hire company means any company, which engages in the business of operating passenger vehicle(s) for hire as the owner or franchiser.

Person means where applicable, any natural person, individual, firm, partnership, corporation, limited liability company or other business association recognized by the General Statutes.

Prearrangement- means an agreement commenced by a passenger via telephone, electronic communication or other method to obtain transportation from a passenger vehicle for hire (“vehicle”) in advance of the vehicle arriving at a specific location for pickup.

Rate notice means the card, displayed within each taxicab for which an operating permit has been issued, describing the schedule of fares charged by such taxicab in accordance with section 50-267.

Rooftop device means a piece of equipment attached to the roof of a passenger vehicle for hire as described in section 50-297 that may contain messages, signs, advertisements, notices, and other communications.

Shuttle means a passenger vehicle for hire, other than a taxicab, that is not equipped with a meter and that is operated by a driver under prearrangement for a fixed fee.

Street means any street, alley, avenue, highway, or any other public or private vehicular area within the corporate limits of the city as the same may exist or may be hereafter extended.

Supporting service provider means the person or company that provides, or guarantees to provide, the requirements of section 50-121(5).

Taxicab means any passenger vehicle for hire for which the city sets rates based on distance for a fee and for which said distance is measured by a meter.

Taxicab stand means locations within the city limits where a taxicab and driver can sit and wait for trips to be dispatched.

Unique vehicle means a vehicle that shall be, but limited to, either of the following: (i) registered as an antique vehicle with the North Carolina Division of Motor Vehicles; (ii) manufactured at least 35 years prior to its use as a passenger vehicle for hire; (iii) manufactured in a limited or small quantity; (iv)

determined by the administrator based upon the vehicle's historical and sentimental value; (v) such other vehicle as determined to be unique, vintage, or classic in nature as determined by the administrator. A taxicab shall not be designated a unique vehicle.

Waiting time shall be defined as provided in section 50-265.

Sec. 50-82. - Administrator of passenger vehicles for hire; office created; appointment.

There is hereby created the office of administrator of passenger vehicles for hire (hereafter "the administrator"), who shall be designated by the city manager.

Sec. 50-83. –Administrator; reports, recommendations, duties; generally.

(a) The administrator shall advise the city manager with respect to matters covered or incidentally involved in the operation or administration of this article. The administrator shall make such reports to the city manager and the city council as may be required.

(b) The administrator is charged with the duties required of him or her under this article and in general shall be responsible for the inspection of passenger vehicles for hire and the licensing of the drivers thereof.

Sec. 50-84. - Types of service.

A passenger vehicle for hire is authorized to provide one of the following types of service:

- a. Taxicab:
 1. *Exclusive ride*. Involving the transport of a passenger by a taxicab from a single origin to a single destination for compensation;
 2. *Group ride*. Involving the transport of several passengers by a taxicab from a single origin to a single destination for compensation;
 3. *Shared ride*. Involving the transport of several passengers by a taxicab, and such passengers boarding at same or different origins (locations) and traveling to different destinations for compensation as described in section 50-264(c).
- b. Limousine. Limousine is defined in Section 50-81 and shall provide limousine service as defined in Section 50-81.
- c. Limousine sedan. Limousine sedan is defined in Section 50-81 and shall provide service as described in that definition.
- d. *Para-transit vehicle*. Para-transit vehicle is defined in Section 50-81 and shall provide service as described in that definition.
- e. Shuttle. Shuttle is defined in Section 50-81 and shall provide service as described in that definition.

Shuttles, limousines, limousine sedans and para-transit vehicles shall not engage in cruising or be operated on call or demand.

Sec. 50-85. - Taxicab stands, procedure.

- (a) The administrator and the city's director of transportation, or their designees, shall jointly establish and designate taxicab stands.
- (b) Taxicabs shall enter designated taxicab stands from the rear only and each taxicab therein must be heading in the direction of the exit. No taxicab shall stop at a taxicab stand unless there is a vacancy therein. Unless a passenger requests otherwise, taxicabs shall exit taxicab stands in the order in which they enter. Drivers shall remain in their taxicabs or within the taxicab stand so that normal operations of the taxicab stands are maintained. Taxicab drivers may leave the taxicab stand only in case of an emergency, or to assist passengers.
- (c) A list of all taxicab stands in the city shall be kept on file in the office of the administrator and shall be open to inspection by the public.
- (d) The provisions of this section do not apply to taxicab stands that have been established on private property between operating permit holders and private property owners.

Sec. 50-86. - Penalties.

- (a) It shall be unlawful for any person to violate any of the provisions of this article and violation of any provisions of this article shall constitute a misdemeanor and upon conviction shall be punished in accordance with section 1-9.
- (b) Upon violation of any provision of this article, the administrator may make a finding, suspend or revoke any operating permit held by such person, and the administrator may suspend or revoke any driver's permit held by such person.
- (c) Any person or company who violates any provision of this article may also be subject to civil penalties up to as provided in subsection (g), but not exceeding \$500.00 per day that the person or company remains in violation of this article. This penalty may be recovered by the city, in a civil action in the nature of a debt, if the violator does not pay the penalty within 30 days from the date the violator is notified, in writing, of the penalty. Those persons violating section 50-118, pertaining to operating a passenger vehicle for hire without a permit, shall be guilty of a misdemeanor and punished as provided in section 1-9.
- (d) Progressive penalties may be applied when it is determined by the administrator that the same driver or operator has committed a second or subsequent violation of the same rule or any combination of the rules listed for the same progressive penalty schedule within any 12-month period. Assessment of penalties shall be made by the administrator and collected by the city pursuant to subsection (c) of this

section. The progressive penalty schedule shall be posted in the office of the administrator.

(e) If the violator fails to pay or appeal the penalty within ten business days, the administrator may suspend or revoke the driver's and/or the operator's permit in addition to any other action taken pursuant to this section. Civil penalties may be levied against the passenger vehicle for hire company according to the total amount of civil penalties incurred during a calendar year by the passenger vehicle for hire drivers employed by that company.

(f) In addition to the authority of this article to deny, suspend, or revoke a permit, the city may seek enforcement of this article by instituting a civil action for injunctive relief, abatement order, or any other appropriate relief in the General Court of Justice in Durham County.

(g) Class I violations and class II violations.

(1) *Class I violations.* Except as provided in this article, operating permit holders will not be responsible for class I violations incurred by drivers. The administrator may assess a civil penalty of \$40.00 (doubled if not paid in 30 days) against the operating permit holder (owner), or a civil penalty of \$20.00 (doubled if not paid in 30 days) against the driver, who commits any of the following acts or failures to act, collectively referred to as class I violations:

- a. Fails to pay sinking fund insurance fee in a timely manner and as a result insurance is cancelled.
- b. Fails to have passenger vehicle for hire inspected on scheduled inspection date and time.
- c. Fails to make repairs to passenger vehicle for hire in accordance with vehicle standards.
- d. Allows person to drive a passenger vehicle for hire without a valid passenger vehicle for hire driver's permit.
- e. Fails to provide administrator with notification of insurance renewal.
- f. Fails to have driver's permit card displayed in appropriate location.
- g. Fails to keep passenger vehicle for hire clean and sanitary.
- h. Fails to notify administrator of criminal offenses or infractions.
- i. Exceeds seating capacity of vehicle.
- j. Fails to maintain rate notice on inside of taxicab windshield.

(2) *Class II violations.* Except as provided in this article, operating permit holders will not be responsible for class II violations incurred by drivers. The administrator may assess a civil penalty of \$25.00 (doubled if not paid in 30 days) against the operating permit holder (owner), or a civil penalty of \$10.00 (doubled if not paid in 30 days) against the driver, who commits any of the following acts or failures to act, collectively referred to as class II violations:

- a. Fails to notify administrator of motor vehicle accident involving passenger vehicle for

hire within 48 business hours of the accident.

- b. Drives with an expired driver's permit.
- c. Fails to adhere to dress and cleanliness standards.
- d. Smokes a cigarette, cigar, pipe or tobacco of any kind while a passenger is being transported.

Sec. 50-87. - Appeals.

Persons found to be in violation of this article may appeal directly to the passenger vehicle for hire commission pursuant to the provisions of this article.

Secs. 50-88—50-117. - Reserved.

DIVISION 2. - OPERATING PERMIT

Sec. 50-118. - Required.

No person shall operate any passenger vehicle for hire in the city without first obtaining an operating permit from the city authorizing such operation. Except, a person licensed or permitted to drive and operate a passenger vehicle for hire in another city in the state or the Raleigh-Durham Airport Authority may operate and drive such passenger vehicle for hire in the city when performing any of the following activities:

- (1) Entering the city to drop off a passenger picked up outside of the city limits.
- (2) Pursuant to a pre-arranged trip, picking up a passenger within the city limits and taking the same outside of the city limits.

Sec. 50-119. - Issuance.

- (a) The city council authorizes the city manager to issue operating permits to any applicant subject to the provisions of this article.
- (b) No operating permit shall be issued to any person who shall not have fully complied with all of the prerequisite requirements of this article before the commencement of the operation of the proposed service. Upon issuance of the operating permit, the operator shall affix the permit on the dash of the vehicle.
- (c) When the operating permit has been authorized, and upon determination by the administrator that the color scheme is sufficiently distinctive as not to cause confusion with other taxicabs already operating, and with respect to taxicabs upon the receipt of a fee for each medallion pursuant to section

50-134, the administrator will issue for each passenger vehicle for hire a numbered medallion to be affixed to the passenger vehicle for hire for which the operating permit is issued. Loss or destruction or defacing of the medallion shall be reported to the administrator. No vehicle shall be operated while there is affixed thereto a medallion issued pursuant to this subsection unless, pursuant to this article, the vehicle's use as a passenger vehicle for hire has been authorized and the driver of the vehicle has been authorized to drive a passenger vehicle for hire for the operating permit holder to whom the medallion was issued.

(d) The privilege of engaging in the business of operating a passenger vehicle for hire in the city granted in the operating permit is personal to the operating permit holder. The rights, requirements and responsibilities, which attach to the operating permit, remain with the holder at all times the passenger vehicle for hire is operated in the city under the authority of the operating permit. These rights, requirements and responsibilities, which include the requirements of this article, will remain unaffected by any agreement or contractual arrangement between the operating permit holder, regardless of the form or characterization of the agreement under which the operating permit holder and/or driver operates the passenger vehicle for hire.

(e) The operating permit holders shall, in the case of any change in business address or telephone number, notify the administrator, in writing, of such change within 48 hours of the effective date of the change.

(f) Before allowing a person to drive under his or her operating permit, the operating permit holder shall review the qualifications of such person to drive a passenger vehicle for hire. No operating permit holder shall permit or allow any person to drive a passenger vehicle for hire under his or her operating permit if it appears such person fails to meet the provisions contained in this article. The failure of an operating permit holder to comply with this section shall subject the operating permit holder's operating permit to revocation or suspension as provided in section 50-130(a)(1).

(g) Taxicabs. The initial number of taxicab operating permits available for issuance shall be set at 180. Annually or in its discretion at more frequent intervals, the council may review, study and analyze the public need for additional taxicabs and, upon finding by the council that the public convenience and necessity require the operation of additional taxicabs, other than those for which permits are presently outstanding, additional permits shall be declared available and applications may be filed in a manner prescribed by the city council. Operating permits shall then be awarded in accordance with the procedures set forth in this division. The following factors shall be considered for the purpose of determining the adequacy of taxicab service in the city and the need for additional operating permits.

- (1) Total number of taxicabs then licensed and in actual operation on the streets.
- (2) The number of filled and unfilled telephone requests for taxicab service made during an average 24-hour period.
- (3) The demand for taxicab service at taxicab stands that is filled and unfilled.
- (4) The average waiting time of persons at taxicab stands and of those persons requesting service by telephone before service is available to them.

(5) The adequacy of taxicab service provided at train stations, bus terminals and other transportation terminals.

(6) The number and availability of qualified full-time and part-time drivers to operate existing taxicabs.

(h) In addition to assuring compliance with other application requirements set forth in this article, the city manager shall consider the following in issuing operating permits.

(1) The financial responsibility, experience and quality of service being rendered, if any, by each applicant.

(2) The total number of permits held by each applicant.

(3) The number of permits requested by each applicant.

(4) The age and type of equipment to be operated.

(5) The ability of each applicant to provide an efficient level of service.

(6) Any other considerations which will tend to improve passenger vehicle for hire service in the city.

(i) In issuing available operating permits preference shall be given to applicants requesting multiple permits (in order of the greatest number of permits requested).

(j) An operating permit shall not be issued to an applicant who has had a permit revoked or who has transferred a permit within the 24-month period preceding the application.

(k) The issuance of available taxicab operating permits shall be **done semiannually, on or about October 1 and April 1**. All of those persons interested in obtaining an operating permit shall submit an application in accordance with section **50-121** at least 60 days prior to the scheduled date of issuance. Qualified applicants will be placed on a waiting list in chronological order.

(l) If the number of taxicab operating permits requested exceeds the number of permits available, then the permits are issued to the most qualified applicants in order of priority. If certain applicants are equally qualified, then the order of priority shall be based upon the date and time of the application (earlier applicants with higher priority).

(m) If an applicant for an operating permit refuses the operating permit or fails to provide service in accordance with the permit within 60 days of the issuance of the permit, the permit is revoked.

Sec. 50-120. - Authorization to operate a passenger vehicle for hire under operating permit.

Nothing contained in this article shall prohibit any person from owning or operating a taxicab or other passenger vehicle for hire under an operating permit, in accordance with this article. Provided such person shall operate a taxicab or shuttle under the color scheme of such operating permit and a taxicab

shall use a dispatcher service and radio equipment. Such person or the person's driver shall have a valid passenger vehicle for hire driver's permit issued by the administrator, as provided for in division 3.

Sec. 50-121. - Application requirements.

All applications for an operating permit are to be submitted by the vehicle owner and the supporting service provider, hereafter called applicant, on forms provided by the administrator stating as follows:

- (1) The name and address of each applicant and, in the event that an applicant is a business association, a certified copy of the organizational documents;
- (2) The number of vehicles presently operated by the service provider on the date of such application, if any;
- (3) The color scheme for which the operating permit is desired, if the vehicle is a taxicab or shuttle. (Limousines, limousine sedans, para-transit vehicles and unique vehicles as defined in Section 50-81 are exempt).
- (4) All court records of the applicant. If an applicant is a corporation or association, the court records of the officers, directors and supervising employees thereof, including general manager, if any;
- (5) The applicant's submittal of the following conditional information:
 - a. Ability to provide passenger vehicle for hire service 24 hours a day, seven days a week as an individual owner or through affiliation with other owners. This subsection shall apply to taxicabs only.
 - b) Ability to provide adequate supervision of passenger vehicles for hire and drivers operating under the operating permit;
 - c) Evidence that the telephone number of the passenger vehicle for hire company (or the dispatch association with which the company is affiliated) will be listed in the next city telephone directory to be issued;
 - d) Assurance that each passenger vehicle for hire operating under this permit shall be kept clean and in good mechanical condition and in good physical condition at all times, pursuant to established standards, which are maintained in the office of the administrator, and shall meet all vehicle requirements of this article.
- (6) The applicant shall swear that the information submitted is true and correct. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial of an operating permit.
- (7) In providing information required by subsections (1), (4), and (5) of this section, an applicant may refer to previous applications, with which the referenced information has been submitted, provided that the applicant certifies that there has been no change with respect to the documents or information referenced.

(8) This section does not reduce the city manager's authority under section 1-11.

Sec. 50-122. - Indemnity agreement in the application.

The applicant for a taxicab operator's permit shall state that the applicant agrees with the provisions set forth in subsections (1) and (2) of this section. Each operator shall be under an obligation to comply with said provisions by operation of law.

(1) If the city issues an operator's permit, the applicant shall to the maximum extent allowed by law defend, indemnify, and save harmless indemnitees from and against all charges to the extent a charge arises in any manner from, in connection with, or out of the indemnitees alleged involvement with the establishment, supervision, management, or operation of or control over a fund referred to in section 50-352. In performing the duty to defend under the preceding sentence, the applicant shall at the applicant's sole expense defend indemnitees with legal counsel reasonably acceptable to the city. However, this section shall not require the applicant to defend, indemnify, or save harmless an indemnitee to the extent the negligence or wrongful act of the indemnitee was the direct and proximate cause of the charge. This section shall remain in force regardless of whether the operator's permit remains in force.

(2) As used in this section the term "charges," means claims, judgments, costs, damages, losses, demands, liabilities, obligations, fines, penalties, settlements, and expenses. Included without limitation within "charges" are interest and reasonable attorney's fees assessed as part of any such item. The term "indemnitees" means the city; the city's officers, officials, agents, and employees; the passenger vehicle for hire commission and members of the commission.

Sec. 50-123. - Hearing on application.

The city manager may require a hearing with the operating permit applicant if the administrator is not convinced that the applicant meets all eligibility criteria and has provided all necessary data to the administrator as outlined in section 50-121.

Sec. 50-124. - Issuance; conditions; denial.

(a) Subject to compliance by the applicant with the provisions of this article, the administrator shall authorize issuance of an operating permit to the applicant, provided:

(1) The vehicle for which application for an operating permit is made shall be in strict compliance with this article and placed into service within 60 days. However, for good cause shown the administrator may at any time within his or her discretion grant an additional 30 days to place the vehicle into service.

(2) The court record of the applicant is not such as would make it against the public interest for such application to be granted:

a. Denial. Convictions or pleas of guilty or no contest to any of the following create the presumption that the granting of the application is not in the public interest and shall be grounds for denial; sex offenses; felonious drug offenses; prostitution; felonies involving violence or attempted violence; and/or felonious illegal gambling.

b. Any applicant denied an operating permit under the provisions of this section may appeal such denial to the passenger vehicle for hire commission. The commission shall consider convictions and pleas of guilty or no contest to the above crimes as creating a rebuttable presumption that the approval of the applicant's application is not in the public's interest. If an application denied under this section is approved by the passenger vehicle for hire commission then the granting of the permit shall be presumed to be in the public interest. All appeals shall be filed pursuant to the provisions contained in section 50-132

c. No application for an operator's permit from an applicant denied an operator's permit pursuant to the provisions of this section, shall be accepted from such applicant within two years from the date of the administrator's denial.

(3) The applicant thereof shall have complied with all the provisions of this article, including a determination by the administrator that the applicant has satisfied the provisions of section 50-121(5).

(4) The issuance is not in conflict with such conditions as placed by city council on the issuance of operating permits.

(b) Upon issuance of the operating permit by the administrator, he or she shall place said permit in a visible location inside the vehicle. At that time, the administrator shall affix the medallion in the passenger vehicle for hire, as required by section 50-119

Sec. 50-125. - Expiration.

All passenger vehicles for hire permits shall remain valid until surrendered or revoked. The operating permit shall automatically expire if the conditions, under which the permit was issued, as provided in section 50-124, change without prior approval of the administrator.

Sec. 50-126. - Updating of operating permit information.

(a) Each year before midnight on July 1, the operating permit holder will provide the following information to the administrator:

- (1) Operator's name, company name, all pertinent addresses and telephone numbers;
- (2) Vehicle and insurance information;
- (3) City of Durham business license.

(b) Every three years from date of issuance, the operating permit holder shall update the information associated with the operating permit application, as set forth in section 50-121.

Sec. 50-127. - Transfer.

(a) Each permit issued pursuant to the provisions of this section is separate and distinct and shall not be transferable from the operating permit holder to another person or entity without prior approval of the

administrator. The administrator shall not approve any transfer in conflict with the provisions of this article.

(b) Where the permit holder is a corporation, partnership or other legal entity (other than a natural person), voluntary transfer of the majority of the ownership interest shall result in the automatic revocation of any operating permit previously granted to the operating permit holder, unless the prospective owners of the new entity obtain prior written approval from the administrator for the transfer of the operating permit to the new entity.

(c) Whenever an application for a transfer of permit is made, the administrator shall require such information as required for the original issuance of the operating permit, as set forth in section 50-121.

(d) Upon written approval by the administrator of a transfer of an operating permit, and compliance by the applicant with all the provisions of this section the administrator, shall issue a new operating permit within 30 days of such compliance.

(e) No person shall transfer an operating permit for the first 24 months after issuance except in cases of hardship. A hardship case includes the following examples: death or court-declared incompetency of the holder of the operating permit, or the holder of the operating permit is diagnosed by a board-certified physician that he or she has a life threatening illness. The administrator shall determine whether or not a case meets the test of a hardship and the administrator's decision may be appealed to the passenger vehicle for hire commission.

Sec. 50-128. - Transfer of state auto license.

(a) Whenever a passenger vehicle for hire has been removed from service and replaced by another vehicle, it shall be unlawful for the holder of the operating permit pursuant to which such passenger vehicle for hire so replaced was operated, to operate the replacement vehicle pursuant to the operating permit until and after a transfer of state auto license has been filed with the administrator and with the appropriate state vehicle licensing agency. The transfer shall be made on forms furnished by the state auto license bureau.

(b) It shall also be unlawful to operate any such replacement vehicle as a passenger vehicle for hire prior to compliance with the provisions of subsection (a) of this section.

Sec. 50-129. - Replacement of vehicles for hire; new permits.

(a) Whenever an operating permit holder replaces a passenger vehicle for hire with another vehicle, in accordance with section 50-128, the replaced vehicle must have all passenger vehicle for hire identification removed, including, insignias/stickers, top/meter lights, numbers and letters.

(b) When replacing a passenger vehicle for hire, an operating permit holder has 60 days in which to place the replacement vehicle into operation.

Sec. 50-130. - Suspension and revocation—Grounds specified; hearing provided.

(a) The administrator may suspend or revoke an operating permit upon the occurrence of any one of the following:

(1) The operating permit holder fails to operate his or her passenger vehicle for hire in compliance with all the provisions of this article, including the provisions contained in section 50-119(f);

(2) The administrator finds that the operating permit holder submitted, or caused to be submitted, false or misleading information on the application for an operating permit;

(3) The operating permit holder ceases to operate any passenger vehicle for hire, during a period of 30 consecutive days, for a minimum of 20 days at least eight hours a day, without having obtained written permission for such cessation from the administrator. The operating permit holder may request in writing permission to cease operations for a stated length of time. The administrator shall approve requests, in writing, when good cause is shown such as jury duty, health problems or any other reasonable ground for ceasing operation. In making the decision, the administrator shall consider previous requests, if any, by the same applicant;

(4) The operating permit holder commits any act with the intent to defraud passengers;

(5) The administrator determines, in the interest of the public safety and welfare, and pursuant to the provisions of this article that an operating permit should be suspended or revoked;

(6) The administrator shall suspend an operating permit as provided in section 50-349(b) or section 50-356(b).

(b) The administrator may suspend or revoke an operating permit due to acts of drivers, pursuant to section 50-164

(c) No operating permit may be suspended or revoked until the administrator has conducted a hearing thereon. The holder of the permit shall have the right to be present at the hearing and shall be given written notice at least five days in advance of the hearing. Service of the written notice is complete upon the deposit in the mail to the operating permit holder's last known address or hand delivery to the operating permit holder.

(d) Operating permits may be suspended under this section for a period not to exceed six months.

(e) An operating permit holder who has had an operating permit revoked may not apply for an operating permit for a period of six months from the date of such revocation.

Sec. 50-131. - Same—Appeals.

(a) Upon a finding by the administrator that an operating permit should be denied, suspended or revoked, the operating permit applicant or holder shall be so notified and informed of the finding so that the finding may be appealed.

(b) The operating permit applicant or holder may appeal the denial, suspension, or revocation of an operating permit by filing with the administrator, within ten business days after the administrator's decision is rendered, written notice of appeal. The notice of appeal shall set forth the reasons why the denial, suspension or revocation is improper.

(c) The suspension or revocation of an operating permit shall not become effective until ten business days after the decision is rendered. If an appeal is filed within this period, the suspension or revocation shall be stayed pending the final decision of the passenger vehicle for hire commission.

Sec. 50-132. - Same—Procedure upon appeal.

Upon the filing of an appeal, the administrator shall transmit the notice of appeal to the passenger vehicle for hire commission, which body shall schedule a hearing as provided in section 50-190.

Sec. 50-133. - Surrender.

When an operating permit is revoked, the operation as a passenger vehicle for hire of the subject vehicle to such operating permit shall cease, and the operating permit and medallion for the vehicle shall be surrendered immediately to the administrator. When any operating permit holder permanently retires any passenger vehicle from service and does not replace it within 60 days and/or does not apply for operating permit transfer as specified in section 50-127, the operating permit for each such retired passenger vehicle for hire shall be considered abandoned, and will be void; the operating permit holder shall immediately surrender each related operating permit and medallion to the administrator. Such abandoned operating permits may not be restored by any means other than through application as for new operating permits in the manner provided in this article.

Sec. 50-134. - Fees.

Fees to cover the administrative costs for issuing, renewing, duplicating, transferring and reinstating operating permits shall be collected from the applicant by the administrator. Also, a regulatory fee shall be collected from the applicant by the administrator for each medallion issued to a passenger vehicle for hire. Fees shall be approved by the city council and placed on file with the administrator. Other fees permitted by law may be collected.

Sec. 50-135. - Death or incapacitation of operating permit holder.

Upon the death of an operating permit holder or upon an individual operating permit holder being legally declared incompetent, the administrator may issue authorization of a temporary operating permit to heir(s) of the deceased operating permit holder or the court appointed guardian of an operating permit holder legally declared incompetent. The term "heir" means any person defined in the intestate succession chapter of the North Carolina General Statutes entitled to take real or personal property upon the death, intestate, of an operating permit holder or a beneficiary identified in the validly probated will of the deceased operating permit holder. The heir(s) issued the temporary operating permit shall be issued the deceased operating permit if the heir(s) make(s) proper application to the city for the operating permit and otherwise meets all the requirements set forth in the ordinance for issuance of the operating permit.

Secs. 50-136—50-153. - Reserved.

DIVISION 3. - DRIVER'S PERMIT

Sec. 50-154. - Required.

No person shall drive a passenger vehicle for hire within the city without first having obtained a passenger vehicle for hire driver's permit from the administrator.

Sec. 50-155. - Application requirements.

(a) Each applicant for a driver's permit shall make application on forms to be provided by the administrator. The application shall contain the following information:

- (1) The applicant's full name and address;
- (2) The applicant's physical condition, with particular reference to hearing, eyesight and abuse of alcoholic beverages or controlled substances as diagnosed by a physician;
- (3) The applicant's physical description, including age, race, height, weight, color of eyes and hair;
- (4) The length of time the applicant has resided at his or her present address;
- (5) The applicant's places of residence and employment for the two years immediately preceding the date of application;
- (6) The applicant's criminal record;
- (7) The applicant's driver's history including, but not limited to North Carolina.

The application shall be signed and sworn to by the applicant before a notary authorized to take oaths in the state.

(b) Each applicant filing an application shall have two full sets of fingerprints taken and shall have three photographs, front view, taken. Such fingerprints and photographs of the applicant shall be filed with the administrator and shall accompany the written application and shall constitute a part of such application. The fingerprints of the applicant shall be forwarded to the State Bureau of Investigation for a search of the state criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c) It shall be unlawful for any applicant to willfully include, or willfully cause to be included, a false statement in his or her application for a driver's permit.

Sec. 50-156. - Indemnity agreement in the application.

The applicant for a taxicab driver's permit shall state that the applicant agrees with the provisions set forth in subsections (1) and (2) of this section. Each driver shall be under an obligation to comply with said provisions by operation of law.

- (1) If the city issues a driver's permit, the applicant shall to the maximum extent allowed by law

defend, indemnify, and save harmless indemnitees from and against all charges to the extent a charge arises in any manner from, in connection with, or out of the indemnitees alleged involvement with the establishment, supervision, management, or operation of or control over a fund referred to in section 50-352. In performing the duty to defend under the preceding sentence, the applicant shall at the applicant's sole expense defend indemnitees with legal counsel reasonably acceptable to the city. However, this section shall not require the applicant to defend, indemnify, or save harmless an indemnitee to the extent the negligence or wrongful act of the indemnitee was the direct and proximate cause of the charge. This section shall remain in force regardless of whether the driver's permit remains in force.

(2) As used in this section the term "charges" means claims, judgments, costs damages, losses, demands, liabilities, obligations, fines, penalties, settlements, and expenses. Included within "charges" are interest and reasonable attorney's fees assessed as part of any such item. The term "indemnitees" means the city; the city's officers, officials, agents, and employees; and the passenger vehicle for hire commission and members of the commission.

Sec. 50-157. - Qualifications of applicant.

Each applicant for a driver's permit must meet the following requirements:

- (1) Be at least 18 years of age;
- (2) Upon examination by a physician possess eyesight at least correctable to 20/40 and not suffer from any physical or mental condition which renders him or her unfit for safe operation of a passenger vehicle for hire;
- (3) Be able to read, write and speak the English language sufficiently to conduct business as a passenger vehicle for hire driver;
- (4) Be clean in dress and person;
- (5) Not be addicted to the use of alcoholic beverages or controlled substances;
- (6) Produce, on forms provided by the administrator, affidavits of his or her good character from two reputable persons who have known him or her personally and observed his or her conduct during the year preceding the date of his or her application;
- (7) Possess a valid N.C. driver's license issued to him or her;
- (8) Have written permission from the operating permit holder to operate a passenger vehicle for hire under the permit assigned to that operating permit holder;
- (9) Produce, at applicant's expense, applicant's court records, including any criminal record of the applicant in the United States and in the applicant's country of origin if not in the United States. Where applicant has no criminal record, applicant shall provide an affidavit indicating the lack of such record;
- (10) Produce evidence that applicant has successfully passed a drug test in accordance by

procedures set up by the administrator. However, if a first time applicant is denied a driver's permit for having a positive drug test result establishing the use of illegal drugs or controlled substances and the decision is not overturned on appeal then the person shall wait 12 months from the date of the administrator's denial before reapplying;

(11) Produce reliable documentation evidencing applicant's eligibility to be a passenger vehicle for hire driver. Reliable documentation shall include, when necessary, a valid resident alien registration card, U.S. passport, certificate of naturalization, or any other documents allowed under 8 CFR 274(a)(2) of the Immigration and Naturalization Service Rules of the Immigration Reform and Control Act of 1986;

(12) Have no more than eight accrued points for motor vehicle violations pursuant to G.S. 20-16 during the previous two years;

(13) Each applicant must inform the administrator, in writing, if he or she has been charged with any criminal offense or infraction and produce evidence of disposition thereof. Failure to do so will result in the suspension or refusal of the same.

Sec. 50-158. - Training of applicant.

Each operating permit holder must require its passenger vehicle for hire drivers to enroll in and successfully complete within 90 days from the date of the issuance of the driver's permit a training course conducted by the administrator or his or her designee.

Sec. 50-159. - Refusal; grounds specified.

(a) The administrator may refuse to grant or renew a driver's permit for any applicant:

(1) Whose state motor vehicle driver's license is in a state of revocation or suspension;

(2) Who has committed, been convicted of, or pleaded guilty or no contest to, within five years immediately prior to the date of application, any of the following felonies:

a. Possession with intent to manufacture, create, sell or deliver a controlled substance or counterfeit controlled substance or any other substantially similar felony drug conviction;

b. Abduction which would not have been a crime but for a custody order;

c. Discharging a firearm into a occupied dwelling (G.S. 14-34.1);

d. Use of explosive device to injure real property (G.S. 14-49(b));

e. First and second degree burglary (G.S. 14-52);

f. Burglary with explosives (G.S. 14-57).

(3) Who has committed, been convicted of, or pleaded guilty or no contest to, within three years immediately prior to the date of application, any of the following:

- a. Possession or use of a controlled substance;
- b. Prostitution (G.S. 14-203 et seq.);
- c. Any felony not otherwise listed;
- d. Impaired driving under state law or any comparable provision of the law of any other state.

(4) Who has committed, been convicted of, or pleaded guilty or no contest to, within two years immediately prior to the date of application, any of the following:

- a. Any crime involving the operation of a motor vehicle that resulted in an incapacitating injury to any person, as determined on the state traffic accident report, or the death of a person;
- b. A misdemeanor violation of any city, county, state, or federal law relating to the use, possession, or sale of alcoholic beverages or substances regulated by the North Carolina Controlled Substances Act or the North Carolina Toxic Vapors Act;
- c. A violation of any city, county, state, or federal law relating to prostitution or illegal gambling;
- d. A material violation of section 50-167 in operating a passenger vehicle for hire, or a violation of section 50-154

(5) Who, within a period of five years immediately prior to the date of his or her application, has been a habitual violator of traffic laws, or a habitual user of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act (G.S. 90-86 through 90-113.8) or the North Carolina Toxic Vapors Act (G.S. 90-113.8A through 90-113.14); or

(6) Who does not fulfill the qualifications set forth in section 50-157.

(7) In addition to the above, the administrator shall not grant a driver's permit where the applicant's court record or other information regarding the applicant demonstrates that it is not in the public interest for such application to be granted. Convictions or pleas of guilty or no contest to any of the following create the presumption that the granting of the permit is not in the public interest and shall be grounds for denial: murder; voluntary manslaughter; involuntary manslaughter; felony death by vehicle; kidnapping; felony habitual impaired driving; felonious assaults and/or batteries; rape and other sex offenses; felonious drug offenses; any felonious crime against a person.

(b) Any applicant denied a driver's permit under the provisions of this section may appeal such denial to the passenger vehicle for hire commission pursuant to section 50-165. The commission shall consider convictions and pleas of guilty or no contest to the above listed crimes as creating a rebuttable presumption that the approval of the applicant's application is not in the public's interest. If an application denied under this section is approved by the passenger vehicle for hire commission, then the granting of a driver's permit to the applicant shall be presumed to be in the public interest. No further

review of the applicant under this section shall be required for any prospective renewal pursuant to section 50-166.

(c) No application for a driver's permit from the applicant denied a permit pursuant to the provisions of this section, and which was affirmed by the passenger vehicle for hire commission, shall be accepted from such applicant within two years from the date of the denial by the passenger vehicle for hire commission.

Sec. 50-160. - Issuance

(a) The administrator, upon finding that an applicant has satisfactorily complied with the provisions of this division including receipt and review of any criminal record and fingerprint check from the State Bureau of Investigation, shall issue to such applicant a driver's permit, which shall show the applicant's photograph, name, height, weight, expiration date, and the operating permit holder for whom the driver will be employed. The driver's permit must be displayed at all times on the glove compartment or dash of the vehicle. No driver shall operate any passenger vehicle for hire for any operating permit holder other than the operating permit holder shown on his or her driver's permit, without having advised the administrator of the new passenger for hire operating permit holder and changing his or her driver's permit within 48 hours of operating a passenger vehicle for hire for the new passenger for hire operating permit holder.

(b) After the applicant has satisfactorily complied with this division, the administrator shall issue to such applicant a driver's permit, valid for one year from date of issuance. No person shall operate a passenger vehicle for hire within the city while his or her driver's permit is expired.

Sec. 50-161. - Fees.

Fees to cover the administrative cost of the driver's permit shall be approved by the city council, placed on file with the administrator, and collected from the applicant by the administrator.

Sec. 50-162. - Authority to suspend; third suspension, revocation mandatory.

In addition to the other sanctions provided in this article, the administrator shall have the authority to suspend any driver's permit issued under this division for any of the grounds specified in section 50-163, for the permit holder's violation of any section of this article, or if the holder of the driver's permit is found by the administrator to have violated any federal, state, or local law pertaining to the public welfare or morals or to have been convicted of or pled guilty or no contest to any such violation. Such suspension shall not exceed 60 days. A third suspension of a driver's permit within a five-year period shall result in the mandatory revocation of such driver's permit. No application for a driver's permit will be accepted from an applicant within six months of the date of revocation.

Sec. 50-163. - Revocation; grounds generally.

The administrator may revoke or refuse to renew a driver's permit if the person to whom the driver's

permit was issued is, at any time after issuance:

- (1) Found by the administrator to have committed, been convicted of, or pled guilty or no contest to, any of the following:
 - a. A violation of any federal, state or local law relating to the use, possession, manufacture or sale of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act (G.S. 90-86 through 90-113.8); or the North Carolina Toxic Vapors Act (G.S. 90-113.8A through 90-113.14);
 - b. A violation of any federal, state, or local law relating to prostitution or gambling;
 - c. An accumulation, under G.S. 20-16, within a three-year period, of 12 or more points, or eight or more points within the three-year period following the reinstatement of a state driver's license which has been suspended or revoked; or has been convicted of any other moving violation of traffic laws, for which the state driver's license is suspended or revoked;
 - d. Any felony;
 - e. Any violation of a federal, state or local law designed for the protection of life;
 - f. Any criminal assault involving the operation of a vehicle for hire;
 - g. Any sex offense or offense involving moral turpitude; or
 - h. A material violation of section 50-167 or a violation of section 50-154
- (2) Found by the administrator to be a habitual user of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act (G.S. 90-86 through 90-113.8) or the North Carolina Toxic Vapors Act (G.S. 90-113.8A through 90-113.14);
- (3) Found by the administrator to have made or caused to be made a material false statement in his or her application for issuance or renewal of a driver's permit;
- (4) Does not continue to meet the qualifications for a driver's permit as set forth in section 50-157. However, if the person who is seeking renewal of a driver's permit tests positive for illegal substances and has not previously failed the drug test as required in section 50-157 when applying for the driver's permit, then the administrator shall, suspend the driving permit for 30 days. The administrator shall require the driver who is granted the 30-day suspension in lieu of revocation to obtain a substance abuse assessment and abide by the recommendations. The person who is suspended pursuant to this section shall be subject to random drug testing for one year. If a substance abuse program is recommended then it shall be successfully completed. Without limiting other provisions in this chapter regarding suspension and revocation of a driver's permit, it is a condition of the suspension that the administrator shall revoke the driver's permit if the person violates the requirements imposed pursuant to this section;
- (5) Found by the administrator to have had his or her driver's permit suspended three times in any five-year period; or

(6) Found by the administrator to have aided or abetted in the commission of any of those acts contained in subsections (1) (a) (b), (d), (e), (f), or (g) of this section.

Sec. 50-164. - Acts of drivers.

(a) Upon a finding by the administrator that a driver has committed, been convicted of, or pled guilty or no contest to:

- (1) Any of the offenses specified in section 50-163
- (2) A violation of any provision of this article pertaining to the operation of passenger vehicles for hire;
- (3) A violation of any federal, state, or local law pertaining to the public health or morals; and that such offense or violation occurred while the driver was engaged in the operation of a passenger vehicle for hire or was engaged in some act related to the operation of a passenger vehicle for hire.

The administrator shall give written notice of such finding to the driver and to the operating permit holder under which the driver was operating.

(b) Upon the occurrence of three findings under subsection (a) of this section against a driver in any 24 month period, the driver and the operating permit holder under which the driver was operating shall be notified, in writing, that one additional finding against the driver within 12 months after the date of the notice may result in suspension or revocation of the operating permit.

(c) Upon one additional finding under subsection (a) of this section by the administrator against a driver within 12 months after the date of the notice provided for in subsection (b) of this section, the administrator may suspend or revoke the operating permit under which the driver was operating, pursuant to the procedure provided in section 50-130(c).

(d) The operator's permit shall not be suspended or revoked unless four findings against a driver occurred under the said operating permit holder except as provided in section 50-130(c).

Sec. 50-165. - Appeal of administrator's decision.

(a) The decision of the administrator not to grant or renew a driver's permit under section 50-159 or otherwise shall be subject to an administrative appeal to the passenger vehicle for hire commission.

(b) A decision by the administrator to suspend or revoke a driver's permit or a determination by the administrator under section 50-164, shall be subject to appeal to the passenger vehicle for hire commission.

(c) Any person aggrieved by a decision of the administrator to which there is a right to appeal may appeal by giving written notice of appeal to the administrator. The notice of appeal shall set forth the reasons why the administrator's decision is improper and shall be filed with the administrator within ten business days after the administrator's written decision is rendered. Appeals may be taken only from the administrator's written decision.

(d) Upon the filing of an appeal, the administrator shall transmit the notice of appeal to the passenger vehicle for hire commission which shall schedule a hearing as provided in section 50-190

(e) A decision by the administrator to suspend or revoke a driver's permit shall not become final until ten business days after the decision is rendered. If the appeal is filed within the allowed time, the administrator's decision shall be stayed pending the final decision of the passenger vehicle for hire commission. If no appeal is filed within the allowed time, the holder of the driver's permit shall immediately surrender the permit to the administrator. Failure to surrender the permit within 15 days from the date of a suspension notification by the administrator shall result in revocation of the permit. The administrator, upon taking any action from which there is a right to appeal, shall give the driver, applicant, or operating permit holder, an appropriate written notice of the right to appeal.

Sec. 50-166. - Renewal.

The administrator shall renew a driver's permit from year to year by appropriate endorsement thereon. The driver applying for a renewal of his or her driver's permit shall make application on a form furnished by the administrator. Such driver shall have a physician's certificate completed in accordance with section 50-157 every three years.

Sec. 50-167. - Conduct of drivers.

(a) No driver shall: (i) deceive or attempt to deceive any passenger who may ride or desire to ride in his or her passenger vehicle for hire as to his or her destination or the rate of fare to be charged, (ii) convey or cause to be conveyed any passenger to any place other than as directed by the passenger, or (iii) take a longer route to the requested destination than is necessary, unless it is so requested by the passenger, except for shared ride service provided for in subsection (f) of this section.

(b) Drivers shall comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken.

(c) No driver shall have in his or her possession a lighted cigarette, cigar, pipe, or tobacco of any kind while a passenger is being carried in his or her passenger vehicle for hire.

(d) A driver of a passenger vehicle for hire, except a taxicab, shall not engage in cruising or be operated on call or demand. This subsection includes the following types of passenger vehicles for hire: shuttles, limousines, limousine sedans, para-transit vehicles and unique vehicles.

(e) A driver of a taxicab may engage in cruising or be operated on call or demand.

(f) Driver & Prearrangement: A driver of a passenger vehicle for hire, except a taxicab, must be able to demonstrate prearrangement by showing a copy of a written or electronic reservation for service from a specific location, at a specific date and time, to travel to specific destinations. Alternatively, the driver may demonstrate prearrangement by recording on a manifest the name of the passenger requesting service, the date, time and location of commencement of trip and specific destination, prior to picking up the passenger. Prearrangement does not include accepting street hails from prospective passengers in the public street right of way or public vehicular area. Passenger vehicle for hire in this subsection includes: shuttles, limousines, limousine sedans, para-transit vehicles and unique vehicles.

- (g) No driver shall allow the seating capacity of his or her passenger vehicle for hire to be exceeded. The administrator shall determine seating capacity based on the number of seat belts in the passenger vehicle.
- (h) If agreed to by the first passenger, a taxicab carrying passengers may answer other calls, or pick up additional passengers, prior to taking the first passenger to his or her destination, provided that the first passenger agrees to the amount of additional time above that normally required for the exclusive-ride trip as estimated in advance by the driver. Taxicab drivers shall specify, as provided in section 50-264, any fare discounts to passengers participating in a ride sharing. If a child under 16 years of age and unaccompanied by a person 16 years of age or older is the original passenger, no other passengers shall be permitted in the passenger vehicle for hire.
- (i) No driver shall refuse or neglect to convey an orderly prospective passenger on the basis of race, color, religion, handicap, age, sex or national origin or neglect to convey an orderly prospective passenger upon request, unless the driver has made visual contact with the prospective passenger and formed a belief that is reasonable under the circumstances, that transporting such person might be unsafe for the driver, or forbidden by provisions of this article, or has the "off-duty" placard showing prior to the request for service by a prospective passenger.
- (j) A driver shall not knowingly use, sell, handle or transport illegal controlled substances at any time.
- (k) A driver shall not give any information as to where illegal controlled substances may be obtained for illegal purposes.
- (l) A driver shall not knowingly subject, procure, or give information in regard to or take any passenger to any location for the purpose of prostitution.
- (m) A driver shall provide prompt, efficient service and be courteous at all times to passengers, the general public, other city-permitted passenger vehicle for hire drivers, and to city investigators and officers.
- (n) It shall be unlawful for a driver to operate his or her vehicle in a manner which threatens a passenger or the general public, or to threaten or otherwise abuse a passenger.
- (o) Every driver shall maintain on file with the administrator and operating permit holder the driver's name and address. The driver shall notify the administrator and operating permit holder of a change in address within a reasonable time.
- (p) A driver must promptly notify the administrator if he or she is charged with any criminal offense or infraction and must produce evidence of the disposition of the case as soon as it is available. Failure to do so may result in the suspension of the driver's permit.
- (q) A driver may not operate a passenger vehicle for hire while under the influence of an alcoholic beverage, while consuming an alcoholic beverage, with the odor of an alcoholic beverage on or about his or her person or breath or with an open container of an alcoholic beverage in the vehicle. A driver shall not purchase alcoholic beverages including, but not limited to, beer and malt liquor while operating a passenger vehicle for hire.

(r) Operating permit holders shall be responsible for the compliance of their affiliated drivers with this section. Failure of a driver to comply may result in the issuance of civil penalties and other sanctions to the operating permit holder and the driver pursuant to section 50-86

Secs. 50-168—50-187. - Reserved.

DIVISION 4. - PASSENGER VEHICLE FOR HIRE COMMISSION

Sec. 50-188. - Created; composition; terms; compensation; vacancies; quorum; removal.

(a) The passenger vehicle for hire commission (hereafter referred to as the "commission") shall consist of seven members who shall be appointed by the city council.

(b) Appointments to the commission shall be made to encourage diverse representation from among the following areas: visitor's industry, large employers, service providers (such as social services), elderly, law, substance abuse prevention sector, passengers, and passenger vehicle for hire operating permit holders. At least two members shall be persons required by section 50-118 to obtain a passenger vehicle for hire operating permit from the city. Each member shall serve for a term of three years. Vacancies shall be filled by the city council. Five members shall constitute a quorum in order to conduct business or hold hearings. The city council may remove any member at any time. The members of the commission shall select one member to serve as chair and one member to serve as vice-chair.

Sec. 50-189. - Duties and responsibilities.

(a) The commission shall hear the following:

- (1) Appeals from decisions of administrator not to grant an operating permit under section 50-124
- (2) Appeals from suspensions or revocations of operating permits under section 50-130
- (3) Appeals from decisions of the administrator not to grant or renew driver's permits under section 50-159
- (4) Appeals from decisions of the administrator to revoke driver's permits under section 50-164
- (5) Appeals from decisions of the administrator to suspend driver's permits under sections 50-162 and 50-271
- (6) Appeals from findings of the administrator under section 50-165
- (7) Appeals of civil penalties;
- (8) Citizen complaints and recommendations concerning passenger vehicle for hire service.

(b) The commission shall promulgate rules and procedures to carry out its responsibilities under this

division, and shall keep such rules and procedures on file with the city clerk.

(c) The commission shall study the adequacy of the trust or sinking fund prescribed in division 9 and shall report its recommendations with respect thereto, to the city council.

(d) The commission may have any other responsibilities as assigned by the city council.

Sec. 50-190. - Hearings.

(a) All appeals provided in section 50-189 shall be submitted, to the administrator, by the party seeking to appeal. Appeals shall be on a form and in a manner designed and provided by the commission. If the information submitted is insufficient, the administrator may return the appeal to the applicant for additional information without regard to subsection (b) of this section. If the form is completed and complies with the provisions of this article then it shall be sufficient.

(b) The commission shall hold a hearing within 45 days after the receipt of the appeal. The administrator shall give written notice at least seven days prior to such hearing to all parties of the time and place for the hearing. In the event that the party seeking the appeal desires a hearing at a date other than that set by the commission, such person may file a written request for a change of hearing date, setting forth the reasons for such request and the chair is empowered to approve or disapprove such a request; provided such request must be received by the commission at least ten days prior to the date set for the hearing. For good cause, the chair of the commission may set a hearing date other than within the period set forth above, or may continue the hearing from time to time. The commission shall render a decision on an appeal within seven days after the date of the hearing.

(c) Any appealing party may appear at the hearing in person and shall have the right to representation by a person of his or her choice. The hearing shall be recorded and the commission's decision shall be in writing with copies provided to all parties. The rules of evidence normally applied in the trial of civil actions in the General Court of Justice of the State of North Carolina shall not apply to hearings conducted before the commission.

(d) When practical difficulties or unnecessary hardship would result from carrying out the strict letter of this article, the commission may vary the provisions of this article so that the spirit of this article shall be observed, public safety and welfare secured and substantial justice done.

(e) Hearings before the commission shall be de novo. Final decisions of the commission regarding revocation or denial of an operator's permit, the suspension of an operator's permit for over 60 days or the revocation of a driver's permit shall be appealable to the city council for final decision. A party may appeal by giving written notice to the administrator within ten business days of the commission's decision. If the commission's decision is not appealed within this time period then its decision is final and enforceable. If an appeal to city council is taken within this time period, then the commission's decision is stayed pending the final decision of the city council. The administrator shall calendar the appeal before the city council in a reasonable time.

Sec. 50-191. - Action by council.

(a) The city council shall take such action, as it deems appropriate, including, but not limited to, the

following:

- (1) Deciding the matter based solely upon the commission's decision;
- (2) Hearing arguments from the affected party, the administrator and other interested persons;
- (3) Setting the matter for hearing de novo before the city council;
- (4) Returning the matter to the commission for further consideration.

(b) When practical difficulties or unnecessary hardship would result from carrying out the strict letter of this article, the city council may vary the provisions of this article so that the spirit of this article shall be observed, public safety and welfare secured and substantial justice done.

Sec. 50-192. - Notification of affected party; appeal.

The city clerk shall give prompt written notice by mail to the affected party of the decision of city council. The decision of the city council may be appealed to the General Court of Justice of the State of North Carolina by the filing of the appropriate legal process with the court within 30 days after the mailing of the city council decision, but not thereafter. Unless such appeal is filed within such period, the appeal shall be conclusively presumed to be withdrawn and abandoned and the action and decision of council shall stand as final. In the event such appeal is taken in a timely manner as herein provided the rules of procedure governing appeals from the decision of the governing body of a municipality by certiorari shall control.

Sec. 50-193. - Compensation.

Each member of the commission who attends an official meeting of the commission shall be entitled to compensation of the sum set by the city council for each meeting attended.

Secs. 50-194—50-224. - Reserved.

DIVISION 5. - OPERATION

Sec. 50-225. - Registration and all proper permits necessary.

No person shall operate a motor vehicle as a passenger vehicle for hire until such vehicle has been registered in accordance with all the requirements of the state and all proper permits have been obtained therefor.

Sec. 50-226. - Compliance with state law, ordinances, etc.

(a) Every passenger vehicle for hire shall be operated in accordance with the laws of this state and the

ordinances of this city and with due regard for the safety, comfort and convenience of passengers and for the safe and careful transportation of property and for the safety of the general public.

(b) No passenger vehicle for hire shall be operated at a rate of speed inconsistent with existing traffic regulations, road conditions, and the hazard at intersections and any other conditions then existing, nor in such manner or condition to endanger or to be likely to endanger the safety of passengers, pedestrians, vehicles or the person and property of others.

Sec. 50-227. - Operation standards.

Subsequent to the receipt of an operating permit to operate a passenger vehicle for hire, an operating permit holder shall continue to meet the requirements of this article, including sections 50-121 and 50-124, as a condition of retaining such permit.

Sec. 50-228. - Terms between owner and driver regulated.

(a) Any passenger vehicle for hire may be operated by the operating permit holder thereof, or by a duly authorized agent or employee of the operating permit holder.

(b) An operating permit holder may enter into a written contractor lease agreement with any driver, as an independent contractor, by the terms of which such driver pays to the operating permit holder a fixed or determinable sum per day for the use of such passenger vehicle for hire and is entitled to all or a portion of the proceeds of operation over and above the fixed or determinable sum; provided however, that the vehicle owner provides and maintains such insurance on any leased passenger vehicles for hire as required by the city and the state.

(c) The agreement must impose a condition that the driver shall comply with this article and that failure to comply may be considered by the operating permit holder as a material breach of the contract or lease agreement.

(d) Nothing herein contained shall prevent any operating permit holder from paying a fixed fee or other compensation to another operating permit holder for furnishing insurance, required by this article, for use of terminal facilities or for the privilege of operating under the name of such other operating permit holder.

Sec. 50-229. - Duty of operating permit holder to keep records and file reports.

Every operating permit holder shall maintain on file with the administrator his or her name, business address, garage address, all business telephone numbers listed in his or her name, and the names of all drivers, their license numbers and addresses. The operating permit holder shall notify administrator of changes of names of his or her drivers and their license numbers within 48 hours after such change in writing.

Sec. 50-230. - Driver's daily manifest to be kept; right of inspection by police and the administrator.

(a) Every owner or driver of a passenger vehicle for hire shall maintain a daily manifest of calls received from persons requesting transportation. Every driver of every such passenger vehicle for hire

shall keep a daily manifest of the trips made each day, the time, place of origin and destination of each trip, and the number of passengers and amount of fare for each trip. Manifests shall be in a form approved by the administrator and shall be furnished to the driver by the operating permit holder.

(b) Every operating permit holder shall retain and preserve, filed by operating permit number, all drivers' manifests in a safe place for at least 90 days, and the same shall be made available upon demand for inspection by the administrator, the city police or the city manager.

Sec. 50-231. - Driver's dress restrictions.

(a) Each driver shall wear clean clothes consisting of shoes, a shirt (free of obscene or offensive writings or illustrations), pants or ankle length skirt or dress or knee length shorts during spring and summer months as part of a complete uniform prescribed for all passenger vehicle for hire drivers and approved by the administrator, and, when necessary, an outer winter garment while operating a passenger vehicle for hire. If a hat is worn, it shall be free of any offensive writings or logos. Undershirts, T-shirts and tank top shirts are not permitted as a shirt as described in this subsection but may be worn underneath the shirt. A flip-flop style sandal shoe is not permitted as a shoe.

Sec. 50-232. - Accidents to be reported.

All accidents involving the operation of passenger vehicles for hire shall be reported to the administrator within 48 business hours of the accident. The operating permit holder for the passenger vehicle for hire involved in an accident and the driver of the passenger vehicle for hire so involved shall be jointly and individually responsible for making the required report, which shall be on a form approved by the administrator. Upon inspection by the administrator, a passenger vehicle for hire may be immediately ordered out of service by the administrator until repaired if the administrator determines that the vehicle does not meet the criteria of this article.

Sec. 50-233. - Length of time.

Upon requesting passenger vehicle for hire service, the caller shall be advised of the probable time of delay, if service is not expected to be available within 15 minutes.

Sec. 50-234. - Limitation on hours of driving.

It shall be unlawful for any driver of any passenger vehicle for hire to continue on active passenger vehicle for hire duty for more than 14 hours, mealtime included, during any 24 hour period. Each driver shall enter the time of commencing active duty and ending active duty upon the record provided for in section 50-230.

Secs. 50-236—50-263. - Reserved.

DIVISION 6. - RATES AND CHARGES

Sec. 50-264. - Fare or rate of fare.

(a) Authorized fare or rate of fare for exclusive ride service. The operator of any taxicab within the city is hereby authorized to charge an amount not in excess of the fares or rates of fare set by the city council.

(b) There shall be no additional charge for groups whose trips originate at the same location and whose destination is the same.

(c) For a "shared ride" as described in section 50-84(a)(3), the first passenger(s) leaving the taxicab shall be chargeable for the amount of the fare shown on the taximeter and before proceeding to transport the remaining passenger, the flag shall again be placed in the earning position so as to designate the beginning of a new and separate trip as to the remaining passenger in such vehicle and such process shall be repeated each time a passenger reaches his or her destination and alights from the vehicle so that the last passenger(s) leaving the vehicle shall be chargeable with such fare appearing upon the taximeter upon leaving the vehicle unless otherwise arranged between the taxicab operator and passengers. Provided that the vehicle equipped with taximeters capable of multiple flag drops so that each passenger's fare is calculated separately from the point of pickup to his or her destination, this method shall be employed to charge each passenger unless otherwise arranged between the taxicab operator and the passengers.

(d) Fare or rate of fare for package delivery service. The operator of any taxicab may contract with any individual or with any business within the jurisdiction of the city to provide package delivery service at any fare or rate of fare which is mutually agreeable between the parties.

(e) Changes of fare. The city manager may perform or cause to be performed such studies as necessary and may make recommendations to the city council concerning changes in the fares prescribed by this section. Such studies concerning changes in fares shall occur at least every three years; provided, however, nothing herein shall preclude such studies at more frequent intervals as is necessary.

Sec. 50-265. - Waiting time.

Waiting time shall be defined as the period of time consumed when a taxicab is not in motion at the direction of a passenger from the time of acceptance of a passenger to the time of discharge and also the time consumed while a driver is waiting for a passenger after having responded to a call but does not include the time consumed by a premature response or for the first three minutes following the timely arrival in response to a call or for delay caused by traffic interruption, the inefficiency of the taxicab or its driver or due to any cause other than the request, act or fault of the passenger.

Sec. 50-266. - Charges for delays other than "waiting time."

No charge shall be made against a passenger for any time lost on account of any delay whatsoever other than as provided in the definition of "waiting time" as defined in section 50-265.

Sec. 50-267. - Posting of schedule of rates.

It shall be unlawful for any operator of a taxicab carrying passengers to allow or permit the same to be driven or operated upon the streets of the city unless there is posted and kept posted in such taxicab a

printed schedule of fares and rates not exceeding the maximum amounts authorized by the provisions of this Code. Such schedule of fares and rates shall be obtained from the administrator and shall be posted in such places in the interior of the taxicab as may be approved by the administrator.

Sec. 50-268. - Collection of fare not registered on a meter.

(a) For transportation in any taxicab within the jurisdiction of the city, it shall be unlawful to make a charge to or collect a fare from a passenger using exclusive ride service, unless the amount thereof is registered upon the face of the meter, except as provided in section 50-264(a) and subsection (b) of this section.

(b) Taxicab drivers may request that any passenger pay an estimated fare in advance of his or her trip. Upon completion of the trip, the amount prepaid by the passenger shall be credited to the charge shown on the taximeter. If the prepaid amount exceeds the charge on the taximeter, the difference shall be refunded to the passenger. Drivers shall make every attempt to estimate the fare as accurately as possible.

Sec. 50-269. - Receipt for fare paid.

If demanded by the passenger, the driver in charge of a taxicab shall deliver to the person paying for the hiring of the same, at the time of such payment, a receipt therefor in legible type or writing containing the name of the operator, the name of the driver, the number of the vehicle, and any items for which a charge has been made, the total amount paid and the date of such payment.

Sec. 50-270. - Violation of division; charging of excessive fare.

It shall be unlawful for any person to violate any of the provisions of this division and shall also be unlawful for any person to charge or collect a fare in excess of that authorized by this division, and upon conviction, the offender shall be punished as provided in G.S. 14-4. In addition to such penalty, the administrator shall summarily and immediately cause the vehicle involved in such violation to be removed from operation as a passenger vehicle for hire until the deficiencies found to be in violation of this division have been corrected. The charging or receiving of a fare in violation of the provisions of this division may be cause for suspension or revocation of the driver's permit.

Sec. 50-271. - Disputes.

All disputes between the passenger and the driver as to fares may be arbitrated by the administrator within 20 days of service, and both passenger and driver shall comply with such determination. Appeal of the decision of the administrator may be made to the commission, as provided by division 4.

Secs. 50-272—50-290. - Reserved.

DIVISION 7. - SPECIFICATIONS AND EQUIPMENT

Sec. 50-291. - All passenger vehicles for hire must conform to the provisions of article.

No passenger vehicle for hire vehicle shall be granted an operating permit unless it conforms to all the provisions of this article.

Sec. 50-292. - General vehicle requirements.

(a) All passenger vehicles for hire must be clean, operable, and in good repair. Each vehicle must have a minimum of three doors, two doors of which lead to the driver's compartment of the vehicle. All doors must be operable from the inside and outside of the vehicle and constructed with a double or safety lock on each door.

(b) All upholstery covering or interior lining in any passenger vehicle for hire shall be of washable material shall be substantially free of cuts or tears and uniform in appearance.

(c) Floor mats of rubber or other material shall be provided and shall at all times be removable. No passenger vehicle for hire shall have on the floor thereof any footrest bracket or other fixture extending above the top of the floor mat.

(d) Seat belts shall be provided in accordance to passenger capacity. Drivers shall comply with state law when transporting children as provided in G.S. 20-137.1 or any statute superseding it.

(e) Taxicabs. All taxicabs shall be equipped with a protective shield safety device, separating the passenger area (rear seat) from the driver, camera or video system.

(f) The age of any passenger vehicle for hire shall not be greater than 15 model years. At the time the vehicle is first placed in service it shall not be of an age greater than ten model years. The following types of passenger vehicles for hire defined in Section 50-81 are exempt from this subsection: limousines, limousine sedans, para-transit vehicles and unique vehicles.

Sec. 50-293. - General maintenance and equipment requirements.

Every vehicle used as a passenger vehicle for hire shall meet the requirements of this section. If the administrator finds that a vehicle does not meet these requirements, he or she may order that such vehicle be removed from passenger vehicle for hire service.

(1) *Conformance to manufacturer's specifications.* The vehicle body shall conform to the general specifications of the manufacturer.

(2) *Vehicle exterior.* All exterior of the vehicle shall be maintained in good condition, free of substantial rust, dents, scratches, chips, and abrasions. Body paint may not be faded or mismatched. The exterior of the vehicle shall be washed frequently and kept reasonably free of dirt, grime, and grease.

(3) *Springs.* The springs or other material used to support the seating areas of the passengers shall be maintained to ensure an elastic coefficient of at least 90 percent of the manufacturer's

specifications.

(4) *Suspension components.* All suspension components affecting the ride and safety of the vehicle shall be maintained such that they comply with the manufacturer's specifications.

(5) *Windshields, windows.* All windshield and window glass shall be maintained free from cracks, scratches, pitting, abrasions, or any other condition that reduces clarity of vision below the level specified by the manufacturer. Windows shall not rattle and shall not be difficult to open or close.

(6) *Safety.* All passenger vehicles for hire must be inspected at an authorized state vehicle station every 12 months. The vehicle must meet the state's vehicle safety inspection requirements at all times.

(7) *Meter.* It shall be unlawful for the operator of a taxicab operating within the city to operate or cause such taxicab to be operated as a taxicab unless such vehicle is equipped with a meter of a type and design which has been approved by the administrator. Other required specifications are as follows:

a. Each meter shall be furnished with a tamper-proof switch and system of electric distribution so that when the meter is in the earning or hiring position, the fare indicator on the meter will be lighted and occupancy lights, located elsewhere on the vehicle and synchronized with the lights on the fare indicator, will be lighted. It shall be unlawful for any taxicab to be driven or operated for hire if the occupancy lights are out of order.

b. Each meter must be driven directly from the taxicab speedometer or speed sensor to the meter head itself. It shall be unlawful for any person to tamper with the meter or any of the electrical wiring attached to the meter or lights on any taxicab or to attach any wires, switches, pins or any other device whatsoever to the meter or the light required by this article.

c. No person shall use or permit to be used any taxicab meter which is in such a condition as to operate such that the meter charges higher than what is approved by the city council.

d. All meters shall be placed in such position in vehicle so that the face thereof and the fare numerals may be easily seen and read by a passenger sitting in any part of the vehicle.

e. When a passenger engages and enters a taxicab, the flag signal or other device affixed to such meter shall be placed in such a position as to denote that such taxicab is employed. The meter flag or signal affixed to a meter shall not be changed from a vacant to an employed position until the person engaging the vehicle has entered the vehicle, and the flag or signal shall not be moved from an employed to a vacant position at the conclusion of the trip until the fare is paid. No taxicab shall be operated for exclusive ride service while occupied by a person other than the driver with the flag or signal affixed to such meter in such a position as to denote that such vehicle is not employed.

f. All meters shall be inspected and tested by the administrator or his or her designee. No taxicab shall be driven without first having the meter approved and inspected by the administrator.

(8) *Heater and air-conditioner.* The passenger vehicle for hire must be equipped with an operating heater and an operating air-conditioner.

(9) *Headlights, taillights, and parking lights.* All such must function properly and shall not be broken or cracked.

(10) *"For hire" vehicles (except taxicabs) prohibited from having top lights and meters.* A taxicab shall be equipped with an exterior top light of a type approved by the administrator. A top light is a light or lights permanently attached to the roof of the vehicle.

It is unlawful for any person to operate a passenger vehicle for hire, except a taxicab, on which a top light or meter, has been installed, activated, or connected in or on such vehicle. Meters that are prohibited are as described in subsection (7) of this section.

This subsection shall not apply to a person licensed or permitted to drive a passenger vehicle for hire in another city in the state or Raleigh-Durham Airport Authority when such person, while operating a passenger vehicle for hire, enters the city to drop off a passenger picked up outside of the city limits, or pursuant to a pre-arranged trip, picks up a passenger within the city limits and takes the same outside the city limits.

Sec. 50-294. - Meter maintenance and operation; vehicle for hire operation as passenger vehicle for hire prohibited.

(a) No person shall use or permit a taxicab to be used for the provision of passenger vehicle for hire service while the meter installed in such vehicle is unsealed or its gear is not intact. The provisions of this section shall not apply to electronic or computerized meters.

(b) Any time a taxicab operating within the jurisdiction of the city is occupied by a person other than the driver, the flag must be in a down position and the meter in an "on" and operating mode, regardless of the actual fare charged. It shall be the duty of the driver to call to the attention of passengers the amount registered on the meter. In the event that the meter is electronic and does not have a flag, the meter must be "on" and operating, regardless.

(c) No person shall operate or cause to be operated a taxicab unless the vehicle is equipped with a meter that has been duly inspected and approved by the administrator and otherwise meets all the requirements of a taxicab contained in this article. It shall be unlawful to reduce the size of wheels or tires of a taxicab or other passenger vehicle for hire or to tamper with a meter.

(d) The meter shall be mounted in such a fashion that it does not present a sight obstruction.

(e) The meter shall be mounted in such a fashion that it does not present a hazard should a passenger riding in the right front seat be thrown against the vehicle dashboard. If the meter is not mounted such that this requirement is fulfilled, then the right front seat cannot be occupied by a passenger.

Sec. 50-295. - Color schemes for taxicabs; other regulations for all passenger vehicles for hire.

(a) Every taxicab individual or company operating two or more taxicabs shall adopt a color scheme, distinct from that of any other taxicab individual or company, for the painting of its taxicabs, and all

taxicabs of an individual or company shall be of the same color scheme. An operating permit holder who operates under the name of another operating permit holder shall use the same color scheme as such other operating permit holder. All color schemes are subject to approval by the administrator.

(b) All individuals or companies operating a single taxicab shall have such vehicle painted a uniform color determined by the administrator. All individuals or companies operating a single taxicab company shall have such vehicle painted a uniform color determined by the administrator.

(c) Where taxicabs of several companies and persons have been transferred to a single corporation in order to qualify for sinking fund or trust fund coverage, the foregoing provisions relating to color schemes shall not apply, and each transferor may retain the same color scheme and ownership lettering as before the transfer to such holding corporation.

(d) A shuttle operating permit holder shall not use a color scheme that has been previously adopted by a taxicab operating permit holder. Limousines, limousine sedans, para-transit vehicles and unique vehicles defined in section 50-81 are exempt from color scheme provisions set forth in this section.

(e) The name of the passenger vehicle for hire company shall be affixed with permanent paint or decals on both sides of the vehicle in letters of not less than four inches. The passenger vehicle for hire number shall be affixed with permanent paint or decals to sides, the front and the rear of the vehicle in numbers of not less than six inches. The telephone number and Durham, N.C. shall be affixed with permanent paint or decals on both sides of the vehicle with the letters and numbers at least four inches high on each side. The administrator may adopt a policy designating any other markings on a taxicab, shuttle and other passenger vehicles for hire for the purpose of identifying the various types of passenger vehicles for hire.

(f) Colors of paint used for lettering and numbering shall be in sharp contrast with the color of the surface paint to which they are applied, so as to be evenly visible at a reasonable distance, especially at night with streetlights. Lettering or numbering shall not be acceptable where it has been painted upon a sheet of metal or other material which can be removed or detached from the passenger vehicle for hire.

(g) No person shall operate a vehicle that is identified as a passenger vehicle for hire unless use of the vehicle as a passenger vehicle for hire has been authorized pursuant to this article. No person shall operate a taxicab containing a taxicab's company's color scheme or identification without authorization from such taxicab company or after such authorization has been revoked.

(h) No passenger vehicle for hire operating permit holder that is not a taxicab shall advertise or hold itself out as supplying taxicab service if such person's vehicle does not fall within definition of a taxicab as found in Section 50-81.

(i) No taxicab shall advertise or hold itself out as supplying shuttle service if such person's vehicle does not fall within definition of a shuttle as found in Section 50-81.

Sec. 50-296. - Radios, television sets, prohibited; exception.

No driver shall operate an AM and/or FM radio or a television in any passenger vehicle for hire while the same is being used to transport passengers for hire in the city; provided, however, that this section

shall not prohibit the use in any passenger vehicle for hire operating under the provisions of this article, of a radio device for the purpose of receiving instructions from the office or headquarters of the person or company owning the passenger vehicle for hire for the carrying of passengers.

Sec. 50-297. - Rooftop device.

- (a) A passenger vehicle for hire may display a rooftop device as allowed in subsection (b).
- (b) Each passenger vehicle for hire may display one rooftop device. The rooftop device may be attached only on the top of the vehicle roof. All rooftop devices must be approved by the administrator prior to mounting. In reviewing rooftop devices for approval, the administrator shall approve only those rooftop devices that:
 - (1) Do not obscure any required vehicle markings or lights.
 - (2) Do not add more than 18 inches to the overall height of the vehicle.
 - (3) Do not extend beyond the top of the front windshield, the rear window, or either of the sides of the vehicle
 - (4) Are securely attached to the roof of the vehicle and are stationary.
 - (5) Do not block exits such as doors and windows or obstruct opening of trunk or hatch.
- (c) No messages, signs, advertisements, notices, or other communications shall be displayed on the inside or outside of any passenger vehicle for hire except for the rooftop device and except for items authorized by law, ordinance or manufacturer specifications (e.g., car or car part manufacturer's trademark or logo).
- (d) No rooftop device shall blink, chase, flash, move, rotate, revolve, flutter, spin, or be animated. No rooftop device shall include or involve animated, blinking, chasing, flashing, or moving effects. Without limiting the foregoing provisions of this subsection, no rooftop device shall include pennants, propeller discs, flags, banners, inflated devices, balloons, or sign faces that change to show different images or messages.

Secs. 50-298—50-327. - Reserved.

DIVISION 8. - INSPECTION AND MAINTENANCE OF EQUIPMENT

Sec. 50-328. - Inspection; right of entry; withdrawal of vehicle when not in good condition; right of reinspection.

- (a) Before an operating permit is issued or renewed for any operating permit holder, the passenger vehicle for hire for which such operating permit is requested shall be delivered to a place designated by

the administrator, who shall ascertain whether such passenger vehicle for hire complies with the provisions of this article.

(b) The administrator or his or her agents shall have the right, at any time, after displaying proper identification, to enter into or upon any licensed passenger vehicle for hire for the purpose of ascertaining whether or not any of the provisions of this article are being violated. It shall be unlawful for any person who owns or is in control of a passenger vehicle for hire to refuse, upon the administrator's request, to present the passenger vehicle for hire to the administrator for the purpose of inspection or the removal of the medallion.

(c) All passenger vehicles for hire shall be inspected by the administrator once every year. Any passenger vehicle for hire which is found, after any such inspection, to be unsafe for passenger vehicle for hire service may be immediately ordered out of service by the administrator, or his or her designee and before again being placed in service shall be delivered to the administrator or his or her designee at a designated point of inspection.

Sec. 50-329. - Passenger vehicle for hire found unsafe by operating permit holder to cease operation until repairs are made.

Any passenger vehicle for hire found by the operating permit holder to be unsafe for passenger vehicle for hire operation shall have such repairs and alterations made as may be required within 60 days and the operating permit holder shall not operate, or cause or permit to be operated, any such passenger vehicle for hire until all such repairs and alterations have been completed.

Sec. 50-330. - Duty of owner to clean passenger vehicle for hire.

Every operating permit holder shall ensure that the interior and exterior of each passenger vehicle for hire is maintained at all times in a clean condition.

Secs. 50-331—50-348. - Reserved.

DIVISION 9. - INSURANCE, BOND AND SINKING OR TRUST FUND

Sec. 50-349. - Financial responsibility.

(a) No person shall operate or cause to be operated any taxicab or other passenger vehicle for hire over the streets of the city without first furnishing proof of financial responsibility as required by G.S. 20-280, or any superseding statute or higher limits established by state law (including regulations).

(b) Any operating permit holder shall, upon the receipt of any notice of cancellation of any insurance required by this section, immediately notify the administrator and the service provider, if applicable, of said cancellation. Failure to notify the administrator of a cancellation of insurance on a passenger

vehicle for hire shall result in the immediate suspension of the operating permit of the vehicle for a period of 30 days.

(c) The insurance company issuing any policy, certificate of insurance or other proof of financial responsibility required by this section shall give the administrator not less than 30 days advance written notice of any cancellation, reduction in coverage, or other material change in the policy.

(d) Any proof of insurance required by this section shall state it will comply with subsection (c) of this section.

Sec. 50-350. - Policies of insurance to be filed with administrator.

The operating permit holder shall file with the administrator proof of compliance with the requirements of section 50-349(a) and (d), as a condition precedent to the operation of any such passenger vehicle for hire on the streets of the city. The proof of financial responsibility filed shall, among other things, set forth a description of each and every passenger vehicle for hire operating under the terms of such policy, or policies by which the requirements of section 50-349(a) and (d) are met. The description shall supply such information as the administrator requires identifying the vehicles.

Sec. 50-351. - Insurance, liable regardless of operator.

(a) Any policy of insurance, certificate of insurance or other proof of financial responsibility submitted under this division shall be conditioned upon the payment of any final judgment (within limits of the policy) recovered by any person as a result of the negligent operation of any passenger vehicle for hire hereunder, no matter by whom operated or driven at the time of the injury or damage.

(b) Such insurance shall contain a provision for the continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon.

Sec. 50-352. - In lieu of insurance or bond.

Every person required by this article to furnish proof of financial responsibility as a condition precedent to the right to operate taxicabs, within the city thereof may, in lieu of liability insurance or surety bonds create and maintain a sinking fund or trust fund pursuant to G.S. 20-280 or any superseding statute which shall be used solely for the payment of claims and judgments against such person for reason of the negligent operation of any taxicab, used by the operator to transport passengers for pay in the manner prescribed in this division.

Sec. 50-353. - How created.

The sinking fund or trust fund authorized herein shall be created by the membership of a person, required by this article to furnish liability insurance or surety bonds, organized in a business association under the laws of the state, for the purpose of establishing, maintaining and operating a sinking fund or trust fund for the purpose declared in this division.

Sec. 50-354. - Minimum monthly payments into fund by each member.

The sinking fund or trust fund shall be funded by the payment from each member into the treasury of

such business association of at least the sum per month set by the council for each taxicab, for which the member has been granted a permit by the city to operate any taxicab, within the city or between the city and points within a radius of five miles thereof.

Sec. 50-355. - Minimum corpus of fund.

(a) The aggregate payment to such business association is to be not less than the sum per month set by the council until a minimum sum set by the city council has been accumulated and deposited as a trust fund as hereinafter set forth; provided, that if on account of payment of claims or for other reasons, either before or after the minimum sum set by the city council has been deposited, the fund shall be depleted, the aggregate payment to such business association by its members shall be the sum per month set by city council to make up such deficiency or depletion so that the corpus of the fund shall continue to increase without diminution until it reaches the sum set by city council.

(b) The city manager may bring to the city council every two years recommendations regarding the amount of any sinking fund or trust fund authorized herein.

Sec. 50-356. - When monthly payments due; certificate or report to city manager; vehicles not insured.

(a) The monthly payments shall be due and payable on the 15th day of each month by 12:00 noon to the treasurer of such business association.

(b) It shall be the duty of such business association, through its appropriate officers to certify, in writing and under oath, to the city manager not later than the 15th day of each month by 4:00 p.m., a correct list of all taxicabs, operated by the members of the business association for which sinking fund protection is provided. The business association shall, also, provide a list of the taxicabs, operated by such members for which sinking fund protection is not provided. Such certificates furnished by the appropriate officer shall contain the name of the operator's company or name of operator permit holder and the operator's medallion number. It shall be unlawful for any member of the business association to operate or cause to be operated any taxicab, within the city, unless insurance is provided or the taxicab is entitled to protection of the sinking fund or trust fund as indicated on the monthly certified list provided by such business association; further, the permit to operate such vehicle within the city thereof shall be suspended until proof of financial responsibility is furnished and in force.

(c) The business association shall provide to the city manager the following reports:

(1) *Monthly reports.*

- a. Total receipts of the business association;
- b. Total disbursements by the business association for settlement or judgments;
- c. The balance in the sinking fund or trust fund;
- d. A list of vehicles insured by the business association including the taxicab number, make, year, vehicle identification number and plate number.

(2) *Quarterly reports.*

- a. A list of accidents for the previous quarter including the name of the operator and driver, the date of the accident, the taxicab number, the location of the accident, the names of persons injured and a brief description of property damage;
- b. Claims made or lawsuits filed against the business association in the previous quarter;
- c. Claims or lawsuits settled or lawsuits resolved judicially in the previous matter;
- d. Itemization of disbursements by the business association showing the amount of each settlement or judgment.

(3) *Annual report.* The business association shall provide to the city manager an annual report of the items described in subsections (1) and (2) of this section.

Sec. 50-357. - Deposit of monthly payments; payments from trust fund; investments; liability of fund damages.

(a) The monthly payments required by this division shall be collected by the business association by 12:00 noon on or before the 15th day of each month, and the entire sum so collected shall be immediately deposited with a bank chartered under the laws of the state or United States expressly and solely in trust for the payment of claims against and final judgments recovered against any member of the business association on account of property damage or bodily injuries or death of any person resulting from the negligent operation of a taxicab, entitled to protection of the trust fund. The bank shall pay from the trust fund only such claims, which have not been reduced to final judgment, as may be certified in writing to it for payment by the secretary or designee of the business association, and shall pay only judgments which have been finally rendered against such member of the business association only to the extent of the maximum limits as to the amount and only for the occurrences hereinafter defined.

(b) The bank, as trustee is hereby granted full power and authority, in its discretion, to invest and reinvest such funds, or such portion thereof as such trustee deems advisable from time to time, in federally insured securities and federally insured accounts, and such securities and accounts together with the income derived therefrom, shall be held by such trustee under the same trusts and for the same purposes as it held the original funds.

(c) The trust fund herein mentioned shall be liable only for the payment of claims and judgments against the members thereof in the maximum amounts prescribed in G.S. 20-280.

(d) The trust fund shall not be used to pay any funds to members for damages to vehicles operated by members or for bodily injuries or death of any members or their drivers when driving or operating a vehicle which is entitled to protection of the trust fund. The trust fund shall not pay notes, checks, open accounts, or other debts of any member thereof and may only be used for the purposes set forth herein.

Sec. 50-358. - Discontinuance of operation of car.

When a member under the provisions of this division desires to discontinue the operation of one or more

of his or her taxicabs, such member shall give notice to the secretary of the business association of such fact, describing the number of such taxicab and such other information as will properly identify it but, as long as such member has a permit to operate the same, such member shall continue to make the monthly payments into the trust fund whether or not the car is in actual operation. In such cases, the secretary shall notify the city manager, in writing, of the fact that the operation of such taxicab has been discontinued, giving proper description thereof.

Sec. 50-359. - Prorating or refund of monthly payment prohibited.

In no case or event shall any monthly payment made under the provisions of this division be prorated or be subject to rebate or refund, either to the depositor or the depositor's heirs, administrators, successors or assigns.

Sec. 50-360. - New members.

In the event any person, not previously a member, should be issued an operating permit for the operation of taxicabs and such person desires to have such vehicles insured by the trust or sinking fund, such person shall pay for each vehicle to be operated, a sum of money equal to the quotient obtained by dividing the amount of money then in the trust fund, less the amount of final judgments rendered or settlements made but not then actually paid, by the total number of taxicabs which are insured by the trust or sinking fund at the time the new or additional operator's permit is issued; and thereafter monthly payments into the trust of sinking fund shall continue to be made for each of such taxicabs pursuant to provisions of this article.

Sec. 50-361. - Payments not subject to disposition by member; sale of car entitled to protection.

Payments made into the trust fund by members, as provided in this division, shall not be subject to mortgage, pledge, assignment, bequest or devise or other disposition by such member, or such member's heirs, administrators, successors or assigns. In the event of bankruptcy, assignment for the benefit of creditors, receivership or other insolvency of such member, all payments made by such member into the trust fund shall continue to be the sole and exclusive property of the trust fund and administered for the members thereof as herein set forth; provided, that in the event a member sells and transfers a vehicle, or such vehicle be sold by a trustee or officer of a court, which vehicle at the time of sale and delivery to the buyer is entitled to protection of the trust fund, so long as the purchaser thereof is properly licensed, has been granted an operator's permit by the city, has been approved by such business association, and otherwise complies with all the provisions of this division which are applicable to members of the business association

Sec. 50-362. - City to have no voice; purpose of division.

The city or its officers, servants and agents shall not be members of such business association and shall have no voice in or control over the internal management of the same; and such business association to be formed under the provisions of this division shall so regulate itself and its affairs as to carry out the purpose and spirit of this division, that is, the protection, welfare, safety and indemnity of the public in the operation of taxicabs.

Sec. 50-363. - Payment of expenses incurred in adjustment of defense of claims. “

Notwithstanding any other provision contained in this division, in all cases where legal or other expenses are necessary to investigate, adjust or defend claims or actions asserted against an operator whose vehicle was involved in an accident or collision, a part or all of such reasonable expenses may be paid from the trust fund by the bank, as trustee, upon certification in writing to it for payment by the secretary of the business association; provided, that the investigation expenses and/or legal expenses shall not exceed the market rate for like services in the city. The market rate for expenses incurred shall be determined by the city manager.

Secs. 50-364—50-384. - Reserved.”

Section 3. Section 50-292(f) and Section 50-295(d) (in Section 2 above) as applied to “shuttles” is effective one year from passage of this ordinance.

Section 4. Except as provided in Section 3 above, this ordinance shall be in full force and effect from the date of passage.