

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: July 26, 2016 – First Reading
August 9, 2016 – Public Hearing

CONTACT PERSON/PHONE: Terry Sharpe, Aviation Assistant Director, Operations & Security, 212-7302
Dionne Mack, City Manager's Office, 212-1070

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: Goal 2: Set the Standard for a Safe and Secure City

SUBJECT:

An ordinance amending El Paso City Code Title 14 (Aircraft and Airports), Chapter 14.16 (Airport Use Regulations), to delete Article V (Ground Transportation Taxicab Services) in its entirety; to rename Chapter 14.16, Article III to Chapter 14.16, Article III (Ground Transportation Services) and making it applicable to all modes of ground transportation. The penalty being as provided in sections 1.08.010, 1.08.020 and 1.08.030 of the El Paso City Code.

BACKGROUND / DISCUSSION:

On August 25, 2015, City Council unanimously carried to direct staff to review the Taxicab Ordinance and revise as needed or provide for a new ordinance to allow transportation network companies (TNC's) to operate legally in the City of El Paso, remove outdated language that no longer applies, remove over extensive requirements, and ensure compliance with accommodating disabled persons. On May 17, 2016, City Council discussed proposed revisions and directed that staff work with the taxicab and TNC industry to make the taxi industry thrive and be competitive, allow TNC's to operate and compete as well, level the playing field and possibly put forth incentives.

SELECTION SUMMARY:

N/A

PRIOR COUNCIL ACTION:

City Council adopted the current ordinance on November 18, 2008.

AMOUNT AND SOURCE OF FUNDING:


Account No: N/A
Funding Source: N/A
Amount: N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

By 

ORDINANCE NO. _____

AN ORDINANCE AMENDING EL PASO CITY CODE TITLE 14 (AIRCRAFT AND AIRPORTS), CHAPTER 14.16 (AIRPORT USE REGULATIONS), TO DELETE ARTICLE V (GROUND TRANSPORTATION TAXICAB SERVICES) IN ITS ENTIRETY; TO RENAME CHAPTER 14.16, ARTICLE III TO CHAPTER 14.16, ARTICLE III (GROUND TRANSPORTATION SERVICES) AND MAKING IT APPLICABLE TO ALL MODES OF GROUND TRANSPORTATION. THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010, 1.08.020 AND 1.08.030 OF THE EL PASO CITY CODE.

WHEREAS, on November 18, 2008, the City adopted its currently effective Vehicles for Hire ordinance; and

WHEREAS, on August 25, 2015, City Council discussed the current vehicle for hire ordinance in relation to transportation network companies (TNC's);

WHEREAS, on August 25, 2015, the second and final motion of City Council was unanimously carried to direct the City Manager to direct staff to review the Taxicab Ordinance and revise as needed or provide for a new ordinance that will allow TNC's to operate legally in the City of El Paso; to remove outdated language that no longer applies; to remove over extensive requirements; and to ensure compliance with accommodating disabled persons; and

WHEREAS, on May 17, 2016, City Council discussed the proposed regulations and provided direction to work with the taxicab and TNC industry to make the taxicab industry thrive, be competitive and allow TNC's to operate and compete as well; deregulate; and possibly put forth some incentives; and

WHEREAS, the City wishes to amend the ordinance in the best interest of the community in order to protect the health and welfare of its citizens and visitors, provide expanded public transportation options, and promote free enterprise and competition within the transportation-for-hire industry.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

Section 1. Title 14 – Chapter 14.16 – Airport Use Regulations - Article III Ground Transportation Shuttle Services – be revised to read as follows:

Chapter 14.16 - AIRPORT USE REGULATIONS

Article III - GROUND TRANSPORTATION SERVICES

14.16.400. GENERAL PROVISIONS

- 14.16.401 Statement of Policy
- 14.16.402 Definitions
- 14.16.403 General Authority for Enforcement
- 14.16.404 Defenses
- 14.16.405 Ground Transportation Service Requirements
- 14.16.406 Registration of Ground Transportation Service at the Airport
- 14.16.407 Fees

14.16.401. STATEMENT OF POLICY

It is the policy of the city to provide and promote adequate and efficient ground transportation services at El Paso International Airport for the convenience of the public. To this end, the city has established a ground transportation system at the airport designed to control traffic congestion, protect the public health and safety, preserve the airport infrastructure, and provide beneficial and convenient ground transportation services to air carrier passengers and other users at the airport.

14.16.402. DEFINITIONS.

In this article:

- A. AIRPORT means all of the land, improvements, facilities, and developments within the boundaries of El Paso International Airport.
- B. CERTIFICATE OF REGISTRATION or REGISTRATION means a certificate of registration issued by the director under Section 14.16.405 of this article that authorizes the operation of a courtesy vehicle or transportation-for-hire vehicle at the airport.
- C. CONCESSION CONTRACT means a contractual agreement between the city and another person for the provision of car rental and parking services at the airport, under which the city receives a minimum monthly payment or percentage of the gross revenues received by the contractor for such services.
- D. COURTESY VEHICLE means any vehicle used to offer or provide courtesy vehicle services.
- E. COURTESY VEHICLE SERVICE means the provision of free transportation to customers by or for a business as an accessory to the main activities of the business.
- F. DECAL means a decal issued by the director under Section 14.16.406 of this article authorizing a courtesy vehicle or transportation-for-hire vehicle to be operated at the airport.
- G. DIRECTOR means the city's director of aviation or the director's designated representative, including the transportation coordinator.
- H. DRIVER means an individual who drives or otherwise controls the physical movements of a courtesy vehicle or transportation-for-hire vehicle.
- I. FIXED-BASE OPERATOR means a person who provides full- service aircraft maintenance, aircraft rental, passenger charter flight service, or fuel operations for compensation at the airport.
- J. GROUND TRANSPORTATION SERVICE means the business of operating a courtesy vehicle or transportation-for-hire vehicle at the airport for the purpose of dropping off or picking up passengers at the airport's terminal building or other areas of the airport, including but not limited to driver, owner, operator or otherwise.
- K. GROUND TRANSPORTATION VEHICLE means a courtesy vehicle or transportation-for-hire vehicle that is used for performing ground transportation service at the airport.
- L. HOLDER means a person who is granted operating authority to perform ground transportation service at the airport, and includes any person with an ownership interest in the ground transportation service.

- M. **LAWFUL ORDER** means a verbal or written directive issued by the director in the performance of official duties in the enforcement of this article and any rules and regulations promulgated under this article.
- N. **OPERATE** means:
1. to own, drive, or be in control of a ground transportation vehicle at the airport; or
 2. to own or be in control of a ground transportation service provided at the airport.
- O. **OPERATING AUTHORITY** has the definition given that term in Title 6 of this code.
- P. **OPERATOR** means:
1. the owner or driver of a ground transportation vehicle; or
 2. the holder of operating authority to perform ground transportation service at the airport.
- Q. **OWNER** means the person:
1. who is the legal owner of a motor vehicle;
 2. to whom a motor vehicle is registered by the state; or
 3. who is leasing a motor vehicle.
- R. **PERSON** means an individual; corporation; government or governmental subdivision; or agency, trust, partnership, or two or more persons having a joint or common economic interest.
- S. **TRANSPORTATION COORDINATOR** means the person designated by the director to oversee and manage the ground transportation service operations at the airport.
- T. **TRANSPORTATION- FOR-HIRE SERVICE** has the definition given that term in Title 6 of this code.
- U. **TRANSPORTATION- FOR-HIRE VEHICLE** has the definition given that term in Title 6 of this code.
- V. **TRANSPORTATION NETWORK COMPANY SERVICE** means transportation pre-arranged through a TNC's digital network between points chosen by the passenger. TNC service commences when a TNC driver accepts a transportation request via the digital network and concludes when the passenger exits the TNC vehicle. TNC service is not a taxicab service or available via street hail.
- W. **TRIP** means each time passengers are picked up at the airport by a ground transportation vehicle.
- X. **TRIP FEE** means the monetary amount charged per trip to the owner or operator of a ground transportation vehicle in accordance with Section 14.16.407. of this article.

14.16.403. GENERAL AUTHORITY FOR ENFORCEMENT.

- A. The director shall implement and enforce this article and may promulgate and enforce written rules and regulations, not inconsistent with this article, governing the operation of ground transportation vehicles and ground transportation services at the airport as the director determines necessary to provide for the orderly, efficient, and convenient flow of traffic, to protect the public health and safety, and to manage the ground transportation system at the airport.
- B. The director may issue lawful orders, not inconsistent with this article, as the director determines necessary to carry out duties under, or to effect the policy of, this article.
- C. The transportation coordinator is authorized to enforce this article and all rules, regulations, and lawful orders promulgated or issued by the director under this article.

14.16.404. DEFENSES.

It is a defense to prosecution under this article that:

- A. the motor vehicle was owned, operated, or leased by:
1. a nonprofit organization and being used to carry only passengers associated with that organization, if no compensation is received from any other person for carrying the passengers;
 2. an employer or employee association and being used to transport employees between the employee's homes and the employer's place of business or between work stations;
 3. an air freight or cargo company utilizing air cargo terminals at the airport;

4. a fixed-based operator and being used to transport employees or customers at the airport;
 5. the federal or state government or a political subdivision of the state; or
 6. a school, university, organ donor company, medical service provider, or ambulance service; or
- B. the ground transportation vehicle was licensed by another governmental entity and was transporting a passenger from a point outside the city to a destination inside the airport, if the ground transportation vehicle leaves the airport without receiving a passenger inside the airport.

14.16.405. GROUND TRANSPORTATION SERVICE REQUIREMENTS.

- A. A person commits an offense if he:
1. performs ground transportation service at the airport without being authorized under a current, valid certificate of registration issued under Section 14.16.406. of this article; or
 2. performs transportation-for-hire service at the airport or operates a transportation-for-hire vehicle at the airport without current, valid operating authority under Title 6 of this code.
 3. violates Airport rules, regulations or orders.
- B. All vehicles shall be no more than ten model years old. Further, the vehicle while in service shall be kept in a clean condition, free of foreign matter and of offensive odors. There shall be no litter in the vehicle or trunk or on floor mats and the upholstery and floor mats shall be kept clean and without holes or large wear spots. The vehicle shall be free from damaged fenders and body, defective paint and other conditions.
- C. While on duty driver shall:
1. conduct himself or herself in a reasonable, prudent and courteous manner;
 2. maintain a sanitary and well-groomed appearance;
 3. not consume alcoholic beverages, controlled substances, or other substances which could adversely affect his ability to drive a motor vehicle.
 4. follow Airport rules and regulations.

14.16.406. REGISTRATION OF GROUND TRANSPORTATION SERVICE AT THE AIRPORT.

Registration required; application.

- A. To obtain a ground transportation service certificate of registration, a person must submit an application to the director on a form provided for that purpose. The applicant must be the person who will own or operate the proposed ground transportation service.
- B. The registration application must include or be accompanied by:
1. for transportation- for-hire vehicles, proof of current, valid operating authority permit issued by the city under Title 6 of this code;
 2. an annual registration fee as shown in Section 14.16.407. (A)(3).
 3. any other information re-quested by the director that is reasonably necessary to determine the qualifications of the applicant to perform ground transportation service at the airport.
- C. **Issuance and denial of registration.**
1. The director shall issue a certificate of registration to the applicant, unless the director determines that the applicant:
 - a. failed to comply with the requirements for receiving a certificate of registration;
 - b. failed to submit a complete registration application;
 - c. made a false statement as to a material matter on or in connection with the registration application;
 - d. had a ground transportation service certificate of registration revoked within the 24 months preceding the date of application; or
 - e. owes the city money relating to the operation of ground transportation service at the airport.

2. If the director approves the registration application, the applicant will receive a ground transportation service certificate of registration and a decal (where applicable) for each vehicle authorized to be operated in the ground transportation service.
3. If the director determines that a certificate of registration should be denied, the director shall notify the applicant in writing that the application is denied and include in the notice the reason for the denial and a statement informing the applicant of the right of appeal.

D. Suspension or revocation of registration.

1. The Director shall notify an applicant for or holder of an operating authority permit or a taxicab zone permit of a denial, suspension or revocation of a permit. Such notice shall be made in writing via certified U.S. Mail. The notification shall include a statement as to the reason(s) for denial, suspension or revocation and the option and process for appeal, including a notice provision informing the applicant of his or her right to appeal the decision of the Director by submitting a written notice requesting an administrative hearing before a hearing officer. The applicant, referred to as the respondent for purposes of the appeal, will submit the written statement to the Director not later than the 15th city business day after the date of the written notice of denial, suspension or revocation of a permit. The respondent's written statement requesting the appeal shall clearly state why the respondent contends that there is not a valid basis for the denial, suspension or revocation of a permit.
2. During the pendency of an appeal for a denial, suspension or revocation of an operating authority permit or taxicab zone permit, the action by the Director shall remain in effect. However, if the denial is for the respondent's renewal application for an operating authority permit, and such denial is not for a reason that could result in the suspension or revocation of that permit pursuant to Section 14.16.406. (C), the existing permit will remain valid and in effect during the pendency of the appeal and until such time as the decision of the hearing officer becomes final.
3. If the respondent submits a written statement appealing the denial, suspension or revocation of a permit, the Director will immediately contact the city attorney's office in order to coordinate the retention of a hearing officer and to schedule a hearing. The notice of the hearing will specify a hearing date, not less than fifteen city business days nor more than thirty city business days after the date the applicant or permit holder files the written notice requesting an administrative hearing. The hearing officer will conduct a hearing on the denial, suspension or revocation of the permit. The hearing may be continued to a sooner or later date by agreement of the parties, and with the hearing officer's approval, or upon the finding of good cause by the hearing officer for the granting of an earlier or later hearing date.
4. At the hearing, the respondent will have the opportunity to present all of the respondent's arguments and to be represented by counsel at respondent's expense, present evidence and witnesses on his or her behalf, and cross-examine any of the witnesses for the Director. The Director, who may also be represented by counsel, bears the burden of proving the grounds for denying, suspending or revoking the permit by a preponderance of the evidence. The hearing will take no longer than one business day, unless extended by agreement of the parties or at the request of either party, and with approval of the hearing officer, to meet the requirements of due process and the proper administration of justice.
5. The hearing officer will issue a written decision, including findings of fact and conclusions of law, to the respondent within five city business days from the completion of the hearing. The hearing officer's decision is final.
6. If the decision is to affirm denial, suspension or revocation of a permit, the effective date of the

denial, suspension or revocation remains the date of the action by the Director. If the hearing officer's decision finds that no grounds exist for the denial of a permit, the hearing officer will, contemporaneously with the issuance of the decision, order the Director to immediately withdraw the denial of the permit and notify the respondent in writing by certified mail of such action. If the respondent is not yet permitted, the license official will contemporaneously therewith issue the permit to the applicant. If the hearing officer's decision finds that no grounds exist for suspension or revocation of a permit, the hearing officer will, contemporaneously with the issuance of the decision, order the Director to immediately withdraw the suspension or revocation of the permit and notify the respondent in writing by certified U.S. Mail of such action.

7. If a person whose operating authority permit or taxicab zone permit is suspended or revoked and the person opts to not appeal, or the suspension or revocation is affirmed by the Airport Director or designee, the person is not eligible to apply for a subsequent permit for a period of three years from the date of suspension or revocation. Such application shall be considered a new application and shall be processed accordingly.

14.16.407. FEES.

A. A person performing ground transportation service at the airport shall adhere to the following regulations and pay the following fees:

1. No vehicle may be used to provide transportation-for-hire services without a valid permit under this article.
2. A vehicle permit expires one year from the date it is issued.
3. Annual registration fee. The annual registration fee for ground transportation service is listed in The City of El Paso Annual Approved Budget - Schedule C of the current fiscal year.
4. An Airport Trip Fee for Transportation Network Companies (TNC) listed in The City of El Paso Annual Approved Budget - Schedule C of the current fiscal year.

B. The director shall establish rules and regulations governing the time and manner in which the fees required by this section must be paid and is authorized to enter into such agreements to collect said fees as may be deemed appropriate.

C. All revenues arising out of ground transportation services at the Airport shall be retained by the Airport Enterprise Fund for airport use only.

Section 2. Now therefore be it ordained that TITLE 14.16, AIRPORT USE REGULATIONS, Article V - Ground Transportation Taxicab Services - General Provisions - is hereby deleted in its entirety.

Section 3. Now therefore be it ordained that except as expressly amended herein, Title 14 - Aircraft and Airports - shall remain in full force and effect.

(Signatures appear on the following page)

PASSED AND APPROVED this _____ day of _____, 2016.


CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Oscar G. Gabaldón, Jr.
Assistant City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña
Director of Aviation