

ORDINANCE NO. 968

AN ORDINANCE OF THE CITY OF KETCHUM, IDAHO, AMENDING TITLE 5, CHAPTER 5.08, ARTICLES I AND II, KETCHUM MUNICIPAL CODE, "FOR-HIRE VEHICLES", REPLACING FRANCHISES WITH LICENSES AS A PREREQUISITE TO OPERATING LIMOUSINES AND TAXICABS, ELIMINATING EXISTING RULES AND REGULATIONS AND EMPOWERING THE CHIEF OF POLICE TO PROMULGATE NEW RULES AND REGULATIONS; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION BY SUMMARY.

WHEREAS, Ketchum Municipal Code Section 5.08, Articles I and II require that one obtain a franchise from Ketchum prior to operating a taxi or limousine business; and

WHEREAS, such franchises may only be granted and renewed by ordinance resulting in a substantial draw on limited City Council resources; and

WHEREAS, the City Council wishes to continue to regulate the operation of taxis and limousines in Ketchum, but to conserve City Council resources by replacing the franchises with licenses to be administered by the Chief of Police; and

WHEREAS, certain sections in Articles I and II require clarification.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Ketchum, Idaho:

SECTION 1: Sections **5.08.010** through **5.08.290**, of the Ketchum City Code are hereby amended, altered, and changed by adding thereto the underlined language herein below and by deleting there from the language stricken through, to wit:

Chapter 5.08 FOR-HIRE VEHICLES

Article I. ~~Luxury Taxicab and Limousine Franchises~~ Licenses.

5.08.010 Definitions.

For the purpose of this article, the following terms, phrases and words shall have the meaning given in this section:

"Applicant" means a person making application for a ~~luxury~~ limousine or taxicab business nonexclusive franchise license, or renewal, to operate and maintain a ~~luxury~~ limousine or taxicab business and ~~luxury~~ limousines or taxicabs on the public streets and alleys within the city of Ketchum, Idaho.

"Driver" means any person who drives or who is in actual physical control of any vehicle used as a ~~luxury~~ limousine or taxicab.

"~~Franchisee~~ Licensee" means a person having a city ~~luxury~~ limousine or taxicab business nonexclusive franchise license in full force and effect issued under this chapter.

"Luxury Limousine" means a taxicab ~~large luxurious at least four-door sedan automobile driven by a uniformed chauffeur~~ which is hired by a single person on an appointment only basis for a minimum fee of not less than fifty dollars (\$50.00) per hour which fee may not be pro-rated for services less than one hour in length and which fee is not based upon the distance traveled, but solely on time hired over a route directed by the passenger and not operated as a taxicab under Ketchum Ordinance 395 nor operated on a fixed route.

"Person" means any person, firm, partnership, association, corporation, company or any organization of any kind.

"Rate card" means a card or display in each ~~luxury~~ limousine or taxicab which contains the rate of the fare then in force.

"Taxicab" means any motor vehicle engaged in the business of carrying passengers for hire between points and over the public streets and alleys within the city of Ketchum, Idaho as may be directed by a passenger and not operated on a fixed route. (Ord. 573 § 1, 1992; Ord. 514 § 1, 1989; Ord. 412 § 1, 1986)

5.08.020 ~~Luxury limousine and taxicab business and vehicle nonexclusive franchise license required--Application and qualifications.~~

A. It is unlawful for any person to conduct, operate or maintain, or permit to be conducted, operated or maintained, or to participate in the conduct, operation or maintenance of, a ~~luxury~~ limousine or taxicab business or ~~luxury~~ limousine or taxicab on the public streets and alleys within the city unless a valid ~~luxury~~ limousine or taxicab business and vehicle nonexclusive franchise licenses has have been issued by the city ~~council~~ Chief of Police in accordance with this article and in accordance with rules and regulations promulgated by the Chief of Police which may be amended from time to time.

B. Application for such franchise business license and vehicle license shall be made to the city clerk Chief of Police (license officer), in such form and manner as he or she may prescribe, ~~but the application shall include the name and address of the applicant, and if a partnership, the names and addresses of each partner, and if a corporation or association, the names and addresses of the principal stockholders; the name of the operating manager of the business; a statement of the number of vehicles to be operated, a listed telephone number, and such other information as may be required. In order to determine the applicant's suitability for a franchise license, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Idaho Bureau of Criminal Identification to the Federal Bureau of Investigation for a national criminal history record check. An applicant who has not been licensed within the previous twelve (12) months by this article and an applicant who is applying to renew his or her application who has not previously done so shall be required to be fingerprinted. The cost of taking and processing such fingerprints shall be borne by the applicant.~~

C. Any franchise limousine or taxicab business license issued to operate ~~luxury~~ limousines on or over public streets and public ways means and shall be construed to be a privilege to use the streets and public ways for the business of operating ~~luxury~~ limousines or taxicabs.

~~D. No person shall be issued a luxury limousine nonexclusive franchise license when that person:~~

- ~~-1. Is not a person of good moral character;~~
- ~~-2. Is under the age of eighteen (18) years;~~
- ~~-3. Is not the bona fide owner of such business;~~

D. Any limousine or taxicab vehicle license issued shall be construed to be a privilege to use that specific licensed vehicle on the streets and public ways in furtherance of a duly licensed limousine or taxicab business.

~~-4. Has, within three years prior to the date of making application for such franchise license, been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, suffered the forfeiture of a bond for failure to appear or completed any sentence for confinement for any felony or misdemeanor; except that the licensing authority may in its discretion waive the disqualification provided in this subsection upon finding that the nature of the crime committed by the applicant and the extent of the rehabilitation of the applicant does not pose a threat to the safety and health of luxury limousine passengers or the public;~~

~~-5. Has had a franchise license, permit or license for operation of a taxicab or luxury limousine revoked by this city or any other city of this state or of the United States within the preceding ten (10) years;~~

~~-6. Has failed to demonstrate the ability to operate such business to the satisfaction of the governing body;~~

~~-7. Has within ten (10) years prior to the date of making application for such franchise license been convicted of operating a taxicab or luxury limousine without automobile insurance as required by the laws of the state.~~

~~-E. The affirmative showing required with respect to the qualifications of an applicant shall also be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association.~~

~~-F. A franchisee licensee shall continue to have and maintain all the qualifications and none of the disqualifications provided in this article throughout the franchise license terms.~~

~~-G. A luxury limousine nonexclusive franchise license shall not be issued unless the applicant obtains luxury limousine franchise licenses for the operation of at least one luxury limousine.~~

~~-H. A luxury limousine nonexclusive franchise license shall not be issued unless it is determined by the city council that an additional franchise license is or will be required by present or future public convenience and necessity.~~

~~-I. Each franchisee licensee shall maintain in full force and effect on each luxury limousine operated by it within the city a motor vehicle liability policy of insurance, issued by an insurance carrier duly authorized to do business in the state, which provides coverage in not less than the following amounts: five hundred thousand dollars (\$500,000.00) for bodily injury to or death in any one accident, and fifty thousand dollars (\$50,000.00) for injury to or destruction of the property of others in any one accident. Prior to publication of the nonexclusive luxury limousine franchise license ordinance, every luxury limousine franchise license shall tender to the city clerk a certificate of insurance designating the vehicle or vehicles covered and certifying that insurance in the amounts specified in this article is in effect. Such certificate of insurance shall specify as~~

~~the certificate holder the City of Ketchum, P.O. Box 2315, Ketchum, Idaho, 83340. The failure of any franchise licensee to obtain or maintain such insurance shall cause this franchise license to automatically terminate without notice effective simultaneously with the cancellation or nonrenewal of insurance.~~

~~J. Every luxury limousine franchise license shall immediately notify the city clerk of the voluntary or involuntary cancellation of any certificate of insurance on licensed luxury limousines. Revocation or suspension of insurance or failure to so notify the city clerk shall cause this franchise license to automatically terminate without notice effective simultaneously with the cancellation or nonrenewal of insurance.~~

~~K. A nonexclusive luxury limousine franchise license shall be valid upon publication of an ordinance granting same, the terms of which shall be in compliance with this article.~~

L. The term of each nonexclusive franchise license shall be one year. Each limousine or taxicab business license shall be non-exclusive and shall have a term of one year. (Ord. 797 § 1, 1999; Ord. 412 § 2, 1986)

5.08.030 Luxury Limousine or taxicab business and vehicle nonexclusive franchise license fees.

The application A license fee shall be paid to the license officer prior to the issuance of a nonexclusive franchise limousine or taxicab business license as consideration for the license and to defray costs of application review and administration of franchises such business licenses as follows:

A. Application Limousine or Taxicab Business License Fee. The application for a nonexclusive franchise a limousine or taxicab business license shall be accompanied by a franchise license fee and application fee of two hundred fifty dollars (\$250.00). Such fee shall be established by the Chief of Police and may be increased from time to time. If the application for franchise license is denied, all but one hundred dollars (\$100.00) of the fee submitted with the application shall be refunded to the applicant. In addition to such license fee, the license officer shall collect a fingerprinting fee in an amount established and subject to change by the State of Idaho.

B. Luxury Limousine or Taxicab Vehicle License and Fee. A franchisee licensee shall obtain a luxury limousine or taxicab vehicle license from the license officer for each vehicle so operated as a luxury limousine or taxicab on the public streets and alleys within the city of Ketchum, Idaho. The application for such luxury limousine license shall be made to the license officer upon forms to be provided by him or her, which application shall show the make, model, seating capacity and state motor vehicle license number of the vehicle and such other information the license officer may reasonably require. Such application shall be accompanied by a limousine or taxicab vehicle license fee, which shall be established by the Chief of Police and may be increased by from time to time.

~~The application shall be accompanied by the fee of thirty dollars (\$30.00) for each vehicle. (Ord. 412 § 3, 1986)~~

5.08.040 Luxury Limousine or taxicab driver's license.

A. License to Operate. Limousine or taxicab driver's license. It is unlawful for any person to drive or operate a luxury limousine or taxicab within the city of Ketchum,

Idaho unless a valid state driver's license and a valid luxury limousine or taxicab driver's license has have been issued as provided in this article, ~~both of which have been in full force and effect to drive, operate or have charge of a luxury limousine.~~

~~B. Limousine or Taxicab Driver's License Fee. The application for a limousine or taxicab driver's license shall be accompanied by a license fee. Such fee shall be established by the Chief of Police and may be increased from time to time. The applicant shall pay an application and license fee of twenty-five dollars (\$25.00).~~

~~C. Limousine or Taxicab Driver's License Application. An application for such license shall be made to the Chief of Police in such form and manner as may be prescribed by the Chief of Police. The application shall include the applicant's full name, current residence, place of residence for three years previous to moving to his or her present address, date of birth, height, color of eyes and hair, place of birth, length of time he or she has resided in the state, places of previous employment indicating the name, address and telephone number of each previous employer, whether he or she has ever been convicted of a felony or a misdemeanor, whether he or she has previously been licensed as a driver or chauffeur and, if so, whether his or her license has ever been revoked and for what cause. The applicant shall sign a sworn statement indicating that he or she has read and familiarized himself or herself with all traffic laws and regulations of the state and the city relative to the operation of motor vehicles on the public streets and highways. The applicant's signed sworn statement shall be filed by the police department as a permanent record. In order to determine the applicant's suitability for a luxury limousine driver's license, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Idaho Bureau of Criminal Identification to the Federal Bureau of Investigation for a national criminal history record check. An applicant who has not been licensed within the previous twelve (12) months by this article or an applicant who is applying to renew his or her application who has not previously done so shall be required to be fingerprinted. The cost of taking and processing such fingerprints shall be borne by the applicant.~~

~~D. Investigation. Upon receipt of an application for a license, the chief of police shall cause an investigation to be made to the extent necessary to determine whether the applicant is qualified.~~

~~E. Denial of License. No person shall be issued a license to drive, operate or have charge of a luxury limousine when that person:~~

- ~~1. Is under the age of eighteen (18) years;~~
- ~~2. Has, within the three years prior to the date of making application for such license, been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, completed any sentence of confinement, or suffered the forfeiture of a bond for any felony;~~
- ~~3. Has, within three years prior to the date of making application for such license, been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, completed any sentence of confinement, or suffered the forfeiture of a bond for any misdemeanor, involving:~~
 - ~~a. The use of force against the person or property of another;~~
 - ~~b. The threat of force against the person of another;~~
 - ~~c. Theft or larceny;~~
 - ~~d. The use, possession or sale of illicit drugs;~~

~~e. Possession of a concealed weapon, or
f. Illicit sexual activity;
4. Has, at any time of such application an outstanding warrant;
5. Has had a similar license revoked by this city or any other city of this state or of the United States within the preceding three years;
6. Upon the submission of satisfactory proof that such applicant operates motor vehicles in an unskillful, dangerous or reckless manner, or habitually uses intoxicating liquor or drugs, or repeatedly violates the law of the city relating to traffic or to this article.
F. Appeals. Upon denial by the police chief of any license application under this article, the applicant shall have the right to appeal such denial to the city council within fifteen (15) days of the date of the denial. The council may grant or refuse such license.
G. Issuance. Pending the results of the fingerprint background check and upon approval by the police chief, a temporary license may be issued to the applicant for a luxury limousine driver's license. Upon the satisfactory results of the fingerprint background check and upon the approval of the police chief, a standard license shall be issued. Both the temporary and standard license shall contain the applicant's full name, a physical description, and shall also contain a photograph of the applicant which is a reasonable likeness. Whenever the licensee is driving, operating or in charge of any luxury limousine such license card must be so affixed to the vehicle as to be in full and clear view of any passenger in the rear seat of the limousine. A luxury limousine driver's license issued under this article shall expire one year from the date first issued and each anniversary date thereafter if renewed. A provisional license may be issued pending completion of the required investigation. If a license has been expired longer than one year the applicant shall be treated as a new licensee with all the requirements pertaining as outlined above. (Ord. 797 § 2, 1999; Ord. 412 § 4, 1986)~~

5.08.050 License--Transfer.

~~No franchise or limousine or taxicab business license, vehicle license or driver's license issued under this article may be transferred, leased or assigned without the written approval and consent of the council, except that a luxury limousine vehicle license may be transferred to a different vehicle upon application to and approval of such transfer by the license officer. Such application for a transfer of a luxury limousine license shall show the same information as is required for the application of a luxury limousine vehicle license in the first instance except the application shall be only a fifteen dollar (\$15.00) transfer fee. (Ord. 412 § 5, 1986)~~

5.08.060 Vehicle safety.

It is unlawful for any person to operate and use, or permit or allow the operation and use of, any vehicle as a ~~luxury limousine~~ or taxicab upon the streets of the city not in proper working order with respect to the brakes, lights, turn signals, steering, sound devices, glass, mirror, exhaust system, windshield wipers, tires and other equipment. All vehicles shall be kept in good and proper mechanical order, and of sanitary and good appearance inside and outside. (Ord. 412 § 6, 1986)

5.08.070 Approval of luxury limousine vehicle.

~~Prior to the issuance of a luxury limousine business license and each luxury limousine vehicle license, the applicant shall provide the license officer with proof of ownership or lease of such vehicle by the applicant as well as a photograph establishing such vehicle is a luxury limousine. (Ord. 412 § 7, 1986)~~

5.08.080 Vehicles licensed elsewhere.

Luxury Limousines or taxicabs franchised or licensed by a municipality other than the city may transport passengers from outside of the city to a destination within the city, but it is unlawful for any such ~~luxury~~ limousine or taxicab to seek or accept passengers within the city of Ketchum, Idaho. (Ord. 412 § 8, 1986)

5.08.090 Unlawful charges.

It is unlawful for any person to charge, demand, collect or receive any rate, fare or charge which is not in compliance with the provisions of this article and in compliance with all rules and regulations promulgated by the Chief of Police. (Ord. 412 § 9, 1986)

~~5.08.100 Luxury limousine fare--Regulations.~~

~~There shall be posted in a conspicuous place in each luxury limousine a rate card or sticker, of not less than six inches by eight inches in size, printed in legible type, stating the rate provisions as set forth in this article for luxury limousines. No fare shall be charged for luxury limousine service which is less than fifty dollars (\$50.00) per hour which fee shall not be pro-rated for services under one hour in length and which fee shall not be based upon the distance traveled but solely on a hourly basis and no luxury limousine rate shall be charged within the corporate limits unless it complies with this article. (Ord. 573 § 2, 1992; Ord. 412 § 10, 1986)~~

5.08.110 Unlawful practices.

A franchise limousine or taxicab business licenses, vehicle licenses and/or driver's licenses issued pursuant to this article may be revoked and it is unlawful for any person to:

- A. Permit or allow more than one person to ride in the front seat with the driver of a luxury limousine or taxicab;
- B. Permit or allow any person, or for any person to ride on the fenders, hood or any place on the outside of a luxury limousine or taxicab;
- C. Permit more persons to be carried in a luxury limousine or taxicab as passengers than the rated seating capacity of such vehicle ~~his or her luxury limousine~~;
- D. Verbally solicit business;
- E. Operate a luxury limousine or taxicab in an unsafe condition in violation of Section 5.08.060;
- F. Allow a person not holding a valid luxury limousine or taxicab driver's license issued under this article to operate a luxury limousine or taxicab;
- G. Operate a luxury limousine or taxicab when under the influence of alcohol or drugs or who has an alcohol concentration of .02 as shown by analysis of blood, urine or breath. For purposes of this subsection, an evidentiary test for alcohol concentration shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine.

Analysis of blood, urine or breath for the purpose of determining the alcohol concentration shall be performed by a laboratory operated by the Idaho Department of Law Enforcement or by a laboratory approved by the Idaho Department of Law Enforcement under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho Department of Law Enforcement;

H. Violate a provision of this article or any rule or regulation promulgated by the Chief of Police pursuant to this article;

I. Violate any motor vehicle or motor vehicle safety law of the state;

~~J. Allow more than one person or party to hire a luxury limousine at the same time or for the same trip.~~ (Ord. 797 § 3, 1999; Ord. 412 § 11, 1986)

~~5.08.120 Daily record.~~

~~All licensees shall keep a daily record of all calls made and passengers transported, which daily record shall show the time and place when and where the passenger was secured and the place where the passenger was taken, which record shall be kept by the franchisee licensee at his or her place of business for at least two years, and which record shall be open for inspection by any police officer of the city at any and all times.~~ (Ord. 797 § 4, 1999; Ord. 412 § 12, 1986)

5.08.130 Revocation.

The right shall be and at all times remain vested in the ~~city council~~ Chief of Police to revoke or cancel any limousine or taxicab business license, vehicle license, or driver's license ~~the franchise license and/or luxury limousine driver's license~~ issued under this article by the city of Ketchum, Idaho for any violation of this article or the applicable rules and regulations. Before revoking the franchise limousine or taxicab business license or luxury limousine driver's license, or vehicle license, the ~~council~~ Chief of Police shall conduct a due process hearing, after notice to the ~~franchisee licensee~~ licensee of the hearing date and the grounds for revocation, and if at such hearing it appears to the ~~city council~~ Chief of Police that cause exists for the cancellation or revocation of such license franchise or luxury limousine driver's license, the same may be immediately canceled or revoked without obligation on the part of the city to refund any portion of the franchise license the luxury limousine driver's license fees set forth in Sections 5.08.030 and 5.08.040. (Ord. 797 § 5, 1999; Ord. 412 § 13, 1986)

5.08.140 Penalty.

Every person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be so fined and/or imprisoned pursuant to the general penalty Ordinance 779. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. (Ord. 797 § 6, 1999; Ord. 412 § 14, 1986)

~~Article II. Taxicab Franchises License~~ Article II is hereby repealed in its entirety.

SECTION 2. SAVINGS AND SEVERABILITY CLAUSE. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence clause, or phrase of this Ordinance is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

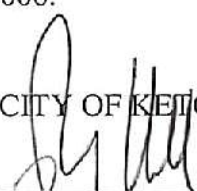
SECTION 3. REPEALER CLAUSE. All City of Ketchum ordinances or resolutions or parts thereof which are in conflict herewith are hereby repealed.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

Section 5. PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form attached hereto as Exhibit "A," which is hereby approved by the City Council shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO and APPROVED by the Mayor this 3rd of January, 2006.

CITY OF KETCHUM, IDAHO



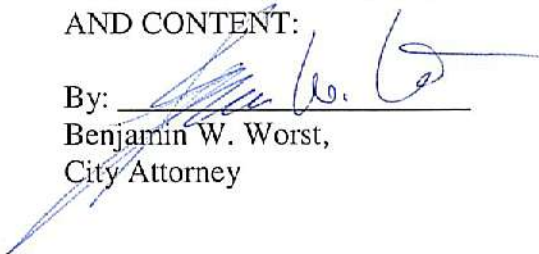
Randy Hall,
Mayor

ATTEST:



Sandra E. Cady, CMC
City Treasure/Clerk

APPROVED AS TO FORM
AND CONTENT:

By: 

Benjamin W. Worst,
City Attorney

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