DATE: January 8, 2019

TO: City Council

FROM: Stephen Fischer
City Attorney

SUBJECT: Taxi Cab Ordinance (5/5/5)

CONTACT: Stephen Fischer, City Attorney
Stephen.Fischer@oxnard.org, (805) 385-7483

RECOMMENDATION:

That City Council approve the first reading by title only and waive further reading of an ordinance amending Article XI to Chapter 11 of the City Code establishing taxicab licensing and operating regulations.

BACKGROUND

California Government Code Section 53075.5 requires all cities to adopt a resolution or ordinance for taxicab service regulations. This Section was repealed and replaced on September 18, 2018 with the passage of AB 939. Commencing in 2019, Section 53075.5 limits the applicability of local government permitting and licensing to cities and counties in which a taxicab company and driver are substantially located. The City’s current City Code provisions must be amended to meet State requirements as defined in Sections 53075.5-53075.52.

In 2017, Governor Brown signed SB 182 which requires drivers of transportation network companies to procure a single business license, regardless of the number of local jurisdictions in which the driver operates. The popularity of ride sharing companies, coupled with the minimal tax burden on the industry, has impacted the taxi industry statewide.

The amendment to Section 53075.5 is an attempt to equate licensing requirements for the taxicab industry in response to SB 182. AB 939 modifies taxicab permitting from various local requirements to permitting exclusively in jurisdictions in which taxicab services have the most substantial connection.
This ordinance does not currently include drivers for transportation network companies (Uber, Lyft).

**DISCUSSION**

In addition to the substantial location permitting requirement, under the new law, the State mandates taxicab requirements which promote public safety. These requirements include the following:

- A controlled substance and alcohol testing certification program;
- Participation in the Department of Motor Vehicles (DMV) pull-notice system to promote driver safety;
- Implementation of a safety education and training program;
- Implementation of a disabled access education and training program; and
- A registration of rates to prevent drivers from overcharging.

**Current Process**

Applicants for either a taxicab driver permit or a taxicab operator permit are required to submit a permit application to the City Treasurer’s Office, together with fees for the permit and such licenses, certificates, documents and other materials required by the Treasurer’s Office.

The application form for a taxicab driver permit includes the following:

- A letter from a prospective employer offering employment to the applicant as a taxicab driver in the City, whether as an independent contractor or as an employee, or a letter from an employer stating that the applicant is employed as a taxicab driver in the City, whether as an independent contractor or as an employee, or a written statement from the applicant that he/she wishes to be a self-employed taxicab driver in the City, not employed by another person, whether as an independent contractor or as an employee;
- Proof of compliance with the requirements of the City's mandatory controlled substance and alcohol testing certification program;
- Proof that the applicant is at least 18 years of age;
- The applicant's name, residence and business addresses, and if the applicant is self-employed, the name and address of the taxicab business for which the applicant drives;
- A document issued by the DMV, dated no more than ten days before the application is submitted, showing that the applicant holds a valid, current California driver's license;
- If the applicant is self-employed, the make, type, vehicle identification number and license number of each taxicab owned or leased by the applicant, the address from which the taxicabs will be operated, and a certificate of inspection for each such taxicab;
- The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked; and
- If the applicant is self-employed, proof of insurance.
The application form for a taxicab operator permit includes the following:

- The applicant's name and residence and business addresses;
- The name of each owner of the taxicab business, including the owners, partners or officers of a firm, partnership, corporation or other entity, and their residence and business addresses;
- The name and address of the taxicab business;
- The make, type, vehicle identification number and license number of each taxicab owned or leased by the taxicab business, and a certificate of inspection for each such taxicab;
- The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked;
- The name and address of each taxicab driver employed by the taxicab operator, whether as an independent contractor or as an employee;
- The address from which the taxicabs will be operated; and
- Proof of insurance.

Proposed Ordinance

The proposed ordinance provides the following revisions:

- Definition of “substantially located” as expressed by the State;
- Detail regarding required taxicab vehicle conditions;
- Allows the City Treasurer’s Office to deny an application for a taxicab driver permit if within three years of the date an application is filed, the applicant was convicted of driving under the influence of alcohol or drugs or of reckless driving;
- Participation in the California DMV pull-notice program;
- Trip Data Document requirement for all taxicab companies; and
- Allows for a taxicab driver or operator to operate in the City if that driver or operator possesses a permit from the County or at least one City in the County.

The City currently has 19 permitted taxicab drivers and 15 permitted taxicab operators.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

  Goal 1. Improve community safety and quality of life through a combination of prevention, intervention, and suppression efforts that address crime and underlying issues.
  Goal 3. Strengthen neighborhood development, and connect City, community and culture.

FINANCIAL IMPACT:
The City currently issues 34 permits that generate $4,560, and 34 BTC (business tax certificates) that currently generates $22,963.50. The combined total amounts for both the permits and the BTC is $27,523.50. The small numbers in this data do not lend themselves to statistical analysis. However, logically we can estimate a range of the fiscal impact at $55,047 plus or minus.

Prepared by Deputy City Attorney Jason Zaragoza, City Treasurer Phil Molina, Assistant City Treasurer Eden Alomeri, and Treasury Supervisor Armida Monares.

ATTACHMENTS:

TAXICAB ORDINANCE

Taxicab Ordinance (Redline)
ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA,
AMENDING ARTICLE XI OF CHAPTER 11 OF THE OXNARD CITY CODE TO
UPDATE LICENSING AND OPERATING REGULATIONS FOR TAXICABS.

WHEREAS, on September 18, 2018, Governor Brown signed Assembly Bill No. 939 (“AB 939”), codified in California Government Sections 53075.5-53075.52; and

WHEREAS, California Government Code Section 53075.5 limits applicability of local government permitting and licensing to cities and counties in which a taxicab company and driver are substantially located; and

WHEREAS, the City’s existing City Code provisions governing licensing and operating requirements for taxicabs must be amended to meet State requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES
ORDAIN AS FOLLOWS:

Part 1. Chapter 11, Division 6, Article XI of the Oxnard City Code is hereby amended to read as follows:

“ARTICLE XI. TAXICABS

SEC. 11-260. PURPOSE.

The purpose of this chapter is to protect the public health, safety and welfare in regard to taxicab transportation service.

The purpose of this article is to regulate taxicabs and other vehicles for hire with the objective of modernizing the regulation of taxicab transportation services. The requirements set forth in this chapter are intended to protect the public’s health, safety, and welfare by ensuring that taxicabs and other vehicles for hire charge reasonable rates, are adequately insured, provide safe vehicle for transport of the general public, and employ persons that do not pose a threat to passengers, pedestrians, or other drivers.

SEC. 11-261. DEFINITIONS.

For the purpose of this chapter, the following words shall have the following meanings:

(A) CERTIFICATE OF INSPECTION - A written statement from an automotive repair establishment registered with the State Department of Consumer Affairs, dated no more than 15 days before the date the application is submitted to the license collector, that a certain vehicle (including its brakes and lights) was thoroughly inspected and either found to be in good operating condition or repaired to be in good operating condition.
(B) DRIVE A TAXICAB - To drive a taxicab that picks up passengers within the city, but not including driving a taxicab that only discharges within the city passengers picked up outside the city or that travels through the city without picking up or discharging passengers, if the taxicab operator’s principal place of business is not within the city.

(C) COUNTY – County of Ventura.

(D) LICENSE COLLECTOR - The city’s treasurer or designee.

(E) TAXICAB - A motor driven vehicle designed for carrying not more than eight persons, not including the driver, having a meter, that calculates amounts due from passengers, and used to carry passengers for hire.

(F) PREARRANGED TRIP – A trip using and online enabled application, dispatch, or Internet Website.

(G) POLICE CHIEF - The department director of the Oxnard Police Department and the head officer.

(H) SUBSTANTIALLY LOCATED – A Taxicab Operator meets either of the following:
  1. Has its primary business address within the city. A new Taxicab Operator or Taxicab Driver shall use this method of determination only for its first year of operation and may use either test for subsequent years; or
  2. The total number of Prearranged and Non-Prearranged Trips that originate in the City account for the largest share of Taxicab Operator’s total number of trips within the County over the past fiscal year as determined annually.

(I) TAXICAB BUSINESS - The business of providing taxicab transportation services.

(J) TAXICAB DRIVER - A person who drives a taxicab, whether as an employee, an independent contractor or a self-employed person.

(K) TAXICAB OPERATOR - A person or entity that employs a taxicab driver to drive a taxicab, whether as an independent contractor or as an employee. A Taxicab Operator shall include a Taxicab Driver if a Taxicab Operator consists of only one driver.

(L) TRIP DATA DOCUMENTATION – Documentation as determined by the License Collector that substantiates that the total number of Prearranged and non-Prearranged trips that originate within the City account for the largest share of the Taxicab Operator’s total number of trips in the County over the previous fiscal year.

SEC. 11-262. TAXICAB PERMITS REQUIRED; FEES.

(A) No person shall drive a taxicab that is substantially located in the city without first obtaining a valid taxicab driver permit pursuant to this chapter.
(B) No person shall be a taxicab operator that is substantially located in the city without first obtaining a valid taxicab operator permit pursuant to this chapter.

(C) No person shall both drive a taxicab that is substantially located in the city and employ another person to drive a taxicab that is substantially located in the city without first obtaining a valid taxicab driver permit and a valid taxicab operator permit pursuant to this chapter.

(D) A Taxicab Operator that is not Substantially Located in the city shall possess a permit from the County or at least one city within the County.

(E) A Taxicab Driver that is not Substantially Located in the city shall possess a permit from the County or at least one city within the County.

(F) A Taxicab Operator who is also a Taxicab Driver that is not Substantially Located in the city shall possess applicable permit from the County or at least one city within the County.

(G) Fees for such permits shall be established by resolution of the city council.

(H) It shall be unlawful to operate a taxicab that is Substantially Located in the city without a valid, city-issued permit. The city may impose a penalty for violation pursuant to Section 11-22(A).

(I) A Taxicab Operator shall notify the city no less than six (6) months prior to changing its Substantial Location from another jurisdiction to the city.

SEC. 11-263. APPLICATION FOR TAXICAB PERMIT.

(A) The applicant for a taxicab driver permit or a taxicab operator permit shall submit to the license collector a completed application form obtained from the license collector, together with fees for the permit and such licenses, certificates, documents and other material as is required by the application form or the license collector, including an application form and fees for a business tax certificate if applicable. The applicant for a taxicab driver permit shall also submit a fee for a fingerprint report from the State Department of Justice.

(B) The application form for a taxicab driver permit shall require the following information, licenses, certificates, documents and such other material as the license collector deems necessary.

(1) A letter from a prospective employer offering employment to the applicant as a taxicab driver Substantially Located in the city, whether as an independent contractor or as an employee; or a letter from an employer stating that the applicant is employed as a taxicab driver Substantially Located in the city, whether as an independent contractor or as an employee; or a written statement from the applicant that he/she wishes to be a self-employed taxicab driver Substantially Located in the city, not employed by another person, whether as an independent contractor or as an employee;
(2) Proof of compliance with the requirements of the city's mandatory controlled substance and alcohol testing certification program;
(3) Proof that the applicant is at least 18 years of age;
(4) The applicant's name, residence, phone number and business address, and if the applicant is self-employed, the name and address of the taxicab business for which the applicant drives;
(5) A document issued by the Department of Motor vehicles, dated no more than ten days before the application is submitted, showing that the applicant holds a valid, current California driver's license;
(6) If the applicant is self-employed, the make, type, vehicle identification number and license number of each taxicab owned or leased by the applicant, the address from which the taxicabs will be operated, and a certificate of inspection for each such taxicab;
(7) The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked; and
(8) If the applicant is self-employed, proof of insurance required by subsections (F) and (G) of section 11-268.

(C) An application form for a taxicab operator permit shall require the following information and such other material as the license collector deems necessary:
   (1) The applicant's name and residence and business addresses;
   (2) The name of each owner of the taxicab business, including the owners, partners or officers of a firm, partnership, corporation or other entity, and their residence and business addresses;
   (3) The name and address of the taxicab business;
   (4) The make, type, vehicle identification number and license number of each taxicab owned or leased by the taxicab business, and a certificate of inspection for each such taxicab;
   (5) The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked;
   (6) The name and address of each taxicab driver employed by the taxicab operator, whether as an independent contractor or as an employee;
   (7) The address from which the taxicabs will be operated; and
   (8) Proof of the insurance required by subsections (F) and (G) of section 11-268.
   (9) Trip data Documentation. For a new Taxicab Operator, a primary business address in the city shall satisfy the Trip Data Documentation requirement. A Taxicab Operator shall begin collection of trip data during its first year of operation; and
   (10) Registration of rates of fare to be charged.

SEC. 11-264. CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROGRAM.

As a condition of permit issuance and renewal, taxicab drivers shall test negative for controlled substances and for alcohol. Procedures, standards and regulations concerning such testing shall be adopted by resolution of the city council.

SEC. 11-265. GRANT OR DENIAL OF TAXICAB APPLICATION.
(A) The license collector shall refer to the police chief a completed application for a taxicab driver permit or a taxicab operator permit.

(B) The police chief shall take a photograph and obtain the fingerprints of the applicant for a taxicab driver permit and shall send the fingerprints to the State Department of Justice for a report.

(C) After receipt of a report from the department of justice, the police chief shall direct the license collector to grant or deny the application for a taxicab driver permit. The police chief shall direct the license collector to deny the application on any of the following grounds:
   1. The applicant is under the age of 18 years;
   2. The applicant does not hold a valid, current California driver's license;
   3. The applicant did not submit one or more of the items required by the application form;
   4. The applicant did not test negative for controlled substances and alcohol, as required by the city's controlled substance and alcohol testing program;
   5. Within seven years of the date the application was filed, the applicant was convicted of driving under the influence of alcohol or drugs or of reckless driving; and/or
   6. Within seven years of the date the application was filed, the applicant was convicted of any of the following crimes, or of an attempt or conspiracy to commit any of the following crimes, as defined in Cal. Penal Code, and such conviction indicates that the applicant may pose a danger to the public if granted a taxicab driver permit: murder, mayhem, kidnapping, robbery, assault with intent to commit a felony, assault, battery, rape, arson, burglary, possession of burglary instruments or deadly weapons, or any crime for which the applicant is required to register as a sex offender pursuant to Cal. Penal Code, Section 290.

SEC. 11-266. NOTICE TO APPLICANT.

(A) The license collector shall give written notice to the applicant for a taxicab driver permit or a taxicab operator permit that the application is granted or denied. If the application is granted, the license collector shall enclose with such notice a taxicab driver permit or a taxicab operator permit issued to the applicant.

(B) A taxicab driver permit shall include the name of the permittee, the name of the employer, a statement that the permit is subject to the conditions imposed by section 11-269, and the requirement that the permittee return the permit to the license collector upon termination of the permittee's employment. A photograph of the applicant shall be attached to the permit.

(C) A taxicab operator permit shall include the name of the permittee and a statement that the permit is subject to the conditions imposed by section 11-268.

(D) If the application is denied, the license collector shall include in such notice a statement of the grounds on which the application is denied.
SEC. 11-267. REQUEST FOR HEARING BY APPLICANT.

(A) (1) The applicant for a taxicab driver permit or a taxicab operator permit may request a hearing if the applicant receives written notice that the application is denied.

(2) The request for hearing must be received by the license collector within 14 days after the license collector mailed the notice of denial to the applicant.

(B) An applicant's request for hearing shall be in writing, shall attach a copy of the notice of denial, and shall state the reasons that the applicant alleges the notice to be incorrect.

(C) An applicant's request for hearing shall be accompanied by the hearing fee set by resolution of the city council.

(D) Procedures to set and hold the hearing, issue the decision and seek judicial review of the decision shall be as set out in sections 11-150 through 11-153 of the code.

SEC. 11-268. CONDITIONS OF TAXICAB OPERATOR PERMIT.

Every person or entity issued a taxicab operator permit shall:

(A) Display on the exterior of each taxicab the name or trademark of the person under whose authority the taxicab is being operated or the name of the lessor or lessee thereof;

(B) Display in the interior of each taxicab the sign required by Cal. Vehicle Code, Section 27908;

(C) Display the schedule of rates and charges in a conspicuous place in each taxicab, visible to all passengers, together with the name, business address and telephone number of the taxicab operator;

(D) Calculate taxicab fares on an accurate meter approved and inspected by the county weights and measures officer;

(E) Collect from taxicab passengers only the amounts displayed on the schedule of rates and charges, plus any tip that the passenger offers;

(F) Obtain for each taxicab and keep in force during the term of the permit, public liability and bodily injury insurance, issued by a California admitted insurance carrier or an insurance carrier with an A.M. Best rating of A-VII or better. The insurance policy shall be endorsed to state that coverage may not be suspended, voided, canceled or reduced in coverage or limits without 15 days' prior written notice to the license collector. The insurance policy shall insure the operator and shall name the city as an additional insured of such taxicab against loss by reason of injury or damage that may result to persons or property from the negligent operation or defective construction of such taxicab, or from violation of this chapter or of any other law of the State or the United States. The insurance policy shall be in the sum of not less than $500,000 combined single limit for personal injury and property damage for each taxicab in any one accident. The risk manager may authorize the license collector to accept insurance that does not
meet the foregoing criteria or require insurance that exceeds the foregoing criteria if the risk manager determines that such insurance will provide adequate protection, based on, but not limited to, factors such as whether the applicant belongs to a risk retention group satisfactory to the risk manager; whether the applicant's operating risks are less than or more than standard risks; and whether the required insurance is reasonably available to a qualified applicant.

(G) Obtain and keep in force during the term of the permit, workers' compensation insurance, covering all employees of the permittee;

(H) Maintain each taxicab in good repair and in a clean and sanitary condition;

(I) Notify the license collector immediately when any vehicle not described in the application for the permit is placed in service as a taxicab and submit the information about the vehicle and the certificate of inspection required by the application form;

(J) Notify the license collector immediately on termination of a taxicab driver's employment.

(K) Require that each taxicab driver have a valid California driver's license and a valid city taxicab driver permit; and

(L) Comply with any other reasonable conditions imposed by the license collector or the police chief.

(M) A Taxicab Operator shall participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all Taxicab Drivers;

(N) A Taxicab Operator shall maintain a safety education and training program in effect for all Taxicab Drivers, whether employees or independent contractors; and

(O) A Taxicab Operator shall maintain a disabled access education and training program to instruct its Taxicab Drivers on compliance with the Federal Americans with Disabilities Act of 1990 and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

SEC. 11-269. CONDITIONS OF TAXICAB DRIVER PERMIT.

Every person to whom a taxicab driver permit is issued shall:

(A) Display the permit in the taxicab in a place conspicuous from the passenger area;

(B) If the taxicab driver is self-employed, comply with all the conditions of a taxicab operator's permit set forth in subsections (A) through (F) and (H) through (I) of section 11-268;

(C) Return the permit to the license collector immediately on termination of employment or self-employment as a taxicab driver; and
(D) Comply with any other reasonable condition imposed by the license collector or the police chief.

SEC. 11-270. ANNUAL PERMIT RENEWAL.

(A) Taxicab driver permits and taxicab operator permits shall continue in effect for the remainder of the fiscal year in which they are issued, unless revoked or modified as provided in section 11-271; provided, however, that taxicab driver permits shall automatically become void on termination of employment or self-employment as a taxicab driver. A taxicab driver permit or taxicab operator permit issued in the last quarter of a fiscal year shall continue in effect for the remainder of the fiscal year in which it is issued, and for the next fiscal year, subject to the foregoing provisions regarding revocation, modification and automatically becoming void.

(B) Permittees shall submit to the license collector applications to renew taxicab driver permits and operator's permits for following fiscal years, together with fees for the renewal and any changes in the information provided in the initial application or a previous renewal application; evidence that required insurance will be in effect for the new fiscal year; and a new certificate of vehicle inspection for each taxicab. In addition, an applicant for renewal of a taxicab driver permit shall submit proof of a negative test for controlled substances and alcohol as required by the city's controlled substance and alcohol testing program, have a new photograph taken by the police chief, and provide a document issued by the Department of Motor Vehicles, dated no more than ten days before the application is submitted, showing that the applicant holds a valid, current California driver's license.

(C) The license collector shall refer to the police chief completed applications for renewal of taxicab driver permits and taxicab operator permits. The police chief and the license collector shall process, grant and deny the applications for renewal as provided in sections 11-265 and 11-266. An applicant for renewal whose application is denied may request a hearing as provided in section 11-267. Conditions on renewal permits shall be as provided in sections 11-268 and 11-269.

(D) Applications for renewal of taxicab permits and taxicab operator permits should be submitted by June 15 of each year to allow sufficient time for processing before the current permit expires on June 30.

SEC. 11-271. REVOCATION, SUSPENSION OR MODIFICATION OF TAXICAB PERMIT.

(A) A taxicab operator permit or a taxicab driver permit may be revoked or suspended or additional conditions imposed thereon for failure of the permittee to comply with applicable laws, regulations and conditions, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.
(B) The police chief may file with the license collector a written request for revocation, suspension or modification of a taxicab operator permit or a taxicab driver permit, stating facts showing that the permittee has not complied with applicable laws, regulations or permit conditions and recommending that the permit be revoked or suspended or in what respect the permit should be conditioned.

(C) On receiving the request, the license collector shall mail to the permittee a notice that the permit is recommended for revocation, suspension or conditioning in a specific manner and stating the reasons for that recommendation. The notice shall inform the permittee that the recommendation will be adopted and the permittee will be deemed to concur with the recommendation if the permittee does not make a written request for a hearing in the manner provided in subsection (D) of this section.

(D) On receiving the notice, the permittee may make a written request for a hearing. The request must be received by the license collector within 14 days after the license collector mailed the notice of recommended revocation, suspension or conditioning to the permittee and shall be accompanied by the hearing fee set by resolution of the city council. The request for hearing shall state the reasons that the permittee alleges the notice of recommended revocation, suspension or conditioning to be incorrect.

(E) The procedures for holding a hearing, rendering a decision and seeking judicial review of the decision shall be as provided in subsections (H) through (N) of section 11-154 of the code.”

Part 2. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 3. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Part 4. Pursuant to Cal. Gov. Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council’s adoption of the ordinance.
Part 5. The City Clerk shall certify as to the adoption of this ordinance and shall cause the summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on January 8, 2019, and finally adopted on _____________, 20__, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________________________
Tim Flynn, Mayor

ATTEST:

______________________________________________
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

______________________________________________
Stephen M. Fischer, City Attorney
WHEREAS, on September 18, 2018, Governor Brown signed Assembly Bill No. 939 (“AB 939”), codified in California Government Sections 53075.5-53075.52; and

WHEREAS, California Government Code Section 53075.5 limits applicability of local government permitting and licensing to cities and counties in which a taxicab company and driver are substantially located; and

WHEREAS, the City’s existing City Code provisions governing licensing and operating requirements for taxicabs must be amended to meet State requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

PART 1. Chapter 11, Division 6, Article XI of the Oxnard City Code is hereby amended to read as follows:

“ARTICLE XI. TAXICABS

SEC. 11-260. PURPOSE.

The purpose of this chapter is to protect the public health, safety and welfare in regard to taxicab transportation service.

The purpose of this article is to regulate taxicabs and other vehicles for hire with the objective of modernizing the regulation of taxicab transportation services. The requirements set forth in this chapter are intended to protect the public’s health, safety, and welfare by ensuring that taxicabs and other vehicles for hire charge reasonable rates, are adequately insured, provide safe vehicle for transport of the general public, and employ persons that do not pose a threat to passengers, pedestrians, or other drivers.

SEC. 11-261. DEFINITIONS.

For the purpose of this chapter, the following words shall have the following meanings:

(A) CERTIFICATE OF INSPECTION - A written statement from an automotive repair establishment registered with the State Department of Consumer Affairs, dated no more than 15 days before the date the application is submitted to the license collector, that a certain vehicle (including its brakes and lights) was thoroughly inspected and either found to be in good operating condition or repaired to be in good operating condition.
(B) DRIVE A TAXICAB - To drive a taxicab that picks up passengers within the city, but not including driving a taxicab that only discharges within the city passengers picked up outside the city or that travels through the city without picking up or discharging passengers, if the taxicab operator's principal place of business is not within the city.

(C) COUNTY – County of Ventura.

(D) LICENSE COLLECTOR - The city's treasurer or designee.

(E) TAXICAB - A motor driven vehicle designed for carrying not more than eight persons, not including the driver, having a meter, that calculates amounts due from passengers, and used to carry passengers for hire.

(F) PREARRANGED TRIP – A trip using and online enabled application, dispatch, or Internet Website.

(G) POLICE CHIEF - The department director of the Oxnard Police Department and the head officer.

(H) SUBSTANTIALLY LOCATED – A Taxicab Operator meets either of the following:
   1. Has its primary business address within the city. A new Taxicab Operator or Taxicab Driver shall use this method of determination only for its first year of operation and may use either test for subsequent years; or
   2. The total number of Prearranged and Non-Prearranged Trips that originate in the City account for the largest share of Taxicab Operator’s total number of trips within the County over the past fiscal year as determined annually.

(I) TAXICAB BUSINESS - The business of providing taxicab transportation services.

(J) TAXICAB DRIVER - A person who drives a taxicab, whether as an employee, an independent contractor or a self-employed person.

(K) TAXICAB OPERATOR - A person or entity that employs a taxicab driver to drive a taxicab, whether as an independent contractor or as an employee. A Taxicab Operator shall include a Taxicab Driver if a Taxicab Operator consists of only one driver.

(L) TRIP DATA DOCUMENTATION – Documentation as determined by the License Collector that substantiates that the total number of Prearranged and non-Prearranged trips that originate within the City account for the largest share of the Taxicab Operator’s total number of trips in the County over the previous fiscal year.

SEC. 11-262. TAXICAB PERMITS REQUIRED; FEES.

(A) No person shall drive a taxicab that is substantially located in the city without first obtaining a valid taxicab driver permit pursuant to this chapter.
(B) No person shall be a taxicab operator that is substantially located in the city without first obtaining a valid taxicab operator permit pursuant to this chapter.

(C) No person shall both drive a taxicab that is substantially located in the city and employ another person to drive a taxicab that is substantially located in the city without first obtaining a valid taxicab driver permit and a valid taxicab operator permit pursuant to this chapter.

(D) A Taxicab Operator that is not Substantially Located in the city shall possess a permit from the County or at least one city within the County.

(E) A Taxicab Driver that is not Substantially Located in the city shall possess a permit from the County or at least one city within the County.

(F) A Taxicab Operator who is also a Taxicab Driver that is not Substantially Located in the city shall possess applicable permit from the County or at least one city within the County.

(G) Fees for such permits shall be established by resolution of the city council.

(H) It shall be unlawful to operate a taxicab that is Substantially Located in the city without a valid, city-issued permit. The city may impose a penalty for violation pursuant to Section 11-22(A).

(I) A Taxicab Operator shall notify the city no less than six (6) months prior to changing its Substantial Location from another jurisdiction to the city.

SEC. 11-263. APPLICATION FOR TAXICAB PERMIT.

(A) The applicant for a taxicab driver permit or a taxicab operator permit shall submit to the license collector a completed application form obtained from the license collector, together with fees for the permit and such licenses, certificates, documents and other material as is required by the application form or the license collector, including an application form and fees for a business tax certificate if applicable. The applicant for a taxicab driver permit shall also submit a fee for a fingerprint report from the State Department of Justice.

(B) The application form for a taxicab driver permit shall require the following information, licenses, certificates, documents and such other material as the license collector deems necessary.

1. A letter from a prospective employer offering employment to the applicant as a taxicab driver Substantially Located in the city, whether as an independent contractor or as an employee; or a letter from an employer stating that the applicant is employed as a taxicab driver Substantially Located in the city, whether as an independent contractor or as an employee; or a written statement from the applicant that he/she wishes to be a self-employed taxicab driver Substantially Located in the city, not employed by another person, whether as an independent contractor or as an employee;
(2) Proof of compliance with the requirements of the city's mandatory controlled substance and alcohol testing certification program;
(3) Proof that the applicant is at least 18 years of age;
(4) The applicant's name, residence, phone number and business address, and if the applicant is self-employed, the name and address of the taxicab business for which the applicant drives;
(5) A document issued by the Department of Motor vehicles, dated no more than ten days before the application is submitted, showing that the applicant holds a valid, current California driver's license;
(6) If the applicant is self-employed, the make, type, vehicle identification number and license number of each taxicab owned or leased by the applicant, the address from which the taxicabs will be operated, and a certificate of inspection for each such taxicab;
(7) The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked; and
(8) If the applicant is self-employed, proof of insurance required by subsections (F) and (G) of section 11-268.

(C) An application form for a taxicab operator permit shall require the following information and such other material as the license collector deems necessary:
   (1) The applicant's name and residence and business addresses;
   (2) The name of each owner of the taxicab business, including the owners, partners or officers of a firm, partnership, corporation or other entity, and their residence and business addresses;
   (3) The name and address of the taxicab business;
   (4) The make, type, vehicle identification number and license number of each taxicab owned or leased by the taxicab business, and a certificate of inspection for each such taxicab;
   (5) The distinctive color scheme, name, monogram or insignia by which each taxicab will be marked;
   (6) The name and address of each taxicab driver employed by the taxicab operator, whether as an independent contractor or as an employee;
   (7) The address from which the taxicabs will be operated; and
   (8) Proof of the insurance required by subsections (F) and (G) of section 11-268.
   (9) Trip data Documentation. For a new Taxicab Operator, a primary business address in the city shall satisfy the Trip Data Documentation requirement. A Taxicab Operator shall begin collection of trip data during its first year of operation; and
   (10) Registration of rates of fare to be charged.

SEC. 11-264. CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROGRAM.

As a condition of permit issuance and renewal, taxicab drivers shall test negative for controlled substances and for alcohol. Procedures, standards and regulations concerning such testing shall be adopted by resolution of the city council.

SEC. 11-265. GRANT OR DENIAL OF TAXICAB APPLICATION.
(A) The license collector shall refer to the police chief a completed application for a taxicab driver permit or a taxicab operator permit.

(B) The police chief shall take a photograph and obtain the fingerprints of the applicant for a taxicab driver permit and shall send the fingerprints to the State Department of Justice for a report.

(C) After receipt of a report from the department of justice, the police chief shall direct the license collector to grant or deny the application for a taxicab driver permit. The police chief shall direct the license collector to deny the application on any of the following grounds:
   (1) The applicant is under the age of 18 years;
   (2) The applicant does not hold a valid, current California driver's license;
   (3) The applicant did not submit one or more of the items required by the application form;
   (4) The applicant did not test negative for controlled substances and alcohol, as required by the city's controlled substance and alcohol testing program;
   (5) Within three years seven years of the date the application was filed, the applicant was convicted of driving under the influence of alcohol or drugs or of reckless driving; and/or
   (6) Within seven years of the date the application was filed, the applicant was convicted of any of the following crimes, or of an attempt or conspiracy to commit any of the following crimes, as defined in Cal. Penal Code, and such conviction indicates that the applicant may pose a danger to the public if granted a taxicab driver permit: murder, mayhem, kidnapping, robbery, assault with intent to commit a felony, assault, battery, rape, arson, burglary, possession of burglary instruments or deadly weapons, or any crime for which the applicant is required to register as a sex offender pursuant to Cal. Penal Code, Section 290.

SEC. 11-266. NOTICE TO APPLICANT.

   (A) The license collector shall give written notice to the applicant for a taxicab driver permit or a taxicab operator permit that the application is granted or denied. If the application is granted, the license collector shall enclose with such notice a taxicab driver permit or a taxicab operator permit issued to the applicant.

   (B) A taxicab driver permit shall include the name of the permittee, the name of the employer, a statement that the permit is subject to the conditions imposed by section 11-269, and the requirement that the permittee return the permit to the license collector upon termination of the permittee's employment. A photograph of the applicant shall be attached to the permit.

   (C) A taxicab operator permit shall include the name of the permittee and a statement that the permit is subject to the conditions imposed by section 11-268.

   (D) If the application is denied, the license collector shall include in such notice a statement of the grounds on which the application is denied.
SEC. 11-267. REQUEST FOR HEARING BY APPLICANT.

(A) (1) The applicant for a taxicab driver permit or a taxicab operator permit may request a hearing if the applicant receives written notice that the application is denied.

(2) The request for hearing must be received by the license collector within 14 days after the license collector mailed the notice of denial to the applicant.

(B) An applicant's request for hearing shall be in writing, shall attach a copy of the notice of denial, and shall state the reasons that the applicant alleges the notice to be incorrect.

(C) An applicant's request for hearing shall be accompanied by the hearing fee set by resolution of the city council.

(D) Procedures to set and hold the hearing, issue the decision and seek judicial review of the decision shall be as set out in sections 11-150 through 11-153 of the code.

SEC. 11-268. CONDITIONS OF TAXICAB OPERATOR PERMIT.

Every person or entity issued a taxicab operator permit shall:

(A) Display on the exterior of each taxicab the name or trademark of the person under whose authority the taxicab is being operated or the name of the lessor or lessee thereof;

(B) Display in the interior of each taxicab the sign required by Cal. Vehicle Code, Section 27908;

(C) Display the schedule of rates and charges in a conspicuous place in each taxicab, visible to all passengers, together with the name, business address and telephone number of the taxicab operator;

(D) Calculate taxicab fares on an accurate meter approved and inspected by the county weights and measures officer;

(E) Collect from taxicab passengers only the amounts displayed on the schedule of rates and charges, plus any tip that the passenger offers;

(F) Obtain for each taxicab and keep in force during the term of the permit, public liability and bodily injury insurance, issued by a California admitted insurance carrier or an insurance carrier with an A.M. Best rating of A-VII or better. The insurance policy shall be endorsed to state that coverage may not be suspended, voided, canceled or reduced in coverage or limits without 15 days' prior written notice to the license collector. The insurance policy shall insure the operator and shall name the city as an additional insured of such taxicab against loss by reason of injury or damage that may result to persons or property from the negligent operation or defective construction of such taxicab, or from violation of this chapter or of any other law of the State or the United States. The insurance policy shall be in the sum of not less than $500,000 combined single limit for personal injury and property damage for each taxicab in any one
accident. The risk manager may authorize the license collector to accept insurance that does not meet the foregoing criteria or require insurance that exceeds the foregoing criteria if the risk manager determines that such insurance will provide adequate protection, based on, but not limited to, factors such as whether the applicant belongs to a risk retention group satisfactory to the risk manager; whether the applicant's operating risks are less than or more than standard risks; and whether the required insurance is reasonably available to a qualified applicant.

(G) Obtain and keep in force during the term of the permit, workers' compensation insurance, covering all employees of the permittee;

(H) Maintain each taxicab in good repair and in a clean and sanitary condition;

(I) Notify the license collector immediately when any vehicle not described in the application for the permit is placed in service as a taxicab and submit the information about the vehicle and the certificate of inspection required by the application form;

(J) Notify the license collector immediately on termination of a taxicab driver's employment.

(K) Require that each taxicab driver have a valid California driver's license and a valid city taxicab driver's permit; and

(L) Comply with any other reasonable conditions imposed by the license collector or the police chief.;

(M) A Taxicab Operator shall participate in the pull-notice program pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of all Taxicab Drivers; and

(N) A Taxicab Operator shall maintain a safety education and training program in effect for all Taxicab Drivers, whether employees or independent contractors; and

(O) A Taxicab Operator shall maintain a disabled access education and training program to instruct its Taxicab Drivers on compliance with the Federal Americans with Disabilities Act of 1990 and amendments thereto, and state disability rights laws, including making clear that it is illegal to decline to serve a person with a disability or who has a service animal.

SEC. 11-269. CONDITIONS OF TAXICAB DRIVER PERMIT.

Every person to whom a taxicab driver permit is issued shall:

(A) Display the permit in the taxicab in a place conspicuous from the passenger area;

(B) If the taxicab driver is self-employed, comply with all the conditions of a taxicab operator's permit set forth in subsections (A) through (F) and (H) through (I) of section 11-268;
(C) Return the permit to the license collector immediately on termination of employment or self-employment as a taxicab driver; and

(D) Comply with any other reasonable condition imposed by the license collector or the police chief.

SEC. 11-270. ANNUAL PERMIT RENEWAL.

(A) Taxicab driver permits and taxicab operator permits shall continue in effect for the remainder of the fiscal year in which they are issued, unless revoked or modified as provided in section 11-271; provided, however, that taxicab driver permits shall automatically become void on termination of employment or self-employment as a taxicab driver. A taxicab driver permit or taxicab operator permit issued in the last quarter of a fiscal year shall continue in effect for the remainder of the fiscal year in which it is issued, and for the next fiscal year, subject to the foregoing provisions regarding revocation, modification and automatically becoming void.

(B) Permittees shall submit to the license collector applications to renew taxicab driver's permits and operator's permits for following fiscal years, together with fees for the renewal and any changes in the information provided in the initial application or a previous renewal application; evidence that required insurance will be in effect for the new fiscal year; and a new certificate of vehicle inspection for each taxicab. In addition, an applicant for renewal of a taxicab driver's permit shall submit proof of a negative test for controlled substances and alcohol as required by the city's controlled substance and alcohol testing program, have a new photograph taken by the police chief, and provide a document issued by the Department of Motor Vehicles, dated no more than ten days before the application is submitted, showing that the applicant holds a valid, current California driver's license.

(C) The license collector shall refer to the police chief completed applications for renewal of taxicab driver permits and taxicab operator permits. The police chief and the license collector shall process, grant and deny the applications for renewal as provided in sections 11-265 and 11-266. An applicant for renewal whose application is denied may request a hearing as provided in section 11-267. Conditions on renewal permits shall be as provided in sections 11-268 and 11-269.

(D) Applications for renewal of taxicab permits and taxicab operator permits should be submitted by June 15 of each year to allow sufficient time for processing before the current permit expires on June 30.

SEC. 11-271. REVOCATION, SUSPENSION OR MODIFICATION OF TAXICAB PERMIT.

(A) A taxicab operator permit or a taxicab driver permit may be revoked or suspended or additional conditions imposed thereon for failure of the permittee to comply with applicable laws, regulations and conditions, based on matters occurring after the permit is issued or on matters not considered at the time of issuance of the permit that would have authorized denial of the permit or the imposition of conditions on the permit.
(B) The police chief may file with the license collector a written request for revocation, suspension or modification of a taxicab operator permit or a taxicab driver permit, stating facts showing that the permittee has not complied with applicable laws, regulations or permit conditions and recommending that the permit be revoked or suspended or in what respect the permit should be conditioned.

(C) On receiving the request, the license collector shall mail to the permittee a notice that the permit is recommended for revocation, suspension or conditioning in a specific manner and stating the reasons for that recommendation. The notice shall inform the permittee that the recommendation will be adopted and the permittee will be deemed to concur with the recommendation if the permittee does not make a written request for a hearing in the manner provided in subsection (D) of this section.

(D) On receiving the notice, the permittee may make a written request for a hearing. The request must be received by the license collector within 14 days after the license collector mailed the notice of recommended revocation, suspension or conditioning to the permittee and shall be accompanied by the hearing fee set by resolution of the city council. The request for hearing shall state the reasons that the permittee alleges the notice of recommended revocation, suspension or conditioning to be incorrect.

(E) The procedures for holding a hearing, rendering a decision and seeking judicial review of the decision shall be as provided in subsections (H) through (N) of section 11-154 of the code.”

Part 2. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one of more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

Part 3. The City Council determines and finds that this ordinance is exempt from the California Environmental Quality Act under section 15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Part 4. Pursuant to Cal. Gov. Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this ordinance, and a certified copy of the ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council’s adoption of the ordinance.

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Part 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. _____ was first read on January 8, 2019, and finally adopted on ______________, 2019, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________________________
Tim Flynn, Mayor

ATTEST:

________________________________________
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

________________________________________
Stephen M. Fischer, City Attorney