

ORDINANCE No. 00-02

AN ORDINANCE CREATING THE TOWN OF FORT MYERS BEACH TAXICAB AND LIVERY REGULATORY ORDINANCE; PROVIDING AUTHORITY; TITLE; PURPOSE; DEFINITIONS; UNLICENSED VEHICLES FOR HIRE PROHIBITED; APPLICATION FOR CERTIFICATE; ANNUAL CERTIFICATION; RENEWAL OF CERTIFICATE RENEWAL/REVOCATION OF CERTIFICATE; DISPLAY OF STICKER; TRANSFERABILITY OF CERTIFICATE; MINIMUM INSURANCE REQUIREMENTS; REGULATORY PENALTIES; AREA OF ENFORCEMENT; MEANS OF ENFORCEMENT; SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION ONE: AUTHORITY

This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO: TITLE

This ordinance shall be known and may be cited as the Fort Myers Beach Taxicab and Livery Regulatory Ordinance.

SECTION THREE: PURPOSE

The Town does hereby declare that public health, safety and welfare requires regulation of taxicab companies and liveries, as well as other passenger vehicles for hire, to ensure protection to our citizens and visitors to promote safety on the roads and prevent fraudulent transactions.

SECTION FOUR: DEFINITIONS

For purposes of this ordinance, the following terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Applicant" means an individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise applying for a certificate to operate.

B. "Certificate" means a Town of Fort Myers Beach certificate to operate that grants written authority under this Ordinance to an applicant to operate a motor vehicle for hire company within the Town of Fort Myers Beach. A separate certificate shall be required for each business entity operating as a public vehicle for hire company.

C. "Charter Service" means any chauffeur-driven vehicle that is engaged in prearranged transportation and the rates for such transportation are based upon a predetermined hourly, daily, weekly, monthly, or door-to-door price. Charter service vehicles shall include, but not be limited to, the following four classifications:

1. Sedan means a four-door, full-sized automobile capable of seating not more than five passengers, exclusive of the driver.
2. Limousine means a luxurious, large passenger vehicle, built or modified for use as a luxury limousine (e.g., formal or extended limousine) capable of seating not more than fourteen passengers, exclusive of the driver.
3. Van means a passenger vehicle recognized as either a minivan or a full size passenger van capable of seating not more than 14 passengers, exclusive of the driver.
4. Handicap Vehicle means a vehicle designed, constructed, reconstructed, or operated for the transportation of persons with non-emergency conditions where no medical assistance is needed or anticipated in route; or for persons who are unable to comfortably use a standard means of conveyance; or for persons who cannot enter, occupy or exit a vehicle without extensive assistance; or where specialized equipment is used for wheelchair or stretcher service; and where the chauffeur serves as both a chauffeur and attendant to assist in door-to-door or bed-to-bed service. No emergency equipment other than a fire extinguisher and first aid kit may be carried. The use of the word "ambulance" may not be used and no representations may be made that any medical service is available. The word "non-emergency" must be prominently displayed on the outside of the vehicle.

D. "County" means Lee County.

E. “Driver” means any person possessing a valid driver’s license (that authorizes all respective driving privileges) and who is then employed or permitted by a certificate holder to drive or operate a permitted vehicle for hire upon the streets of the Town of Fort Myers Beach.

F. “Manager” means any person responsible for the day-to-day operation of the certificate holder.

G. “Motor vehicle for hire” means any motorized, self-propelled vehicle engaged in the transportation of persons upon the streets of the Town of Fort Myers Beach with the intent to receive compensation for providing such transportation and shall include, but not be limited to, the classifications: taxicab, and charter service vehicles.

H. “Owner” means any individual, firm, corporation, partnership, company, association, joint venture, or any other type of organization enterprise owning a ten percent or greater interest in an applicant for a certificate to operate and/or a vehicle for hire company.

I. “Pick-up” means whenever a passenger/customer sits in a vehicle for hire for the purpose of being transported for a fee except successive picking-up of the same passenger during a continuous trip when the passenger departs the vehicle for a short time and the vehicle and driver wait at that location and the passenger returns and continues the trip.

J. “Taxicab” means a motor vehicle designed to accommodate not more than eight passengers, exclusive of the driver, operated for compensation at rates based upon the distance traveled and authorized by this Ordinance, and the route or destination of which is controlled by the passengers therein.

K. “Town” means the Town of Fort Myers Beach.

L. “Town Manager” means the town manager or the representative designated by the town manager.

M. “Vehicle for hire company” means any individual or entity owning or leasing one or more motor vehicles for hire, under one or more categories of motor vehicles for hire, and either provides leased vehicles to drivers to be used or operated as motor vehicles for hire or which operates a central dispatch for one or more motor vehicles for hire.

- M. “Sticker” means a color coded sticker issued annually to the current certificate holder authorizing the holder to operate for hire the motor vehicle to which the sticker is affixed.

SECTION FIVE: UNCERTIFIED VEHICLE FOR HIRE PROHIBITED

A. No person shall offer their services as a vehicle for hire within the Town of Fort Myers Beach, except from a business that fully complies with the regulations set forth in this ordinance.

B. No person shall conduct any vehicle for hire business within the Town of Fort Myers Beach, except from a business holding a valid certificate that fully conforms with the terms of this ordinance and operating a vehicle listed under that certificate with a sticker.

C. Exemptions

1. Any owner or transportation provider which has been designated as the community transportation operator as defined in F.S. §427.011 is exempt from this Ordinance; provided, however, that any such vehicle that is also used as a motor vehicle for hire other than exempted uses as specified herein shall require a certificate for such non-exempt use(s).
2. Vehicles operated by a governmental agency; companies or organizations owning vehicles exclusively used for transportation of the employees or members of said company or organization; vehicles seating more than 14 passengers; and transportation activities licensed by the Interstate Commerce Commission so long as such vehicles are engaged solely in interstate commerce.
3. Discharge of passengers within the Town of Fort Myers Beach picked up in another location provided that the vehicle and operator were authorized to pick up the respective passenger(s) in the originating location of pick-up.
4. Any company with an equivalent taxicab certificate that is valid in Lee County, the City of Fort Myers, the City of Cape Coral or Port Authority (Demand Line only).
5. Sight-seeing cars or buses.

SECTION SIX: APPLICATION FOR CERTIFICATE

A. An application for obtaining a certificate pursuant to this ordinance shall be made to the Town on a form provided by the Town Manager.

B. Information to be provided by the applicant shall include, at a minimum:

1. Business location.

a. The street address from which the business will be operated;

b. If the applicant is not the owner of the property from which the business will be operated, the applicant shall submit a notarized letter of authorization from the owner of the property to the applicant.

2. Ownership information.

a. Business owner's name, home address, local address, telephone number;

b. Manager's name, home address, local address, telephone number;

c. Mailing address at which notice of any Town information pertinent to any business shall be considered received and binding upon the applicant or certificate holder, on the fifth day after first class mail is posted to said address.

d. State sales tax number.

3. Proof of Insurance.

Proof of insurance required by Section Eleven.

4. Payment of an annual certificate fee of \$30.00 for administrative processing costs and payment for the Lee County Occupational License Tax.

C. Driver Standards.

1. Each driver of a motor vehicle for hire must hold a current and valid commercial driver's license in said driver's name issued by the State of Florida, showing a current street address. The respective driver's license must authorize all types of driving being conducted by the respective driver.

2. Every certificate holder shall be responsible for ensuring that each of his drivers verifies at least every 12 months by sworn affidavit delivered to the certificate holder that such

driver has not been found guilty or convicted, regardless of adjudication, of any of the following crimes within the then past three years:

- a. Murder, manslaughter, armed robbery, burglary, assault with a deadly weapon, aggravated assault;
- b. Any crime involving the sale or possession of any controlled substance as defined by §893.03, Florida Statutes;
- c. The Florida RICO Act, currently §§895.01 through 895.06, Florida Statutes;
- d. Driving while intoxicated or under the influence of drugs or any other alcohol or drug related offense;
- e. Vehicular manslaughter;
- f. Reckless driving;
- g. Exposure of the sexual organs or any crime defined under Ch. 796, Florida Statutes, pertaining to prostitution.

3. If at any time it is determined that the driver has been convicted within the past three years of any of the aforesaid crimes, the certificate holder shall not permit the driver to operate any vehicle. The certificate holder shall maintain a permanent registry containing information on the identity of each driver permitted to operate a permitted vehicle under his authority. Said permanent registry shall be available for inspection and/or copying by the Town Manager during the certificate holder's regular business hours.

Applicants who misrepresent information provided under this section shall not be issued a certificate, or if issued, may suffer suspension or a revocation of the certificate.

SECTION SEVEN: ANNUAL CERTIFICATION

Certificates shall be issued on an annual basis coinciding with the Town's fiscal year, October 1, through September 30.

SECTION EIGHT: RENEWAL OF CERTIFICATE/ REVOCATION OF CERTIFICATE

- A. Upon application, the Town Manager may renew the certificate of any applicant who:
 1. Held a valid certificate; and

2. Has provided the Town with new or updated information, documents, and fees listed in Section Six; and
 3. Pays a late processing fee in addition to the fees in Section Five, of \$25.00 for any renewal application filed after October 1.
- B. The Town Manager may revoke or deny a certificate for cause, if an applicant has given the Town false or misleading information in their application.
1. The Town Manager will notify the applicant in writing of the revocation or denial and state the reason(s) for this action.
 2. Any revocation shall continue for one (1) year and the applicant may not be issued a certificate for one (1) year from the date revocation becomes effective.
 3. If subsequent to revocation, the Town Manager finds that the basis for revocation becomes corrected, the applicant shall be granted a certificate.
 4. The Town Manager shall inform the applicant in the revocation or denial letter of applicant's right to appeal such decision to the Town Council within 20 days of the written letter of the Town Manager.
 5. The Town Council shall hear any appeal for denial or revocation provided the applicant requests such an appeal within 60 days of the letter from the applicant requesting an appeal.

SECTION NINE: DISPLAY OF STICKER

Any business offering vehicles for hire shall display its vehicle sticker in plain site on each of its vehicles. The sticker is affixed to the left side inside bottom corner of the windshield glass. A certificate of vehicle permit shall accompany each sticker issued and shall identify the permitted vehicle and the sticker displayed on the windshield. A legible copy of the certificate of vehicle permit shall be placed and remain in its assigned/permitted vehicle at all times until expiration of the sticker. The Town Manager will provide the amount of stickers as necessary by the application.

SECTION TEN: TRANSFERABILITY OF CERTIFICATE

No certificate may be sold, assigned, mortgaged or otherwise transferred.

SECTION ELEVEN: MINIMUM INSURANCE REQUIREMENTS

A. No person shall operate a business covered under this Ordinance unless covered by a comprehensive general liability insurance policy insuring the public against bodily injury or property damage resulting from or incidental to the operation or use of a vehicle-for-hire. At a minimum, all certificate holders operating taxicabs shall have in full force and effect motor vehicle liability insurance for each taxicab owned by, leased to, or otherwise controlled by operating company equal to or greater than \$100,000 for bodily injury to any one person, \$300,000 for injuries to more than one person which are sustained in the same accident, and \$100,000 for property damage sustained in one accident. All certificate holders operating charter service vehicles shall have in full force and effect motor vehicle liability insurance for each charter service vehicle equal to or greater than \$100,000 for bodily injury to any one person, \$300,000 for injuries to more than one person which are sustained in the same accident, and in the amount of \$100,000 for property damage sustained in one accident. Said insurance shall inure to the benefit of any person who shall be injured or killed, or who shall sustain damage to property proximately caused by the negligence of the certificate holder, all drivers, his masters, servants and agents. Nothing in this section shall be construed to waive applicable state or federal laws, if any, which require a higher amount of minimum insurance.

B. Evidence of said coverage is subject to acceptance and approval by Town Manager prior to issuance of this certificate.

C. Coverage shall remain in full force during the entire time that the certificate is valid and outstanding. Failure to provide such proof shall render the certificate null and void, and of no further use and effect.

SECTION TWELVE: REGULATORY PENALTIES

A. Violation of the provisions of this ordinance, or failure to comply with any of the requirements, of this ordinance shall constitute an offense against the Town, and shall subject the offender to arrest under Florida Statutes Chapter 901.15 (1) (1997), and, upon conviction, to a fine of not to exceed five hundred dollars or imprisonment for a period of not to exceed sixty (60) days or to both such fine and imprisonment.

B. The Town Manager shall have the authority to exempt persons from the terms of this ordinance, for a period of up to 48 consecutive hours during special programs. No person shall receive more than one such exemption for any 48 hour period.

SECTION THIRTEEN: AREA OF ENFORCEMENT

The area of enforcement of this provision shall include all of the area located within the limits of the Town of Fort Myers Beach.

SECTION FOURTEEN: MEANS OF ENFORCEMENT

The provisions of this ordinance shall be enforced by members of all duly authorized law enforcement agencies within Fort Myers Beach.

SECTION FIFTEEN: SEVERABILITY

The provisions of this ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this ordinance shall be held unconstitutional by any Court of competent jurisdiction, the decision of such Court shall not affect or impair any remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this ordinance would be adopted had such unconstitutional provision not been included therein.

SECTION SIXTEEN: CONFLICTS OF LAW

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted Fort Myers Beach ordinance or Florida Statute, the more restrictive shall apply.

SECTION SEVENTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Fort Myers Beach Code; and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors

which do not affect the intent may be authorized by the Town Manager without need of public hearing, by filing a corrected or re-codified copy of same with the Clerk of the Town.

SECTION EIGHTEEN: EFFECTIVE DATE

This ordinance shall take effect immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Murphy and seconded by Council Member Hughes and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Daniel Hughes	<u>aye</u>
John Mulholland	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 22 day of February, 2000.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: John J. Mulholland
John J. Mulholland, Mayor

Approved as to form by:
Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney