

ORDINANCE NO. 3450 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY
CITY CODE CHAPTER 36 TAXICABS

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1: Monterey City Code Chapter 36 is hereby amended:

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- § 36-1 General provision.
- § 36-2 Definitions.
- § 36-3 Determination of number of taxicab businesses in the City.
- § 36-4 Continued operation of authorized business required.
- § 36-5 Compliance with State and local laws and regulations.
- § 36-6 Insurance requirements and Hold Harmless.
- § 36-7 Rates and fares - generally.
- § 36-8 Condition of vehicles - generally.
- § 36-9 Exterior signage required.
- § 36-10 "For Hire" lights required.
- § 36-11 Illumination of passenger compartment required at certain times.
- § 36-12 Inspection of vehicles; inspection fee.
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- § 36-41 Use required for all passenger services.
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- § 36-44 Proper use of "flag" required.
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**ARTICLE 1
IN GENERAL**

Sec. 36-1. General provision.

It shall be unlawful for any person, firm, or corporation to operate any taxicab business, or for any owner or driver to operate or drive any taxicab except in compliance with the provisions of this Chapter.

Sec. 36-2. Definitions.

For purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- A. Certificate. "Certificate" means a certificate of public convenience and necessity issued by the Regional Taxi Authority.
- B. Driver. Every person in charge of operating any taxicab, either as owner, agent, employee, or otherwise, or under the direction of an owner.
- C. Owner. Every person, firm, or corporation that owns or has contracted for the use or control of any taxicab, whether as owner, lessee, or otherwise.
- D. Regional Taxi Authority. "Regional Taxi Authority" or "Authority" means the Monterey County Regional Taxi Authority.
- E. Regional Taxi Authority Area. "Regional Taxi Authority Area" means the land areas under the jurisdiction of the member entities of the Regional Taxi Authority.
- F. Taxicab. A passenger automobile equipped with a taximeter and used for transportation of passengers over public streets and highways but not over a defined route and irrespective of whether the travel extends beyond the City limits, and operated at rates per mile or waiting time, or both.
- G. Taximeter. A mechanical or electronic instrument or device by which the charge for hire of a taxicab is mechanically or electronically calculated based on rates established by the Regional Taxi Authority, either for distance traveled, for waiting time, or both, and upon which the charges are plainly registered by means of figures indicating dollars and cents.
- H. Taxistand. A place on public property or streets approved by the City as a place where taxicabs may park and wait for hire.

Sec. 36-3. Determination of number of taxicab businesses in the City.

No person shall engage in the business of operating any taxicab business within the City without first having obtained a Certificate of Public Convenience and Necessity (Certificate) from the Regional Taxi Authority and an owner's permit. The Regional Taxi Authority shall

determine, whether the number of taxicabs operating in the Regional Taxi Authority Area meets the needs of the general public, and shall issue a Certificate to any taxicab business only if it finds the public convenience and necessity support the addition of more taxicabs operating within the Authority Area.

Sec. 36-4. Continued operation of authorized business required.

Every person holding an owner's permit under the provisions of this Chapter shall regularly and daily operate the taxicab business from taxistands within the City to the extent reasonably necessary to meet public demand for such service on a 24 hour a day basis. Failure to comply with this provision shall constitute abandonment of service and the Regional Taxi Authority, after a noticed public hearing, may revoke the owner's permit if a violation of this section is demonstrated.

Sec. 36-5. Compliance with State and local laws and regulations.

All taxicabs authorized to operate with the City shall be properly licensed with the California Department of Motor Vehicles, and shall further comply with all State and local laws and regulations relating to the licensing and commercial operation of taxicabs. All taxicabs shall be registered under the firm name or the name of the individual holding the owner's permit.

No vehicle used or intended to be used in taxicab service in the City shall be rented to any owner or driver unless such owner or driver has obtained the appropriate permit(s) pursuant to this Chapter.

Sec. 36-6. Insurance requirements and hold harmless.

All taxicabs authorized to operate within the City shall, and by acceptance of the Regional Taxi Authority taxicab permit, agree to hereby indemnify, defend and hold the Regional Taxi Authority, its member jurisdictions, their officers, employees and agents harmless from any and all damages, claims, liabilities, costs, suits, or other expenses resulting from and arising out of their taxicab operations.

It shall be unlawful to drive or operate any taxicab in the City unless the vehicle owner possesses current, valid commercial general liability and vehicle liability in amounts and with conditions acceptable to the Regional Taxi Authority and evidenced through certificates of insurance filed with the Authority.

The owner's insurance shall remain in full force, at a level at least equal to the minimum requirements of the Authority, or the owner's permit shall automatically be suspended until such time as full compliance with the requirements of this section are demonstrated to the Authority's satisfaction.

Sec. 36-7. Rates and fares - generally.

The Board of the Regional Taxi Authority, upon its own motion or upon application of an owner's permit holder, may set, establish, change, modify or amend the schedule of rates to be charged by all vehicles operated by each holder of an owner's permit under the provisions of this Chapter. No rates shall be set, established, changed, modified or amended without a public hearing before the Board. Notice of such hearing shall be given to each owner's permit holder, in writing, by the Board at least five (5) days before such hearing, and the Board may

give such other notice as it shall deem necessary.

Fares shall be conspicuously displayed in the passenger compartment of each taxicab where it is readily visible and readable by passengers in front and rear seats.

The taxicab rate or fare shall be determined by a taximeter in accordance with the schedule established by the Regional Taxi Authority. Following public hearing as required herein, the Authority shall establish the rate or fare by resolution.

It shall be unlawful to fix, charge, or collect a rate in excess of the rate schedule approved by the Regional Taxi Authority.

Sec. 36-8. Condition of vehicles - generally.

No owner or driver shall operate, permit to be operated, or cause to be operated, any motor vehicle for hire while the same or any of the equipment used thereon or therewith is in a defective, unsafe or unsanitary condition.

Sec. 36-9. Exterior signage required.

Every taxicab operated in the City shall have displayed on each side and the rear of the vehicle the taxicab business name as it appears on the owner's permit, together with the owner's identification number and the telephone number of the taxicab business. The lettering of the signs and all signs to be displayed on any taxicab shall be approved by the Regional Taxi Authority.

Sec. 36-10. "For Hire" lights required.

Every taxicab shall be equipped with a "For Hire" light attached to the top of the roof or to the top of the dome light. The light of the "For Hire" light unit shall be connected to a contact switch attached to the taximeter, and such contact switch shall operate automatically to illuminate the "For Hire" light when the taximeter is not in operation, indicating the cab is vacant and for hire, and to extinguish such light when the taximeter is in operation. No person shall drive or operate any taxicab with such a light illuminated while carrying passengers for compensation; or drive or operate any taxicab unless such a light is illuminated when such taxicab is for hire.

Sec. 36-11. Illumination of passenger compartment required at certain times.

Every motor vehicle for hire shall at all times be equipped with a light of not less than two candlepower within such vehicle, so arranged as to illuminate the entire passenger compartment, which light shall be kept constantly lighted at all times while any passengers are being loaded into or unloaded from any such vehicle from one-half hour after sunset of any day until one-half hour before sunrise of the next day, and no shades or blinds shall be drawn over the windows of any such vehicle while the same is occupied.

Sec. 36-12. Inspection of vehicles; inspection fee.

All taxicabs shall submit to an annual inspection as required by the Regional Taxi Authority. All taxicabs shall possess all of the equipment listed on the Regional Taxi Authority Taxicab Safety Inspection Checklist, and all such equipment shall be in good working order and repair. The Authority shall establish the standard for good working order.

Upon satisfactory completion of such inspection, the Regional Taxi Authority shall issue and

affix an approval decal or sticker to the taxicab that authorizes the operation of the vehicle for a one-year period. All decals issued by the Authority shall be displayed at the rear of the vehicle on the driver's side rear window. It shall be unlawful to transfer the decal or sticker to any other vehicle, and no taxicab shall be operated without a valid decal or sticker properly displayed.

Any law enforcement officer shall have the right and shall be permitted at any time to inspect any taxicab to ascertain whether the provisions of this Chapter are being met. During an inspection, the driver of the taxicab shall produce for inspection the following documents: (1) valid California vehicle registration, (2) valid proof of insurance document and (3) a valid California driver's license.

The Regional Taxi Authority shall establish a taxicab safety inspection fee that shall be due annually upon inspection.

Any taxicab that fails any safety inspection shall be given an opportunity to make repairs or correct defects and be re-inspected. Any such taxicab failing an inspection shall be removed from service until such time as compliance is met. A safety inspection is "failed" if any law enforcement officer or Regional Taxi Authority or City designated mechanic determines the vehicle is not in compliance with the provisions of this Chapter or any required inspection program established by the Authority, or if the taxicab is unsafe, unsanitary, or unsightly. Any such taxicab shall be removed from service until such conditions are corrected. Such vehicle shall be re-inspected prior to being returned to service.

Should a law enforcement officer or a Regional Taxi Authority employee determine that a taxi should be removed from service, such person is authorized to remove the decal or sticker designating that the taxi is authorized to operate. When the taxi has satisfactorily passed an inspection, a new decal or sticker will be issued by the Regional Taxi Authority and a nominal fee will be charged for the new decal or sticker.

Sec. 36-13. Establishment and use of taxicab stands.

A. The City Council may, by resolution, locate and designate taxicab stands on any public street in the City, which stands, when so established, shall be appropriately designated, "Taxis Only".

Taxicab stands so established shall be in operation during the hours designated by the City Council.

B. If designated taxicab stands are so established, no owner, driver or operator of any taxicab shall allow such taxicab to remain parked, while awaiting employment, except in a regularly established taxicab stand. Taxicabs may park in any available parking space when actually engaged in loading or unloading passengers if permitted by ordinance.

Sec. 36-14. Solicitation of passengers prohibited; exception.

No taxicab driver, or person acting on behalf of any such driver, shall solicit passengers except from an approved taxicab stand.

Sec. 36-15. Taxicabs standing in streets or public place prohibited; exception.

No taxicab shall be allowed to remain standing on a public street or in a public place unless it is attended by a driver, except when the driver is assisting passengers to load or unload, is answering his telephone or displays a sign reading "Not for Hire".

Sec. 36-16. Prohibited conduct by drivers.

- A. No driver, or any person acting on behalf of any such driver, shall engage in any disorderly or inappropriate conduct while in the performance of his or her duties as a taxicab operator, including, but not limited to, obstruction of any street or sidewalk, making of loud or unusual noises to attract the attention of potential customers, use of indecent, profane, or obscene language, boisterous or loud talking that might disturb the peace and quiet of others in the area, harassment of passersby, interference with, obstruction of, or impeding of the free passage of potential passengers, or seizing or grabbing any baggage carried by or belonging to potential passengers prior to being hired to provide transportation.
- B. No taxicab driver shall smoke or permit any smoking to occur within any taxicab at any time. No smoking signs shall be prominently displayed in every taxicab.

Sec. 36-17. Authorization to pick-up passengers by permitted drivers.

Taxis that have been permitted by the Regional Taxi Authority can pick-up passengers within and between the Authority Area. Taxis authorized to operate in other jurisdictions not participating in the Regional Taxi Authority may drop-off but not pick-up passengers within the Authority area.

Sec. 36-18. Keeping of tripsheets required.

The driver of each taxicab shall keep a separate tripsheet of every service rendered by the driver, and shall include the following information: (1) the location where the passenger(s) entered the taxicab, (2) the number of passengers, (3) the time the passengers entered the taxicab, (4) the location where the passengers were discharged, and (5) the amount of fare collected.

The owner of every taxicab shall keep such tripsheets in the business office for a period of one (1) year after the date service is rendered, and they shall be open and available for inspection by any representative of the Regional Taxi Authority at all times during business hours. The falsification of any tripsheet by any owner or driver shall be grounds for revocation of his or her permit.

Sec. 36-19. Keeping of records by owners required.

- A. The owner of every taxicab business shall keep a dispatch sheet which shows the time of dispatch of every taxicab. Every owner and every employer of taxicab drivers, including self-employed drivers, shall keep and maintain a complete and accurate record of all drivers, which record shall show for each employee his or her name, address, date of hire, date of termination, the number of the taxicab operated by the driver, the hours of employment for each driver, a list of absences from employment, and all motor vehicle violations, all traffic accidents, all complaints received from passengers or others, and the test results from controlled substance and alcohol testing. These records shall be subject to inspection by the Regional Taxi Authority at any time upon demand, and shall not be

destroyed without the written permission of the Authority.

- B. Every taxicab owner and employer of taxicab drivers shall notify the Regional Taxi Authority in writing within five (5) working days upon termination of employment of any taxicab driver.

Sec. 36-20. Reports of found property.

- A. All property found in taxicabs not belonging to the driver or the taxi cab owner shall be delivered to the Monterey- Salinas Transit within 24 hours of discovery unless otherwise returned to the rightful owner. Every owner shall keep a log of all found property.
- B. Every owner and driver shall attempt to return found property to any person claiming to have lost or left property in a taxicab. If the lost property is not found, the owner and driver shall advise the passenger to file a lost property report with the Police Department within the jurisdiction of the drop-off point.

Sec. 36-21. Service to general public.

- A. No driver of any taxicab shall refuse to carry any person seeking transportation and tendering the fare for the service within the City unless the vehicle is already in service, the person seeking transportation is unruly, boisterous, or intoxicated, or where the person seeking transportation is known to the driver to have been unruly, created problems of a confrontational nature or refused full payment in the past.
- B. The Regional Taxi Authority shall be responsible for maintaining files of and investigating complaints regarding taxicab service and shall initiate appropriate action against taxicab drivers and owners when a complaint or complaints warrant such action.

**ARTICLE 2.
OWNER'S PERMITS.**

Sec. 36-22. Owner's permit required.

- A. No person shall engage in the business of operating any taxicab within the City without first having obtained an owner's permit from the Regional Taxi Authority, except as otherwise provided in this Chapter.
- B. An owner's permit shall be required for each additional or different taxicab.
- C. If a permittee wishes to substitute one vehicle for another, he or she shall file an application with the Regional Taxi Authority who shall cause the taxicab to be submitted to a normal safety inspection, and if the vehicle passes, an approval decal or sticker will be affixed to the substitute taxicab and the decal or sticker will be removed from the original vehicle.

Sec. 36-23. Owner's permit application; application fee.

All persons or businesses applying for an owner's permit under this Chapter shall file with the Regional Taxi Authority an application, under penalty of perjury, including the following information:

- (1) The name, residence and business addresses of the applicant.

- (2) Social security numbers, driver's license numbers, and dates of birth for all persons named in the application. If the applicant is a partnership or corporation, then the information shall be provided for each partner or corporate officer.
- (3) Fictitious name under which the business is proposed to operate.
- (4) Whether any license, permit, or certificate sought by the applicant has been denied, revoked, or suspended by any public agency, explaining in full the circumstances of any denial, revocation, or suspension.
- (5) The number and type of vehicles proposed to be operated in the business, including year, make, model, license number, VIN, and company assigned taxicab number.
- (6) The color, name, monogram of insignia to appear on the vehicles.
- (7) A complete schedule of fares or rates to be charged and services to be operated, demonstrating compliance with existing fares and rates as established by the Regional Taxi Authority.
- (8) The location where the business will be operated, including dispatch facilities, storage facilities, repair and maintenance facilities, and fuel dispensing operations.
- (9) Copies of required insurance policies or if not yet issued, a written statement from an insurer that such policies will be issued if the application is granted.
- (10) A statement as to whether any applicant, partner, or corporate officer, has been convicted of any misdemeanor or crime, or violation of any municipal Ordinance other than minor parking and traffic offenses, the nature of the offense and the punishment or penalty assessed.
- (11) The facts upon which the applicant believes tends to prove that public convenience and necessity require the granting of a permit.
- (12) Such other information as the Regional Taxi Authority may deem necessary for promotion of the public health, safety, and welfare.

The Regional Taxi Authority shall establish an owner's permit application fee that shall accompany any such application.

Sec. 36-24. Owner's permit application process.

Upon receipt of an application for an owner's permit under this Chapter, the Regional Taxi Authority staff shall undertake a preliminary investigation to verify the criminal history information submitted by the applicant and shall submit the applicant's fingerprints to the State of California for criminal history review.

The Regional Taxi Authority shall review the application and the recommendation from the Authority staff to determine if it appears there is a need and necessity for the taxicab services proposed, and whether the applicant is of suitable character to provide such services. The Regional Taxi Authority may require the applicant to provide financial information and other documentation to demonstrate the ability to appropriately and lawfully operate the taxicab business proposed.

The application shall be reviewed by the Regional Taxi Authority at a noticed public hearing. The Regional Taxi Authority shall approve any such application only if the following findings are first made:

- (1) The applicant is financially responsible as determined by the Regional Taxi Authority.
- (2) The applicant is of good moral character consistent with federal, State, and local laws for the public services that will be provided by the owner.

- (3) Existing taxicab businesses are not adequately serving the public with respect to taxicab services.
- (4) Such additional taxicab service will not result in a greater hazard to the public or create substantial traffic or parking problems.

The application shall be denied if any of the following findings are first made:

- (1) The public convenience and necessity do not require the proposed service.
- (2) The application fails to contain any of the required information as set forth above.

Sec. 36-25. Suspension or revocation of Owner's Permit.

The Regional Taxi Authority shall have the power to suspend or revoke any owner's permit to operate a taxicab for a violation of any of the provisions of this Chapter or any Ordinance relating to traffic or use of streets; for a failure to pay any judgment for damages arising from the unlawful or negligent operation of the public motor vehicle for which any owner's permit was issued; for conduct on the part of any owner which is not conducive to proper service to the public, or to proper relationships with any competitive owner; or for, but not limited to any of the following reasons:

1. Providing late, false, or inaccurate information in the owner's permit application; or
2. Allowing operation of a taxicab by a driver not possessing a valid Regional Taxi Authority Driver permit stating that the driver is affiliated with the permittee; or
3. Failure to comply with the Authority's regulations; or
4. Failure of authorized drivers to comply with the Authority's regulations; or
5. Operation of any taxicab at a rate higher than the authorized fares; or
6. Failure to comply with the participating jurisdictions' law enforcement officers, code enforcement officers, Authority staff, and/or California Highway Patrol; or
7. Operating its business without the insurance required in these regulations; or
8. Failure to comply with the drug and alcohol policy requirements in these regulations; or
9. Failure to fully satisfy any court judgment entered against the company arising from liability for operating cabs, including but not limited to, judgments related to collisions or operating without the requisite insurance, within 15 years after the judgment was originally entered; or
10. Being held liable under any judgment, decision or determination by any public or regulatory agency for operating cabs without the requisite insurance after the adoption of these regulations.

Sec. 36-26. Transferability.

No owner's permit issued under this Chapter shall be assignable or transferable without the prior approval of the Regional Taxi Authority. Prior to presenting the proposed assignment or transfer to the Authority, the transferee shall first submit a statement with the Authority staff setting forth the information required to be furnished on an original application as set forth in section 36-24 above. The Authority shall investigate the transferee in the same manner as a new applicant and make a recommendation to approve or disapprove the transfer to the Regional Taxi Authority Board of Directors within 45 days after the statement is received.

**ARTICLE 3.
TAXICAB DRIVER'S PERMITS.**

Sec. 36-27. Taxicab Driver's Permit required.

- A. It shall be unlawful for any person to operate any taxicab in the City unless he or she has a valid taxicab driver's permit issued by the City.

The Regional Taxi Authority shall administer and maintain taxicab driver's permits and records taxicabs operating in the City.

Sec. 36-28. Taxicab Driver's Permit application; process.

Application for a taxicab driver's permit shall be filed with the Authority, along with any fee(s) as established by the Regional Taxi Authority for the issuance of such permit. The application shall be in writing and made under penalty of perjury. The Authority shall undertake a preliminary investigation to verify the criminal history information submitted by the applicant and shall submit the applicant's fingerprints to the State of California for criminal history review. Any information submitted in the application that is false, or any required information that is omitted, shall result in denial of the permit.

The application shall include but not be limited to the following information:

- (1) The name, age, and address of the applicant.
- (2) Past experience operating motor vehicles generally and taxicabs specifically.
- (3) The names and addresses of former employers during the preceding three (3) year period.
- (4) The places of residence during the preceding three (3) year period.
- (5) Whether or not a driver's license issued to the applicant has ever been revoked or suspended.
- (6) A copy of the applicant's current driver's license and a DMV H-6 Driving Record and Vehicle Registration Report.
- (7) An endorsement of the owner of the taxicab business for whom the applicant seeks to drive a taxicab.
- (8) Proof of the applicant's negative test results for controlled substances and alcohol.

Upon the request of an applicant, the Regional Taxi Authority shall provide a list of the consortia certified pursuant to part 382 (commencing with § 382.101) of Title 49 of the Code of Federal Regulations that the Authority knows offers controlled substance and alcohol tests in Monterey County.

Sec. 36-29. Taxicab Driver's Permit application fee.

An application for a taxicab driver's permit shall be made to the Regional Taxi Authority, and at the time of filing such application, a fee in an amount to be set by resolution shall be paid to the Regional Taxi Authority; provided that such fee shall include the amount set by the state to cover the cost of processing such applications.

Sec. 36-30. Taxicab Driver's Permit requirements and prohibitions.

No taxicab driver's permit shall be issued to any person who:

- (1) Is under age 21 at the time of application.

- (2) Fails to provide documentation of either citizenship or employment authorization as required by the Immigration and Reform Control Act of 1986 (8 USC § 1324a).
- (3) Has been convicted of a felony.
- (4) Has been convicted of any offense specified in the CA Vehicle Code involving reckless driving or alcohol or drug offenses except convictions more than seven (7) years old or whose convictions have been expunged or set aside pursuant to satisfactory completion of a Court approved diversion program.
- (5) Has been convicted of two (2) or more violations of the offenses set forth in Sections 22349 through 22352 of the California Vehicle Code, and amendments thereto, or any combination of either or any of such offenses within one year immediately preceding submittal of an application for or renewal of a driver's permit.
- (6) Fails to possess a valid driver's license suitable for operation of a taxicab.
- (7) Has received a positive test result in any random test for controlled substances or alcohol within the past 12 months.
- (8) Provides false or materially incomplete information required for issuance of the permit.
- (9) Has been convicted of an offense which requires registration pursuant to CA Penal Code § 290.
- (10) Has been convicted within five (5) years of an offense involving the sale of a controlled substance even if expunged pursuant to CA Penal Code § 1203.4.
- (11) Has been convicted within five (5) years of any offense involving the use of force or violence upon another person.
- (12) Has been convicted of more than one violation of driving while under the influence of any drug or alcohol within the past seven (7) years prior to application.
- (13) Is on parole or probation for a crime, and the crime is substantially related to the qualifications, functions, or duties of a taxicab driver in a potentially negative manner.
- (14) Has had a taxicab driver's permit issued by any jurisdiction revoked within the past three (3) years.
- (15) Fails to provide a medical clearance that meets the standard set forth by the California Department of Motor Vehicles, Motor Carrier Safety Regulations (49 CFR 391.41 - 391.49). This is satisfied by providing a completed Medical Examination Report for Commercial Driver Fitness Determination form or a Medical Examiner's Certificate issued by the California Department of Motor Vehicles.

Every taxicab driver's permit issued pursuant to this Article shall set forth the name of the owner for whom such driver is authorized to operate a taxicab, and shall be valid only so long as the driver continues to drive for such owner.

All drivers of taxicabs shall display their taxicab driver's permit in a conspicuous place in the passenger compartment of the taxicab whenever the taxicab is being used to transport passengers.

Sec. 36-31. Issuance of permits.

The Regional Taxi Authority shall investigate the applicant for a taxicab driver's permit under this Article, and after such investigation shall either grant or deny the permit. Any person whose application has been denied may, within 10 days after such denial, request that the denial of his application be reviewed by the Regional Taxi Authority Board of Directors. The Authority Board of Directors shall investigate such applicant and may, after a hearing, either grant or deny such permit.

Sec. 36-32. Renewal of permit; termination.

All taxicab drivers' permits issued pursuant to this Article expire annually on their anniversary date unless earlier terminated, suspended, or revoked pursuant to the provisions set forth herein.

Drivers may renew their permit if still qualified to operate a taxicab by meeting all the permit requirements set forth in this Article for new taxicab driver's permits, including, but not limited to, passing the test for controlled substances and alcohol.

Taxicab driver's permits are void upon termination of taxicab driver's employment with the owner listed on their permit. Each driver shall return the permit to the Regional Taxi Authority upon such termination.

It shall be unlawful to transfer any taxicab driver's permit to any other person.

Sec. 36-33. Suspension of permit.

Either the Regional Taxi Authority or the Chief of Police shall have the authority to immediately suspend any taxicab driver's permit in the event the holder is arrested, charged, or cited for any violation of the CA Vehicle Code. The Regional Taxi Authority may suspend or refuse to renew any taxicab driver's permit if the driver is:

- (1) Convicted of, or has plead guilty or nolo contendere to, the violation of any law within the last five (5) years involving the commission of a misdemeanor, including, but not limited to, any sexual offense; the illegal use, possession or distribution of drugs or other controlled substances; any charge involving robbery, theft, stolen property, assault, battery; or any crime involving moral turpitude that occurred within the past five (5) years;
- (2) Convicted of driving recklessly or while under the influence of alcohol or controlled substances;
- (3) Has his or her driver's license suspended or revoked;
- (4) Found to test positive for any controlled substance or alcohol during any test;
- (5) Found to have violated any provision of this Chapter or;
- (6) Found to have provided false information or omitted information required on a taxicab driver's permit application.

Any driver whose permit has been suspended may, within 10 days, file an appeal with the Regional Taxi Authority Board of Directors. If no appeal is received within 10 days, the taxicab permit shall be considered revoked and there will be no further right to an appeal, unless the Regional Taxi Authority finds that there are reasonable grounds for failing to appeal within the 10 day period. The Board of Directors shall hold a duly noticed public hearing appeal within 60 days from receiving the appeal, unless the taxicab driver agrees to an extension or requests an expedited hearing. If an expedited hearing is requested, the Regional Taxi Authority shall endeavor to set an earlier date for the hearing but is not required to set an earlier date.

The hearing shall comply with the applicable provisions for the protection of the due process rights of the taxicab driver and the taxicab driver will be given the opportunity to be heard. The Regional Taxi Authority Board of Directors shall adopt Rules for conducting the hearing in compliance with applicable due process procedures. The Board shall either grant or deny the

appeal based on substantial evidence and shall support its decision with factual findings, in writing. The decision of the Board will issue within 10 days of the conclusion of the hearing and will be final. If the Board upholds the appeal, the taxicab driver's permit shall be reinstated. If the Board denies the appeal, the taxicab driver's permit shall be revoked and may only be reinstated as set forth in this Chapter.

A taxicab driver shall not operate a taxicab during the time period in which the driver's permit is suspended. The Regional Taxi Authority may, but is not required to, issue a Temporary Permit as set forth below, which will allow the taxicab driver to temporarily operate until such time as the Regional Taxi Authority Board of Directors has issued a final decision. In order to issue such a permit, the Regional Taxi Authority must, in addition to the requirements set forth below, make the findings that the public safety and health will not be harmed by the issuance of a temporary driver's permit and unusual circumstances exist which require the issuance of a temporary driver's permit.

Sec. 36-34. Temporary permits.

The Regional Taxi Authority, in its sole discretion, may grant a temporary permit to drive or operate any taxicab, pending final action on any application for a permanent taxicab driver's permit as provided in this Article, but no such temporary permit may be issued to any person who does not have a valid driver's license issued by the state, who is not employed or possessing a written offer of employment as a taxicab driver in the City, or who has not provided evidence of negative controlled substance and alcohol testing as required by Section 36-36 herein.

Sec. 36-35. Records to be kept by the Regional Taxi Authority.

The Regional Taxi Authority shall keep a record of each driver granted a taxicab driver's permit under the provisions of this Article, which record shall contain the full name, age, residence, places of residence for two (2) years preceding the date of application, race, weight, height, color of eyes and hair, fingerprints, place of birth, places of previous employment covering three (3) years preceding the date of application, whether the driver has ever been convicted of a felony or of a misdemeanor, and whether he or she has ever been previously licensed as a driver, and if so, whether his or her license has ever been revoked and for what cause.

**ARTICLE 4.
CONTROLLED SUBSTANCE AND ALCOHOL TESTING.**

Sec. 36-36. Mandatory Controlled substance and Alcohol Testing Program.

- (1) Each taxicab driver shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Each driver shall test negative for these controlled substances and for alcohol as a condition of the driver's annual permit renewal. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.
- (2) Testing procedures shall be substantially as set forth in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that each driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and return-to-duty and follow-up testing and other requirements, except as provided otherwise in this

section, shall be substantially as set forth in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

- (3) A test in one jurisdiction shall be accepted as meeting the same requirement in the City or in any other jurisdiction. Any negative test result shall be accepted for one (1) year as meeting a requirement for periodic permit renewal testing or any other periodic testing in the City or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.
- (4) In the case of a self-employed independent driver, the test results shall be reported directly to the Regional Taxi Authority, and the Authority shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the driver's employer, who shall immediately notify the Authority of the results.
- (5) All tests are confidential and shall not be released without the consent of the driver, except as authorized or required by law.
- (6) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. In all other cases, taxicab owners and employers of drivers shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an employer may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and follow-up testing.
- (7) Taxicab owners, employers of drivers, and self-employed independent drivers shall pay all service charges, fees, or assessments established by the Regional Taxi Authority with respect to the owner's employees and potential employees in an amount sufficient to pay for the Authority's costs of carrying out the mandates of this section.
- (8) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.
- (9) For purposes of this Section, "employment" includes self-employment as an independent driver or owner/operator of a taxicab.

ARTICLE 5. TAXIMETERS.

Sec. 36-37. Required in taxicabs.

No person shall operate any taxicab in the City until such taxicab is equipped with a taximeter of a type and design which has been approved by the Regional Taxi Authority.

All taxicabs operated under the authority of this Chapter shall be equipped with taximeters which conform to all applicable State of California laws and regulations and shall be inspected, sealed, and certified by the County Department of Weights and Measures.

Sec. 36-38. Inspection required; removal of vehicle with inaccurate meter.

Every taximeter shall be inspected and tested for accuracy by the owner at least annually. Taximeters shall be subject to inspection at any time by the Regional Taxi Authority or any other authorized persons. Upon discovery of any inaccuracy of such taximeter, the operator thereof shall remove, or cause to be removed from service any vehicle equipped with such

taximeter until such taximeter has been repaired and accurately adjusted.

Records and evidence of inspection by the County Department of Weights and Measures shall be submitted for verification at the time of each taxicab's annual vehicle inspection.

Sec. 36-39. Manner of placement in taxicabs.

The taximeter required by this Article shall be placed in each taxicab so that the reading dial showing the amount to be charged is well lighted and readily discernible to a passenger riding in any such taxicab.

Sec. 36-40. Accurate operation required.

It shall be the duty of each person operating a taxicab, and the driver thereof, to keep the taximeter therein operating at all times within the accuracy and requirements of this Chapter and such additional requirements as may be prescribed from time to time by the Regional Taxi Authority.

Sec. 36-41. Use required for all passenger services.

No passenger shall be carried in any taxicab for hire unless the taximeter in such taxicab is in operation. This Section shall apply regardless of whether the taxicab is engaged for a trip entirely within the Regional Taxi Authority area or partially outside thereof, and such meter shall be kept operating continuously during the entire time that it is engaged in the transportation of passengers for compensation, regardless of the point of destination; except, that when the trip is in excess of 15 miles a flat rate may be used for any part of the trip over the first 15 miles.

Sec. 36-44. All charges to be in accordance with meters.

All charges for taxicab service shall be calculated and indicated by a taximeter, except as described in this Chapter, and at all times while the taxicab is engaged the "flag" of the taximeter shall be thrown into a position to register charges for mileage and time. No taximeter shall be so operated as to cause any charge to be registered thereon, except during the time while the taxicab is engaged by a passenger.

Sec. 36-45. Splitting of fares by two or more passengers.

If two (2) or more persons going in the same direction share a taxicab, the first party that is discharged from the taxicab shall pay the charge on the meter, and the meter shall then be "flagged" and a new fare started; except and unless, if the driver agrees at the inception of the hire to drop the first fare without "re-flagging" and starting a new fare.

Sec. 36-46. Proper use of "flag" required.

No driver of any taxicab, while carrying passengers, shall display the "flag" attached to the taximeter in such a position as to denote that such vehicle is not employed, or fail to throw the "flag" of the taximeter to a position indicating such vehicle is unemployed at the termination of each service."

Sec. 36-47. Severability

If any provision, clause, sentence or paragraph of this article is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The City of Monterey hereby declares that it would have passed this article and each and every section, subsection, clause and phase thereof not declared invalid or unconstitutional without regard to whether any portion of this article would be substantially declared invalid or unconstitutional.

SECTION 2: All ordinances and parts of ordinances in conflict herewith are hereby repealed.


SECTION 3: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY
this 20th day of July, 2010, by the following votes:

AYES:	4	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Sollecito
NOES:	1	COUNCILMEMBERS:	Selfridge
ABSENT:	0	COUNCILMEMBERS:	None

ATTEST:

APPROVED:



City Clerk thereof



Mayor of Said City

STATE OF CALIFORNIA
COUNTY OF MONTEREY
CITY OF MONTEREY

I, Catherine A. Raynor, SENIOR ASSISTANT CITY CLERK OF THE CITY OF MONTEREY, AND EX-OFFICIO CLERK OF THE COUNCIL THEREOF, HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS DULY PASSED TO PRINT IN THE OFFICIAL NEWSPAPER OF SAID CITY BY THE COUNCIL THEREOF ON THE 6thth DAY OF July, 2010 BY THE FOLLOWING VOTE:

AYES	4	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Sollecito
NOES:	1	COUNCILMEMBERS:	Selfridge
ABSENT:	0	COUNCILMEMBERS:	None



CITY CLERK OF SAID CITY

PUBLICATION: July 12, 2010