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OFFICE OF THE CITY CLERK
OAKLAND
2009 FEB 11 PM 4:20

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Mr. Dan Lindheim
FROM: Administrative Hearing Officer
DATE: February 24, 2009

RE: **Adopt An Ordinance Amending Oakland Municipal Code Chapter 5.64
"Taxicabs" To**

- A) Require The Same Insurance Coverage For Taxicabs That Is Required By
The Oakland Airport; and**
- B) Move 1) Authority For The Design Of The Fleet Management Permit
Application, And 2) Discretion To Deny Fleet Management Permits On The
Basis Of Criminal Convictions From The Oakland Police Department To
The Office of the City Administrator**

SUMMARY

Staff proposes two changes to the section of the Oakland Municipal Code (OMC) regulating Fleet Management Permits to reflect the transfer of all taxi permitting responsibility from the Oakland Police Department (OPD) to the City Administrator's Office.

Staff also proposes amending the OMC to align the insurance coverage required for taxicabs permitted by the City with the coverage requirements specified by the Oakland International Airport, which utilizes only Oakland's permitted taxis to provide taxi service at the Airport.

FISCAL IMPACTS

The proposed amendments have no direct fiscal impact on the City.

BACKGROUND

In conjunction with the Revised FY08-09 Budget reductions adopted by the City Council October 21, 2008, the administration of taxi permits was transferred from the Oakland Police Department (OPD) to the City Administrator's Office (CAO) effective November 15, 2008. Staff met with the OPD Taxi Detail and proposed ordinance amendments to reflect the change in administration. However, in the area of the authority to deny Fleet Management permits on the basis of criminal convictions, it was originally thought that OPD would retain those duties. The design and maintenance of Fleet Management permit forms was not discussed and therefore not

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transferred. Since the implementation of the transfer, OPD has agreed that both of these functions should also transfer to the City Administrator's Office.

After adoption of the most recent amendments to the Taxi regulations in November 2008, staff was contacted by both the Port of Oakland and representatives of a company that brokers insurance for Oakland taxis. The Port requested that the City change its coverage requirements to match the Port's, and the insurance broker representatives explained why that change would provide more flexible coverage and more possible insurance vendors from which permittees could choose. After analyzing the information, staff agreed that bringing the City's insurance coverage requirements into conformity with the Port's provides benefits that outweigh any possible minor disadvantages.

KEY ISSUES AND IMPACTS

1. Transfer of Additional Responsibilities from OPD to CAO

The Revised Budget adopted by the City Council on October 21, 2008 transferred taxi permitting responsibilities from the Oakland Police Department (OPD) to the City Administrator's Office. Enforcement duties, however, remained with OPD. When CAO staff and OPD staff met to determine the specifics of that change, an initial determination was made that review of a Fleet Management permit applicant's criminal background was more in the purview of OPD than of CAO.

Since the implementation of the transfer, OPD has requested that both the form maintenance and the criminal background reviews be conducted by CAO. In regard to the criminal background check, CAO staff must receive clearances in order to review the records resulting from the Live Scan process.

Having the ability to review the criminal background checks should improve the speed of the permitting process. Without this ability, the results must go the Traffic Division of OPD, which then must convey the results to the City Administrator. However the background check documents cannot be conveyed to those without clearances, so the current method requires OPD to re-draft the results and their recommendations in lay language.

Transferring the maintenance of Fleet Management forms generation to the CAO makes sense since the other taxi forms are the responsibility of CAO staff. OPD agrees with this transfer.

2. Matching the City's Insurance Coverage Requirements With That of the Port of Oakland

The City of Oakland currently requires each permitted taxi to carry liability insurance coverage "of one million dollars (\$1,000,000.00) on account of injury to or death of any one person, of one million dollars (\$1,000,000.00) on account of any one accident resulting in injury to or death of more than one person, and of fifty thousand dollars (\$50,000.00) for damage to property of more than one person, and of fifty thousand dollars (\$50,000.00) for damage to property of others resulting from any one accident." This type of specification is known in the insurance industry as split coverage.

The Port of Oakland currently requires taxis that serve the Oakland Airport to carry “automobile liability insurance with policy limits of \$1,000,000 combined single limit per accident for bodily injury and property damage. . .”¹ This type of specification is known in the insurance industry as combined single limit coverage.

Difference in Coverage and Claim Payouts

The main difference in the two types of coverage is that the City specifies \$50,000 for property damage, while property damage is included in the \$1,000,000 coverage required by the Port. What this means is that claim payments for property damage with City coverage are capped at \$50,000, while the Port’s coverage offers the flexibility to allocate the \$1,000,000 in any way, including up to \$1,000,000 of property damage.

According to the insurance broker who provided staff with information for this report, it is currently not uncommon for property damage to exceed \$50,000 since the cost of repairing structures commonly damaged by automobile accidents, i.e., buildings, government property such as street lights, and even other vehicles can frequently exceed \$50,000.

On the other hand, payment of property damage in a combined single limit policy reduces the amount available for claims of bodily injury in the same accident. Under Oakland’s current coverage requirements, the maximum payout for a single accident would be \$1,050,000, consisting of \$1,000,000 for bodily injury and \$50,000 for property damage. However, the insurance brokerage representatives state that they have never seen a claim that resulted in the maximum payout for both bodily injury and property damage

Difference in Cost

Technically, to meet the requirements of both the City and the Port, each vehicle would need two separate policies. However, the Port has agreed to temporarily accept split coverage if the property damage portion is increased to \$1,000,000. This coverage is more costly than either the City’s required level of split limit coverage or the Port’s level of combined single limit coverage. The following example is the per vehicle rates for ProCentury Insurance, a company that can handle both the Port and City requirements as well as the Port’s interim coverage solution.

<u>Required Coverage</u>	<u>Premium</u>
City - \$1,000,000/\$1,000,000/\$50,000	\$5,876
Port - \$1,000,000 combined single limit	\$5,915
Combo - \$1,000,000/\$1,000,000/\$1,000,000	\$6,030

Changing the City’s coverage requirements to match the Port’s would save taxi companies \$115.00 under the rates of this company. Currently only 120 of the City’s 315 taxis are authorized to go to the Airport. Under the proposed coverage change the other 195 taxis would experience an insurance increase of \$39.00 per vehicle. However, the Port is currently considering a plan that would allow all Oakland taxis to access the Airport two to three days per week. If that plan is adopted, all taxis who desired airport privileges would be required to meet the Port’s coverage requirements.

¹ Port Ordinance 3576, Schedule B, Section 4D(2)

Additionally, many insurance carriers in California do not file split limit rates. The insurance broker who first contacted staff about this problem stated that her agency has only three companies available to provide Oakland's split limit coverage, whereas at least ten carriers quote the combined single limit coverage. This increased competition provides the potential for decreasing the cost of insurance for all Oakland taxis.

SUSTAINABLE OPPORTUNITIES

Economic: The change to combined single limit insurance would significantly decrease the premium costs for taxis that have access to the airport and would likely increase slightly the premium costs for non-airport taxis, at least initially, utilizing the current insurance carriers. However, access to an increased number of insurance carriers that provide single limit coverage improves the possibility of obtaining better premium rates for all Oakland taxis in the future. Additionally, if, as the taxi community has been lobbying for years, access to the airport is made available to all Oakland taxis, all would be required to carry policies that included the \$1,000,000 levels of property damage coverage.

Environmental: There are no direct environmental effects of a change in insurance coverage requirements.

Social Equity: Taxi accidents that occur in Oakland may involve property damage to the homes or vehicles of Oakland residents. Under the City's current split limit insurance requirements, residents would be unable to be reimbursed for damage in excess of \$50,000. If the resident was unable to cover the excess, the damage would go unrepaired. Combined single limit coverage would authorize up to \$1,000,000 to repair such damage.

DISABILITY AND SENIOR CITIZEN ACCESS

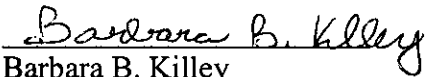
Insurance coverage changes create no direct impacts on disability and senior citizen access.

ACTION REQUESTED OF THE CITY COUNCIL

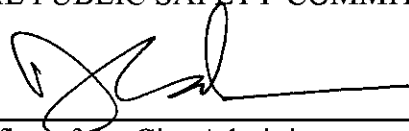
Staff requests that the City Council:

1. Accept this report.
2. Adopt the Proposed Amendments to the Taxicab Ordinance (OMC Chapter 5.64).

Respectfully submitted,


Barbara B. Killey
Assistant to the City Administrator

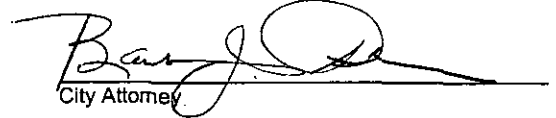
APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE.



Office of the City Administrator

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2009 FEB 11 PM 4:21

APPROVED AS TO FORM AND LEGALITY


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ADOPT AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
CHAPTER 5.64 "TAXICABS" TO**

- A) REQUIRE THE SAME INSURANCE LIMITS REQUIRED BY THE OAKLAND AIRPORT FOR TAXICABS THAT WORK AT THE AIRPORT; AND**
- B) MOVE 1) AUTHORITY FOR THE DESIGN OF THE FLEET MANAGEMENT PERMIT APPLICATION, AND 2) DISCRETION TO DENY FLEET MANAGEMENT PERMITS ON THE BASIS OF CRIMINAL CONVICTIONS FROM THE OAKLAND POLICE DEPARTMENT TO THE OFFICE OF THE CITY ADMINISTRATOR**

WHEREAS, the protection of the public health and safety are the paramount considerations in the interpretation and enforcement of taxicab regulations; and

WHEREAS, the insurance requirements for taxis are intended to ensure the protection of the public health and safety; and

WHEREAS, the Port Department ("Port of Oakland") authorizes only taxis permitted by the City of Oakland to pick up taxi patrons from the Oakland Airport; and

WHEREAS, the insurance limits required by the City of Oakland differ from those of the Oakland Airport; and

WHEREAS, the difference results in higher premiums for Oakland taxis that must meet both requirements; and

WHEREAS, the \$1,000,000 combined single limit coverage required by the Port of Oakland offers more coverage for property damage than Oakland's split limit requirement of \$50,000 for property damage; and

WHEREAS, the adoption of \$1,000,000 combined single limit coverage does not compromise public health and safety; and

WHEREAS, since the majority of permitting administration and enforcement has been transferred from the Police Department to the City Administrator's Office, the Police Department desires to also move the creation of applications for Fleet Management Permits and the denial of applications for Fleet Management Permits based upon criminal convictions; now therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. It is the intent of the City Council in enacting this ordinance, to work cooperatively with the Port Department ("Port of Oakland") to provide a consistent regulatory scheme for the taxis that service both the City and the Airport.

SECTION 2. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 3. The City Council finds and determines that the adoption of this Ordinance is exempt from California Environmental Quality Act ("CEQA") under Sections 15061(b)(3) of the State CEQA Guidelines and authorizes the filing of a Notice of Exemption with the Alameda County Clerk.

SECTION 4. The Oakland Municipal Code hereby is amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~); portions of the regulations not cited or not shown in underscoring or strike-through type are not changed:

SECTION 5. This ordinance shall be effective immediately upon final adoption by the City Council of the City of Oakland if it is adopted with six or more affirmative votes; the ordinance shall be effective upon the seventh day after final adoption if it is adopted with five affirmative votes

SECTION 6. Sections 5.64.040 and 5.64.090 of Oakland Municipal Code Chapter 5.64, entitled Taxicabs hereby are amended to read as follows:

SECTION 5.64.040 Fleet management permit.

A. It is unlawful for any person, partnership, cooperative, corporation, firm, or association to engage in the business of operating or managing a taxicab company, fleet, or taxi service in the city without first obtaining a fleet management permit as specified by this section.

B. Application for a fleet management permit shall be filed with the City Administrator. The form and contents of such application shall be specified by the City Administrator ~~Chief of Police~~; however, the following shall constitute the minimum requirements to qualify for a fleet management permit:

1. Proof that the fleet management permit applicant has insurance which satisfies the requirements of Section 5.64.090 and which is adequate to cover all vehicles permitted under the name and vehicle colors for which the applicant is responsible;

2. Designation of a manager to whom all correspondence and official notices may be directed and who is authorized to and is responsible for the conduct of all business with city officials charged with enforcing the provisions of the Chapter. The fleet manager is subject to the approval of the City Administrator and shall be subject to the same requirements as permit holders under subsections E and F of Section 5.64.080;

3. Disclosure of the names, residence, and business addresses of the designated manager, all directors, officers, partners, and associates directly or indirectly holding a financial interest in the applicant and the proposed fleet management permit. A copy of the current, valid fictitious business name certificate under which the applicant does, or intends to do, business;

4. A complete description of the fleet's proposed operations, including a radio-dispatching service provided either by the applicant or another party under contract, including all licenses for the operation of all radios whether directly or by contract. Failure to operate according to the proposed terms shall be considered a violation of this chapter;

5. Authorization from the City Administrator to use a proposed color scheme for each vehicle in the fleet;

6. Proof that the fleet's operations are conducted in conformance with zoning laws;

7. A list of all vehicle permits that the fleet management permittee will manage.

C. Fleet management permittees are required to maintain for a period of not less than one year all records pertaining to the fleet manager's operation and management, including but not limited to all waybills completed by drivers, all dispatch logs, all vehicle inspection records, driver training records, passenger complaints, citation records, leasing records, and insurance records. Fleet managers shall make available for inspection, Monday through Friday from nine a.m. to five p.m., all such records. Fleet managers shall take reasonable efforts to ensure the completeness and accuracy of all records. Any records which are determined to be inadequate, inaccurate, or any request which is not complied with may result in the suspension or revocation of the fleet management permit pursuant to section 5.64.080.

D. Fleet management permittees shall be responsible for all aspects of the fleet management and day-to-day management operations, including but not limited to drivers and vehicles operated under the fleet management permit. Any violation of any provision of this chapter by a driver or vehicle may be grounds for suspension or revocation of the fleet management permit pursuant to section 5.64.080, and any violation by a driver or vehicle may also be imputed to the fleet management permittee for the purposes of prosecution of violations pursuant to section 5.64.135:

1. Fleet managers shall provide to drivers receipts for all fees collected from said drivers.

2. Upon driver request, fleet managers shall provide all information and documentation on insurance claims filed or processed for accidents and/or other vehicle damage in which said driver was involved.

E. The City Administrator ~~Chief of Police~~ may deny the granting of any fleet management permit if the applicant has been convicted of any crime, taking into consideration the nature and circumstance of the conviction, the age of the applicant at the time of conviction, the time elapsed since the conviction, and any evidence of rehabilitation.

F. Fleet management permits issued under the provisions of this chapter shall be effective for the calendar year for which the permit is issued only. All fleet management permits shall expire on December 31st of the year for which the permit is issued. Fleet management permits must be renewed annually by the fleet management permittee by submitting a completed application with required documents as set forth in this section no later than November 15th.

G. Any person, partnership, cooperative, corporation, firm, or association in receipt of a fleet management permit shall designate one person as the fleet manager. The fleet manager shall be jointly and severally liable with the fleet management permittee for all acts and omissions arising from the operation of the fleet.

H. Fleets consisting of ten (10) or more vehicles shall provide taxi coverage to all parts of the City twenty-four (24) hours per day, seven (7) days per week. The City Administrator shall divide the City into geographic areas and determine the required level of coverage for each area and time of day. In establishing these requirements the City Administrator, or authorized designee, shall consider the number of vehicle permits managed by each fleet and shall assign the required coverage levels proportionately. As part of the annual renewal process, Fleet Managers of fleets consisting of ten (10) or more vehicles shall submit a plan for meeting the required level of coverage, as determined by the City Administrator. However, for calendar year 2009, the coverage plan shall be submitted within 30 days of request by the City Administrator. Fleet managers shall maintain records demonstrating compliance with the coverage plan including but not limited to daily records for each permitted vehicle in the fleet showing the name of the driver(s), the time of day and the geographic area serviced by each vehicle. These records shall be maintained by the fleet management company for at least one year and shall be submitted to the City on a quarterly basis in January, April, July and October of each year.

Failure to operate the fleet according to the coverage plan, maintain accurate records of actual operation of each permitted vehicle in the fleet, or submit timely quarterly reports shall be a violation of this Chapter and shall constitute a basis for revocation of the fleet management permit and/or any vehicle permits under the ownership, possession or control of the fleet management company.

SECTION 5.64.090 Insurance requirements.

A. It is unlawful for any fleet management permittee or any holder of a vehicle permit to operate or allow to be operated any taxicab unless a valid insurance policy, indicating that a motor vehicle liability policy is in effect which covers such taxicab, has been filed with the City Administrator. The insurance policy must be issued by a company holding a certificate of authority to do insurance business in the state of California, or by a company doing business through an authorized surplus lines broker. Such insurance shall remain in full force and effect at all times for each taxicab permit; provided, however, that the fleet management permittee may temporarily suspend coverage for any covered vehicle not actually in service or being operated on public streets or ways provided that written notice to the Chief of Police has first been provided by the fleet management permittee.

B. An insurance policy evidencing motor vehicle liability insurance made by a company doing business through an authorized surplus lines broker shall have on it an endorsement substantially as follows:

It is agreed that in the event of a dispute as to the validity of any claim made by the insured under this insurance policy, or in the event of any suit instituted by the insured against the company upon this contract, the company hereon will submit to the jurisdiction of the courts of the State of California, and will comply with all legal requirements necessary to give such courts jurisdiction; and for this purpose said company hereby appoints _____ at _____ Street, _____, California, its agent for the purpose of service of process; and in any suit instituted against the company upon this contract, the company will abide by the final decision of the courts of said State and settle accordingly.

C. The motor vehicle liability policy required under the provisions of subsection A of this section shall name and insure the registered vehicle owner, the fleet management permittee, any permitted taxi driver, and any other person using or responsible for the use of any such vehicle, with the consent, express or implied, of the owner or fleet management permittee, against loss from liability imposed upon such owner or fleet management permittee by law for injury to, or death of, any person, or damage to property growing out of the maintenance, operation, or ownership of any taxicab, to the amount of limit of one million dollars (\$1,000,000.00) combined single limit per accident for bodily injury, death, and property damage. ~~on account of injury to or death of any one person, of one million dollars (\$1,000,000.00) on account of any one accident resulting in injury to or death of more than one person, and of fifty thousand dollars (\$50,000.00) for damage to property of more than one person, and of fifty thousand dollars (\$50,000.00) for damage to property of others resulting from any one accident. The amounts set forth above shall be per occurrence and shall not be in the aggregate.~~

D. Every insurance policy required under the provisions of subsection A of this section shall certify that the motor vehicle liability policy shall not be canceled, nor the policy limits thereof changed, except upon thirty (30) days' prior written notice to:

Business Permits Unit
City Administrator's Office
1 Frank H. Ogawa Plaza, 11th Floor
Oakland, CA 94612

Such motor vehicle liability insurance shall be continuing liability up to the full amount thereof, notwithstanding any recovery thereon; and such insurance policy shall so certify. The City Administrator is authorized to impose additional requirements for the form or content of any insurance policy, provided the additional requirements are not inconsistent with or prohibited by the provisions of this chapter or with state law.

Each fleet management permittee shall be required to provide the City Administrator with written notice within thirty (30) days of any changes or amendments to an insurance policy.

If at any time there arises a question as to the existence, continued validity, adequacy, or sufficiency of a motor vehicle liability policy, the City Administrator may temporarily suspend the fleet management permit or vehicle permit in accordance with Section 5.64.080 and/or may require the registered owner of the motor vehicle or the fleet management permittee named on the policy, or both, to replace such policies within ten days with other policies which meet the requirements established by this chapter. If the owner, fleet management company, or both fails to replace the insurance policy or policies within the said ten-day period with sufficient policies the City Administrator may then continue to suspend or revoke the permits issued to the owner, fleet management permittee, or both in accordance with section 5.64.080.

In the event that an insurer has amended or changed a policy four times from the date of its issuance, the fleet management permittee shall be required to file a new, reissued insurance policy with the City Administrator within thirty (30) days after the effective date of any fourth amendment or change.

E. The following endorsement shall be made a part of the comprehensive motor vehicle liability policy in the exact language listed below:

The city, its Council members, officers, agents, and employees are hereby added as additional insureds.

F. Every fleet management permittee or holder of a vehicle permit shall provide to the City Administrator written notice within ten days of any final judgment being entered against him or her or against any taxicab company or vehicle under his or her control if that judgment arises from any accident or injury occurring within the limits of the city or if the person injured entered an Oakland permitted taxicab in the City regardless of where the accident occurred. Failure to provide such notice is grounds for revocation of the fleet management permit or vehicle permit in accordance with Section 5.64.080. Failure of a fleet management permittee or taxi vehicle permittee to satisfy a final judgment arising under the conditions heretofore set forth herein within six months of entry of such judgment shall be grounds for revoking the fleet management permit under which the vehicle permittee operated, revoking the vehicle permit, or both.

G. Failure to comply with the insurance requirements set forth in this section shall be grounds for revocation pursuant to Section 5.64.080. (Ord. 12034 § 1 (part), 1998: prior code § 5-29.9)

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,
QUAN, REID AND PRESIDENT BRUNNER

NOES –

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

Notice & Digest

An Ordinance Amending Oakland Municipal Code Chapter 5.64, "Taxicabs" To

- A) REQUIRE THE SAME INSURANCE LIMITS REQUIRED BY THE OAKLAND AIRPORT FOR TAXICABS THAT WORK AT THE AIRPORT; AND**
- B) MOVE 1) AUTHORITY FOR THE DESIGN OF THE FLEET MANAGEMENT PERMIT APPLICATION, AND 2) DISCRETION TO DENY FLEET MANAGEMENT PERMITS ON THE BASIS OF CRIMINAL CONVICTIONS FROM THE OAKLAND POLICE DEPARTMENT TO THE OFFICE OF THE CITY ADMINISTRATOR**

This is an ordinance amending Oakland Municipal Code Chapter 5.64 to require the same insurance limits required by the Oakland Airport for taxicabs that work at the Airport; and to move 1) authority for the design of the fleet management permit application, and 2) discretion to deny fleet management permits on the basis of criminal convictions from the Oakland Police Department to the Office of the City Administrator