

ORDINANCE NO. 2024-26

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS AMENDING CHAPTER 11, TRAFFIC AND VEHICLES, OF THE WIMBERLEY CITY CODE BY ADDING REGULATIONS RELATED TO VEHICLES FOR HIRE AND HORSE DRAWN CARRIAGES; AND PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, ESTABLISHING AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, Texas Transportation Code Section 311.002 authorizes general law municipalities to regulate its streets; and

WHEREAS, Texas Local Government Code Section 215.004 authorizes a general law municipality to regulate private passenger vehicles; and

WHEREAS, the City Council recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, and in the public interest to promote health and safety as well as the general welfare, and further advance the good order of the City as a body politic; and

WHEREAS, the City Council desires to adequately plan for needs of the City as it continues to grow and expand; and

WHEREAS, as authorized under law, and in the best interests of local residents, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of Vehicles for Hire as well as Horse Drawn Carriages; and

WHEREAS, the City Council finds it necessary to add provisions regarding the regulation of Vehicles for Hire to include the regulation of horse drawn carriages.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS:

- Section 1.** That the Codified Ordinances of the City of Wimberley, Chapter 11, Traffic and Vehicles, is hereby amended as set forth in **“Exhibit A”** attached hereto and incorporated for all purposes.
- Section 2:** That the recitals contained in the preamble hereto are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.
- Section 3. Savings and Severability.**

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 4. Repealer.

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

Section 5. Effective Date.

This Ordinance shall immediately upon its passage, publication and other authorizations as may be required by law.

Section 6. Proper Notice and Meeting.

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

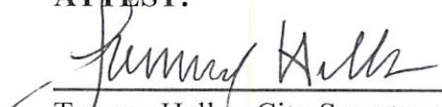
PASSED AND APPROVED this 19th day of December, 2024, by a vote of 4 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY

By:


Jim Chiles, Mayor

ATTEST:



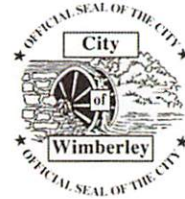
Tammy Heller, City Secretary

APPROVED AS TO FORM:

Megan R. Santee

City Attorney

DENTON NAVARRO RODRIGUEZ BERNAL
SANTEE & ZECH, P.C.



“Exhibit A”

ARTICLE 11.06 – VEHICLES FOR HIRE

Secs. 11.06.001-11.06.005 Reserved.

Sec. 11.06.006 Definitions.

Annual permit means permission granted by the city council to operate a ground transportation service within the city for a period of one year from date of issuance and renewable under the provisions of this article; provided, however, that permission granted is neither expired nor revoked.

City administrator means the person, his/her authorized representative or his/her designated representative.

City means the City of Wimberley, Texas.

Driver or *chauffeur* means every person in actual charge of operation of a Ground Transportation Service (GTS) vehicle whether as owner or agent, servant or employee of the owner.

Ground Transportation Service (GTS) means a transportation service using any taxicab, any and every automobile or motor-propelled vehicle including limousines, and all other motor propelled vehicles however classified (whether as a shuttle, airport shuttle, jitney etc.) used for the transportation of passengers for hire over the public streets of the City, and shall include Pedicabs. The same shall be subject to the provisions of this chapter irrespective of whether the operation extends beyond the City limits, or whether the service charges rates for distance traveled or for waiting time, or for both, or for the trip, or at rates per hour, per day, or per month, or whether such vehicle is routed to predetermined destinations, regular or irregular routes or destinations under the direction of such passenger or passengers, or such person or persons hiring the same, with the following exceptions:

- (1) Motor buses transporting to or from school or college,
- (2) Ambulances or other emergency vehicles operating under permit from this City or another City or governmental entity,
- (3) Vehicles rented or leased for operation by the person actually driving the same, unless such vehicle is transporting for compensation persons other than the one who actually rented or leased the same,
- (4) Courtesy vehicles operated to or from the airport to hotels, motels, parking lots, or car dealerships or rental agencies by the owners of such entities for their patrons for no compensation,

- (5) Any vehicle being operated pursuant to a franchise or permit legally issued by the Texas Railroad Commission or the Interstate Commerce Commission (example: Greyhound Grey-line busses),
- (6) Vehicles operated for a funeral home in the performance of funeral services,
- (7) Vehicles used in a ride-share/carpool, operated by individual employees or employers to transport a person or persons on a prearranged basis between their homes and places of employment or other places of common destination if free or if only a fee calculated to reasonably cover expenses is charged, or
- (8) Vehicles used by or funded by governmental agencies for transit systems (examples: City bus system or Capital Area Council of Governments).

Holder means a person who is granted an annual permit under this article.

Person means an individual, partnership, corporation, company, association, or a joint stock association owning, driving, controlling, or operating any GTS service as defined and regulated herein.

Pedicab shall mean a device with three or four wheels propelled by human power exerted through a belt, chain, or gears capable of carrying a driver and one or more passengers, with a maximum of four on a platform made as part of the device. A pedicab may have an electric assist motor to help the driver move the pedicab.

Taxicab means a chauffeured motor vehicle having a rated passenger capacity of eight or less which typically operates on irregular routes and schedules and on a call-and-demand basis.

Sec. 11.06.007 Offenses and penalties.

- (a) It shall be unlawful for any person or entity to own or operate a GTS when not in compliance with the provisions of this chapter.
- (b) Except as otherwise provided in this article, any person violating a provision of this article shall be punished as provided in section 1.01.009.

Sec. 11.06.008. Sign regulations.

Each Taxicab and Pedicab shall have the business name and phone number affixed to both front doors with lettering clearly visible and readable.

Sec. 11.06.009 Permit required.

A person shall not operate a GTS for hire for transportation within the city without first securing operating authority granted under this article.

Sec. 11.06.008 Transferability of permit.

A permit may not be transferred to another unless the holder files a written application as required for a permit for the transfer and the transfer is reviewed and approved by the city council.

Sec. 11.06.010 Prerequisites to issuance of permit.

Before a permit is granted under this article, the application for the permit must be approved by the city council. The granting of the permit is at the discretion of the city council upon a finding by the council that issuance of such a permit is in the interest of public convenience and necessity, but will not be granted unless the applicant is fit, willing, and able to operate the GTS service in accordance with the requirements of this article, rules and regulations of the city administrator, provisions of the permit, or other applicable law.

Sec. 11.06.011 Grant or denial of permit; scope.

The authority to grant or deny an annual permit, to renew or deny renewal of annual permit, or to revoke an annual permit shall be vested exclusively with the city council. Upon approval of an application for a permit by the city council, the permit holder is authorized to operate GTS service carrying passengers for hire within city limits for a period of one year beginning on the date as stated on the permit and upon the terms and conditions contained in this article, as may be amended or as contained in the annual permit.

Sec. 11.06.012 Application for permit.

To obtain an annual permit, a person shall make application to the city council in the manner prescribed by this article. The applicant must be the person who will own, control, or operate the proposed GTS service. An applicant shall file with the city secretary a written, sworn application containing the following:

- (1) The form of business of the applicant. If the business is a corporation, association or other entity, a copy of the documents establishing the business and the name, address, and citizenship of each person with a direct interest in the business.
- (2) Name, address, and verified signature of the applicant.
- (3) The driver's license numbers of all GTS drivers to be employed and evidence of current state license, if required by the state.
- (4) A statement or other evidence of ownership of all GTS vehicles which must be the same as the applicant.
- (5) Description of any past business experience of the applicant, particularly in providing passenger transportation services, including identification and description of any revocation or suspension of a permit held by the applicant or business before the date of filing the application.
- (6) Number and description of the GTS vehicles the applicant proposes to use in the operation of the GTS service; description of the operations of the proposed GTS service and location of the fixed facilities to be used in the operation.

Sec. 11.06.013 Renewal of permit.

- (a) After the first approval of an application by the City Council, a permit shall be renewed annually through the City Administrator's office.
- (b) The city administrator may notify the holder prior to the renewal date of his intention to recommend denial of the permit renewal based on his determination that:
 - (1) The holder has demonstrated a history of noncompliance with permit provisions, GTS service regulations, or other law; or
 - (2) The holder has demonstrated it is not fit, willing, or able to continue to operate the GTS service in accordance with permit provisions, drivers or other license requirements, applicable provisions of this article, or other law; or
 - (3) Public convenience or necessity do not require the continued operation of the GTS service.
- (b) The city administrator may deny a permit renewal for any legitimate reason, including but not limited to the holder's noncompliance with any legal requirements, lack of current drivers or other license requirements, or public convenience or necessity do not require the continued operation of the GTS service.
- (c) If the permit holder receives notice of the City Administrator's intent to recommend denial of renewal to an existing permit, the permit holder shall have 15 days after such receipt within which to request a formal hearing. Such request shall be made to the City Administrator care of the city secretary who will set the same for hearing by the city council at the next regular meeting thereof.
- (d) The holder shall cease operation of the GTS service immediately upon denial of the request for renewal by the city council.

Sec. 11.06.014 Permit fee.

A holder of an annual permit shall pay the city, in advance, a permit fee, as set forth in the fee schedule found in appendix A to this Code, for each GTS vehicle authorized by the permit.

Sec. 11.07.010 Numbers of GTS vehicles.

A permit holder shall not operate more than the approved number of GTS vehicles authorized by the annual permit.

Sec. 11.06.015 Insurance required.

- (a) Each GTS shall have and maintain insurance and a certificate of insurance reflecting insurance coverage as herein prescribed. The GTS shall keep in full force and effect while providing GTS service a policy of public liability insurance, issued by an insurance company fully authorized to do business in this state and performable in Hays County, Texas, insuring the public against any loss or damage that may result to any person or property from the operation of such service, vehicle or vehicles.

(b) The minimum amounts of public liability and property damage insurance required for the operation of a GTS, shall be as follows:

(1) One Million Dollars Combined Single Limit or

(2) Five Hundred Thousand Dollars per person with \$1,000,000 each accident bodily injury and \$250,000 property damage.

The coverage required may carry a deductible of no more than \$5,000.00

Passenger liability exclusions are expressly prohibited.

Each driver shall be specifically listed as an approved driver on such policy of insurance.

(c) In the event that any insurance policy is canceled the GTS service shall be terminated until the required insurance is reinstated. GTS service may not be operated at any time the insurance required hereby is not in effect.

(d) Every policy of insurance issued to comply with the provisions hereof shall be issued by an insurance company with a minimum "A. B. Best" rating of at least B+.

(e) All GTS drivers shall maintain a copy of the required insurance within the GTS vehicle at all times and display the same to any peace officer upon request.

(f) No person shall drive a GTS vehicle with passengers without being then covered by the insurance required herein and listed thereon as an approved driver.

Secs. 11.06.016 – 11.06.030 Reserved.

ARTICLE 11.07 - HORSE DRAWN CARRIAGES

Sec. 11.07.001 Definitions.

Whenever used in this article the following terms shall have the following meanings:

Annual permit means permission granted by the city council to operate a horse-drawn carriage service within the city for a period of one year from date of issuance and renewable under the provisions of this article; provided, however, that permission granted is neither expired nor revoked.

Carriage means a wheeled passenger vehicle pulled by a horse.

Carriage horse means any horse which is used by its owner or other person to carry or pull any person or carriage, in exchange for a fee. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a carriage horse for the purposes of this article.

City administrator means the person, his/her authorized representative or his/her designated representative.

Holder means a person who is granted an annual permit under this article.

Horse-drawn carriage driver means any individual duly licensed as a driver by the state, if required by the state, who has been duly employed to operate a horse-drawn carriage by the holder of a horse-drawn carriage permit.

Passenger means an individual, other than the driver, being transported by horse-drawn carriage.

Person means an individual, partnership, corporation, company, association, or a joint stock association owning, driving, controlling, or operating any horse-drawn carriage as defined and regulated herein.

Street means and includes any street, alley, avenue, boulevard, drive, public way or highway commonly used for the purpose of public travel within the incorporated limits of the city.

Sec. 11.07.002 Penalty.

Except as otherwise provided in this article, any person violating a provision of this article shall be punished as provided in section 1.01.009.

Sec. 11.07.003 Permit required.

A person shall not operate a horse-drawn carriage for hire nor hire any horse for transportation within the city without first securing operating authority granted under this article.

Sec. 11.07.004 Transferability of permit.

A permit may not be transferred to another unless the holder files a written application as required for a permit for the transfer and the transfer is reviewed and approved by the city council.

Sec. 11.07.005 Prerequisites to issuance of permit.

Before a permit is granted under this article, the application for the permit must be approved by the city council. The granting of the permit is at the discretion of the city council upon a finding by the council that issuance of such a permit is in the interest of public convenience and necessity, but will not be granted unless the applicant is fit, willing, and able to operate the horse-drawn carriage service in accordance with the requirements of this article, rules and regulations of the city administrator, provisions of the permit, or other applicable law.

Sec. 11.07.006 Grant or denial of permit; scope.

The authority to grant or deny an annual permit, to renew or deny renewal of annual permit, or to revoke an annual permit shall be vested exclusively with the city council. Upon approval of an application for a permit by the city council, the permit holder is authorized to operate horse-drawn carriages carrying passengers for hire on certain public streets of the city for a period of one year beginning on the date as stated on the permit and upon the terms and conditions contained in this article, as may be amended or as contained in the annual permit.

Sec. 11.07.007 Application for permit.

To obtain an annual permit, a person shall make application to the city council in the manner prescribed by this article. The applicant must be the person who will own, control, or operate the proposed horse-drawn carriage service. An applicant shall file with the city secretary a written, sworn application containing the following:

- (1) The form of business of the applicant. If the business is a corporation, association or other entity, a copy of the documents establishing the business and the name, address, and citizenship of each person with a direct interest in the business.
- (2) Name, address, and verified signature of the applicant.
- (3) The driver's license numbers of all horse drawn carriage drivers to be employed and evidence of current state license, if required by the state.
- (4) A statement or other evidence of ownership of all horses and equipment which must be the same as the applicant.
- (5) Description of any past business experience of the applicant, particularly in providing passenger transportation services, including identification and description of any revocation or suspension of a permit held by the applicant or business before the date of filing the application.
- (6) Number and description of the horses and carriages the applicant proposes to use in the operation of the horse-drawn carriage service; description of the operations of the proposed horse-drawn carriage service and location of the fixed facilities to be used in the operation.

Sec. 11.07.008 Renewal of permit.

- (c) After the first approval of an application by the City Council, a permit shall be renewed annually through the City Administrator's office.
- (d) The city administrator may notify the holder prior to the renewal date of his intention to recommend denial of the permit renewal based on his determination that:
 - (1) The holder has demonstrated a history of noncompliance with permit provisions, horse-drawn carriage regulations, or other law; or
 - (2) The holder has demonstrated it is not fit, willing, or able to continue to operate the horse-drawn carriage service in accordance with permit provisions, drivers or other license requirements, applicable provisions of this article, or other law; or
 - (3) Public convenience or necessity do not require the continued operation of the horse-drawn carriage.
- (b) The city administrator may deny a permit renewal for any legitimate reason, including but not limited to the holder's noncompliance with any legal requirements, lack of current drivers or other license requirements, or public convenience or necessity do not require the continued operation of the horse-drawn carriage.

- (c) If the permit holder receives notice of the City Administrator's intent to recommend denial of renewal to an existing permit, the permit holder shall have 15 days after such receipt within which to request a formal hearing. Such request shall be made to the City Administrator care of the city secretary who will set the same for hearing by the city council at the next regular meeting thereof.
- (d) The holder shall cease operation of the horse-drawn carriage service immediately upon denial of the request for renewal by the city council.

Sec. 11.07.009 Permit fee.

A holder of an annual permit shall pay the city, in advance, a permit fee, as set forth in the fee schedule found in appendix A to this Code, for each carriage authorized by the permit.

Sec. 11.07.010 Numbers of carriages.

A permit holder shall not operate more than the approved number of carriages authorized by the annual permit.

Sec. 11.07.011 Public liability and property damage insurance required.

- (a) The permit holder shall provide and maintain, at the holder's own expense, the following type and amount of insurance for the term of this permit:
 - (1) *Type*. Comprehensive general (public) liability to include but not be limited to the following:
 - a. Premises/operation;
 - b. Independent contractors;
 - c. Personal injury;
 - d. Products/completed operations;
 - e. Contractual liability; and
 - f. Operation of horse-drawn carriages.
 - (2) *Minimum amount*. Combined single limit for bodily injury and property damage per occurrence: \$300,000.00.
- (b) The permit holder further agrees that with respect to the above required insurances, the city shall:
 - (1) Be named as additional insured.
 - (2) Be provided with a waiver of subrogation.
 - (3) Be provided with 30 days advance notice, in writing, of cancellation or material change.
 - (4) Be provided with certificates of insurance evidencing the above-required insurances, prior to the issuance of the permit.

Sec. 11.07.012 Hours of operation.

- (a) No horse being used for hire is permitted to be outside the stable grounds except during specified hours.

Sec. 11.07.013 Routes.

- (b) A permit holder shall operate carriage tours only within the area as determined by the city council which shall be uniform for all permit holders.
- (c) Subject to city council's approval, additional restrictions may be imposed to promote the public safety. Additionally, the City Administrator, his/her designee or Hays County Constable or Sheriff's Office may impose temporary restrictions during periods of heavy traffic congestion resulting from construction, holiday activities, or special events.

Sec. 11.07.014 Establishment of stand and picking up passengers.

- (a) A permit holder shall provide adequate watering and feeding facilities at a location or locations designated in the permit and maintain them in a clean and sanitary manner. These shall not be within public property or rights-of-way.
- (b) Picking up or dropping off passengers is permitted upon public rights-of-way provided that the same is accomplished out of the lanes for traffic and does not block access in alleys or other public rights-of-way.
- (c) Waiting for passengers shall occur only at locations which will not interfere with other vehicular traffic flow, which will provide adequate safety visibility, which is not on any major thoroughfare such as Ranch Road 12, FM 2325 or FM 3237 and which is approved in writing in advance by the city administrator.

Sec. 11.07.015 Maintenance of stands and routes.

A permit holder shall at his own expense keep routes and carriage stands clean and free of animal excrement. The carriages shall use an attached diaper device on carriage shafts, enclosed on three sides to ensure compliance. Disposal of manure shall be the responsibility of the carriage company and must be removed from the city.

Sec. 11.07.016 Slow-moving vehicle emblem and lighting.

- (a) Every animal-drawn vehicle shall display a "slow-moving vehicle emblem" as prescribed by state law on the rear and center of the vehicle.
- (b) Every animal drawn vehicle shall be equipped with lamps and reflectors that are visible at night for a distance of not less than 1,000 feet or shall not operate past dusk.

State law reference(s)—Distinctive emblems required on slow moving vehicles, Vernon's Ann. Civ. St., art. 6701d, § 139B.