



ORDINANCE NO. 3138-18

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND VARIOUS SECTIONS OF
CHAPTER 5.36 (TAXICABS) OF TITLE 5 (BUSINESS
LICENSES AND REGULATIONS) OF THE SUNNYVALE
MUNICIPAL CODE TO COMPLY WITH NEW
PROVISIONS IN CALIFORNIA STATE LAW**

WHEREAS, the City of Sunnyvale desires to amend certain sections of the Sunnyvale Municipal Code Chapter 5.36 (Taxicabs) to comply with new provisions in California state law.

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

SECTION 1. CHAPTER 5.36 AMENDED. Chapter 5.36 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 5.36.

TAXICABS

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|-----------------|---------------------------------------------------------------------------|
| 5.36.010 | Definitions. |
| 5.36.020 | Administrative authority. |
| 5.36.030 | Franchise- Compliance required. |
| 5.36.040 | Application and franchise fees. |
| 5.36.050 | Franchise-Application. |
| 5.36.060 | Public hearing. |
| 5.36.070 | Execution of franchise agreement. |
| 5.36.090 | Transfer of franchise. |
| 5.36.100 | Maintenance of records. |
| 5.36.110 | Franchise- denial. |
| 5.36.120 | Franchise-term. |
| 5.36.130 | Franchise suspension. |
| 5.36.140 | Franchise revocation. |
| 5.36.150 | Owner's responsibilities for maintenance and compliance with laws. |
| 5.36.160 | Direct route request. |
| 5.36.170 | Receipt. |
| 5.36.180 | Refusal of service. |
| 5.36.190 | Additional passenger |
| 5.36.200 | Seating capacity. |
| 5.36.210 | Posting of permits. |
| 5.36.220 | Local contact requirements. |

5.36.230	Twenty-four hour service.
5.36.240	Adequate personnel.
5.36.250	Insignia.
5.36.260	Taxicab identification.
5.36.270	Inspection required.
5.36.280	Fare schedule.
5.36.290	Fare disclosure.
5.36.300	Insurance required.
5.36.310	Cancellation of insurance.
5.36.320	Taximeter required.
5.36.326	Daily trip manifest.
5.36.330	Reserved.
5.36.350	Driver's permit required.
5.36.350	Application for driver's permit.
5.36.355	Requirements.
5.36.360	Investigation of applicant.
5.36.365	Testing of taxicab drivers for controlled substances and alcohol.
5.35.370	Issuance of driver's permit.
5.35.380	Revocation or suspension of driver's permit.
5.35.390	Notice of intent to deny or revoke permit-Hearing.
5.35.400	Nonliability.
5.35.405	Investigation of complaints of unauthorized taxicab operation.
5.35.410	Prosecution of violations.

Section 5.36.010. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

(1) "Company" means a passenger-for-hire business either based in the city of Sunnyvale or elsewhere whose business activity includes picking up any passengers in the city of Sunnyvale by on-demand requests, a radio dispatched service, or referral which results in charging the passenger by metered time and/or distance to a destination identified by the hiring passenger for an exclusive ride. Such taxi services are a business that is required to be licensed under this chapter. Taxi services which have picked up passengers outside of the city of Sunnyvale and delivered the passengers to a location within the city are excluded from the licensing requirements under this chapter. "Exclusive ride" as it is referred to in this section does not preclude a passenger from directing the taxicab driver to pick up additional passengers en-route to a destination and incurring the additional metered time and/or distance that would be required.

(2) "Division of Measurement Standards" means the state agency charged with and responsible for ensuring the accuracy of commercial weighing and measuring devices.

(3) - (4) [Renumbered; text unchanged]

(5) "Prearranged Trip" means a trip using an online enabled application,

dispatch, or Internet Web site. A company may provide prearranged trips anywhere within the county in which it has obtained a permit.

(6) “Sole Proprietor” means an independent, self-employed driver whose business is substantially located in the city of Sunnyvale and who enters into a franchise agreement with the city without employing additional drivers.

(7) “Substantially Located” means either the jurisdiction where a company maintains its primary business address, or the jurisdiction where the largest share of prearranged and non-prearranged trips originates, as defined in Government Code section 53075.5. “Substantially located” shall also mean, for companies establishing a new operation after January 1, 2019, the jurisdiction where a company has its primary business address for the first twelve (12) months of operation. A company or driver may be substantially located in more than one jurisdiction.

(8) [Renumbered; text unchanged]

(9) “Taximeter” means a device attached to or utilized by a taxicab, by means of which device the authorized charge for hire of such vehicle is mechanically calculated on the basis of distance traveled, or for waiting time, or a combination of both, which charges shall be indicated upon - by means of figures in dollars and cents

5.36.020 Administrative authority.

[Text unchanged]

5.36.030 Franchise—Compliance required.

(a) It shall be unlawful for any company or driver who is substantially located in the city to operate in the city unless the owner thereof applies for, and obtains a franchise to do so, which franchise shall be nonexclusive and shall be applied for, granted, and in effect, all in compliance with the provisions of this chapter.

(b) Beginning January 1, 2018, all companies and drivers shall collect data to determine in what jurisdictions each company and driver are substantially located. Beginning January 1, 2019, data for prearranged and non-prearranged trips collected in the previous twelve (12) months shall be provided upon date of renewal to the city for any company and driver that is substantially located in the city.

(c) Any company or driver who changes from being substantially located in another jurisdiction to being substantially located in the city of Sunnyvale shall provide the city with six months’ notice prior making that change.

(d) Any company or driver who establishes a new taxi operation after January 1, 2019 shall be considered substantially located in Sunnyvale if the company maintains its primary business address in Sunnyvale. After the first year of operation, the company shall submit and the city shall review all data collected in the previous twelve (12) months to determine where the taxicab company is substantially located.

5.36.040. Application and franchise fees.

[Text Unchanged]

5.36.050 Franchise—Application.

(a) The application for such owner's franchise shall be verified under oath by the applicant, and shall set forth:

(1) [Text unchanged];

(2) The residence and business address, including all members of any firm or partnership, or all officers and directors of any corporation applying;

(3) – (6) [Text unchanged];

(7) The number of vehicles proposed to be operated under the franchise, and a complete description of the same including the distinguishing color or colors thereof, the model and year, the manufacturer's name, the license number and the vehicle registration number; the applicant must be the registered owner of at least five taxicabs to be included in the franchise at the time of filing of the application and must maintain at least five taxicabs while operating in the city of Sunnyvale, unless the applicant is a sole proprietor as defined in Section 5.36.010(6);

(8-9) [Text unchanged]

(b) In addition to the items of information required in subsection (a) of this section, the applicant shall, together with the franchise application, furnish the following:

(1) – (3) [Text unchanged];

(4) The city may require evidence of every material statement in the application of the ability of applicant to meet the provisions of this chapter, together with such further information as the city council, or such official of the city of Sunnyvale to whom the application may be referred, may require.

(5) [Text unchanged].

5.36.060. Public hearing.

[Text unchanged]

5.36.070. Notice of hearing.

[Text unchanged]

5.36.090. Transfer of franchise.

[Text unchanged]

5.36.100. Maintenance of records.

[Text unchanged]

5.36.110 Franchise—Denial.

The city council may deny a franchise to any applicant if it appears to its satisfaction that the applicant has been convicted of a felony or violation of any narcotic law or of any penal law involving moral turpitude; that the applicant's proposed color scheme or other insignia will tend to confuse the identification of the vehicles proposed to be operated by such applicant with those of another owner operating in the city; that the applicant has failed to provide the necessary

information required in Section 5.36.050 or made a material misstatement or misrepresentation in the application; that the applicant has been in violation of any of the terms of this chapter, or of any other laws or regulations relating to the conduct of a taxicab business; that the applicant has had a taxicab license revoked or suspended in the city of Sunnyvale or any other jurisdiction within five years prior to the date of the application; that the applicant has previously applied for a taxicab franchise in the city of Sunnyvale and been denied within two years prior to the date of the current application; or that any other reasonable cause exists which, within the council's sound discretion, would render the proposed operations undesirable to the city of Sunnyvale, pose a public health and safety risk, or would otherwise be inadequate.

5.36.120. Franchise—Term.

[Text unchanged]

5.36.130. Franchise suspension.

[Text unchanged]

5.36.140 Franchise revocation.

(a) The director of public safety, or designee, may revoke the franchise granted under this chapter, if any of the following determinations are made:

(1) – (3) [Text unchanged];

(4) If taxicabs are operated at a rate of fare other than that specified in the franchisee's rate schedule then in effect;

(5) – (6) [Text unchanged].

(b) – (e) [Text unchanged].

5.36.150 Owner's responsibilities for maintenance and compliance with laws.

(a) It shall be the responsibility of the owner to assure that every taxicab operated under its franchise is in safe working order and meets the requirements of the Vehicle Code of the state of California. The interior and exterior of each taxicab shall be clean and well maintained at all times when in operation.

(b) All accidents, regardless of the jurisdiction of occurrence, arising from or in connection with the operation of taxicabs which result in death or injury to any person, or in damage to any vehicle, or to any property in an amount exceeding the sum of one hundred dollars, shall be reported to the public safety department within ten days from the time of occurrence.

(c) All owners shall ensure all drivers comply with the provisions of this chapter.

(d) All owners shall comply with all relevant State law provisions regarding the operation of a taxicab, including but not limited to Section 53075.5(h) of the California Government Code.

5.36.160. Direct route request.

[Text Unchanged]

5.36.170. Receipt.

[Text Unchanged]

5.36.180 Refusal of service.

It is unlawful for any driver to refuse, when the vehicle is in service and not otherwise engaged, to transport any person who requests such service in a sober and orderly manner and for a lawful purpose. Taxicab companies shall not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status, or any characteristic listed or defined in Section 11135 of the Government Code.

5.36.190. Additional passenger.

[Text Unchanged]

5.36.200. Seating capacity.

[Text Unchanged]

5.36.210. Posting of permits.

[Text Unchanged]

5.36.220 Local contact requirements.

(a) Each owner shall provide a toll-free telephone number to the public for dispatch of taxicab services within the city of Sunnyvale. All requests for service inside the corporate limits of the city of Sunnyvale shall be answered as soon as practicable; and if the service cannot be rendered within a reasonable time the prospective passenger shall be informed how long it will be before the call can be answered and the reason for the delay.

(b) [Text unchanged].

(c) Notice of change of telephone number(s) shall be provided to the director of public safety at least seventy-two hours before said change is effected.

5.36.230. Twenty-four hour service.

[Text unchanged]

5.36.240. Adequate personnel.

[Text unchanged]

5.36.250. Insignia.

[Text unchanged]

5.36.260. Taxicab identification.

[Text unchanged]

5.36.270 Inspection required.

(a) Every vehicle operating under a franchise shall be presented by the

owner or driver to the department of public safety for inspection once a year on or before the first day of March to ensure that the vehicle is maintained in a safe operating condition, and in compliance with the Vehicle Code. All vehicles added to the fleet of any franchise intended to be operated under the franchise shall be brought to the department of public safety for inspection prior to use in the fleet by the owner or driver.

(b) [Text unchanged].

5.36.280 Fare schedule.

Each franchisee shall adopt a uniform and reasonable schedule of charges for use of taxicabs operated under its franchise, based upon the distance traveled or waiting time, or both, as may be indicated by such taximeter.

5.36.290 Fare Disclosure.

The company shall disclose fares, fees, or rates to the customer, and may satisfy this requirement by disclosing fares, fees, or rates on its Internet Web site, mobile telephone application, or telephone orders upon request by the customer.

The company shall notify the passenger of the applicable rate prior to the passenger accepting the ride for walkup rides and street hails. The rate may be provided on the exterior of the vehicle, within an application of a mobile telephone, device, or other Internet-connected device, or it may be clearly visible in either print or electronic form inside the taxicab.

5.36.300 Insurance required.

It is unlawful for an owner or driver to operate a taxicab unless there is in full force and effect a commercial automobile insurance policy, executed by an insurance carrier-authorized to conduct business in the state of California and with an A.M. Best rating of at least A:VII, whereby the owner and driver of each of the taxicabs operated under the franchise are insured against liability for damage to property and for injury to or death of any person as a result of the ownership, operation or other use thereof. The minimum liability limits upon each such vehicle shall not be less than one million dollars (\$1,000,000) Combined Single Limit for bodily injury to or death of any persons and for damages to or destruction of property in any one accident. Such policy of insurance shall contain an endorsement providing that the policy shall not be canceled or materially modified until notice in writing has been given to the city, addressed to the director of public safety, city of Sunnyvale, California, at least thirty days immediately prior to the time such cancellation becomes effective. Further, such policy of insurance shall name the city, its officers, agents and employees as additional insured by separate endorsement. Any deviations from these requirements must be approved in writing by the city's risk manager. Additionally, a vehicle owner and driver shall indemnify, defend and hold harmless the city, its officers, agents and employees from claims arising from or alleged to arise from the negligence of the vehicle owner or driver.

5.36.310. Cancellation of insurance.

[Text unchanged]

5.36.320 Taximeter required.

It is unlawful for any owner or driver to operate any taxicab in the city unless and until such vehicle is equipped with a taximeter. A company may use any device or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the Business and Professions Code and all regulations established pursuant to Section 12107 of the Business and Professions Code. It shall be the duty of every owner operating a taxicab to maintain such taximeter in good serviceable condition so that it will at all times correctly indicate the correct charge for the distance traveled and waiting time. Every taximeter shall be equipped so as to register the cost of transportation of passengers in the city, and the taximeter shall be so placed in the taxicab that the reading dial showing the amount to be charged may be readily seen by the passengers in the taxicab. The owner shall cause such taximeter to be inspected annually by the Santa Clara County Sealer of Weights and Measures, and shall timely submit a report of such inspection to the director of public safety. The director of public safety is hereby authorized at his or her instance or upon complaint of any person, to investigate or cause any taximeter to be investigated, and upon discovery of any inaccuracy in such taximeter, to suspend the franchise for operation of the taxicab in which it was installed, until the director of public safety determines such taximeter has been correctly adjusted.

5.36.325. Daily trip manifest.

[Text unchanged]

5.36.330. Reserved.

5.36.340 Driver's permit required.

It is unlawful for any driver, owner, or sole proprietor to operate or drive a taxicab that is substantially located in the city without having first obtained a driver's permit from the director of public safety. To secure such permission, a prospective taxicab driver shall file a written application with the director of public safety, which application shall be accompanied by a nonrefundable processing fee in an amount to be established by resolution of the city council. A permit card shall be issued by the director of public safety, which permit card shall not be transferable. Regardless of date of issuance, permits are issued for two calendar years and expire December 31st of the calendar year following issuance. The permittee shall post the permit card in the taxicab in view of the passengers therein, during all working hours. Applications for renewal of a driver's permit must be received by the director of public safety no later than thirty days before the date of expiration, or the driver will be assessed a late fee in an amount established by resolution of the city council.

5.36.350. Application for driver's permit.

[Text unchanged]

5.36.355. Requirements.

[Text unchanged]

5.36.360. Investigation of applicant.

[Text unchanged]

5.36.365. Testing of taxicab drivers for controlled substances and alcohol.

(a) – (b) [Text unchanged]

(c) No taxicab driver's permit shall be issued or renewed unless the applicant and the franchise holder for which the driver is authorized to operate a vehicle both certify that the driver has tested negatively for controlled substances under a mandatory controlled substance and alcohol testing certification program conforming to Part 40 Code of Federal Regulations and California Government Code Section 53075.5. Upon the request of a driver applying for a permit, the city shall provide the driver a list of the consortia certified pursuant to Part 382 (commencing with section 382.101) of Title 49 of Federal Regulations that offer tests in or near the city.

5.36.370 Issuance of driver's permit.

(a) Upon approval of an application for a driver's permit and upon payment of the fee in an amount to be established by resolution, the director of public safety shall issue a permit to the applicant. Such permit shall bear the name and photograph of the applicant, date of expiration of the permit, and the name of the licensed franchise owner for which the driver is authorized to operate a vehicle. Such permit shall be valid only so long as the driver continues in the employ of such owner, or for the two-year permit period, whichever is less.

(b) [Text unchanged]

5.36.380 Revocation or suspension of driver's permit.

Any person issued a driver's permit who subsequently is convicted of any felony or misdemeanor offense or who ceases to possess a valid state of California driver's license of the class required by state law for the operation of taxicabs shall immediately so inform his or her employer and the director of public safety.

The director of public safety may revoke or suspend any driver's permit for repeated violations of this chapter, for commission of any act or acts which would be grounds for a denial of a driver's permit, if the driver's state of California Department of Motor Vehicles record includes four or more moving violations within the preceding twelve-month period, any felony conviction or misdemeanor conviction of moral turpitude, or if the director of public safety determines that the driver is a danger to the public safety.

5.36.390. Notice of intent to deny or revoke permit—Hearing.
[Text unchanged]

5.36.400. Nonliability.
[Text unchanged]

5.36.405. Investigation of complaints of unauthorized taxicab operation.
[Text unchanged]

5.36.410. Prosecution of violations.
[Text unchanged]

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect no sooner than January 1, 2019.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on October 30, 2018, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney