

ORDINANCE NUMBER O- 17115 (NEW SERIES)

ADOPTED ON JUL 11 1988

AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 5, DIVISIONS 1 AND 6, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 75.0101, 75.0102, 75.0104, 75.0105, 75.0108, 75.0111, 75.0112, 75.0113, 75.0114, 75.0116, 75.0117, 75.0120 AND 75.0603 RELATING TO PARATRANSIT CODE.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter VII, Article 5, Divisions 1 and 6, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 75.0101, 75.0102, 75.0104, 75.0105, 75.0108, 75.0111, 75.0112, 75.0113, 75.0114, 75.0116, 75.0117, 75.0120 and 75.0603 to read as follows:

SEC. 75.0101 DEFINITIONS

The following words and phrases, wherever used in this Chapter, shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

(a) through (n) No Change.

(o) "Medallion" shall mean the numbered plate or decal issued by the City to the permit holder which is displayed on a paratransit vehicle to indicate the authorized use or uses of that vehicle.

(p) through (y) No Change.

(z) "City Manager" shall mean the City Manager or his or her designated representative. It shall also include the General Manager of the Metropolitan Transit Development Board or designated representative when authorized by the City Council.

(aa) "Operate" or "Operating" shall refer to the solicitation or acceptance of a fare within the City limits for compensation. It shall also include, as the context may require, the act of driving, managing or directing the utilization of one or more paratransit vehicles.

SEC. 75.0102 OPERATING PERMITS

No person shall engage in the business of operating any paratransit vehicle within the City of San Diego without first having obtained an operating permit from the City Manager of the City of San Diego or his designated representative, which permit has not been revoked, suspended or otherwise cancelled or terminated by operation of law or otherwise. A separate permit is required for each paratransit vehicle operated.

SEC. 75.0104 ISSUANCE OF PERMIT

(a) and (b) No Change.

(c) The City Manager shall deny the approval of a permit when he or she makes a finding:

(1) That the applicant is under eighteen (18) years of age; or

(2) That within the five (5) years immediately preceding the processing of the application, the applicant has been convicted of, or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally pertaining to the same or similar business operation which would have resulted in suspension or revocation of the permit in accordance with Sections 75.0113 of this Article. For purposes of this section, a plea or verdict of guilty, a finding of guilty by a court, a plea of nolo contendere or a forfeiture of bail shall be deemed a conviction; or

(3) That the applicant provided false information.

(d) through (f) No Change.

SEC. 75.0105 TRANSFER AND ADMINISTRATION OF PERMITS

(a) Each permit issued pursuant to the provisions of this section is separate and distinct and shall be transferable from the permit holder to another person or entity only with the approval of the City Manager. Permits may be transferred only after the passage of one (1) year from the date a

permit was issued to the current permit holder or upon the death or permanent disability of the current permit holder. The transferability of permits may be limited by policy of the City Council established by resolution.

(b) and (c) No Change.

(d) Except as otherwise provided by Council Policy or resolution, the City Manager shall charge regulatory fees to effect the full cost recovery of activities associated with the administration, regulation, issuance or transfer of paratransit permits, identification cards and associated records. Changes in fee schedules affecting permits shall be mailed to all permit holders; changes to fee schedules affecting driver identification cards shall be mailed to holders of such cards. Changes shall be effective thirty (30) days thereafter. A copy of the fee schedule shall be promulgated in the City Clerk's Composite Rate Book. Any person objecting to a particular fee or charge may file an appeal for review with the City Manager who shall thereafter process it in accordance with section 75.0117; provided however, that the sole issue to be determined on review is whether the fee or charge exceeds the reasonable costs for personnel salaries and administrative overhead associated with the particular administrative service or function.

SEC. 75.0108 EQUIPMENT AND OPERATING REGULATIONS

(a) through (d) No Change.

(e) Any paratransit vehicle which fails to meet the requirements of the Vehicle Code or this section after inspection shall be immediately ordered out of service by a Paratransit Inspector if it is unsafe for service. Ordering a vehicle out of service does not constitute a suspension or revocation of the permit. A vehicle is deemed unsafe for service when any of the following conditions exists:

1. Tires fail to meet the requirement of the Vehicle Code;

2. Headlights, taillights or signal lights are inoperable during hours of darkness (sunset to sunrise);

3. Windshield wipers are inoperable during rain conditions;

4. Meter is not working or the seal is broken;

5. Brakes, brake lights or brake system are inoperable or otherwise fail to meet the requirements of the Vehicle Code;

6. Excessive play in steering wheel exceeding three inches;

7. Windshield glass contains cracks or chips that interfere with drivers vision;

8. Any door latch is inoperable from either the interior or exterior of the vehicle;

9. Any seat is not securely fastened to the floor;

10. Seat belts, when required, fail to meet requirements of the Vehicle Code;

11. Either side or rearview mirrors are missing or defective;

12. Any other condition which reasonably and rationally pertains to the operating safety of the vehicle or to passenger or pedestrian safety.

If the vehicle is not unsafe but is unsuitable or otherwise in violation of this Article, the operator or permit holder, as appropriate, shall be issued a notice to correct said violation within seventy-two (72) hours. Failure to correct such violation within the seventy-two (72) hours shall then be cause to order the vehicle out of service. When a vehicle is ordered out of service, the medallion shall be immediately removed. Before the vehicle may again be placed in service, the violation shall be corrected and the vehicle be inspected by a Paratransit Inspector. The medallion shall be reaffixed when the Paratransit Inspector finds that the vehicle meets prescribed standards.

(f) The interior and exterior of the paratransit vehicle shall be maintained in a safe and efficient operating condition, and meet California Vehicle Code requirements and the requirements of this article at all times when in operation. The following minimum vehicle standards must be maintained to comply with this section:

(1) Tires and wheels: Tire-tread depth shall conform to the requirements of the California Vehicle Code. Hubcaps or wheelcovers shall be on all wheels for which hubcaps or wheelcovers are standard equipment.

(2) Body Condition: There shall be no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. Fenders, bumpers and light trim shall be securely fixed to the vehicle. No extensive unrepaired body damage shall be allowed. The vehicle shall be equipped with front and rear bumpers. The exterior of the vehicle shall be maintained in a reasonably clean condition so as not to obscure the approved color scheme and/or vehicle markings.

(3) Paint: The vehicle shall be painted and marked in accordance with the color scheme approved under Section 75.0104(f) of this article. Paint and markings may not be faded or deteriorated in such a manner as to preclude immediate recognition of the approved color scheme.

(4) Lights: Headlights shall be operable on both high and low beam. Tail lights, parking lights, brake lights, signal lights, and interior lights shall all be operable. All lights must conform to applicable City ordinances and requirements of the California Vehicle Code.

(5) Wipers: Each vehicle shall be equipped with adequate windshield wipers maintained in good operating condition.

(6) Brakes: Both the parking and hydraulic or other brake system must be operable and must conform to the standards of the California Vehicle Code.

(7) Steering: Excessive play in the steering mechanism shall not exceed 3 inches free play in turning the steering wheel from side to side.

(8) Engine: The engine compartment shall be reasonably clean and free of uncontained combustible materials.

(9) Mufflers: Mufflers shall conform to the requirements of the California Vehicle Code.

(10) Windows: The windshield shall be without cracks or chips that could interfere with the driver's vision. All other windows shall be intact and able to be opened and closed as intended by the manufacturer. The windows and windshield

shall be maintained in a reasonable clean condition so as not to obstruct visibility.

(11) Door latches: All door latches shall be operable from both the interior and exterior of the vehicle.

(12) Suspension: The vehicle's suspension system shall be maintained so that there are no sags because of weak or broken springs or excessive motion when the vehicle is in operation because of weak or defective shock absorbers.

(13) Seats: All seats shall be securely fastened. Seat belts, when required by the Vehicle Code, shall be installed. The upholstery shall be free of grease, holes, rips, torn seams and burns.

(14) Interior: The interior of each vehicle and the trunk or luggage area, shall be maintained in a reasonably clean condition, free of foreign matter, offensive odors and litter. The seats shall be kept reasonably clean and without large wear spots. The door handles and doors shall be intact and clean. The trunk or luggage area shall be kept empty, except for spare tire, any personal container of the driver not exceeding one cubic foot in volume and emergency equipment, to allow maximum space for passenger luggage and belongings.

(g) No Change.

(h) In the event that a paratransit vehicle for which a permit has been approved becomes disabled or unsafe for use, the permit holder may utilize a spare paratransit vehicle which has been duly inspected by a Paratransit Inspector and approved prior to use. The permit holder must immediately inform a Paratransit Inspector when a spare paratransit vehicle is in use and the location of the disabled vehicle. The spare vehicle will be issued a "spare vehicle" sticker which must be affixed to the outside left rear portion of the paratransit vehicle for which it is approved in plain view from the rear of the paratransit vehicle. The permit holder may utilize one spare paratransit vehicle for a period not to exceed sixty (60) days. This subsection shall not be construed nor deemed to replace those provisions in this article which apply to permanent replacement of a paratransit vehicle.

(i) The medallion issued to the permit holder must be affixed to the outside left rear portion of the paratransit vehicle for which the permit is approved in plain view from the rear of the paratransit vehicle. The permit holder must immediately report the loss, destruction or defacing of a medallion to the City Manager. Except as provided in subsection (h), it shall be

unlawful to operate a paratransit vehicle without the medallion affixed.

(j) through (u) No Change.

(v) The City Council specifically finds that the dress, grooming and conduct of paratransit drivers affects the public health and safety, particularly as it relates to visitors and the tourist industry. Therefore, while driving or operating a paratransit vehicle, drivers shall be hygienically clean, well-groomed and neat and suitably dressed. Violations of this subsection are administrative in nature and shall not be the subject of criminal prosecution.

(1) The term "hygienically clean" shall refer to that state of personal hygiene, body cleanliness and absence of offensive body odor normally associated with bathing or showering on a regular basis.

(2) The term "well groomed" shall mean that male drivers shall be clean-shaven except for those parts of the face where a beard or mustache is worn and their hair shall be neatly trimmed; beards or mustaches shall be groomed and neatly trimmed at all times in order not to present a ragged appearance. For all drivers it shall mean that scalp or facial hair shall be combed or brushed and that all clothing is clean, free from

soil, grease and dirt and without unrepaired rips or tears.

(3) The term "neat and suitably dressed" shall be interpreted to require that a male driver shall wear full length trousers, a shirt with a collar, shoes and, if desired, appropriate outer garments; otherwise, all drivers shall be fully covered by clothing at a minimum from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms. Drivers shall wear shoes. It shall not be permissible for any driver to wear as an outer garment any of the following: Undershirt or underwear, tank tops, body shirts (see-through mesh), swim wear, jogging or warm-up suits or sweatshirts or similar attire, shorts or trunks (jogging or bathing) or sandals.

(w) No Change.

SEC. 75.0111 DESTRUCTION, PERMANENT REPLACEMENT OR RETIREMENT OF PARATRANSIT VEHICLES

(a) No Change.

(b) A replacement vehicle must be placed in service within sixty (60) days of the date the original vehicle is removed from service unless prior written permission has been obtained from the City Manager. It is the intent of this Section that the City Manager in granting such permission give

due consideration to the operating situation of the permit holder on a case-by-case basis.

The following guidelines are to be used in granting permission for a permit holder to take longer than sixty (60) days in placing a replacement vehicle in service.

(1) The permit holder must submit a written request for an extension of time, stating the specific reason(s) additional time is required and identifying a plan and timetable for placing the replacement vehicle in service. Written documents sufficient to substantiate the factual information contained in the request should also be submitted.

(2) The plan and timetable submitted must reflect a reasonable approach for placing the vehicle in service within the shortest possible timeframe.

(3) An additional period of time not to exceed sixty (60) calendar days may be granted to a permit holder in case of severe personal illness or other similar hardship.

(4) An additional period of time not to exceed thirty (30) calendar days may be granted to a permit holder in case of extensive vehicle repairs or other similar reasons.

(5) No extensions will be granted to any permit holder who is unable to meet the basic operational costs, including liability insurance, regulatory fees, and normal maintenance and repairs of operating a paratransit vehicle.

(6) No more than one extension in time will be granted for each vehicle permit in a single twelve (12) month period.

(c) No Change.

(d) When a permit holder permanently retires any paratransit vehicle or vehicles from service and does not replace them within sixty (60) days, the permit for each such retired paratransit vehicle shall be considered abandoned and will be void. The permit holder shall immediately surrender each related medallion to the City Manager. Such abandoned permits may not be restored by any means other than through application for new permits in the manner provided in this article.

SEC. 75.0112 DRIVER'S IDENTIFICATION CARDS

(a) through (c) No Change.

(d) No permit holder shall employ as a driver or operator any person whose privilege to operate a taxicab within The City of San Diego has been revoked, denied or suspended or prohibited.

(e) No Change.

(f) No permit holder shall employ as a driver or operator any person whose privilege to operate a paratransit vehicle within The City of San Diego has been revoked, denied or suspended or prohibited.

(g) and (h) No Change.

(i) No person who has received a notice of prohibition pursuant to section 75.0114 or whose privilege to operate a taxicab within the City of San Diego has been suspended, revoked or denied by the City Manager shall drive or operate a taxicab within the City of San Diego.

(j) No paratransit vehicle driver's identification card shall be issued by the City Manager to any of the following persons:

(1) Any person under the age of 18 years.

(2) Any person who has been convicted of a felony involving a crime of force or violence against the person or the theft of property unless five (5) years have elapsed, or of driving a vehicle upon the highway under the influence of an intoxicating liquor or drugs or narcotics or with a blood-alcohol content of .10% or greater or of reckless driving unless two (2) years have elapsed, since his or her discharge from a penal institution or satisfactory completion of probation for such conviction during which period of time his or her record is good.

(3) Any person who, within the five (5) years immediately preceding the processing of the application, has been convicted of or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally related to the paratransit industry or any similar business operation which would have authorized the suspension or revocation of the driver's identification card in accordance with Section 75.0114 of this article.

(4) Any person who is required to register as a sex offender pursuant to Penal Code section 290.

(5) Any person who has provided false information of a material fact in their application.

(k) The City Manager is authorized to issue temporary paratransit driver identification cards pending the approval or denial of an application for a regular paratransit driver identification card. No temporary paratransit driver identification card shall be issued without the satisfactory completion of a local law enforcement agency record check of the applicant. Any temporary identification card so issued shall be valid for a period not to exceed 90 days or until the date of

approval or denial of the application for a regular paratransit driver identification card, whichever shall occur first. The issuance of a temporary identification card hereunder shall not authorize the operation of a paratransit vehicle following the denial of the application while pending the resolution of any appeal otherwise provided for in Section 75.0116 of this Code.

(1) The City Manager shall establish nonrefundable filing fees to defray the costs of processing regular and temporary driver identification cards. These fees shall be listed in the Composite Rate Book maintained by the City Clerk.

(m) Violations of subsections (a) through (i) of this section are misdemeanors.

SEC.75.0113 SUSPENSION AND REVOCATION OF PERMIT

(a) Permits may be suspended or revoked by the City Manager at any time in case:

(1) The City Manager finds the permit holder's past record to be unsatisfactory with respect to satisfying the provisions of this article.

(2) The permit holder fails to comply with the applicable provisions of this article.

(3) The drivers of the paratransit vehicle or vehicles fail to act in accordance with

those provisions of this article which govern driver actions.

(4) The owner shall cease to operate any paratransit vehicle for a period of sixty (60) consecutive days without having obtained written permission for cessation of such operation from the City Manager. It is the intent of this section that the City Manager, in granting such permission, gives due consideration to the operating situation of the permit holder on a case-by-case basis.

The following guidelines are to be used in granting permission for a permit holder to cease operating a paratransit vehicle for a period longer than sixty (60) days.

(i) The permit holder must submit a written request for an extension of time, stating the specific reason(s) additional time is required and identifying a plan and timetable for placing the vehicle back in service. Written documents sufficient to substantiate the factual information contained in the request should also be submitted.

(ii) The plan and timetable submitted must reflect a reasonable approach for placing the vehicle back in service within the shortest possible timeframe.

(iii) An additional period of time not to exceed sixty (60) calendar days may be

granted to a permit holder in case of severe personal illness or other similar hardship.

(iv) An additional period of time not to exceed thirty (30) calendar days may be granted to a permit holder in case of extensive vehicle repairs or other similar reasons.

(v) No extension will be granted to any permit holder who is unable to meet the basic operational costs, including liability insurance, regulatory fees, and normal maintenance and repairs, of operating a paratransit vehicle.

(vi) No more than one extension in time will be granted for each vehicle permit in a single twelve (12) month period.

(5) The paratransit vehicle or vehicles, if operated as other than a taxicab, are operated at a rate of fare other than those fares on file with the City Manager.

(6) The paratransit vehicle or vehicles, if operated as a taxicab, are operated at a rate of fare greater than those fares on file with the City Manager or posted on the taxicab pursuant to Section 75.0202(b) of this code.

(7) The paratransit vehicle or vehicles, if operated as a taxicab, are operated at a rate of fare greater than the current maximum rate established by the City Council pursuant to Section 75.0202(a) of this code.

(8) The permit holder fails to begin operating the paratransit vehicle for which the permit is first approved within ninety (90) days after the approval date.

(9) The permit holder has been convicted of assault, battery, resisting arrest, any felony involving force and violence or any crime reasonably and rationally related to the paratransit industry or any similar business operation which bears upon the integrity or ability of the applicant or holder to operate a paratransit business and transport passengers, unless five (5) years shall have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation for such conviction.

(10) The permit holder has been convicted of a crime that would require a person to register as a sex offender under Section 290 of the California Penal Code.

(b) For purposes of this section, a plea or verdict of guilty, a finding of guilt by a court, a plea of nolo contendere or a forfeiture of bail shall be considered a conviction.

(c) The permit holder shall be notified each time a complaint against him or her has been filed by a member of the public. The City Manager shall cause each complaint to be investigated. Upon

investigation and determination of three (3) valid complaints within twelve (12) months, the permit holder shall receive a notice of proposed adverse action and shall appear for an informal hearing before the City Manager. Failure to so appear shall constitute a waiver of the hearing. Following the hearing or waiver thereof, the City Manager shall issue the adverse action if justified.

(d) Following the issuance of a notice of adverse action, receipt by the City Manager of one (1) additional complaint arising within twelve (12) months subsequent to the date of issuance of the notice of adverse action that is determined to be valid shall cause the permit to be suspended or revoked.

(e) Upon a finding by the City Manager that a permit holder falls within the provisions of this section, the permit holder shall be notified that his or her permit has been revoked or suspended and the manner in which such action may be appealed. In lieu of revocation or suspension, the City Manager may impose a fine or a fine and a period of suspension.

SEC. 75.0114 SUSPENSION AND REVOCATION OF DRIVER'S IDENTIFICATION CARDS

(a) Driver's identification cards may be suspended or revoked by the City Manager at any time in case:

(1) The City Manager finds the driver's past record to be unsatisfactory with respect to satisfying the provisions of this article; or

(2) The driver fails to comply with the applicable provisions of this article; or

(3) Circumstances furnish grounds for the denial, suspension, revocation or refusal to renew the driver's identification card by the Sheriff under the terms of the applicable ordinance of the County of San Diego; or

(4) His or her State Driver's License is revoked or suspended; or

(5) The driver is convicted of reckless driving or driving with a blood-alcohol content of .10% or greater or while under the influence of intoxicating liquors and/or drugs or narcotics while operating a paratransit vehicle; or

(6) The driver has been convicted of assault, battery, resisting arrest, any felony involving force and violence; or any crime reasonably and rationally related to the ability or integrity of the driver to operate a paratransit vehicle or transport passengers.

(7) The driver has ever been convicted of a crime that requires registration under Section 290 of the California Penal Code as a sex offender.

(b) For purposes of subsections (a) (1) through (a) (6) of this section, a plea or verdict of guilty, a finding of guilty by a court, a plea of nolo contendere, or a forfeiture of bail shall be considered a conviction if it occurred within the five years immediately preceding the date of application for a permit or identification card.

(c) Notwithstanding a driver's possession of a valid taxicab driver identification card, the City Manager may deny, suspend, revoke or refuse to renew the driver's privilege to operate a paratransit vehicle in The City of San Diego if the driver falls within the provisions of this section. The City Manager shall send a notice of prohibition to operate a taxicab to any holder of a Sheriff's driver identification card who is ineligible under subsection (a) to operate a paratransit vehicle within the City limits. The notice of prohibition shall be appealable in accordance with section 75.0116.

(d) The driver shall be notified each time a complaint against him or her has been filed by a member of the public. The City Manager shall cause each complaint to be investigated. Upon the

investigation and determination of three (3) valid complaints, within twelve (12) months, the driver shall be issued a notice of proposed adverse action and shall appear for an informal hearing before the City Manager. Failure to so appear shall constitute a waiver of the hearing. Following such hearing or waiver thereof, the City Manager shall issue the adverse action if justified.

(e) Following the issuance of a notice of adverse action, receipt by the City Manager of one (1) additional complaint arising within twelve (12) months subsequent to the date of issuance of the adverse action that is determined to be valid shall cause the driver's identification card to be revoked or suspended, as appropriate.

(f) Upon a finding by the City Manager that a driver falls within the provisions of this section, the driver shall be notified that his or her driver's identification card has been revoked or suspended and the manner in which such action may be appealed. In lieu of revocation or suspension, the City Manager may impose a fine or a fine and a period of suspension.

**SEC. 75.0116 RIGHT OF APPEAL FROM DENIAL,
SUSPENSION OR REVOCATION OF PERMIT OR
DRIVER'S IDENTIFICATION CARD OR
RELATED ADVERSE ACTION**

(a) The permit holder or driver shall be notified that he/she may file with the City Manager a written appeal within ten (10) days after delivery of the notice of revocation or suspension, or the denial of a license, permit or driver's identification card, the notice of prohibition to operate or the imposition of a fine. The permit holder or driver shall set forth in the appeal the reasons why such action is not proper.

(b) If no appeal is filed within the proper time, the permit or driver's identification card shall be considered revoked, suspended or denied and shall be surrendered, the fine be imposed, as applicable, or the notice of prohibition to operate take effect.

(c) Except as provided in subsection (d), once an appeal is filed, the revocation or suspension of the permit or driver's identification card, the effect of the notice of prohibition to operate or the imposition of the fine shall be stayed pending the final determination of the appeal.

(d) If, in the City Manager's opinion, the continued operation of a paratransit vehicle or possession of a driver's identification card

represents an unsafe condition for any passenger, the revocation or suspension of the related permit, driver's identification card or the effect of any notice of prohibition to operate shall not be stayed. A revocation or suspension of a permit imposed for failure to comply with section 75.0108(e) or Section 75.0109 is rebuttably presumed to represent an unsafe condition pending the determination of the appeal or the correction of the violation, whichever shall occur first. Notwithstanding, no medallion shall be reattached to a vehicle until the violation under sections 75.0108(e) or 75.0109 has been corrected.

(e) If the driver or permit holder has failed to pay any fine imposed pursuant to sections 75.0113 or 75.0114 after the adverse action is final, the City Manager may then suspend or revoke the permit or driver identification card, subject to the right of appeal of the driver or permittee pursuant to this section.

SEC. 75.0117 PROCEDURE UPON APPEAL

(a) When an appeal is filed, the City Manager shall cause the appeal to be assigned to a Hearing Officer, who shall expeditiously schedule the hearing before him/her.

(b) The Hearing Officer shall be appointed by the City Manager, shall be a member of the

California State Bar and shall not be a City employee. The Hearing Officer shall be compensated by the City of San Diego for the time spent on deciding an appeal.

(c) The appellant and the City Manager or designate shall each have the right to appear in person and be represented by legal counsel, to receive notice, to present evidence, to call and cross-examine witnesses under oath and to present argument. The Hearing Officer shall have the power to compel attendance of witnesses and documents by Subpoena in accordance with the Civil Code. The formal rules of evidence need not apply and any relevant evidence that is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs shall be admissible. Hearsay evidence may be considered by the Hearing Officer, but no findings may be based solely on hearsay evidence unless supported or corroborated by other relevant and competent evidence. The formal exceptions to the hearsay rule shall apply.

(d) The City Manager shall promulgate supplementary rules and procedures for the conduct of the hearing, the forms of notice and proceedings and the preparation and submission of the record.

(e) The decision of the Hearing Officer shall be the final administrative remedy of the appellant and shall be binding upon the City Manager.

(f) If the Hearing Officer decides to suspend or revoke a permit or driver's identification, the appellant shall immediately surrender the medallion or driver's identification card to the City Manager.

SEC. 75.0120 CITY MANAGER'S AUTHORITY TO ADOPT RULES AND PROMULGATE A SCHEDULE OF FINES

Except where Council action is specifically required in this article, the City Manager may adopt any rules and regulations reasonable and necessary to implement the provisions of this article. The City Manager shall promulgate a schedule of administrative fines and penalties for violations of this article in lieu of the revocation or suspension of a permit or identification card, a copy of which schedule shall be filed with the City Clerk.

SEC. 75.0603 OPERATING REGULATIONS

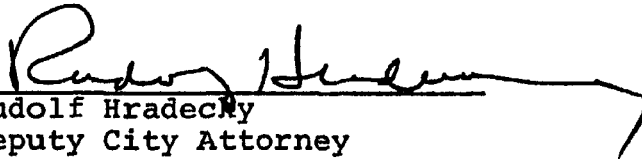
(a) through (c) No Change.

(d) Except when a driver or operator is actually engaged in assisting passengers to load or unload, a jitney driver or operator must remain within twelve (12) feet of his/her jitney while the jitney is in an established passenger loading zone.

(e) and (f) No Change.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By 
Rudolf Hradecky
Deputy City Attorney

RH:mrh
08/17/87
11/13/87 REV. 1
06/21/88 REV. 2
Or.Dept:Fin.Mgmt.
O-88-10
Form=o.none

JUL 11 1988

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Ellen Board*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 27 1988

JUL 11 1988

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17115 Adopted JUL 11 1988

RECEIVED
CITY CLERK'S OFFICE
1938 JUN 23 PM 1:39
SAN DIEGO, CALIF.

CERTIFICATE OF PUBLICATION

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CITY OF SAN DIEGO
202 C STREET, 2ND FLOOR
SAN DIEGO, CA 92010
ATTN: ELLEN BOVARD

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 5, DIVISIONS
1 AND 6 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING
SECTIONS 75,0101, 75,0102, 75,0104, 75,0105, 75,0108, 75,0111,
75,0112, 75,0113, 75,0114, 75,0116, 75,0117, 75,0120 AND 75,0603
RELATING TO PARATRANSIT CODE.

ORDINANCE NUMBER O-17115 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 5,
DIVISIONS 1 AND 6, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTIONS 75.0101, 75.0102, 75.0104, 75.0105,
75.0108, 75.0111, 75.0112, 75.0113, 75.0114, 75.0116, 75.0117,
75.0120 AND 75.0603 RELATING TO PARATRANSIT CODE.

This Ordinance amends the San Diego Municipal Code provisions
relating to the Paratransit Code.

Section 75.0101 is amended to add a definition of "operate" or
"operating" as including the solicitation or acceptance within the
City limits of a fare and to include a "medallion" in the definition of a
"medallion." It further amends the definition of "City Manager" to
include the General Manager of the Metropolitan Transit Develop-
ment Board when so authorized by the City Council.

Section 75.0104 (c) is amended to require violations of law which
may serve to disqualify an applicant to be reasonably and rationally
related to the conduct of a paratransit business.

Section 75.0105 is amended to decrease from five (5) years to one
(1) year the period of time before a paratransit permit may be trans-
ferred and to authorize the City Manager to charge fees for the full
cost recovery of paratransit regulatory administration, which fees
shall be promulgated in the City Clerk's Composite Rate Book. The
fee schedule is to be furnished to the affected permit and identifica-
tion card holders and will be effective thirty (30) days thereafter. Ob-
jections to fee charges shall be subject to review as provided for in
Section 75.0117.

Section 75.0108 is amended to specify those mechanical condi-
tions which authorize a paratransit inspector to declare a paratransit
vehicle unsafe and to order it out of service until corrected. It further
provides for the issuance of a seventy-two (72) hour notice for other
violations and thereafter authorizes a vehicle to be taken out of ser-
vice by the inspector if the condition is not corrected. Additional
changes are made to define vehicle maintenance standards, material
condition, equipment and cleanliness and prescribe a driver dress
and grooming code. It is further made unlawful to operate a
paratransit vehicle without a medallion affixed.

Section 75.0111 is amended to increase the time from thirty (30)
days to sixty (60) days during which a vehicle may be taken out of
service or be replaced without requiring the surrender of a paratransit
permit.

Section 75.0112 is amended to authorize the City Manager to pro-
hibit a taxicab driver from operating a taxicab in the City limits under
specified conditions and makes such unauthorized operation a
misdemeanor. This section is further amended to redefine the
degrees of crimes or convictions which disqualify a taxicab driver
from obtaining an identification card.

Section 75.0113 is amended to extend the period of time from thir-
ty (30) days to sixty (60) days during which time a permit holder may
choose not to operate or replace a paratransit vehicle before a permit
may be suspended or revoked. It also redefines the categories of
crimes and offenses which will disqualify an applicant from obtain-
ing a permit or for which an issued permit may be suspended or
revoked. The City Manager is further authorized to impose a fine or a
fine and suspension in lieu of suspending or revoking a permit for
good cause.

THOMAS D. KELLEHER

I, _____, am a citizen
of the United States and a resident of the County aforesaid; I am over the
age of eighteen years, and not a party to or interested in the above-entitled
matter. I am the principal clerk of the San Diego Daily Transcript, a
newspaper of general circulation, printed and published daily, except
Saturdays and Sundays, in the City of San Diego, County of San Diego, and
which newspaper has been adjudged a newspaper of general circulation by
the Superior Court of the County of San Diego, State of California, under
the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-17115 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was
published in said newspaper on the following date(s), to wit:

JULY 25

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 25 day of JULY, 19 88.

(Signature)

9 1/2" x 2 = \$107.76 Page 1 of 2

Section 75.0114 is amended to redefine the classes of crimes and violations for which a driver's identification card can be revoked or suspended. It authorizes the City Manager to issue a notice of prohibition to operate a taxicab within the City limits to a taxicab driver who was issued a county-wide Sheriff's driver identification card when that driver becomes disqualified under the City Paratransit Code. (This corrects the anomaly where such disqualification would not result in the revocation of the Sheriff's driver identification card, otherwise enabling the driver to continue to operate within City limits.) This section also authorizes the City Manager to impose a fine or a fine and suspension in lieu of the revocation or suspension of a driver's identification card.

Section 75.0118 is amended to provide for the appeal from the imposition by the City Manager of a fine or the issuance of a notice of prohibition to operate a taxicab within the City limits. It further provides that no medallion may be reattached to a paratransit vehicle declared unsafe for operation until the violation has been corrected or insurance coverage is again effective. Provisions regarding appeals before the Transportation and Land Use Committee are deleted.

Section 75.0117 is amended to include the requirement that appeal hearings be expeditiously scheduled. Provisions for appeals before the Transportation and Land Use Committee or a Rule 4 appeal hearing before the City Council are deleted. In lieu thereof, an administrative hearing before a Hearing Officer is made the final administrative remedy of an appellant. Provisions are made for administrative due process and the promulgation of rules of procedure by the City Manager. The Hearing Officer's decision is binding upon the City Manager.

Section 75.0120 is amended to include a requirement that the City Manager shall promulgate and file with the City Clerk a schedule of administrative fines and penalties in lieu of the revocation or suspension of a permit or identification card.

Section 75.0603 is amended to provide that a jitney driver must remain within twelve (12) feet of the vehicle while waiting in an established passenger loading zone.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on June 27, 1988

Passed and adopted by the Council of The City of San Diego on

July 11, 1988

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

By ELLEN BOVARD, Deputy

Pub. July 25

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