

ORDINANCE NO. 2011. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 29, TEMPE CITY CODE, RELATING TO STREETS AND SIDEWALKS, BY ADDING NEW ARTICLE VI RELATING TO HORSE DRAWN CARRIAGES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 29, of the Tempe City Code is hereby amended by adding new Article VI as follows:

ARTICLE VI. HORSE DRAWN CARRIAGES

Sec. 29-80. Definitions.

Carriage operator shall mean any person or entity that owns or operates a carriage company.

Driver shall mean any person who drives a carriage.

Horse shall mean any horse, mule, pony or equine animal used to draw a carriage.

Horse drawn carriage shall mean any carriage, cart, wagon, stagecoach, coach, hack, hansom or other means of transportation that is drawn by a horse.

Sec. 29-81. Operation and permit requirements.

(a) *Conformance with requirements.* Operation of horse drawn carriages shall only be permitted in conformance with subsections (b) through (h) listed below. Failure to fully comply with all requirements shall result in termination of the permit, in addition to other penalties.

(b) *Insurance.* All carriage operators shall maintain at all times an owner's or carriage operator's policy of general commercial liability insurance in the amount of at least two million dollars (\$2,000,000) per occurrence, with a \$4,000,000 aggregate by an insurance company authorized to issue such policies in the State of Arizona. Coverage shall include insurance for any and all drivers operating the carriage and any user of the carriage against any liability arising out of the ownership, maintenance, or use of the carriage.

(c) *Speed restrictions.* The operation of carriages is restricted to rights of way and streets with speed limits of thirty (30) miles per hour or less.

(d) *Area of Operation.* The operation of carriages is restricted to the area bounded by Ash Avenue to the west, College Avenue to the East, University Drive to the south and Rio Salado Parkway to the north unless otherwise permitted by the Traffic Engineer.

(d) *Safety equipment.* Each carriage shall be equipped at all times with the following:

- (1) An operational pair of taillights of at least two (2) by four (4) inches, which shall be lit during the period between sunset and sunrise;
- (2) Lights on the front and side of the carriage that are visible from a distance of at least five hundred (500) feet, which shall be kept on during the period between sunset and sunrise;
- (3) Attached to the rear of the carriage a “slow moving vehicle” reflective triangular sign approved by the Arizona Department of Transportation;
- (4) A carriage foot brake in good working order and condition, which can be operated either by friction or hydraulics;
- (5) Rate cards attached to the carriage in a location that is at all times visible to the passengers, containing the rates, legal name and business address on file with the State of Arizona, and name of the operator; and
- (6) A current certificate of insurance in the carriage at all times.

(e) *Operation.* Each carriage shall be operated in conformance with the following:

- (1) All applicable traffic laws and local ordinances shall be obeyed;
- (2) No carriage or horse shall be left unattended. Either the operator or owner shall be with the horse and carriage at all times;
- (3) Carriages shall not impede the flow of motor vehicle or pedestrian traffic on a right of way at any time. Carriages shall safely pull to the nearest curb when one or more vehicles are unable to safely pass or proceed with the flow of traffic;
- (4) Carriages shall be operated in the far right lane of traffic unless making a left turn;
- (5) Operators and owners shall not solicit business in any manner that is offensive, loud, verbally assaultive or disruptive to pedestrian and motor vehicle traffic;

- (6) No operator or owner shall charge more than the posted rate;
- (7) Passengers shall at all times be seated in the carriage when the carriage is in motion; and
- (8) Operations may only be conducted during the months of September through April, subject to the ambient temperature restrictions stated in this section.

(f) *Horses.* Horses shall be treated at all times in such a manner as to foster the health and safety of the horse, including the following:

- (1) Carriage operators or owners shall provide documentation of the fitness of the horse by an equine veterinarian within thirty (30) days prior to the issuance of a permit and prior to placing the horse into service;
- (2) Carriage operators or owners shall not subject the horse to poor or unsafe conditions or adverse treatment, and shall provide documentation of regular farrier work at least once every eight weeks, routine dental care, vaccinations, de-wormings and other health care procedures on an on-going basis;
- (3) The towing weight of the carriage may not exceed the weight of the horse;
- (4) Carriage rides must not be initiated or continued when the ambient temperature exceeds ninety-two degrees (92°) Fahrenheit; and
- (5) Carriage operators or owners shall monitor the horse for respiratory rate, heart rate and temperature of the horse every hour.

(g) *Permit required.* No person may conduct business for a horse drawn carriage without a valid, current horse drawn carriage permit issued by the city. However, an exception may be made for participation in a permitted special event, where the horse drawn carriage is specifically noted and approved in such special event permit;

(h) *Application process.* Applicants for a permit must provide the following information:

- (1) The physical address of each stable or other facilities used to house the horses, which is subject to inspection;
- (2) Submit fees for the initial permit fee and per year renewal fee as established by the city council (see Appendix A);

- (3) Submit background information and criminal history information;
- (4) Provide an insurance certificate to prove insurance coverage in the amount set forth in this section;
- (5) Provide proof of residential address, date of birth, copy of Arizona driving record for the last ten (10) years and for any other state of residence, if applicant did not reside in Arizona;
- (6) Disclose all of the information listed herein for any and all drivers; and
- (7) Agree to keep current records of hours of operation and daily record of movements of the carriage, including routes, times, and number of passengers.

Sec. 29-82. Suspension, revocation or modification.

The Public Works Director or his designee may suspend, revoke or modify a horse drawn carriage permit if in his opinion any requirement set forth herein has been violated, or if it is needed to promote the health, safety and welfare of the public.

Sec. 29-83. Penalties.

(a) In addition to suspension, revocation or modification of a permit, or in lieu thereof, penalties may be assessed by a notice of violation for any violation of the requirements set forth herein in an amount established by city council (see Appendix A).

(b) Failure to pay penalty as set forth in a notice of violation shall result in the issuance of a citation.

Sec. 29-84. Appeal of suspension, revocation, modification or penalties.

A person may contest a suspension, revocation, modification of a permit, or other civil penalty or sanction, in conformance with the provisions of § 1-9 of this code.

Sec. 29-85. City immunity.

No passenger carrier shall have recourse against the city or any person authorized by the city for any stoppage or delay of service, business interruption, inconvenience or other damages, for any reason resulting from or related to maintenance, improvements, repairs, or alterations being made to any streets or rights of way.

Section 2. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF

TEMPE, ARIZONA, this ____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

DRAFT