

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

| | | | | | |
|----------------|------------------------------------|--------------------------|-----------|-------------------------------------|----------------|
| Meeting Date: | <u>February 5, 2013</u> | <input type="checkbox"/> | Consent | <input type="checkbox"/> | Regular |
| | | <input type="checkbox"/> | Ordinance | <input checked="" type="checkbox"/> | Public Hearing |
| Department: | <u>Department of Public Safety</u> | | | | |
| Submitted By: | <u>Department of Public Safety</u> | | | | |
| Submitted For: | <u>Consumer Affairs Division</u> | | | | |

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Chapter 19, Article IX (Ordinance no. 2008-43, amended by Ordinance no. 2011-007, amended by Ordinance no. 2011-032, amended by Ordinance no. 2011-040, and amended by Ordinance no. 2012-009); relating to taxicabs and other vehicles for hire, to be known as the Vehicle for Hire Ordinance; amending Section 19-218 (Business permit application); amending Section 19-227 (Driver requirements; failure to comply); providing for Repeal of laws in conflict; providing for a Saving clause; providing for Severability; providing for Inclusion in the Code of Laws and Ordinances; providing for Captions; and providing an Effective date.

Summary: The first proposed ordinance amendment corrects the licensing year date for a business permit so that it runs from May 1st through April 30th and the second proposed amendment corrects a scrivener's error by replacing the word "conviction" with the word "application" clarifying the eligible window of time from when a person who was convicted of a crime will become eligible for a driver identification badge. Countywide (PGE)

Background and Policy Issues: The proposed Ordinance amendments make no substantive changes to the current Vehicle for Hire Ordinance and correct what are technical errors in the current ordinance. The intent behind the current Ordinance is to preclude the issuance of a VFH Driver's ID Badge to a person who has been convicted of a misdemeanor offense relating to or threatening the public safety (as determined by the Board), within three years of the date of submitting his or her application for said badge. The window of time for a felony conviction is five years from the date of the application. The current Ordinance mistakenly states that the window of time is three years (or five years) from the date of "conviction," rather than the date of application. No criminal offenses have been added or deleted to the misdemeanor or felony conviction sub-sections. The League of Cities has no opposition to the proposed amendments. Enforcement of this Ordinance is funded entirely through license fees. The Board approved the proposed Ordinance amendments on first reading on January 15, 2013.

Attachments:

1. Proposed Ordinance (with additions/deletions noted).
2. Proposed Ordinance (without delineations).

=====

| | | |
|-----------------|--------------------------------|----------------|
| Recommended by: | <u>Vinit Benvento</u> | <u>1/17/13</u> |
| | Department Director | Date |
| Approved By: | <u>Vinit Benvento</u> | <u>1/17/13</u> |
| | Assistant County Administrator | Date |

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

| Fiscal Years | <u>2012</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> |
|--------------------------|-------------|-------------|-------------|-------------|-------------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | _____ | _____ | _____ | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| Net Fiscal Impact | <u>0</u> | _____ | _____ | _____ | _____ |

ADDITIONAL FTE

POSITIONS (Cumulative) _____ 0 _____ 0 _____ 0 _____ 0 _____ 0
 Is Item Included In Current Budget? Yes _____ No X

Budget Account Exp No: Fund _____ Department _____ Unit _____ Object _____
 Rev No: Fund _____ Department _____ Unit _____ Object _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: Stephanie Sepreke

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Signature] 1/22/13 OFMB
[Signature] 1/25/13 Contract Dev. and Control
 1/22/13 1/22/13

B. Legal Sufficiency:

[Signature] 1/28/13
 Assistant County Attorney

C. Other Department Review:

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

1 **ORDINANCE NO. 2013 - _____**

2
3 **AN ORDINANCE OF THE BOARD OF COUNTY**
4 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA,**
5 **AMENDING CHAPTER 19, ARTICLE IX (ORDINANCE NO. 2008-**
6 **43, AMENDED BY ORDINANCE NO. 2011-007, AMENDED BY**
7 **ORDINANCE NO. 2011-032, AMENDED BY ORDINANCE NO.**
8 **2011-040, AND AMENDED BY ORDINANCE 2012-009);**
9 **RELATING TO TAXICABS AND OTHER VEHICLES FOR HIRE,**
10 **TO BE KNOWN AS THE VEHICLE FOR HIRE ORDINANCE;**
11 **AMENDING SECTION 19-218 (BUSINESS PERMIT**
12 **APPLICATION); AMENDING SECTION 19-227 (DRIVER**
13 **REQUIREMENTS; FAILURE TO COMPLY); PROVIDING FOR A**
14 **REPEAL OF LAWS IN CONFLICT; PROVIDING FOR A SAVING**
15 **CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR**
16 **INCLUSION IN THE CODE OF LAWS AND ORDINANCES;**
17 **PROVIDING FOR CAPTIONS; AND PROVIDING AN**
18 **EFFECTIVE DATE.**
19

20 **WHEREAS,** Chapter 125 (County Government) of the Florida Statutes
21 establishes the right and power of counties to provide for the health, welfare and safety
22 of the existing and future residents by enacting such business regulations necessary for
23 the protection of the public; and

24 **WHEREAS,** the Board of County Commissioners of Palm Beach County finds
25 and declares that the public welfare and safety of the existing and future residents
26 requires the regulation and control of motor vehicles engaged in the transportation of
27 persons, within the streets of Palm Beach County, with the intent to receive
28 compensation; and

29 **WHEREAS,** Palm Beach County licenses and regulates taxicabs, limousines,
30 sedans, vans, minibuses, SUVs for hire, non-medical transport vehicles for hire that
31 operate in the unincorporated and incorporated areas of the County; and

32 **WHEREAS,** it is now necessary to amend Chapter 19, Article IX of the Palm
33 Beach County Code to correct the business permit licensing year and driver requirements.

34 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
35 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

36 **Section 1. Business permit application.**

37 Section 19-218 (c) and (c)(1) of Chapter 19, Article IX of the Palm Beach County Code
38 is amended to read as follows:

39 * * *

1 (c) Each business permit issued pursuant to this section shall be valid and effective
2 for one (1) year, terminating on April 30 of each year.

3 (1) Failure to submit a business permit application and the required non-
4 refundable fee for renewal by April 30 of each year will result in the
5 assessment of a non-refundable late fee. The late fee is established by
6 resolution of the board.

7 **Section 2. Driver requirements; failure to comply.**

8 Section 19-227 (a)(10) and (a)(11) of Chapter 19, Article IX of the Palm Beach County
9 Code is amended to read as follows:

10 (a) It shall be unlawful for any person to operate any vehicle for hire within and
11 upon the streets of Palm Beach County without a Palm Beach County vehicle for hire
12 driver's identification badge (Driver's I.D. Badge) issued by the Division. All applicants
13 for a vehicle for hire Driver's I.D. Badge shall conform to the following:

14 * * *

15 (10) Have no conviction ~~within the preceding three (3) years from the date of~~
16 ~~application,~~ for any first-degree misdemeanor offense relating to or threatening the public
17 safety as determined by the Board, or have been released from incarceration for such
18 misdemeanor conviction (whichever is later), within three (3) years before the date of
19 application for a vehicle for hire driver I.D. badge. Said misdemeanor offenses include,
20 but are not limited to, the following: stalking, battery, driving while license is suspended
21 or revoked, carrying a concealed weapon, reckless driving which causes damage to
22 property, racing on highway, criminal possession of a controlled substance/paraphernalia,
23 resisting arrest without violence, or obscenity (selling/distributing sexual material to
24 minor);

25 (11) Have no conviction ~~within the preceding five (5) years from the date of~~
26 ~~application,~~ for a felony offense, relating to or threatening the public safety as determined
27 by the Board, or have been released from incarceration for such felony conviction (unless
28 proof is shown that the applicant's civil rights have been restored (whichever is later),
29 within five (5) years before the date of application for a vehicle for hire I.D. badge. Said
30 felonies relating to, or threatening the public safety shall include, but are not limited to,
31 the following: battery, carrying a concealed weapon, discharging a firearm in public,

1 robbery (not armed), burglary (not 1st degree), criminal sale of a controlled substance,
2 criminal possession of controlled substance/paraphernalia, obscenity (selling/distributing
3 sexual material to a minor or exchanging computer pornography with a minor), a habitual
4 felony offender, aggravated assault, child abuse/neglect, reckless driving with serious
5 bodily injury, fleeing/attempting to elude a law enforcement officer, aggravated fleeing
6 or eluding a law enforcement officer causing serious body injury, luring or enticing a
7 child under 12 (2nd conviction), resisting an officer with violence, procuring a person
8 under 18 for prostitution, selling or buying minors for sex trafficking/prostitution,
9 forcing/compelling/coercing a person for prostitution, or abuse/aggravated abuse/neglect
10 of an elderly person or a disabled adult. The Division may require applicants to provide
11 the final disposition for felony criminal cases on background checks received by the
12 Division from any source. Failure to provide the disposition of such cases shall result in
13 the denial of a driver's I.D. badge.

14 * * *

15 **Section 3. Repeal of laws in conflict.**

16 All local laws and ordinances applying to the unincorporated area of Palm Beach County
17 in conflict with any provision of this article are hereby repealed to the extent of any
18 conflict.

19 **Section 4. Savings clause.**

20 Notwithstanding Section 3 of this Ordinance regarding repeal of laws in conflict, all
21 administrative and court orders, fines, and pending enforcement issued pursuant to this
22 authority and procedures established by Chapter 19, Article IX of the Palm Beach County
23 Code, shall remain in full force and effect.

24 **Section 5. Severability.**

25 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
26 reason held by the Court to be unconstitutional, inoperative or void, it is the intent of the
27 Board of County Commissioners that such holding shall not affect the remainder of this
28 Ordinance.

29 **Section 6. Inclusion in the code of laws and ordinances.**

30 The provisions of this Ordinance shall become and be made a part of the code of laws

1 and ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
2 renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed
3 to "section," "article," or any other appropriate word.

4 **Section 7. Captions.**

5 The captions, section headings, and section designations used in this Ordinance are for
6 convenience only and shall have no effect on the interpretation of the provisions of this
7 Ordinance.

8 **Section 8. Effective Date.**

9 The provisions of this Ordinance shall become effective upon filing with the Department
10 of State.

11 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
12 County, Florida, on this the _____ day of _____, 2013.

13
14
15 SHARON R. BOCK,
16 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

17
18
19
20 By _____
21 Deputy Clerk

By: _____
Steven L. Abrams, Mayor

22
23
24
25 APPROVED AS TO FORM AND
26 LEGAL SUFFICIENCY

27
28
29 By: _____
30 County Attorney

31
32
33 Filed with the Department of State on the _____ day of _____, 2013.

1 (c) Each business permit issued pursuant to this section shall be valid and effective
2 for one (1) year, terminating on April 30 of each year.

3 (1) Failure to submit a business permit application and the required non-
4 refundable fee for renewal by April 30 of each year will result in the
5 assessment of a non-refundable late fee. The late fee is established by
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18 before the date of application for a vehicle for hire driver I.D. badge. Said misdemeanor
19 offenses include, but are not limited to, the following: stalking, battery, driving while
20 license is suspended or revoked, carrying a concealed weapon, reckless driving which
21 causes damage to property, racing on highway, criminal possession of a controlled
22 substance/paraphernalia, resisting arrest without violence, or obscenity
23 (selling/distributing sexual material to minor);

24 (11) Have no conviction for a felony offense, relating to or threatening the public
25 safety as determined by the Board, or have been released from incarceration for such
26 felony conviction (unless proof is shown that the applicant's civil rights have been
27 restored (whichever is later), within five (5) years before the date of application for a
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2 pornography with a minor), a habitual felony offender, aggravated assault, child
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4 law enforcement officer, aggravated fleeing or eluding a law enforcement officer causing
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8 prostitution, or abuse/aggravated abuse/neglect of an elderly person or a disabled adult.

9 The Division may require applicants to provide the final disposition for felony criminal
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11 provide the disposition of such cases shall result in the denial of a driver's I.D. badge.

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22 **Section 5. Severability.**

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24 reason held by the Court to be unconstitutional, inoperative or void, it is the intent of the
25 Board of County Commissioners that such holding shall not affect the remainder of this
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13 SHARON R. BOCK,
14 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

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19 Deputy Clerk

By: _____
Steven L. Abrams, Mayor

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24 LEGAL SUFFICIENCY

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28 County Attorney

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