

ORDINANCE NO. 2004- 6

An ordinance amending Article III of Chapter 23 of the Victoria City Code to modify and establish permit conditions and requirements for limousines, touring vehicles, and animal-drawn touring vehicles, amending Section 24-21 to establish permit fees, and repealing conflicting ordinances, providing for severability, providing a savings clause, providing for codification and savings, providing a penalty not to exceed \$500.00 upon conviction and enforcement, providing for publication, and declaring an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

Article III of Chapter 23 of the Victoria City Code is amended to read as follows:

Article III. Limousines, Touring Vehicles, and Animal-Drawn Touring Vehicles:

Sec. 23-40. Definitions.

For the purposes of this article, the following terms shall have the meanings respectively ascribed to them:

Limousine: Any vehicle used for the transportation of passengers for hire. The term "limousine" shall not apply to any vehicle rented without a driver, a taxicab, a touring vehicle, an animal-drawn touring vehicle, a vehicle used primarily for funeral services, or a bus that regularly picks up passengers within Victoria County and transports said passengers to another location within Victoria County more than four times per week.

Touring vehicle: Any vehicle, other than an animal-drawn touring vehicle, used for the transportation of passengers for hire for sight-seeing or tourism purposes. The term "touring vehicle" shall not apply to any vehicle rented without a driver, a taxicab, a limousine, a vehicle used primarily for funeral services, a bus that regularly picks up passengers within Victoria County and transports said passengers to another location within Victoria County more than four times per week.

Animal-drawn touring vehicle: Any vehicle used for the transportation of passengers for hire for any purpose that is propelled or pulled by an animal other than a human being. The term "vehicle" as used in this definition shall include any wheeled device propelled or pulled by an animal, but shall not include the animal itself.

Sec. 23-41. Applicability & compliance with article.

It shall be unlawful for any person to operate, hire, or solicit for operation a customer for any limousine or touring, or an animal-drawn touring vehicle, or a vehicle upon the streets of the City, unless the person has received all permits required by this code and by this article. It shall be unlawful for any permit holder to operate more than the approved number of vehicles authorized by the applicable permit.

Sec. 23-42. Requirements for permit to operate a vehicle covered by this article

(a) *Permit Required:* Every person desiring to operate any limousine, an animal-drawn touring vehicle, or touring vehicle shall make application, to the City Secretary on a form provided for that purpose, for a limousine permit, a motor-drawn touring vehicle permit, or an animal-drawn touring vehicle permit.

(b) *Contents of Permit Application:* The application for a permit to be issued pursuant to this article shall be sworn and shall contain information required by the City Secretary on a form promulgated thereby, including:

- 1. the true name of the applicant (if applicant is not an individual, applicant shall list the form of business, state of incorporation or organization, and location of headquarters) and the applicant's date of birth (if applicant is an individual),
- 2. the trade name of the applicant,
- 3. all addresses and telephone numbers of the applicant,
- 4. the names and dates of birth of any officers or persons owning more than 20% of the applicant,
- 5. the serial numbers, vehicle identification numbers, license numbers, and tag numbers of each vehicle to be operated by the applicant in the permitted business (to the extent the vehicles have been assigned such numbers),
- 6. the types and seating capacity of each vehicle to be operated by the applicant in the permitted business,
- 7. a list of all prior criminal convictions of the applicant or any officers or persons owning more than 20% of the applicant,
- 8. certificates of insurance that provide for at least 30 days prior notice to the City Secretary of cancellation, covering all

vehicles to be operated by the applicant in the permitted business, including:

- a. for a permit to operate a limousine or motor-drawn touring vehicle, a policy of motor vehicle liability insurance company authorized to do business in the State of Texas with policy limits in accordance with applicable requirements of state law. This policy shall not contain a passenger liability exclusion, or
 - b. for a permit to operate an animal-drawn touring vehicle, a comprehensive general public liability insurance policy that covers the operation of the animal-drawn vehicles to be permitted in an amount of not less than \$250,000 for bodily injuries and \$100,000 for property damage.
- 9. the fee required by this ordinance or separate ordinance.

(c) *Obligation to Update Insurance:* If the insurance coverage, company or state license number of any vehicle is changed during the permit period, the applicant shall, within 30 days of such change, report such changed coverage, company, or state license number to the City Secretary.

(d) *Requirements for Permit:* The City Secretary shall issue a limousine permit, touring vehicle permit, or animal-drawn touring vehicle permit to any applicant who makes application on the proper form thereof and meets all requirements for such permit unless:

- 1. The applicant or any officers or persons owning more than 20% of the applicant business have been convicted, within the three years next preceding the date of the application, of a felony, or for fraud, theft, offense involving the operation of a vehicle while intoxicated, a violation of this article, or another crime that the City Secretary determines directly relates to the duties and responsibilities of a permittee pursuant to this article,
- 2. The permit application includes a false statement by the applicant,
- 3. The City of Victoria has revoked the applicant's permit of the type requested within the past three years.

(e) *Limousine or touring vehicle operator license--Application.*

(1) It shall be unlawful for any person to drive or operate a limousine or touring vehicle without first obtaining a limousine or touring vehicle operator license as provided in this article. It shall be unlawful for any limousine or touring vehicle business licensee to employ as driver any person who does not have a current valid limousine or touring vehicle operator license.

(2) Applications for limousine or touring vehicle operator licenses shall be made on a form provided by the city secretary, which shall contain at least the following information:

- (i) The licensee applicant's name, residence address, date of birth and state driver's license number and class.
- (ii) The applicant's places of employment during the last two (2) years.
- (ii) Whether the applicant has ever been convicted of any felony, any crime involving moral turpitude, or any crime pertaining to the operation of a motor vehicle other than traffic violations. If so, the type of crime and the date and place of conviction.
- (iv) A statement by the applicant under oath that all information contained in the application is true and correct.

(3) The completed application form shall be accompanied by a fee as prescribed by separate ordinance, which shall not be refundable.

(f) *Investigation; license issuance or denial.*

(1) The chief of police, or a duly authorized representative, shall conduct an investigation into the background of all applicants for limousine or touring vehicle operator licenses and applicants or officer or 20% or greater owner of an applicant for a limousine permit. The investigation shall include making a permanent record of the identity of all applicants, and shall not exceed ten (10) working days to conduct.

(2) The chief of police shall deny issuance of a license if the application or investigation shows any of the following:

- (i) The application contains a false statement by the applicant.
- (ii) The applicant has been convicted of a felony, any crime involving moral turpitude, or any crime pertaining to the operation of a motor vehicle other than traffic violations within the three (3) years preceding the date of application.
- (iii) The applicant has had a limousine or touring vehicle operator license revoked within the two (2) years preceding the date of application.

(h) Upon approval of an application by the chief of police, the city secretary shall issue a permit to the applicant or a license to the applicant driver as the case may be containing the following information:

- (1) Name and address of the permittee or licensee.
- (2) Expiration date of the permit or license, which shall be December thirty-first of the year in which it is issued.

Sec. 23-44. Expiration date for permits.

Any permit issued to a qualified applicant shall expire on December 31st of each year and the applicant will be required to obtain a new

permit to be effective January 1st of each year. When the new permit is obtained on January first of each year, the applicant shall pay a permit fee as prescribed by separate ordinance, enacted from time to time, copies of which are on file in the city secretary's office, for each vehicle for which a permit is requested.

Sec. 23-46. Payments to be in addition to regular taxes.

All payments required to be made under this article shall be exclusive of and in addition to all ad valorem taxes upon the value of the property of the person operating such vehicle, and in addition to all lawful occupation taxes imposed upon the occupation or calling of the legal entity (i.e., business or person) operating such vehicle.

Sec. 23-47. Receipts for fares; records and reports.

Every operator of a limousine, an animal-drawn touring vehicle, or touring vehicle shall issue a receipt, in writing, to every person using the services of such operator, showing the date, time, place or origin and destination, and amount of consideration paid for all such services. All reports and records prescribed to be maintained and kept under this article shall be preserved by the operator of every limousine and touring vehicle in a safe place for at least two years after such date and all such records shall be available for examination and inspection of police and other authorized officials of the city as may be designated by the city manager.

Sec. 23-48. Standards for operation of animal-drawn touring vehicles.

(a) *Times of Operation:* It shall be unlawful for an operator of an animal drawn touring vehicle to operate the animal-drawn touring vehicle for hire at any time other than between the hours from 8:00 a.m. to 12:00 p.m. (midnight).

(b) *Operation only in Areas Approved by City Engineer:* The City Engineer may prohibit an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle from traveling upon any street or picking up, waiting for or regularly dropping off passengers at any location on a public street or publicly owned property within the City of Victoria. The City Engineer may issue such prohibition by filing the map with the City Secretary and sending a map to each holder of an animal-drawn touring vehicle permit in the City. It shall be unlawful for an operator of an animal drawn touring vehicle to operate the animal-drawn touring vehicle on any street or in any public space in which the operation of animal-drawn touring vehicles has been prohibited by the City Engineer. It shall further be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to pick up, wait for, or regularly drop off passengers at a location that has not been approved by the City's traffic engineer.

(c) *Prohibition on Impairing Traffic:* It shall be unlawful for a permit holder or an operator of an animal-drawn touring vehicle to pick up, drop off or wait for passengers in lanes of street traffic or in a manner that impairs, restricts or blocks traffic on a street, sidewalk, alleys or other public right-of-way.

(d) *Watering and Feeding Facilities:* Prior to operating an animal-drawn touring vehicle, the permit holder shall file a list or map with the City Secretary of the locations of all watering and feeding facilities for all animals used in the permitted activity. It shall further be unlawful for a permit holder or an operator of an animal-drawn touring vehicle to regularly utilize watering and feeding facilities in the permitted activity that are not designated on the aforementioned map. It shall be unlawful for an operator of an animal-drawn touring vehicle to fail to provide adequate watering and feeding facilities for all animals owned by said operator. It shall further be unlawful for an operator of an animal-drawn touring vehicle to utilize animal watering and feeding facilities on public property or in public rights-of-way.

(e) *Manure Catcher Required:* It shall be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to fail to use an enclosed device to catch manure from any animal used in the permitted activity. It shall further be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to allow animal excrement from animals used in the permitted activity to be deposited on a street or other publicly owned property. It shall further be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to allow manure from any animal used in the permitted activity to be deposited in any location in which it will become a nuisance to any person.

(f) *Removal of Urine from Streets:* It shall be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to fail to remove all traces of animal urine from the permitted activity within the street within 4 hours after the urine is deposited on the street.

(g) *Cleanliness of Carriage Stands:* It shall be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to utilize carriage stands that are muddy, slippery or fouled with animal urine or excrement.

(h) *Slow-Moving Vehicle Emblem:* It shall be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to operate an animal-drawn vehicle without a "slow-moving vehicle" emblem.

(i) *Lighting at Night:* It shall be unlawful for an animal-drawn touring vehicle permit holder or an operator of an animal-drawn touring vehicle to operate an animal-drawn vehicle after sunset or in inclement weather without lamps and reflectors that are visible for a distance of not less than 1,000 feet from the rear of the vehicle.

Sec. 23-49. Revocation of Permit.

(a) *Permit Revocation Procedures:* When the Chief of Police has probable cause to believe that an operator of a limousine or touring vehicle has violated any provision of this article or committed a felony, fraud, theft, an offense involving the operation of a vehicle while intoxicated, or other crime that the City Secretary determines directly relates to the duties and responsibilities of a permittee pursuant to this article, the Chief of Police may suspend or revoke the permit. To effect such suspension or revocation, the Chief of Police shall first notify the permit holder of the allegations and send the permit holder notice of a suspension or revocation hearing. At the hearing, the Chief of Police shall receive the evidence of the permit holder, if the permit holder appears at the hearing.

(b) *Permit Revocation Standards:* If the Chief of Police determines that the offense indicates that the applicant poses a significant risk of harm to the general public through his/her provision of permitted services thereto, then the Chief of Police shall revoke the permit. If the Chief of Police determines that the offense indicates that the applicant poses a minor risk of harm to the general public through his/her provision of permitted services thereto, then the Chief of Police may suspend the permit for a period sufficient to safeguard the public from probable harm, and otherwise order such conditions as the Chief of Police determines will alleviate any danger to the public.

(c) *Criminal Prosecution not Restricted:* Any action pursuant to this section shall not affect or limit the right of the City to pursue the criminal prosecution of the permit holder for violation of this code or other law.

2.

Section 24-21 of the Victoria City Code is amended to read as follows:

Sec. 24-21. City Secretary administered.

The following fees are established:

Coin operated machines	
Permits.....	\$15.00
Fee for sealed machine release.....	5.00
Commercial outdoor sales	
Registration.....	15.00
Re-registration.....	5.00
Garage sales.....	8.00
Itinerant and secondhand dealers	
Permit fee.....	15.00
Police investigation fee.....	10.00
Itinerant vendors	
Permit fee.....	15.00
Police investigation fee.....	10.00
Limousine Permit.....	\$25.00 plus \$10.00 per permitted vehicle
Motor-Drawn Touring Vehicle Permit.....	\$25.00 plus \$10.00 per permitted vehicle
Animal-Drawn Touring Vehicle Permit.....	\$25.00 plus \$50.00 per permitted vehicle
Limousine or Touring Vehicle Operator's License.....	8.00
Pool hall permit.....	15.00
Sexually oriented business permit.....	150.00
Street vendor vehicle permit.....	35.00
Taxi cab business license (per vehicle).....	15.00
Taxi cab operators license.....	8.00
Transfer ambulance service	
Application fee.....	150.00
Permit fee (per vehicle).....	35.00
Tow truck permits	
Per vehicle.....	50.00

Privilege list:

First truck	450.00
Second and third truck (per each vehicle)	750.00
Fourth and additional trucks (per each vehicle)	1,300.00
Trash haulers permit	35.00

3.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

4.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

5.

It is the intention of the City Council that this ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly. The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

6.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$500.00 as provided in Section 1-8 of the Victoria City Code, and in addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this ordinance by injunction issued by a court of competent jurisdiction. The City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, § 10 of the City Charter.

7.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 6TH day of APRIL, 2004

AYES: 6
NAYS: 0
ABSTENTIONS: 0

PASSED SECOND READING, this the 20TH day of APRIL, 2004.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

PASSED THIRD READING, this the 4TH day of MAY, 2004.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 4TH day of MAY, 2004



[Handwritten Signature]

GARY MIDDLETON, Mayor of the
City of Victoria, Texas

APPROVED AS TO LEGAL FORM:
[Handwritten Signature]

DAVID ATMAR SMITH, City Attorney

ATTEST:

[Handwritten Signature]

SCARLET SWOBODA, City Secretary

Distribution: Legal Department
Chief of Police
City Secretary

Copies Sent: MAY 19, 2004