

ORDINANCE 2005- 3

AN ORDINANCE TO ESTABLISH CERTAIN RULES AND REGULATIONS REGARDING HORSE- DRAWN VEHICLES FOR HIRE \VITHIN THE CITY OF DAHLONEGA HISTORIC AND CENTRAL BUSINESS DISTRICTS; TO DEFINE THE **REQUIREMENTS** FOR A PERMIT FOR A HORSE-DRAWN VEHICLE BUSINESS; TO **LIMIT** THE NUMBER OF HORSE-DRAWN VEHICLE PERMITS ISSUED; TO PROVIDE FOR APPEALS, PENALTIES AND FOR OTHER RULES AND REGULATIONS

Statement of Purpose and Findings: The purpose of this Ordinance is, and the City Council of Dahlonega so finds, that in order to provide for public safety and convenience, as well as the welfare of certain animal(s), and to preclude added traffic congestion in the downtown area, regulation of horse-drawn vehicles is required. This Ordinance applies only to commercial operations as defined below.

Section One. Short Title and Definitions:

This Ordinance shall be known and recited as "The Horse-Drawn Vehicle Ordinance of the City of Dahlonega"

a) Definitions:

(1) City: The word "City" shall mean the City of Dahlonega, Georgia, a municipal corporation; the definition to include all areas within the corporate limits of the City of Dahlonega.

(2) Horse-Drawn Vehicle: Any vehicle, cart, hack or other device which is operated by being drawn by a horse, mule or other beast of burden, for the transportation for hire of passengers.

(3) Occupation Tax Certificate: The right and privilege granted by the City of Dahlonega for the operation of any business. In some instances that mean merely a regulatory permit if the Company Permittee does not require an Occupation Tax Certificate.

(4) Company: The holder of a Permit ("Company Permittee") to operate a horse-drawn vehicle business under the provisions of this ordinance whether a person, firm, partnership or corporation. *There shall be only two holders of such a permit **within** the City of Dahlonega per stand approved and so designated by the City of Dahlonega.*

(5) Driver: Any person who drives or operates a horse-drawn vehicle on the streets of Dahlonega for an authorized horse-drawn vehicle company.

(6) Driver's Permit: The written authority granted by the City for an individual to drive or operate a horse-drawn vehicle within the City of Dahlonega.

(7) Street: The word "street" shall mean and include any street, alley, lane, avenue, court, or public place in the City of Dahlongega.

(8) City Marshall: The individual employee or organiza60nal unit of the City charged with the responsibility for administering and enforcing this article, except for specific responsibilities otherwise provided herein.

(9) Stand: *A public place alongside the curb of a street or eLsewhere that has been designated by the City as available for the use of horse-drawn vehicles. No more than two Company Permittees shall be permitted per stand made available by the municipality.*

## Section Two. Licensing of Horse-Drawn Vehicle Companies; Headquarters:

### a) Occupation Tax Certificate and Company Permit Required:

(1) No person, firm, or corporation shall operate a business involving the use of one (1) or more horse- drawn vehicles on the streets of the City unless an occupation *tax certificate* for such business has first been granted by the City and the Pennitee has been granted a Company Pennit on fonns provided by the City Marshall and shall provide such information as is required herein, and such additional infonnation as may be necessary to allow review of the permit application.

### b) Location of Operation Governed by City: Each horse-drawn vehicle company, as a condition for holding a license under the provisions of this Ordinance, shall conform to the ordinances of the City and shall operate within the regulations established for all horse-drawn vehicles. *Only two horse-drawn vehicle Company Permits shall be issued fOT each Stand created by the City of Dahlongega. Should the number of applicants exceed the number of Stands available, the permits for each Stand shall be awarded first to applicants meeting the qualifications of this ordinance with the longest time period as the holder of a horse-drawn vehicle occupation tax certificate within the City of Dahlongega, and then on the basis of a waiting list maintained by the City Marshall.*

### c) Operating regulations: Any Company Permittee must comply with the following regulations:

(1) A licensed veterinarian shall certify in writing, after due and proper inspection, the good health of each draft animal before it is placed into service. A minimum of two (2) such health inspections shall be required for each animal each calendar year, to be performed during the months of January and July, with copies submitted to the City Marshall within ten days of said inspection.

(2) No single animal shall pull a vehicle holding more than ten (10) people, including the driver. Two horses shall not pull more than the seating capacity of the vehicle.

(3) Unless a licensed veterinarian gives written approval, no animal having open sores or wounds or any disease or ailment shall be pennitted to be in service on the streets of the city.

(4) Each draft animal shall have its hooves properly trimmed and shod for sweet surfaces. Temporary shoes may only be used if the horse has thrown a shoe during a tour and then only to get the horse back to the barn to be shod.

(5) Each animal shall be groomed daily and not have fungus, dandruff, or a dirty coat.

(6) Harnesses shall be properly fitted, maintained, and oiled so that no irritating material will come in direct contact with the animal.

(7) No animal shall be subject to any condition or treatment, whether in service or out of service, which will impair the good health and physical condition of that animal.

(8) Food shall be kept free of all contamination.

*(9) All stables in which the company **permitee** houses animals used within the City of Dahlonaga shall meet all State of Georgia regulations.*

d) The City of Dahlonaga, through its City Marshal, shall be empowered to inspect all operating equipment, and to examine operating practices of any vehicle company to ensure continuous compliance with this article.

e) Any Company or Driver Permitee who refuses or fails to assure compliance with and to comply with the requirements of this ordinance shall not be issued a permit or renewal until proof of compliance is presented by the applicant and certified by the City Marshall. The foregoing licensing requirements shall be ongoing as requirements for continuous operation.

f) The City Manager may, upon recommendation of the City Marshall, immediately suspend any vehicle company operation for violation of the provisions of this article, subject to revocation action as provided elsewhere herein.

### Section Three. Insurance:

a) Indemnity for benefit of City. Any horse-drawn vehicle company operating under this article shall hold the city of Dahlonaga, its officers, agents, servants, and employees, harmless against any and all liability, loss, damages or expense which may accrue to the city by reason of negligence, default, or misconduct of the company in connection with the rights granted to such company hereunder. Nothing in this article shall be considered to make the City of Dahlonaga, its officers, agents, servants, or employees liable for damages because of any negligent act or omission or commission by any horse-drawn vehicle business or operation by the company of a horse-drawn vehicle business or service, either in respect to injury to persons or with respect to damage to property which may be sustained.

b) Insurance for benefit of passengers. Any horse-drawn vehicle company desiring a business tax certificate to do business shall give and maintain a policy of indemnity from an insurance company authorized to do business in the state for each vehicle in use as a horse-drawn vehicle. The minimum coverage shall be one hundred thousand dollars (\$100,000) for bodily injury to any one (1) person, three hundred thousand dollars (\$300,000) for injury to more than one (1) person which are sustained in the same accident, and twenty-five thousand dollars (25,000) for property

damage resulting from one (1) accident. The indemnity insurance shall insure to the benefit of any person who shall be injured or who shall sustain damage to property.

- c) Blanket policy. Any company or person operating a horse-drawn carriage in the City shall provide a policy of indemnity insurance covering all the horse-drawn vehicles who may be jointly operating or doing business under a licensed horse-drawn vehicle name, i.e. the Company Permittee.
- d) Comprehensive general liability insurance. Any horse-drawn vehicle shall maintain, from a licensed insurance company, comprehensive general liability insurance in the amount of \$1,000,000.00 for its undertakings associated with designated horse-drawn vehicles within the city.
- e) Notice when voided. Before any policy of insurance required by this article is voided for any cause, nonpayment of premium or otherwise, notice thereof shall be given, in writing, to the City at least five days before the same shall take effect.

#### Section Four. Horse-drawn vehicle driver's permit ("Driver's Permit"):

- a) Permit required. No person shall operate a horse-drawn vehicle for hire upon the streets of the City, and no person who owns or operates a horse-drawn vehicle company shall permit a horse-drawn vehicle to be driven, and no horse-drawn vehicle operating under a horse-drawn vehicle company approved by the City shall be driven at any time for hire, unless the driver of the horse-drawn vehicle shall first have obtained and shall have then in force a horse-drawn vehicle driver's permit issued under the provisions of this article.
- b) Application. Any person desiring a pennit required by this article shall submit an application in writing to the City Marshall on a fonn to be furnished by the City. The application shall be made under oath. The application shall include a disclosure as to whether the applicant has been convicted of a violation of any of the laws of the state, of this Code, or any other ordinances of the City, and if so, when and of what offense, and the sentence of the court. Any false statements made on the application may result in suspension or revocation.
- c) Physician's certificate required. Each application for a driver's permit shall be accompanied by a certificate from a physician licensed by the state of Georgia certifying that, in his/her opinion, the applicant is not afflicted with any disease or infirmity which might make him/her an unsafe or unsatisfactory driver. In the case of renewal of a driver's permit, the certificate shall be updated every two years.
- d) Qualifications of applicant. An applicant fer a driver's pennit under this article must:
  - a. Be at least 18 years of age,
  - b. Have no physical infirmities which might make the applicant an unsafe or unsatisfactory horse-drawn vehicle driver,
  - c. Not have been convicted of operating a motor vehicle while under the influence of intoxicating beverages or drugs within two years prior to the date of the application for such permit,
  - d. Not have been convicted of reckless driving within one year prior to the date of the application for such permit, or been convicted of any of these offenses tlu-ee or more times

within five years prior to the date of the application for such pennit. Nor shall a pennit be issued to any person who has within three years prior to the date of the application for such permit been convicted of any crime relating to transporting persons for immoral purposes (prostitution, solicitation for prostitution, or any sex related offense), or who has within three years prior to the date of the application for such permit have been convicted of, been on probation, parole, or served time on a sentence for a felony. A plea of *nolo contendere* to any of the offenses set out in this section shall be deemed a conviction. Be a citizen of the United States or an alien admitted for permanent residence or who has othelWise been granted employment authorization by the United States Immigration and Naturalization Services.

- e) Driver's permit fee. Before any permit is granted under this article, a driver's permit fee of \$50.00 and a background fee of \$50.00 shall be paid by the applicant.
- f) Current state driver's license required. Any person applying for a horse-drawn vehicle driver's pennit under this article must possess and maintain a current valid motor vehicle operator's license issued or approved by the State of Georgia. A seven-year M.V.R is required for all new applicants and a 3-year M.V.R. at each renewal.
- g) Examination of applicant; issuance or denial of permit. It shall be the duty of the City Marshall to examine the applicant, his references, police and traffic record, and the other vouchers, and thereafter to either grant or refuse the permit. In the event of a refusal to grant a permit, the applicant shall have the right to enter an appeal as provided in subsection (0) of this section.
- h) Permit to be displayed in horse-drawn carriage. The pennit issued under the provisions of this article shall be placed on display in the horse-drawn vehicle to be operated by the holder of the permit, where the pennit will be in clear view of the passengers at all times when the horse-drawn vehicle is for hire.
- i) Alteration of permits prohibited. It shall be unlawful for any person willfully to alter, deface, obliterate, or destroy a horse-drawn vehicle driver's permit, or cause or allow the same.
- j) Permit not transferable. Any horse-drawn vehicle driver's permit issued under this article is not transferable, and is to be used solely by the person to whom it is issued and the company for which it is issued.
- k) Duration of Permit; renewals. Any horse-drawn vehicle driver's permit shall be in effect for up to a twelve-month period expiring *at the end of each calendar year*. Permits may be renewed, upon application and payment of required fee, for each twelve-month period thereafter, unless the permit for the preceding period has been revoked or is under suspension.
- l) Suspension of the driver's permit. The City Marshall shall have the authority to suspend a driver's pennit for the following reasons: (1) making false statement in the application for the permit, (ii) operating a horse-drawn vehicle in violation of any provision of this article or state law. The suspension shall be lifted at the expiration of 60 days from the date of suspension. From the decision of the City Marshall to suspend a permit, the holder of such pennit shall have the right to appeal to the City Manager, upon presentation of evidence, as set forth elsewhere herein.

- m) Revocation of driver's permit. In the event that any driver holding a pennit under this article at any time ceases to meet the qualifications described in subsection c) or fails to correct satisfactorily any false statement made in the application for the pennit, or fails to operate his horse-drawn vehicle in accordance with the provisions of this article, the City Manager, *upon presentation of evidence at a noticed **hearing*** shall be empowered to permanently revoke the permit.
- n) Driving after suspension or revocation. It shall be unlawful for any person to operate a horse-drawn vehicle for hire during any period in which his permit to do so is suspended or revoked in accordance with the provisions of this article.
- o) Appeals. Appeals to the decisions of the *City Manager and/or City Marshall* shall be as set forth elsewhere herein.

Section Five. Identification and marking generally:

Every horse-drawn vehicle shall have a sign clearly displayed on the both sides of the vehicle, in letters not less than four nor more than twelve inches high, containing the full name of the horse-drawn vehicle company operating the vehicle.

Section Six. Numbers generally:

There shall be displayed on each side and on the rear of each horse-drawn vehicle a number at least six inches high, the number to be a separate and distinct number from that on any other public vehicle or taxicab in the City. The number shall be assigned to such horse-drawn vehicle and the owner thereof by the City Marshall and shall not be altered or changed without the consent of the City Marshall.

Section Seven. Registration of number and names of owner and operator:

The number assigned a horse-drawn vehicle in accordance with this article together with the names of the owner and operator of the horse-drawn vehicle shall be registered with the City Marshall in a record to be kept for that purpose.

Section Eight. Safe mechanical condition of horse-drawn vehicle required:

Every horse-drawn vehicle operated on the streets of the City shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operative at all times when the horse-drawn vehicle is in service. *The City may require third-party inspection of equipment at the expense of the Company Permittee.*

Section Nine. Cleanliness of horse-drawn vehicle required:

Each vehicle operating under this article shall be kept painted, and in a clean and sanitary condition, free of litter and debris and at all times suitable for public transportation of passengers.

Section Ten. Vehicle inspections required:

Each horse-drawn vehicle shall be inspected by a designee of the City Marhsall for the compliance with the provision of the article and shall pass the inspection before the vehicle may

be used as a horse-drawn vehicle in the City. The City Marshall or his/her designee shall inspect each horse-drawn vehicle involved in an accident before it may be returned to service transporting passengers for hire. The City Marshall or his/her designee shall inspect each horse-drawn vehicle annually, and each vehicle *is* subject to random inspections without notice, to insure continued compliance with the provisions of this article. Failure to have vehicles inspected will result in the immediate suspension of the permit. *Inspection may be done by a third party inspector designated by the City and at the expense of the Company Permittee.*

Section Eleven. Authority for removal of horse-drawn vehicles from the streets:

The City Marshall shall have the authority to remove from operation on the streets of the City any vehicle used as a horse-drawn vehicle that is in violation of this article, and to prohibit operation of the horse-drawn vehicle until all deficiencies have been corrected. An order of the City Marshall to remove a vehicle from the streets may be appealed to the City Manager as provided elsewhere herein.

Section Twelve. Rates of fare; rate card required:

No owner or driver of a horse-drawn vehicle shall charge a greater sum for the use of the horse-drawn vehicle than in accordance with the published and advertised rates, which shall be displayed in each vehicle. Rates shall be displayed in such place as to be conspicuous and to be in clear view of all passengers. *All rates schedules of each Company Permittee shall be filed with the City Marshall.*

Section Thirteen. Stands generally:

- a) No parking shall be permitted in the corporate limits of the city except at one stand only as established by the City Manager upon the recommendation of the City Marshall, which parking stands shall be designated by signs.
- b) Drivers of horse-drawn vehicles operated under this article shall maintain stands in a sanitary condition at all times. Any failure on the part of the driver or drivers to conform to the requirements of this section shall be unlawful and shall subject the driver to the penalties provided herein.

Section Fourteen. Vehicle Stands:

- a) The City shall allow the Company Permittee access to its designated Vehicle Stands for horse-drawn vehicles and shall upon request provide said information to the Company Permittee.
- b) It shall be unlawful for any driver of any horse-drawn vehicle to leave the vehicle, or the immediate premises thereof, while the vehicle is parked in a horse-drawn vehicle stand while waiting to be hired.

Section Fifteen. Soliciting passengers prohibited:

It shall be unlawful for any person to solicit passengers verbally or by gesture, directly or indirectly, at any horse-drawn vehicle stand or upon the streets of the City.

Section Sixteen. Refusal to carry orderly passengers prohibited:

No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable.

Section Seventeen. Prohibitions of solicitation:

It shall be unlawful for any driver of a horse-drawn vehicle to solicit business for any hotel or other business, or to attempt to divert patronage from one hotel or business to another, or use his vehicle for any purpose other than the transportation of passengers.

Section Eighteen. Horse-drawn vehicle movement activities prohibited under certain circumstances:

No driver shall collect fares, make change, or take on or discharge passengers while his horse-drawn vehicle is in motion.

Section Nineteen. Property left in horse-drawn vehicle by passenger:

Any horse-drawn vehicle driver or operator discovering in any horse-drawn vehicle under his control, personal property which is lost or left therein by a passenger of such horse-drawn vehicle, shall report the loss, and deliver all the property to the office of the horse-drawn vehicle company at close of shift. The driver's report shall include brief particulars to enable the company to identify the owner of the property. The company shall retain the property on behalf of the owner for at least 60 days.

Section Twenty. Safety equipment required:

Each horse-drawn vehicle shall be equipped with electrically powered lights or lanterns and reflectors, which lights shall be in use when operating during the hours of darkness and when raining. The lights and reflectors shall be mounted so that they are visible from a distance of 500 feet in any direction. Each horse-drawn vehicle shall have on board at all times a four-pound all-purpose extinguisher and a first aid kit. Reflective devices are to be worn by the horse.

Section Twenty-One. Hours of operation:

No horse-drawn vehicle shall be operated on the City streets between the hours of 12:00 midnight and 8:30am on any day.

Section Twenty-Two. Sanitation requirements:

Manure and urine must be immediately treated with a chemical deodorizing solution, and the vehicle company must remove manure immediately from the street. Horse diapers, or other devices that prevent excrement from being deposited on the street surface must be used at all times and disposed of properly.

Section Twenty-Three. Traffic Violations:

- a) Horse-drawn vehicles shall be prohibited from stopping on any street for the purpose of loading or unloading passengers during the course of a tour, except when stopping to allow other vehicles to

pass or pedestrian to cross unless directed to stop by a police officer or City Official.

- b) Every person riding any animal upon a roadway and every person driving any animal drawn vehicle within the City limits of the City of Dahlonega shall be subject to the provisions of the article and shall operate the vehicles in accordance with the traffic laws of the City of Dahlonega.
- c) Due to the nature of operating animal drawn vehicles in areas of congestion and heavy traffic within the City, it shall be unlawful to operate the animal drawn vehicles except when the animals are under complete control at all times and shall be operated with extra caution and due care for the safety of others.

#### Section Twenty-Four. Impediment of traffic flow:

It shall be unlawful for any horse-drawn vehicle to willfully impede the normal flow of traffic on any city street, alley, or thoroughfare, at any time. *The routes of the horse-drawn vehicles of the Company Permittee must be approved by the City Council. No deviations from the approved routes shall be permitted.* Horse-drawn vehicles will be required to pull immediately to the nearest curb area when one or more vehicles are unable to safely pass or continue in normal traffic flow.

#### Section Twenty-Five. Administrative hearing and appeal:

- a) Administration. This article shall be administered by the City Marshall, who shall have authority to restrict access to designated vehicle tour stands to a horse-drawn vehicle tour company for violation of this Horse-Drawn Vehicle Ordinance or State law. The City Marshall shall have authority to deny access to designated vehicle stands for a period of up to six months for violation of the Horse-Drawn Vehicle Ordinance or State law relating to vehicle companies. The City Marshall will promptly notify the horse-drawn vehicle tour company owner in writing of such action, in which case the horse-drawn vehicle tour company owner shall have the immediate right to appeal in accordance with the following Paragraph (b) of this Section.

If a horse-drawn vehicle tour company is denied access to designated vehicle stands three times within any three-year period, and if each appealed removal is upheld, the fourth such removal within said three year period shall be for a period of one year.

- b) Administrative hearing and appeal. Any decision of the City Marshall to deny a horse-drawn vehicle tour company access to designated vehicle stands may be immediately appealed, but within 10 days, by the horse-drawn vehicle tour company in writing to the City Manager. All other appeals may be made within thirty days of the decision of the City Marshall and must be made in writing to the City Manager.

The administrative hearing shall be informal and shall be presided over by the City Manager or his designee. The decision of the City Manager shall be provided to the horse drawn vehicle tour company in writing within 30 days of the hearing. Appeals from the decision of the City Manager may be taken on a de novo basis to the City Council by written notice of appeal filed with the City Clerk within ten days of the date of decision of the City Manager.

Section Twenty-Six. **Compliance** required.

Failure to comply with this article or any of the laws, ordinances and regulations of this City can result in revocation of permit and punishment in the Municipal Court as for a misdemeanor each [me not to exceed Five Hundred Dollars (\$500.00).

It is so ordained this 6<sup>th</sup> day of Jan, 2005.

Gary McCullough  
Mayor

Attest: Janet J. J. J.