



Chief
Gary Britt

KILL DEVIL HILLS POLICE DEPARTMENT

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Memorandum

Date: April 24, 2024
To: Debora P. Díaz, Town Manager
From: Dana Harris, Assistant Chief of Police *LEX*
Re: Addition to Consolidated Fee Schedule

Fingerprint submissions to the North Carolina State Bureau of Investigation and Federal Bureau of Investigation (SBI/FBI) for the Taxicab Driver Criminal History Checks are now required to be submitted electronically. The fee required by the SBI/FBI to process the paperwork for every background check will be charged to the Town's Police Department. To address this cost, the Police Department requests that the Town require the applicant to pay the SBI/FBI fee before doing their fingerprinting, and include the cost as part of the initial Taxicab application fee.

We request that the consolidated fee schedule include:

1. \$45.00 for the required SBI/FBI fee and processing
 - a. This fee is for the initial taxicab driver's fingerprint check and the expired/suspended permits being reissued that may require SBI/FBI Criminal History Checks.

**AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,
CHAPTER 115, TAXICABS**

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 115, Taxicabs, of the Kill Devil Hills Town Code, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

TAXICABS

§ 115.01 DEFINITIONS.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF OF POLICE OR ~~HIS~~ DESIGNEE. The Kill Devil Hills Chief of Police or someone from ~~his office~~ the Police Department with proper authority, acting for and in behalf of the Chief.

§ 115.04 INSURANCE REQUIRED.

For each taxicab, liability and property damage insurance shall be in effect for each taxicab or other such vehicle for hire a policy or policies of insurance as required by G.S. § 20-280, as amended. Such policy or policies shall be filed with the Chief of Police or ~~his~~ designee as a condition precedent to the operation of any such vehicle over the streets of the town. Each insurance policy or policies shall, among other things, set forth a description of each and every taxicab operated under the terms of such policy or policies, including the make, model and vehicle identification number of each and every such taxicab. The owner of a taxicab company with an insurance policy as required herein shall provide the Chief of Police or ~~his~~ designee with a certificate of insurance confirming coverage of the items listed in this section and shall not allow

such coverage to lapse. Notice of cancellation of this insurance coverage shall be provided to the Chief of Police or his designee by the insurance carrier five days prior to any cancellation of the policy or policies.

§ 115.05 OWNER INFORMATION FILE.

Every taxicab company owner~~s~~ shall maintain on file with the Chief of Police or his designee his their name, fixed business address from which all taxicabs will be dispatched, all business telephone numbers listed in his their name, the names of all drivers, their valid drivers' license numbers and addresses and shall, 48 hours after any change in connection therewith, report such change or changes to the Chief of Police or his designee in writing. The Chief of Police or his designee shall report, on a quarterly basis, to the Board of Commissioners the average number of taxis in operation for any given taxicab company during the preceding quarter.

§ 115.06 FILING DESCRIPTION.

(A) Every owner~~s~~ shall keep a description of his their current equipment at all times on file with the Chief of Police or his designee, showing the make, model, the motor number and vehicle identification number, cab fleet number, and the state license number of each taxicab for which they holds a permit.

(B) Substitute vehicles must be filed with the Chief of Police or his designee in accordance with this section.

§ 115.08 PASSENGER SAFETY REGULATIONS.

Compliance with motor vehicle safety requirements contained in the North Carolina General Statutes, including, but not limited to, G.S. § 20-137.1 and G.S. § 20-135.2(a), shall be verified by the owner to the Chief of Police or his designee prior to the issuance of any permit.

CERTIFICATE OF TAXICAB COMPANY OPERATION

§ 115.20 REQUIRED; APPLICATION GENERALLY.

(A) Required. No person shall engage in the business of operating a taxicab within the town, or between the town and unincorporated places within the County of Dare, whose fares originate in Dare County, without having a valid certificate of taxicab company operation, hereinafter in this chapter referred to as a "certificate," issued to them by the Board of Commissioners.

(B) Application. Each application for a certificate shall be on a form prescribed by the ~~the~~ Town and shall set forth all information required by the Board of Commissioners to determine whether or not the certificate applied for should be issued. Each such application shall be verified by the applicant and shall be filed with the Chief of Police or his designee.

(C) Application fee. There is hereby established a charge which shall be in an amount set out in the ~~the~~ Town's consolidated fee schedule and on file in the office of the Town Clerk, and amended from time to time by the Board of Commissioners, for each application for a certificate of operation which is for the purpose of helping to defray the expenses involved in checking the application and for services rendered by Town personnel. This charge shall be in addition to and not in lieu of any license tax or other charge imposed by the code and shall not be refundable.

§ 115.21 BOARD OF COMMISSIONERS REVIEW OF APPLICATION; PUBLIC HEARING.

Each application for a certificate shall be scheduled for review by the Board of Commissioners and a public hearing, if the Board determines that such hearing is necessary. Such review shall be conducted at the next regular meeting of the Board of Commissioners, subject to meeting agenda preparation constraints, after such application is filed with the Chief of Police or his designee. The applicant shall be notified by the Town Clerk by mail, at the business address set forth in the application, of the date and time of such meeting; such notification to be mailed or delivered at least seven days before the date set for the meeting.

§ 115.22 INVESTIGATION OF APPLICATION FOR CERTIFICATE.

Before any application for certificate is presented to the Board of Commissioners, the Chief of Police or his designee shall investigate all facts and conditions that may relate to the permit application and shall cause to be made a full and complete report of these findings to the Board of Commissioners, including conformance with local, state and federal ordinances and regulations.

§ 115.23 FACTORS BEARING UPON ISSUANCE OR DENIAL OF CERTIFICATE.

In determining whether to grant a certificate under this chapter, the Board of Commissioners shall, among other things, take into consideration the following factors:

- (A) The number and condition of vehicles;
- (B) The number of taxicabs to be operated;
- (C) Such other relative facts as may be deemed necessary and advisable, which shall include a history of past violations of local, state or federal regulations [based on a criminal record check that will be processed utilizing the Division of Criminal Information \(DCI\) Network.](#)

§ 115.25 REVOCATION OF CERTIFICATES.

(A) The Board of Commissioners may at any time, during open meeting, revoke any certificate issued by authority of this subchapter for any one or more of the following causes:

(1) Failure to operate a taxicab specified in the certificate in such a manner as to serve the public adequately and efficiently;

(2) Failure to pay the full amount of the tax imposed upon each taxicab when due;

(3) Repeated and persistent violation, by the taxicab drivers employed by the holder of the certificate, of the state law or provisions of this code;

(4) Failure to report accidents;

(5) Willful failure to comply with any provision of the state law or this code or other ordinance of the town relating to the operation of taxicabs.

(B) No certificate shall be revoked for violating any one or more of the provisions listed above until the owner has had at least five days' notice by personal service or certified mail of the charges ~~against him~~ and of the time and place of the meeting. If, after the meeting, it is found that the owner is in violation of or has violated one or more of the provisions listed herein, the Board of Commissioners shall have the power to revoke the certificate or to condition a revocation upon compliance of its order within any time fixed by it.

§ 115.26 ANNUAL LICENSE TAX IMPOSED; VALIDITY OF CERTIFICATE CONTINGENT UPON, PAYMENT OF TAX.

There is hereby imposed upon each holder of a certificate an annual tax for each vehicle authorized by such certificate to be operated as a taxicab. This tax shall be due and payable at the same time and in the same manner as business license taxes. No new certificate shall become valid

until the tax imposed by this section has been paid and the validity of each certificate at any time shall be contingent upon payment, for the current license year, of the annual tax imposed by this code. (See G.S. § 20-97)

§ 115.27 EFFECT OF FAILURE TO BEGIN OPERATIONS WITHIN 30 DAYS FROM GRANT OF CERTIFICATE.

If a certificate is granted to an applicant under this subchapter and such applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 30 days after the date of the certificate, then the certificate shall become null and void, provided that this provision may be waived by the Board of Commissioners on good cause being shown.

DRIVERS

§ 115.40 PERMIT REQUIRED.

No person shall drive any taxicab carrying passengers for hire in Kill Devil Hills without having a valid taxicab driver permit, hereinafter in this subchapter referred to as a "permit," issued to [the driver](#) ~~him~~ by the Chief of Police or ~~his~~ designee.

§ 115.41 APPLICATION FOR PERMIT.

[In Accordance with NCGS 160A-304:](#)

(A) Contents, verification and filing. Each application for a permit shall be on a form prescribed by the town and shall contain the applicant's name, address, photograph, age, weight, height, race, color of hair and eyes, fingerprints, prospective employer, previous employer, number of ~~his~~ [their](#) valid driver's license and such other information as may be required to determine whether or not

the permit applied for should be issued. Each application shall be verified by the applicant and shall be filed with the Chief of Police or his designee.

(B) Fingerprints and photograph.

(1) Upon filing of an application for a permit, the applicant shall avail himself to the Chief of Police or his designee for the taking of fingerprints. Two 3½-inch by 5-inch current color photographs of the applicant's upper torso (head and shoulders) shall accompany the application for a permit and in no case shall an application be processed without these photographs.

(2) ~~A certified check made payable to the North Carolina Department of Justice~~ payment to the Town of Kill Devil Hills in an amount equal to the fees charged by the State Bureau of Investigation (SBI) and Federal Bureau of Investigation (FBI) for fingerprint investigations shall accompany each application. These fees are nonrefundable.

(3) In the event that an applicant for a taxicab driver's permit in the town of Kill Devil Hills is currently licensed for taxicab operation in another local municipality and further in the event that the licensing requirements in that municipality are similar to Kill Devil Hills' needs, then duplication of fingerprint investigation will not be necessary. ~~The a~~Applicants shall request the municipality in which ~~he is~~ they are licensed to forward by confidential mail a certified, true copy of ~~his or her~~ their fingerprint investigations to the Kill Devil Hills Chief of Police or his designee. The applicant shall be responsible for any fees charged by the licensing municipality for these copies.

(4) The fingerprints and photographs shall constitute a part of such application.

(5) A background check will be processed utilizing the Division of Criminal Information (DCI) Network by the Chief of Police or designee. This records check will ensure that the applicant is in compliance with §115.23-24.

(C) Application fee. There is hereby established a nonrefundable charge in accordance with the town's current fee schedule for each application for a permit, which is for the purpose of helping to defray the expenses involved in checking the application and services rendered by ~~the~~ Town personnel.

(D) False statements. Any false statement of material fact made in an application for a permit shall invalidate the permit issued thereon and such permit shall be immediately revoked by the Chief of Police or ~~his~~ designee.

§ 115.42 INVESTIGATION BY CHIEF OF POLICE.

The Chief of Police, or ~~his~~ designee, shall investigate to ~~his~~ their satisfaction the facts stated in each application for a permit, including checking the state and federal repositories for criminal history plus records. There shall be no re-dissemination of records to noncriminal justice agencies. (Ord. 93-14, passed 12-13-93)

§ 115.43 ISSUANCE OF PERMIT.

If the Chief of Police or ~~his~~ designee finds that an applicant for a permit has not been convicted of any crime involving any felony or misdemeanor drug violations in the last 24 months, prostitution and related offenses, or similar crimes involving moral turpitude, and whose submitted application is in compliance with the provisions and conditions of this chapter, the Chief of Police shall issue a permit to the applicant.

§ 115.44 A DRIVER'S PERMIT AND LICENSE TO BE DISPLAYED AT ALL TIMES.

Each driver's permit issued by the Kill Devil Hills Chief of Police or ~~his~~ designee in accordance with the provisions of this chapter, along with the driver's valid driver's license, shall at all times be prominently posted and displayed in the taxicab ~~he~~ [the driver](#) is currently operating so as to be visible to the passengers therein.

§ 115.45 ANNUAL RENEWAL OF PERMITS.

Taxicab driver permits shall expire annually. Each person who has been issued a permit which is in effect shall present such permit to the Chief of Police, or ~~his~~ designee, within 30 days preceding the expiration date printed on the permit for the purpose of having it renewed. All permits which are not presented for renewal in accordance with this section shall become null and void on the day following the permit's expiration date.

§ 115.46 REVOCATION.

The permit shall be effective for the period specified on the permit, contingent on the applicant's record remaining clear of any criminal conviction of any felony or misdemeanor drug convictions in the last 24 months, prostitution and related offenses, or similar crimes involving moral turpitude, or any felony, or the revocation of valid driver's license of the applicant. At any time it is found that the applicant has been convicted of any of the above, the permit shall be immediately revoked by the Chief of Police or ~~his~~ designee. Upon any second revocation, such revocation shall be deemed permanent. [Any initial or subsequent revocation shall be considered a violation under Chapter 10, GENERAL PROVISIONS, specifically §10.18.](#)

§ 115.47 APPEALS.

Decisions rendered by the Chief of Police or his designee regarding issuance or revocation of a taxicab driver's permit as provided in this subchapter may be appealed through the process described in §10.21 Appeal of Violations. ~~directly to the Board of Commissioners at their next regular meeting subject to meeting agenda constraints.~~

§ 115.99 PENALTY.

(A) Compliance. All taxicab companies must apply for and maintain a valid Kill Devil Hills business license, and ~~for which a valid 1993/94 fiscal year Kill Devil Hills privilege license was issued on or before the date of adoption of this chapter by the tax collector shall come into compliance with the provisions of this chapter by June 1, 1994. All other taxicab companies that may petition the tax collector for a license to conduct business in Kill Devil Hills after the date of adoption of this chapter shall meet the requirements of this chapter before such license shall be issued.~~

(B) Enforcement. Violations of this chapter shall be punishable as a misdemeanor offense under G.S. § 14-4 and § 10.99 of the Kill Devil Hills code of ordinances.

This amendment to Chapter 115, Taxicabs, shall be in full force and effect from and after the ____ day of ____, 2024. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of ____, 2024, by a vote of ____ in favor and ____ opposed.

SEAL

John Windley
Mayor

ATTEST:

James Michael O'Dell
Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 115, TAXICABS, was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2024, at _____ .m.

James Michael O'Dell
Town Clerk