



Office of the City Manager

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CONSENT CALENDAR

January 29, 2013

To: Honorable Mayor and Members of the City Council
From:  Christine Daniel, City Manager
Submitted by: Zach Cowan, City Attorney
Subject: Cleanup Amendment to Taxi Ordinance (BMC Chapter 9.52)

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 9.52.050.B.1.f to correct an inadvertent omission.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None.

CURRENT SITUATION AND ITS EFFECTS

Amendments to the Taxi Ordinance in 2007 inadvertently omitted the word “not” from a provision establishing standards for renewal of drivers’ permits. This omission changed the meaning of the provision, such that a literal reading of the ordinance would allow the City to renew a driver’s permit only if it determines that a driver *has* violated the ordinance. This creates, at a minimum, an ambiguity that needs prompt resolution.

BACKGROUND

The City has for many years licensed taxi business owners, operators and vehicles. This regulatory scheme protects the public safety and welfare, as well as benefits the taxi industry itself.

In 2007 the Council adopted a number of amendments to give the City the authority to refuse renewal of permits for applicants who had violated the Taxi Ordinance. One of those amendments was intended to allow the City to grant a driver’s permit only if the City determined that the applicant had *not* violated the Taxi Ordinance three or more times within the last three years. Unfortunately, the word “not” was inadvertently omitted from the ordinance as adopted.

RATIONALE FOR RECOMMENDATION

See preceding discussion.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Zach Cowan, City Attorney, 981-6998

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 9.52 REGARDING TAXICABS
AND AUTOMOBILES FOR HIRE; SECTION 9.52.050.B.1

BE IT ORDAINED by the City Council of the City of Berkeley as follows:

Section 1. That Section 9.52.050B.1 of the Berkeley Municipal Code, is amended added to read as follows:

B. Disposition of Driver's Permit--Conditions.

1. Such driver's permit may be granted only if the City determines that the applicant:

- a. Has submitted a complete application;
 - b. Has submitted satisfactory proof that he or she will comply with the provisions of this Chapter and has completed the Taxi Owner Driver Training;
 - c. Has maintained and possesses a valid California driver's license;
 - d. Has not operated a vehicle in violation of Section 9.52.070 or 9.52.080 three (3) or more times in the past three years;
 - e. Has not made any omission or untrue statement, or has provided fraudulent documentation with the application;
 - f. Has not violated this chapter three or more times within the last three years;
- or
- g. Is not otherwise subject to suspension or revocation under Section 9.52.150 or 9.52.160.

Section 2. Posting.

Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.