

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COPPELL, TEXAS AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 6 ‘BUSINESS REGULATIONS’, ARTICLE 6-17, “HORSE-DRAWN CARRIAGES”, IN ITS ENTIRETY, AND REPLACING IT WITH A NEW CHAPTER 6 ‘BUSINESS REGULATIONS’, ARTICLE 6-17, ‘HORSE-DRAWN CARRIAGES’; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Coppel finds it will benefit to amend and update the City’s Code of Ordinances; and

WHEREAS, the City of Coppel believes that as a result of new improvements that additional regulations are needed to improve safe use of horse-drawn carriages is in the best interests of the citizens and; and

WHEREAS, the City staff have made a comprehensive review and recommended changes which have been reviewed by City Council; and

WHEREAS, the City Manager or his designee is further authorized to adopt and enforce appropriate health, safety and welfare to ensure safe use of horse-drawn carriages and general welfare of the areas adjacent thereto.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF COPPELL, TEXAS:

SECTION 1. The City of Coppel Code of Ordinances, to repeal Chapter 6 ‘Business Regulations’, Article 6-17 – Horse-Drawn Carriages, in its entirety and replace with a new Chapter 6, ‘Business Regulations’, Article 6-17 ‘Horse Drawn Carriages’, to hereinafter read as follows:

“CHAPTER 6 – BUSINESS REGULATIONS

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ARTICLE 6-17 – HORSE DRAWN CARRIAGES

Sec. 6-17-1 Permit Requirement

- (a) A person may not operate a horse drawn carriage for hire or transport a passenger by horse drawn carriage upon any public street within the city without a permit granted under this article, nor may a person transport for hire a passenger upon a public street within the city by horse drawn carriage unless the person driving the carriage or another

who employs or contracts with the driver has been granted operating authority under this article.

- (b) A person shall not engage or hire a horse drawn carriage to transport him within the city, using the public streets, which he knows does not have operating authority from the city.
- (c) Permit holders, company employees, contractors and drivers are responsible for complying with all rules and regulations of the City Coppell, any State of Texas Laws or Federal Laws, to include all traffic laws that relate to the operation of a Horse-Drawn Carriage.

Sec. 6-17-2 Permit Application

- (a) Upon receipt of an application for permit under this article, the chief of police shall conduct an investigation and make findings of fact concerning public convenience and necessity and other relevant factors, including but not limited to:
 - (1) The financial responsibility of the applicant;
 - (2) The character, experience and responsibility of applicant;
 - (3) The number, kind, age, and type of equipment and the color scheme to be used by the applicant;
 - (4) The probable effect of the service on local traffic conditions.
- (b) The applicant for a permit has the burden of proving that the proposed horse drawn carriage service is appropriate for the proposed service area and will not interfere with traffic and public convenience; and, that the applicant is qualified and financially able to provide the service proposed in the application.
- (c) Within a reasonable time following the date of application, the chief of police shall report in writing his findings of fact and recommendation to the Parks and Recreation department. The Parks and Recreation department shall then consider whether a permit should be granted as prescribed by this article. The City shall have the discretion to determine how many services may operate within the City, and how many carriages each service shall be allowed to operate.
- (d) If the City determines that a permit shall be granted, that permit shall be in force and in effect for a specified term, not to exceed and/or must coincide with a community or special event, unless sooner termination by reason of default due to a suspension or revocation as provided for under the requirements of this article.
- (e) Before a permit is granted, a person shall make application to the City in the manner prescribed by this section. The applicant must be the person who will own, control, or

operate the proposed horse drawn carriage service. An applicant shall file with the City a written, verified application statement containing the following:

- (1) The form of business of the applicant; if the business is a corporation or association, a copy of the documents establishing the business and the name, address, social security number, date of birth, and citizenship of each person with a direct interest in the business;
 - (2) Name, address, and signature of the applicant;
 - (3) Documentary evidence from an insurance company, authorized to do business in the state indicating a willingness to provide liability insurance required by this article, and as part of said insurance provide a waiver of subrogation in favor of the city. General liability insurance with the minimum amounts of \$1,000,000 Bodily Injury Liability and \$1,000,000 Property Damage Liability while naming the City of Coppel as an additional insured to protect against potential claims arising out of the applicant's use of the City's property and facilities.
 - (4) Such additional information as the applicant desires to include to aid in the determination whether the requested operating authority shall be granted; and
 - (5) Such additional information as the City considers necessary to assist or promote the implementation or enforcement of this article for the protection of the public's safety including, but not limited to a valid Texas driver's license, Texas Indemnification Code, or other form of government issue identification.
- (f) Granting of a permit to a horse drawn carriage service applicant is in the discretion of the City, but will not be granted unless:
- (1) The proposed horse drawn carriage service will not be detrimental to the public convenience and traffic safety;
 - (2) The applicant is willing and able to operate the horse drawn carriage service in accordance with the requirements of this article, rules and regulations of the chief of police, provisions of the permit, and other applicable law; and
 - (3) The applicant has paid the permit fee established by resolution of the City Council.

Sec. 6-17-3 Amendment/Suspension/Revocation/Reinstatement

- (a) *Amendment.* A horse drawn carriage service permit is amendable under the conditions and in the manner prescribed by this article. A permit is amendable at any time by the City of Coppel.

(b) *Suspension and revocation of permit.* The following regulations apply to the suspension or revocation of a permit:

- (1) The city manager or his designee may suspend or revoke a permit if it determines that the holder has:
 - a. Failed to comply with a directive issued to the holder by the chief of police, within the time specified in the order;
 - b. Intentionally or knowingly impeded the department or other law enforcement agency in the performance of its duty or execution of its authority;
 - c. Failed to comply with any provision of this article;
 - d. Had a final conviction for violation of another city, state, or federal law, which violation reflects unfavorably on the fitness of the holder to perform a public transportation service;
 - e. Substantially breached the terms of the permit;
 - f. Failed to pay city ad valorem taxes on any property of the holder used directly or indirectly in connection with the horse drawn carriage service; or
 - g. Failed to pay a permit fee at the time it was due.
- (2) A suspension of a permit does not affect the expiration date of the permit.

(c) *Reinstatement.* A holder whose permit has been suspended or revoked may appeal such suspension or revocation to the city manager or his designated representative if, within ten (10) business days of receipt of notification suspension or revocation, the holder files a written appeal requesting reinstatement of the permit. Such appeal must include reasons why the permit should be reinstated. The chief of police shall inspect the operation of the suspended holder to determine if the violation or deficiency causing the suspension or revocation has been corrected by the holder. The finding of such inspection shall be reported to the city manager or his designated representative by the chief of police and the chief of police shall submit his recommendation together with supportive facts to the city manager or his designated representative.

Upon receipt of all pertinent information the city manager or his designated representative shall set the time and place of the hearing and act as the hearing officer. The hearing officer shall give the holder and the chief of police an opportunity to be heard and to present evidence and argument. At his discretion, the hearing officer may hear evidence from other interested parties. Formal rules of evidence shall not apply and the hearing officer shall make his ruling on the basis of preponderance of the evidence presented to him at the hearing. If the evidence shows that correction has been affected by the holder, unless good cause is exhibited to deny reinstatement, the hearing officer

shall reinstate the permit. Good cause shall include but not be limited to a finding of multiple and repetitive failures or violations or a finding that the holder has a final conviction of city, state, or federal law, which conviction reflects unfavorably on the fitness of the holder to perform a public transportation service. The decision of the hearing officer shall be final.

Sec. 6-17-4 Permit Fee

The horse drawn carriage service shall pay a permit fee to the city of two hundred and fifty dollars (\$250.00) per carriage, established by resolution. The permit fee is payable after the police department has approved each carriage that will be in operation.

Sec. 6-17-5 Refusal to Convey Passengers

While operating a horse drawn carriage service, a driver shall not refuse to convey a person based on race, ethnicity, religious, gender or age unless:

- (1) The person is disorderly;
- (2) The driver is engaged in answering a previous request for service;
- (3) The driver has reason to believe that the person is engaged in unlawful conduct; or
- (4) The driver is in fear of his personal safety, or the safety of others.

Sec. 6-17-6 Passenger Limitations

- (a) While operating a horse drawn carriage service a driver on duty may carry only a person who is a paying passenger, unless the passenger is an employee of the permit holder that employs or contracts with the driver, a governmental inspector acting in an official capacity, or unless it is authorized by the holder's operating authority.
- (b) A driver may not carry at the same time more passengers than the designed seating capacity of the horse drawn carriage.
- (c) The chief of police may establish rules governing passenger limitations.

Sec. 6-17-7 Routes and Staging Area

- (a) Horse drawn carriage operations will be allowed only on those routes specifically authorized by the Police Department.
- (b) A staging area location must be identified and written permission obtained from the property owner.

Sec. 6-17-8 Conduct of Drivers

While on duty, a driver shall:

- (a) Be courteous at all times;
- (b) Maintain a sanitary and well-groomed appearance;
- (c) Not consume or be under the influence of alcoholic beverages, drugs, or other substance which could adversely affect his ability to drive a horse drawn carriage;
- (d) Not permit or allow any person on the back of a horse under said driver's control;
- (e) Not leave a horse unattended except when securely confined to a stable or other enclosure;
- (f) Not permit a horse drawn carriage to be parked without first effectively setting the brake equipment thereon;
- (g) Not permit or allow excrement to drop from a horse's sanitary device;
- (h) Operate the horses and horse drawn carriage at a safe speed and in a prudent manner, and in no event, permit a horse or horses to gallop;
- (i) Keep all routes and carriage stands clean and free of animal excrement;
- (j) Upon request at any reasonable time and without prior notice, make a horse available for inspection by the city manager, any officer of the police department and/or any veterinarian employed with or contracted by the city;
- (k) Not interfere with the chief of police in the performance of his duties.

Sec. 6-17-9 Return of Passenger Property

- (a) Upon finding property in a horse drawn carriage left by a passenger, the driver shall immediately return the property to the owner. However, if the driver is unable to locate the owner or if the driver does not know the identity or whereabouts of the owner, the driver shall, within a reasonable time, deliver the property to the holder who employs or contracts with the driver.
- (b) Upon return of property to the owner or delivery of property to the holder, the driver shall prepare a written report stating the description of the property, the identity of the owner if known, the date the property was left in the horse drawn carriage, the circumstances relating to the loss, and the horse drawn carriage number. The holder shall keep the report on file for at least one (1) year and shall hold the property for not less than three (3) months.

Sec. 6-17-10 Hours of Operation

- (a) A driver may operate a horse drawn carriage only during hours approved by the City, and must coincide with an approved event. Approval of dates and times of operation is solely at the discretion of the City.
- (b) Notwithstanding the provisions of subsection (a), all carriage operations shall be suspended whenever the ambient weather temperature is at or exceeds ninety-nine (99) degrees.

Sec. 6-17-11 Operational Limits

The City may deny a permit if it includes or crosses any of the following.

- (a) On any part of State Highway 121;
- (b) Interstate Highway 635 (I-635);
- (c) East Belt Line Road in its entirety;
- (d) South Belt Line Road in its entirety;
- (e) Denton Tap Road in its entirety;
- (f) Sandy Lake Road in its entirety;
- (g) MacArthur Boulevard in its entirety;
- (h) Bethel Road in its entirety;
- (i) Coppell Road (North and South) except between Houston Street and Burns Street
- (j) On any city street between the hours of 7:00 a.m. and 9:30 a.m. daily or between 4:00 p.m. and 6:30 p.m., Monday through Friday.

Sec. 6-17-12 Carriage Requirements and Inspections

- (a) A holder or driver shall at all times keep each horse drawn carriage clean and free of refuse and in safe operating condition.
- (b) A horse drawn carriage must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of a horse drawn carriage and all springs, axles, and supporting structures of each horse drawn carriage must be intact.

- (c) A horse drawn carriage must be consistent with the description and type outlined in the original application of holder.
- (d) The chief of police or his designee may inspect each horse drawn carriage, for compliance with this article and regulations of the chief of police, and a holder, owner, or driver shall make a horse drawn carriage available for inspection when ordered by the chief of police, and be subject to all inspection provisions set forth herein.
- (e) Chief of police inspects:
 - (1) The chief of police or designee shall inspect each horse-drawn carriage, for compliance with this article and regulations of the chief of police, before it is placed in service and at other times determined necessary by the chief of police.
 - (2) A holder, owner, or driver shall make a horse drawn carriage available for inspection when ordered by the chief of police.
 - (3) If a holder, owner, or driver fails to make a horse drawn carriage available for inspection or if the chief of police determines that a horse drawn carriage is not in compliance with this article or regulations of the chief of police, the chief of police may order the horse drawn carriage removed from service until it is made available for inspection and brought into compliance.
 - (4) If the chief of police determines that inspection of the mechanical condition or safety equipment of a horse drawn carriage by an expert mechanic or technician is necessary, the holder, owner, or driver shall pay the cost of the inspection.
 - (5) Before any horse drawn carriage will be approved for service, the chief of police shall be provided with proof of ownership of the horse drawn carriage.

Sec. 6-17-13 Required Equipment and Distinctive Marking

Horse-drawn carriages and equipment:

- (1) Shall comply with the provisions of Texas Transportation Code, Sections §542.003, §547.371 and §547.326, and all other applicable federal and state laws;
- (2) Be equipped with an approved braking system in good operating condition;
- (3) Be equipped with a "Slow Moving Vehicle" sign attached to the rear of the horse drawn carriage; the emblem shall be a thirteen and three-fourths (13 3/4) inch fluorescent orange triangle with a one and five-eighths (1 5/8) inch red reflective border, giving a total width of sixteen (16) inches by fourteen (14) inches in height. The emblem shall meet the current standards adopted by the "American Society of Agricultural Engineers," shall be visible in daylight or at night when illuminated by the lower beams of headlamps for a distance of not less than five hundred (500) feet, and shall be mounted base down on the

rear of the carriage not less than three (3) feet nor more than five (5) feet from the ground as measured from the base of the emblem. No decorative trim or any part of the carriage shall cover or obscure any part of the emblem at any time.

- (4) Shall be marked with the company name and unit number conspicuously located on the rear of the horse drawn carriage in letters and numbers not less than two (2) inches in height.
- (5) Be equipped with at least one lamp that emits a white light visible at a distance of at least 1,000 feet from the front and that complies with Texas Transportation Code Section §547.326. If only one lamp is used, it shall be mounted as far to the left (looking forward) as possible.
- (6) Be equipped with at least one red lamp visible at a distance of at least 1,000 feet from the rear and mounted as far to the left of the center of the vehicle as practicable.
- (7) Be equipped with at least two red reflectors visible at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps.
- (8) Be equipped with hazard lamps as described in Texas Transportation Code Section §547.331, which shall be lighted and visible in normal sunlight at a distance of at least 1,000 feet from the front and rear
- (9) All lamps on horse-drawn carriages shall be in operation during the nighttime hours beginning no later than one-half (1/2) hour before sunset, or at any time when weather conditions cause visibility to be reduced from normal daytime visibility. The wiring for all lamps shall be mounted and maintained as to not be damaged by persons entering or exiting from the carriage.
- (10) Carriage wheels shall be firmly attached to the hub and shall not wobble excessively. All springs, axles and supporting structures shall be intact without any visible breaks or deflection greater than incurred by a normal load.
 - (a) Before any horse may be used in a horse drawn carriage service, the holder of a permit to operate the service must furnish the Parks and Recreation department with:
 - (1) A certificate of veterinary inspection identifying the horse by description or photograph and showing that the horse has been examined at least once within the preceding six (6) months by a veterinarian licensed by the State of Texas who specializes in equine medicine;
 - (2) Proof that the horse has had tetanus, rabies, and Eastern-Western encephalitis vaccinations; and
 - (3) Photographs showing identifying marks of the horse.

- (b) A horse used in a horse drawn carriage service must:
- (1) Be appropriately shod to work on paved streets; if a horse loses a shoe while working, an "eazy" type boot may be used to finish the scheduled work day.
 - (2) Not have any open wound, oozing sore, cut below the shin level, or bleeding wound;
 - (3) Not have evidence of lameness, such as but not limited to head bobbing or irregular rhythm;
 - (4) Be provided with appropriate and sufficient food at reasonable intervals and have access to and be provided with fresh, potable water as needed;
 - (5) Have at least a ten-minute rest period after each fifty (50) minutes worked;
 - (6) Not work longer than nine (9) hours in a twenty-four-hour period, nor more than five (5) shifts in any week;
 - (7) Have all harnesses properly fitted and in good repair with no deficiencies that could reasonably be deemed a safety hazard;
 - (8) Be properly cleaned with no offensive odors or caked dirt or mud;
 - (9) Wear a special sanitary device for containing animal excrement;
- (c) The chief of police or his designated representative may require the holder or driver of a horse drawn carriage to remove from service any horse that appears to be ill, overtired, undernourished, overloaded, injured, or lame or whose health or life, in the opinion of a veterinarian or qualified equine animal control officer, is in imminent danger. To reinstate a horse removed from service, the horse must be examined, and a new state certificate of veterinarian inspection issued for the horse by a veterinarian licensed by the State of Texas and specializing in equine medicine, which certificate must be submitted to the Parks and Recreation department.
- (d) A person commits an offense if he harasses or startles, or attempts to harass or startle any horse while the horse is pulling a carriage or at rest or otherwise treats a horse inhumanely while it is working in a horse drawn carriage service.
- (e) For the purposes of this section, a horse is considered to be working any time it is on a public street or sidewalk, or other public right-of-way or portion of a designated route during any hour of operation of the horse drawn carriage provisions.

Sec. 6-17-14 Offense

- (a) A person commits an offense if knowingly and willingly the person performs an act prohibited by this Chapter or fails to perform an act required by this ordinance.
- (b) An offense under this chapter is a Class “C” misdemeanor punishable by a fine not to exceed \$500.00.
- (c) Each act of violation and each day in which a violation is permitted to continue shall constitute a separate offense.

Sec. 6-17-15 No Culpable Mental State Required

- (a) Except as otherwise provided in this ordinance, proof of a culpable mental state is not required for a conviction of an offense under this ordinance.

Sec. 6-17-16 Other Remedies

- (a) The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled under any other law and the remedies provided herein are not exclusive.

SECTION 2. That all provisions of the ordinances of the City of Coppell in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Coppell not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Coppell, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.”

DULY PASSED by the City Council of the City of Coppell, Texas, on the _____
day of _____, 2017.

CITY OF COPPELL, TEXAS

KAREN SELBO HUNT, MAYOR

ATTEST:

CHRISTEL PETTINOS, CITY SECRETARY

APPROVED AS TO FORM:

ROBERT E. HAGER, CITY ATTORNEY