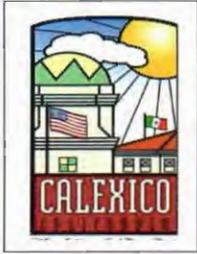


**AGENDA
ITEM**

6



AGENDA STAFF REPORT

DATE: September 18, 2019

TO: Mayor and City Council

APPROVED BY: David Dale, City Manager

PREPARED BY: David Dale, City Manager

SUBJECT: Second Reading and Adoption by Title Only of Ordinance No. 1203
- An Ordinance Amending in its Entirety Chapter 5.80 of the
Calexico Municipal Code Pertaining to Taxicabs

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Recommendation:

It is recommended that the City Council conduct second reading by title only and adopt the following Ordinance:

1. Ordinance No. 1203: An Ordinance of the City Council of the City of Calexico, California Amending in its Entirety Chapter 5.80 of the Calexico Municipal Code Pertaining to Taxicabs.

Background and Discussion:

Ordinance Nos. 1008, approved in 2003, and 1091, approved in 2009, govern taxicab operations within the City of Calexico.

On October 13, 2017, the California Governor signed Assembly Bill No. 1069, requiring every city to adopt an ordinance or resolution regarding taxicab transportation services and requires each city to provide for a policy for entry into the business of providing taxicab transportation service, the establishment or registration of rates for the provision of taxicab transportation service, and a mandatory controlled substance and alcohol testing certification program for drivers, as specified.

This bill, commencing January 1, 2019, limits the applicability of that ordinance or resolution adoption requirement and related provisions to a city, in which a taxicab company is substantially located, and the City, regardless of whether a taxicab company is substantially located in the city, requires permitted taxicab companies and drivers to comply with various additional specified requirements, including participation in the



Department of Motor Vehicles' pull-notice system, authorizes the issuance of inspection stickers or other inspection compliance devices to compliant taxicab companies and the issuance of photo permits to compliant taxi drivers, prohibits the placement of licensure, permitting, and certification requirements on taxicab companies or drivers that are not substantially located in their jurisdictions, prohibits taxicab companies and taxicab drivers from operating within a county without a permit from the county or at least one city within the county and authorizes a permitted taxicab company to provide prearranged trips anywhere within the county.

The proposed ordinance reflects the requirements of AB 1069 and subjects unpermitted taxicab "Raiteros" operation to a minimum fine of \$1,000 per violation. The ordinance also sets fines for other violations of the Chapter, including for passengers in unlicensed taxicabs ("Raiteros"), at \$100.00 for the first violation, \$200.00 for the second violation within one (1) year of the first violation; and \$500.000 for each additional violation within one (1) year of the second or preceding violation.

City Council at their regular meeting of September 4, 2019 conducted the first reading of the ordinance and approved the ordinance as presented.

Fiscal Impact:

Unknown at this time.

Coordinated With:

City Attorney.

Attachment(s):

1. Ordinance No. 1203: An Ordinance of the City Council of the City of Calexico, California Amending in its Entirety Chapter 5.80 of the Calexico Municipal Code Pertaining to Taxicabs.

ORDINANCE NO. 1203

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA AMENDING IN ITS ENTIRETY CHAPTER 5.80 OF THE CALEXICO MUNICIPAL CODE PERTAINING TO TAXICABS

WHEREAS, the City of Calexico, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Chapter 5.80 of the Calexico Municipal Code regulates the operation of taxicabs within the City; and

WHEREAS, Chapter 5.80 of the Calexico Municipal Code was last amended on June 2, 2009; and

WHEREAS, Sections 53075.5 through 53075.9 of the California Government Code set forth minimum regulations for taxicab companies and drivers, which local jurisdictions are required to adopt into their ordinances; and

WHEREAS, Sections 53075.5 through 53075.9 of the California Government Code were recently amended to define when a local taxicab permit may be required, as well as to place additional requirements on taxicab owners and operators; and

WHEREAS, this revised ordinance meets the updated requirements of state law; and

WHEREAS, the City has additionally reviewed its policies regarding taxicabs and has determined that changed conditions exist and that the changes set forth herein should be enacted.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this ordinance.

SECTION 2. Amendment of Chapter 5.80 of the Calexico Municipal Code. Chapter 5.80 of the Calexico Municipal Code is hereby amended in its entirety to read as follows:

“5.80.010 – Definitions.

Unless otherwise expressly stated, the following terms are, for the purpose of this Chapter, defined as follows:

- A. “*Chief of Police*” shall mean the elected Chief of the Calexico Police Department, or his or her duly authorized agents and representatives.
- B. “*City Manager*” shall mean the Calexico City Manager, or his or her duly authorized agents and representatives.

- C. *“Motor vehicle”* shall mean every motor vehicle used for public hire propelled by mechanically produced power and intended for use on public streets and highways, except streetcars, trains, and fixed-route public transit buses.
- D. *“Vehicle for hire”* shall mean a vehicle where a fare, fee, charge or other consideration is payable for the transportation service of the vehicle, whether paid or not.
- E. *“Taxicab”* shall mean a passenger carrying vehicle, designed for carrying not more than eight persons, excluding the driver, that is operated at a fixed area rate, or upon a waiting time basis, or both, and which vehicle issued for the transportation of passengers for hire over and along the public street, but not over a defined route, irrespective of whether the operations extend beyond the limits of the City, and in accordance with and under the direction of the person hiring such vehicle.
- F. *“Owner”* shall mean every person, firm, association or corporation who is registered with the Department of Motor Vehicles of the State of California (“DMV”) as the owner of a vehicle or vehicles used in the transportation of persons for compensation, or who has a legal right to possession of such vehicle(s) pursuant to a lease or rental agreement. The act or omission of any owner’s officer, agent, employee or independent contractor, or of any driver whose services are engaged by any of the above, is for all purposes the act or omission of the owner operating the for-hire transportation services regulated by this Chapter.
- G. *“Driver”* shall mean every individual who operates a taxicab or vehicle for hire, including (a) any “individual” who operates a “taxicab” or “vehicle for hire” for the financial benefit of the “owner” pursuant to an employer-employee relationship; (b) any individual “owner” who operates his or her vehicle(s) as a “taxicab” or “vehicle for hire” as part of his or her independent business; and (c) any individual who leases a “taxicab” and “taxicab permit” from another for the purpose of operating said vehicle as an independent contractor in furtherance of his or her own independent business.
- H. *“Substantially located taxicab company”* shall mean a taxicab company which meets either of the following conditions: (1) the taxicab company has its primary business address within the City’s jurisdiction or (2) the total number of prearranged and non-prearranged trips that originate within the City’s jurisdiction account for the largest share of the taxicab company’s total number of trips within each county where the taxicab company operated over the previous calendar year, as determined annually. Notwithstanding the foregoing, a taxicab company that had not previously operated a taxi operation within the City and initiates taxi operations after January 1, 2019 shall be considered a substantially located taxicab company if (1) in the first year of its operation, the taxicab company’s primary business address is within the City’s jurisdiction or (2) after the first year of its operation, the taxicab company satisfies either of the criteria enumerated above in this paragraph.
- I. *“Non-substantially located taxicab company”* shall mean a taxicab company which does not satisfy the criteria enumerated in subsection (H) of this section, above, for a substantially located taxicab company but is substantially located *and* permitted by another city within the county or by the county.
- J. *“Prearranged”* fare/trip shall mean a fare/trip originating through an online-enabled application, phone dispatch, or internet web-site.
- K. *“Taximeter”* shall mean any instrument or device approved for use under the applicable laws of the State of California, which mechanically or electronically calculates the charge

for the use of a taxicab. The taximeter registers such charge by means of figures, including dollars and cents, calculated by an initial charge and thereafter a charge for distance traveled and/or waiting time.

- L. *“Certificates of Public Convenience and Necessity”* shall mean certificates issued by the City based on a genuine need for additional public passenger vehicles for hire, as determined by the City Council, in order to serve promptly, adequately and efficiently the needs and convenience of the general public. The City Council may issue Certificates of Public Convenience and Necessity to qualified applicants specifying the number of taxicab permits authorized by each certificate to be leased or utilized by the certificate holder for the purpose of operating “taxicabs” or “vehicles for hire” in the City.
- M. *“Taxicab Permit”* shall mean a permit issued by the City pursuant to a Certificate of Public Convenience and Necessity authorizing the operation of one taxicab per permit within the City. The holders of said certificates may operate his or her own taxicab business and/or lease the taxicab permits to independent contractors who are licensed/permitted by the City to operate independent taxicab companies under the terms and conditions of this Chapter.
- N. *“Vehicle Certification”* shall mean a certification issued by the Chief of Police for any vehicle operated as a taxicab or vehicle for hire within the City’s jurisdiction. The Vehicle Certification warrants that the vehicle for which the certification has been issued has been inspected by an approved vehicle inspection station and is properly registered, licensed, permitted, insured, and equipped as a taxicab or vehicle for hire as mandated by the terms and conditions of this Chapter.
- O. *“Taxicab Driver’s License”* shall mean a license issued by the Chief of Police to a driver to operate a taxicab and/or vehicle for hire within the City’s jurisdiction. It is unlawful for a driver to operate a taxicab without a valid Taxicab Driver’s License where the taxicab is owned and/or operated by a substantially located taxicab company. With respect to taxicabs operated by a non-substantially located taxicab company, the driver thereof must be licensed by the city or county where the taxicab is permitted/licensed.
- P. *“Revocation”* shall mean the termination of privileges conferred under any permit or certificate issued under this Chapter and the relinquishment of a permit or certificate by the holder of said permit or certificate to the City Clerk. One year after a permit or certificate is revoked, but no sooner than that, an applicant may apply for another permit or certificate as enunciated in subsection (E) of Section 5.80.260.
- Q. *“Violation”* shall mean any breach or infringement of any provision of the California Vehicle Code and/or any breach or infringement of any provision of this Code that relates to taxicabs. Vehicles relating to the transportation of handicapped persons as regulated by Ordinance 4125-N.S., hearses, ambulances, interurban trains, motor or trolley buses are not included within these definitions.
- R. *“Suspension”* shall mean the temporary suspension of any permit or certificate issued under this Chapter for any specified period of time. Said suspension is to be imposed, and the length of the suspension set, by and at the discretion of the Chief of Police.

5.80.020 - Certificate of Public Conveniences and Necessity–Required.

- A. No owner of a substantially located taxicab company shall operate or permit the operation of a taxicab as a vehicle for hire within the City without possessing a valid

Taxicab Permit issued by the City for said taxicab pursuant to a Certificate of Public Convenience and Necessity as mandated by the provisions of this Chapter.

- B. A non-substantially located taxicab company, which is substantially located *and* permitted by another city within the county or by the county may operate within the City on a prearranged basis *only*, as defined in this Chapter. A non-substantially located taxicab company may pick up trips/fares originating through an online enabled application, phone dispatch, or an internet web site. A non-substantially located taxicab company is expressly forbidden, however, from using a taxi stand, picking up street hails, or otherwise operating on a non-prearranged basis.
- C. A taxicab being operated by a non-substantially located taxicab company must at all times display a valid inspection sticker that authorizes the taxicab to operate within the county.
- D. A Certificate of Public Convenience and Necessity issued by the City shall not be transferred, sold, exchanged, gifted, conveyed, and/or assigned, whether in whole or in part, without prior written approval or authorization by the City. Any actual or attempted transfer, sale, exchange, gift, conveyance, or assignment of a certificate without the City's prior written approval shall be null and void and shall result in the immediate and automatic revocation of the certificate and any and all Taxicab Permits associated therewith. Each Certificate of Public Convenience and Necessity shall designate a maximum number of Taxicab Permits issued by the City to the holder of the certificate. Said number cannot be exceeded without prior written approval by the City.
- E. The holder of a Certificate of Public Convenience and Necessity may engage in the business of leasing Taxicab Permits to third-party individuals to operate their own independent taxicab businesses subject to the guidelines and specifications mandated by this Chapter. A certificate holder may or may not engage in the business of operating "taxicabs" or "vehicles for hire" at his or her election. The certificate holder may lease one or more individual taxicab permits authorized by the Certificate of Public Convenience and Necessity at his or her election, provided that every lease incorporates and complies with all provisions of this Chapter, including, but not limited to, licensing, permitting, and vehicle inspection criteria.

5.80.030 – Certificate of Public Convenience and Necessity–Application.

All persons applying for a Certificate of Public Convenience and Necessity required by Section 5.80.020 shall file with the City a verified application on forms provided by the City that shall set forth:

- A. The name and address of the person making the application;
- B. Whether, at the time of making the application, the applicant is engaged in the business of operating taxicabs and/or vehicles for hire in the City, and, if so, the number of taxicabs and/or vehicles for hire owned and/or operated by the applicant;
- C. Whether at the time of the making the application, the applicant intends to lease all or some of the individual Taxicab Permits authorized under the Certificate of Public Convenience and Necessity to independent contractors to operate their own or leased vehicles as taxicabs for hire within the City's jurisdiction;
- D. The number of individual Taxicab Permits desired by the applicant;

- E. To the extent known to the applicant at the time of the application, the make, model, year of manufacture, and passenger seating capacity of any taxicabs to be operated pursuant to the certificate applied for;
- F. The designated color scheme to be assigned to the Taxicab Permits enumerated by the Certificate of Public Convenience and Necessity, including the number which will appear on the rear of the vehicle corresponding to a specific Taxicab Permit;
- G. An independent needs assessment report and findings to support the proposed application or, at the City's request, a contribution toward the preparation of a needs assessment report;
- H. Data verifying that the taxicab company is substantially located within the City, including the business address and trip data showing that the total number of prearranged and non-prearranged trips that originated within the City's jurisdiction accounted the largest share of the taxicab company's total number of trips in the county over the previous calendar year;
- I. The applicant's past experience with regard to taxicab service;
- J. Whether any license, permit, or certificate issued to the applicant has been denied, suspended, revoked, or non-renewed by any city or county and, if so, an explanation as to the circumstances of said denial, suspension, revocation, or non-renewal; and
- K. Whether the applicant has been convicted of any crime within the five years preceding the making of the application and, if so, the nature of said crimes.

5.80.040 – Certificate of Public Convenience and Necessity–Determination Hearing.

- A. *Setting.* Upon filing the fully completed application for the Certificate of Public Convenience and Necessity the City Clerk shall fix the time for a public hearing thereon before the City Council for the purpose of determining whether the public convenience and necessity require the proposed taxicab service.
- B. *Declaration by Resolution Required.* No certificate shall be granted until the City Council, after the hearing, declares by resolution that the public convenience and necessity require the proposed taxicab service.
- C. *Notice.* Notice of the time and place of the public hearing before the City Council shall be published once in a newspaper of general circulation in the City not more than ten (10) days nor less than three (3) days before the hearing. The cost of publication shall be at the expense of the applicant.

5.80.050 – Certificate of Public Convenience and Necessity–Determination Criteria.

In determining whether the public convenience and necessity require the taxicab service for which the application is made, the City shall investigate and consider:

- A. The demand of the public for additional taxicab service;
- B. The financial responsibility and experience of the applicant;
- C. The adequacy of the existing taxicab service;
- D. The number, make, and type of the equipment to be used;
- E. The intent of the applicant to lease Taxicab Permits to independent contractors and/or engage in the business of operating taxicabs for hire;

- F. The effect that additional taxicab service may have on traffic congestion and/or parking and whether it will result in a greater hazard to the public; and
- G. Whether applicant has violated the terms/conditions of this Chapter within five (5) years of the date of the application.

5.80.060 – Certificate of Public Convenience and Necessity–Issuance.

- A. *Declaration by Resolution.* If the City Council declares by resolution that the public convenience and necessity require additional taxicab service, a certificate to that effect shall be issued to the person entitled thereto.
- B. *Determination of Character and Number.* The City Council may at its discretion determine the character and number of Taxicab Permits to be granted as part of each certificate.
- C. *Compliance with the Chapter.* No certificate authorized under this Chapter shall be issued to any person who has not fully complied with all necessary requirements of this Chapter.
- D. *Proof of Insurance.* The holder of the Certificate of Public Convenience and Necessity shall be solely responsible for ensuring that the requisite automobile liability insurance is maintained for each vehicle operating under a Taxicab Permit issued pursuant to the Certificate of Public Convenience and Necessity., regardless of whether the holder leases an individual “taxicab permit” to an independent contractor for the purpose of operating his or her independent taxicab business or the holder engages in the operation of taxicabs for hire.

5.80.070 – Certificate of Public Convenience and Necessity–Cancellation for Discontinuance of Service.

If the service permitted under this Chapter is for any reason discontinued for a period of sixty (60) days or more, the certificate granted shall be automatically cancelled and shall be restored only in accordance with the provisions of Sections 5.80.020 through 5.80.110.

5.80.080 – Certificate of Public Convenience and Necessity–Revocation or Suspension.

- A. The Chief of Police may at any time suspend or revoke a Certificate of Public Convenience and Necessity for any of the following reasons:
 - 1. If an owner operating a taxicab pursuant to a Taxicab Permit authorized by the certificate fails to operate a taxicab in accordance with the provisions of this Chapter;
 - 2. If the owner operating a taxicab pursuant to a Taxicab Permit authorized by the certificate discontinues or suspends operations for a period of thirty-five (35) days or more without obtaining prior approval by the City, except where the taxicab is operated pursuant to a leased Taxicab Permit;
 - 3. If an owner or driver charges rates in excess of those set forth by the City Council;
 - 4. If an owner or driver receives three (3) or more violations of this Chapter within one (1) year;

5. If the holder of the Certificate of Public Convenience and Necessity fails to maintain a policy of insurance as mandated by this Chapter for any vehicle operating under a Taxicab Permit issued pursuant to the Certificate of Public Convenience and Necessity; or
 6. If the Chief of Police determines that the owner or driver operating a taxicab for hire under a specific Taxicab Permit is doing so in such a manner that it endangers the public health, safety, or welfare of the City.
- B. A suspension or revocation of a Certificate of Public Convenience and Necessity by the Chief of Police can only be appealed pursuant to Section 5.80.320.
- C. Any person whose certificate is revoked shall not be eligible to apply for another certificate for a period of one (1) year from the date of such revocation.

5.80.090 – Certificate of Public Convenience and Necessity–When Surrendering Required.

- A. All certificates that have been suspended or revoked by the Chief of Police resulting from a deficiency related to insurance coverage, or that, in the opinion of the Chief of Police, is necessary to protect the public health and safety, shall be effective immediately regardless of the appeal process, and said certificate shall be surrendered to the City Clerk, and the operation of all taxicabs covered by such certificate shall immediately cease and be unlawful.
- B. All certificates that have been suspended or revoked by the Chief of Police resulting from other deficiencies shall remain in effect pending the outcome of the appeal process as set forth in Section 5.80.320.

5.80.100 – Vehicle Certification.

- A. *Safe Operating Condition.* All taxicab companies shall maintain motor vehicles used in taxicab transportation services in a safe operating condition and in compliance with the California Vehicle Code.
- B. *Vehicle Certification Application.* Each taxicab operated by a substantially located taxicab company must have a valid Vehicle Certification issued by the Chief of Police as set forth herein, regardless of whether the vehicle is being operated pursuant to a Taxicab Permit leased by an independent operator or otherwise. The registered owner of the vehicle shall be responsible for applying for the Vehicle Certification, whether he or she is the holder of a Certificate of Public Convenience and Necessity or leases a Taxicab Permit from a third-party certificate holder for purposes of operating his or her own independent taxicab business. The application shall be in writing, signed by the registered owner of the vehicle, and shall set forth all the information required in the permit application form and accompanying documentation, including, but not limited to the following:
1. The applicant's name, home address and business address;
 2. Data verifying that the taxicab company is substantially located within the City to include the business address and the trip data showing that the total number of prearranged and non-prearranged trips that originated within the City's jurisdiction account for the largest share of the taxicab company's total number of trips over the previous calendar year;

3. The applicant's trade name and address;
4. Certificate holder's distinguishing color scheme and markings assigned by the City;
5. A copy of the state vehicle registration, license plate number, and corresponding vehicle identification number of the vehicle(s);
6. Make, model, year of manufacture, and passenger-seating capacity of the motor vehicle for which the application is being made;
7. Valid inspection certificate issued by the County of Imperial, Division of Weight & Measures, which shall state the name and model number of the taximeter, if any, and the vehicle number correlating to the taxicab permit, leased or otherwise;
8. Valid vehicle inspection certificate from a City-approved vehicle inspection station for each taxicab to be operated in the City;
9. Certificate of Insurance from the insurance carrier verifying the coverage required by this Chapter for each taxicab to be operated in the City;
10. Final inspection of each vehicle by the City to ensure that vehicle has met all the requirements to operate as a taxicab for hire pursuant to the terms and conditions of this Chapter;
11. Beginning upon the first Vehicle Certification application or upon annual renewal of a Vehicle Certification, all vehicles with more than one-hundred-thousand (100,000) miles on their odometers shall present a valid smog certificate each year, or, if such vehicle has installed an emission reduction component, then a valid smog certificate shall be presented every two years;
12. The applicant's prior experience with regard to taxicab service;
13. Whether any license, permit or certification issued to the applicant has been denied, revoked or suspended by any public organization and if so, the circumstances for said denial, revocation or suspension;
14. Whether the applicant has been convicted of a crime within five (5) years prior to the date of the application, including the nature of the crimes; and
15. Satisfactory proof that the vehicle will be operated in compliance with all provisions of this Chapter.

C. *Disposition of Vehicle Certification—Conditions.*

1. Such Vehicle Certification shall be granted unless:
 - a. The applicant fails to submit a complete application;
 - b. The applicant makes any omission or untrue statement, or provides fraudulent documentation with the application.
 - c. The applicant has violated this Chapter more than five (5) times within the last three (3) years; or
 - d. There is an absence of satisfactory proof of compliance with the provisions of this Chapter.
2. The issuance of a Vehicle Certification is conditional upon the vehicle owner ensuring that each such vehicle to be operated as a taxicab is subject to a Taxicab Permit authorized by a Certificate of Public Convenience and Necessity, and any driver of such taxicab for hire has been issued a Taxicab Driver's License within the limits and in the manner set forth in this Chapter.

- D. *Operation Without a Certification or Permit.* It is unlawful to operate a taxicab without a valid Vehicle Certification *and* Taxicab Permit issued by the City for each taxicab operated by a substantially located taxicab company.
- E. *Ongoing Responsibility.* Notwithstanding the possession of a valid Vehicle Certification issued pursuant to this Section, the registered owner of a taxicab, who is aware of or should be aware of any unsafe condition of the taxicab covered by a Vehicle Certification shall not allow the taxicab to be used until any necessary repairs are made to fully restore the vehicle to a safe operating condition.
- F. *Annual Vehicle Certification Renewal.* The renewal of each Vehicle Certification shall be made annually to the Chief of Police. The renewal procedure shall include all of the following, as may be applicable: (1) the review and updating of the owner's Vehicle Certification application information; (2) inclusion of trip data from the previous year confirming the business address and total number of prearranged and non-prearranged trips that originated within the City's jurisdiction account for the largest share of the taxicab company's total number of trips; and (3) administration fee.

5.80.110 – Taxicab Driver's License–Required.

- A. It shall be unlawful for any driver to operate a taxicab without a valid Taxicab Driver's License issued by the city or county in which a taxicab company is substantially located.
- B. To obtain a Taxicab Driver's License from the City, a written application must be filed with the Chief of Police by the individual driver(s), accompanied by a fee in an amount established by City resolution and which shall reflect the actual City's cost of processing said license application, including all related costs. The application must include all of the following:
 1. Two photographs of the driver (size: one-and-one-half inch by one-and-one-half (1.5) inches) taken by the City, one to be filed with the application and one to be permanently attached to the license when issued;
 2. State of California, Department of Motor Vehicles driving record report;
 3. A list of all jurisdictions in which the applicant is permitted to operate a taxicab or vehicle for hire;
 4. Designation of employment or self-employment as an independent contractor in the City's jurisdiction (driver shall notify City upon termination of employment and return license to City);
 5. Satisfactory proof that the insurance required by this Chapter covers the driver to whom the Taxicab Driver's License is to be issued for purpose of operating a taxicab or vehicle for hire;
 6. Proof of compliance with drug and alcohol testing requirements of this Chapter and of the State of California;
 7. The applicant's name, address, and past experience with regard to taxicab service;
 8. The names and addresses of the applicant's employers during the preceding three (3) years; and
 9. Any such additional information as the Chief of Police may require.
- C. City shall not require drivers of taxicabs or vehicles for hire to obtain a Taxicab Driver's License from the City *only* if both of the following apply: (1) the driver has a valid Taxicab Driver's License issued by another city within the county or by the county; and

(2) the taxicab business which operates the taxicab is a non-substantially located taxicab company, defined in this Chapter.

- D. All taxicab drivers must participate in a mandatory controlled substance and alcohol testing certification program as specified in Section 5.80.230 of this Chapter.

5.80.120 – Taxicab Driver’s License—Grounds for Refusal, Suspension, or Revocation.

- A. The Chief of Police shall not issue a Taxicab Driver’s License, and he or she may suspend for thirty (30) days, or revoke a license previously granted, if any of the following apply:
1. The applicant/driver is under eighteen (18) years of age;
 2. The applicant/driver does not possess a valid driver’s license issued by the State of California;
 3. The applicant/driver fails to prove and/or maintain financial responsibility, as required by this Chapter;
 4. The applicant/driver has been convicted of reckless driving, or driving while under the influence of intoxicating liquor or narcotics;
 5. The applicant/driver charges rates in excess of those set forth by the City Council;
 6. The applicant/driver fails to maintain a policy of insurance as required by this Chapter;
 7. The applicant/driver fails to participate in periodic testing for controlled substances and alcohol, or at any time tests positive for drugs and/or alcohol;
 8. The applicant/driver receives four (4) violations within one (1) year, in which case he or she shall have his or her license suspended for a period of not less than six (6) months;
 9. The applicant/driver receives five (5) or more violations within one (1) year, in which case he or she shall have his or her license revoked for a period of not less than one (1) year;
 10. The applicant has been convicted of any crime or of any penal law involving moral turpitude, or any crime the conviction of which would indicate that this person may be a danger to passengers, taking into consideration the nature of the conviction, the age of the applicant at the time of the conviction, any evidence of rehabilitation, and the relationship of the conviction to the propriety of the applicant operating a vehicle for hire. The Chief of Police may suspend a taxicab license if a driver has been charged with a crime as described above, pending outcome of the criminal proceeding;
 11. The applicant/driver has failed to pay any judgment against the applicant/driver for personal injury or death, or property damage, arising out of the conduct of a taxicab business, whether under a Taxicab Permit issued pursuant to this Chapter or otherwise, within thirty (30) days after the judgment has become final;
 12. The driver has voluntarily and in writing requested that his or her license be suspended;
 13. The applicant/driver as failed to pay when due any applicable fees imposed by the City pursuant to this Chapter.
- B. An applicant/driver may only appeal a decision of the Chief of Police by following the procedure set forth in Section 5.80.320 of this Chapter.

5.80.130 – Probationary Taxicab Licenses.

Notwithstanding the other provisions of this Chapter, the Chief of Police, at his or her sole discretion, may authorize the issuance of probationary licenses for up to one (1) year to applicants who may not otherwise meet all the requirements of this Chapter.

5.80.140 – Taxicab Driver’s License Issuance.

Taxicab drivers operating a taxicab substantially located in the City must obtain a Taxicab Driver’s License issued by the City. The Taxicab Driver’s License which is issued to a driver, whether he or she be an independent contractor or employee of the taxicab company, shall be limited such that it may be used by the driver only while operating a taxicab pursuant to the individual entity specified in the driver’s application. Where an individual driver leases a Taxicab Permit for the purpose of operating his or her own independent taxicab business, the business entity shall be identified by his or her individual name and/or the designated business name for his or her independent taxicab business. Each individual driver shall submit a letter to the City from his or her employer validating employment by the taxicab company. If the individual driver is an owner/operator of his or her own independent taxicab business, he or she shall submit a notarized copy of his or her valid business license as part of the application for a Taxicab Driver’s License.

5.80.150 – Taxicab Driver’s License–Term of Validity.

When issued, the Taxicab Driver’s License shall be valid for one (1) year from the date of issuance, unless the same has been revoked for any of the causes set forth in this Chapter. At the time of renewal, each individual driver must submit a letter verifying employment by a taxicab company, if any. If the individual driver operates his or her own independent taxicab business, he or she shall submit with the renewal application a notarized copy of his or her valid business license.

5.80.160 – Taxicab Driver’s License–Change of Employment.

If an individual driver operates a taxicab as an employee of a taxicab company substantially located in the City and changes his or her employment to a different taxicab company which is also substantially located in the City, then he or she shall notify the Chief of Police within twenty-four (24) hours of the change in employment for purpose of having his Taxicab Driver’s License changed so as to properly designate the name of the new employer. Independent contractors who operate his or her own independent taxicab business pursuant to a leased Taxicab Permit or otherwise, must similarly notify the Chief of Police within twenty-four (24) hours of any name change and/or change in status of his or her Taxicab Driver’s License.

5.80.170 – Taxicab Driver’s License–Renewal.

- A. *Procedure.* The driver, in applying for the renewal of his or her Taxicab Driver’s License, shall follow the same procedure as set forth in his or her original application,

enunciated in Section 5.80.110, except that he or she shall not be required to pay the badge fee, be fingerprinted, or furnish photographs.

- B. *Fee.* The driver shall pay a fee for the issuance of the renewal permit, the amount of which shall be established by council resolution and which shall reflect the actual City's cost of processing said permit application including, all related costs.

5.80.180 – Off-Street Locations.

- A. *Required.* All holders of Certificates of Public Convenience and Necessity are required to establish and maintain an off-street parking facility wherein all taxicabs operating pursuant such certificate shall be kept and can be parked when they are not in use or engaged in the transportation of passengers., including taxicabs operated by independent contractors who lease taxicab permits from the holders as part of his or her own independent taxicab business. Those taxicab drivers who operate his or her own independent taxicab business using a leased taxicab permit may park their respective taxicabs at his or her own residence or any other location off the public streets. Taxicabs shall not be parked on the public streets in excess of three (3) hours.
- B. *Hours.* Taxicab parking facilities discussed in Subsection (A) of this Section, above, shall be kept open and maintained in operation twenty-four (24) hours per day, seven (7) days per week.
- C. *Availability for Service.* The owners or operators of said taxicab stations shall maintain and have available at all times taxicabs for the purpose of giving local service within the City, except where an owner or operator has leased all of his or her Taxicab Permits to independent contractors.

5.80.190 – Zones for Stands.

- A. *Establishment Authority.* Notwithstanding any of the provisions of Sections 5.80.210 and 5.80.220, the City Council is authorized and empowered by resolution to establish certain zones or spaces, in and on the public streets of the City, which may be designated as taxicab stands. The number and locations of such zones or spaces to be so designated shall be determined by the City Council at its sole discretion.
- B. *Conditions of Use.* The City Council may by resolution authorize the use of such zones or spaces by any taxicab operated by a substantially located taxicab company, as defined by this Chapter, which is otherwise licensed and permitted by the City and bearing the City sticker/emblem issued to taxicabs substantially located in the City, upon such terms and conditions which the City Council may specify for such use and at such rental or license charge as the City Council may determine by resolution. Taxicabs operated by a non-substantially located taxicab company shall *not* use the designated taxicab stands/zones and are expressly forbidden from using or waiting in, and/or soliciting fares or passengers from said taxicab stands and/or public parking areas.
- C. *Availability of Use.* Taxicabs operated by a substantially located taxicab company and bearing the City sticker/emblem must park within authorized taxi zones or spaces while in service and not transporting passengers. Taxicabs operated by a non-substantially located taxicab company are expressly forbidden from stopping/parking in the City for

the purpose of soliciting fares/passengers and are authorized to pick-up or drop-off prearranged fares *only* in the City, as defined by this Chapter.

- D. *Temporary Stands.* The City Manager or Chief of Police may assign or relocate temporary taxicab stands to meet public demand or the City's needs for up to one (1) year. After one (1) year, the City Manager or Chief of Police shall obtain City Council approval as set forth in subsection (A) of this section, above.

5.80.200 – Most Direct Route Required and Exclusive Right of Passengers.

- A. *Most Direct Route.* Any driver employed to transport passengers to a definite point shall take the most direct route that will take the passengers to their destinations safely and expeditiously.
- B. *Exclusive Right of Passengers.* When a taxicab is engaged, the original occupant shall have the exclusive right to the full and complete use of the passenger compartment and no driver of such taxicab shall solicit or carry additional passengers not of the same party therein. In the event that the original occupant chooses to share the passenger compartment, the driver shall not charge multiple fares to the occupants travelling to the same location.

5.80.210 – Solicitation of Fares Permitted – Terms/Conditions.

Solicitation of fares by taxicabs operated by a substantially located taxicab company and bearing the City sticker/emblem is permitted when located at an authorized taxicab stand and such other areas as may be declared by City Council resolution for solicitation by permitted taxicab business owners or drivers. No driver of any taxicab shall solicit fares/passengers by repeatedly driving his or her taxicab back and forth along First or Second Streets in Calexico or by calling out to pedestrians on the public sidewalk or street from a taxicab operating on any street in the City. Taxicabs operated by a non-substantially located taxicab company as defined by this Chapter and which do not bear the City sticker/emblem are expressly prohibited from soliciting fares in the City and are limited to pick-up/drop-off of prearranged fares only. Taxicab operators/companies who are not substantially located in the City and do not display the City sticker/emblem may not solicit and/or accept fares in the City which are not prearranged as defined by this Chapter.

5.80.220 – Refusal of Service.

It is unlawful for any driver operating under a Taxicab Permit issued by the City pursuant to the terms of this Chapter to refuse, when the vehicle is in service and not otherwise engaged, to transport any passengers who present themselves for carriage in a sober and orderly manner and for a lawful purpose. Moreover, a permitted taxicab company shall not prejudice, disadvantage, or require different rates or provide different service to a person because of race, national origin, religion, color, ancestry, physical disability, medical condition, occupation, marital status or change in marital status, sex, or any characteristic or defined in Section 11135 of the California Government Code.

5.80.230 – Drug and Alcohol Testing Requirement.

Every driver operating under a Taxicab Driver's License issued pursuant to the terms of this Chapter must participate in a mandatory controlled substances and alcohol testing certification program, as set forth in subdivision (3)(a) of Section 53075.5 of the California Government Code, as may be amended. The program shall include, but need not be limited to, all of the following requirements:

- A. Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of license renewal or at such other times as the City shall designate. As used in this section, a negative test for alcohol means an alcohol-screening test showing a breath alcohol concentration of less than 0.02 percent;
- B. Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the "driver" shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and follow up testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations;
- C. A test in another jurisdiction shall be accepted as meeting the same requirement in the City. Any negative test result shall be accepted for one (1) year as meeting a requirement for periodic license renewal testing or any other periodic testing in the City, so long as the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing;
- D. In the case of a self-employed independent driver, the test results shall be reported directly to the City, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing taxicab company, who shall be required to notify the City of positive results;
- E. All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law;
- F. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing taxicab companies shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that the taxicab company may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and follow up testing; and
- G. Upon the request of a driver applying for a taxicab driver's license, the City shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the City knows offer tests in or near the jurisdiction.

5.80.240 – Insurance Policy.

- A. *Insurance Policy Required.* It is unlawful for any owner or driver to drive or operate a taxicab, or cause the same to be driven or operated, within the City, and no license or permit for the operation thereof shall be granted, unless and until there is filed with the Chief of Police, or his or her designee, proof of financial responsibility as required by Section 16800 of the California Vehicle Code. A policy of insurance shall remain in full force and effect at all times while such taxicab is being operated. Such policy of insurance shall be with a solvent and responsible admitted company authorized to do business in the State of California or, in the alternative, a California assigned risk plan approved by the City Attorney. Such policy shall insure the owner and/or driver of said taxicab (giving the manufacture number and state license number) against loss by reason of injury or damage that may result to persons or property from the negligent operation or defective condition of such taxicab(s), or for any other cause.
- B. *Amount.* Said policy of insurance shall be in such a reasonable amount as the City Council or the City Manager may from time to time designate. However, at no time shall said insurance policy limits of coverage be less than those set by Section 16500 of the California Vehicle Code, or any other applicable statute of the Calexico Municipal Code.
- C. *Terms.* Said policy of insurance shall guarantee the payment to any and all persons suffering injury or damage to person or property, for any final judgment entered against such owner or driver within the limits mentioned in this section, irrespective of the financial condition or any acts or omissions of such owner or driver, and shall insure to the benefit of such persons.
- D. *Notice.* Said policy of insurance shall include a requirement that before any rescission, cancellation, non-renewal, or other termination of the insurance policy, the insurer must give the City a minimum of thirty (30) days advance written notice.
- E. *Replacement of Terminated Policy.* If at any time such policy of insurance is canceled by the company issuing the same, or the authority of the company to do business in the State of California is revoked or otherwise terminated, operation of taxicab service shall immediately cease and shall not resume unless and until the owner or driver replaces such policy of insurance with another policy satisfactory to the City Attorney *and* is filed with the Chief of Police. If the owner or driver fails to obtain replacement insurance within ten (10) calendar days from the date the former policy of insurance became rescinded, cancelled, non-renewed, or otherwise terminated, the owner or driver's Taxicab Driver's License shall be immediately and automatically revoked.

5.80.250 – Chief of Police–Supervision.

- A. *Supervision and Control.* All taxicabs and vehicles for hire shall be under the supervision and control of the Chief of Police or his or her designee.
- B. *Unsafe, Defective, or Unsanitary Equipment.* The Chief of Police shall not permit any driver to operate a taxicab in the City while the same, or any equipment used thereon or therewith, is unsafe, defective, or unsanitary.
- C. *Inspection.* Every taxicab shall be at all times subject to the inspection of any police officer of the City. The scope of this inspection is limited to determining compliance with the requirements of this Chapter and may be done without notice, warrant, or individualized suspicion of wrongdoing.

- D. *Suspension or Revocation.* The Chief of Police shall have the power and authority to suspend or revoke, at his or her sole discretion, any Certificate of Public Convenience and Necessity, Taxicab Permit, Taxicab Driver's License, or Vehicle Certification issued pursuant to this Chapter for any violation thereof.

5.80.260 – Rates to be Charged Passengers.

- A. *Maximum Rates–Establishment.* The maximum rates taxicabs are permitted to charge passengers shall be established by resolution adopted by the City Council. A schedule of the approved maximum rates shall be kept in the office of the City Clerk.
- B. *Maximum Rates.* Substantially located taxicab companies may set their rates and fares and use flat rate pricing not to exceed the maximum rates established by resolution as adopted by City Council.
- C. *Calculation of Fares.* Taxicab companies may use any type of taximeter, device, or technology approved by the Division of Measurement Standards to calculate fares, including the use of Global Positioning System metering, provided that the device or technology complies with Section 12500.5 of the California Business & Professions Code and all regulations established pursuant to Section 12107 of the Business & Professions Code.

5.80.270 – Changes in Rate Schedule.

If the City Council at any time desires to change the maximum rates schedule designated in Section 5.80.260, a printed schedule of the proposed maximum rates change shall be filed in the office of the City Clerk. Said maximum rates changes shall not become effective until a public hearing has been held before the City Council. Notice of said hearing before the City Council shall be published in a newspaper of general circulation within the City at least ten (10) days before said hearing is to be held. All changes to the maximum rates schedule must be authorized by the City Council and shall become effective thirty-one (31) days after approval.

5.80.280 – Posting of Rates.

All rates shall be posted on the exterior of the driver's door (forward left side) and the passenger's door (forward right side) of the taxicab.

5.80.290 – Limits on Number and Location of Passengers.

At no time shall more than two (2) passengers be permitted to ride in the front passenger seat, nor shall any more than three (3) persons be permitted to ride in the rear passenger seat.

5.80.300 – Vehicle Maintenance–Markings, Safety and Inspections.

- A. *Taxicab Color Scheme – Approval.*
1. A unique and characteristic color scheme approved by the City shall be used by each substantially located taxicab company on all of the taxicabs operating

pursuant to a Certificate of Public Convenience and Necessity issued to such taxicab company.

2. A driver who leases a Taxicab Permit from a certificate holder to operate his or her vehicle as a taxicab for hire as part of his or her own independent taxicab business shall ensure the color scheme on his or her vehicle(s) is consistent with the color scheme assigned by the City to the certificate and associated Taxicab Permits under which he or she is operating the vehicle(s).
3. No change whatsoever in the color scheme or distinguishing characteristics assigned by the City to a specific certificate shall be made without prior written permission of the City Council.

B. *Taxicab Markings.*

1. Taxicabs operated by a substantially located taxicab company and operating under a Taxicab Permit issued by the City shall have printed or placed upon the rear door of the vehicle and on each side and rear deck of such vehicle, the name of the business owner operating the taxicab. The lettering shall be in letters not less than two and one-fourth inches (2 1/4") in height and not less than five-sixteenths inches (5/16 ") in stroke. In addition, the dome light markings shall read the same as the business owner's name or fictitious name written upon the rear doors and rear of the vehicle *or* alternatively shall read only, "Taxi." In addition, every taxicab or vehicle for hire shall have printed or placed upon the exterior in conspicuous letters of the same color not less than three and one-half inches (3 1/2") in height and not less than one-half inch (1 1/2") stroke, of a color in contrast to the color of the vehicle for hire, the number of such vehicle for hire, which numbering shall be printed or placed in the following locations: (a) each side of the vehicle on the leading edge of the front door and (b) left side of the outside rear of the vehicle.
2. Taxicabs operated by a non-substantially located taxicab company but operating in the City for the purpose of prearranged trips *only*, as defined in this Chapter, shall bear the color schemes and inscriptions mandated by the city and/or county where the taxicab has been permitted/licensed.
3. Certificate holders may require independent contractors who lease Taxicab Permits from the certificate holder to place his or her own business insignia and/or name on the side of his or her taxicabs in lieu of the business insignia and/or name of the certificate holder, provided that the taxicabs nevertheless conform to all other requirements of this Section, including, but not limited to, the designated color scheme approved by the City for use on all taxicabs operating under a Certificate of Public Convenience and Necessity.

C. *Illumination of Passenger Compartment.* Every taxicab permitted by the City shall at all times be equipped with a light of not less than two (2) candlepower within such vehicle, so arranged as to illuminate the entire passenger compartment, which light shall be kept constantly lighted at all times while any passengers are being loaded into or unloaded from any such vehicle for one-half (1/2) hour after sunset of any day and until one-half (1/2) hour before sunrise of the next day, and no shades or blinds shall be drawn over the windows of any such vehicle while the same is occupied.

D. *Taximeter Required.* No taxicab may be operated in the City unless said taxicab is equipped with a taximeter in good operating condition. No fare higher than what is

recorded on the taximeter shall be charged. Every taximeter shall be installed at the center of the dashboard or console of the taxicab. The reading face of the taximeter shall at all times be well-lighted and distinctly readable to the passengers within the taxicab.

- E. *Air Conditioning.* No taxicab may be operated in the City unless said taxicab is equipped with an air conditioner in good operating condition.
- F. *Clean Condition.* Taxicabs shall be maintained in a clean condition at all times.

5.80.310 – Knowingly Riding in an Unlicensed Taxicab Prohibited.

It shall be unlawful for any individual to knowingly ride in an unlicensed taxicab.

5.80.320 – Appeal Procedure.

- A. *Appeal.* A decision of the Chief of Police to revoke, suspend, deny, or non-renew a Certificate of Public Convenience and Necessity, Taxicab Permit, Vehicle Certification, or Taxicab Driver's License may be appealed to the City Manager by serving written notice of said appeal to the City Clerk within three (3) business days of notice to the applicant/permittee of the decision of the Chief of Police. If no appeal is filed, then the revocation, suspension, denial, or non-renewal shall become final and effective on the fourth business day. If an appeal to the Chief of Police's determination is filed within three (3) business days, then the City Manager shall schedule an informal meeting with the appellant at a mutually agreed upon time within five (5) business days of the date of service to the City Clerk. The Chief of Police or his or her designee may attend the informal meeting. At the meeting, the basis of the denial, revocation, suspension, or non-renewal shall be explained to the appellant and the appellant shall be given an opportunity to respond thereto. The City Manager shall render a final decision in writing within five (5) business days following the informal hearing.
- B. *Taxicab Permits, Vehicle Certifications, or Taxicab Driver's Licenses.* If the revocation, suspension, denial, or non-renewal pertains to a Taxicab Permit, Vehicle Certification, or Taxicab Driver's License, then the City Manager's decision shall be final and the revocation, suspension, denial, or non-renewal shall become effective on the date that the City Manager renders a written decision. No further appeal can be taken on a revocation, suspension, denial, or non-renewal of a Taxicab Permit, Vehicle Certification, or Taxicab Driver's License.
- C. *Certificate of Public Convenience and Necessity.* If the revocation or suspension pertains to a Certificate of Public Convenience and Necessity, then the appellant may appeal the City Manager's decision to the City Council by serving written notice of said appeal on the City Clerk within five (5) business days of the City Manager's decision. If no appeal of the City Manager's decision to the suspension, revocation, denial, or non-renewal of a Certificate of Public Convenience and Necessity is filed within five (5) business days, then such suspension, revocation, denial, or non-renewal shall become final and effective on the sixth business day.
- D. *Hearing.* If an appeal regarding a Certificate of Public Convenience and Necessity is filed, the City Clerk shall schedule a hearing before the City Council within thirty (30) calendar days of the date served with the notice of appeal. The decision of the council is final on the date it is announced.

- E. *Effective Date.* Notwithstanding the above, any denial, revocation, suspension or non-renewal resulting from a deficiency related to insurance coverage or that, in the opinion of the Chief of Police, is necessary to protect the public safety, shall be effective immediately regardless of the appeal process. All time limits may be extended by mutual consent of the parties *only*.

5.80.330 – Judicial Review.

- A. *Purpose.* It is the declared purpose of this section to make the provisions of Sections 1094.5 and 1094.6 of the California Code of Civil Procedure, as amended from time to time, applicable to decisions of the City or of any commission, board, officer, or agent thereof made pursuant to this Chapter. The provisions of this section shall prevail over any conflicting provision in any otherwise applicable law, ordinance, or rule relating to the subject matter, except that in the case of any change in state law resulting in a conflict between state law and this Chapter, state law shall prevail.
- B. *Judicial Review of Final Decisions.* Judicial review of any final decision made under this Chapter by the City, or of any commission, board, officer, or agent thereof, may be had pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition of writ of mandate authorized by said section is filed within the time limits specified in Section 1094.6 of the California Code of Civil Procedure.
- C. *Note of Final Decision.* In making a decision, as defined in Section 5.80.40(A), the City shall provide notice to the party that the time within which judicial review must be sought is governed by this section and Section 1094.6 of the California Code of Civil Procedure.

5.80.340 – Violations – Penalties.

- A. *Specified Violations.* Any failure to obtain and/or maintain a valid Certificate of Public Convenience and Necessity, Taxicab Permit, Taxicab Driver’s License, and/or Vehicle Certification as required by this Chapter may be prosecuted as a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000) per violation.
- B. *Other Violations.* Any violation of this Chapter not enumerated in subsection (A) of this section, above, may be prosecuted as an infraction or as a misdemeanor, at the sole discretion of the City Attorney, and is punishable by the following:
1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation within one (1) year of the first violation; and
 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation within one (1) year of the second or preceding violation.”

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed

section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 6. CEQA. The City Council finds that pursuant to CEQA and the State CEQA Guidelines, no further environmental review is required prior to the adoption of the proposed amendments to Chapter 5.80 of the Calexico Municipal Code. Specifically, the City Council finds that the subject Municipal Code Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

THIS ORDINANCE IS PASSED, APPROVED, AND APPROVED at a regular meeting of the City Council of the City of Calexico this 18th day of September, 2019.

Bill Hodge, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney