

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE NO. 673-2013

AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 10 (LICENSING AND PERMITS GENERALLY) OF
THE CODE OF REVISED GENERAL ORDINANCES, 2000
REQUIRING AUTHORIZING THE LICENSING AND
OPERATION OF JITNEYS IN THE BOROUGH OF AVALON

WHEREAS, the New Jersey State Legislature has granted local municipalities the exclusive authority to regulate autobuses, commonly known as Jitneys, under N.J.S.A. 48:16-23; and

WHEREAS, the Borough has over the years evaluated convenient, economical and efficient methods of providing transportation alternatives for residents and visitors of the Borough; and

WHEREAS, the Borough has determined that it is in the best interests of the residents and visitors of the Borough to foster a viable Jitney program within the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Avalon, County of Cape May and State of New Jersey as follows:

SECTION 1: JITNEYS

Definitions.

As used in this section:

Compressed Natural Gas Vehicles (CNG) shall mean any motor vehicle fueled with clean-burning compressed natural gas, gasoline permitted only as a backup fuel source

Jitney shall mean an autobus for hire and shall include any motor vehicle for hire engaged in carrying individual passengers, which is operated over and upon the streets of the Borough. A Jitney shall be constructed and intended to accommodate thirteen (13) passengers on routes established wholly within the limits of the Borough. A Jitney shall be constructed and intended to accommodate twenty (20) passengers on routes established within not more than four (4) contiguous municipalities, including the Borough.

Licensing Clerk shall mean the individual designated to accept applications for licenses and to issue licenses in accordance with this Ordinance.

Person shall mean and include an individual, sole proprietorship, partnership, limited partnership, Corporation, or Limited Liability Company.

Street shall mean and include any street, avenue, land or public place in the Borough utilized for vehicular jitney traffic.

Zero-emissions Vehicles (ZEV) shall mean any motor vehicle that produces zero exhaust emissions of all criteria pollutants under any and all possible operational modes and conditions.

SECTION 2: REQUIREMENT FOR LICENSING; NUMBER OF LICENSES; ISSUING AUTHORITY; LICENSE FEE

(a) No Person shall operate a Jitney within the Borough of Avalon without obtaining from the Licensing Clerk a license issued to that Person pursuant to this Chapter. The Borough Council is the issuing authority of all Jitney licenses.

(b) A license shall be valid for a period of one (1) year from the date of issue and shall be renewed prior to expiration. No Jitney shall be operated if the renewal license is not granted by the expiration of the existing license. All applications for license renewal shall be made in writing and filed with the Licensing Clerk.

SECTION 3: LICENSING OF JITNEY OWNER-OPERATORS; PROCEDURES

3.1 Application Information. An application for a Jitney owner-operator's license shall be filed with the Licensing Clerk upon forms provided by the Borough for that purpose. The application shall require disclosure of the following information:

- (A) The name, address, and date of birth of the applicant.
 - (1) If the applicant is a corporation, its name, address of its principal place of business and the name and address of its registered agent must be supplied. In addition, a copy of the Certificate of Incorporation shall be filed with the application.
 - (2) If the applicant is a limited liability company, its name, address of all members and address of the registered agent shall be submitted in addition to a copy of the Certificate of Formation of the limited liability company and a current Operating Agreement.
 - (3) If the applicant is a partnership, the same information required of an individual applicant shall be required for each of the partners.
- (B) The applicant will cooperate with an agency authorized by the Borough of Avalon to complete a background check of the applicant, including any history of commission or violation of any criminal or quasi-criminal statutes including, but not limited to, traffic laws and municipal Ordinances.
 - (1) In the event that the applicant is a corporation, the background investigation shall include all officers of the corporation and, if practical, the shareholders.
 - (2) In the event that the applicant is a limited liability company, such investigation shall include all officers of the corporation and, if practical, the shareholders.
 - (3) In the event that the applicant is a partnership, such investigation shall be required of each partner, whether full or limited partners.
- (C) The type of motor vehicle, the name of the manufacturer, the New Jersey vehicle registration number, vehicle insurance policy particulars, and a valid New Jersey driver's license of the owner-operator of the Jitney.
- (D) Proof that the vehicle must meet all requirements to make it a CNG or ZEV vehicle, as defined herein.
- (E) Proof that the seating capacity of the vehicle, according to its trade factory rating, is intended to accommodate thirteen (13) passengers or twenty (20) passengers, as permitted by N.J.S.A.48:16-23.
- (F) A complete description of the vehicle, both inside and out, including whether the vehicle has been converted for Jitney use and, if so, the name and place of business of the individual doing the conversion.

- (G) The previous experience of the applicant in the transportation of passengers for hire, including the name of any other state or municipality where the applicant has ever been licensed, or is currently licensed, to operate a Jitney and whether said license was ever suspended or revoked or whether an application for the issuance or renewal of a license was ever denied and the reasons for the denial, suspension or revocation.
 - (H) The names and addresses of three (3) individuals who are not members of the applicant's immediate family, who can verify the applicant's good character and business and financial responsibility to operate a Jitney.
 - (I) Any other facts that the applicant believes would have any effect on the decision to grant or deny the Jitney license.
 - (J) Any other information which the Borough Council may prescribe.
- 3.2 **Application to be verified by Oath or Affirmation.** All applications shall be verified by oath or affidavit before a notary public or some other person fully authorized to administer oaths. Applications by a partnership shall be verified by all partners, applications by a corporation shall be verified by the President or Vice-President, and applications by a limited liability company shall be verified by any member.
- 3.3 **Procedure.** Once an application is complete and the applicant pays a non-refundable application fee in the amount of \$10.00, the Licensing Clerk shall transmit the completed application to the Chief of Police, or the approved agency for investigations responsible for the conduct of investigations for each applicant, to be submitted to the Avalon Police Department when completed.

SECTION 4. INVESTIGATION OF APPLICANT

- (A) The holder of a Jitney license pursuant to the provisions of this Ordinance shall be responsible for any violations of this application and of the laws of the State of New Jersey. Every licensed driver is the agent, servant and employee of the holder of the license of the vehicle being operated by said licensed driver.
- (B) The Chief of Police or his designee, or investigating agency shall be responsible for the conduct of an investigation into each applicant for a Jitney license hereunder. Each applicant shall submit to fingerprinting by the investigating agency. In the case of a corporation, partnership or limited liability company, the investigation shall include an investigation of the individual designated by such entity as the driver of the vehicle in the Borough of Avalon, who shall also be fingerprinted. Each applicant shall submit to fingerprinting by the investigating agency. The investigation shall concern all matters stated in the application and shall determine whether the applicant for such license has any criminal record and if so the circumstances of such record including the date, results of such investigation together with recommendations by the Chief of Police as to whether such license should be granted or denied supported by the reason(s) for such recommendation shall be forwarded to the Licensing Clerk who shall deliver the report to the Borough Clerk. The Borough Clerk shall in turn make such report available to the individual members of Borough Council. A copy of the report shall also be sent to the applicant.

SECTION 5: AUTHORIZATION TO RELEASE INFORMATION

As a condition of conducting the investigation referred to in Section 3 of this Ordinance, each applicant, by submitting an application for a Jitney license, authorizes the Chief of Police and the Avalon Police Department to release the results of such investigation to the Borough Council, Mayor, Business Administrator, Borough Clerk, Code Enforcement Officer, Borough Solicitor and Licensing Clerk. No such investigation shall be undertaken without such written authorization by the applicant.

SECTION 6: FITNESS CERTIFICATE

Each person seeking to obtain a license to operate a Jitney in the Borough of Avalon shall produce a certificate from a physician licensed to practice medicine in the State of New Jersey, said certificate shall attest that the person driving the Jitney does not suffer from any vision or hearing impairment or from any other mental or physical condition which would interfere with his or her ability to operate a Jitney in a safe and effective manner. Such certificate shall be dated within ninety (90) days prior to the initial application or any renewal application.

SECTION 7: ISSUANCE OF LICENSE; TIME

The Borough Council shall, by Resolution, act upon the owner-operator's license application within thirty (30) days of receipt of the investigation report from the Chief of Police. If the Chief of Police recommends granting the license and if the report discloses no reason which would justify denying the license, the Borough Council may proceed to issue the license without a hearing as defined hereafter in Section 8. The applicant shall pay the applicable fees to be collected by the Licensing Clerk upon the issuance of the license to the applicant.

SECTION 8: HEARING REQUIRED UNDER CERTAIN CIRCUMSTANCES

If the recommendation of the Chief of Police is to deny the license, or if Borough Council is satisfied that there are reasons which would justify the denial of the issuance of the license separate and apart from the recommendation of the Chief of police, or the revocation of an existing license, the applicant owner-operator shall be granted a hearing before Borough Council prior to final determination. The applicant shall receive notification of the date and time for such hearing which shall be scheduled within thirty (30) days from the denial date or notice of revocation, and such hearing shall be commenced and concluded within the immediately succeeding thirty (30) days. If the applicant refuses the opportunity to appear for a hearing, then Borough Council shall proceed to grant or deny the license, or revoke an existing license, in the exercise of its discretion.

SECTION 9: SUBSTITUTION OF VEHICLES

- (A) The holder of a Jitney license may be permitted to substitute a vehicle in place of a duly licensed vehicle provided, however, written notice of substitution of the vehicle shall have first been filed with the Licensing Clerk and approval given by the Licensing Clerk, which written notice shall consist of the following:
1. The Borough license number of the vehicle replaced.
 2. The time and date of replacement.
 3. Reasons for replacement.
 4. The insurance coverage of the vehicle substituted.
- (B) If such substitution is approved for a vehicle the Borough issued identification number shall then be identified with the vehicle.

SECTION 10: LICENSE TERM; FEES; RENEWAL

- 10.1 License term. The term of a Jitney license shall be from January 1 through December 31. A license issued after January 1 shall be valid for the balance of the calendar year in which it is issued and the fee for that year shall not be prorated.
- 10.2 Fees. The annual license fee for a Jitney license shall be \$85.00 per owner-operator. This fee shall be in addition to the \$10.00 application fee set forth in Section 3.3. These fees may be amended by Resolution of the Governing Body from time to time.

- 10.3 Renewal. A renewal Jitney license may be issued upon the applicant completing and filing a renewal application and verifying by oath or affirmation that there have been no changes in the information contained in the issuance of the initial application and that they have continued to comply with all laws of the State of New Jersey relating to the operation of Jitneys and is not in violation of any provisions of this Ordinance. A criminal records check shall be required of renewals.

SECTION 11: DISPLAY OF JITNEY LICENSE CARD

The Jitney license card issued to a licensee shall be issued by the Code Enforcement Officer of the Borough of Avalon after the applicant has successfully completed the approval process. The applicant's license card shall at all times be prominently displayed and adequately protected in the interior of any Jitney operated by the licensee so that the face thereof shall be at all times in full view and plainly legible to any passengers seated on the jitney. The license card shall at all times be and remain the property of the Borough of Avalon. No license card, other than that of the person actually operating the Jitney at the time, shall be displayed therein.

SECTION 12: IDENTIFICATION OF JITNEYS

Each motor vehicle operating as a jitney in the Borough of Avalon shall have permanently affixed a permanent insignia designating such motor vehicle as a Jitney license by the Borough of Avalon. The insignia shall be located on the rear bumper.

SECTION 13: FARES

On all authorized Jitney routes there shall be charged a cash fare of two (\$2.00) dollars per ride per person after 4:00 am and before 11:00 pm. Between 11:00 pm and 4:00 am there shall be charged a cash fare of four (\$4.00) dollars. Only one (1) fare can be charged for each seat in the vehicle.

SECTION 14: ROUTES

The Borough Council shall establish by Resolution all routes to be utilized by owner-operators. All owner-operators shall operate their jitneys on the route designated by Borough Council. In the event of a detour that prevents the owner-operator from following the designated route, the owner-operator may take the shortest, safest alternate route that will permit the owner-operator to resume operating on the designated route.

SECTION 15: LIABILITY INSURANCE; POWER OF ATTORNEY

As a condition for the issuance of a license hereunder, the applicant for a Jitney license shall, in accordance with the provisions of N.J.S.A. 48:16-24, file with the Borough Clerk an insurance policy attesting that the person and/or owner-operator is insured under a policy of comprehensive, general liability insurance. The limits of said insurance shall be not less than three hundred thousand (\$300,000.00) dollars per occurrence. The insurance policy, or an accompanying document, shall obligate the liability insurer to notify the Borough Clerk and Business Administrator of the Borough of Avalon if any change occurs in the policy or if the policy is terminated or canceled for any reason.

In accordance with the provisions of N.J.S.A. 48:16-24, each owner-operator shall execute and deliver to the Borough's Chief Financial Officer concurrently with the filing of the policy referred to above, a power of attorney wherein and whereby the said owner-operator shall nominate, constitute and appoint the Chief Financial Officer as the owner-operator's true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy filed.

SECTION 16: REVOCATION OF LICENSE; FAILURE TO RENEW

Any license issued hereunder may be revoked or suspended or any application for renewal may be denied for cause. Cause shall be deemed to be any reason set forth in the Code of the Borough of Avalon for the suspension or revocation of any licenses as well as for any one or more of the following reasons:

- (A) Failure to provide complete and truthful information on the application for a Jitney license or on any documentation or information required to be provided as part of the license application process;
- (B) Failure to maintain liability insurance required by the Ordinance;
- (C) Failure to comply with the motor vehicle laws of the State of New Jersey;
- (D) Failure to comply with the Ordinances of the Borough of Avalon;
- (E) Suspension or revocation of the applicant's driving privileges in the State of New Jersey;
- (F) Operating a Jitney in a reckless or grossly negligent manner within the Borough of Avalon or habitually operating a jitney in a negligent manner within the Borough of Avalon;
- (G) Violation of the criminal laws of the State of New Jersey, other states and federal laws.

Before taking any such action to revoke or suspend a license or deny an application for renewal, the aggrieved party shall be notified in writing of the reasons for the revocation, suspension or denial of renewal entitled to a hearing before Borough Council in accordance with the provisions of Section 8. Notice of revocation or suspension shall be provided by personal service or by certified mail, return receipt requested, sent to the address in the licensee's application or such other address as may be provided by the licensee.

SECTION 17: RULES AND REGULATIONS

- (A) Licensees. The following rules and regulations shall be applicable to all licensees:
 - (1) Driver's License Requirement. No license to own or operate any Jitney shall be granted to any person who is not a licensed driver in the State of New Jersey, or any other State of the United States.
 - (2) Conviction of a Crime. Where a licensee has been convicted of a crime in any city, county, state or federal court, upon conviction, the Licensing Clerk may revoke the license of the Jitney owner-operator upon notice and hearing.
 - (3) Misconduct. The Licensing Clerk, the Chief of Police and the Enforcement Official, or their designee shall take official cognizance of any and all misconduct, deceit, fraud, subterfuge or actions of any Jitney licensee which are against the best interest of the public or the Jitney industry itself, regardless of whether or not such actions are specifically covered in this Ordinance. It shall also be the direct responsibility of all departments to bring such actions to the notice of the Borough Clerk.
 - (4) Transfer of License. It shall be unlawful for the holder of any license issued under this section to transfer the license to any person.
 - (5) False Statements. It shall be unlawful for any person making application for any license or identification card to willfully make any false statement as to any of the matters required to be stated in such application. False statements are grounds to deny or revoke a license.

(6) Passengers.

- (a) It shall be unlawful to drive or operate any jitney while that jitney is carrying more than thirteen (13) passengers or more than twenty (20) passengers, as applicable, in accordance with N.J.S.A. 48:16-23. Each passenger must be seated while the Jitney is in motion. Passengers must be treated with courtesy and respect; repeated complaints against owner-operator's will be grounds for disciplinary action initiated by the Code Enforcement Officer or the Avalon Police Department. For purposes of this section, children in arms shall not be considered as passengers.
- (b) It shall be unlawful for the owner-operator of any jitney to bypass any prospective customer when there is space available on the Jitney. Any complaints concerning the bypassing of a prospective customer by a Jitney owner-operator shall be processed and handled by the Avalon Police Department or the Enforcement Official.

- (7) Additional Rules and Regulations. Borough Council may also establish by Resolution such additional rules and regulations as it may be deemed necessary to further the purposes of this ordinance.

(B) Operation of Jitneys. The following rules shall apply to the operation of Jitneys:

- (1) There shall be no smoking on Jitneys.
- (2) Only licensed Jitney owner-operators can drive an authorized vehicle.
- (3) Only a licensed Jitney can be used on a prescribed Jitney route.
- (4) Unsanitary, inadequate, unclean, or unsafe Jitneys will not be permitted to operate.
- (5) It shall be illegal to use profanity or engage in physical violence either on Jitneys or in areas on or near Jitney stops.
- (6) All accidents must be reported to the Avalon Police Department as soon as possible after the occurrence.
- (7) Jitney owner-operators must notify the Licensing Clerk in accordance with Section 9 when a change of license number or registration number occurs.
- (8) Jitney license card must be displayed in accordance with the provisions of Section 11.
- (9) It shall be unlawful for any person operating a Jitney for hire to drink intoxicating liquors or be under the influence of drugs of any kind while engaged in transporting passengers.
- (10) Drivers must be neat and clean at all times. No shirts without collars are permitted. Bare feet are prohibited. Exterior tops and bottoms must be worn.
- (11) If a Jitney breaks down and is unable to continue, passengers must be refunded their fares in full.
- (12) It shall be unlawful for any Jitney to stop for the purpose of receiving or discharging passengers within ten (10') feet from the intersection of streets.

SECTION 18: ENFORCEMENT OFFICIAL

The "Enforcement Official" shall mean and include any of the following:

- (A) The Code Enforcement Officer;
- (B) The Chief of Police or any member of the Avalon Police Department, as well as any other official authorized by Resolution of the Borough Council to enforce this Code and Ordinance.

SECTION 19: REPEALER All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 20: SEVERABILITY If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

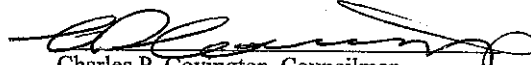
SECTION 21: EFFECTIVE DATE This Ordinance shall take effect immediately upon final adoption and publication and in the manner prescribed by law.

Motion: Councilman Covington

ABSENT
Joseph V. Tipping, Council President

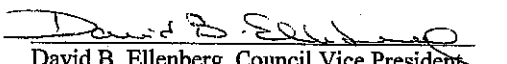
Seconded: Councilwoman Hudanich

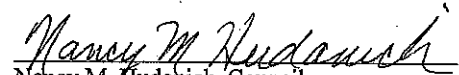
Dated: February 13, 2013


Charles P. Covington, Councilman


Amy W. Kleuskens
Borough Clerk


Richard E. Dean, Councilman


David B. Ellenberg, Council Vice President


Nancy M. Hudanich, Councilwoman

ROLL CALL VOTE:

AYES----- Covington, Dean, Ellenberg, Hudanich
 NAYES----- None
 ABSTAINING----- None
 ABSENT----- Tipping

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading of the Municipal Council of the Borough of Avalon on January 23, 2013. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 13th day of February, 2013 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 7:15 p.m. and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

AMY W. KLEUSKENS
Borough Clerk

BOROUGH OF AVALON
CAPE MAY COUNTY
NEW JERSEY

ORDINANCE NO. 673-2013

AN ORDINANCE AMENDING AND
SUPPLEMENTING CHAPTER 10 (LICENSING AND
PERMITS GENERALLY) OF THE CODE OF REVISED
GENERAL ORDINANCES, 2000 REQUIRING
AUTHORIZING THE LICENSING AND OPERATION
OF JITNEYS IN THE BOROUGH OF AVALON


Motion: Councilman Covington

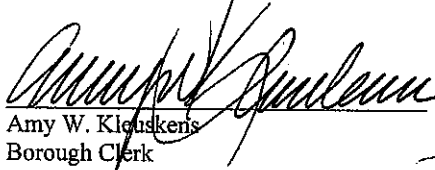
ABSENT

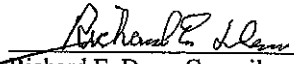
Joseph V. Tipping, Council President


Seconded: Councilwoman Hudanich

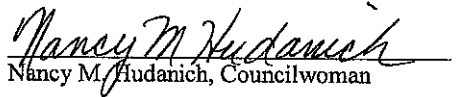
Dated: February 13, 2013


Charles P. Covington, Councilman


Amy W. Kleuskens
Borough Clerk


Richard E. Dean, Councilman


David B. Ellenberg, Council Vice President


Nancy M. Hudanich, Councilwoman

ROLL CALL VOTE:

AYES----- Covington, Dean, Ellenberg, Hudanich
NAYES----- None
ABSTAINING----- None
ABSENT----- Tipping

NOTICE OF ADOPTION

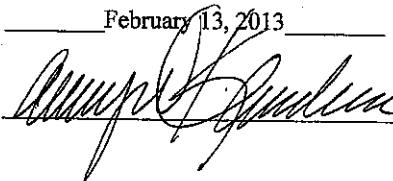
The aforementioned ordinance was duly passed by the Borough Council of the Borough of Avalon, Avalon, New Jersey, on first reading at a meeting of said Council held on the 23rd day of January, 2013 and was taken up for second reading, final passage and was adopted at a meeting of said Council held on the 13th day of February, 2013 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 7:15 p.m. Said ordinance was approved by the Mayor on February 13, 2013.

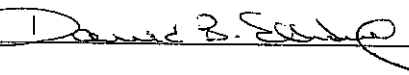
AMY W. KLEUSKENS
Borough Clerk

ORDINANCE NO. 673-2013

Passed by Council of the Borough of Avalon, New Jersey

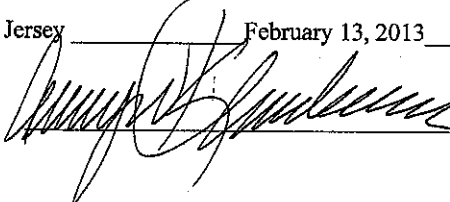
February 13, 2013

Attest:  Borough Clerk


Attest:  Vice President of Council

Presented by me to the Mayor of the Borough of Avalon,

New Jersey February 13, 2013

 Borough Clerk

Approved and signed by me February 13, 2013

 Mayor
