

BOROUGH OF AVALON  
CAPE MAY COUNTY  
NEW JERSEY

ORDINANCE No. 784-2019

**SUBJECT:** AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 10 OF THE CODE OF THE BOROUGH OF AVALON (LICENSES AND PERMITS) SECTION 10-17 (JITNEYS)

**WHEREAS,** certain amendments to Chapter 10 of the Avalon Borough Code entitled “Licenses and Permits”, Section 10-17 pertaining to the jitney services in the Borough of Avalon have been recommended to Borough Council; and

**WHEREAS,** Borough Council has duly considered the proposed recommendations and has determined that such amendments are in the best interest of the Borough and its residents and visitors and will promote the continuation of a service that has been deemed beneficial; and

**WHEREAS,** Borough Council has determined to amend Chapter 10 as hereinafter provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL of the Borough of Avalon, in the County of Cape May and State of New Jersey as follows:**

**SECTION 1.** Chapter 10 of the Avalon Borough Code entitled “Licenses and Permits”, Section 10-17 pertaining to the jitney services in the Borough of Avalon is hereby amended and supplemented and shall hereafter read and provide as follows:

**10-17 JITNEYS**

**10-17.1 Findings of Fact**

**[No change or modification]**

**10-17.2 Definitions**

**No change or modification except as follows:**

**Licensing Clerk** shall mean the individual designated to accept applications for licenses. For purposes of this section only, “Licensing Clerk” shall also mean such Borough employee or employees as may, from time to time, be designated by the Business Administrator to assist or participate in the administration of this program. (Ord. No. 738-2016 § 3; Ord. No. 784-2019)

**Person** shall mean and include an individual, sole proprietorship, partnership, limited partnership, Corporation, or Limited Liability Company or other similar legal entity. (Ord. No. 784-2019)

**10-17.3 Requirement for Licensing; Number of Licenses; Issuing Authority.**

a. No person shall operate a jitney within the Borough of Avalon without obtaining a license issued by the Borough Council in accordance with the provisions of this chapter upon the recommendation of the Licensing Clerk. The Borough Council is the issuing authority of all jitney licenses. (Ord. No. 784-2019)

b. A license shall be valid from the date of issue and until the expiration of the license term (April 30 next). No jitney shall be operated after the expiration of the existing license unless renewed in accordance with this chapter. All applications for license renewal shall be made in writing and filed with the Licensing Clerk.

(Ord. No. 673-2013 § 2; Ord. No. 738-2016 § 3; Ord. No. 784-2019)

**10-17.4 Licensing of Jitney Owner-Operators; Procedures. [No change or modification]**

**10-17.5 Investigation of Applicant.**

a. The holder of a jitney license pursuant to the provisions of this section shall be responsible for the truthfulness and accuracy of all matters set forth in the application and for any violation of the laws of the State of New Jersey or of any other State. Every licensed driver is the agent, servant and employee of the holder of the license of the vehicle being operated by said licensed driver. (Ord. No. 784-2019)

b. **[No change or modification]**

**10-17.6 Authorization to Release Information. [No change or modification]**

**10-17.7 Commercial Driver's License Requirement. [No change or modification]**

**10-17.8 Issuance of License; Time. [No change or modification]**

**10-17.9 Hearing Required Under Certain Circumstances. [No change or modification]**

**10-17.10 Substitution of Vehicles. [No change or modification]**

**10-17.11 License Term; Fees; Renewal.**

a. *License Term.* The term of a jitney license shall be from May 1 through April 30 of the following year. A license issued after May 1 shall be valid for the balance of the license term and the fee for that term shall not be prorated. (Ord. No. 784-2019)

b. *Fees.* Repealed by Ord. No. 738-2016. **[No change or modification]**

c. *Renewal.* **[No change or modification]**

**10-17.12 Display of Jitney License Card.**

**This section is repealed by Ordinance 784-2019 (Ord. No. 784-2019)**

**10-17.13 Identification of Jitneys. [No change or modification]**

**10-17.14 Fares.**

Fares to be charged by jitneys shall be fixed by Resolution of Borough Council. Such fares shall be agreed upon by the jitney operators and the Borough and once agreed upon shall not be changed in any way without the express consent and approval of the Borough which shall be expressed through the adoption of a formal Resolution by Borough Council. (Ord. No. 784-2019)

**10-17.15 Routes.**

a. 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. (Ord. No. 673-2013 § 1; Ord. No. 738-2016 § 3) The designated route or routes shall not be changed in any way without the express consent and approval of the Borough which shall be expressed through the adoption of a formal Resolution by Borough Council. (Ord. No. 738-2016; 784-2019)

b. The current designated route is Southbound on Dune Drive also known as 2<sup>nd</sup> Avenue and Northbound on Ocean Drive also known as Third Avenue. (Ord. No. 738-2016; 784-2019)

c. Nothing contained herein is intended nor shall it be construed as, to prohibit owner-operators from contracting with individual persons or businesses to provide customized or special transportation services provided, however, that any such special contract or arrangement shall not interfere with the service to be provided on the designated routes and schedule. (Ord. No. 738-2016; 784-2019)

**10-17.16 Liability Insurance; Power of Attorney. [No change or modification]**

**10-17.17 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. [No change or modification]
- b. [No change or modification]
- c. [No change or modification]
- d. [No change or modification]
- e. [No change or modification]
- f. [No change or modification]
- g. [No change or modification]

Before taking any such action to revoke or suspend a license or deny an application for renewal, the applicant, license holder, licensee or other responsible party in interest shall be notified in writing of the reasons for the revocation, suspension or denial of renewal and is entitled to a hearing before Borough Council in accordance with the provisions of subsection 10-17.9. 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.

(Ord. No. 673-2013 § 16; Ord. No. 738-2016 § 3; Ord. No. 784-2019)

**10-17.18 Rules and Regulations.**

- a. *Licensees.* **[No change or modification]**

The following rules and regulations shall be applicable to all licensees:

1. **[No change or modification]**

2. Conviction of a Crime. Where a licensee has been convicted of a crime in any city, county, state or federal court, in this State, or any other State then, upon conviction, the Licensing Clerk shall recommend to Borough Council that such license be revoked or suspended. Upon notice of such conviction Borough Council shall then schedule a hearing, on notice to the licensee, in accordance with the procedure established in Section 10-17.17 g of this chapter. (Ord. No. 784-2019)

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 section. It shall also be the direct responsibility of all departments to bring such actions to the notice of the Borough Chief of Police and the Borough Code Enforcement Official. (Ord. No. 784-2019)

4. Transfer of License. **[No change or modification]**

5. False Statements. **[No change or modification]**

6. Passengers.

- (a) **[No change or modification]**

(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 Code Enforcement Official. (Ord. No. 784-2019)

7. Additional Rules and Regulations. **[No change or modification]**

- b. *Operation of Jitneys.* **[No change or modification]**

**10-17.19 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 section.

(Ord. No. 673-2013 § 18; Ord. No. 738-2016 § 3)

**10-17.20 Borough Council may adopt additional Rules and Regulations.**

Borough Council may, by Resolution, make rules and regulations which interpret or amplify any provision of this section, for the purpose of administering the provisions of this chapter or making them more effective.

**SECTION 2. OTHER ORDINANCES**

The following Ordinances are hereby amended to the extent necessary to conform to the provisions of Section 1 hereof:

Ordinance No. 673-2013;  
Ordinance No. 680-2013;  
Ordinance No. 698-2014; and  
Ordinance No. 738-2016.

To the extent that any of these foregoing ordinances are in conflict with the provisions of Section 1 hereof, the same are hereby repealed in accordance with the provisions of Section 3 hereof.

**SECTION 3. REPEALER.** All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

**SECTION 4. 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 5: EFFECTIVE DATE:** This Ordinance shall take effect immediately upon final adoption and publication as required by law.

**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 February 27, 2019. It will be further considered for second reading, public hearing and final adoption at a meeting of said Council to be held on the 13<sup>th</sup> day of March, 2019 in the Meeting Room of the Municipal Building, Avalon, New Jersey at 4:15 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.

C. DANIELLE NOLLETT, Borough Clerk