FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SPECIAL CITY COUNCIL
AGENDA
NOVEMBER 26, 2002

A special City Council meeting will be held November 26, 2002, at 4:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PARTY TIME PONIES: An ordinance waiving the requirement that "Every rider wears a bicycle-type safety helmet while riding on horseback" under specific circumstances and to declare an emergency.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

Nov. 26, 2002

Meeting of ~~June 6, 2002~~

	Roll				
SANTOS	✓				
JORDAN	✓				
REYNOLDS	✓				
THIEL	✓				
YOUNG	—				
MARR	✓				
BECHARD	✓				
DAVIS	✓				
COODY	✓				

Pledge Time Ponies Helmets ?	DM BD Annual Jan 8. 2003	KS 2ND LJ.	LJ 3RD DM.	PASS	Em C KS LJ
SANTOS	✓	✓	✓	✓	✓
JORDAN	✓	✓	✓	✓	✓
REYNOLDS	✓	✓	✓	✓	✓
THIEL	✓	✓	✓	✓	✓
~~YOUNG~~	✓	—	—	—	
MARR	✓	✓	✓	✓	✓
BECHARD	✓	✓	✓	✓	✓
DAVIS	✓	✓	✓	✓	✓
COODY					

4:30 ⇒ 4:45

adjourned 4:45

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Heather Woodruff**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **November 27, 2002**

RE: **Passed Ordinances from Special City Council meeting of November 26, 2002**

The following Ordinance was passed at the Special City Council meeting last night and is ready for the mayor's signature.

Enclosed is:

4441

1. **Helmet Waiver:** An Ordinance to waive requirement that "every rider wears a bicycle-type safety helmet while riding on horseback" under specific circumstances and to declare an emergency.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

SPECIAL CITY COUNCIL
AGENDA
NOVEMBER 26, 2002

A special City Council meeting will be held November 26, 2002, at 4:30 p.m. in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

PASS 7/0/0

PARTY TIME PONIES: An ordinance waiving the requirement that "Every rider wears a bicycle-type safety helmet while riding on horseback" under specific circumstances and to declare an emergency.

113 WEST MOUNTAIN 72701 479-521-7700
FAX 479-575-8257

STAFF REVIEW FORM

__X__ AGENDA REQUEST
____ CONTRACT REVIEW
____ GRANT REVIEW

FOR: COUNCIL MEETING OF November 26, 2002 **MAYOR'S APPROVAL** _____

FROM:

Brenda Thiel	**Alderman**	
Name	Division	Department

ACTION REQUIRED An Ordinance To Waive The Requirement That "Every Rider Wears A Bicycle-Type Safety Helmet While Riding On Horseback" Under Specific Circumstances And To Declare An Emergency

COST TO CITY:

_____-0-_____	_____	_____
Cost of this Request	Category/Project Budget	Category/Project Name
_____	_____	_____
Account Number	Funds Used to Date	Program Name
_____	_____	_____
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

_____	_____
Budget Coordinator	Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

_____	_____	_____	_____
Accounting Manager	Date	Internal Auditor	Date
10/26/02		_____	_____
City Attorney	Date	ADA Coordinator	Date
_____	_____		
Purchasing Officer	Date		

STAFF RECOMMENDATION:

_____	_____
Division Head	Date
_____	_____
Department Director	Date
_____	_____
Administrative Services Director	Date
_____	_____
Mayor	Date

CROSS REFERENCE

New Item: **Yes** No

Previous Ordinance/Resolution No.: _____

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE THE REQUIREMENT THAT "EVERY RIDER WEARS A BICYCLE-TYPE SAFETY HELMET WHILE RIDING ON HORSEBACK" UNDER SPECIFIC CIRCUMSTANCES AND TO DECLARE AN EMERGENCY

WHEREAS, the safety requirement for a helmet on all horse and pony riders is most necessary when a pony is not physically restrained by a mechanical apparatus while being ridden; and

WHEREAS, Party Time Ponies has been granted a Certificate of Public Convenience and Necessity by the City Council and agreed that all of its ponies will be ridden only while attached to a ring apparatus that should prevent a pony from breaking away from the employee leading the pony around the pony ride.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a limited waiver of Exhibit A Ordinance #4396, specifically §117.87 (c) (2) Horses, so that as long as Party Time Ponies keeps all if its mounted ponies adequately and safely tethered to a ring apparatus, the requirement that all riders must wear a bicycle-type safety helmet shall be waived.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby determines that requiring pony riders to share helmets could cause the spread of head lice and thus endanger the health and safety of Fayetteville citizens. Therefore, the City Council of the City of Fayetteville, Arkansas hereby declares an emergency exists and that this ordinance, being necessary for the health and safety of the citizens, shall be effective immediately upon its passage and approval.

PASSED and **APPROVED** this the 26th day of November, 2002.

APPROVED:

By: DRAFT
_____
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. 4396 **MICROFILMEI**

AN ORDINANCE AMENDING TITLE XI: BUSINESS REGULATIONS, OF THE CODE OF FAYETTEVILLE, TO PROVIDE AMENDMENTS TO VARIOUS PROVISIONS REGULATING THE OPERATION OF NONMOTORIZED PASSENGER TRANSPORT SERVICES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That §§ 117.80-117.92 of the Code of Fayetteville, are hereby repealed and Exhibit "A" attached hereto and made a part hereof, is adopted and inserted in their stead.

PASSED and **APPROVED** this 21st day of May, 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

NONMOTORIZED PASSENGER TRANSPORT SERVICES

§ 117.80 Definitions.

For the purposes of this subchapter, the following words and terms have the meaning ascribed thereto:

Driver. An individual who operates a nonmotorized passenger transport vehicle.

Handler. An individual who leads and controls a pony working as a part of a nonmotorized passenger transport service.

Holder. A person who is granted a certificate of public convenience and necessity under this subchapter to provide nonmotorized passenger transport service in the city.

Horse. Any member of the Genus Equus or any hybrid thereof, including but not limited to burros, donkeys, ponies, and mules.

Nonmotorized passenger transport vehicle. Example: a horse-drawn carriage.

Nonmotorized passenger transport service. The business of offering or providing transportation of persons for hire, either in a nonmotorized transport vehicle or on horseback, when:

(1) A driver or handler is furnished as part of the service; and

(2) The service is offered only in accordance with a preapproved route.

Nonmotorized passenger transport vehicle drivers permit. A permit issued to an individual by the chief of police to operate a nonmotorized passenger transport vehicle for hire in the city.

Operate. To drive or be in physical control of a nonmotorized passenger transport vehicle.

Permittee. An individual who has been issued a nonmotorized passenger transport vehicle drivers permit under this subchapter.

Person. An individual, corporation, government or governmental subdivision, or an agency, trust, partnership, or two or more persons having a common economic interest.

Preapproved Route. Nonmotorized passenger transport service operating on a predetermined schedule with fixed pickup and destination points located on a route approved by and on file with the traffic superintendent.

§ 117.81 Certificate of public convenience and necessity.

(A) No person shall operate a nonmotorized passenger transport service within the city without first obtaining a current certificate of public convenience and necessity from the public transit board established by Section 117.31 of the Code of Fayetteville.

(B) To obtain a certificate of public convenience and necessity for a nonmotorized passenger transport service, a person who owns, controls or operates a proposed nonmotorized passenger transport service, must submit a proposal which shall be verified and contain the following information:

(1) A statement of the type of nonmotorized passenger transport service for which application is made;

(2) The form of business of the applicant; if the business is a corporation or association, a copy of the documents establishing the business and the name and address of each person with a direct interest in the business;

(3) The name, address, and verified signature of the applicant;

EXHIBIT "A"

(4) A description of any past business experience of the applicant, particularly in providing passenger transportation service;

(5) The number and description of vehicles the applicant proposes to use in the operation of the service including year, make, model, manufacturer's rated seating capacity, and state license registration number for each vehicle;

(6) The number of horses the applicant proposes to use in the operation of the service with a description, including age, color, and breed or photograph; and a state certificate of veterinarian inspection for each horse;

(7) A description of the proposed service, including routes, rates or fares to be charged, and schedules, where applicable;

(8) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this chapter;

(9) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and,

(10)Such additional information as may be determined to be necessary to assist or promote the implementation or enforcement of this ordinance or the protection of the public safety.

(C) In deciding whether to issue or deny an application for a certificate of public convenience and necessity to operate a nonmotorized passenger transport service, the public transit board shall consider, but not be limited to, the following:

(1) Whether the public convenience and necessity requires the proposed service;

(2) Whether the applicant has complied with all requirements of this ordinance for providing the service applied for;

(3) The current safety record of the applicant, and the previous safety record, if the applicant has operated a nonmotorized passenger transport service in the past;

(4) Number and description of all nonmotorized passenger transport vehicles to be used, where applicable;

(5) Number and description of all horses to be used;

(6) If nonmotorized passenger transport vehicles are employed, the number of passengers that may be safely transported in each vehicle based on the size of the vehicle and the type of horse pulling it;

(7) Customers to be served;

(8) Places for loading or unloading passengers;

(9) Hours of operation;

(10) Schedules and routes to be followed;

(11) Rates to be charged;

(12) The use of special safety equipment;

(13) The use of special sanitary devices and special care procedures for horses; and

(14) Special conditions or limitations.

(D) The public transit board shall issue a certificate of public convenience and necessity to the applicant, if it is determined that:

(1) The applicant has complied with all requirements for issuance of the certificate;

(2) That public convenience and necessity require the operation of the proposed service; and

(3) The applicant has not made a false statement as to a material matter in an application for a certificate.

(E) If the public transit board determines that the requirements set forth above have not been met, the public transit board shall deny the certificate.

§ 117.82 Route approval.

(A) All routes shall be approved by the city's traffic superintendent.

(B) Holders shall submit to the city's traffic superintendent all requests for temporary changes in authorized routes, hours of operation, or for participation in special events such as festivals, parades or weddings, not less than three (3) days before the effective date of the change or event.

§117.83 Nonmotorized passenger transport vehicle drivers permit.

(A) No person shall operate a nonmotorized passenger transport vehicle for hire upon the streets of the city, and no person who owns or controls a nonmotorized passenger transport vehicle shall permit it to be so operated, and no nonmotorized passenger transport vehicle licensed by the city shall be so operated at any time for hire, unless the driver of said vehicle shall have first obtained and shall have then in force a nonmotorized passenger transport vehicle drivers permit issued under the provisions of this chapter.

(B) (1) An application for a nonmotorized passenger transport vehicle drivers permit shall be filed with the chief of police on forms provided by the city and such application shall be verified under oath and shall contain the following information:

a. The names and addresses of four (4) residents of the county, who have known the applicant for a period of one (1) year and who will vouch for the sobriety, honesty, and general good character of the applicant; and

b. A concise history of his/her employment.

(C) The police department shall conduct an investigation of each applicant for a nonmotorized passenger transport vehicle drivers permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

(D) The chief of police shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the mayor to offer evidence why his application should be reconsidered.

(E) (1) Upon approval of an application for a nonmotorized passenger transport vehicle drivers permit, the chief of police shall issue a permit to the applicant which shall bear the name, address, age, signature, and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the year. A permit for every calendar year thereafter shall be issued upon the payment of $2.00 unless the permit for the preceding year has been revoked.

(F) When a drivers permit is issued, the application and supporting information shall be returned to the holder of the certificate of public convenience and necessity to be held by the certificate holder so long as the driver is employed by the certificate holder.

§ 117.84 Display of permit.

Every permittee under this subchapter shall post his or her drivers permit in such a place as to be in full view of all passengers while the driver is operating a nonmotorized passenger transport vehicle.

requirements imposed by all state, federal or local laws applicable to the vehicle involved.

(C) *Required Equipment.*

(1) *Nonmotorized passenger transport vehicles.*

a. A holder or driver shall, at all times, provide and maintain in good operating condition the following equipment for each nonmotorized passenger transport vehicle:

1. Headlights;

2. Taillights;

3. Flashing lights;

4. Approved braking system;

5. Rubber on all wheels;

6. A "slow moving vehicle" sign attached to the rear of the vehicle;

7. Evidence of insurance;

8. A copy of this chapter of the Code of Fayetteville; and

9. The company name and unit number conspicuously located on the rear of the vehicle in letters not less than two (2) inches high.

(2) *Horses.* The holder or handler shall ensure that every rider wears a bicycle-type safety helmet while riding on horseback.

§ 117.88 Transfer of certificate.

No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the public transit board.

§ 117.89 License fees.

No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of $250.00 for the right to operate a nonmotorized passenger transport service under a certificate of public convenience and necessity. The license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder.

§ 117.90 Suspension, revocation of certificate.

(A) A certificate issued under the provisions of this subchapter may be revoked or suspended by the Public Transit Board if the holder thereof has:

(1) Violated any of the provisions of this subchapter;

(2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(C) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

§ 117.91 ADA compliance.

Holder shall comply with all applicable provisions of the Americans with Disabilities Act.

§ 117.92 Enforcement.

The Police Department is hereby given the authority and is instructed to watch and observe the conduct of holders, drivers, and handlers operating under this subchapter. Upon discovering a violation of the provisions of this subchapter, the Police Department shall report the same to the City Attorney, who will order or take appropriate action.

ORDINANCE NO. 4397

MICROFILMED

AN ORDINANCE PROVIDING FOR THE LEVY OF A ONE PERCENT SALES AND USE TAX WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS; TO REPLACE THE EXPIRING ONE PERCENT SALES AND USE TAX; PROVIDING FOR AN EXPIRATION DATE FOR SUCH SALES AND USE TAX OF JUNE 30, 2013 AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for continuing improvement of municipal services and capitol improvements and for a source of revenue to finance such services and improvements; and

WHEREAS, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") provides for the levy of a one percent (1%) city-wide sales and use tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (A.C.A. §26-53-101, et seq.) at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied and collected only to a maximum tax of $25 for each single transaction.

Section 2. "Single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.

B. The charges for utility services, which are subject to the Sales and Use tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly, or annually, for the purposes of the Sales and Use tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.

(7) Pick up all horse droppings immediately with appropriate equipment.

§ 117.87 Horses, vehicles, and equipment.

(A) *Horses.*

(1) Before any horse may be used in a nonmotorized passenger transport service, the holder must furnish the animal services director with:

a. A state certificate of veterinarian inspection with a photograph or drawing of the horse showing identifying markings of the horse and showing that the horse has been examined at least once within the preceding three months by a veterinarian licensed by the State of Arkansas who specializes in equine medicine; and,

b. An Equine Vaccination Certificate from a licensed veterinarian showing proof that the pony has had tetanus, rabies, and Eastern-Western encephalitis vaccinations; further, proof of a negative Coggins test must be submitted annually.

(2) A horse used in a nonmotorized passenger transport service must:

a. Be appropriately shod to work on paved streets; if a horse loses a shoe while working, an "eazy" type boot may be used to finish the scheduled work day;

b. Not have any open wound, oozing sore, cut below skin level or bleeding wound;

c. Not have evidence of lameness, such as but not limited to head bobbing or irregular rhythm;

d. Be offered not less than five gallons of drinking water at least every two hours;

e. Have at least a 10 minute rest period after every 50 minutes worked;

f. Not work longer than six hours in a 24 hour period with a minimum of 12 hours rest;

g. Have the appropriate bridle, bit, halter, or harness equipment properly fitted and in good repair with no deficiencies that could reasonably be deemed a safety hazard;

h. Be properly cleaned with no offensive odors or caked dirt or mud;

i. Not work when the outside temperature exceeds 90 degrees Fahrenheit, or the thermal heat index exceeds 110; and,

j. Be examined at least once every three months by a veterinarian licensed by the State of Arkansas who specializes in equine medicine and receive a state certificate of veterinarian inspection, which must be submitted to the Animal Services Director.

(3) The Animal Services Director may require a holder, driver, or handler to remove from service any pony that appears to be ill, overtired, undernourished, overloaded, injured, or lame or whose health or life, in the opinion of a veterinarian or qualified equine animal services officer, is in imminent danger. To reinstate a horse removed from service, the horse must be re-examined and a new state certificate of veterinarian inspection issued for the horse by a veterinarian licensed by the State of Arkansas and specializing in equine medicine, which certificate must be submitted to the Animal Control Officer.

(4) For purposes of this section, a horse is considered to be working any time it is on the public street or sidewalk, or other public right-of-way, during any hour of operation of the nonmotorized passenger transport service that is authorized by and on file with the traffic superintendent.

(B) *Vehicle inspection and maintenance.* Each vehicle shall comply with all the safety

§ 117.85 Insurance requirements.

(A) A holder shall procure and keep in full force and effect commercial general liability insurance written by an insurance company approved by the State of Arkansas and acceptable to the city and issued in the standard form approved by the State Board of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a nonmotorized passenger transport service by the holder.

(B) The commercial general liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than $1,000,000.00 for each occurrence, or the equivalent, and include coverage for premises operations, independent contractors, products, completed operations, personal injury, contractual liability, and medical payments. Coverage for medical payments must include a minimum limit of $5,000.00 per person. Aggregate limits of liability are prohibited.

(C) Insurance required under this section must include:

(1) A cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy; and,

(2) A provision to cover all horses and vehicles, whether owned or not owned by the holder, operated under the holder's certificate of public convenience and necessity.

(D) No insurance required by this section may be obtained from an assigned risk pool.

(E) A certificate of public convenience and necessity will not be granted or renewed unless the applicant or holder furnishes the city with such proof of insurance as the city considers necessary to determine whether the applicant or holder is adequately insured under this section.

(F) If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the certificate of public convenience and necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a nonmotorized passenger transport service while the certificate is suspended under this section.

(G) The holder shall provide adequate employer's liability insurance for the employees as provided by law.

§117.86 Conduct of drivers and handlers.

Drivers and handlers shall at all times:

(1) Act in a reasonable, prudent, and courteous manner;

(2) Maintain a sanitary and well-groomed appearance;

(3) Not inhale or consume an alcoholic beverage, drug, or other substance that could adversely affect his or her ability to operate a nonmotorized passenger transport vehicle, or handle a horse.

(4) Not permit a person other than another employee of the nonmotorized passenger transport service to operate a vehicle or handle a horse under his or her control;

(5) Not permit any person on the back of a horse while it is pulling a nonmotorized passenger transport vehicle.

(6) Not leave a horse untethered and unattended except when confined to a stable or other enclosure;

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PARTY TIME PONIES FOR THE OPERATION OF A NON-MOTORIZED TRANSPORTATION SERVICE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to Party Time Ponies for the operation of a Non-Motorized Transportation Service.

PASSED and **APPROVED** this 25th day of November 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

STAFF REVIEW FORM

__X__ AGENDA REQUEST
_____ CONTRACT REVIEW
_____ GRANT REVIEW

FOR: COUNCIL MEETING OF November 26, 2002 **MAYOR'S APPROVAL** _____

FROM:

Brenda Thiel	**Alderman**	
Name	Division	Department

ACTION REQUIRED An Ordinance To Waive The Requirement That "Every Rider Wears A Bicycle-Type Safety Helmet While Riding On Horseback" Under Specific Circumstances And To Declare An Emergency

COST TO CITY:

-0-		
Cost of this Request	Category/Project Budget	Category/Project Name
Account Number	Funds Used to Date	Program Name
Project Number	Remaining Balance	Fund

BUDGET REVIEW: _____ Budgeted Item _____ Budget Adjustment Attached

Budget Coordinator	Administrative Services Director

CONTRACT/GRANT/LEASE REVIEW: **GRANTING AGENCY:** _____

Accounting Manager	Date	Internal Auditor	Date
City Attorney	Date 10/26/02	ADA Coordinator	Date
Purchasing Officer	Date		

STAFF RECOMMENDATION:

Division Head	Date
Department Director	Date
Administrative Services Director	Date
Mayor	Date

CROSS REFERENCE

New Item: **Yes** No

Previous Ordinance/Resolution No.: _____

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE THE REQUIREMENT THAT "EVERY RIDER WEARS A BICYCLE-TYPE SAFETY HELMET WHILE RIDING ON HORSEBACK" UNDER SPECIFIC CIRCUMSTANCES AND TO DECLARE AN EMERGENCY

WHEREAS, the safety requirement for a helmet on all horse and pony riders is most necessary when a pony is not physically restrained by a mechanical apparatus while being ridden; and

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PASSED and **APPROVED** this the 26th day of November, 2002.

APPROVED:

By: DRAFT
DAN COODY, Mayor

ATTEST:

By: _____
Heather Woodruff, City Clerk

ORDINANCE NO. 4396 **MICROFILMEI**

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APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk

NONMOTORIZED PASSENGER TRANSPORT SERVICES

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§ 117.81 Certificate of public convenience and necessity.

(A) No person shall operate a nonmotorized passenger transport service within the city without first obtaining a current certificate of public convenience and necessity from the public transit board established by Section 117.31 of the Code of Fayetteville.

(B) To obtain a certificate of public convenience and necessity for a nonmotorized passenger transport service, a person who owns, controls or operates a proposed nonmotorized passenger transport service, must submit a proposal which shall be verified and contain the following information:

(1) A statement of the type of nonmotorized passenger transport service for which application is made;

(2) The form of business of the applicant; if the business is a corporation or association, a copy of the documents establishing the business and the name and address of each person with a direct interest in the business;

(3) The name, address, and verified signature of the applicant;

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(4) A description of any past business experience of the applicant, particularly in providing passenger transportation service;

(5) The number and description of vehicles the applicant proposes to use in the operation of the service including year, make, model, manufacturer's rated seating capacity, and state license registration number for each vehicle;

(6) The number of horses the applicant proposes to use in the operation of the service with a description, including age, color, and breed or photograph; and a state certificate of veterinarian inspection for each horse;

(7) A description of the proposed service, including routes, rates or fares to be charged, and schedules, where applicable;

(8) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this chapter;

(9) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and,

(10)Such additional information as may be determined to be necessary to assist or promote the implementation or enforcement of this ordinance or the protection of the public safety.

(C) In deciding whether to issue or deny an application for a certificate of public convenience and necessity to operate a nonmotorized passenger transport service, the public transit board shall consider, but not be limited to, the following:

(1) Whether the public convenience and necessity requires the proposed service;

(2) Whether the applicant has complied with all requirements of this ordinance for providing the service applied for;

(3) The current safety record of the applicant, and the previous safety record, if the applicant has operated a nonmotorized passenger transport service in the past;

(4) Number and description of all nonmotorized passenger transport vehicles to be used, where applicable;

(5) Number and description of all horses to be used;

(6) If nonmotorized passenger transport vehicles are employed, the number of passengers that may be safely transported in each vehicle based on the size of the vehicle and the type of horse pulling it;

(7) Customers to be served;

(8) Places for loading or unloading passengers;

(9) Hours of operation;

(10) Schedules and routes to be followed;

(11) Rates to be charged;

(12) The use of special safety equipment;

(13) The use of special sanitary devices and special care procedures for horses; and

(14) Special conditions or limitations.

(D) The public transit board shall issue a certificate of public convenience and necessity to the applicant, if it is determined that:

(1) The applicant has complied with all requirements for issuance of the certificate;

(2) That public convenience and necessity require the operation of the proposed service; and

(3) The applicant has not made a false statement as to a material matter in an application for a certificate.

(E) If the public transit board determines that the requirements set forth above have not been met, the public transit board shall deny the certificate.

§ 117.82 Route approval.

(A) All routes shall be approved by the city's traffic superintendent.

(B) Holders shall submit to the city's traffic superintendent all requests for temporary changes in authorized routes, hours of operation, or for participation in special events such as festivals, parades or weddings, not less than three (3) days before the effective date of the change or event.

§117.83 Nonmotorized passenger transport vehicle drivers permit.

(A) No person shall operate a nonmotorized passenger transport vehicle for hire upon the streets of the city, and no person who owns or controls a nonmotorized passenger transport vehicle shall permit it to be so operated, and no nonmotorized passenger transport vehicle licensed by the city shall be so operated at any time for hire, unless the driver of said vehicle shall have first obtained and shall have then in force a nonmotorized passenger transport vehicle drivers permit issued under the provisions of this chapter.

(B) (1) An application for a nonmotorized passenger transport vehicle drivers permit shall be filed with the chief of police on forms provided by the city and such application shall be verified under oath and shall contain the following information:

a. The names and addresses of four (4) residents of the county, who have known the applicant for a period of one (1) year and who will vouch for the sobriety, honesty, and general good character of the applicant; and

b. A concise history of his/her employment.

(C) The police department shall conduct an investigation of each applicant for a nonmotorized passenger transport vehicle drivers permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the chief of police.

(D) The chief of police shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the mayor to offer evidence why his application should be reconsidered.

(E) (1) Upon approval of an application for a nonmotorized passenger transport vehicle drivers permit, the chief of police shall issue a permit to the applicant which shall bear the name, address, age, signature, and photograph of the applicant.

(2) Such permit shall be in effect for the remainder of the year. A permit for every calendar year thereafter shall be issued upon the payment of $2.00 unless the permit for the preceding year has been revoked.

(F) When a drivers permit is issued, the application and supporting information shall be returned to the holder of the certificate of public convenience and necessity to be held by the certificate holder so long as the driver is employed by the certificate holder.

§ 117.84 Display of permit.

Every permittee under this subchapter shall post his or her drivers permit in such a place as to be in full view of all passengers while the driver is operating a nonmotorized passenger transport vehicle.

requirements imposed by all state, federal or local laws applicable to the vehicle involved.

(C) *Required Equipment.*

(1) *Nonmotorized passenger transport vehicles.*

a. A holder or driver shall, at all times, provide and maintain in good operating condition the following equipment for each nonmotorized passenger transport vehicle:

1. Headlights;

2. Taillights;

3. Flashing lights;

4. Approved braking system;

5. Rubber on all wheels;

6. A "slow moving vehicle" sign attached to the rear of the vehicle;

7. Evidence of insurance;

8. A copy of this chapter of the Code of Fayetteville; and

9. The company name and unit number conspicuously located on the rear of the vehicle in letters not less than two (2) inches high.

(2) *Horses.* The holder or handler shall ensure that every rider wears a bicycle-type safety helmet while riding on horseback.

§ 117.88 Transfer of certificate.

No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the public transit board.

§ 117.89 License fees.

No certificate shall be issued or continued in operation unless the holder thereof has paid an annual license fee of $250.00 for the right to operate a nonmotorized passenger transport service under a certificate of public convenience and necessity. The license fees shall be for the calendar year and shall be in addition to any other license fees or charges established by proper authority and applicable to the holder.

§ 117.90 Suspension, revocation of certificate.

(A) A certificate issued under the provisions of this subchapter may be revoked or suspended by the Public Transit Board if the holder thereof has:

(1) Violated any of the provisions of this subchapter;

(2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

(C) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

§ 117.91 ADA compliance.

Holder shall comply with all applicable provisions of the Americans with Disabilities Act.

§ 117.92 Enforcement.

The Police Department is hereby given the authority and is instructed to watch and observe the conduct of holders, drivers, and handlers operating under this subchapter. Upon discovering a violation of the provisions of this subchapter, the Police Department shall report the same to the City Attorney, who will order or take appropriate action.

ORDINANCE NO. 4397

MICROFILMED

AN ORDINANCE PROVIDING FOR THE LEVY OF A ONE PERCENT SALES AND USE TAX WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS; TO REPLACE THE EXPIRING ONE PERCENT SALES AND USE TAX; PROVIDING FOR AN EXPIRATION DATE FOR SUCH SALES AND USE TAX OF JUNE 30, 2013 AND PRESCRIBING OTHER MATTERS PERTAINING THERETO

WHEREAS, the City Council of the City of Fayetteville, Arkansas (the "City") has determined that there is a great need for continuing improvement of municipal services and capitol improvements and for a source of revenue to finance such services and improvements; and

WHEREAS, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") provides for the levy of a one percent (1%) city-wide sales and use tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. Under the authority of the Authorizing Legislation, there is hereby levied a one percent (1%) tax on the gross receipts from the sale at retail within the City of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (A.C.A. §26-53-101, et seq.) at a rate of one percent (1%) of the sale price of the property or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied and collected only to a maximum tax of $25 for each single transaction.

Section 2. "Single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.

B. The charges for utility services, which are subject to the Sales and Use tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly, or annually, for the purposes of the Sales and Use tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.

(7) Pick up all horse droppings immediately with appropriate equipment.

§ 117.87 Horses, vehicles, and equipment.

(A) *Horses.*

(1) Before any horse may be used in a nonmotorized passenger transport service, the holder must furnish the animal services director with:

a. A state certificate of veterinarian inspection with a photograph or drawing of the horse showing identifying markings of the horse and showing that the horse has been examined at least once within the preceding three months by a veterinarian licensed by the State of Arkansas who specializes in equine medicine; and,

b. An Equine Vaccination Certificate from a licensed veterinarian showing proof that the pony has had tetanus, rabies, and Eastern-Western encephalitis vaccinations; further, proof of a negative Coggins test must be submitted annually.

(2) A horse used in a nonmotorized passenger transport service must:

a. Be appropriately shod to work on paved streets; if a horse loses a shoe while working, an "eazy" type boot may be used to finish the scheduled work day;

b. Not have any open wound, oozing sore, cut below skin level or bleeding wound;

c. Not have evidence of lameness, such as but not limited to head bobbing or irregular rhythm;

d. Be offered not less than five gallons of drinking water at least every two hours;

e. Have at least a 10 minute rest period after every 50 minutes worked;

f. Not work longer than six hours in a 24 hour period with a minimum of 12 hours rest;

g. Have the appropriate bridle, bit, halter, or harness equipment properly fitted and in good repair with no deficiencies that could reasonably be deemed a safety hazard;

h. Be properly cleaned with no offensive odors or caked dirt or mud;

i. Not work when the outside temperature exceeds 90 degrees Fahrenheit, or the thermal heat index exceeds 110; and,

j. Be examined at least once every three months by a veterinarian licensed by the State of Arkansas who specializes in equine medicine and receive a state certificate of veterinarian inspection, which must be submitted to the Animal Services Director.

(3) The Animal Services Director may require a holder, driver, or handler to remove from service any pony that appears to be ill, overtired, undernourished, overloaded, injured, or lame or whose health or life, in the opinion of a veterinarian or qualified equine animal services officer, is in imminent danger. To reinstate a horse removed from service, the horse must be re-examined and a new state certificate of veterinarian inspection issued for the horse by a veterinarian licensed by the State of Arkansas and specializing in equine medicine, which certificate must be submitted to the Animal Control Officer.

(4) For purposes of this section, a horse is considered to be working any time it is on the public street or sidewalk, or other public right-of-way, during any hour of operation of the nonmotorized passenger transport service that is authorized by and on file with the traffic superintendent.

(B) *Vehicle inspection and maintenance.* Each vehicle shall comply with all the safety

EXHIBIT "A"

§ 117.85 Insurance requirements.

(A) A holder shall procure and keep in full force and effect commercial general liability insurance written by an insurance company approved by the State of Arkansas and acceptable to the city and issued in the standard form approved by the State Board of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a nonmotorized passenger transport service by the holder.

(B) The commercial general liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than $1,000,000.00 for each occurrence, or the equivalent, and include coverage for premises operations, independent contractors, products, completed operations, personal injury, contractual liability, and medical payments. Coverage for medical payments must include a minimum limit of $5,000.00 per person. Aggregate limits of liability are prohibited.

(C) Insurance required under this section must include:

(1) A cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or making a material change to the insurance policy; and,

(2) A provision to cover all horses and vehicles, whether owned or not owned by the holder, operated under the holder's certificate of public convenience and necessity.

(D) No insurance required by this section may be obtained from an assigned risk pool.

(E) A certificate of public convenience and necessity will not be granted or renewed unless the applicant or holder furnishes the city with such proof of insurance as the city considers necessary to determine whether the applicant or holder is adequately insured under this section.

(F) If the insurance of the holder lapses or is cancelled and new insurance is not obtained, the certificate of public convenience and necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a nonmotorized passenger transport service while the certificate is suspended under this section.

(G) The holder shall provide adequate employer's liability insurance for the employees as provided by law.

§117.86 Conduct of drivers and handlers.

Drivers and handlers shall at all times:

(1) Act in a reasonable, prudent, and courteous manner;

(2) Maintain a sanitary and well-groomed appearance;

(3) Not inhale or consume an alcoholic beverage, drug, or other substance that could adversely affect his or her ability to operate a nonmotorized passenger transport vehicle, or handle a horse.

(4) Not permit a person other than another employee of the nonmotorized passenger transport service to operate a vehicle or handle a horse under his or her control;

(5) Not permit any person on the back of a horse while it is pulling a nonmotorized passenger transport vehicle.

(6) Not leave a horse untethered and unattended except when confined to a stable or other enclosure;

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PARTY TIME PONIES FOR THE OPERATION OF A NON-MOTORIZED TRANSPORTATION SERVICE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby grants a Certificate of Public Convenience and Necessity to Party Time Ponies for the operation of a Non-Motorized Transportation Service.

PASSED and **APPROVED** this 25th day of November 2002.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
HEATHER WOODRUFF, City Clerk