

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 007-2017**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE  
CHAPTER IV OF THE CODE OF UPPER TOWNSHIP TO ADD SECTION 4-3  
ENTITLED JITNEYS**

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**BE IT ORDAINED** by the Township Committee of the Township, in the County of Cape May, New Jersey as follows:

**SECTION 1.** Chapter 4 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, is hereby amended by adding the following subchapter entitled Jitneys:

4-3 JITNEYS

4-3.1 Definitions.

As used in this subchapter, the following terms shall have the meanings indicated:

*Compressed natural gas vehicles (CNG)* shall mean any motor vehicle fueled with clean-burning compressed natural gas, gasoline permitted only as a back up fuel source.

*Criminal History Record Background Check* shall mean a determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and the State Bureau of Identification in the Division of State Police.

*Jitney* shall mean an autobus for hire and shall include any motor vehicle for hire engaged in carrying individual passengers in exchange for a fee, which is operated in a closed loop over and upon the streets of the Township. A jitney shall be constructed and intended to accommodate thirteen (13) passengers.

*Person* shall mean and include person, firm or corporation.

*Review Committee* shall mean a three (3) member committee consisting of the Township Administrator, the Township Committee member in charge of Public Safety and the Township Clerk. The Review Committee shall be charged with the review of all appeals of disqualifying criminal history background checks.

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

*Zero-emission 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.

#### 4-3.2 Licensing; Fee; Renewal.

- a. Before operating any jitney along, through, over or upon any street of the Township, the owner and all drivers shall obtain consent, in the form a license, from the Township Clerk.
- b. There shall be an annual licensing fee of Fifty Dollars (\$50.00) per jitney. 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 Township Clerk.
- c. All applications for a license or a renewal license shall be made in writing and filed with the Township Clerk. No application will be approved by the Township Clerk unless it is accompanied by appropriate forms and contains the information required in the application and the following:
  1. Type of motor vehicle, name of the manufacturer, a schedule indicating dates of operation and the hours of each day that said vehicle will operate.
  2. Proof that the seating capacity of the motor vehicle, according to its trade factory rating, is intended to accommodate thirteen (13) passengers.
  3. The name, age, residence address, business address, date of birth and phone number of the applicant. Name, age, address, date of birth and phone number of all drivers of said vehicle.
  4. The vehicle identification number, New Jersey vehicle registration number, vehicle insurance policy particulars and a valid New Jersey driver's license of the owner-operator of

the jitney. A valid New Jersey driver's license and insurance information for all drivers of the jitney.

5. The vehicle must meet all requirements to make it a CNG or ZEV vehicle, as defined herein. Proof that the vehicle is a CNG or ZEV vehicle must be provided.
6. 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.
7. If an individual, the applicant shall submit two (2) identical two inch by two inch (2" x 2") photographs with an image size of between one inch (1") and one and three eighths inches (1-3/8") from chin to the top of the head, including hair. Photographs must be clear, front view, full face printed with a plain light (white or off-white) background and should be taken by a professional photographer. The photographs shall be given to the Township Clerk or his/her designee for the purpose of preparation of an identification card to be executed by and showing the identity of the actual owner of the license. A valid jitney identification card that has been issued by another municipality in the State of New Jersey to the individual meeting all of the requirements herein shall be accepted by the Township Clerk or his/her designee in lieu of the above.
8. If a corporation, partnership or limited liability company, the applicant shall have its corporate officer, partner or member, as applicable, submit two (2) identical two inch by two inch (2" x 2") photographs with an image size of between one inch (1") and one and three eighths inches (1-3/8") from chin to the top of the head, including hair. Photographs must be clear, front view, full face printed with a plain light (white or off-white) background and should be taken by a professional photographer. The photographs shall be given to the Township Clerk or his/her designee for the purpose of

preparation of an identification card to be executed by and showing the identity of the actual owner of the license. A valid jitney identification card that has been issued by another municipality in the State of New Jersey to the individual meeting all of the requirements herein shall be accepted by the Township Clerk or his/her designee in lieu of the above.

9. The licensed applicant shall affirm that the jitney business and/or license shall not be used and operated for unlawful purposes and shall comply with applicable laws.
- d. No license to own or operate any jitney shall be granted to any person under the age of twenty-one (21) years, without having had a New Jersey or Pennsylvania driver's license for a period of three (3) years.
  - e. It shall be unlawful for any person to drive a jitney within the Township of Upper without first having obtained a jitney license and an identification card, the latter to contain the photograph and signature of the licensee. This identification card shall be produced by the Township Clerk. This identification card shall be carried at all times and prominently displayed while driving or operating a jitney. It shall be unlawful for any jitney operator or licensee to permit anyone else to wear his or her identification card or to refuse to show the same to lawful authorities upon request. A fee of Fifteen Dollars (\$15.00) shall be charged for a replacement identification card. All applicants shall provide such information as the Township Clerk requires, including but not limited to fingerprinting and a Criminal History Record Background Check pursuant to the provisions and requirements of N.J.S.A 40:48-1.4 and N.J.A.C. 13:59-1.1 et seq. Fees and costs in any manner associated with the Criminal History Record Background Check shall be charged to the applicant and collected by the Township Clerk. A Criminal History Record Background Check for an applicant dated within six months of the date of application that is provided directly from another

New Jersey municipality to the Township Clerk may be utilized if it complies with the requirements of N.J.S.A. 40:48-1.4 and N.J.A.C. 13:59-1.1 et seq. The Review Committee shall determine whether or not the applicant is disqualified based upon the results of the Criminal History Record Background Check.

If the applicant is a corporation, limited liability company or partnership, then the following individuals shall be subject to a Criminal History Record Background Check:

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 limited liability company and, if practical, the members.
3. In the event that the applicant is a partnership, such investigation shall be required of each partner, whether full or limited partners.

#### 4-3.3 Township Clerk's Authority.

- a. No jitney license shall be recommended or awarded to an applicant by the Township Clerk if it appears:
  1. That the insurance policy required by law has not been furnished and approved, or the same is insufficient in form or substance to properly safeguard the public interest and safety, or that the policy of insurance is not operative for at least one (1) year; or
  2. That the applicant has not complied with all the terms and conditions of this section and of the State of New Jersey relevant to such cases, or the applicant is not a person entitled to be licensed hereunder.
- b. The license to own and operate a jitney may be revoked by the Township Clerk for a violation of any of the provisions of this section or any ordinance of the Township relating to traffic, use

of streets or for the violation of any State law relating to traffic or use of streets, or for failure to pay any judgment for personal damages arising from the unlawful or negligent operation of a jitney for which the license was issued, or for failure to pay any franchise taxes provided by law and, thereupon, all rights and privileges under the license shall terminate.

- c. Before any license shall be revoked, the holder thereof shall have been notified in writing of the reasons for revocation, and shall be given a public hearing, at which the licensee may be represented by counsel. In addition, the licensee shall be given ten (10) days written notice of the time and place of such hearing. The notice provided hereby shall be served personally or by certified mail, to the address last filed by the person licensed as shown in the office of the Township Clerk. It will also be within the discretion of the Township Clerk to levy a fine and/or suspension should he/she deem revocation too severe a penalty.
- d. It shall further be the duty of the Township Clerk to take all reasonable and prudent steps to assure that the terms and conditions of this section are fulfilled.
- e. Where a licensee has been convicted of a crime in any Municipal, County, State or Federal court, upon conviction, the Township Clerk may revoke the license of the jitney owner upon written notice and hearing.
- f. The Township Clerk and the New Jersey State Police 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 Township Clerk.

#### 4-3.4 Vehicle Substitution; Replacement; Unsafe.

- a. The holder of any license shall not substitute or replace any licensed and approved vehicle without the written approval of the Township Clerk unless the substituted vehicle had already received such approval.
- b. The use of any jitney which may be found by the New Jersey State Police to be unsafe and not in condition to properly carry passengers shall be discontinued from service until such time as it is repaired, made safe or put in good condition before being used again.
- c. Any jitney that is out of service for any reason is not entitled to any prorated fee reimbursement.

#### 4-3.5 Transfer of License.

It shall be unlawful for the holder of any license issued under this section to transfer the license to any person.

#### 4-3.6 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.

#### 4-3.7 Passengers.

It shall be unlawful to drive or operate any jitney while that jitney is carrying more than thirteen (13) passengers. Each passenger must be seated while the jitney is in motion. Passengers must be treated with courtesy and respect; repeated complaints against drivers will be grounds for disciplinary action initiated by the Township Clerk. For the purpose of this section, children in arms shall not be considered as persons.

#### 4-3.8 Liability Insurance.

As a condition for the issuance of a license hereunder, the owner/operator of a jitney shall file with the Township Clerk an insurance policy attesting that the jitney is insured under a policy of comprehensive, general liability insurance with limits of not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence. Consent shall only continue to be effective and such operation be permitted only so long as such insurance to the full and collectible amount shall remain in force,

during the entire term of the policy. The insurance policy, or an accompanying document, shall obligate the liability insurer to notify the Township Clerk if any change occurs in the policy or if the policy is terminated or canceled for any reason. At which time any such notice is received all licenses shall be revoked immediately.

#### 4-3.9 General Rules.

- a. There shall be no smoking on jitneys.
- b. Only licensed jitney owners and their licensed employees can drive an authorized vehicle.
- c. Only a licensed jitney can be used on a prescribed jitney route.
- d. Unsanitary, inadequate, unclean or unsafe jitneys will not be permitted to operate.
- e. It shall be illegal to use profanity or engage in physical violence either on jitneys or in areas on or near jitney stops.
- f. All accidents must be reported to the New Jersey State Police as soon as possible after the occurrence. Any accident involving damage over Five Hundred Dollars (\$500.00) or personal injury must be reported immediately to the State Police.
- g. All lost and found articles not reclaimed by jitney passengers from the licensed jitney operators will be turned in to the Township Clerk the next business day.
- h. Jitney owners must notify the Township Clerk immediately when a change of license number or registration number occurs.
- i. This section is cumulative of all other applicable laws and ordinances.
- j. No flags, banners or advertising of any kind is permitted on jitneys.
- k. The Township Committee of the Township of Upper shall, by resolution, from time to time establish additional rules for the operation of jitneys throughout the Township and shall establish approved routes and fares to be charged to passengers. A copy of all such current rules adopted by the Township Committee, in addition to those set forth above, shall be provided to the holder

of each jitney license upon the issuance of said license or upon the adoption of such additional rules.

4-3.10 Penalty for Violations.

Any person who shall own and/or operate a jitney without complying with the provisions of this subchapter shall be subject to the following fines, in addition to the revocation of any license issued under this subchapter:

- a. First offense: a fine of not more than Five Hundred Dollars (\$500.00), but not less than Fifty Dollars (\$50.00).
- b. Subsequent offenses: a fine of not more than One Thousand Dollars (\$1,000.00), but not less than One Hundred Dollars (\$100.00), imprisonment in the county jail for a period not to exceed 90 days, or both.

**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon adoption and publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency 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: CODIFICATION:** This Ordinance shall be codified as indicated in Chapter 4 of the Upper Township Code.

ATTEST:

  
JOANNE R. HERRON, Deputy Clerk

  
RICHARD PALOMBO, Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27<sup>TH</sup> DAY OF MARCH, 2017 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 10<sup>TH</sup> DAY OF APRIL, 2017 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

**Legislative History:**

Introduced: March 27, 2017

Publication: March 31, 2017

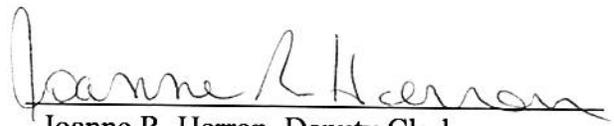
Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: April 10, 2017

Final Adoption: April 10, 2017

Final Publication Date: April 13, 2017

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on April 10, 2017 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on April 13, 2017.

  
Joanne R. Herron, Deputy Clerk