

City of Dade City

AGENDA MEMO

To: Honorable Mayor and Members of the City Commission
From: Karla S. Owens, City Attorney/Community Development Director
Subject: Introduction of Ordinance/Repealer of Chapter 106
Date: December 22, 2008

It is requested that the City Commission consider the following information and recommendation(s):

BACKGROUND:

Sections 106-31 through 106-93 of the Dade City Code of Ordinances regulate the licensing, insurance requirements, accident reporting, driver investigation, rates, signage, and zones of operation for taxicabs within the City limits. Similarly, Sections 106-121 through 106-136 of the Dade City Code regulates the rates, records, equipment, and hours of operation for vehicle wrecker services.

ISSUES:

Section 125.0103, Florida Statutes, states that no municipality may adopt or maintain in effect an ordinance which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency. Consequently, the above-referenced ordinances are invalid as this area is pre-empted to the state. Repeal of these ordinances will have no effect on the City's ability to charge a business tax/occupational license if applicable.

ALTERNATIVES:

1. Approve the introduction of the attached ordinance and authorize staff to advertise for public hearing; or
2. Do not introduce the attached ordinance; or
3. Direct staff to take some alternative action.

RECOMMENDATION:

Staff recommends Alternative No. 1 above.

FUNDING:

Funding for the advertisement of this item has previously been budgeted.

BY THE CITY COMMISSION

ORDINANCE NO.: 2008-0991

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF DADE CITY, FLORIDA, REPEALING SECTIONS 106-31 THROUGH 106-136 OF THE DADE CITY CODE OF ORDINANCES LICENSING AND REGULATING TAXICAB AND WRECKER SERVICES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 125.0103, Florida Statutes states that no entity of local government shall adopt or maintain in effect an ordinance which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency; and

WHEREAS, since the City's ordinances impose price controls, they are in conflict with the state statute and must be repealed.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Dade City, Florida, as follows:

SECTION 1. Ordinance Repealed.

Sections 106-31 through 106-136 of the Dade City Code of Ordinances are hereby repealed in their entirety.

SECTION 2. Severability.

In the event that any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word is declared by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

SECTION 3. Effective Date.

This ordinance shall take effect as set forth in the City Charter and Chapter 166, Florida Statutes.

The above Ordinance was approved upon first reading this 13th day of January, 2009, and approved and adopted following public hearing this 27th day of January, 2009

ATTEST:

CITY OF DADE CITY, FLORIDA

James D. Class, City Clerk

Scott Black, Mayor

APPROVED AS TO LEGAL FORM AND CONTENT

Karla S. Owens, City Attorney