



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
August 19, 2008

Honorable Members of the
Law and Legislation Committee

Title: Pedicab Insurance Requirement Discussion Paper

Location/Council District: Citywide

Recommendation: This report is for information only.

Contact: Max Fernandez, Director of Code Enforcement, (916) 808-7940; Bob Rose, Business Compliance Manager, 808-5947

Presenters: Bob Rose, Business Compliance Manager, 808-5947

Department: Code Enforcement

Division: Business Compliance

Dept ID: 20001211

Description/Analysis

Issue: On March 13, 2007, the City Council adopted Ordinance 2007-017 that established rules and regulations for pedicab (bicycle taxi) operations. As part of this ordinance, Section 5.94.080 established insurance requirements for pedicab owners. Due to an inquiry about insurance from a prospective pedicab operator, this report is provided to examine pedicab insurance alternatives.

Policy Considerations: Pedicabs are a non-polluting form of transportation and support the City Council’s strategic planning focus areas of sustainability and liability. The proposed insurance requirements are in accordance with the City’s policies.

Environmental Considerations: This report is not considered a project under the California Environmental Quality Act (CEQA).

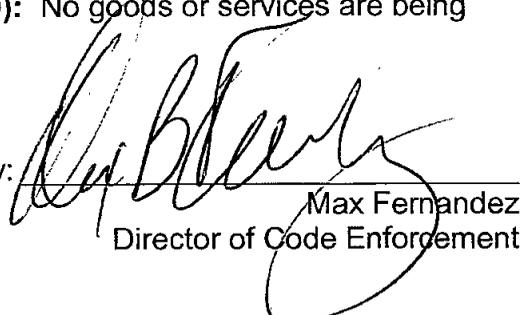
Sustainability Considerations: Although pedicabs fall under the City’s sustainability policy, there are no applicable sustainability considerations for this report.

Rationale for Recommendation: This report is for information only, however a recommendation to amend the pedicab ordinance to allow owners alternative liability insurance coverage options could be brought back at the Committee's discretion.

Financial Considerations: Not applicable.

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Approved by:



Max Fernandez
Director of Code Enforcement

Recommendation Approved:



for Ray Kerridge
City Manager

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BACKGROUND

Overview

An ordinance establishing regulations for pedicabs adding Chapter 5.94 to the Sacramento Municipal Code was adopted by the City Council on March 13, 2007. The major components of the ordinance consist of:

- Permit and appeal procedures;
- Reporting of accidents and general pedicab operation;
- Authorizing the City Manager to enforce and administer the ordinance;
- City Manager's pedicab rules;
- Application procedure.

Current Pedicab Insurance Requirements

Section 5.94.080 requires pedicab owners to maintain in full force and effect at no cost to the city a commercial general liability insurance policy which allows for coverage of not less than \$1,000,000 per occurrence. One permitted pedicab is currently operating within the City of Sacramento in compliance with the existing insurance requirements.

Insurance Options

Modification to the existing insurance requirement would allow pedicab owners the option of purchasing alternative types of coverage while maintaining general liability coverage at no cost to the City. These options include:

- Option A (Current requirement): A "per occurrence" policy is tied to the date of the event or accident. The loss may be reported following the expiration of the policy. The current ordinance requires that pedicab operators provide per occurrence policies with a commercial general liability insurance coverage of not less than \$1,000,000. Based on an estimate from ISU Insurance Services Stanton & Associates, a per occurrence policy would cost this operator approximately \$4,800 per year for three cabs.
- Option B (Possible alternative): A "claims made" type of policy protects an insured against claims or incidents that are reported while the policy is in force and provides coverage only for losses reported during the claims-made policy period. An extended reporting period is optional with claims made policies and may be added by purchase of "tail coverage" which provides protection for claims that are filed within a specified time after a policy has been non-renewed or canceled.

The need for tail coverage may arise if the business ceases to operate or the policy is not renewed. The terms and pricing for tail coverage vary and are usually defined in the policy. Based on an estimate from Lester Kalmanson Agency, Inc., a claims made general liability policy would cost \$1,500 per year for this operator with three cabs. The premium for a one year extended reporting tail coverage policy would be 225% of the full annual premium or \$3375. Estimates are based on information from a potential pedicab operator. Tail coverage would be purchased at the time the operator ceased business.

Other Jurisdictions

Other cities with pedicab ordinances have varying degrees of insurance coverage. The cities of Long Beach, Santa Barbara and San Diego require per occurrence coverage, and the city of Denver has no stipulations regarding the type of coverage. The City of Fresno accepted claims made coverage for a contract for a pedicab pilot program and required a two year tail coverage policy. However, Fresno staff acknowledged that the only way to compel the operator to purchase the tail coverage would be to sue for breach of contract.

Conclusion

While claims made general liability coverage may be less expensive for the pedicab operator, the City has no mechanism under the terms of a permit to assure that an operator will purchase the extended reporting period tail coverage. The City has protection under Government Code immunities pertaining to public entity permit activities. Therefore, the most substantial exposure is to members of the public who may be injured in a pedicab accident, miss the claims made reporting period, and find that the operator never purchased tail coverage as required under the permit.

The report is for information and discussion only. Based on the information provided in this report and committee discussion, the Law & Legislation Committee may direct staff to provide recommendations to proceed with modifications to pedicab insurance requirements and provide a general update.