



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2604

STAFF REPORT
April 4, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Possible Pedicab Ordinance

Location/Council District: Citywide

Recommendation:

This report is for Committee information. Staff seeks direction on whether to draft a pedicab ordinance, and, if so, which policies to include.

Contact: Max Fernandez, Code Enforcement Director, 808-7940
Bob Rose, Code Enforcement Manager, 808-5947

Presenter: Max Fernandez, Code Enforcement

Department: Code Enforcement

Division: Code Enforcement

Organization No:

Summary:

Councilmember Tretheway has requested that staff bring the concept of an ordinance to regulate pedicabs for the Law and Legislation Committee's consideration. Consistent with the protocols established by the Committee and City Council, staff submits this report with information and policy considerations regarding pedicab regulation. Staff seeks direction on drafting an ordinance for consideration and the policies to be included.

Committee/Commission Action:

None.

Background Information:

Councilmember Ray Tretheway has asked staff to explore the issue of pedicab operation and regulation in the City of Sacramento. A pedicab is a human-powered machine for hire that has two or more wheels and has seating for passengers that is either attached to the machine or in a trailer or sidecar. Pedicabs are frequently driven by independent contractors who rent the machines from the owners. This human-powered form of transportation is often popular with tourists. Pedicabs operate in other North American cities, including San Diego and Toronto. These cities have found that with proper regulation, pedicabs can provide a nonpolluting, alternative form of transportation.

Current Findings

Staff from the City's Department of Transportation and Old Sacramento have been consulted, as have staff from other cities that regulate pedicabs. Based on this research, Code Enforcement staff have identified issues to consider in regulating pedicabs:

Critical Elements

- Operation and location: Compliance with existing vehicle codes; areas where pedicabs would have to follow the same rules as bicycles and where they might require special consideration (K Street, Old Sacramento, the Capitol's perimeter, and the route into West Sacramento from Old Sacramento).
- Insurance: Policy provider requirements; amount of coverage required; providing proof of coverage. Machine owners *or* operators could be required to carry insurance.
- Pick up and drop off zone rules to prevent aggressive solicitation of customers.

Additional Elements

- Operator permit requirements, procedures, and fees: Requiring driver's license, business license, and background check; identification badges; minimum age; permit renewal, suspension, revocation, and appeal process.
- Equipment requirements: Inspections; lights, horns, mirrors, passenger seating, sound systems, trailers, and sidecars; certification decals and their associated fees.
- Items to consider in the future as demand warrants: posted fare schedules and receipts.

Future Direction

Staff requests direction from the Law and Legislation Committee regarding the future consideration and discussion of a pedicab ordinance. If directed to proceed, staff will prepare an ordinance for the Committee's consideration. Staff would consult with interest groups such as the Sacramento Area Bicycle Advocates (SABA), taxicab and horse-drawn carriage operators, and other business people.

Financial Considerations:

Staff recommendations will not financially impact the City's operating budget at this time. Staff will report back to the Law and Legislation Committee regarding revenue and budget issues if and when a pedicab ordinance is brought back to the Committee for consideration.

Environmental Considerations:

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

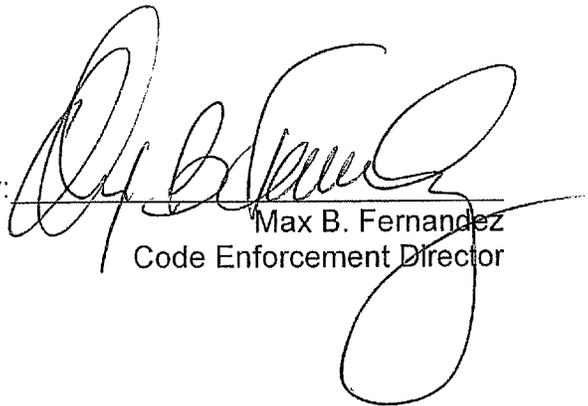
Policy Considerations:

Pedicabs are a non-polluting form of transportation in a region facing serious air quality and vehicular traffic problems. They are popular with tourists and offer a relatively inexpensive small-business opportunity for entrepreneurs. Establishing reasonable rules for their operation sets the stage for such individuals while protecting the public's health, safety, and welfare.

Emerging Small Business Development (ESBD):

No services or goods are being purchased.

Approved by:



Max B. Fernandez
Code Enforcement Director

Recommendation Approved:

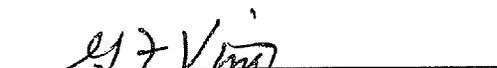

GUSTAVO F. VINA
Assistant City Manager

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Pedicabs

Article 3: Pedestrians

Division 1: Pedicabs

("Pedicabs" added 11-1-1999 by O-18701 N.S.)

§83.0101 Purpose

The Council finds that *pedicabs* have become an increasingly popular form of non-motorized transportation for hire in San Diego. This Division is enacted in response to concerns due to this increasing prevalence of *pedicabs*. It is necessary to enact regulations governing *pedicabs*, *operators*, and *owners* to protect the general safety and welfare of passengers using *pedicabs* for hire.

("Purpose" added 11-1-1999 by O-18701 N.S.)

§83.0102 Definitions

Defined terms appearing in this division are shown in italics. For purposes of this division:

Bicycle means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears, and which has wheels at least sixteen inches in diameter and a frame size of at least thirteen inches.

Darkness means any time from one-half hour after sunset to one-half hour before sunrise and any time when visibility is not sufficient to render clearly discernible any person or vehicle on the highway at a distance of 1000 feet.

Decal means the numbered decal issued by the City to a *pedicab owner* for display on the *pedicab* to indicate that the *pedicab* is permitted to operate.

Hearing Officer has the same meaning as the term "Enforcement Hearing Officer" defined in section 11.0210 of this Municipal Code.

Identification Badge means a badge that includes a color passport-size photo.

Operating Permit means a written permit issued by the City authorizing a *person* to operate a *pedicab* as a business.

Operator means any individual who operates a *pedicab* within the City of San Diego.

Owner means any *person* who owns a *pedicab*.

Pedicab means:

- (a) A *bicycle* that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for hire; or
- (b) A *bicycle* that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by an individual, and that is used for transporting passengers for hire.

Person has the same meaning as that term is defined in section 11.0210 of this Municipal Code.

(“Definitions” added 11-1-1999 by O-18701 N.S.)

§83.0103 Permit Requirement to Operate Pedicab

It is unlawful for any individual to operate a *pedicab* within the City without first having obtained an *operating permit* issued by the City pursuant to this division.

(“Permit Requirement to Operate Pedicab” added 11-1-1999 by O-18701 N.S.)

§83.0104 Application for Operating Permit

- (a) Before operating a *pedicab*, an individual shall apply for a *pedicab operating permit*.
- (b) The *pedicab operating permit* application form shall be prescribed by the City Manager.
- (c) The applicant shall provide the following information to complete the application:
 - (1) The applicant’s full name and residence address; and
 - (2) The applicant’s date of birth; and
 - (3) The applicant’s driver’s license number; and,
 - (4) Such other information as the City Manager may require.
- (d) The applicant shall provide the following material to complete the application:

- (1) Proof that the applicant is eighteen years or older; and
 - (2) Proof of ability to drive lawfully in California; and
 - (3) Proof of a valid City of San Diego Business Tax Certificate issued in accordance with the provisions of Chapter 3, Article 1, of this Code; and
 - (4) Two recent color passport-sized photographs; and,
 - (5) Such other material as the City Manager may require.
- ("Application for Operating Permit" added 11-1-1999 by O-18701 N.S.)*

§83.0105 Pedicab Operating Permit Fee

The City Manager shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of *pedicab operating permits*. The fee schedule shall be filed in the Ratebook of City Fees and Charges in the City Clerk's Office.

("Pedicab Operating Permit Fee" added 11-1-1999 by O-18701 N.S.)

§83.0106 Duration of Validity of Operating Permit

Operating permits shall be valid for a period of one year from date of issuance.

("Duration of Validity of Operating Permit" added 11-1-1999 by O-18701 N.S.)

§83.0107 Operating Permit Renewal

Pedicab operating permits shall be renewable annually upon filing and approval of a new application and payment of a *pedicab operating permit* fee as determined by the City Manager.

("Operating Permit Renewal" added 11-1-1999 by O-18701 N.S.)

§83.0108 Denial of Permit for Failure to Comply with Division

The City Manager may deny issuance of a *pedicab operating permit* if the applicant fails to comply with the requirements of this division.

("Denial of Permit for Failure to Comply with Division" added 11-1-1999 by O-18701 N.S.)

§83.0109 Denial of Pedicab Operating Permit, Suspension, or Revocation

The City Manager may deny issuance of a *pedicab operating permit* if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a *pedicab operating permit*. If such misrepresentation becomes known after a permit has been issued, the permit may be suspended or revoked.

(“Denial of Pedicab Operating Permit, Suspension, or Revocation” added 11-1-1999 by O-18701 N.S.)

§83.0110 Identification Badges Issued to Pedicab Operators With a Permit

- (a) The City Manager shall issue an *identification badge* to an individual after that individual has been issued a *pedicab operating permit*.
- (b) While the *pedicab* is in operation, the *pedicab operator* shall wear the *identification badge* at all times, in a manner clearly visible to the public.
- (c) It is unlawful for a *pedicab operator* to fail to wear an *identification badge*, in a manner clearly visible to the public, while operating a *pedicab*.

(“Identification Badges Issued to Pedicab Operators With a Permit” added 11-1-1999 by O-18701 N.S.)

§83.0111 Fare Schedule

- (a) *Pedicab operators* shall post a fare schedule in a manner clearly visible to the public at all times while operating a *pedicab*.
- (b) It is unlawful for any *pedicab operator* to demand from a passenger a fare greater than the fare contained in the posted fare schedule.
- (c) Section 83.0111(b) does not apply to fares for special tours, provided that the fare for the special tour is agreed upon between the passenger and the *pedicab operator* prior to the beginning of the tour.

(“Fare Schedule” added 5-20-2003 by O-19176 N.S.)

§83.0115 Pedicab Decal

It is unlawful for any *owner* to lease, rent, or allow a *pedicab* to be operated for hire within the City without first having obtained a *decal* issued pursuant to this division. The *decal* shall be affixed in a manner prescribed by the City Manager.

(“Pedicab Decal” added 11-1-1999 by O-18701 N.S.)

§83.0116 Application for Pedicab Decal

- (a) Before allowing a *pedicab* to be operated for hire, *owners* shall obtain a *pedicab decal*.
- (b) The *pedicab decal* application form shall be prescribed by the City Manager.
- (c) The applicant shall provide the following information to complete the application:
 - (1) The full name and address of the applicant; and
 - (2) The name and address of all legal and registered owners of the vehicle; and
 - (3) A description of the vehicle, including trade name, if any, serial number, and body style.
- (d) Applicants shall also provide proof of insurance in accordance with the provisions of this division in an amount not less than \$1 million per occurrence.

("Application for Pedicab Decal" added 11-1-1999 by O-18701 N.S.)

§83.0117 Requirements for Issuance of Pedicab Decal

- (a) *Pedicab decals* will be issued only when a *pedicab* meets all of the following requirements:
 - (1) The *pedicab* shall be equipped with a battery-operated headlight capable of projecting a beam of white light for a distance of 300 feet.
 - (2) The *pedicab* shall be equipped with battery-operated taillights mounted on the right and the left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the *pedicab*.
 - (3) The *pedicab* shall be equipped with side-mounted rearview mirrors affixed to the right and left side of the *bicycle* so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the *pedicab*.

("Requirements for Issuance of Pedicab Decal" added 11-1-1999 by O-18701 N.S.)

§83.0118 Pedicab Decal Fee

The City Manager shall charge a nonrefundable fee to recover the cost of activities associated with the administration, regulation, and issuance of *pedicab decals*.
(“*Pedicab Decal Fee*” added 11-1-1999 by O-18701 N.S.)

§83.0119 Duration of Validity of Pedicab Decal

Pedicab decals shall be valid for a period of one year from date of issuance.
(“*Duration of Validity of Pedicab Decal*” added 11-1-1999 by O-18701 N.S.)

§83.0120 Pedicab Decal Renewal

Pedicab decals shall be renewable annually upon filing of a new application and payment of a *pedicab decal* fee as determined by the City Manager.
(“*Pedicab Decal Renewal*” added 11-1-1999 by O-18701 N.S.)

§83.0121 Denial of Decal for Failure to Comply with Division

The City may deny issuance of a *pedicab decal* if the City Manager determines that the *pedicab* does not meet the requirements of this division and the California Vehicle Code provisions applicable to *bicycles*.
(“*Denial of Decal for Failure to Comply with Division*” added 11-1-1999 by O-18701 N.S.)

§83.0122 Other Laws Applicable to Pedicab Owners and Operators

Pedicab operators are subject to all applicable laws, rules, and regulations of the San Diego Municipal Code and the California Vehicle Code pertaining to the operation of *bicycles* upon streets, except those provisions that by their very nature can have no application.
(“*Other Laws Applicable to Pedicab Owners and Operators*” added 11-1-1999 by O-18701 N.S.)

§83.0123 Minimum Age for Pedicab Operators

It is unlawful for any individual under the age of eighteen to operate a *pedicab*.
(“*Minimum Age for Pedicab Operators*” added 11-1-1999 by O-18701 N.S.)

§83.0124 Driver's License Requirement to Operate Pedicab

It is unlawful for any individual without a motor vehicle driver's license valid in California to operate any *pedicab* within the City.

("Driver's License Requirement to Operate Pedicab" added 11-1-1999 by O-18701 N.S.)

§83.0125 Business Tax Certificate Requirement to Operate Pedicab

(a) It is unlawful for an individual to operate a *pedicab* without first obtaining a business tax certificate pursuant to Chapter III, Article 1 of this Code.

(b) Municipal Code Section 31.0202 is not applicable.

("Business Tax Certificate Requirement to Operate Pedicab" added 11-1-1999 by O-18701 N.S.)

§83.0126 Equipment Regulations for Pedicabs

(a) It is unlawful for any *person* to operate, or cause to be operated, a *pedicab* during the hours of *darkness*, without using a headlight capable of projecting a beam of white light for a distance of 300 feet.

(b) It is unlawful for any *person* to operate, or cause to be operated, a *pedicab* during the hours of *darkness*, without using battery-operated taillights mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within 500 feet to the rear of the *pedicab*.

(c) It is unlawful for any *person* to operate, or cause to be operated, a *pedicab* without using side-mounted rearview mirrors affixed to the right and left side of the *bicycle* so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the *pedicab*.

(d) It is unlawful for any *person* to operate, or cause to be operated, a *pedicab* in an unsafe condition.

(e) It is unlawful for any *person* to operate, or cause to be operated, a *pedicab*, which has more than one attached trailer or sidecar.

(Amended 5-20-2003 by O-19176 N.S.)

§83.0127 Passenger Seating Requirements

It is unlawful for any *person* to operate a *pedicab* while carrying a number of passengers that exceeds the number of available seats.
(“Insurance Requirements” renumbered to Sec. 83.0129; “Passenger Seating Requirements” added 5-20-2003 by O-19176 N.S.)

§83.0128 Damage to Public Property

It shall be unlawful for any *person* to operate a *pedicab* in a manner that results in damage to public property.
(“Suspension or Revocation of Operating Permit or Decal” renumbered to Sec. 83.0130; “Damage to Public Property” added 5-20-2003 by O-19176 N.S.)

§83.0129 Insurance Requirements

- (a) It is unlawful for any *person* to operate a *pedicab* within the City of San Diego unless at the time of such operation the *pedicab owner* has in effect a valid policy of commercial general liability coverage or business auto coverage with a *pedicab* endorsement on the vehicle.
- (b) The insurance policy, required to be issued under section 83.0127(a), shall be executed and delivered by a company with a rating of A in Best’s Key Rating Guide and authorized to carry on an insurance business in the State of California, the financial responsibility of which company has been approved by the City Manager. The terms of the policy shall provide that the insurance company assumes financial responsibility in an amount not less than \$1 million per occurrence for bodily injuries and personal injuries or property damage caused by the operation of the *pedicab*, including but not limited to, *pedicabs* operated by the officers, employees, agents, or lessees of the *pedicab owner*.
- (c) A valid certificate of insurance issued by a company providing the required insurance policy shall be available for inspection at the *owner’s* principal place of business. A certificate of insurance shall provide that the insurer will notify the City Manager of any cancellation of the *owner’s* insurance policy and that the cancellation notice shall be in writing and such notice shall be sent by registered mail at least thirty days before cancellation of the policy. The certificate shall include all of the following:
 - (1) The full name of the insurer;

- (2) The name and address of the insured;
- (3) The insurance policy number;
- (4) The type and limits of coverage;
- (5) The specific vehicles insured;
- (6) The effective dates of the insurance policy; and
- (7) The certificate issue date.

(“Right of Appeal from Denial of Operating Permit or Decal” renumbered to Sec. 83.0131; “Insurance Requirements” renumbered from Sec. 83.0127 on 5-20-2003 by O-19176 N.S.)

§83.0130 Suspension or Revocation of Operating Permit or Decal

- (a) *Pedicab operating permits or decals* may be suspended or revoked by the City Manager at any time based upon any of the following grounds:
 - (1) The *pedicab operator* has failed to comply with the applicable provisions of this Division, or the rules and regulations prescribed by the City Manager.
 - (2) The *pedicab operator* has been convicted of assault; battery; resisting arrest; any felony involving force and violence; any misdemeanor or felony reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions, or duties of the passenger transport business or the ability of the *pedicab operator* to safely transport passengers, unless five years has elapsed from the date of discharge from a penal institution, or the successful completion of probation for such conviction.
 - (3) The *pedicab operator* has been convicted of a crime that requires registration under the California Penal Code as a sex offender.
 - (4) The *pedicab operator* has knowingly made a false statement or material fact, or knowingly failed to state a material fact in the application process for the *pedicab operating permit or decal*.
 - (5) The *pedicab operator's* ability to drive lawfully in California has expired or has been suspended or revoked.

- (6) When the City Manager determines that the *pedicab operator* has engaged in criminal activity or other activity that constitutes a serious threat to public health, safety, or welfare, a *pedicab operating permit* or *decal* may be summarily suspended or revoked, and a notice of the suspension or revocation may be issued without a hearing. The summary suspension or revocation shall remain in effect until the conclusion of the appeal process set forth in sections 83.0131 and 83.0132.

("Right of Appeal from Suspension or Revocation of Operating Permit or Decal" renumbered to Sec. 83.0132; "Suspension or Revocation of Operating Permit or Decal" renumbered from Sec. 83.0128 and amended 5-20-2003 by O-19176 N.S.)

§83.0131 Right of Appeal from Denial of Operating Permit or Decal

- (a) The City Manager shall notify the applicant that his or her *operating permit* or *decal* has been denied. The City Manager shall also notify the applicant of the right to appeal the denial. Any written appeal shall be filed within ten calendar days after service of notice of denial. Service shall be by any of the methods listed in Municipal Code section 11.0301. The applicant shall set forth in the appeal the reason why the denial is not proper.
- (b) If no appeal is filed within the time allowed, the *operating permit* or *decal* shall be considered denied.

("Procedure Upon Appeal" renumbered to Sec. 83.0133; "Right of Appeal from Denial of Operating Permit or Decal" renumbered from Sec. 83.0129 on 5-20-2003 by O-19176 N.S.)

§83.0132 Right of Appeal from Suspension or Revocation of Operating Permit or Decal

- (a) The City Manager shall notify the *pedicab operator* or *owner* that his or her *operating permit* or *decal* has been suspended or revoked. The City Manager shall also notify the *pedicab owner* or *operator* of the right to appeal the suspension or revocation. Any written appeal shall be filed within ten calendar days after service of notice of suspension or revocation. Service shall be by any of the methods listed in Municipal Code section 11.0301. The *pedicab operator* or *owner* shall set forth in the appeal the reason why the suspension or revocation is not proper.
- (b) If no appeal is filed within the time allowed, the *operating permit* or *decal* shall be considered suspended or revoked and the *pedicab operator* or *owner* shall immediately surrender the *operating permit* or *decal* in the manner prescribed by the City Manager.

- (c) Once a timely appeal is filed, the suspension or revocation of the *operating permit* or *decal* shall be stayed pending the final determination by the *Hearing Officer*.

(“*Enforcement Authority*” renumbered to Sec. 83.0134; “*Right of Appeal from Suspension or Revocation of Operating Permit or Decal*” renumbered from Sec. 83.0130 on 5-20-2003 by O-19176 N.S.)

§83.0133 Procedure Upon Appeal

- (a) An applicant served with a notice of denial, suspension, or revocation may file an appeal within ten calendar days from the service of the notice. Service shall be by any of the methods listed in Municipal Code section 11.0301.
- (b) The appeal shall be made in writing and filed with the City Manager.
- (c) As soon as practicable after receiving the written notice of appeal, the City Manager shall appoint a *Hearing Officer* and schedule a date, time, and place for the hearing.
- (d) Written notice of the date, time, and place of the hearing shall be served at least ten calendar days before the date of the hearing on the person appealing the notice by any of the methods listed in Municipal Code section 11.0301.
- (e) The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedures set forth in Division 4, Article 2, Chapter I of this Code.
- (f) Failure to attend the administrative enforcement hearing by the person appealing a notice shall constitute a waiver of his or her rights to an administrative enforcement hearing and adjudication of the notice or any portion of the notice.
- (g) If the *Hearing Officer* decides to uphold the decision of the City Manager to revoke or suspend an *operating permit* or *decal*, the appellant shall immediately surrender the *operating permit* or *decal*.
- (h) The *Hearing Officer*'s decision on an appeal of a denial, suspension, or revocation of a *decal* or *operating permit* shall be final on the date of service. Service shall be by any of the methods listed in Municipal Code section 11.0301.

(“*Enforcement Remedies*” renumbered to Sec. 83.0135; “*Procedure Upon Appeal*” renumbered from Sec. 83.0131 on 5-20-2003 by O-19176 N.S.)

§83.0134 Enforcement Authority

The City Manager is authorized to administer and enforce the provisions of the division. The City Manager may exercise any enforcement powers as provided in Division 1, Article 2, Chapter 1 of this Code.

("Strict Liability Offenses" renumbered to Sec. 83.0136; "Enforcement Authority" renumbered from Sec. 83.0132 on 5-20-2003 by O-19176 N.S.)

§83.0135 Enforcement Remedies

Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code section 12.0201. The City Manager may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 or pursue any administrative remedy provided in Chapter 1 of this Code.

("Enforcement Remedies" renumbered from Sec. 83.0133 on 5-20-2003 by O-19176 N.S.)

§83.0136 Strict Liability Offenses

Violations of this division shall be treated as strict liability offenses.

("Strict Liability Offenses" renumbered from Sec. 83.0134 on 5-20-2003 by O-19176 N.S.)