

ORDINANCE NUMBER O- 19898 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 11 2009

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 83.0101, 83.0102, 83.0103, 83.0104; RETAINING SECTION 83.0105; AMENDING SECTIONS 83.0106 AND 83.0107; AMENDING AND RENUMBERING SECTIONS 83.0108, 83.0109, 83.0110, 83.0111, 83.0112, 83.0113, 83.0114, 83.0115, 83.0116, 83.0117, 83.0118, 83.0119, 83.0120, AND 83.0121; RENUMBERING SECTION 83.0122; AMENDING AND RENUMBERING SECTION 83.0123; RENUMBERING SECTION 83.0124, AMENDING AND RENUMBERING SECTIONS 83.0125, 83.0126, 83.0127, 83.0128, 83.0129, AND 83.0130; RENUMBERING SECTION 83.0131; AMENDING AND RENUMBERING SECTION 83.0132; RENUMBERING SECTION 83.0133; AND DELETING SECTIONS 83.0134, 83.0135, AND 83.0136; ALL RELATING TO PEDICABS.

WHEREAS, the City of San Diego [City] has regulated the operation of pedicabs since January 1, 2000; and

WHEREAS, the number of pedicabs operating within certain areas of the City has increased dramatically; and

WHEREAS, the regulation of the operation of pedicabs is in the public interest, and necessary to protect the safety and welfare of the citizens of the City and its visitors; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 8, Article 3, Division 1 of the San Diego Municipal Code is amended by amending Sections 83.0101, 83.0102, 83.0103, 83.0104; by retaining Section 83.0105; by amending Sections 83.0106 and 83.0107; by amending and renumbering Sections 83.0108, 83.0109, 83.0110, 83.0111, 83.0112, 83.0113, 83.0114, 83.0115, 83.0116, 83.0117, 83.0118, 83.0119, 83.0120, and 83.0121; by renumbering Section 83.0122; by amending and renumbering Section 83.0123, by renumbering Section 83.0124; by amending and renumbering

Sections 83.0125, 83.0126, 83.0127, 83.0128, 83.0129, and 83.0130; by renumbering Section 83.0131; by amending and renumbering Section 83.0132; by renumbering Section 83.0133; and by deleting Sections 83.0134, 83.0135, and 83.0136; to read as follows:

**§83.0101 Purpose**

The Council finds that *pedicabs* are a popular form of non-motorized transportation in San Diego. This Division is enacted in response to concerns due to the increasing prevalence of *pedicabs*. It is necessary to enact regulations governing *pedicabs*, *operators*, and *owners* to protect the health, safety and welfare of the general public, and passengers using *pedicabs*. It is further the intent of this Division to facilitate the safe, orderly flow of traffic and to relieve congestion and traffic hazards associated with *pedicab* use.

**§83.0102 Definitions**

Defined terms appearing in this Division are shown in italics. Whenever any words or phrases used in this Division are not defined in this Division but are defined in the California Vehicle Code, the words or phrases shall have the meaning set forth in the California Vehicle Code. For purposes of this Division:

*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.

*Enforcement Hearing Officer* has the same meaning as that term is defined in Section 12.0403 of this Municipal Code.

*Martin Luther King Promenade* means the pedestrian right-of-way that runs parallel to Harbor Drive and north of the Metropolitan Transit System trolley tracks, between Market Street and Park Boulevard.

*Operating Permit* means a badge worn by the *operator* that includes a color passport-sized photo and other information, issued by the City pursuant to Section 83.0104, 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 a *person*, 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 a *person*, and that is used for transporting passengers for hire.

*Pedicab 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 everywhere in the City of San Diego except those areas designated as *Restricted Pedicab Zones*.

*Pedicab Parking Zone* means a parking area designated for the specific purpose of *pedicabs* waiting for, dropping off, or picking up passengers.

*Pedicab Restricted Zone 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 anywhere in the City of San Diego including those areas designated as *Restricted Pedicab Zones*.

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

*Restricted Pedicab Zone* means a geographical area listed in Section 83.0113 of this Municipal Code.

*Seatbelt* means the safety strap or harness designed to hold a *person* securely in a seat.

*Special Event* has the same meaning as that term is defined in Section 22.4003 of this Municipal Code.

**§83.0103 Permit Requirement to Operate Pedicab**

- (a) It is unlawful for any *person* to operate a *pedicab* within the City without having a valid *operating permit* issued by the City pursuant to this Division.
- (b) It is unlawful for an *operator* to fail to wear his or her *operating permit* in a manner clearly visible to the public while operating a *pedicab*.

**§83.0104 Application for Operating Permit**

- (a) The *operating permit* application form shall be prescribed by the City Manager.
- (b) Any application that does not include all information requested by the application form or is not supported by the materials required by this Section may be rejected as incomplete.
- (c) The application form shall require the following information:
  - (1) the applicant's full name and residence address;
  - (2) the applicant's date of birth;
  - (3) such other information as the City Manager may require.
- (d) The applicant shall provide the following material to complete the application:
  - (1) a valid form of federal or state issued photo identification;
  - (2) proof of a valid Business Tax Certificate issued pursuant to Chapter 3, Article 1 of this Municipal Code;
  - (3) two recent color passport-sized photographs;
  - (4) a signed copy of the "Pedicab Operator Code of Conduct;"
  - and
  - (5) such other material as the City Manager may require.

**§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 *operating permits*. The fee schedule shall be filed in the Ratebook of City Fees and Charges in the City Clerk's Office.

**§83.0106 Validity of Operating Permit**

- (a) *An Operating permit* shall be valid from the date issued through December 31st of the year for which it is issued.
- (b) *Operating permits* shall become invalid immediately if the *operating permit* is defaced, altered, forged, or counterfeited.
- (c) *Operating permits* are non-transferable.

**§83.0107 Operating Permit Renewal**

*Operating permits* may be renewed annually upon the filing and approval of a new application and payment of an *operating permit* fee as determined by the City Manager. *Operating permits* may be renewed beginning December 1st for the following calendar year.

**§83.0108 Fare Schedule**

- (a) *Operators* shall post a per passenger fare schedule on the *pedicab* that meets the size, format and location requirements of Section 83.0109. This fare schedule shall be clearly visible to all passengers while seated in the *pedicab*.
- (b) It is unlawful for any *operator* to charge a passenger a fare greater than the fare contained in the posted fare schedule.

**§83.0109 Fare Schedule Sign Requirements**

- (a) Size – A fare schedule sign shall be a minimum of 8 ½” in width x 6” in height.

- (b) Font – The required font shall be “Arial Bold,” in a color to produce maximum contrast with the background, adequately spaced for maximum readability.
- (c) Format – The Fare Schedule shall include the following text:  
Line 1- FARE SCHEDULE (All capitalized with minimum font size of 36)  
Line 2- (PER PERSON) (All capitalized with minimum font size of 36)  
Line 3- Rate charged (Minimum font size of 36).
- (d) Location Requirements – The Fare Schedule shall be securely attached to the *pedicab* in a location clearly visible to all passengers while seated in the *pedicab*.

**§83.0110 Pedicab Parking**

- (a) To provide drop off and pick up areas for *pedicabs*, the City Manager may locate and designate *Pedicab Parking Zones* within the *Restricted Pedicab Zones*.
- (b) Every *operator* and every *owner* is subject to all applicable parking provisions of the California Vehicle Code and the San Diego Municipal Code. *Owners* and *operators* are subject to the same rights and responsibilities as a driver of a motor vehicle as it relates to parking violations. *Pedicab* parking violations will be issued to the *owner*. *Pedicab* parking violation fees will correspond with parking fees established for motor vehicles in the Municipal Code.
- (c) It is unlawful for an *operator* to leave his or her *pedicab* unattended in a *Pedicab Parking Zone*.

- (d) It is unlawful to park a *pedicab* in a metered parking space.

**§83.0111 Pedicab Impound**

- (a) Every *operator* and every *owner* is subject to applicable impound provisions in California Vehicle Code section 22651. *Operators* and *owners* are subject to the same rights and responsibilities as a driver of a motor vehicle as it relates to *pedicab* impounds.

- (b) *Pedicabs* subject to impound may be removed by Police contract tow companies and are subject to City tow fees. Any peace officer, police officer, or parking enforcement officer engaged in traffic or parking enforcement may remove or impound a *pedicab* under any of the following circumstances:

- (1) when an *operator* is issued a citation for a violation of Municipal Code Section 83.0114(b) or (c);
- (2) when an *operator* is issued a citation for a violation of Municipal Code Section 83.0103(a);
- (3) when an *operator* is arrested and taken into custody;
- (4) when a *pedicab owner* has five or more unpaid parking violations related to the *pedicab* to be towed;
- (5) when an *operator* is physically incapacitated to the extent the *operator* is unable to safely operate the *pedicab*;
- (6) when a *pedicab* is parked or left standing upon a City street or sidewalk so as to obstruct the normal movement of vehicles or pedestrians or in a condition that creates a hazard; or
- (7) when the *pedicab* is in violation of Section 83.0110(c) or (d).



- (c) An *owner* of a *pedicab* removed pursuant to Section 83.0111 shall be provided an opportunity for a post-storage hearing to determine the validity of the storage, in accordance with California Vehicle Code Section 22852. The impounding agency shall have the burden of establishing the validity of the removal.

**§83.0112 Pedicab Special Events Restrictions**

It is unlawful to operate a *pedicab* within the perimeter of a permitted *special event* except where specifically authorized by the City.

**§83.0113 Restricted Pedicab Zones**

- (a) A *Pedicab Restricted Zone Decal* shall be required to operate a *pedicab* within a *Restricted Pedicab Zone*.
- (b) The following are *Restricted Pedicab Zones*:
  - (1) The Downtown Zone shall encompass the area bordered by the south curb line of Ash Street between San Diego Bay and 11<sup>th</sup> Avenue, the east curb line of 11<sup>th</sup> Avenue between Ash Street and C Street, the north curb line of C Street between 11<sup>th</sup> Avenue and 14<sup>th</sup> Street, and the east curb line of 14<sup>th</sup> Street between C Street and San Diego Bay.
  - (2) The Ocean Beach Zone shall encompass the area bordered by south curb line of Voltaire Street between the Pacific Ocean and Sunset Cliffs Boulevard, the east curb line of Sunset Cliffs Boulevard between Voltaire Street and Narragansett Avenue, and the north curb line of Narragansett Avenue between Sunset Cliffs Boulevard and the Pacific Ocean.

- (3) The Mission Beach/Pacific Beach Zone shall encompass the area bordered by the south curb line of Beryl Street and its extension between the Pacific Ocean and Ingraham Street, and the east curb line of Ingraham Street between Beryl Street and the Mission Bay Channel.
- (4) The La Jolla Zone shall encompass the area bordered by the south curblines of Camino del Collado between the Pacific Ocean and La Jolla Shores Drive, the west curb line of La Jolla Shores Drive between Camino del Collado and Torrey Pines Road, the north curb line of Torrey Pines Road between La Jolla Shores Drive and Girard Avenue, the east curb line of Girard Avenue between Torrey Pines Road and the extension of the north curb line of Marine Street, and the north curb line of Marine Street and its extension between Girard Ave and the Pacific Ocean.
- (5) The Petco Ballpark Zone shall encompass the area bordered by the south curb line of Island Ave between Sixth Avenue and 14<sup>th</sup> Street, the east curb line of 14<sup>th</sup> Street between Island Avenue and Commercial Street, the north curb line of Commercial Street between 14<sup>th</sup> Street and Harbor Drive, the north curb line of Harbor Drive between Commercial Street and Sixth Avenue and the west curb line of Sixth Avenue between Harbor Drive and Island Avenue.

- (c) It is unlawful to operate a *pedicab* in a *Restricted Pedicab Zone* without a valid *Pedicab Restricted Zone Decal*.
- (d) It is unlawful to operate a *pedicab* within the Petco Ballpark Zone three hours before the scheduled start time and one hour after the conclusion of any Padres games, event or City *special event* occurring at Petco Park.

**§83.0114 Pedicab Decals: General and Restricted Zone**

- (a) The number of *Pedicab Restricted Zone Decals* issued shall be set by resolution of the San Diego City Council.
- (b) It is unlawful to operate a *pedicab* or for any *owner* to lease, rent, or allow a *pedicab* to be operated within the City without first having obtained a *Pedicab Decal* or *Pedicab Restricted Zone Decal* issued pursuant to this Division.
- (c) The *Pedicab Decal* or *Pedicab Restricted Zone Decal* shall be permanently affixed to the frame of the *pedicab* in a location that is clearly visible to the passenger or the public.

**§83.0115 Application for Pedicab Decal or Pedicab Restricted Zone Decal**

- (a) Before allowing a *pedicab* to be operated, *owners* shall obtain a *Pedicab Decal* or *Pedicab Restricted Zone Decal*.
- (b) The *Pedicab Decal* or *Pedicab Restricted Zone Decal* application form shall be prescribed by the City Manager.
- (c) The *owner* shall provide the following information:
  - (1) the full name, address and phone number of the *owner*;
  - (2) the name and address of all legal and registered *owners* of the *pedicab*;

- (3) a description of the *pedicab*, including trade name, if any, serial number, and body style;
  - (4) physical address of *pedicab* storage; and
  - (5) such other information as the City Manager may require.
- (d) *Owners* shall provide proof of insurance in accordance with the Section 83.0126.
- (e) *Owners* shall provide a completed Pedicab Inspection Form which verifies the City-assigned *pedicab* identification number, all required safety equipment and *pedicab* exterior markings.
- (f) *Owners* shall inform the City when changes in insurance, business address, storage address or mailing address occur after a *Pedicab Decal* or *Pedicab Restricted Zone Decal* is issued, within 10 calendar days of any such changes.

**§83.0116 Requirements for Issuance or Renewal of Pedicab Decals and Pedicab Restricted Zone Decals**

No *Pedicab Decals* or *Pedicab Restricted Zone Decals* may be issued or renewed unless the *pedicab* meets all of the equipment requirements contained in Section 83.0123 and all parking fees for that *pedicab* are paid.

**§83.0117 Pedicab Decal and Pedicab Restricted Zone Decal Fees**

The City Manager shall charge a nonrefundable fee to recover the costs associated with the administration, regulation, and issuance of *Pedicab Decals* or *Pedicab Restricted Zone Decals*. The fee schedule shall be filed in the Ratebook of City Fees and Charges in the City Clerk's Office.

**§83.0118 Duration of Validity of Pedicab Decals and Pedicab Restricted Zone Decals**

- (a) *A Pedicab Decal or Pedicab Restricted Zone Decal* is valid from the date issued through December 31st of the year for which it is issued.
- (b) *A Pedicab Decal or Pedicab Restricted Zone Decal* is invalid if the *Pedicab Decal or Pedicab Restricted Zone Decal* is defaced, altered, mutilated, forged, or counterfeited.
- (c) *Pedicab Decals and Pedicab Restricted Zone Decals* are non-transferable.

**§83.0119 Pedicab Decal and Pedicab Restricted Zone Decal Renewal**

*Pedicab Decals and Pedicab Restricted Zone Decals* may be renewed annually upon filing of a new application and payment of a fee as determined by the City Manager. *Pedicab Decals and Pedicab Restricted Zone Decals* may be renewed beginning December 1st for the following calendar year.

**§83.0120 Other Laws Applicable to Pedicab Owners and Operators**

*Operators and owners* 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.

**§83.0121 Minimum Age for Pedicab Operators**

It is unlawful for any *person* under the age of eighteen to operate a *pedicab*.

**§83.0122 Business Tax Certificate Requirement to Operate Pedicab**

- (a) It is unlawful for any *person* to operate a *pedicab* without first obtaining a business tax certificate pursuant to Chapter 3, Article 1 of this Code.
- (b) Municipal Code Section 31.0202 is not applicable.

**§83.0123 Equipment Regulations for Pedicabs**

- (a) It is unlawful to operate, or for any *owner* to allow 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*.
- (b) It is unlawful for any person to operate, or for any *owner* to allow to be operated, a *pedicab* without a *seatbelt* or *seatbelts* for passengers. *Seatbelts* shall be in proper working order.
- (c) It is unlawful to operate, or for any *owner* to allow to be operated, a *pedicab* in an unsafe condition.
- (d) It is unlawful to operate, or for any *owner* to allow to be operated, a *pedicab* that does not comply with the exterior marking requirements as required by Section 83.0130.

**§83.0124 Passenger Seating Requirements**

It is unlawful to operate, or for any *owner* to allow to be operated, a *pedicab* while carrying a number of passengers that exceeds the number of available seats.

**§83.0125 Prohibitions on the Manner of Operating Pedicabs**

- (a) It is unlawful to operate a *pedicab* in a manner that results in damage to public property.

- (b) It is unlawful to operate a *pedicab* on a City street with a posted speed limit in excess of 25 miles per hour unless the *pedicab* is operated within a class II bike lane.
- (c) It is unlawful to operate a *pedicab* on Garnet Avenue west of Ingraham Street; Pacific Beach Drive west of Riviera Drive; Riviera Drive; Sunset Cliffs Boulevard; Newport Avenue west of Sunset Cliffs Boulevard; Prospect Avenue between Coast Boulevard and Fay Avenue; Girard Avenue between Pearl Street and Torrey Pines Road.
- (d) It is unlawful to operate a *pedicab* on the *Martin Luther King Promenade*.
- (e) It is unlawful to operate a *pedicab* upon a sidewalk except as may be necessary to enter or leave adjacent property.
- (f) It is unlawful to operate, or any *owner* to allow to be operated, a *pedicab* having more than one attached trailer or sidecar.
- (g) It is unlawful to operate a *pedicab* unless all passengers are restrained by *seatbelts*.

**§83.0126 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 *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 83.0126(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, independent contractors, or lessees of the *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 city-assigned identification number of the specific vehicles insured;
  - (6) the effective dates of the insurance policy; and
  - (7) the certificate issue date.
- (d) Upon demand of a peace officer, every *operator* of a *pedicab* shall provide valid proof of insurance for the *pedicab*.



**§83.0127 Denial, Suspension or Revocation of Operating Permit, Pedicab Decal or Pedicab Restricted Zone Decal; Notification of Action**

(a) *Operating permits, Pedicab Decals, or Pedicab Restricted Zone Decals* may be denied, suspended or revoked by the City Manager based upon any of the following grounds:

- (1) the *operator* or *owner* fails to comply with the insurance requirements set forth in Section 83.0126;
- (2) the *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 *operator* to safely transport passengers, including a misdemeanor conviction under California Penal Code Section 415 as part of a plea bargain in satisfaction of or substitute for an original charge of any of those listed above, 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 *operator* has been convicted of a crime that requires registration under the California Penal Code as a sex offender;
- (4) the *operator* or *owner* has knowingly made a false statement of material fact, or knowingly failed to state a material fact in the application process for the *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal*;

- (5) the *operator* has engaged in activity that, in the judgment of the City Manager, constitutes a serious threat to public health, safety, or welfare. Such a threat may be indicated by, but is not limited to:
  - (A) a report from a law enforcement agency that the *pedicab* or *operator* was involved in a vehicle or pedestrian accident involving a *pedicab*, resulting in injuries; or
  - (B) the *operator* or *owner* is in violation of Section 83.0128(g).
- (6) the *operator* fails to comply with any applicable provisions of the California Vehicle Code.
- (b) The City Manager shall provide notice to the *operator* or *owner* of the denial or intent to suspend or revoke as follows:
  - (1) When, prior to the issuance of an *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal*, the City Manager has evidence that one of the grounds specified in Section 83.0127(a) exists, the City Manager shall serve an applicant with a notice that his or her application for an *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal* has been denied. The notice shall also advise the applicant of the right to appeal the denial. Service shall be by any of the methods listed in Municipal Code Section 11.0301.
  - (2) Where, after the issuance of an *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal*, the City Manager has information that one of grounds listed in Section 83.0127(a) exists, the City Manager shall notify the *operator* or *owner* of that information, and commence suspension or revocation proceedings as specified in Section 83.0128.

The notice shall be served in accordance with Section 11.0301.

- (3) Section 83.0127(b)(2) notwithstanding, when, after the issuance of an *operating permit*, the City Manager receives a certified record of conviction for an offense meeting the criteria of Section 83.0127(a)(2) or (a)(3), or receives a report from a government agency that contains information that the grounds specified in Section 83.0127(a)(5) exists, the City Manager may summarily suspend or revoke an *operating permit* without a prior hearing. The City Manager shall serve a notice of the suspension or revocation in accordance with Section 11.0301. The summary suspension or revocation shall remain in effect until the conclusion of the appeal process set forth in Section 83.0128.

**§83.0128 Procedure for Denial, Suspension or Revocation of Operating Permits and Pedicab Decals or Pedicab Restricted Zone Decals**

- (a) An applicant served with a notice of denial may file an appeal within 10 calendar days from the date the notice required by Section 83.0127(b)(1) was served.
- (1) The appeal shall be made in writing and filed with the City Manager.
- (2) As soon as practicable after receiving the written notice of appeal, the City Manager shall appoint an *Enforcement Hearing Officer* and schedule a date, time, and place for the hearing.
- (3) 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.

- (4) 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.
  - (5) 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.
- (b) Where a notice of suspension or revocation is issued pursuant to Section 83.0127(b)(2), the notice shall:
- (1) specify the ground(s) for suspension or revocation;
  - (2) specify the evidence used to determine that the specified ground(s) for suspension or revocation may exist;
  - (3) specify the penalty the City Manager will recommend;
  - (4) specify subsequent procedures as follows:
    - (A) If the City Manager proposes to suspend an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal* for less than 30 days, the notice shall specify:
      - (i) that the *operator* or *owner* may request a hearing;
      - (ii) that *any* such request must be filed with the City Manager within 10 days of service of the notice; and;
      - (iii) that the failure to submit a timely hearing request will be deemed a waiver of the right to a hearing and the penalty proposed by the City Manager shall go

into effect the first business day after the hearing request deadline has lapsed.

- (B) If the City Manager proposes to suspend an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal* for more than 30 days or proposes to revoke an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal*, the notice shall specify a date for a hearing before an *Enforcement Hearing Officer* not less than 10 days nor more than 30 days from the date of the notice.
- (c) When the City Manager has summarily suspended or revoked an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal* under the provisions of Section 83.0127(b)(3), the City Manager shall, as soon as practicable, set the matter for a hearing before an *Enforcement Hearing Officer* and serve a notice of the hearing to the *owner or operator* by the methods listed in Section 11.0301. In no case shall the hearing be set for more than 15 days after the mailing of the notice of summary action.
- (d) Where an *Enforcement Hearing Officer* is reviewing the denial, suspension, or revocation of an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal*, review by the *Enforcement Hearing Officer* is limited to whether substantial evidence supports a finding that the grounds listed in the notice of denial, suspension, or revocation exists. Where the review is of the suspension or revocation of an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal*, review also extends to whether the proposed penalty is reasonable or unreasonable.

- (1) If substantial evidence does not support the finding required in Section 83.0131(d), the *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal* shall be issued or reinstated immediately, unless the *Enforcement Hearing Officer* makes a finding supported by substantial evidence that good cause exists to delay issuance or reinstatement.
  - (2) When the City Manager proposed the suspension or revocation of an *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal*, if substantial evidence supports the finding required in Section 83.0128(d), the *Enforcement Hearing Officer* shall also make a finding that the penalty proposed by the City Manager is reasonable or unreasonable. A reasonable penalty shall be imposed immediately. If the *Enforcement Hearing Officer* finds that the proposed penalty is unreasonable, the *Enforcement Hearing Officer* shall prescribe and immediately impose a reasonable penalty.
- (e) For all proceedings conducted by an *Enforcement Hearing Officer*:
- (1) 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.
  - (2) If the *Enforcement Hearing Officer* upholds the decision of the City Manager to revoke or suspend an *operating permit*, *Pedicab Decal*, or *Pedicab Restricted Zone Decal*, the appellant shall

immediately surrender the *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal.*

- (f) The *Enforcement Hearing Officer's* decision on an appeal of a denial, suspension, or revocation of an *operating permit, Pedicab Decal or Pedicab Restricted Zone Decal* shall be final on the date of service. Service shall be by any of the methods listed in Municipal Code section 11.0301.
- (g) An *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal* suspended or revoked pursuant to Section 83.0127 or 83.0128, including the period during which an *operating permit, Pedicab Decal, or Pedicab Restricted Zone Decal* has been summarily suspended pursuant to Section 83.0127(b)(3), shall be deemed invalid for the purpose of Section 83.0103 during the period of suspension or upon revocation.

**§83.0129 Immediate Seizure of Operating Permit**

- (a) Any peace officer may immediately seize an *operating permit* under any of the following circumstances:
  - (1) When the *operator* is arrested for driving under the influence of alcohol or controlled substance while operating a *pedicab* under California Vehicle Code section 21200.5.
  - (2) When a *pedicab* is operated in a manner that creates an immediate safety hazard.
  - (3) When the *operator or owner* has been found not in compliance with Section 83.0125(g).

- (b) Upon seizure of an *operating permit*, a peace officer shall forward the *operating permit* along with a copy of the written complaint as soon as practicable to the City Manager. The City Manager may review and immediately begin the suspension or revocation process outlined in Section 83.0127, or upon review may make the permit available for return.

**§83.0130 Pedicab Exterior Markings**

- (a) *Owners* shall permanently affix the company trade name, the company phone number and the identification number assigned by the City, on the *pedicab* in a location that is clearly visible to the public at all times. These markings shall meet the following requirements:
  - (1) Font – “Arial Bold” font in a color to produce maximum contrast, adequately spaced for maximum readability.
  - (2) Font Size – Minimum 2 inches tall.
- (b) *Owners* shall also permanently stamp a City-assigned identification number on each *pedicab*, on the *pedicab* seat tube or *pedicab* trailer draw bar, in a manner that is clearly visible.

**§83.0131 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.



**§83.0132 Enforcement Remedies**

The provisions of Municipal Code section 12.0201 notwithstanding, violations of this Division may be prosecuted as misdemeanors punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment, in the County Jail for a period of not more than six months or by both fine and imprisonment, except as otherwise stated in the California Vehicle Code. 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.

**§83.0133 Strict Liability Offenses**

Violations of this division shall be treated as strict liability offenses, unless otherwise specified.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



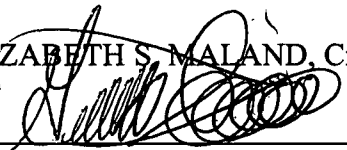
Ryan Kohut  
Deputy City Attorney

RK:sc:mb  
08/14/09 CORR.  
Or.Dept:E&CP  
O-2010-4

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego,  
at this meeting of SEP 01 2009.

ELIZABETH S. MALAND, City Clerk

By

  
Deputy City Clerk

Approved: \_\_\_\_\_

9-11-09  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_

(date)

JERRY SANDERS, Mayor

SEP 1 2009

Passed by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 11 2009

AUTHENTICATED BY: JERRY SANDERS  
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Devenson Cruz*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUL 28 2009, and on SEP 11 2009

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Devenson Cruz*, Deputy

Office of the City Clerk, San Diego, California  
Ordinance Number O- 19898

CERTIFICATE OF PUBLICATION

9/11/09 #55 item 55

RECEIVED  
CITY CLERK'S OFFICE  
09 SEP 21 AM 11:02  
SAN DIEGO, CALIF.

Karen Crenshaw  
City of San Diego/Clerk's Office  
202 C Street, MS 2A  
SAN DIEGO CA 92101

IN THE MATTER OF

CASE NO.

Ord. No. O-19898 (New Series)

CITY OF SAN DIEGO  
CITY ATTORNEY DIGEST  
ORDINANCE NUMBER O-19898 (NEW SERIES)

DATE OF FINAL PASSAGE September 11, 2009  
AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 83.0101, 83.0102, 83.0103, 83.0104; RETAINING SECTION 83.0105; AMENDING SECTIONS 83.0106 AND 83.0107; AMENDING AND RENUMBERING SECTIONS 83.0108, 83.0109, 83.0110, 83.0111, 83.0112, 83.0113, 83.0114, 83.0115, 83.0116, 83.0117, 83.0118, 83.0119, 83.0120, AND 83.0121; RENUMBERING SECTION 83.0122; AMENDING AND RENUMBERING SECTION 83.0123; RENUMBERING SECTION 83.0124, AMENDING AND RENUMBERING SECTIONS 83.0125, 83.0126, 83.0127, 83.0128, 83.0129, AND 83.0130; RENUMBERING SECTION 83.0131; AMENDING AND RENUMBERING SECTION 83.0132; RENUMBERING SECTION 83.0133; AND DELETING SECTIONS 83.0134, 83.0135, AND 83.0136; ALL RELATING TO PEDICABS.

This ordinance makes changes to the City of San Diego's law regulating pedicabs. It contains amendments pertaining to procedures and standards for obtaining permits. It clarifies that a valid permit is required to operate a pedicab, and adds a provision invalidating an operating permit if it is altered, defaced, forged, or counterfeited. It modifies the requirement of a valid driver's license to require a valid form of Government or State issued photo identification.

This ordinance amends the list of equipment that must be installed on a pedicab to include seatbelts and a unique, nontransferable identification number. It also adds regulations specifying the size, format, and location of the required fare schedule.

The ordinance adds prohibitions as to where pedicabs may be parked, stopped or left standing, and creates Restricted Pedicab Zones within which the number of pedicab decals issued may be restricted.

The ordinance consolidates the grounds for the denial, suspension or revocation of operating permits or decals into one section, clarifies the procedures for notifying pedicab owners or operators of action by the City regarding the denial, suspension or revocation of an operating permit or decal, and adds additional pre-deprivation procedures regarding the suspension or revocation of an operating permit or decal.

The ordinance also contains minor amendments to conform this division to modern Municipal Code conventions.

This ordinance contains a notice that a full reading of the ordinance is dispensed with prior to its passage, since a written copy will be made available to the City Council and the public prior to the day of its passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk, City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

RK:sc:mb  
07/22/2009 Corr.  
Or.Dept:E&CP  
O-2010-4

Introduced on July 28, 2009.

Passed by the Council of the City of San Diego on July 1, 2009.

Date of Final Passage: July 11, 2009.

AUTHENTICATED BY:

JERRY SANDERS

Mayor of The City of San Diego, California

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California

By: Debbie Levenson-Cruz, Deputy

Pub. September 18-00063260

9/11/09

9/11/09

I, Jacqueline R. Burnett, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not party to or interested in the above entitled matter. I am the principal clerk of the San Diego Transcript, a newspaper of general circulation, printed and published daily, except on Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

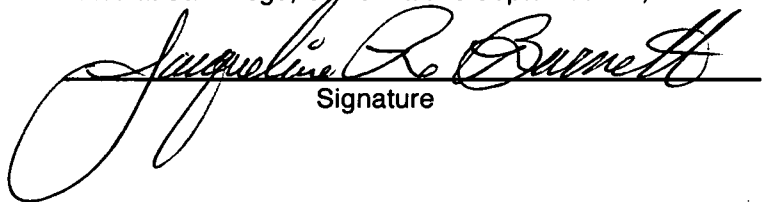
Ordinance

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

September 18

I certify under penalty of perjury that the forgoing is true and correct.

Dated at San Diego, California this September 18, 2009

  
Signature

6 x 3 1/4 x 1 = 58.00