

REPORT TO THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE
EXECUTIVE SUMMARY SHEET

DATE ISSUED: November 5, 2010
ATTENTION: Public Safety and Neighborhood Services Committee
Agenda of November 17, 2010
ORIGINATING DEPT.: Engineering & Capital Projects, Transportation Engineering Operations
SUBJECT: California Driver's License Requirement to Obtain a Pedicab Operators Permit
Council Districts: All
Staff Contact: Deborah Van Wanseele, 533-3012, MS 608 or
Siavash Pazargadi, 533-3757, MS 609

REQUESTED ACTION:

Adopt the proposed Ordinance amending the San Diego Municipal Code Section 83.0104 to add the requirement to possess a valid California Driver's License to obtain a Pedicab Operators Permit. In addition, make minor changes to sections 83.0127 and 83.0128 for clarification purposes only.

STAFF RECOMMENDATION:

Approve the ordinance.

EXECUTIVE SUMMARY:

The City believes that a pedicab operator that transports people for hire have responsibilities above and beyond that of a person on a bicycle. One proof of knowing that such pedicab operators know the safe rules of the road would be the possession of a Valid California Drivers License. Until recently, the California Vehicle Code did not authorize such a requirement. On September 30, 2010 Assembly Bill (AB) 2294 was signed by the governor and will become effective January 1, 2011.

The bill authorizes a local jurisdiction to adopt rules and regulations for licensing and regulating the operation of pedicabs for hire, and the operators of pedicabs for hire, including requiring one or more of the following: (1) a valid California driver's license; (2) proof of successful completion of a bicycle safety training course certified by the League of American Bicyclists or an equivalent organization as determined by the local authority; or (3) a valid California identification card and proof of successful completion of the written portion of the California driver's license examination.

At this time, the City desires to require the possession of a valid California Driver's License to obtain a Pedicab Operators Permit. This requirement will serve to improve the pedicab operators knowledge of the roadway and traffic laws.

FISCAL CONSIDERATIONS:

None with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council approved modifications to the Municipal Code related to pedicabs on September 11, 2009, by Ordinance 19898 N.S.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The Downtown Parking Management Group (DPMG), the parking advisory committee of the Center City Advisory Committee (CCAC), has been contacted and has indicated their support for the ordinance. The

Gaslamp Quarter Association (GQA), the Business Improvement District (BID) for the gaslamp area of downtown, has been contacted and has indicated their support for the ordinance.

KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

Pedicab operators, owners, vehicle drivers, visitors, business owners and residents of Downtown and other parts of the City where pedicabs operate.



Tony Heinrichs
Acting Director
Engineering & Capital Projects



David Jarrell
Deputy Chief Operating Officer
Public Works

STRIKEOUT ORDINANCE

OLD LANGUAGE – ~~Strikeout~~

NEW LANGUAGE – Double Underlined

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 83.0104, 83.0127, AND ~~83.0128~~ RELATING TO PEDICABS.

§ 83.0104 Application for Operating Permit

(a) through (c) [No change in text.]

(d) The applicant shall provide the following material to complete the application:

(1) a valid form of federal or state issued photo identification;

(2) a valid California driver's license;

~~(2)~~(3) proof of a valid Business Tax Certificate issued pursuant to Chapter 3, Article 1 of this Municipal Code;

~~(3)~~(4) two recent color passport-sized photographs;

(4)(5) a signed copy of the "Pedicab Operator Code of Conduct;

and

~~(5)~~(6) such other material as the City Manager may require.

§ 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.

~~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.~~

(c) 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) [No change in text.]
- (b) Where a notice of suspension or revocation is issued pursuant to section 83.0127(b)(2), the notice shall:

(1) through (3) [No change in text.]

(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~~ 30 days or less, 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) [No change in text.]

(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) ~~(c)~~, 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) through (f) [No change in text.]

(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)~~ (c), shall be deemed invalid for the purpose of Section 83.0103 during the period of suspension or upon revocation.

RPK:cfq
10/27/10
Or.Dept:E&CP

DRAFT