



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: March 5, 2012 REPORT NO:

ATTENTION: Public Safety & Neighborhood Services Committee
Agenda of March 14, 2012

SUBJECT: Update on the Effects of the California Drivers License Requirements
for Pedicab Operators

REFERENCE: Executive Summary, November 17, 2010, California Drivers License
Requirement to Obtain a Pedicab Operators Permit; Manager's Report
09-087, Amendments to the Pedicab Regulation Ordinance

REQUESTED ACTION:

This is an informational report only. No action is required on the part of the Committee or the City Council.

BACKGROUND:

Following a fatal accident involving a San Diego pedicab passenger in 2009, the City Council directed staff to seek or support state legislation providing local governments the authority to regulate the operation of pedicabs and pedicab operators within their jurisdiction.

On September 30, 2010, Assembly Bill 2294, originally introduced by the City's State Assembly delegation, was enacted. This bill amended the California Vehicle Code to provide a definition for "pedicab" and "authorize a city or county to adopt rules and regulations, by an ordinance or resolution, licensing and regulating the operation of pedicabs for hire, and operators of pedicabs for hire, including requiring a valid California drivers license."

On January 18, 2011, City Ordinance 20014 amended the San Diego Municipal Code to require a valid California drivers license when applying for a Pedicab Operator Permit. On February 17, 2011, the requirement of a valid California drivers license for pedicab operators in the City went into effect. This requirement would offer assurance that the pedicab operator has demonstrated knowledge of the rules of the road before being allowed to transport passengers for hire.

In addition, the Public Safety & Neighborhood Services Committee requested a report on the effects of the California drivers license requirement.

DISCUSSION:

The California drivers license requirement has now been in effect for one year. Most applicants for an operator's permit are aware of the new requirement and are complying with it. From

February 17, 2011 to February 16, 2012, there have been approximately 30 applicants who, due to the newly adopted California drivers license requirement, did not qualify for an operator permit. However, some of these applicants eventually re-applied and were able to obtain their operator permit after obtaining and showing proof of having a valid California drivers license.

Compared to the previous year, there has been a slight decrease in the number of Pedicab Operator Permits issued since the driver license requirement went into effect. Between February 17th, 2011 and February 16th, 2012 there were 811 operator permits issued. For the same period between 2010 and 2011, 867 operator permits were issued. This is a decrease of approximately 6.5% and is negligible.

The San Diego Police Department continues to enforce the Pedicab Ordinance. Police Officers have reported that more pedicab operators are following the California Vehicle Code that relates to safety since the new California drivers license requirement has taken effect. It has been reported that more pedicab operators are abiding by the rules of the road and traffic regulations since the Ordinance went into effect. City staff running the Pedicab Program have also seen fewer citations written to pedicab operators since the driver license requirement went into effect. In addition, the San Diego Police Department reported that it is easier for them to obtain pedicab operator information and driver history from the Department of Motor Vehicles data base since they are required to have a valid California drivers license.

Staff continues to maintain close communication with pedicab owners and operators through the City's website, bulletin boards at the owners' places of business, and by the postings of public service announcements at our business office at 1010 Second Avenue, Suite 800. Meetings are also held periodically with the pedicab community in order to resolve issues and exchange communication.

SUMMARY:

In summary, the change in the pedicab ordinance has been beneficial. By requiring a valid California drivers license, the City has assured that the operators have a basic understanding of the rules of the road. The requirement has not been a significant barrier for people seeking to obtain a permit. Finally, the requirement has resulted in an observable improvement in pedicab operations and compliance to the rules of the road.

FISCAL CONSIDERATIONS: None with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council approved modifications to the Municipal Code related to pedicabs on January 18, 2011, by Ordinance 20014. The Public Safety and Neighborhood Services Committee approved this amendment to the Municipal Code on November 17, 2010.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

We continue to keep contact with the pedicab operators and owners through various modes of communication. In addition we communicate with the appropriate community planning group when items related to the pedicab program may affect their community.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Pedicab operators, pedicab owners, vehicle drivers, visitors, business owners, and residents of San Diego.


Linda J. Marabian
Deputy Director
Transportation and Storm Water Department
Transportation Engineering Operations


Garth K. Sturdevan
Interim Director
Transportation and Storm Water Department

Attachments: Assembly Bill 2294
City's Pedicab Ordinance

Assembly Bill No. 2294

CHAPTER 614

An act to amend Sections 21100 and 21200 of, and to add Section 467.5 to, the Vehicle Code, relating to pedicabs.

[Approved by Governor September 30, 2010. Filed with Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2294, Block. Pedicabs: licensing.

(1) Existing law regulates the operation of bicycles. Under existing law, local authorities may regulate, by ordinance or resolution, among other things, the licensing and operation of vehicles for hire and drivers of passenger vehicles for hire.

This bill would define the term "pedicab" for purposes of the Vehicle Code. The bill would authorize a city or county to adopt rules and regulations, by an ordinance or resolution, licensing and regulating the operation of pedicabs for hire, and 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.

(2) Under existing law, every person riding a bicycle upon a highway has all the rights of, and is subject to specified provisions in, the Vehicle Code, including rules of the road, that are applicable to the driver of a vehicle.

This bill would make those provisions also applicable to a person operating a pedicab. By making the operation of a pedicab subject to the Vehicle Code, a violation of which is a crime, this bill would impose a state-mandated local program.

(3) The bill would incorporate changes to Section 21100 of the Vehicle Code proposed by both this bill and AB 2756, which would become operative only if both bills are enacted and become effective on or before January 1, 2011, each bill amends that section, and this bill is enacted last.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 467.5 is added to the Vehicle Code, to read:

467.5. "Pedicab" means either of the following:

(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 being used for transporting passengers for hire.

(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 being used for transporting passengers for hire.

SEC. 2. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of a person given temporary or permanent appointment for that duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at locations as may require traffic direction for orderly traffic flow.

A person shall not be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which the person is to perform the duty, for review, a proposed program of instruction for the training of a person for that duty, and unless and until the commissioner or other chief law enforcement officer approves the proposed program. The commissioner or other chief law enforcement officer shall approve a proposed program if he or she reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for that duty by the local authority.

(g) (1) Licensing and regulating the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of the local authority, excepting the operation and operators of any auto dismantlers' tow vehicle licensed under Section 11505 or any tow truck operated by a repossessing agency licensed under Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and its registered employees.

(2) The Legislature finds that the safety and welfare of the general public is promoted by permitting local authorities to regulate tow truck service companies and operators by requiring licensure, insurance, and proper

training in the safe operation of towing equipment, thereby ensuring against towing mistakes that may lead to violent confrontation, stranding motorists in dangerous situations, impeding the expedited vehicle recovery, and wasting state and local law enforcement's limited resources.

(3) This subdivision does not limit the authority of a city or city and county pursuant to Section 12111.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

(k) (1) Regulating cruising.

(2) The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which is the repetitive driving of a motor vehicle past a traffic control point in traffic that is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution.

(3) A person is not in violation of an ordinance or resolution adopted pursuant to this subdivision unless both of the following apply:

(A) That person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval.

(B) The beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

(l) Regulating or authorizing the removal by peace officers of vehicles unlawfully parked in a fire lane, as described in Section 22500.1, on private property. A removal pursuant to this subdivision shall be consistent, to the extent possible, with the procedures for removal and storage set forth in Chapter 10 (commencing with Section 22650).

(m) Licensing and regulating the operation of pedicabs for hire, as defined in Section 467.5, and operators of pedicabs for hire, including requiring one or more of the following documents:

(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.

(3) A valid California identification card and proof of successful completion of the written portion of the California driver's license examination administered by the department. The department shall

administer, without charging a fee, the original driver's license written examination on traffic laws and signs to a person who states that he or she is, or intends to become, a pedicab operator, and who holds a valid California identification card or has successfully completed an application for a California identification card. If the person achieves a passing score on the examination, the department shall issue a certificate of successful completion of the examination, bearing the person's name and identification card number. The certificate shall not serve in lieu of successful completion of the required examination administered as part of any subsequent application for a driver's license. The department is not required to enter the results of the examination into the computerized record of the person's identification card or otherwise retain a record of the examination or results.

SEC. 2.5. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) (1) Regulating traffic by means of a person given temporary or permanent appointment for that duty by the local authority when official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at locations as may require traffic direction for orderly traffic flow.

(2) A person shall not be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which the person is to perform the duty, for review, a proposed program of instruction for the training of a person for that duty, and unless and until the commissioner or other chief law enforcement officer approves the proposed program. The commissioner or other chief law enforcement officer shall approve a proposed program if he or she reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for that duty by the local authority.

(g) (1) Licensing and regulating the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of the local authority, excepting the operation and operators of any auto dismantlers' tow vehicle licensed under Section 11505 or any tow truck operated by a repossessing agency licensed under Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and its registered employees.

(2) The Legislature finds that the safety and welfare of the general public is promoted by permitting local authorities to regulate tow truck service

companies and operators by requiring licensure, insurance, and proper training in the safe operation of towing equipment, thereby ensuring against towing mistakes that may lead to violent confrontation, stranding motorists in dangerous situations, impeding the expedited vehicle recovery, and wasting state and local law enforcement's limited resources.

(3) This subdivision does not limit the authority of a city or city and county pursuant to Section 12111.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in streets and highways for collection by the local authority or by any person authorized by the local authority.

(k) (1) Regulating cruising.

(2) The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which is the repetitive driving of a motor vehicle past a traffic control point in traffic that is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution.

(3) A person is not in violation of an ordinance or resolution adopted pursuant to this subdivision unless both of the following apply:

(A) That person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval.

(B) The beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

(l) Regulating or authorizing the removal by peace officers of vehicles unlawfully parked in a fire lane, as described in Section 22500.1, on private property. A removal pursuant to this subdivision shall be consistent, to the extent possible, with the procedures for removal and storage set forth in Chapter 10 (commencing with Section 22650).

(m) Regulating mobile billboard advertising displays, as defined in Section 395.5, including the establishment of penalties, which may include, but is not limited to, removal of the mobile billboard advertising display and misdemeanor criminal penalties, for a violation of the ordinance or resolution.

(n) Licensing and regulating the operation of pedicabs for hire, as defined in Section 467.5, and operators of pedicabs for hire, including requiring one or more of the following documents:

(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.

(3) A valid California identification card and proof of successful completion of the written portion of the California driver's license examination administered by the department. The department shall administer, without charging a fee, the original driver's license written examination on traffic laws and signs to a person who states that he or she is, or intends to become, a pedicab operator, and who holds a valid California identification card or has successfully completed an application for a California identification card. If the person achieves a passing score on the examination, the department shall issue a certificate of successful completion of the examination, bearing the person's name and identification card number. The certificate shall not serve in lieu of successful completion of the required examination administered as part of any subsequent application for a driver's license. The department is not required to enter the results of the examination into the computerized record of the person's identification card or otherwise retain a record of the examination or results.

SEC. 3. Section 21200 of the Vehicle Code is amended to read:

21200. (a) A person riding a bicycle or operating a pedicab upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Section 27400, Division 16.7 (commencing with Section 39000), Division 17 (commencing with Section 40000.1), and Division 18 (commencing with Section 42000), except those provisions which by their very nature can have no application.

(b) (1) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, operating a bicycle during the course of his or her duties is exempt from the requirements of subdivision (a), except as those requirements relate to driving under the influence of alcoholic beverages or drugs, if the bicycle is being operated under any of the following circumstances:

(A) In response to an emergency call.

(B) While engaged in rescue operations.

(C) In the immediate pursuit of an actual or suspected violator of the law.

(2) This subdivision does not relieve a peace officer from the duty to operate a bicycle with due regard for the safety of all persons using the highway.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 21100 of the Vehicle Code proposed by both this bill and AB 2756. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 21100 of the Vehicle Code, and (3) this bill is enacted after AB 2756, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Article 3: Pedicabs, Pedestrians and Bicycles
(Retitled from “Pedicabs” to “Pedicabs, Pedestrians
and Bicycles” on 11-1-1999 by O-18701 N.S.)

Division 1: Pedicabs
(“Pedicabs” added 11-1-1999 by O-18701 N.S.)

§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.

(“Purpose” added 11-1-1999 by O-18701 N.S.)
(Amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.)

§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.

(“Definitions” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)
(Amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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*.

*(“Permit Requirement to Operate Pedicab” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)
(Amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)*

§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) a valid California driver’s license;
 - (3) proof of a valid Business Tax Certificate issued pursuant to Chapter 3, Article 1 of this Municipal Code;
 - (4) two recent color passport-sized photographs;
 - (5) a signed copy of the “Pedicab Operator Code of Conduct”; and
 - (6) such other material as the City Manager may require.

*(“Application for Operating Permit” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)
(Amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)
(Amended 1-18-2011 by O-20014 N.S.; effective 2-17-2011.)*

§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
(*"Pedicab Operating Permit Fee" added 11-1-1999 by O-18701 N.S.*)
(*Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.*)

§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.

(*"Duration of Validity of Operating Permit" added 11-1-1999 by O-18701 N.S.*)
(*Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.*)
(*Amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.*)

§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.
(*"Operating Permit Renewal" added 11-1-1999 by O-18701 N.S.*)
(*Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.*)
(*Amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.*)

§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.

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(Former Section 83.0108, "Identification Badges Issued to Pedicab Operators With a Permit" removed. "Fare Schedule" renumbered from Section 83.0109, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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*.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

("Fare Schedule" renumbered to Section 83.0108. "Fare Schedule Sign Requirements" added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.
(“*Pedicab Parking*” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.
- (“*Pedicab Impound*” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

(“*Pedicab Special Events Restrictions*” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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 11th Avenue, the east curb line of 11th Avenue between Ash Street and C Street, the north curb line of C Street between 11th Avenue and 14th Street, and the east curb line of 14th 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 14th Street, the east curb line of 14th Street between Island Avenue and Commercial Street, the north curb line of Commercial Street between 14th 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.

(“*Restricted Pedicab Zones*” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

(*Renumbered from Section 83.0115, retitled to “Pedicab Decals: General and Restricted Zone” and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.*)

§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.

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

(*“Pedicab Decal” renumbered to Section 83.0114. “Application for Pedicab Decal or Pedicab Restricted Zone Decal” renumbered from Section 83.0116, retitled and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.*)

§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.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“*Application for Pedicab Decal*” renumbered to Section 83.0115. “*Requirements for Issuance or Renewal of Pedicab Decals and Pedicab Restricted Zone Decals*” renumbered from Section 83.0117, retitled and amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.)

§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.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“*Requirements for Issuance or Renewal of Pedicab Decal*” renumbered to Section 83.0116. “*Pedicab Decal and Pedicab Restricted Zone Decal Fees*” renumbered from Section 83.0118, retitled and amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.)

§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.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“*Pedicab Decal Fee*” renumbered to Section 83.0117. “*Duration of Validity of Pedicab Decals and Pedicab Restricted Zone Decals*” renumbered from Section 83.0119, retitled and amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.)

§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.

*(“Duration of Validity of Pedicab Decal” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)*

(“Duration of Validity of Pedicab Decal” renumbered to Section 83.0118. “Pedicab Decal and Pedicab Restricted Zone Decal Renewal” renumbered from Section 83.0120, retitled and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

*(“Pedicab Decal Renewal” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)*

(“Pedicab Decal Renewal” renumbered to Section 83.0119. “Other Laws Applicable to Pedicab Owners and Operators” renumbered from Section 83.0122, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§83.0121 Minimum Age for Pedicab Operators

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

(Renumbered from Section 83.0123, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.*

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“Other Laws Applicable to Pedicab Owners and Operators” renumbered to Section 83.0120. “Business Tax Certificate Requirement to Operate Pedicab renumbered from Section 83.0125, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

*(“Minimum Age for Pedicab Operators” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)
(“Minimum Age for Pedicab Operators” renumbered to Section 83.0121.
“Equipment Regulations for Pedicabs” renumbered from Section 83.0126, and
amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)*

§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.

*(“Driver’s License Requirement to Operate Pedicab” added 11-1-1999 by O-18701 N.S.)
(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)
(“Driver’s License Requirement to Operate Pedicab” removed. “Passenger Seating Requirements” renumbered from Section 83.0127, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)*

§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*.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“Business Tax Certificate Requirement to Operate Pedicab” renumbered to Section 83.0122. “Prohibitions on the Manner of Operating Pedicabs” renumbered from Section 83.0128, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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*.

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

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

("Equipment Regulations for Pedicabs" renumbered to Section 83.0123. "Insurance Requirements" renumbered from Section 83.0129, and amended 9-11-2009 by O-19898 N.S.; effective 10-11-2009.)

§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.
- (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.

(“Passenger Seating Requirements” added 5-20-2003 by O-19176 N.S.)
(“Passenger Seating Requirements” renumbered to Section 83.0124. “Denial, Suspension or Revocation of Operating Permit, Pedicab Decal or Pedicab Restricted Zone Decal; Notification of Action” renumbered from Section 83.0130, retitled and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)
(Amended 1-18-2011 by O-20014 N.S.; effective 2-17-2011.)

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

(“Prohibitions on the Manner of Operating Pedicabs” retitled and amended on 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“Prohibitions on the Manner of Operating Pedicabs” renumbered to Section 83.0125. “Procedure for Denial, Suspension or Revocation of Operating Permits and Pedicab Decals or Pedicab Restricted Zone Decals” renumbered from Section 83.0131, retitled and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

(Amended 1-18-2011 by O-20014 N.S.; effective 2-17-2011.)

§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.

(“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.)

(Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“Insurance Requirements” renumbered to Section 83.0126. “Immediate Seizure of Operating Permit” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

(“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.) (Amended 6-22-2006 by O-19502 N.S.; effective 7-22-2006.)

(“Denial, Suspension or Revocation of Operating Permit or Decal; Notification of Action” renumbered to Section 83.0127. “Pedicab Exterior Markings” added 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

(“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.)

(Amended 6-22-2006 by O-19502, N.S.; effective 7-22-2006.)

(“Procedure for Denial, Suspension or Revocation of Operating Permits and Decals” renumbered to Section 83.0128. “Enforcement Authority” renumbered from Section 83.0134, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§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.

(“Enforcement Remedies” renumbered from Section 83.0135, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)

§83.0133 Strict Liability Offenses

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

(“Strict Liability Offenses” renumbered from Section 83.0136, and amended 9-11-2009 by O-19898 N.S; effective 10-11-2009.)