

DATE ISSUED: January 18, 2001

REPORT NO. 01-011

ATTENTION: Public Safety & Neighborhood Services Committee  
Agenda of January 24, 2001

SUBJECT: Update on and Amendments to  
Pedicab Regulation Ordinance 0-2000-19

REFERENCE: Manager's Reports 99-53, 99-24 and 98-225

### SUMMARY

Issue - Should the City's Pedicab Regulation Ordinance be amended to address issues which have arisen during the first year of implementation?

Manager's Recommendation -

1. Direct the City Attorney to amend Ordinance O-2000-19 to address the following:
  - a. Clarifying and enumerating the grounds for denial, suspension, or revocation of a pedicab operating permit;
  - b. Requiring that pedicab fare schedules be posted in a location clearly visible to the passenger(s);
  - c. Prohibiting the use of tandem or dual trailers; and
  - d. Restricting the maximum number of passengers.
2. Adjust the permit fees to \$50 for each operator permit and \$45 for each vehicle permit.

Fiscal Impact - Council Policy 100-5 and Administrative Regulation 95.25 specify that the City's policy is for fees to be based on cost recovery. In order to comply with these policies, permit fees should be adjusted to \$50 for each operator permit and \$45 for each vehicle permit, for an estimated revenue of \$31,575.00.

### BACKGROUND

In February and March 1999, the Public Safety and Neighborhood Services (PS&NS) Committee discussed and approved an ordinance regulating the human-powered vehicle industry (hereafter referred to generically as "pedicabs"). On November 1, 1999, the City Council adopted this ordinance, effective January 1, 2000.

The issues addressed in the ordinance included separate sets of requirements for owners of human-powered vehicles and for the operators/drivers of these vehicles. Requirements for owners include basic safety equipment (headlamps, taillights, and side mirrors) and proof of insurance coverage of not less than \$1 million per occurrence. Requirements of operators include a minimum age of 18, a valid US driver's license, and a valid business tax certificate from the City of San Diego. Permits are valid for one calendar year from date of issuance.

The PS&NS Committee members agreed that because owning and/or operating a pedicab was a "start-up" business for many people on low incomes, that the fees charged by the City should be kept as low as possible, while still covering all costs to the City. Cost of the permits was set at \$25 each; this fee was to cover equipment, production and manufacture of the permits themselves, and staff time for issuance and processing of the permit applications. A portion of the fee also was intended to be reserved to cover the costs of a hearing officer, should a permit's denial or revocation be challenged.

The PS&NS Committee asked staff to return in one year for an update on the regulatory program.

## DISCUSSION

### Update on Existing Program

The Traffic Engineering Division of the Transportation Department began issuing pedicab permits on February 1, 2000. As of December 31, 2000, 105 vehicle permits and 537 operator permits have been issued. Revenues from these sales totaled \$16,050. Staff costs to issue and process the permits, order materials, and administer the program totaled \$26,661. Actual staff cost per operator permit was \$41.20 and per vehicle permit was \$43.17. To date, no appeals requiring a hearing officer have been held. There was an approximate \$10,600 shortfall between revenue and expenses, and therefore no funds were reserved for a hearing officer appeal.

### Proposed Fee Structure for 2001

One major, consistent complaint received by staff from pedicab operators was that the material used for the operator permits was too flimsy and were being torn off by wind resistance. A heavier, plastic/vinyl with a built-in grommet is being used in the coming year; however, this type of material will cost \$1,000 more than the previous material.

Assuming that the number of permits issued in 2001 will be the same as in 2000, and including a 10% contingency to cover the costs of a hearing officer, the actual cost to issue an operator's permit in 2001 is estimated to be \$47.37. Staff is therefore recommending that the fee for each operator permit be raised to \$50. Staff also recommends that in order to be fully cost-recoverable, the fee for each vehicle permit be raised to \$45. Total revenue under this fee schedule should be \$31,575.00.

### Recommended Amendments to Ordinance

During the first year of implementation of the program, City staff, the Police Department, and the pedicab owners/operators have identified several areas of concern that were not anticipated when the ordinance was drafted and approved. Therefore, a set of four amendments are being proposed.

1. Clarifying and enumerating the grounds for denial, suspension, or revocation of a pedicab operating permit - Section 83.0128 of the ordinance, as written, provides for the revocation or suspension of permits; however it does not specify the grounds for revocation or suspension, nor does it include denial of a permit. Staff is proposing that the ordinance be amended to authorize these actions if the permittee (or applicant) has been convicted of certain specific crimes which would have a direct impact on their ability to operate a pedicab. These crimes include, but are not limited to, assault, battery, other crimes of force or violence, and traffic offenses such as driving under the influence. Persons who have completed probation or who have been discharged from a penal institution for five years would not be impacted. Any person who is required to register as a sex offender would not be issued a permit under any circumstances.

Staff is also recommending that the ordinance be amended to allow for a summary revocation of a permit for any activity that constitutes a threat to the public health, safety, or welfare. This would include operating a pedicab while under the influence of drugs or alcohol.

2. Requiring that pedicab fare schedules be posted in a location clearly visible to the passenger(s) - The Police Department has received complaints from and intervened in disputes between pedicab operators and their clients based on misunderstandings of the fare to be charged. Staff is recommending that the ordinance be amended to require that a fare schedule or structure be posted in a place clearly visible to passengers. Staff is not recommending that any particular type of universal fare structure be imposed on the industry, simply that whatever fare structure an operator uses be posted to prevent misunderstandings.
3. Prohibiting the use of tandem or dual trailers - It has been reported that on occasion, pedicabs have been operating on City streets while towing two (or more) trailers with passengers. Staff believes that this type of vehicle is inherently unsafe, and recommends that the ordinance be amended to prohibit towing more than one trailer behind either a pedicab or a bicycle.
4. Restricting the maximum number of passengers - The Police Department has reported that they have observed pedicabs in which all bench seats are filled and adult passengers are sitting on other passengers' laps. Staff is recommending that the ordinance be amended to require that each passenger over the age of 10 have her/his own seat in the vehicle, and that it be unlawful for a pedicab to operate when there are more passengers than there are available seats. Children under the age of 10 can either sit in an adult's lap or on a seat, at the adult guardian's discretion.

#### Other Issues

A petition signed by 19 pedicab operators requesting a “Clean and Sober” program, including drug testing, was received by staff on December 13, 2000. Drug testing is a pre-employment requirement for other vehicle-for-hire drivers, including taxi drivers and drivers of horse-drawn carriages, and is overseen by the Sheriff’s Department. Prospective drivers are tested at independent labs, who then fax the results directly to the Sheriff’s Department. A similar process could be employed for pedicab operators, except the results would be faxed to the City’s Transportation Department instead of the Sheriff. Costs of the drug tests range from \$30 to \$60, and are borne by the applicant. Test results are reported from the lab in 24 to 48 hours after testing.

At this time, there is insufficient documentation of serious, ongoing drug abuse by pedicab operators. The recommended amendment to the ordinance which would strengthen the grounds for permit revocation (#1 above) would allow the Police Department to summarily revoke the permit of an operator who was clearly under the influence of drugs or alcohol.

Costs of the drug tests range from \$30 to \$60, and are borne by the applicant. Implementing this program in conjunction with the fee hike recommended above would result in fees of at least \$80 for an operator permit and at least \$125 for a set of operator/owner permits (these figures do not include the cost of a business tax certificate).

Many of the people who apply for and receive pedicab operator permits engage in this occupation for a very short period of time - sometimes less than a month. By requiring pre-employment drug testing, the City could be placing an undue financial burden on a short-term employee. Similarly, because of the short job duration rate and the high turnover of operators, random post-employment testing is extremely problematic.

Because of the lack of documentation indicating serious drug abuse, and because of the costs to prospective operators, staff does not recommend implementing a drug testing program at this time.

CONCLUSION

At the time the Pedicab Regulation Ordinance was enacted, the PS&NS committee, Council, and staff recognized that adjustments and amendments would need to be made based upon the first year's experiences. This report has identified changes which will improve the efficacy of the program as well as making it fully cost-recoverable.

Respectfully submitted,  D. Cruz Gonzalez Transportation Director		Approved: George I. Loveland
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LOVELAND/GONZALEZ/JACOBSEN