Meeting Date: **5/24/2016**

Report Type: Consent

Report ID: 2016-00566

City of SACRAMENTO 22

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: (Pass for Publication) Ordinance Amending Chapter 5.94 of the Sacramento City Code Relating to Pedicab Regulations Including the Addition of 4-Wheeled Pedicabs

Location: Citywide

Recommendation: 1) Review an Ordinance amending Chapter 5.94 of the Sacramento City Code, relating to Pedicabs; and 2) pass for publication the Ordinance title per City Charter section 32(c) with the ordinance to be adopted May 31, 2016.

Contact: Ryan Moore, Principal Engineer (916) 808-6629; Amy Williams, Support Services Manager, (916) 808-5014, Department of Public Works

Presenter: None

Department: Public Works Department

Division: Office Of The Director

Dept ID:

Attachments:

1-Description/Analysis

2-Background

3-SB530

4-Peak Hour Route Restrictions

5-Pedicab Ordinance Redline Version

6-Pedicab Ordinance

City Attorney Review

Approved as to Form
Gerald Hicks
5/18/2016 11:35:26 AM

Approvals/Acknowledgements

Department Director or Designee: Jerry Way - 5/9/2016 7:01:53 AM

Description/Analysis

Issue: State Senate Bill 530, which passed into law and became effective January 2016, expanded Section 467.5 of the State Vehicle Code's definition of a "pedicab" to include any 4-wheeled device that is primarily or exclusively pedal-powered; has a seating capacity for 8 or more passengers; cannot travel in excess of 15 miles per hour; and, is being used for transporting passengers for hire. The bill also establishes the allowance for alcohol consumption by passengers and requires that local agencies adopt their own governing ordinance.

In addition, the legislation imposes specified requirements on these operations, including, but not limited to:

- a maximum seating capacity for 15 passengers
- local authorization to operate
- operator qualifications and training
- safety equipment, inspections, financial responsibility
- reporting of accidents to the Department of the California Highway Patrol
- requirements for loading and unloading of passengers, and general operation of pedicabs

Currently, there are two licensed 4-wheeled pedicab businesses operating in the City of Sacramento right-of-way. They operate under the current pedicab ordinance which does not regulate or address the consumption of alcohol by passengers. Public Works staff coordinated efforts with Police and Code Enforcement to draft proposed amendments to the current pedicab ordinance to address safety, traffic concerns, and alcohol consumption.

Policy Considerations: The following Sacramento 2035 General Plan policies support the recommended changes to the City Code:

> ED 1.1.4 Small and Startup Business Assistance - The City shall assist small and startup businesses with resource referrals and financial and technical assistance to facilitate their expansion and job creation.
>
> M 1.1.1 Right-of-Ways - The City shall preserve and manage rights-of-way consistent with: the circulation diagram (2035 General Plan, Figure M4), the City Street Design Standards, the goal to provide Complete Streets as described in Goal M 4.2, and the modal priorities for each street segment and intersection established in Policy M4.4.1: Roadway Network Development, Street Typology System.
>
> M 5.1.5 Motorists, Bicyclists, and Pedestrian Conflicts - The City shall develop safe and convenient bikeways, streets, roadways, and intersections that reduce conflicts between bicyclists and motor vehicles on streets, between bicyclists and pedestrians on multi-use trails and sidewalks, and between all users at intersections.

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed regulatory changes are an ongoing administrative activity that will not result in physical changes to the environment, which do not constitute a “project” pursuant to Section 15378(b)(2) of the CEQA Guidelines, and are not subject to CEQA (CEQA Guidelines Section 15060(c)(3)).

Sustainability Considerations: The recommended action supports the Climate Action Plan goal to create a connected multi-modal transportation network that increases the use of sustainable modes of transportation (e.g., walking, biking, transit) and reduces dependence on automobiles.

Commission/Committee Action: On May 10, 2016, the Law and Legislation Committee approved and forwarded the ordinance for Council consideration.

Rationale for Recommendation: Pedicabs, 3-wheel and 4-wheel, are common modes of transportation in the City’s vibrant entertainment districts. These small businesses are part of our economic tapestry and offer individuals fun options for activities and alternative modes of transportation.

Financial Considerations: None.

Local Business Enterprise (LBE): Not applicable as no goods or services are being purchased.

Background

In March 2007, City Council adopted an ordinance adding Chapter 5.94 to the Sacramento City Code regarding the regulation of pedicabs in the public right-of-way. The pedicab ordinance establishes rules for pedicab operation which include permit and appeal procedures, reporting of accidents, and general operations and enforcement.

In coordination with the ordinance, additional operating rules were also established addressing the following:

- Driver conduct
- Parking and standing
- Passenger pick up and drop off
- Street restrictions

Currently, the City of Sacramento has six licensed pedicab companies. Since the adoption of Chapter 5.94, pedicabs have become common modes of transportation and are seen as positive indicators of a thriving entertainment district, and the industry has evolved to include a new 4-wheel style of pedicab which is known colloquially as the "bike bus" or "brew bike". The City of Sacramento has allowed these small businesses to operate in the public right-of-way under the current ordinance.

Proposed Code Changes:

The most significant amendments proposed to Chapter 5.94 will allow for passengers to consume alcohol while riding on 4-wheeled pedicabs. Alcoholic consumption is only allowed when the pedicab is staffed with two employees from the operator: a driver and a safety monitor. Both the driver and the safety monitor must be at least 21 years of age and must complete the Department of Alcoholic Beverage Control's Licensee Education on Alcohol and Drugs (LEAD) training. Because alcoholic consumption is only permissible when two LEAD trained operators are present, alcohol is not permissible on the more traditional single operator pedicabs.

Consistent with the new state law, pedicab operators and their staff are prohibited from selling, serving, or furnishing alcoholic beverages to passengers. Passengers must provide their own alcoholic beverages in sealed containers which cannot be opened until they are on the vehicle. Beer and wine are permissible, hard alcohol is prohibited. No more than 36 oz. of beer or 18 oz. of wine per passenger are allowed. Open container laws still apply without alteration, meaning any passengers who set foot in the public right of way while holding an open container of alcohol can still be cited.

In order to reduce congestion and ensure safe operations, pedicabs shall be restricted from operating on selected major arterial streets during peak commute hours during non-holiday week days. Attachment 4 illustrates restricted streets. These routes were selected by identifying key entry/exit corridors where pedicab operation causes significant delays during peak hours, and also by field observations during both peak and non-peak hours.

Stakeholder Outreach:

Prior to bringing this issue forward to the City Council, City staff have met with and briefed the following groups:

- Downtown Sacramento Partnership
- 3-wheel and 4-wheel Pedicab Companies
- Midtown Business Association

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 530

CHAPTER 496

An act to amend Sections 467.5 and 23229 of, and to add Article 4.5 (commencing with Section 21215) to Chapter 1 of Division 11 of, and to repeal Section 21215.2 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 4, 2015. Filed with
Secretary of State October 4, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 530, Pan. Pedicabs.

Existing law generally regulates the operation of bicycles, including, among other things, providing that a person operating a bicycle on the highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle, including a prohibition against operating a bicycle while under the influence of an alcoholic beverage or any drug. These provisions also apply to a pedicab, as defined. A violation of the provisions regulating the operation of a bicycle or pedicab is an offense.

This bill would expand the definition of a pedicab to include a 4-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for 8 or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for hire, as prescribed. The bill would impose specified requirements on these pedicabs defined by the bill, relating to, among other things, a maximum seating capacity for 15 passengers, local authorization to operate, operator qualifications and training, safety equipment, inspections, financial responsibility, reporting of accidents to the Department of the California Highway Patrol, the loading and unloading of passengers, and general operation of pedicabs. The bill would, until January 1, 2020, establish requirements for pedicabs that allow passenger alcohol consumption. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

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 of the Vehicle Code is amended to read:

467.5. "Pedicab" means any 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.

(c) A four-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for eight or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for hire. A pedicab defined under this subdivision is subject to the requirements of Article 4.5 (commencing with Section 21215) of Chapter 1 of Division 11.

SEC. 2. Article 4.5 (commencing with Section 21215) is added to Chapter 1 of Division 11 of the Vehicle Code, to read:

Article 4.5. Operation of Pedicabs

21215. (a) A pedicab defined in subdivision (c) of Section 467.5 shall operate subject to all of the following requirements:

(1) The pedicab shall have a seating capacity for not more than 15 passengers.

(2) The pedicab shall be authorized by local ordinance or resolution to operate within the applicable local jurisdiction.

(3) The operator of the pedicab shall be at least 21 years of age, with a valid California driver's license.

(4) The pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The pedicab shall be inspected annually for compliance with the requirements of this paragraph by an entity designated by the local jurisdiction that authorized the pedicab to operate. The entity may charge a reasonable fee to cover the costs of the inspection. A pedicab that does not meet these requirements shall meet these requirements by January 1, 2017, in order to continue operation.

(5) The operator of the pedicab shall at all times be able to establish financial responsibility in a minimum amount of one million dollars ($1,000,000) general liability insurance coverage and an additional five hundred thousand dollars ($500,000) general umbrella insurance that covers the pedicab. The local jurisdiction that authorized the pedicab to operate may require additional proof of financial responsibility.

(6) A pedicab shall not operate on any highway under the jurisdiction of the local authority unless authorized by resolution or ordinance. A pedicab shall not operate on any freeway and shall not operate on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection.

(7) The operator of the pedicab shall annually report to the Department of the California Highway Patrol, commencing on January 1, 2016, any accidents caused or experienced by the pedicabs.

(8) The pedicab shall not load or unload passengers on roadways or in the middle of highways.

(9) Pedicabs shall be operated as close as practicable to the right-hand curb or edge of the roadway, except when necessary to overtake another vehicle, to avoid a stationary object, or when preparing to make a left turn.

(b) This article only applies to pedicabs defined by subdivision (c) of Section 467.5, and does not apply to pedicabs defined in subdivision (a) or (b) of Section 467.5.

21215.2. (a) If alcoholic beverages are consumed on board the pedicab, a pedicab defined in subdivision (c) of Section 467.5 shall additionally operate subject to all of the following requirements:

(1) The consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.

(2) An onboard safety monitor who is 21 years of age or older shall be present whenever alcohol is being consumed by passengers during the operation of the pedicab. The onboard safety monitor shall not be under the influence of any alcoholic beverage and shall be considered as driving the pedicab for purposes of Article 2 (commencing with Section 23152) of Chapter 12 of Division 11 during the operation of the pedicab.

(3) Both the operator and safety monitor shall have completed either the Licensee Education on Alcohol and Drugs (LEAD) program implemented by the Department of Alcoholic Beverage Control or a training course utilizing the curriculum components recommended by the Responsible Beverage Service Advisory Board established by the Director of Alcoholic Beverage Control.

(4) Alcoholic beverages shall not be provided by the operator or onboard safety monitor or any employee or agent of the operator or onboard safety monitor of the pedicab. Alcoholic beverages may only be supplied by the passengers of the pedicab. All alcoholic beverages supplied by passengers of the pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to Chapter 13 (commencing with Section 25170) of Division 9 of the Business and Professions Code prior to their consumption on board the pedicab.

(5) Alcoholic beverages may be consumed by a passenger of the pedicab only while he or she is physically on board and within the pedicab.

(6) All passengers shall be 21 years of age or older if alcohol is consumed during the operation of the pedicab.

(7) For purposes of this subdivision, passengers who are pedaling the device are not operators.

(b) A license or permit from the Department of Alcoholic Beverage Control shall not be required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

(c) For purposes of this section, “alcoholic beverage” has the same meaning as defined in Section 23004 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

21215.5. This article does not preclude a local authority from imposing more stringent operating or equipment requirements on a pedicab subject to this article.

SEC. 3. Section 23229 of the Vehicle Code is amended to read:

23229. (a) Except as provided in Section 23229.1, Sections 23221 and 23223 do not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, the living quarters of a housecar or camper, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

(b) Except as provided in Section 23229.1, Section 23225 does not apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

SEC. 4. 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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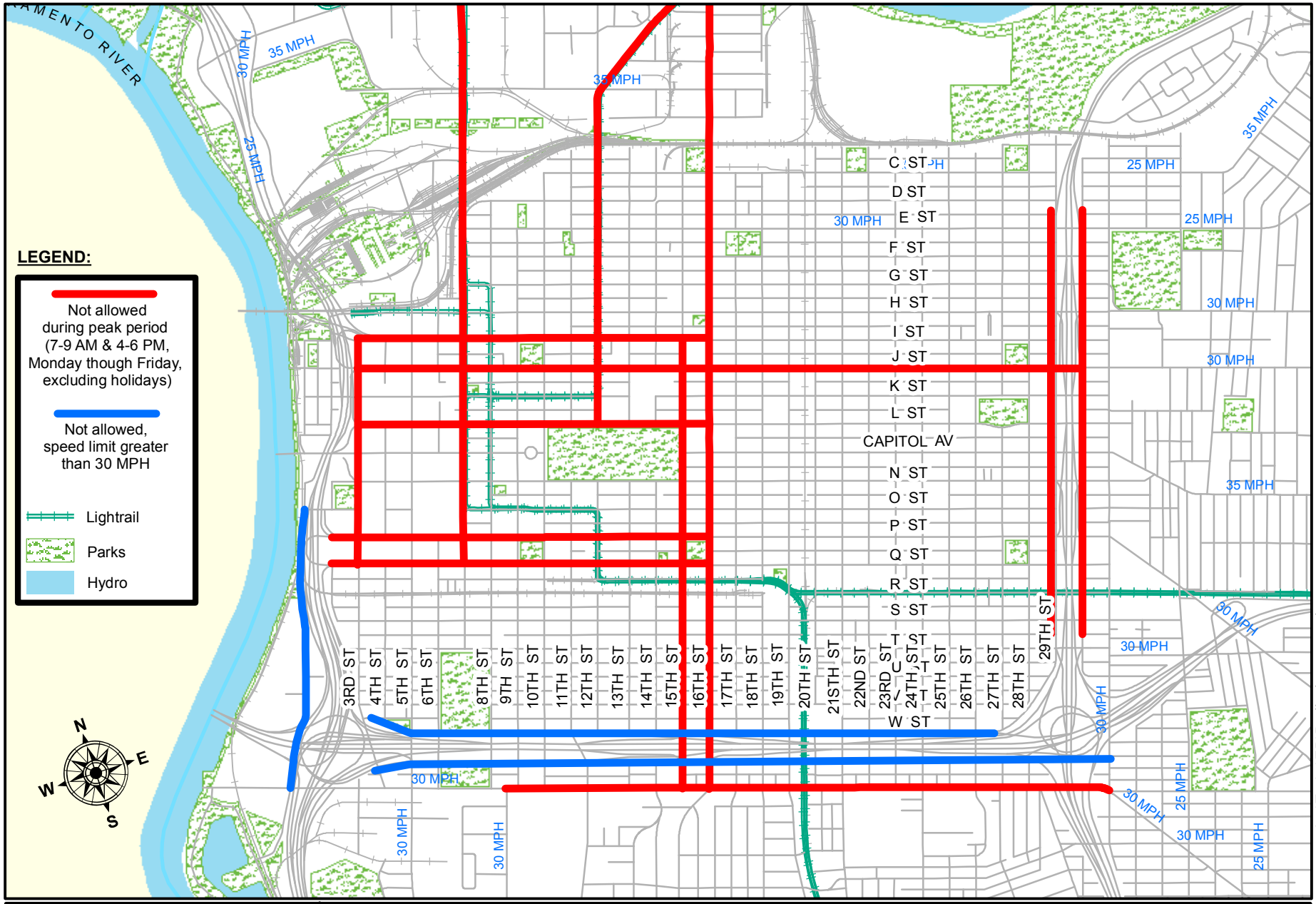

DRAFT

City of Sacramento
Pedicab Operation Area Map

0 550 1,100 2,200 3,300 4,400 Feet

City of SACRAMENTO
Department of Public Works

UPDATED 04.14.16
ED COX

Document Path: S:\Transportation\Techs\ED\Pedicab map.mxd

ORDINANCE NO. 2016-XXX

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING CHAPTER 5.94 OF THE SACRAMENTO CITY CODE RELATING TO PEDICABS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

Chapter 5.94 of the Sacramento City Code is amended to read as follows:

Chapter 5.94 PEDICABS

Article I. General Provisions

5.94.010 Purpose.

The city council finds that regulations governing pedicabs and the owners and drivers of pedicabs are necessary to protect the general safety and welfare of passengers using pedicabs for hire and pedestrians and motorists within the city.

5.94.020 Definitions.

~~For purposes of this chapter, t~~The following definitions apply in this chapter~~terms are defined as follows~~:

"Alcoholic beverages" has the same meaning as defined in California Business and Professions Code section 23004.

"City manager" means the city manager or the city manager's designee~~, including, but not limited to, the code enforcement director and the finance director~~.

"Four-wheeled pedicab" means a pedicab as defined in subsection 3 of the definition for "pedicab" in this section.

"Identification badge" means a badge issued by the city that identifies the pedicab driver with a color ~~passport-size~~ photo.

"Operates within the city" means the soliciting, accepting, picking-up, or embarking within the city of a passenger ~~or passengers~~ for transportation ~~or conveyance~~ to any point within or outside the city for any form of consideration.

"Pedicab" means:

1. A bicycle (as defined in California Vehicle Code s~~S~~ection 231) that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for ~~receipt of~~ any form of consideration; ~~or~~

2. A bicycle (as defined in California Vehicle Code s~~S~~ection 231), with a single unarticulated frame, that pulls a sidecar or similar device that transports, or is capable of transporting, passengers on seats attached to the sidecar or similar device, that is operated by an individual, and that is used for transporting passengers for ~~receipt of~~ any form of consideration~~.~~; or

3. A four-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for eight or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for ~~receipt of~~ any form of consideration.

"Pedicab driver" or "driver" means an~~y~~ individual who drives or operates a pedicab within the city, whether as an owner, an employee of the owner, or as an independent contractor.

"Pedicab driver permit" means a written permit issued by the city authorizing a person to drive or operate a pedicab within the city.

"Pedicab owner" or "owner" means any person who owns, leases, or ~~otherwise has~~ possesses~~ion of~~ a pedicab.

~~"Pedicab owner permit" means a written permit issued by the city authorizing a person to own one or more pedicabs and allowing the~~such pedicab(s) ~~to be driven or operated within the city.~~

"Pedicab vehicle permit" means the numbered permit issued by the city for display on a pedicab to indicate that the pedicab is permitted to operate within the city.

"Pedicab vehicle sticker" means the pedicab identification sticker issued by the city.

~~"Person" means both singular and plural, and shall mean any individual, firm, corporation, association, partnership, society or other entity, exclusive of public agencies.~~

~~**Article II. Pedicab Owners.**~~

~~**5.94.030 Permit requirement for pedicab owners.**~~

~~It is unlawful for a pedicab owner to drive or operate a pedicab, or allow a pedicab to be driven or operated, within the city unless the owner has a valid pedicab owner~~

~~permit. Pedicab owner permits are the property of the city and are not transferable to any other person.~~

~~5.94.040 Application for a pedicab owner permit.~~

~~A. The pedicab owner permit application shall be in a form prescribed by the city manager.~~

~~B. Each applicant for a pedicab owner permit shall provide the following information in the application:~~

~~1. The applicant's full name;~~

~~2. The applicant's business and residence addresses and phone numbers;~~

~~3. The name(s) under which the applicant will be conducting business as a pedicab owner;~~

~~4. The applicant's date of birth, and proof that the applicant is eighteen (18) years of age or older;~~

~~5. Identification in the form of a valid motor vehicle driver's license or identification card issued by any state or territory of the United States, or a valid passport;~~

~~6. Proof of a valid city business operations tax certificate;~~

~~7. Proof of insurance as set forth in this chapter;~~

~~8. A complete set of fingerprints of the applicant;~~

~~9. Four recent color passport sized photographs;~~

~~10. Authorization for the city to conduct a comprehensive background check of the applicant; and~~

~~11. Such other material as the city manager may require to evaluate the fitness of the applicant to be granted a pedicab owner permit.~~

~~C. Each applicant must sign the application which shall contain a warning that the application may be denied or the permit suspended, modified or revoked if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a pedicab owner permit.~~

~~D. The city manager shall investigate the facts stated in an application for a pedicab owner permit and other relevant data.~~

~~**5.94.050 Pedicab owner permit fee.**~~

~~The city shall charge an annual nonrefundable fee to recover the cost of activities associated with the administration, regulation and issuance of pedicab owner permits as may from time to time be determined by the city council.~~

~~**5.94.060 Duration of validity of pedicab owner permit.**~~

~~A pedicab owner permit shall be valid for a period of one year from the date of issuance.~~

~~**5.94.070 Pedicab owner permit renewal.**~~

~~A pedicab owner permit shall be renewable annually upon the filing and approval of a new application and payment of the annual pedicab owner permit fee.~~

~~**5.94.080 Insurance requirements.**~~

~~During the term of a pedicab owner permit, the pedicab owner shall maintain in full force and effect at no cost to the city a commercial general liability insurance policy..~~

~~A. Coverage shall be at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars ($1,000,000.00) per occurrence.~~

~~B. The city, its officials, and employees shall be covered by policy terms or endorsement as additional insureds in regards to general liability arising out of activities performed by or on behalf of the pedicab owner(s).~~

~~C. The pedicab owner's insurance coverage shall be primary insurance as it pertains to the city, its officials, and employees.~~

~~D. The city will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms by both the pedicab owner and the insurer.~~

~~E. The pedicab owner shall furnish the city with certificates and endorsements evidencing the insurance required, which must be maintained during the term of the pedicab owner permit. Proof of insurance must be carried in all pedicabs operated under a pedicab owner's permit. The city may suspend, modify or revoke a pedicab owner permit if current certificates of insurance and required endorsements have not been provided.~~

Article III. Pedicab Drivers

5.94.039~~0~~ Pedicab driver permits~~Permit requirements for pedicab drivers~~.

No person shall~~It is unlawful for any person to~~ drive or operate a pedicab within the city without having a valid pedicab driver permit. Pedicab driver permits are the property of the city and are not transferable to any other person.

5.94.~~10~~0040 Application for pedicab driver permit.

A. The pedicab driver permit application form shall be in a form prescribed by the city manager.

B. The applicant shall provide the following~~ information in the application~~:

1. The applicant's full name;

2. The applicant's business and residence addresses and phone numbers;

3. The name(s) of the business or company, if any, for which the driver works~~shall be working~~ as a pedicab driver;

4. The applicant's date of birth, and proof that the applicant is ~~eighteen (~~18~~)~~ years of age or older;

5. Identification in the form of a current and valid motor vehicle driver's license issued by the state of California;

6. A complete set of the applicant's fingerprints~~ of the applicant~~ and payment of the applicable fingerprint or background check fee;

7. Four recent color passport-sized photographs;

8. Authorization for the city to conduct a comprehensive background check of the applicant; and

9. Such other material as the city manager may require to evaluate the fitness of the applicant to be granted a pedicab driver permit.

C. Each applicant must sign the application, which shall contain a warning that the application may be denied or the permit suspended, modified, or revoked if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a pedicab driver permit.

D. The city manager shall investigate the facts stated in an application for a pedicab driver permit and other relevant data.

5.94.050 Temporary pedicab driver permit.

A. The City may issue a temporary pedicab driver permit to an applicant upon submission of the following:

1. A completed pedicab driver permit application;

2. Payment of the applicable fingerprint or background check fee; and

3. Written acknowledgment by the pedicab owner that the driver will be operating under a temporary pedicab driver permit.

B. A temporary pedicab driver permit is valid for 14 calendar days from the date of issuance, provided that the city may revoke a temporary pedicab driver permit at any time for any reason.

C. Upon issuance of a temporary pedicab driver permit, payment of the pedicab driver permit fee under section 5.94.060 shall be deferred for a period of seven days.

D. If a temporary pedicab driver permit is issued, city staff shall not process the permanent pedicab driver permit until the fee required under section 5.94.060 is paid.

E. An individual may only get one temporary pedicab driver permit.

5.94.06~~11~~0 Pedicab driver permit fee.

The city shall charge a~~n annual~~ nonrefundable pedicab driver permit fee, in an amount set by city council resolution, to recover the cost of ~~activities associated with~~ the administration, regulation, and issuance of pedicab driver permits~~as may from time to time be determined by the city council~~.

5.94.07~~12~~0 Duration ~~of validity~~ of pedicab driver permit.

A pedicab driver permit is~~shall be~~ valid for a period of ~~one~~ two years from date of issuance.

5.94.08~~13~~0 Pedicab driver permit renewal.

A pedicab driver permit is~~shall be~~ renewable ~~annually~~ upon the filing and approval of a new application and payment of the ~~annual~~ pedicab driver permit fee.

5.94.09~~14~~0 Identification badge issued to pedicab driver.

A. The city shall issue an identification badge to a ~~person after such person has been issued a~~ pedicab driver permit holder.

B. While the pedicab is in operation, the pedicab driver shall wear the identification badge at all times on his or her person, in a manner clearly visible to the public.

C. Identification badges are the property of the city and are not transferable to any other pedicab driver. In the event that a person's pedicab driver permit is suspended or revoked, the operator shall immediately surrender the identification badge to the city manager. In the event of a suspension, the city manager shall return the identification badge to its holder ~~immediately~~ after termination of the suspension period.

~~5.94.050 Reserved.~~

5.94.10~~6~~0 Driver's license requirement to drive or operate pedicab.

A. No person shall~~It is unlawful for any individual to~~ drive or operate a pedicab unless he or she is currently and validly licensed by the state of California to drive a motor vehicle. A pedicab driver shall have his or her current valid motor vehicle driver's license issued by the state of California on his or her person at all times while driving or operating a pedicab.

B. A pedicab operator shall report a change in the status of his or her driver's license to the city within three business days of the change.

Article III~~V~~. Pedicab Vehicles

5.94.11~~7~~0 Permit requirement for pedicab vehicles.

A. No~~It is unlawful for any~~ pedicab owner shall~~to~~ lease, rent, or allow a pedicab to be driven or operated for hire within the city without ~~first having obtained~~ a valid pedicab vehicle permit.

B. The pedicab vehicle permit shall be permanently affixed in a conspicuous and visible location within the pedicab. The pedicab vehicle sticker shall be permanently affixed in a conspicuous and visible location on the outside of the pedicab.

~~B~~C. Pedicab vehicle permits and stickers are the property of the city and are not transferable to any other pedicab.

5.94.12~~8~~0 Application for pedicab vehicle permit.

A. The pedicab vehicle permit application form shall be in a form prescribed by the city manager.

B. The applicant shall provide the following information in the application:

1. The full name, business and residence address, and phone number of the applicant;

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 or owner identification number, body style, and color scheme;

4. Seating capacity of the pedicab; and

5. Proof of insurance in accordance with this chapter.

5.94.13~~9~~0 Requirements for issuance of a pedicab vehicle permit.

A. Pedicab vehicle permits will~~shall~~ be issued only after the pedicab has been inspected by the city. Pedicabs must ~~meet~~ have all of the following ~~requirements~~:

~~A~~1. A battery-operated headlight capable of projecting a beam of white light for a distance of ~~three hundred (~~300~~)~~ feet and ~~shall be~~ permanently affixed to the pedicab. The~~Such~~ light may be removable and rechargeable~~d~~;

~~B~~2. Battery-operated taillights ~~shall be~~ permanently affixed on the right and the left 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 ~~five hundred (~~500~~)~~ feet to the rear of the pedicab. The~~Such~~ lights may be removable and rechargeable~~d~~;

~~C~~3. Signal bells and turn signals indicators;

~~D~~4. Seat belts and seat backs for each available passenger; and

~~E~~5. Those requirements related to bicycles ~~as~~ set forth in California Vehicle Code ~~S~~section 21201.

B. In addition to the requirements in subsection A, four-wheeled pedicabs are required to comply with the requirements set forth in California Vehicle Code section 21215.

5.94.14~~20~~0 Pedicab vehicle permit fee.

The city shall charge an annual nonrefundable pedicab vehicle permit fee, in an amount set by city council resolution, to recover the cost of ~~activities associated with~~ the administration, regulation, and issuance of pedicab vehicle permits~~as may from time to time be determined by the city council~~.

5.94.15~~21~~0 Duration of ~~validity of~~ pedicab vehicle permit.

Pedicab vehicle permits are~~shall be~~ valid for a period of ~~one~~ two years from date of issuance.

5.94.16~~22~~0 Pedicab vehicle permit renewal.

Pedicab vehicle permits are~~shall be~~ renewable ~~annually~~ upon filing of a new application, inspection of the pedicab, and payment of the ~~annual~~ pedicab vehicle permit fee.

5.94.17~~23~~0 Equipment regulations for the operation of pedicabs.

No person shall ~~It is unlawful for any person to~~ operate, or cause to be operated, a pedicab that~~which~~ fails to meet the equipment requirements of this chapter.

5.94.18~~24~~0 Fare Schedule.

A. Every pedicab shall have permanently affixed to the outside thereof, in a place readily to be seen by passengers, a frame covered with clear plastic, or similar material, enclosing a card upon which shall be printed in plain, legible letters the schedule of rates authorized for carriage in such pedicab. The font size for such lettering shall be at least one inch in height.

B. It is unlawful for a pedicab driver to deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

C. It is unlawful for a pedicab driver to demand from a passenger a fare greater than the fare contained in the posted fare schedule.

D. Subsection C of this section does not apply to fares for special tours, provided that the fare for the special tour is agreed upon between the passenger and the pedicab driver prior to the beginning of the tour.

Article IV. Insurance, Report of Accidents, and General Pedicab Operation.

5.94.190 Insurance.

A. A pedicab owner shall maintain, at no cost to the city, a commercial general liability insurance policy insuring the public against any loss or damage that may result to any person or property from the operation of the pedicab. Coverage shall include all drivers, whether employees or independent contractors

~~A~~B. Coverage shall be at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than $1,000,000.00 per occurrence.

~~B~~C. The city, its officials, and employees shall be covered by policy terms or endorsement as additional insureds in regards to general liability arising out of activities performed by or on behalf of the pedicab owner.

~~C~~D. The pedicab owner's insurance coverage shall be primary insurance as it pertains to the city, its officials, and employees.

~~D~~E. The city must be provided with 30 days prior written notice of cancellation or material change in the policy language or terms by both the pedicab owner and the insurer.

~~E~~F. The pedicab owner shall furnish the city with certificates and endorsements evidencing the insurance required, which must be maintained during the term of the pedicab vehicle permit. Proof of insurance must be carried in all pedicabs operated under a pedicab vehicle permit. The city may suspend, modify, or revoke a pedicab vehicle permit if current certificates of insurance and required endorsements have not been provided.

5.94.20~~5~~0 Report of Accidents.

A. A pedicab driver shall immediately report any accident or collision in which he or she is involved while operating a pedicab, which results in property damage or

personal injury of any kind, to the owner of the pedicab involved in the accident or collision.

B. A pedicab owner whose pedicab is involved in any accident or collision resulting in property damage or personal injury of any kind shall within ~~forty-eight (~~48~~)~~ hours of being informed of the accident or collision give a written report thereof to the city manager. A copy of a report required under state law shall be deemed sufficient for such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law.

5.94.21~~6~~0 General pedicab operation.

A. All pedicabs shall be operated according to the provisions of this chapter, the applicable provisions of the California Vehicle Code and this c~~Sacramento City C~~ode governing the operation of bicycles, and all other applicable state and federal laws. No pedicab shall be operated in weather conditions that pose an unreasonable safety risk to the drivers or passengers of the pedicab, or to other motorists or pedestrians.

B. No owner or driver of a pedicab shall knowingly permit such pedicab to be used for unlawful purposes or knowingly to transport persons for such purposes.

C. Every pedicab operating under this chapter will~~must~~ be inspected by the city manager at such intervals as may be established by the city manager, to insure the continued maintenance of safe operating conditions. Such pedicabs shall be maintained in working order and good repair. Maintenance and repair records for each pedicab shall be retained for at least one year after such maintenance and repair has been completed, and such records shall be made available to the city upon request.

D. For the purpose of immediately loading or unloading passengers, a pedicab may remain standing upon a street if the pedicab is in any legal parking stall, designated loading zone, or any other location that does not impede pedestrian or vehicular traffic. Otherwise, a pedicab ~~may not be left parked or standing in metered spaces or other specially designated spaces, such as those for carriages, taxis, busses, handicapped drivers, and the like~~driver must comply with on-street parking regulations regarding loading zones, fire zones, spaced designated for carriages, taxis, busses, the disabled, and metered parking spaces. The city manager may set forth specific additional locations where pedicabs are allowed to park or stand. No pedicab driver shall leave a pedicab unattended, while in operation for the solicitation or transportation of passengers, ~~shall be left unattended by the pedicab driver~~ for a period of more than ~~fifteen (~~15~~)~~ minutes at a time unless parked in one of those specific locations identified by the city manager.

E. Pedicab owners shall maintain an operational log for each pedicab owned and operated under that owner's pedicab owner's permit. The operational log shall list

the dates and times of the operation of each pedicab, and the name of any pedicab driver operating the pedicab during those dates and times.

F. Pedicab owners shall establish a procedure for the collection, retention and return of lost property found in each pedicab. Pedicab owners and pedicab drivers shall also be ~~prompt,~~ diligent and courteous in responding to and resolving inquiries and complaints from passengers, city officials and members of the general public regarding the operation of pedicabs owned ~~and/~~or operated by them. Pedicab owners shall respond to inquiries about lost property within five business days.

G. The city manager shall promulgate rules and restrictions regarding the times when and locations where pedicabs may be driven and operated within the city, as well as the location of any pedicab stand used for pick-up and drop-off of passengers, the appearance and maintenance of pedicabs and pedicab drivers, and other matters pertaining to the operation of pedicabs. Such rules and restrictions shall be adopted by city council resolution. The city manager shall ensure that each pedicab owner is given an updated version of such restrictions. It is unlawful for any pedicab owner or pedicab driver to drive or operate a pedicab, or allow a pedicab to be driven or operated, in violation of these restrictions.

H. Pedicab owners, pedicab drivers, and pedicab vehicles are subject to all applicable city, county, state, and federal laws, rules, and regulations.

Article V. Four-wheeled pedicabs.

5.94.220 Application.

In addition to the other requirements in this chapter, four-wheeled pedicabs are subject to the regulations set forth in this article.

5.94.230 Operation of four-wheeled pedicabs.

A. A four-wheeled pedicab shall have a seating capacity for not more than 15 persons.

B. The operator of a four-wheeled pedicab shall be at least 21 years old.

C. Not later than January 1, 2017, a four-wheeled pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The four-wheeled pedicab shall be inspected annually for compliance with the requirements of this section. The four-wheeled pedicab owner shall pay an inspection fee in an amount set by city council resolution.

D. In addition to the insurance requirements set forth in section 5.94.190, the operator of a four-wheeled pedicab shall retain coverage of $500,000.00 in general umbrella insurance that covers the four-wheeled pedicab.

E. No person shall operate a four-wheeled pedicab on any freeway; on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection; or on any street or highway designated as restricted during peak hours by city council resolution.

F. Commencing on January 1, 2016, the operator of a four-wheeled pedicab shall annually report any accidents caused or experienced by the four-wheeled pedicab to the Department of the California Highway Patrol.

G. A four-wheeled pedicab shall not load or unload passengers on roadways or in the middle of highways.

H. Four-wheeled pedicabs shall be operated as close as practicable to the right hand curb or edge of the roadway, except when necessary to overtake another vehicle, to avoid a stationary object, or when preparing to make a left turn.

5.94.240 Consumption of Alcoholic Beverages.

A. The consumption of alcoholic beverages on a four-wheeled pedicab is subject to the regulations set forth in this section.

B. An onboard safety monitor who is 21 years of age or older shall be present whenever alcohol is being consumed by passengers during the operation of the four-wheeled pedicab. The onboard safety monitor shall not be under the influence of any alcoholic beverage and shall be considered as driving the pedicab for purposes of Article 2 (commencing with section 23152) of Chapter 12 of Division 11 of the California Vehicle Code during the operation of the four-wheeled pedicab.

C. Both the operator and the onboard safety monitor shall have completed either the Licensee Education on Alcohol and Drugs (LEAD) program implemented by the Department of Alcoholic Beverage Control or a training course utilizing the curriculum components recommended by the Responsible Beverage Service Advisory Board established by the Director of Alcoholic Beverage Control. Operators and onboard safety monitors must carry proof of completion of a LEAD or LEAD equivalent certification.

D. Alcoholic beverages shall not be provided by the operator or onboard safety monitor of the four-wheeled pedicab or any employee or agent of the operator or onboard safety monitor. Alcoholic beverages may only be supplied by the passengers of the four-wheeled pedicab. All alcoholic beverages supplied by passengers of the four-wheeled pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to Chapter 13 (commencing with section 25170) of Division 9 of the Business and Professions Code prior to their consumption on board the four-wheeled pedicab.

E. Alcoholic beverages may be consumed by a passenger of the four-wheeled pedicab only while he or she is physically on board and within the four-wheeled pedicab.

F. The only alcoholic beverages allowed on board the four-wheeled pedicab are beer with less than seven percent ABV and boxed wine, with a limit of 36 ounces of beer or 18 ounces of boxed wine per passenger.

G. No hard liquor, pre-mixed drinks, or gelatin-based alcohol shots are permitted on the four-wheeled pedicab at any time.

H. All passengers shall be 21 years of age or older if alcohol is consumed during operation of the four-wheeled pedicab.

I. For purposes of this section, passengers who are pedaling are not operators of the four-wheeled pedicab.

J. A license or permit from the Department of Alcoholic Beverages Control is not required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

Article VI. Denial, Suspension, Modification and Revocation of Permits

5.94.25~~7~~0 Denial of pedicab permits.

The city manager may deny issuance of a ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit if an applicant for such permit:

A. Fails to comply with the requirements of this chapter;

B. Misrepresents facts relevant to the fitness of the applicant;

C. Is currently required to register pursuant to California Penal Code s~~S~~ection 290;

D. Has been convicted of a crime involving moral turpitude or narcotics; or

E. Has been convicted for hit and run, driving a vehicle recklessly or while under the influence of intoxicating alcohol or drugs within the seven years immediately preceding application for a pedicab operating permit.

5.94.26~~8~~0 Suspension, modification, or revocation of permits.

A. The city manager may suspend, modify or revoke a ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit if the holder of the permit:

1. Misrepresents facts relevant to the fitness of the pedicab owner or pedicab driver if such misrepresentation becomes known after a permit has been issued;

2. Violates the traffic laws of the city, county or state;

3. Is convicted of misdemeanor reckless driving;

4. Fails to maintain one or more pedicabs in good order and repair;

5. Drives or operates a pedicab, or allows a pedicab to be driven or operated, when it is known to the owner or driver not to be in good order and repair;

6. Knowingly falsifies material and relevant facts on an application for a ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit;

7. Fails to maintain insurance as required in this chapter;

8. Fails to notify the city manager ~~thirty (~~30~~)~~ days prior to the effective date of liability insurance cancellation or change of insurer;

9. Fails to pay any fines, penalties, fees or damages lawfully assessed upon the owner or driver of a pedicab;

10. Is convicted of a violation of any law involving alcohol or moral turpitude;

11. Operates any vehicle in a manner which constitutes a misdemeanor under the laws of the state of California; or

12. Fails to comply with any of the applicable provisions of this chapter or the rules and regulations prescribed by the city manager.

B. In addition to the provisions of s~~S~~ection 5.94.30~~28~~0, the city manager may immediately suspend or revoke a ~~pedicab owner permit or~~ pedicab driver permit or pedicab vehicle permit upon the receipt of information reasonably sufficient and reliable to establish that the permit holder has committed a violation of law involving:

1. A felony;

2. A sex offense;

3. Soliciting for prostitution;

4. A narcotics offense; or

5. Has had a license to drive issued by a state or territory of the United States suspended or revoked.

C. Upon suspension or revocation, the pedicab owner or pedicab driver shall immediately surrender the ~~pedicab operating permit,~~ pedicab driver permit or pedicab vehicle permit to the city manager. In the event of suspension, the city manager shall return any suspended permit to the holder of such permit immediately after termination of the suspension period. After any such permit has been revoked, the holder of that permit may not reapply for such permit until one year has elapsed since the date that the revocation became a final adjudication.

Article VII. Right of Appeal and Appeal Procedure

5.94.27~~9~~0 Right of appeal from denial, suspension, modification, or revocation of ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit.

A. The city shall notify the pedicab owner or pedicab driver that his or her ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit has been denied, suspended, modified, or revoked. The city manager shall also notify the pedicab owner or pedicab driver of the right to appeal the denial, suspension, modification, or revocation to the city manager. Any written appeal shall be filed in accordance with s~~S~~ection 5.94.280.

B. If no appeal is filed within the time allowed, the ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit shall be considered denied, suspended, modified, or revoked and the pedicab owner or pedicab driver shall immediately surrender any such permit to the city manager in the manner prescribed.

C. Once a timely appeal is filed, any suspension, modification, or revocation of ~~pedicab owner permit,~~a pedicab driver permit or pedicab vehicle permit shall be stayed pending the final determination by the hearing officer as set forth in this chapter, unless such permit has been immediately suspended pursuant to the chapter.

5.94.28~~30~~0 Appeal proceedings.

A. The pedicab owner or pedicab driver may appeal any notice to deny, suspend, modify, or revoke a ~~pedicab owner permit,~~ pedicab driver permit or pedicab vehicle permit by filing with the city manager within ~~ten (~~10~~)~~ days from the date of service of a notice of denial, suspension, modification, or revocation, a written appeal containing:

1. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

3. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. Upon receipt of any appeal filed and the appeal fee pursuant to this section, the city manager shall transmit the appeal to the administrative hearing officer appointed for the purpose of hearing such appeal, who shall calendar it for hearing as soon as possible, but in no event later than ~~thirty (~~30~~)~~ days from the date the appeal was received without the express written consent of the appellant.

C. Written notice of the time and place of the hearing shall be given at least ~~ten (~~10~~)~~ calendar days prior to the date of the hearing to each appellant by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

D. The city may collect and require an appeal fee to be paid at the time the written appeal notice is filed. The appeal fee shall be set by resolution of the city council. The fee shall be calculated to recover the total city costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, administrative hearing officer compensation, preparation and service of notices and staff appearance in the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed provided that the city manager may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with this chapter, and other factors indicating good faith attempts to comply.

E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication.

F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

G. Enforcement of any order of the city manager issued under this title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed, except for a suspension or revocation under s~~S~~ection 5.94.300~~280~~.~~(~~B~~)~~.

5.94.29~~31~~0 Conduct of hearings.

A. At the time set for hearing, the administrative hearing officer shall proceed to hear the testimony of the city manager, the appellant(s) and other competent persons

respecting the reasons for the denial, suspension, modification or revocation of the permit, and other relevant facts concerning the matter.

B. The proceedings at the hearing shall be electronically recorded. Appellant(s) may provide a certified shorthand reporter to maintain a record of the proceedings at the appellant's own expense.

C. The administrative hearing officer may, upon request of either the appellant or the director, grant continuances from time to time for good cause shown, or upon his or her own motion.

D. The administrative hearing officer or designee shall administer the oath or affirmation.

E. The appellant may represent themselves, or be represented by anyone of their choice.

F. If the appellant does not proficiently speak or understand the English language, he or she may provide an interpreter, at the appellant's own cost, to translate for the appellant. An interpreter shall not have had any involvement in the issues of the case prior to the hearing.

G. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or any of its departments.

5.94.30~~2~~0 Form and contents of decision.

A. After hearing all the evidence, the administrative hearing officer shall issue a decision to sustain the appeal, affirm the decision of the city manager, or modify the decision of the city manager, which shall be in writing and issued within ~~ten (~~10~~)~~ days of the date of the hearing.

B. Upon issuance of the decision, the director shall serve a copy of the decision by mailing it to the appellant's address as listed in the appeal form.

C. The decision of the administrative hearing officer shall be final.

5.94.31~~3~~0 Enforcement of order of administrative hearing officer.

After any decision issued pursuant to this chapter shall have become final by failure to file a timely appeal or after administrative hearing officer's decision on appeal is rendered, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

Article VIII. Enforcement.

5.94.3240 Enforcement authority.

The city manager is authorized to administer and enforce the provisions of this chapter. The city manager may exercise any enforcement powers as provided in this code.

5.94.3350 Enforcement remedies.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than $250.00 or more than $25,000.00 for each day the violation continues.

D. Any person who violates a provision of this chapter is guilty of an infraction, punishable by a fine in accordance with Section 36900 of the California Government Code.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.~~Any person violating the provisions of this chapter shall be guilty of an infraction. The city may also impose administrative penalties pursuant to cChapter 1.28 of this code for violations of this chapter. Additionally, the city attorney may seek injunctive relief and civil penalties in the superior court for violations of the provisions of this chapter. The remedies provided for in this chapter shall be cumulative and not exclusive to any other remedies available under any other federal, state or local laws.~~

5.94.3460 Strict liability offenses.

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

ORDINANCE NO. 2016-XXX

Adopted by the Sacramento City Council

AN ORDINANCE AMENDING CHAPTER 5.94 OF THE SACRAMENTO CITY CODE RELATING TO PEDICABS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

Chapter 5.94 of the Sacramento City Code is amended to read as follows:

Chapter 5.94 PEDICABS

Article I. General Provisions

5.94.010 Purpose.

The city council finds that regulations governing pedicabs and the owners and drivers of pedicabs are necessary to protect the general safety and welfare of passengers using pedicabs for hire and pedestrians and motorists within the city.

5.94.020 Definitions.

The following definitions apply in this chapter:

"Alcoholic beverages" has the same meaning as defined in California Business and Professions Code section 23004.

"City manager" means the city manager or the city manager's designee.

"Four-wheeled pedicab" means a pedicab as defined in subsection 3 of the definition for "pedicab" in this section.

"Identification badge" means a badge issued by the city that identifies the pedicab driver with a color photo.

"Operates within the city" means the soliciting, accepting, picking-up, or embarking within the city of a passenger for transportation to any point within or outside the city for any form of consideration.

"Pedicab" means:

1. A bicycle (as defined in California Vehicle Code section 231) that has three or more wheels, that transports, or is capable of transporting, passengers on seats

attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for any form of consideration;

2. A bicycle (as defined in California Vehicle Code section 231), with a single unarticulated frame, that pulls a sidecar or similar device that transports, or is capable of transporting, passengers on seats attached to the sidecar or similar device, that is operated by an individual, and that is used for transporting passengers for any form of consideration; or

3. A four-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for eight or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for any form of consideration.

"Pedicab driver" or "driver" means an individual who drives or operates a pedicab within the city, whether as an owner, an employee of the owner, or as an independent contractor.

"Pedicab driver permit" means a written permit issued by the city authorizing a person to drive or operate a pedicab within the city.

"Pedicab owner" or "owner" means any person who owns, leases, or possesses a pedicab.

"Pedicab vehicle permit" means the numbered permit issued by the city for display on a pedicab to indicate that the pedicab is permitted to operate within the city.

"Pedicab vehicle sticker" means the pedicab identification sticker issued by the city.

Article II. Pedicab Drivers

5.94.030 Pedicab driver permits.

No person shall drive or operate a pedicab within the city without having a valid pedicab driver permit. Pedicab driver permits are the property of the city and are not transferable to any other person.

5.94.040 Application for pedicab driver permit.

A. The pedicab driver permit application form shall be in a form prescribed by the city manager.

B. The applicant shall provide the following:

1. The applicant's full name;

2. The applicant's business and residence addresses and phone numbers;

3. The name(s) of the business or company, if any, for which the driver works as a pedicab driver;

4. The applicant's date of birth, and proof that the applicant is 18 years of age or older;

5. Identification in the form of a current and valid motor vehicle driver's license issued by the state of California;

6. A complete set of the applicant's fingerprints and payment of the applicable fingerprint or background check fee;

7. Four recent color passport-sized photographs;

8. Authorization for the city to conduct a comprehensive background check of the applicant; and

9. Such other material as the city manager may require to evaluate the fitness of the applicant to be granted a pedicab driver permit.

C. Each applicant must sign the application, which shall contain a warning that the application may be denied or the permit suspended, modified, or revoked if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a pedicab driver permit.

D. The city manager shall investigate the facts stated in an application for a pedicab driver permit and other relevant data.

5.94.050 Temporary pedicab driver permit.

A. The City may issue a temporary pedicab driver permit to an applicant upon submission of the following:

1. A completed pedicab driver permit application;

2. Payment of the applicable fingerprint or background check fee; and

3. Written acknowledgment by the pedicab owner that the driver will be operating under a temporary pedicab driver permit.

B. A temporary pedicab driver permit is valid for 14 calendar days from the date of issuance, provided that the city may revoke a temporary pedicab driver permit at any time for any reason.

C. Upon issuance of a temporary pedicab driver permit, payment of the pedicab driver permit fee under section 5.94.060 shall be deferred for a period of seven days.

D. If a temporary pedicab driver permit is issued, city staff shall not process the permanent pedicab driver permit until the fee required under section 5.94.060 is paid.

E. An individual may only get one temporary pedicab driver permit.

5.94.060 Pedicab driver permit fee.

The city shall charge a nonrefundable pedicab driver permit fee, in an amount set by city council resolution, to recover the cost of the administration, regulation, and issuance of pedicab driver permits.

5.94.070 Duration of pedicab driver permit.

A pedicab driver permit is valid for a period of two years from date of issuance.

5.94.080 Pedicab driver permit renewal.

A pedicab driver permit is renewable upon the filing and approval of a new application and payment of the pedicab driver permit fee.

5.94.090 Identification badge issued to pedicab driver.

A. The city shall issue an identification badge to a pedicab driver permit holder.

B. While the pedicab is in operation, the pedicab driver shall wear the identification badge at all times on his or her person, in a manner clearly visible to the public.

C. Identification badges are the property of the city and are not transferable to any other pedicab driver. In the event that a person's pedicab driver permit is suspended or revoked, the operator shall immediately surrender the identification badge to the city manager. In the event of a suspension, the city manager shall return the identification badge to its holder after termination of the suspension period.

5.94.100 Driver's license requirement to drive or operate pedicab.

A. No person shall drive or operate a pedicab unless he or she is currently and validly licensed by the state of California to drive a motor vehicle. A pedicab driver shall have his or her current valid motor vehicle driver's license issued by the state of California on his or her person at all times while driving or operating a pedicab.

B. A pedicab operator shall report a change in the status of his or her driver's license to the city within three business days of the change.

Article III. Pedicab Vehicles

5.94.110 Permit requirement for pedicab vehicles.

A. No pedicab owner shall lease, rent, or allow a pedicab to be driven or operated for hire within the city without a valid pedicab vehicle permit.

B. The pedicab vehicle permit shall be permanently affixed in a conspicuous and visible location within the pedicab. The pedicab vehicle sticker shall be permanently affixed in a conspicuous and visible location on the outside of the pedicab.

C. Pedicab vehicle permits and stickers are the property of the city and are not transferable to any other pedicab.

5.94.120 Application for pedicab vehicle permit.

A. The pedicab vehicle permit application form shall be in a form prescribed by the city manager.

B. The applicant shall provide the following information in the application:

1. The full name, business and residence address, and phone number of the applicant;

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 or owner identification number, body style, and color scheme;

4. Seating capacity of the pedicab; and

5. Proof of insurance in accordance with this chapter.

5.94.130 Requirements for issuance of a pedicab vehicle permit.

A. Pedicab vehicle permits will be issued only after the pedicab has been inspected by the city. Pedicabs must have all of the following:

1. A battery-operated headlight capable of projecting a beam of white light for a distance of 300 feet and permanently affixed to the pedicab. The light may be removable and rechargeable;

2. Battery-operated taillights permanently affixed on the right and the left 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. The lights may be removable and rechargeable;

3. Signal bells and turn signals indicators;

4. Seat belts and seat backs for each available passenger; and

5. Those requirements related to bicycles set forth in California Vehicle Code section 21201.

B. In addition to the requirements in subsection A, four-wheeled pedicabs are required to comply with the requirements set forth in California Vehicle Code section 21215.

5.94.140 Pedicab vehicle permit fee.

The city shall charge an annual nonrefundable pedicab vehicle permit fee, in an amount set by city council resolution, to recover the cost of the administration, regulation, and issuance of pedicab vehicle permits.

5.94.150 Duration of pedicab vehicle permit.

Pedicab vehicle permits are valid for a period of two years from date of issuance.

5.94.160 Pedicab vehicle permit renewal.

Pedicab vehicle permits are renewable upon filing of a new application, inspection of the pedicab, and payment of the pedicab vehicle permit fee.

5.94.170 Equipment regulations for the operation of pedicabs.

No person shall operate, or cause to be operated, a pedicab that fails to meet the equipment requirements of this chapter.

5.94.180 Fare Schedule.

A. Every pedicab shall have permanently affixed to the outside thereof, in a place readily to be seen by passengers, a frame covered with clear plastic, or similar material, enclosing a card upon which shall be printed in plain, legible letters the schedule of rates authorized for carriage in such pedicab. The font size for such lettering shall be at least one inch in height.

B. It is unlawful for a pedicab driver to deceive any passenger who rides in the vehicle, or who expresses a desire to ride in such vehicle, as to that passenger's destination or the rate to be charged.

C. It is unlawful for a pedicab driver to demand from a passenger a fare greater than the fare contained in the posted fare schedule.

D. Subsection C of this section does not apply to fares for special tours, provided that the fare for the special tour is agreed upon between the passenger and the pedicab driver prior to the beginning of the tour.

Article IV. Insurance, Report of Accidents, and General Pedicab Operation.

5.94.190 Insurance.

A. A pedicab owner shall maintain, at no cost to the city, a commercial general liability insurance policy insuring the public against any loss or damage that may result to any person or property from the operation of the pedicab. Coverage shall include all drivers, whether employees or independent contractors

B. Coverage shall be at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than $1,000,000.00 per occurrence.

C. The city, its officials, and employees shall be covered by policy terms or endorsement as additional insureds in regards to general liability arising out of activities performed by or on behalf of the pedicab owner.

D. The pedicab owner's insurance coverage shall be primary insurance as it pertains to the city, its officials, and employees.

E. The city must be provided with 30 days prior written notice of cancellation or material change in the policy language or terms by both the pedicab owner and the insurer.

F. The pedicab owner shall furnish the city with certificates and endorsements evidencing the insurance required, which must be maintained during the term of the pedicab vehicle permit. Proof of insurance must be carried in all pedicabs operated under a pedicab vehicle permit. The city may suspend, modify, or revoke a pedicab vehicle permit if current certificates of insurance and required endorsements have not been provided.

5.94.200 Report of Accidents.

A. A pedicab driver shall immediately report any accident or collision in which he or she is involved while operating a pedicab, which results in property damage or personal injury of any kind, to the owner of the pedicab involved in the accident or collision.

B. A pedicab owner whose pedicab is involved in any accident or collision resulting in property damage or personal injury of any kind shall within 48 hours of being informed of the accident or collision give a written report thereof to the city manager. A copy of a report required under state law shall be deemed sufficient for

such purposes; otherwise, such report shall contain all information required with respect to reports otherwise required under state law.

5.94.210 General pedicab operation.

A. All pedicabs shall be operated according to the provisions of this chapter, the applicable provisions of the California Vehicle Code and this code governing the operation of bicycles, and all other applicable state and federal laws. No pedicab shall be operated in weather conditions that pose an unreasonable safety risk to the drivers or passengers of the pedicab, or to other motorists or pedestrians.

B. No owner or driver of a pedicab shall knowingly permit such pedicab to be used for unlawful purposes or knowingly to transport persons for such purposes.

C. Every pedicab operating under this chapter will be inspected by the city manager at such intervals as may be established by the city manager, to insure the continued maintenance of safe operating conditions. Such pedicabs shall be maintained in working order and good repair. Maintenance and repair records for each pedicab shall be retained for at least one year after such maintenance and repair has been completed, and such records shall be made available to the city upon request.

D. For the purpose of immediately loading or unloading passengers, a pedicab may remain standing upon a street if the pedicab is in any legal parking stall, designated loading zone, or any other location that does not impede pedestrian or vehicular traffic. Otherwise, a pedicab driver must comply with on-street parking regulations regarding loading zones, fire zones, spaced designated for carriages, taxis, busses, the disabled, and metered parking spaces. The city manager may set forth specific additional locations where pedicabs are allowed to park or stand. No pedicab driver shall leave a pedicab unattended, while in operation for the solicitation or transportation of passengers, for a period of more than 15 minutes at a time unless parked in one of those specific locations identified by the city manager.

E. Pedicab owners shall maintain an operational log for each pedicab owned and operated under that owner's pedicab owner's permit. The operational log shall list the dates and times of the operation of each pedicab, and the name of any pedicab driver operating the pedicab during those dates and times.

F. Pedicab owners shall establish a procedure for the collection, retention and return of lost property found in each pedicab. Pedicab owners and pedicab drivers shall also be diligent and courteous in responding to and resolving inquiries and complaints from passengers, city officials and members of the general public regarding the operation of pedicabs owned or operated by them. Pedicab owners shall respond to inquiries about lost property within five business days.

G. The city manager shall promulgate rules and restrictions regarding the times when and locations where pedicabs may be driven and operated within the city, as well as the location of any pedicab stand used for pick-up and drop-off of passengers, the appearance and maintenance of pedicabs and pedicab drivers, and other matters pertaining to the operation of pedicabs. Such rules and restrictions shall be adopted by city council resolution. The city manager shall ensure that each pedicab owner is given an updated version of such restrictions. It is unlawful for any pedicab owner or pedicab driver to drive or operate a pedicab, or allow a pedicab to be driven or operated, in violation of these restrictions.

H. Pedicab owners, pedicab drivers, and pedicab vehicles are subject to all applicable city, county, state, and federal laws, rules, and regulations.

Article V. Four-wheeled pedicabs.

5.94.220 Application.

In addition to the other requirements in this chapter, four-wheeled pedicabs are subject to the regulations set forth in this article.

5.94.230 Operation of four-wheeled pedicabs.

A. A four-wheeled pedicab shall have a seating capacity for not more than 15 persons.

B. The operator of a four-wheeled pedicab shall be at least 21 years old.

C. Not later than January 1, 2017, a four-wheeled pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The four-wheeled pedicab shall be inspected annually for compliance with the requirements of this section. The four-wheeled pedicab owner shall pay an inspection fee in an amount set by city council resolution.

D. In addition to the insurance requirements set forth in section 5.94.190, the operator of a four-wheeled pedicab shall retain coverage of $500,000.00 in general umbrella insurance that covers the four-wheeled pedicab.

E. No person shall operate a four-wheeled pedicab on any freeway; on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection; or on any street or highway designated as restricted during peak hours by city council resolution.

F. Commencing on January 1, 2016, the operator of a four-wheeled pedicab shall annually report any accidents caused or experienced by the four-wheeled pedicab to the Department of the California Highway Patrol.

G. A four-wheeled pedicab shall not load or unload passengers on roadways or in the middle of highways.

H. Four-wheeled pedicabs shall be operated as close as practicable to the right hand curb or edge of the roadway, except when necessary to overtake another vehicle, to avoid a stationary object, or when preparing to make a left turn.

5.94.240 Consumption of Alcoholic Beverages.

A. The consumption of alcoholic beverages on a four-wheeled pedicab is subject to the regulations set forth in this section.

B. An onboard safety monitor who is 21 years of age or older shall be present whenever alcohol is being consumed by passengers during the operation of the four-wheeled pedicab. The onboard safety monitor shall not be under the influence of any alcoholic beverage and shall be considered as driving the pedicab for purposes of Article 2 (commencing with section 23152) of Chapter 12 of Division 11 of the California Vehicle Code during the operation of the four-wheeled pedicab.

C. Both the operator and the onboard safety monitor shall have completed either the Licensee Education on Alcohol and Drugs (LEAD) program implemented by the Department of Alcoholic Beverage Control or a training course utilizing the curriculum components recommended by the Responsible Beverage Service Advisory Board established by the Director of Alcoholic Beverage Control. Operators and onboard safety monitors must carry proof of completion of a LEAD or LEAD equivalent certification.

D. Alcoholic beverages shall not be provided by the operator or onboard safety monitor of the four-wheeled pedicab or any employee or agent of the operator or onboard safety monitor. Alcoholic beverages may only be supplied by the passengers of the four-wheeled pedicab. All alcoholic beverages supplied by passengers of the four-wheeled pedicab shall be in enclosed, sealed, and unopened containers that have been labeled pursuant to Chapter 13 (commencing with section 25170) of Division 9 of the Business and Professions Code prior to their consumption on board the four-wheeled pedicab.

E. Alcoholic beverages may be consumed by a passenger of the four-wheeled pedicab only while he or she is physically on board and within the four-wheeled pedicab.

F. The only alcoholic beverages allowed on board the four-wheeled pedicab are beer with less than seven percent ABV and boxed wine, with a limit of 36 ounces of beer or 18 ounces of boxed wine per passenger.

G. No hard liquor, pre-mixed drinks, or gelatin-based alcohol shots are permitted on the four-wheeled pedicab at any time.

H. All passengers shall be 21 years of age or older if alcohol is consumed during operation of the four-wheeled pedicab.

I. For purposes of this section, passengers who are pedaling are not operators of the four-wheeled pedicab.

J. A license or permit from the Department of Alcoholic Beverages Control is not required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

Article VI. Denial, Suspension, Modification and Revocation of Permits

5.94.250 Denial of pedicab permits.

The city manager may deny issuance of a pedicab driver permit or pedicab vehicle permit if an applicant for such permit:

A. Fails to comply with the requirements of this chapter;

B. Misrepresents facts relevant to the fitness of the applicant;

C. Is currently required to register pursuant to California Penal Code section 290;

D. Has been convicted of a crime involving moral turpitude or narcotics; or

E. Has been convicted for hit and run, driving a vehicle recklessly or while under the influence of intoxicating alcohol or drugs within the seven years immediately preceding application for a pedicab operating permit.

5.94.260 Suspension, modification, or revocation of permits.

A. The city manager may suspend, modify or revoke a pedicab driver permit or pedicab vehicle permit if the holder of the permit:

1. Misrepresents facts relevant to the fitness of the pedicab owner or pedicab driver if such misrepresentation becomes known after a permit has been issued;

2. Violates the traffic laws of the city, county or state;

3. Is convicted of misdemeanor reckless driving;

4. Fails to maintain one or more pedicabs in good order and repair;

5. Drives or operates a pedicab, or allows a pedicab to be driven or operated, when it is known to the owner or driver not to be in good order and repair;

6. Knowingly falsifies material and relevant facts on an application for a pedicab driver permit or pedicab vehicle permit;

7. Fails to maintain insurance as required in this chapter;

8. Fails to notify the city manager 30 days prior to the effective date of liability insurance cancellation or change of insurer;

9. Fails to pay any fines, penalties, fees or damages lawfully assessed upon the owner or driver of a pedicab;

10. Is convicted of a violation of any law involving alcohol or moral turpitude;

11. Operates any vehicle in a manner which constitutes a misdemeanor under the laws of the state of California; or

12. Fails to comply with any of the applicable provisions of this chapter or the rules and regulations prescribed by the city manager.

B. In addition to the provisions of section 5.94.300, the city manager may immediately suspend or revoke a pedicab driver permit or pedicab vehicle permit upon the receipt of information reasonably sufficient and reliable to establish that the permit holder has committed a violation of law involving:

1. A felony;

2. A sex offense;

3. Soliciting for prostitution;

4. A narcotics offense; or

5. Has had a license to drive issued by a state or territory of the United States suspended or revoked.

C. Upon suspension or revocation, the pedicab owner or pedicab driver shall immediately surrender the pedicab driver permit or pedicab vehicle permit to the city manager. In the event of suspension, the city manager shall return any suspended permit to the holder of such permit immediately after termination of the suspension period. After any such permit has been revoked, the holder of that permit may not reapply for such permit until one year has elapsed since the date that the revocation became a final adjudication.

Article VII. Right of Appeal and Appeal Procedure

5.94.270 Right of appeal from denial, suspension, modification, or revocation of pedicab driver permit or pedicab vehicle permit.

A. The city shall notify the pedicab owner or pedicab driver that his or her pedicab driver permit or pedicab vehicle permit has been denied, suspended, modified, or revoked. The city manager shall also notify the pedicab owner or pedicab driver of the right to appeal the denial, suspension, modification, or revocation to the city manager. Any written appeal shall be filed in accordance with section 5.94.280.

B. If no appeal is filed within the time allowed, the pedicab driver permit or pedicab vehicle permit shall be considered denied, suspended, modified, or revoked and the pedicab owner or pedicab driver shall immediately surrender any such permit to the city manager in the manner prescribed.

C. Once a timely appeal is filed, any suspension, modification, or revocation of a pedicab driver permit or pedicab vehicle permit shall be stayed pending the final determination by the hearing officer as set forth in this chapter, unless such permit has been immediately suspended pursuant to the chapter.

5.94.280 Appeal proceedings.

A. The pedicab owner or pedicab driver may appeal any notice to deny, suspend, modify, or revoke a pedicab driver permit or pedicab vehicle permit by filing with the city manager within 10 days from the date of service of a notice of denial, suspension, modification, or revocation, a written appeal containing:

1. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

3. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. Upon receipt of any appeal filed and the appeal fee pursuant to this section, the city manager shall transmit the appeal to the administrative hearing officer appointed for the purpose of hearing such appeal, who shall calendar it for hearing as soon as possible, but in no event later than 30 days from the date the appeal was received without the express written consent of the appellant.

C. Written notice of the time and place of the hearing shall be given at least 10 calendar days prior to the date of the hearing to each appellant by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

D. The city may collect and require an appeal fee to be paid at the time the written appeal notice is filed. The appeal fee shall be set by resolution of the city council. The fee shall be calculated to recover the total city costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, administrative hearing officer compensation, preparation and service of notices and staff appearance in the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed provided that the city manager may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with this chapter, and other factors indicating good faith attempts to comply.

E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication.

F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

G. Enforcement of any order of the city manager issued under this title shall be stayed during the pendency of an appeal therefrom which is properly and timely filed, except for a suspension or revocation under section 5.94.300.B.

5.94.290 Conduct of hearings.

A. At the time set for hearing, the administrative hearing officer shall proceed to hear the testimony of the city manager, the appellant(s) and other competent persons respecting the reasons for the denial, suspension, modification or revocation of the permit, and other relevant facts concerning the matter.

B. The proceedings at the hearing shall be electronically recorded. Appellant(s) may provide a certified shorthand reporter to maintain a record of the proceedings at the appellant's own expense.

C. The administrative hearing officer may, upon request of either the appellant or the director, grant continuances from time to time for good cause shown, or upon his or her own motion.

D. The administrative hearing officer or designee shall administer the oath or affirmation.

E. The appellant may represent themselves, or be represented by anyone of their choice.

F. If the appellant does not proficiently speak or understand the English language, he or she may provide an interpreter, at the appellant's own cost, to translate for the appellant. An interpreter shall not have had any involvement in the issues of the case prior to the hearing.

G. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or any of its departments.

5.94.300 Form and contents of decision.

A. After hearing all the evidence, the administrative hearing officer shall issue a decision to sustain the appeal, affirm the decision of the city manager, or modify the decision of the city manager, which shall be in writing and issued within 10 days of the date of the hearing.

B. Upon issuance of the decision, the director shall serve a copy of the decision by mailing it to the appellant's address as listed in the appeal form.

C. The decision of the administrative hearing officer shall be final.

5.94.310 Enforcement of order of administrative hearing officer.

After any decision issued pursuant to this chapter shall have become final by failure to file a timely appeal or after administrative hearing officer's decision on appeal is rendered, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

Article VIII. Enforcement.

5.94.320 Enforcement authority.

The city manager is authorized to administer and enforce the provisions of this chapter. The city manager may exercise any enforcement powers as provided in this code.

5.94.330 Enforcement remedies.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than $250.00 or more than $25,000.00 for each day the violation continues.

D. Any person who violates a provision of this chapter is guilty of an infraction, punishable by a fine in accordance with Section 36900 of the California Government Code.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

5.94.340 Strict liability offenses.

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