ORDINANCE NO. 2007-017

Adopted by the Sacramento City Council

March 13, 2007

ADDING CHAPTER 5.94 TO THE SACRAMENTO CITY CODE REGARDING THE REGULATION OF PEDICABS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 5.94 of the Sacramento City Code is added 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, the following terms are defined as follows:

A. "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.

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

C. "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.

D. "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 receipt of any form of consideration; or

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 receipt of any form of consideration.

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

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

G. "Pedicab owner" or "owner" means any person who owns, leases or otherwise has possession of a pedicab.

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

I. "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.

J. "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 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 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 (4) 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) 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

5.94.090 Permit Requirement for Pedicab Drivers.

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.

5.94.100 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 shall be working as a pedicab driver;

4. The applicant's date of birth, and proof that the applicant is eighteen years 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 fingerprints of the applicant;

7. Four (4) 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.

5.94.110 Pedicab Driver 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 driver permits as may from time to time be determined by the city council.

5.94.120 Duration of Validity of Pedicab Driver Permit.

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

5.94.130 Pedicab Driver Permit Renewal.

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

5.94.140 Identification Badge Issued to Pedicab Driver Permit Holder.

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

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.

5.94.160 Driver's License Requirement to Drive or Operate Pedicab.

It shall be 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.

ARTICLE IV. Pedicab Vehicles

5.94.170 Permit Requirement for Pedicab Vehicles.

A. It shall be unlawful for any pedicab owner to lease, rent, or allow a pedicab to be driven or operated for hire within the city without first having obtained a pedicab vehicle permit. The pedicab vehicle permit shall be permanently affixed in a conspicuous and visible location within the pedicab.

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

5.94.180 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;

5. Proof of insurance in accordance with this Chapter.

5.94.190 Requirements for Issuance of a Pedicab Vehicle Permit.

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

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

B. 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 500 feet to the rear of the pedicab. Such light may be removable and recharged;

C. Signal bells and turn signals indicators;

D. Seat belts for each available passenger; and

E. Those requirements related to bicycles as set forth in California Vehicle Code Section 21201.

5.94.200 Pedicab Vehicle 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 vehicle permits as may from time to time be determined by the city council.

5.94.210 Duration of Validity of Pedicab Vehicle Permit.

Pedicab vehicle permits shall be valid for a period of one year from date of issuance.

5.94.220 Pedicab Vehicle Permit Renewal.

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

5.94.230 Equipment Regulations for the Operation of Pedicabs.

It shall be unlawful for any person to operate, or cause to be operated, a pedicab which fails to meet the equipment requirements of this chapter.

5.94.240 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 (1) 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) 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 V. Report of Accidents and General Pedicab Operation.

5.94.250 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.

5.94.260 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 Sacramento City 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 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. The city manager may set forth specific additional locations where pedicabs are allowed to park or stand. No pedicab, 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, as well 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.

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 shall be 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 VI. Denial, Suspension, Modification and Revocation of Permits

5.94.270 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 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 (7) years immediately preceding application for a pedicab operating permit.

5.94.280 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 Section 5.94.280, the city manager may immediately suspend or revoke a pedicab owner permit or pedicab driver 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 (1) year has elapsed since the date that the revocation became a final adjudication.

ARTICLE VII. Right of Appeal and Appeal Procedure

5.94.290 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 Section 5.94.300.

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, 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.

5.94.300 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 there from which is properly and timely filed, except for a suspension or revocation under Section 5.94.280.B.

5.94.310 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.

5.94.320 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.

5.94.330 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

5.94.340 Enforcement Authority.

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

5.94.350 Enforcement Remedies.

Any person violating the provisions of this chapter shall be guilty of an infraction. The city may also impose administrative penalties pursuant to Chapter 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.

5.94.360 Strict Liability Offenses.

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

Adopted by the City of Sacramento City Council on March 13, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, and Waters.

Noes: None.

Abstain: None.

Absent: Mayor Fargo.

Kevin McCarty, Vice Mayor

Attest:

Shirley Concolino, City Clerk

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