

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, ADDING ARTICLE 32 OF CHAPTER 9 OF
THE FRESNO MUNICIPAL CODE, RELATING TO
PEDICABS.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 32 is added to Chapter 9 of the Fresno Municipal Code to read:

ARTICLE 32

PEDICAB ORDINANCE

Section		Title
	9-3200	Title
	9-3201	Purpose.
	9-3202	Definitions.
	9-3203	Pedicab Owner Permit.
	9-3204	Pedicab Vehicle Permit.
	9-3205	Indemnification and Insurance Requirements.
	9-3206	Driver's License Requirement to Drive or Operate Pedicab.
	9-3207	Other Laws Applicable to Pedicab Owners and Operators.
	9-3208	Pedicab Parking.
	9-3209	Prohibitions on Where Pedicabs May Operate.
	9-3210	Denial of Pedicab Permits.
	9-3211	Suspension, Modification, or Revocation of Permits.
	9-3212	Enforcement Authority.
	9-3213	Enforcement Remedies.
	9-3214	Strict Liability Offenses.

SECTION 9-3200. TITLE. This section shall be known as the "Pedicab
Ordinance" of the City of Fresno ("city") and may be so cited.

SECTION 9-3201. PURPOSE. The Council finds that regulations governing pedicabs that allow alcohol to be consumed onboard, and the owners and drivers of those pedicabs, are necessary to protect the general safety and welfare of passengers using pedicabs for hire, pedestrians, and motorists within the city. This ordinance is not intended to regulate pedicabs which do not allow alcohol to be consumed onboard.

SECTION 9-3202. DEFINITIONS.

(a) *"Darkness"* means any time from one-half hour after sunset to one-half hour before sunrise and any time when visibility is not sufficient to render clearly discernible any person or vehicle on the highway at a distance of 1000 feet.

(b) *"Operator"* means any person who pedals, steers, uses the brakes, or otherwise controls a pedicab within the city.

(c) *"Onboard Safety Monitor"* means any person who is onboard while alcohol is being consumed to monitor the passengers pursuant to SB530.

(d) *"Owner"* means any person who owns a pedicab.

(e) *"Pedicab"* means a device where alcohol is allowed to be consumed onboard and meets any of the following:

(1) 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.

(2) 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.

(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 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 of the California Vehicle Code, as may be amended.

(f) “*Pedicab owner permit*” means the permit issued by the city to a pedicab owner to indicate that the pedicab is permitted to drive and operate within the city.

(g) “*Pedicab vehicle permit*” means the numbered decal issued by the city to a pedicab owner for display on the pedicab to indicate that the pedicab is permitted to operate within the city.

(h) “*Pedicab Parking Zone*” means a parking area designated for the specific purpose of pedicabs waiting for, dropping off, or picking up passengers.

(i) “*Seatbelt*” means the safety strap or harness designed to hold a person securely in a seat.

SECTION 9-3203. PEDICAB OWNER PERMIT.

(a) 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.

(b) The pedicab owner permit application shall be in a form prescribed by the City Manager.

(c) 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) Authorization for the city to conduct a comprehensive background check of the applicant; and

(10) Such other material as the City Manager may require to evaluate the fitness of the applicant to be granted a pedicab owner permit.

(d) 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.

(e) The City Manager shall investigate the facts stated in an application for a pedicab owner permit and other relevant data.

(f) The city shall charge an annual nonrefundable fee, as set forth in the Master Fee Schedule, 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.

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

(h) A pedicab owner permit shall be renewable annually upon the filing and approval of an application and payment of the annual pedicab owner permit fee.

SECTION 9-3204. PEDICAB VEHICLE PERMIT.

(a) It is 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.

(c) The pedicab vehicle permit application form shall be in a form prescribed by the City Manager.

(d) The applicant shall provide the following information in the application:

(1) The full name and address of the business and the name, 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.

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

(1) A headlight capable of projecting a beam of white light for a distance of three hundred (300) feet shall be permanently

affixed to the pedicab. Such light may be battery-operated, removable, and rechargeable;

(2) 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. Such light may be battery-operated, removable, and rechargeable;

(3) Signal bells and turn signal indicators;

(4) Seatbelts for each available passenger;

(5) Seat backs;

(6) Brakes;

(7) Reflectors;

(8) Grab rails; and

(9) Those requirements related to bicycles as set forth in California Vehicle Code Section 21201, as may be amended.

(f) The city shall charge an annual nonrefundable fee, as set forth in the Master Fee Schedule, to recover the cost of activities associated with the administration, regulation, and issuance of pedicab vehicle permits, as may be determined by the City Council.

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

(h) Pedicab vehicle permits shall be renewable annually upon filing of an application, inspection of the pedicab, and payment of the annual pedicab vehicle permit fee.

SECTION 9-3205. INDEMNIFICATION AND INSURANCE REQUIREMENTS.

(a) Prior to the issuance of a pedicab owner permit, the permit applicant and authorized officer of the sponsoring organization (if any), must sign an agreement to reimburse the city for any costs incurred by it in repairing damage to city property occurring in connection with the operation of permittee's pedicabs proximately caused by the actions of the permittee, its officers, employees, agents, customers, or any person who was under the permittee's control insofar as permitted by law. The agreement shall also provide that the permittee shall hold harmless, indemnify, and defend the city, its officials, members, agents, and employees against any claims, costs, damages, demands, liability and notices, or any of these, arising or resulting from any damage or injury proximately caused by actions of the permittee in connection with the operation of permittee's pedicabs, regardless of whether the city is actively negligent or passively negligent, except for those claims, costs, damages, demands, liability and notices, or any of these, caused solely by the negligence or willful misconduct of the city.

(b) During the term of a pedicab owner permit, the pedicab owner shall maintain in full force and effect, at no cost to the city,

insurance as required and determined by the City of Fresno Risk Manager, or designee, at the time of application.

SECTION 9-3206. DRIVER'S LICENSE REQUIREMENT TO DRIVE OR OPERATE PEDICAB. The Operator and the Onboard Safety Monitor of the pedicab shall be at least twenty-one years of age. 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.

SECTION 9-3207. OTHER LAWS APPLICABLE TO PEDICAB OWNERS AND OPERATORS. Operators, Onboard Safety Monitors, and owners are subject to all applicable laws, rules, and regulations of the Fresno Municipal Code and the California Vehicle Code pertaining to the operation of bicycles upon streets. Operators, Onboard Safety Monitors, and owners must also comply with the following:

- (a) Seatbelts are required to be worn by all passengers and Operators while the pedicab is being operated.

- (b) Headlights must be used when the pedicab is being operated in darkness.

- (c) The consumption of alcoholic beverages onboard a pedicab is authorized if in compliance with Section 21215.2 of the California Vehicle Code, as may be amended.

- (d) 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 of the California Vehicle Code during the operation of the pedicab.

(e) 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.

(f) Alcoholic beverages shall not be provided by the Operator or Onboard Safety Monitor of the pedicab or any employee or agent of the owner, Operator or Onboard Safety Monitor. 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 prior to their consumption on board the four-wheeled pedicab.

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

(h) The pedicab shall not load or unload passengers on roadways.

(i) 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.

SECTION 9-3208. PEDICAB PARKING.

(a) Every Owner and every Operator is subject to all applicable parking provisions of the California Vehicle Code and the Fresno Municipal Code. Owners and Operators are subject to the same rights and responsibilities as a driver of a motor vehicle as it relates to parking violations.

(b) To provide drop off and pick up areas for pedicabs, the City Manager may designate Pedicab Parking Zones.

(c) Pedicab parking violations will be issued to the owner. Pedicab parking violation fees will correspond with parking fees established for motor vehicles in the Fresno Municipal Code.

(d) It is unlawful for an Operator to leave his or her pedicab unattended in a Pedicab Parking Zone.

(e) It is unlawful to park a pedicab in a metered parking space.

SECTION 9-3209. PROHIBITIONS ON WHERE PEDICABS MAY OPERATE.

(a) It is unlawful to operate a pedicab on a city street with a posted speed limit in excess of 30 miles per hour.

(b) It is unlawful to operate a pedicab on any overcrossing.

(c) It is unlawful to operate a pedicab upon a sidewalk except as may be necessary to enter or leave adjacent property.

(d) It is unlawful to operate a pedicab upon a Class I bicycle facility.

(e) It is unlawful to operate a pedicab on any residential street after 10pm.

(f) It is unlawful to operate a pedicab within the city after midnight.

SECTION 9-3210. DENIAL OF PEDICAB PERMITS. The City Manager may deny issuance of a pedicab owner 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) Has been convicted of a crime involving moral turpitude or narcotics, or is required to register pursuant to California Health and Safety Code Section 11590(a); or

(d) 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 owner permit or pedicab vehicle permit.

SECTION 9-3211. 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 or pedicab vehicle permit;

(7) Fails to maintain insurance as required in this chapter;

(8) Fails to notify the City Manager thirty days prior to the effective date of 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, the City Manager may immediately suspend or revoke a pedicab owner 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 owner 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.

SECTION 9-3212. 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.

SECTION 9-3213. 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 Section 1-308 of this Code for violations of this chapter. Additionally, the City Attorney may seek injunctive relief and civil penalties 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.

SECTION 9-3214. STRICT LIABILITY OFFENSES. Violations of this chapter shall be treated as strict liability offenses.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2017.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2017
Mayor Approval/No Return: _____, 2017
Mayor Veto: _____, 2017
Council Override Vote: _____, 2017

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Mary Raterman-Doidge Date
Deputy

MRD:prn [70333prn/mrd] 6-1-17