

ORDINANCE NO. 1410

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA ADDING PROVISIONS TO THE ARCATA MUNICIPAL CODE RELATING TO THE PERMITTING AND REGULATING OF PEDICABS

TITLE VI—BUSINESS, PROFESSIONS AND TRADES CHAPTER 2—BUSINESS REGULATION

The City Council of the City of Arcata does ordain as follows:

Section 1: Article 2—Pedicab is hereby added to Title VI—Business, Professions and Trades, Chapter 2—Business Regulation, of the Arcata Municipal Code as follows:

ARTICLE 2—PEDICAB

SEC. 6200. Definitions.

As used in this Article, the following terms are defined as follows unless a particular provision expressly defines a term otherwise:

- (a) “Operator” means an individual who operates a Pedicab whether as an Owner, employee or independent contractor.
- (b) “Owner” means any person who owns, leases, or otherwise has possession of a Pedicab.
- (c) “Pedicab” means a device operated for hire upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, and having two or more wheels, or a “motorized bicycle” as defined by the California Vehicle Code §406(b), constructed in such a manner as to engage in the business of carrying passengers for hire.
- (d) “Public Transportation Superintendent” means the City of Arcata Public Transportation Superintendent.

SEC. 6201. Owner And Operator Permits Required.

The following permits must be obtained before any person may operate a Pedicab for hire upon any public street within the City of Arcata:

- (a) Owner’s Permit: The Owner of a Pedicab shall apply for and obtain an Owner’s permit from the Public Transportation Superintendent’s Office as provided in Section 6202 of this Article.

(b) Operator's Permit: The Operator of a Pedicab shall apply for and obtain an Operator's permit from the Public Transportation Superintendent's Office as provided in Section 6203 of this Article.

(c) Motorized devices or vehicles owned and operated for hire that do not meet the definition of "motorized bicycle" found in California Vehicle Code §406(b) must obtain a Vehicle for Hire Permit in accordance with Article 1, Chapter 2, Title VI of the Arcata Municipal Code.

(d) The Pedicab permits required by this Article satisfy the City of Arcata business license requirement of Arcata Municipal Code Title VI, Chapter 1, and a separate business license will not be required to own and operate a Pedicab.

SEC. 6202. Application For Pedicab Owner's Permit.

(a) An application for a Pedicab Owner's permit may be obtained from and filed with the Public Transportation Superintendent's office, together with the applicable filing fee as established by the resolution of the City Council. All applications shall be signed and verified under oath and will contain an acknowledgement that the application may be denied or the permit suspended or revoked if the applicant misrepresents any material fact in the application. An application for Owner's Permit shall contain at a minimum the following information:

- (1) The Owner's full name, address and type of ownership;
- (2) A description of the vehicle type and serial or other identifying number;
- (3) Copies of any and all special license plates and identification cards that may be required by the California Department of Motor Vehicles (DMV) to operate motorized bicycles as Pedicabs;
- (4) Pedicab seating capacity;
- (5) Route(s) or area(s) over which the applicant proposes to operate;
- (6) Whether the applicant has ever been convicted of a felony or a misdemeanor and, if so, the details thereof; and
- (7) Such other information as the Public Transportation Superintendent determines is necessary to evaluate whether the applicant can own a Pedicab for operation in such a manner that does not endanger or pose a threat of harm to the public.

SEC. 6203. Pedicab Operator's Permit Application.

(a) Application for a Pedicab Operator's permit shall be made in writing using a form prescribed by and filed with the Public Transportation Superintendent's Office together with the applicable filing fee as established by the resolution of the City Council. All applications shall be

signed and verified under oath and will contain an acknowledgement that the application may be denied or the permit suspended or revoked if the applicant misrepresents any material facts in the application. An application for Operator's Permit shall at a minimum contain the following information:

- (1) The applicant's full name, residence address, date of birth and California Department of Motor Vehicle (DMV) license number, if required;
- (2) The names and addresses of four personal references who have known the applicant for a period of one (1) year and who have personal knowledge regarding the sobriety, honesty and general character of the applicant;
- (3) The applicant's experience transporting passengers for hire;
- (4) A concise summary of the applicant's employment history;
- (5) If the applicant is not the Pedicab Owner, the application must include a letter from the Owner authorizing the Operator permit application and stating the Owner's intent to employ the applicant as a Pedicab Operator;
- (6) Two recent and readily identifiable photographs of the applicant;
- (7) A licensed physician's certification that the applicant does not have any condition that might make him/her an unsafe or unsatisfactory Operator (certificate form is provided with the permit application packet);
- (8) Whether the applicant:
 - (i) Has ever been convicted of a felony or a misdemeanor and, if so, the details thereof; and
 - (ii) Has ever been licensed as a driver or chauffeur and, if so, whether such license has ever been revoked and for what cause.
- (9) Such other information as the Public Transportation Superintendent or Chief of Police determines is necessary to evaluate whether the applicant can operate a Pedicab in such a manner that does not endanger or pose a threat of harm to the public.

(b) Prior to receiving an Operator's permit, the applicant shall be required to pass an examination administered by the Public Transportation Superintendent as to his/her knowledge of the City of Arcata's streets, traffic laws and rules.

(c) The Operator must allow a complete set of his or her fingerprints to be taken as part of the application process.

(d) While the permit application is under review, the Public Transportation Superintendent may issue a temporary Pedicab Operator's permit if the Superintendent reasonably determines that the applicant's temporary operation of a Pedicab would not pose a threat of harm to the public, and if the Chief of Police so concurs. A temporary permit will not vest any right in the applicant to receive a regular Operator's permit.

SEC. 6204. Insurance Requirements.

In order to ensure the safety of the public, all Pedicab Owners, and all Pedicab Operators who are not employees of the Owner, shall obtain and file with the Public Transportation Superintendent prior to causing the operation of a Pedicab a policy of insurance in such form and on such terms and conditions as the Public Transportation Superintendent determines reasonable, insuring and indemnifying the City against loss or damage that may result to any person or property from the operation of a Pedicab or Pedicabs.

SEC. 6205. Action on Permit Applications.

(a) Complete permit applications will be reviewed and acted on by the Public Transportation Superintendent. An application deemed incomplete by the Public Transportation Superintendent shall be returned to the applicant.

(b) Complete applications for Owner's permits will be reviewed to determine whether:

(1) The applicant would be able to own a Pedicab for operation in a manner that will not endanger or pose a threat of harm to the public;

(2) The applicant has satisfied all insurance requirements set forth in Section 6204 of this Article;

(3) The Pedicab is adequate or safe for the purpose intended and adequately equipped with safety devices; and

(4) The route and/or routes or area over which the applicant proposes to operate can safely accommodate Pedicabs in view of the condition of the existing roads or the traffic thereon. This determination shall be made after consultation with the Director of Public Works.

(c) Complete applications for Operator's permits shall be referred to the Chief of Police for review and recommendation. The Public Transportation Superintendent may not issue an Operator's permit if the Chief of Police recommends denial. In the event of a recommendation of denial by the Chief of Police, the applicant may request a personal appearance before the Chief of Police to offer evidence as to why his or her application should be reconsidered.

(d) The issuance of either an Owner's permit or Operator's permit shall rest within the sound and reasonable discretion of the Public Transportation Superintendent pertaining to the

public interest and safety. Notwithstanding this discretion vested in the Superintendent, no permit will be issued under the following circumstances:

- (1) Upon discovery that the applicant made a material misrepresentation of fact in his/her application;
- (2) The applicant's failure to comply with the insurance requirements of Section 6204 of this Article;
- (3) The Chief of Police's recommendation to deny an Operator's permit.

(e) Permits will be numbered and must be affixed to the right-hand side of the Pedicab in a prominently visible manner as required by the Public Transportation Superintendent.

SEC. 6206. Permit Duration; Annual Fee.

Pedicab permits shall be in effect for the remainder of the calendar year in which first issued, and shall be renewed each calendar year thereafter, unless otherwise revoked, upon application to the Public Transportation Superintendent and payment of the annual renewal fee adopted by resolution of the City Council.

SEC. 6207. Fare Schedule.

Prior to beginning any Pedicab ride, Pedicab Operators shall provide the passenger with a written statement of the fare to be charged. The Operator may not charge a higher fare for that particular ride unless the destination changes or unless agreed to by the passenger, and a written statement of the change is provided in advance to the passenger.

SEC. 6208. Display of Fare.

A statement shall be permanently affixed to the outside of the Pedicab in a frame covered with glass, printed in plain, legible letters and in a place readily viewable to passengers substantially similar to the following: "The fare for each ride shall be given in writing prior to the beginning of the ride, and shall not increase unless the passenger changes the destination during the ride or the passenger otherwise agrees to an increased fare, and any change shall be made in writing." The statement shall additionally include a City of Arcata contact phone number.

SEC. 6209. Operating Regulations.

- (a) Every person operating a Pedicab shall be subject to all applicable laws, rules and regulations of the Arcata Municipal Code and the California Vehicle Code.
- (b) All Pedicabs shall be operated, or cause to be operated, in accordance with the following minimum standards:

- (1) By a person who is eighteen years of age or older;
- (2) While not under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug;
- (3) In a manner which does not impede or block the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law;
- (4) With headlights and taillights during nighttime operation;
- (5) Without any attached trailers;
- (6) With no more than three passengers at any one time who shall remain seated throughout the ride;
- (7) In compliance with the Safety Requirements set forth in Section 6211;
- (8) In accordance with all requirements of the Operator's permit and any state-issued license; and
- (9) Operators shall wear a properly fitted and fastened bicycle helmet that meets the standards of the American National Standards Institute (ANSI Z 90.4 bicycle helmet standard), the Snell Memorial Foundation's Standard for Protective Headgear for Use in Bicycling, or the American Society for Testing Materials (ASTM F-1447 standard).

SEC. 6210. Revocation of Permits By Police Department.

- (a) The Chief of Police may suspend or revoke a Pedicab Owner's permit upon a finding of one or more of the following:
 - (1) A violation of any requirement of this Article of the Arcata Municipal Code;
 - (2) The failure to pay any judgment for damages arising from the unlawful or negligent operation of the Pedicab;
 - (3) Failure to procure or maintain insurance as required by Section 6204;
 - (4) Allowing a person to operate or remain in charge of a Pedicab who does not hold an Operator's Permit;
 - (5) Failure to adequately supervise Pedicab Operators;
 - (6) A violation of any state or local law, rule or regulation that pertains to the Owner's ability to own a Pedicab for operation in a manner that does not endanger or pose a threat of harm to the public; and

(7) Discovery of a material misrepresentation of fact in the Owner's permit application or permit renewal application.

(b) The Chief of Police may suspend or revoke a Pedicab Operator's permit upon a finding of one or more of the following:

(1) A violation of any requirement of this Article of the Arcata Municipal Code;

(2) The operation of a Pedicab while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug;

(3) The operation of the Pedicab in a reckless and dangerous manner;

(4) A violation of any state or local law, rule or regulation that pertains to the Operator's ability to operate a Pedicab in a manner that does not endanger or pose a threat of harm to the public; and

(5) Discovery of a material misrepresentation of fact in the Operator's permit application or permit renewal application.

(c) Unless an immediate safety issue exists, a permit may not be suspended or revoked unless the permit holder has received notice and has had an opportunity to present evidence to the Chief of Police, or his or her designee, as to why it should not be suspended or revoked.

SEC 6211. Safety Requirements.

(a) All Pedicabs shall be kept in a reasonably clean and safe condition inside and externally so as not to injure or damage the person, clothing or possessions of a passenger. The Pedicab's exterior shall be reasonably clean and free from cracks, breaks and major dents. It shall be painted to provide adequate protection and a neat and clean appearance. Repairs made to comply with this Section shall be done within a reasonable time based on availability of parts and labor.

(b) All Pedicabs shall have at a minimum the following properly working equipment or safety features:

(1) A battery or generator operated headlight and taillight;

(2) Turn signals visible from the front and rear of the Pedicab;

(3) Hydraulic or mechanical disc brakes; and

(4) Spoke reflectors placed on each wheel and tape-type reflectors showing the front and the back width of the pedicab.

SEC. 6212. Loading Required.

It shall be unlawful for any person owning or operating or driving, or causing to be operated or driven, any Pedicab to permit the same to remain standing upon the street for the purpose of loading or unloading passengers unless the side of the Pedicab is as close as possible to the curb and in no circumstances more than three feet from the curb.

SEC. 6213. Penalty.

Any person who shall violate any provision this Article shall be guilty of an infraction, and the Owner's and/or Operator's Permit shall be subject to revocation or suspension, following adequate notice and a hearing before the Chief of Police or his or her designee.

Section 2. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3. This ordinance will become effective 30 days after the date of its adoption.

DATE: June 1, 2011

ATTEST:

/s/ Randal J. Mendosa
City Clerk, City of Arcata

APPROVED:

/s/ Susan Ornelas
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1410**, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, on the 1st day of June, 2011, by the following vote:

AYES: **ORNELAS, WINKLER, STILLMAN, WHEETLEY**

NOES: **NONE**

ABSENT: **BRINTON**

ABSTENTIONS: **NONE**

/s/ Randal J. Mendosa
City Clerk, City of Arcata