

Ordinance No. 3408

An ordinance amending Chapter 7, Business Regulations and Licenses, Article IV, Private Detectives, Patrolmen and Guards, Sections 17-61 through 17-70 Repealed, and Sections 17-71 through 17-74 Reserved, specifically to include regulation of Pedicabs; repealing all ordinances to the contrary; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. That Article IV, Private Detectives, Patrolmen and Guards, is hereby amended to read as follows:

ARTICLE IV – REGULATION OF PEDICABS

SECTION II. That Chapter 7, Business Regulations and Licenses, Section 7-61, Repealed, is hereby amended to read as follows:

Sec. 7-61. Purpose

The purposes of this ordinance are to regulate the pedicab industry; to set basic safety standards, operating procedures and insurance requirements; to accommodate another low-emission means of transportation while enhancing the experience of pedicab passengers, and to promote the general health, safety and welfare.

SECTION III. That Chapter 7, Business Regulations and Licenses, Section 7-62, Repealed, is hereby amended to read as follows:

Sec. 7-62 Definitions

In this article, unless the context otherwise requires a different meaning:

Bicycle means a device, including a racing wheelchair, that is human powered on which a person may ride, with:

- a. Two tandem wheels, either of which is more than sixteen (16) inches in diameter, or
- b. Three wheels in contact with the ground, any of which is more than sixteen (16) inches in diameter.

Daytime means the period between sunrise and sunset.

Fare means payment of any sort in exchange for being transported or driven but does not include gratuities.

For hire means to provide, or offer to provide, a service in exchange for any form of payment or gratuity.

Moped means a bicycle that is equipped with a helper motor if the bicycle has: (i) a maximum piston displacement of fifty cubic centimeters or less, (ii) a brake horsepower of one and one-half or less, and (iii) a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one per cent grade.

Nighttime means the period between sunset and sunrise.

Operator means the person in physical control of a pedicab.

Owner means a person who owns or holds an ownership interest in a pedicab.

Pedicab means a bicycle or moped, or a bicycle or moped that is attached to a trailer, sidecar, or similar device that transports passengers for hire.

SECTION IV. That Chapter 7, Business Regulations and Licenses, Section 7-63, Repealed, is hereby amended to read as follows:

Sec. 7-63. Pedicabs lights and reflectors

(a) It is unlawful to operate a pedicab without:

1. Using a lamp on the front that illuminates a person or vehicle at least fifty (50) feet to the front during nighttime.
2. Using either a flashing or solid lamp on the front that emits a white light visible from at least five hundred (500) feet to the front during nighttime.
3. Using an Oklahoma Department of Transportation-approved red reflector on the rear visible from at least fifty (50) to three hundred (300) feet to the rear when the reflector is directly in front of lawful motor vehicle upper beams during nighttime.
4. Using a lamp on the rear that emits a red light visible from at least five hundred (500) feet to the rear during nighttime.
5. Having a reflective strip no smaller than two (2) inches wide and thirty-six (36) long affixed horizontally to the rear of the pedicab, no lower than the height of the rear wheel hub, visible from at least fifty (50) feet to the rear when the strip is directly in front of lawful motor vehicle upper beams during nighttime.

SECTION V. That Chapter 7, Business Regulations and Licenses, Section 7-64, Repealed, is hereby amended to read as follows:

Sec. 7-64. Pedicabs – additional safety features.

(a) It is unlawful to operate a pedicab without:

1. A braking system capable of stopping the pedicab and any attached trailer safely.
2. A mirror located to reflect to the operator a view of the road at least two hundred (200) feet to the rear.

SECTION VI. That Chapter 7, Business Regulations and Licenses, Section 7-65, Repealed, is hereby amended to read as follows:

Sec 7-65. Pedicab size.

(a) It is unlawful to operate a pedicab that is:

1. Wider than fifty-four (54) inches at its widest point.
2. Longer than twelve (12) feet at its longest point.

SECTION VII. That Chapter 7, Business Regulations and Licenses, Section 7-66, Repealed, is hereby amended to read as follows:

Sec 7-66. Pedicab condition.

(a) It is unlawful to operate a pedicab that has:

1. Exposed rust.
2. Ripped upholstery or fabric
3. Exposed wood that is not painted and in good condition

SECTION VIII. That Chapter 7, Business Regulations and Licenses, Section 7-67, Repealed, is hereby amended to read as follows:

Sec 7-67. Pedicab operation.

(a) It is unlawful to operate a pedicab:

1. By riding other than on or astride a permanent and regular seat attached to the pedicab.

2. Carrying more passengers than the number of seats available, except that persons under five (5) years of age are excluded from this limitation if each child is sitting in the lap of an adult.
3. With more than one trailer, sidecar or similar device.
4. In a manner that results in damage to public property.
5. In a manner that results in colliding with a pedestrian.
6. Equipped with a horn or whistle.
7. While knowingly permitting another to attach their person, bicycle, coaster, sled, toy vehicle, roller skates, skateboard, scooter or other rolling device to the pedicab.
8. While carrying anything that prevents the operator from keeping at least one hand on the handlebars.
9. On a street, alley that has been closed by the city to motor vehicles, or adjoining sidewalk.
10. On a street not located within the Rose District.
11. That obstructs pedestrian traffic on a sidewalk by remaining stopped on a sidewalk longer than necessary to pick up or drop off passengers.
12. Without a clearly visible manufacturer's serial or identification number on either the operator's or the passenger's portion of the pedicab.

SECTION IX. That Chapter 7, Business Regulations and Licenses, Section 7-68, Repealed, is hereby amended to read as follows:

Sec. 7-68. Pedicab Parking.

- (a) It is unlawful to park a pedicab or pedicab trailer at any bike rack owned by the city for more than two (2) hours.
- (b) Any pedicab or pedicab trailer parked in violation of this section is subject to impoundment without notice by the city.

SECTION X. That Chapter 7, Business Regulations and Licenses, Section 7-69, Repealed, is hereby amended to read as follows:

Sec. 7-69. Fares.

- (a) It is unlawful for the operator of a pedicab to charge a passenger a fare that was not agreed upon with the passenger in advance.
- (b) It is unlawful for the operator of a pedicab to demand a fare from a passenger after agreeing to provide the service for a gratuity only.
- (c) Prior to a pedicab operator or owner charging passengers a fixed sum or hourly rate, a pedicab owner must obtain a tax privilege license from the city or the state in the event the state assumes the city's tax collecting responsibilities. A copy of the license must be displayed within each pedicab where a fixed sum or hourly rates is being charged.
- (d) Prior to a pedicab operator charging a fare based on the distance travelled, a pedicab owner must obtain a business and occupation license from the city. A copy of the license must be displayed within each pedicab where this type of fare is being charged.
- (e) This section does not relieve a pedicab operator or owner from obtaining any other applicable city, county, state or federal licenses or permits required to engage in business in this city, county or state.

SECTION XI. That Chapter 7, Business Regulations and Licenses, Section 7-70, Repealed, is hereby amended to read as follows:

Sec. 7-70. Driver's license and other required documents.

- (a) It is unlawful for an operator to operate a pedicab without having in possession of a valid drivers's license.
- (b) It is unlawful for an operator to fail to display the license or other required documents, including proof of insurance, to a law enforcement officer on demand.

SECTION XII. That Chapter 7, Business Regulations and Licenses, Section 7-71, Reserved, is hereby amended to read as follows:

Sec. 7-71. Insurance.

- (a) The owner shall maintain at all times a commercial general liability insurance policy in the amount of at least one million dollars per occurrence and two million dollars annual aggregate.
- (b) The insurance company issuing the policy shall be authorized to issue commercial liability policies in Oklahoma by the Oklahoma Department of insurance.

- (c) The policy shall designate by manufacturer's serial or identification number all pedicabs for which coverage is granted.
- (d) The policy shall insure the person named in the policy and any other person using the pedicab with the express or implied permission of the named insure against any liability arising out of the ownership, maintenance or use of the pedicab in Oklahoma.
- (e) The policy shall name the city as an additional insured.

SECTION XIII. That Chapter 7, Business Regulations and Licenses, Section 7-72, Reserved, is hereby amended to read as follows:

Sec. 7-72. Street or public area restrictions.

The Chief of Police or designee may designate or limit public areas or streets available for pedicabs.

SECTION XIV. That Chapter 7, Business Regulations and Licenses, Section 7-73, Reserved, is hereby amended to read as follows:

Sec. 7-73. Responsibility of owner.

It is unlawful for an owner to permit a pedicab to be operated, parked or maintained in violation of Sections 7-12 through 7-22.

SECTION XV. That Chapter 7, Business Regulations and Licenses, Section 7-74, Reserved, is hereby amended to read as follows:

Sec. 7-74. Penalties.

Any person who violates a section of this article shall be punished by a fine of not more than one hundred fifty dollars (\$150.00).

SECTION XVI. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION XVII. An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this 2nd day of February, 2016.

s/ Craig Thurmond
MAYOR

ATTEST:

s/ Lisa Blackford
(Seal) ACTING CITY CLERK

APPROVED:

s/ Kim Slinkard
ASSISTANT CITY ATTORNEY