

## **ORDINANCE 2023-08**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA, CALIFORNIA, ADDING CHAPTER 5.76 TO THE CITY OF VISALIA MUNICIPAL CODE TO REGULATE PEDICABS AND TO AMEND OTHER RELEVANT MUNICIPAL CODE SECTIONS**

#### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:**

**Section 1. City Council Findings.** Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety, and welfare of its citizenry. The City Council of the City of Visalia hereby makes the following findings:

- A. City streets are utilized by motor vehicle and bicycle traffic.
- B. Pedicabs, which are defined as bicycles, including electric bicycles, that are built so that they can transport passengers and are typically for hire, have grown in popularity as a form of transportation, particularly when used for hire or as part of mobile tours.
- C. California Vehicle Code section 21 states that Vehicle Code provisions are applicable and uniform throughout the state and a local authority shall not enact or enforce any ordinance on matters covered by the Vehicle Code unless expressly authorized by law.
- D. California Vehicle Code sections 21215-21215.5 contain statewide rules that govern equipment standards and operating requirements for pedicabs.
- E. Vehicle Code sections 21100(n) and 21215.5 specifically authorize local authorities to license and regulate the operation of pedicabs for hire, the operators of pedicabs for hire, and allow local authorities the right to impose operating requirements and equipment requirements that are more stringent than state law.
- F. The City Council finds that providing pedicab licensing and regulations that are specific to the City of Visalia is necessary to ensure safe, quality pedicab services, mitigate negative impacts on traffic circulation, and promote the general welfare.
- G. State law permits local authorities, by ordinance, to legalize the consumption of alcohol by pedicab passengers. State law does not allow for the sale of alcohol by pedicab operators to passengers.

- H. The City Council recognizes alcohol consumption can cause safety hazards but finds that regulations to permit consumption by passengers in pedicabs would be appropriate and provide an alternative for pedestrians to travel between venues.
- I. City Council finds and determines that consumption of alcoholic beverages by passengers in pedicabs, in accordance with this ordinance, would be appropriate and not a violation of the City's current prohibition on consumption of alcoholic beverages within the public right of way.

**Section 2. New Municipal Code Section.** The following provision, which regulates the licensing, operation, and use of pedicabs within the City of Visalia is hereby added to the Visalia Municipal Code:

**Chapter 5.76  
PEDICAB REGULATIONS**

5.76.010	Definitions
5.76.020	Pedicab Owner Permit Requirements
5.76.030	Pedicab Vehicle Operation Requirements
5.76.040	Pedicab Routes
5.76.050	Enforcement
5.76.060	Requirements For Consumption of Alcohol

**5.76.010. Definitions.**

The following words or phrases used in this Chapter shall have the following meanings:

“Operates” means to pedal, steer, use the brakes, or otherwise control a pedicab, it does not include actions by persons that might be providing power to a bicycle by pedaling if they do not simultaneously have control over any steering mechanism of the bicycle.

“Owner” means any person who owns a pedicab.

“Pedicab” means a bicycle, including an electric bicycle, that has three or more wheels, that transports, or is capable of transporting passengers on seats attached to the rear of the bicycle, that is operated by a person, and that is being used for transporting passengers for hire within the City of Visalia.

“Pedicab license” means a nontransferable license, in the form of a decal or similar material issued by the City of Visalia to a pedicab owner for display on the pedicab to indicate that the pedicab is permitted to operate within the City of Visalia.

“Pedicab operator” or “operator” means a person who steers, uses brakes, or otherwise operates the pedicab.

“Pedicab owner permit” means the permit issued by the City of Visalia to a pedicab owner to indicate that their pedicab business is permitted to operate within the designated areas of the City of Visalia.

#### **5.76.020. Pedicab Owner Permit Requirements**

- A. A pedicab owner shall not operate a pedicab, nor allow their pedicab to be operated within the City unless the owner has a valid business tax certificate, pedicab owner permit, and pedicab decal, issued by the City of Visalia. Pedicab owner permits are the property of the City and are not transferable to another person.
- B. A pedicab owner must obtain a separate pedicab decal for each pedicab that the owner operates within the City. Pedicab decals may not be transferred.
- C. Pedicab owners must submit a pedicab owner permit and operator application to the City. The permit application shall be in a form approved by the Visalia City Manager, or designee, and shall require the following information:
  - 1. The pedicab owner’s full name, date of birth, (applicant must be over eighteen) business address, residence address, and contact information. The same information shall be required for each pedicab operator.
  - 2. The name(s) under the applicant will be conducting business as a pedicab owner.
  - 3. Proof of insurance in a form and with wording acceptable to the City of Visalia and in compliance with California Vehicle Code section 21215 financial responsibility provisions.
  - 4. Proposed pedicab business route. The business route is subject to approval by the City and must comply with the provisions set forth in this ordinance for pedicab routes.
  - 5. Complete a background check to be conducted by the Visalia Chief of Police or designee in a manner prescribed by the Visalia Police Department. In addition, all pedicab operators, or persons considered to be pedicab operators would be required to complete a background check to be conducted by Visalia Chief of Police or designee.

6. The pedicab owner application shall contain an indemnification requirement stating that the pedicab owner agrees to reimburse the City of Visalia for any costs incurred by it in repairing damages to City property proximately caused by permittee's pedicab operations, employees, agents, customers, or any person who was under the permittee's control as permitted by law. In addition the permittee shall agree to hold harmless, indemnify, and defend the City of Visalia, its officials, members, agents, and employees against any claims, costs, damages, demands, liability, and notices, arising or resulting from any damage or injury proximately caused by actions of the permittee in connection with operation of permittee's pedicabs, regardless of whether the City of Visalia is actively or passively negligent, except for those claims, costs, damages, demands, liability and notices, caused solely by the negligence or willful misconduct of the City.
  7. Applications must be signed and may be denied, suspended, or revoked if the applicant is found to have made any misrepresentations.
  8. City of Visalia shall charge an annual nonrefundable pedicab owner permit and pedicab operator permit fee to recover the cost of activities associated with the administration, regulation, and issuance of pedicab owner and operator permits, as may be determined by the City Council.
- D. Pedicab owner and operator permits shall be renewable annually upon the filing and approval of an application and payment of the annual pedicab owner and/or operator permit fee.
- E. Pedicab owners must also acknowledge, in writing, that their business will comply with all requirements for pedicab operations required by the California Vehicle Code.
- F. The City Manager, or designee, may deny issuance of a pedicab owner permit, pedicab operator, or pedicab vehicle permit if an applicant for such permit:
1. Fails to comply with the requirements of this chapter; or
  2. Misrepresents facts relevant to the fitness of the applicant; or
  3. 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
  4. 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.

### **5.76.030. Pedicab Vehicle Operation Requirements**

- A. It is unlawful for a pedicab owner to allow a pedicab to be driven or operated for hire within the City of Visalia without first obtaining a pedicab license. The pedicab may not be operated for hire unless the pedicab license has been issued and the license is affixed in a conspicuous and visible location on the pedicab.
- B. Pedicab licenses are the property of the City of Visalia and are not transferable to any other pedicab.
- C. Pedicab licenses require the following from the pedicab owner:
  - 1. Completion of a pedicab vehicle permit application in a form prescribed by the City Manager or designee.
  - 2. Only persons with a valid pedicab owner permit can apply for a pedicab vehicle permit and a separate vehicle permit is required for each pedicab owned by the pedicab business.
  - 3. Application must include a description of the pedicab, including but not limited to the serial number, owner identification number, body style, color scheme, seating capacity, and proof of insurance.
  - 4. All pedicabs must meet California Vehicle Code requirements for pedicabs, including but not limited to seating capacity for not more than 15 passengers, seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails.
  - 5. In addition to state requirements, lighted turn signals shall be required and lighted running lights to improve visibility of pedicab at night. Reflectors must also be attached to all sides of the pedicab.
  - 6. Headlights must be capable of projecting a beam of white light for three hundred feet.
  - 7. Taillights shall be red in color and plainly visible from all distances within five hundred feet to the rear of the pedicab.
  - 8. Prior to issuance the pedicab must pass an inspection to confirm compliance with California Vehicle Code requirements and the requirements in this ordinance.

9. City of Visalia shall charge an annual nonrefundable fee pedicab vehicle permits to recover the cost of activities associated with the administration, regulation, inspection, and issuance of such permits, as may be determined by the City Council.
- D. Pedicab vehicle permits shall be valid for a period of one year from date of issuance.
  - E. Pedicabs must be kept in a clean and sanitary condition, be available for inspection by City staff at reasonable times and operate in compliance with all local and state laws applicable to pedicabs and pedicab operations.
  - F. Pedicab owners must report any accidents caused or experienced by the pedicabs to the City of Visalia, in writing.
  - G. Pedicabs may not impede or block normal or reasonable movement of pedestrians or vehicular traffic.
  - H. Loading or unloading pedicab passengers on roadways or in the middle of the roadways is prohibited, pedicabs must be parked off the roadway to load and unload passengers and only in locations that have been designated by the pedicab owner and approved by the City prior to usage.
  - I. A fare schedule shall be posted and no pedicab operator shall charge a passenger a fare greater than the posted fare.

**5.76.040. Pedicab Routes**

- A. Pedicab owners must submit an operations route with their application of a pedicab owner permit application. Pedicabs shall only operate along routes that have been submitted to and approved by the City of Visalia as part of the issuance of a pedicab owner permit application.
- B. Pedicabs are not permitted to operate, except to cross at signalized intersections, on roadways with speed limits higher than 30 miles per hour.
- C. Pedicab routes must include designated loading and unloading locations and the pedicab owner shall be required to provide a diagram of each designated location and authority from the owner of the applicable location that demonstrates, to the satisfaction of City Manager, or designee, that the pedicab operator has sufficient legal authorization to park, load, and unload passengers, at each designated location. The use

and reference of private parking lots can be considered sufficient if the pedicab operator demonstrates that they have an agreement to utilize the private parking lot when the pedicab will be operating. Designation of a publicly owned parking lot is not permissible unless the parking lot is already being leased to a private party.

- D. Temporary pedicab routes may be approved for usage as part of a temporary conditional use permit or special event permit issued by the City if all other requirements of this Chapter are met.

#### **5.76.50. Enforcement**

- A. Any person violating any portion of this Chapter 5.76 is guilty of an infraction or a misdemeanor punishable in accordance with the Visalia Municipal Code. Alternatively, the City Manager, or designee, may issue an administrative citation in accordance with the Visalia Municipal Code and enforce the violation through the administrative remedies stated in the Visalia Municipal Code.
- B. Where the violation is of a continuing nature, each day that the violation continues constitutes a separate and distinct violation.
- C. The remedies specified in this Section are cumulative and their specification shall not preclude the use of any other remedy provided by law.

#### **5.76.060. Requirements For Consumption of Alcohol**

- A. The City of Visalia, by this section is hereby allowing the consumption of alcohol by passengers of pedicabs that are operating pursuant to validly issued City of Visalia licenses, in accordance with state law, California Vehicle Code section 21215.2, as it may be amended.
- B. Consumption of alcoholic beverages requires the pedicab to be operated by a driver and in addition to the driver for an onboard safety monitor, that is 21 year of age or older, to be present on the pedicab whenever alcohol is being consumed by passengers during the operation of the pedicab. The driver and onboard safety monitor shall not be under the influence of alcohol at any time. The onboard safety monitor shall be considered and treated as an additional driver of the pedicab and shall be required to obtain a pedicab operator permit from the City.

- C. The driver and the onboard safety monitor shall complete the training course mandated by California Vehicle Code section 21215.2, as it may be amended, prior to operating a pedicab with customers that consume alcohol.
- D. Alcoholic beverages shall not be provided by the operator or onboard safety monitor of the pedicab or any employee or agent of the pedicab owner. Alcoholic beverages may only be supplied by the passengers of the pedicab and all applicable municipal codes regarding possession of open containers and the prohibition of alcohol consumption in public places shall apply when the passengers are not on the pedicab. Alcoholic beverages provided by passengers must be in enclosed, sealed, and unopened containers prior to their consumption on board the pedicab. No more than one alcoholic beverage shall be permitted to be opened and consumed by a pedicab passenger between pedicab stops.
- E. The pedicab operator shall be responsible for preventing any open container of alcohol from being improperly discarded from the pedicab. It is a violation of this ordinance for empty or partially filled beverage containers to be left in the public right of way by pedicab passengers. Alcoholic containers that are opened while the pedicab is in motion must be consumed and the containers properly discarded.
- F. Pedicab passengers shall be required to surrender unfinished open alcoholic beverage containers to the pedicab operator for disposal prior to disembarking from the pedicab.

**Section 3. Revision to Visalia Municipal Code Section 9.04.080.** The Visalia City Council hereby finds that the following revision to Municipal Code Section 9.04.080, listing an additional exception from the general prohibition of possession an open container of alcohol or consuming alcohol in public places is necessary to allow for the operation pedicabs as regulated by this revised ordinance. The following language, *in italics* is hereby added to Section 9.04.080:

**9.04.080 Exceptions**

- A. For purposes of this article, the definition of public place shall not include any city owned community centers, within the city limits of the city. In addition, the city manager shall have the authority to exempt from the applicability of this article, any public place, within the city, on a specified date and for a specified period of time, provided:
  - 1. Said public place is to be used for a public charitable, educational and/or recreational purpose;
  - 2. Said activity is sponsored by a public, non-profit organization or group;



3. That all alcoholic beverages sold and/or provided in conjunction with said public activity are dispensed by public, nonprofit, charitable organizations, or groups; and

4. That all such alcoholic beverages are consumed within the area so designated in the permit issued by the city manager.

B. The city manager shall establish reasonable rules and regulations for the application, processing and issuance of such permits for such specific event exemptions.

*C. In addition, the possession or consumption of alcoholic beverages by passengers in a pedicab that has been licensed and is in complying with all applicable state and local laws to operate within the City of Visalia shall not be violation of this article.*

**Section 4. California Environmental Quality Act Requirements.** This Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines since the activity in question is not a “project” as defined in CEQA Guidelines Section 15378, it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further, even if this Ordinance were to be determined to be project it would be exempt from CEQA because there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. (14 Cal. Code Regs. 15061(b)(3).)

**Section 5. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

**Section 6. Effective Date.** The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect thirty (30) days from the date of adoption.

PASSED AND ADOPTED: