

ORDINANCE NO. O2015.07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 7, TEMPE CITY CODE, RELATING TO BICYCLES BY ADDING A NEW ARTICLE VII, RELATING TO PEDICABS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 7 of the Tempe City Code is hereby amended by adding a new Article VII to read as follows:

ARTICLE VII. PEDICABS

Sec. 7-66. Purpose.

The city finds that pedicabs have become an increasingly popular form of non-motorized transportation for hire. The purposes of this ordinance are to regulate the pedicab industry; to set basic safety standards, operating procedures and insurance requirements; and to accommodate a low-emission means of transportation while enhancing the experience of the pedicab passenger. It is necessary to enact regulations governing pedicabs, operators and owners to protect the general health, safety and welfare of the public and the passengers using pedicabs for hire.

Sec. 7-67. Definitions.

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

Bicycle means a device propelled by human power on which any person may ride, having two (2) tandem wheels or having three (3) wheels in contact with the ground.

Daytime means the period between sunrise and sunset.

Fare means a form of payment, monetary or otherwise, 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, monetary or otherwise, or gratuity.

Helper motor means a device with a maximum speed of fifteen (15) miles per hour or less on a flat surface with less than a one per cent grade.

Knowingly means, with respect to conduct or a circumstance described in this article, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

Nighttime means the period between sunset and sunrise.

Pedicab means (a) a bicycle, tricycle or four-wheel cycle of unibody design that transports, is capable of transporting, or is held out to the public as available to transport passengers on seats that is operated by an individual, and that is used for transporting passengers for hire

Pedicab Operator means any individual person who is in actual physical control of a pedicab within the city.

Pedicab Owner means a person who owns or holds any legal ownership interest in a pedicab.

State law reference- similar provision, ARS § 28-101.6.

Sec. 7-68. Pedicab lights and reflectors.

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 the nighttime;
- (2) Using a lamp on the front that emits a solid or flashing stream of white light visible from at least five hundred (500) feet to the front during the nighttime;
- (3) Using a lamp on the front that emits a solid or flashing stream of white light visible from at least one hundred (100) feet to the front during the daytime;
- (4) Using an Arizona 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;

- (5) Using a lamp on the rear that emits a red light visible from at least five hundred (500) feet to the rear during nighttime, and
- (6) Having a spoke reflector affixed to each wheel.
- (7) Operational brake lights.

Sec. 7-69. Pedicab additional safety features.

It is unlawful to operate a pedicab without:

- (1) A braking system that enables the operator to make the braked wheels skid on dry level clean pavement;
- (2) A mirror located to reflect to the operator a view of the road at least two hundred (200) feet to the rear, and
- (3) A horn audible from at least fifty (50) feet away in any direction.

Sec. 7-70. Pedicab size.

It is unlawful to operate a pedicab that is wider than fifty-four (54) inches at its widest point or longer than one-hundred and ten (110) inches at its longest point.

Sec. 7-71. Pedicab condition.

(a) Pedicabs shall be maintained in good working order to include drive trains, wheels, tires, hubs, braking systems, headsets, lights and any other mechanical devices.

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

- (1) Exposed rust, or
- (2) Ripped upholstery or fabric, or
- (3) Exposed wood that is not painted and in good condition, or
- (4) Dirt or debris on any surface accessible to patrons, or
- (5) Missing spokes.

Sec. 7-72. 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, or
- (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 on the lap of an adult, or
- (3) In a manner that results in damage to public property, or
- (4) In a manner that results in colliding with a pedestrian, or
- (5) Equipped with a siren or whistle, or
- (6) While knowingly permitting another to attach their person, bicycle, coaster, sled, toy vehicle, roller skates, skateboard, scooter, or other rolling device to the pedicab, or
- (7) While carrying anything that prevents the operator from keeping at least one hand on the handlebars at all times, or
- (8) On a street without a designated bike lane when the street has a posted speed limit of thirty-five (35) miles per hour or greater, except for crossing that street, or
- (9) On a street with a posted speed limit of thirty-five (35) miles per hour or greater for the purpose of stopping to pick up or drop off passengers, or
- (10) That obstructs pedestrian traffic on a sidewalk by remaining stopped on a sidewalk longer than necessary to pick up or drop off passengers, or
- (11) That stops or stands on a thoroughfare longer than necessary to pick up or drop off passengers, or
- (12) Without a clearly visible manufacturer's serial or identification number on either the operator's or the passenger's portion of the pedicab; or
- (13) Operate any sound amplification system that can be heard from fifty (50) feet or more from the pedicab.

(b) It is unlawful for an operator to knowingly remove, deface, alter or destroy the manufacturer's serial or identification number on a pedicab.

(c) All pedicabs must follow applicable state laws and city ordinances regarding the operation of the pedicab consistent with bicycles and mopeds on public thoroughfares.

(d) All pedicab operators must follow the instructions and commands of police officers or traffic control personnel.

Sec. 7-73. Fares.

It is unlawful for the operator of a pedicab to:

- (1) Charge a passenger a fare that was not agreed upon with the passenger in advance, or
- (2) Demand a fare from a passenger after agreeing to provide the service for a gratuity only.

Sec. 7-74. Driver License and other required documents.

(a) It is unlawful for an operator to operate a pedicab without having in possession either:

- (1) A valid government issued driver license; or
- (2) If the operator is a qualified individual with a disability under the Americans with Disabilities Act, proof of having passed the written exam required by the Arizona Department of Transportation Motor Vehicle Division for vehicle operation and a government-issued photo identification document.
- (3) Proof of insurance coverage pursuant to Section 7-75.

(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.

(c) The driver license may be issued by Arizona or another state, but cannot be cancelled, revoked, or suspended.

Sec. 7-75. Insurance requirements.

(a) The operator of a pedicab shall maintain at all times an owner 's or operator 's policy of liability insurance in the amount of at least one million dollars.

(b) The insurance company issuing the policy shall be authorized to issue commercial liability policies in this state by the Arizona Department of Insurance.

(c) The policy shall designate by explicit description or by appropriate reference all pedicabs for which coverage is granted.

(d) The policy shall insure the person named in the policy as the insured and any other person, as insured, using the pedicab with the express or implied permission of the named

insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the pedicab within the City or State of Arizona.

(e) The policy shall name the City of Tempe as an additionally insured party.

Sec. 7-76. Street or public area restrictions.

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

Sec. 7-77. Responsibility of owner.

It is unlawful for an owner to permit a pedicab to be operated or maintained in violation of Sections 7-68 through 7-75.

Sec. 7-78. Penalties.

(a) A first violation is a petty offense and shall be punished by a fine of not less than one hundred fifty dollars (\$150.00) nor more than three hundred dollars (\$300.00) per violation.

(b) A second or subsequent violation of this article within one (1) year of conviction of a first violation is a class two misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not less than three hundred dollars (\$300.00) per violation.

Secs. 7-79—7-85. Reserved.

Section 2. Pursuant to the Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this _____ day of _____, 2015.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney