

STAFF REPORT

DATE: June 20, 2017

TO: City Council

FROM: Diane Parro, Chief Innovation Officer
Ton Phan, Deputy Police Chief
Brian Mickelson, Assistant City Engineer
Sarah Worley, Deputy Innovation Officer

SUBJECT: Bikebus Pedicabs Ordinance Proposed to Comply with State Regulations

Recommendation

1. Introduce Ordinance (Attachment 1) adding Article 22.17 to Chapter 22 Motor Vehicles and Traffic of the Davis Municipal Code to Establish Permitting of Certain Bikebus Pedicabs in the City:
 - a. Citing reference to compliance and consistency with state law, including local authorization required to operate;
 - b. Applying provisions of Bikebus Pedicabs Ordinance only to a specific type of pedicab defined by state law: 4-wheeled device primarily or exclusively pedal powered, having a seating capacity for 8-15 passengers, maximum speed of 15 mph, and used to transport passengers for hire;
 - c. Authorizing the Police Chief to develop additional Bikebus Pedicab permit requirements, administer the permit process, limit number of permits and make other modifications as necessary; and
 - d. Authorizing the Police Chief to review Bikebus Pedicab permit requirements and report back to City Council after completing a one year pilot evaluation period beginning from date first bikebus pedicab permit is issued.

Fiscal Impact

Staff time is being expended to prepare a new ordinance, to develop additional permit requirements and permit process to meet a state law requiring local authorization for operation of “Bikebus” pedicabs. Staff will return to Council with a Resolution to set permit fees for this Ordinance that will cover cost of staff time to process permit applications and determine compliance with permit requirements. These fees will be reviewed by the Police Department periodically to determine if adjustments are needed.

Council Goals

This effort supports the following Council Goals:

- **Goal 2 – Drive a Diverse and Resilient Economy.** Objective 3 Address the needs of new businesses and business types identified as desirable additions to our economic diversity and sustainability.

- **Goal 4 – Build and Promote a Vibrant Downtown.** Objective 3 Enhance downtown ambiance. Task D. Reduce crime and/or nuisance activities in the downtown. Task F. Produce traditional and new special events that celebrate holidays, commemorate special occasions and drive traffic.
- **Goal 7 – Ensure a Safe and Healthy Community.** Objective 5 Pursue and promote policies that promote encourage safe and healthy lifestyles. Task D. Provide and enhance opportunities for outdoor fitness and exercise.

Background and Analysis

The City of Davis has been approached by a business owner seeking to open a new “Bikebus” pedicab business in Davis. California State Senate Bill (SB) 530 effective January 2016 (See Attachment 2) added a new definition of “pedicab” to the State Vehicle Code; established minimum requirements to operate this type of pedicab, including local authorization; and an additional set of requirements be met to allow consumption of alcohol while riding the vehicle.

Approval of Ordinance adding Article 22.17 Bikebus Pedicabs to Chapter 22 Motor Vehicles and Traffic of the Davis Municipal Code (Attachment 1) is proposed to allow operation of this proposed bikebus business in compliance with provisions of state law. The Council Goals cited above outline why creation of a new bikebus business and permit process in Davis is supported and considered an excellent opportunity for the bicycle friendly Davis community.

Allowing consumption of alcohol is **not** proposed for this business or as part of the new Bikebus Pedicab Ordinance. Serving alcohol on bikebus pedicabs is not recommended in Davis at this time so that the focus of this new recreational business reflects and supports Davis’s family friendly values rather than alcohol consumption while on the public streets. Passengers will still be able to consume alcohol at local restaurants, brewpubs and wine bars as part of bikebus tours, just not while riding on the bikebus. With such numerous available business establishments in close proximity to each other that serve alcohol, combined with broader branding opportunities, staff believes limiting alcohol consumption on the bikebuses will not affect business success and will further protect passenger and public safety.

The cities of San Diego, Santa Barbara, Palm Springs and City of South Lake Tahoe have also adopted “bikebus” pedicab ordinances that do not allow alcohol. Social Cycle (<http://socialcycleca.com/>) operates in San Diego, Santa Barbara and Palm Springs and Off the Chain (<http://tahoebikebus.com>) operates in South Lake Tahoe.

The City of Sacramento worked closely with the State while SB 530 was developed and has adopted a pedicab ordinance allowing passengers to consume alcohol they provide in closed containers and serve themselves. Sacramento has two bikebus companies both allowing alcohol (Off the Chain <http://sactownbikebus.com>, <http://www.sacbrewbike.com>).

No change, and no permits are proposed for operation of the smaller pedicabs that currently operate in Davis from time to time. These pedicabs are defined as *“bicycles with three or more wheels, operated by a person and capable of transporting passengers on seats attached to the bicycle and used for hire, or pulling a device transporting passengers on seats, used for hire.”*

State law AB 2294 approved in Sept. 2010, defined a “pedicab” and made operation of a “pedicab for hire” subject to the California Vehicle Code. It also allowed, but did not require, cities and counties to regulate operation of “pedicabs for hire.” Though the cities of Sacramento, San Diego, Santa Barbara, and Palm Springs do regulate and require permits for these smaller types of pedicabs, staff is not recommending Davis also do so. This is in part because of the size and nature of these cities. Three of these cities are significantly larger than Davis in size, and three are major “tourist” destinations. All determined need to regulate pedicabs before state law regulating operation of “bikebus” pedicabs was enacted. Staff is not aware of any problems generated by the smaller pedicabs periodically operating in Davis that currently warrant establishing a unilateral pedicab permit process. Though not for hire, many community residents routinely travel across the City on bicycles towing a variety of seating devices.

Bikebus Pedicab Ordinance & Permit Requirements

The attached ordinance (Attachment 1) includes the new definition of pedicab; purposely renamed as “bikebus pedicab” to eliminate confusion with other types of pedicabs; and establishes a process for local authorization and compliance with requirements for operation of this type of pedicab as specified by state law. The ordinance also authorizes the City Police Chief to develop additional bikebus pedicab permit requirements, administer the permit process, limit number of permits and make other modifications as necessary for public health and safety. The ordinance also requires the Police Chief to review the permit requirements and report back to the City Council after completing a one year pilot evaluation period, from the date the first bikebus pedicab permit is issued, to learn if there are any unanticipated aspects of bikebus operation in Davis that need to be addressed.

Bicycling, Transportation, and Street Safety (BTSS) Commission

Information about the purpose and general provisions of the proposed Bikebus Pedicab Ordinance were provided to the BTSS Commission at its June 8, 2017 meeting. The Commission raised a number of questions about the ordinance, bikebus operation requirements, and any problems experienced by other communities permitting bikebus pedicab operations. Hearing need for BTSS review of specific Draft Ordinance language was not anticipated given ordinance implements state law requirements, BTSS indicated desire to still review such draft ordinances in the future. Operational suggestions included use of vehicle horns, when necessary, to increase pedestrian safety and to prohibit use of glass containers on bikebuses. Input from the BTSS Commission will be sought as part of the one-year report back to City Council.

Proposed Bikebus Business Operations

The “bikebus pedicab” proposed for use by the local business owner has a maximum speed of 5-7 mph under pedal power and 15 mph using an alternative “electric assist” power source, provided as optional help for some passengers and to allow vehicle to be moved by single operator (Megacycle from Pedalbiz.com, see other photos of bikebuses in Attachment 3). Because the “bikebuses” may cross, but are prohibited from operating on streets with speed limits of 30 miles per hour or greater (all City arterials) they will have to be towed by another vehicle and dropped off for use in many City locations. Operation of bikebuses is also prohibited in bike lanes or bicycle paths. The bikebus vehicles have overhead covers and are open sided with access for loading and unloading for individual passenger seats along both sides of the vehicle. Annual vehicle inspection of brakes, lights, seatbelts, and guard rails are required.

Our Downtown has a relatively small footprint, many streets with diagonal parking, fully used parking lots and potential restaurant and bar destinations in close proximity to one another. The new bikebus business owner is developing a number of tour routes, such as wine tasting, pub tours, progressive dinners downtown (different locations for appetizer, dinner, dessert), history tours of old North Davis, lunch rides and spinning classes that take these factors into consideration. These include travel routes around blocks between stops, and obtaining permission for tour start and end in parking areas with ample aisle widths. The initial hours of operation proposed are Thursdays- Saturdays from 10:30 am to 9:30 pm. Business plans include starting with three employees, one handling bookings online initially, one driver and one tour guide for rides.

Bikebus operation issues will be addressed during the permit review process, including minimizing busbike tour routes from unduly impeding Downtown traffic, and identifying locations for passengers to get on or off the busbike.

Attachments

1. Bikebus Pedicabs Ordinance
2. SB 530
3. Photos of Example “Bikebus Pedicabs”
4. Applicant Letter

ATTACHMENT 1

ORDINANCE NO. ____
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS ADDING
ARTICLE 22.17 TO CHAPTER 22 OF THE DAVIS MUNICIPAL CODE TO
ESTABLISH PERMITTING OF CERTAIN BIKEBUS PEDICABS IN THE CITY

WHEREAS, Vehicle Code section 467.5 defines “pedicab” to include four-wheeled devices that are primarily or exclusively pedal-powered and seat eight or more passengers for transport for hire (hereafter, “bikebus pedicabs”); and

WHEREAS, the City of Davis may authorize the operation of bikebus pedicabs within the City, and may charge a reasonable fee to cover the costs of inspection of such bikebus pedicabs, pursuant to Vehicle Code section 21215; and

WHEREAS, the City is authorized to impose more stringent operating or equipment requirements on bikebus pedicabs than those set forth in State law, pursuant to Vehicle Code section 21215.5; and

WHEREAS, the City desires to allow the operation of bikebus pedicabs in the City, pursuant to State law and local permitting requirements; and

WHEREAS, the City Council has determined that the City Police Department is best equipped to review bikebus pedicab permit applications, inspect bikebus pedicabs for compliance with state and local law, and issue permits; and

WHEREAS, the City Council finds that authorizing the operation of bikebus pedicabs furthers the City’s interest in providing diverse social and cultural experiences and entertainment for residents and visitors of the City; and

WHEREAS, the City Council further finds that this ordinance balances the City’s interest in allowing bikebus pedicabs in the City with the City’s interest in maintaining safe streets and roads by imposing reasonable permitting requirements that ensure operating and equipment standards upheld.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are found to be true and incorporated herein by this reference.

SECTION 2. Amendment. Article 22.17 is hereby added to Chapter 22 of the Davis Municipal Code to read in full as set forth in Exhibit A attached hereto and incorporated herein by this reference.

SECTION 3. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

SECTION 4. CEQA. The City Council hereby finds that this Ordinance will not result in a direct or reasonably foreseeable indirect result in the environment, as it merely establishes reasonable permitting requirements on the operation of certain pedicabs authorized by State law. Further, this Ordinance limits the total number of bikebus pedicabs that may operate in the City in order to appropriately regulate and mitigate potential impacts or safety hazards, subject to future evaluation and consideration. As a result, this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City pursuant to State law.

INTRODUCED on the _____ day of _____, 2017, and PASSED AND ADOPTED by the City Council of the City of Davis on this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Robb Davis
Mayor

ATTEST:

Zoe Mirabile, CMC
City Clerk

EXHIBIT A

CHAPTER 22 MOTOR VEHICLES AND TRAFFIC

Article 22.17 BIKEBUS PEDICABS

- 22.17.010 Purpose and intent.**
- 22.17.020 Definitions.**
- 22.17.030 Bikebus pedicab pilot period.**
- 22.17.040 Bikebus pedicab operations – general conditions.**
- 22.17.050 Application for driver permit.**
- 22.17.060 Driver permits.**
- 22.17.070 Bikebus pedicab permits.**
- 22.17.080 Application for bikebus pedicab permit.**
- 22.17.090 Requirements for issuance of a bikebus pedicab permit.**
- 22.17.100 Permit fees.**
- 22.17.110 Report of accidents.**
- 22.17.120 Denial of permits.**
- 22.17.130 Suspension, modification, or revocation of permits.**
- 22.17.140 Right of appeal from denial, suspension, modification, or revocation of permit.**
- 22.17.150 Appeal proceedings.**
- 22.17.160 Enforcement authority.**

22.17.010 Purpose and intent.

The City Council recognizes that the variety of entertainment activities in the city provide a rich and diverse social and cultural experience for residents and visitors of the city alike. The Council also recognizes that pedicabs and bikebuses offer residents and visitors a new and active way to experience the City, travel to special events and explore different destinations and entertainment venues within the community.

State Vehicle Code amendments establishing definitions and regulations for operation of pedicabs and pedal powered devices used for transporting passengers for hire, as set forth in Vehicle Code section 21215 *et seq.*, also authorize local governments to impose more stringent operating and equipment requirements than those set forth in State law. Accordingly, the purpose of this Article is to impose reasonable permitting requirements on local bikebus pedicab operators to protect the general safety and welfare of passengers using pedicabs for hire and pedestrians and motorists within the city.

22.17.020 Definitions.

The following words and phrases shall have the following meanings when used in this Article: “Alcoholic beverage” has the same meaning as defined in California Business and Professions Code Section 23004.

“Bikebus pedicab” means 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 bikebus pedicab shall also be 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 from time to time.

“Bikebus pedicab driver” or “driver” means an individual who drives or operates a bikebus pedicab within the city, whether as an owner, an employee of the owner, or as an independent contractor.

“Bikebus pedicab owner” or “owner” means any person who owns, leases, or possesses a bikebus pedicab(s).

“Bikebus pedicab permit” means the numbered permit issued by the city for display on a pedicab to indicate that the pedicab is permitted to operate within the city.

“Police Chief” includes the Police Chief of the City of Davis and his or her designee.

“Driver permit” means a written permit issued by the city authorizing a person to drive or operate a bikebus pedicab within the city.

“Operates within the city” means the soliciting, accepting, picking-up, or embarking within the city of a passenger for transportation to any point within or outside the city for any form of consideration.

22.17.030 Bikebus pedicab pilot period.

- (a) Bikebus pedicabs are authorized to operate within the city, subject to the rules and regulations set forth herein and all applicable state laws and regulations.
- (b) Notwithstanding subdivision (a) above, the operation of bikebus pedicabs in the city shall be restricted to no more than two (2) total bikebus pedicab owners at any given time, until one year from the date the first bikebus pedicab permit is issued.
- (c) Applications during this period shall be accepted on a first come, first served basis. During this pilot period, the Police Chief shall study the adequacy of the requirements and regulations established pursuant to this Article, including consideration of the following:
 - (1) Whether the operational and permitting requirements are adequate to protect the general public health, safety and welfare, including safety of passengers and drivers of bikebus pedicabs; and
 - (2) Whether authorizing additional bikebus pedicab owners would be detrimental to the public health, safety, or welfare.
- (d) Prior to the conclusion of the pilot period one year from the date the first bikebus pedicab permit is issued the Police Chief shall report his findings to the City Council.
- (e) After the conclusion of the pilot period one year from the date the first bikebus pedicab permit is issued the Police Chief may, in his sole discretion, issue additional bikebus pedicab owner permits. The Police Chief may decline to accept bikebus pedicab owner permit applications, if in his discretion it is determined that there is an over-concentration of bikebus pedicab owners in the city, or that additional bikebus pedicab owner permits would be detrimental to the public health, safety and welfare.

22.17.040 Bikebus pedicab operations – general conditions.

In addition to any other applicable state laws and regulations, the operation of bikebus pedicabs in the city are subject to the following requirements:

- (a) Every bikebus pedicab operating within the city must first obtain a bikebus pedicab permit. No person shall drive or operate a bikebus pedicab within the city without having a valid bikebus pedicab driver permit.
- (b) A 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 bikebus pedicab.
- (c) Driver permits and bikebus pedicab permits are the property of the city and are not transferable to any other person.
- (d) Alcoholic beverages are prohibited on bikebus pedicabs, regardless of whether the bikebus pedicab is in motion, stopped, or parked.
- (e) No bikebus pedicab shall be operated in weather conditions that pose an unreasonable safety risk to the drivers or passengers of the pedicab, or to other motorists or pedestrians.
- (f) No owner or driver of a bikebus pedicab shall knowingly permit such bikebus pedicab to be used for unlawful purposes or knowingly transport persons for such purposes.
- (g) All permitted bikebus pedicabs shall be maintained in working order and good repair.
- (h) For the purpose of immediately loading or unloading passengers, a bikebus pedicab may remain standing upon a street if the bikebus pedicab is in any legal parking stall, designated loading zone, or any other location that does not impede pedestrian or vehicular traffic, including bike lanes and bicycle paths. Otherwise, a bikebus pedicab driver must comply with on-street parking regulations regarding loading zones, fire zones, space designated for carriages, taxis, busses, the disabled, and metered parking spaces. The Police Chief may set forth specific additional locations where bikebus pedicabs are allowed to park or stand.
- (i) No bikebus pedicab driver shall leave a bikebus pedicab unattended, while in operation for the solicitation or transportation of passengers, for a period of more than fifteen (15) minutes at a time unless parked in one of those specific locations identified by the Police Chief.

22.17.050 Application for driver permit.

- (a) The pedicab driver permit application form shall be in a form prescribed by the Police Chief.
- (b) An application for a driver permit shall include, at a minimum, the following information:
 - (1) The applicant's full name;
 - (2) The applicant's business and residence addresses and phone numbers;
 - (3) The name(s) of the business or company, if any, for which the driver works as a pedicab driver;

- (4) The applicant's date of birth;
 - (5) Identification in the form of a current and valid motor vehicle driver's license issued by the state of California;
 - (6) Such other information and material as the Police Chief may require to evaluate the fitness of the applicant to drive or operate a bikebus pedicab.
- (c) 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 driver permit.
 - (d) A driver shall report to the Police Chief a change in any of the information provided on the driver permit application within three business days of the change, including but not limited to any change in the status of his or her driver's license to the city.

22.17.060 Driver permits.

- (a) Every permitted driver operating a bikebus pedicab must comply with this Article and the conditions and contents of his or her driver permit, which shall include, but is not limited to:
 - (1) A 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 bikebus pedicab.
 - (2) Driver permits are the property of the city and are not transferable to any other person.
 - (3) A driver shall not consume or allow to be consumed any alcoholic beverages on a bikebus pedicab, regardless of whether the bikebus pedicab is in motion, parked, or stalled.
 - (4) Any other reasonable operating conditions which may be imposed by the Police Chief, including designated or prohibited bikebus pedicab routes or streets and hours of operation.
- (b) Driver permits are valid for a period of one year. A driver permit may be renewed for an additional one year period, only upon successful submission of a new application for a driver permit.

22.17.070 Bikebus pedicab permits.

- (a) No bikebus pedicab owner shall lease, rent, or allow a bikebus pedicab to be driven or operated for hire within the city without obtaining a valid bikebus pedicab permit. If an owner will have more than one bikebus pedicab operating in the city, each bikebus pedicab must obtain a valid bikebus pedicab permit.
- (b) The bikebus pedicab permit shall be permanently affixed in a conspicuous and visible location within the pedicab.
- (c) Bikebus pedicab permits are the property of the city and are not transferable to any other bikebus pedicab.

- (d) Bikebus pedicab permits are valid for a period of one year. A bikebus pedicab permit may be renewed for an additional one year period, only upon successful completion of an inspection pursuant to the provisions of Section 22.17.090.

22.17.080 Application for bikebus pedicab permit.

- (a) The bikebus pedicab permit application form shall be in a form prescribed by the Police Chief.
- (b) An application for a bikebus pedicab permit shall include, at a minimum, the following information:
 - (1) The bikebus pedicab owner's full name;
 - (2) The owner's business and residence addresses and phone numbers;
 - (3) A description of the bikebus 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 a form acceptable to the city and in accordance with the requirements of Vehicle Code section 21215, unless the Police Chief determines additional proof of financial responsibility is required; and
 - (6) Such other information and material as the Police Chief may require to evaluate the fitness of the bikebus pedicab for safe operation in the city.
- (c) Each owner of the bikebus pedicab must sign the application, which shall contain a warning that the application may be denied or the permit suspended, modified, or revoked if the owner misrepresents facts relevant to the fitness of the bikebus pedicab to safely operate in the city.

22.17.090 Requirements for issuance of a bikebus pedicab permit.

- (a) A bikebus pedicab permit will be issued only after the bikebus pedicab has been inspected by the City. Inspections shall include inspection of such things as seatbelts, seat backs, brakes, reflectors, lights, and grab rails, as may be applicable in the discretion of the Police Chief.
- (b) The Police Chief is authorized to develop and implement additional regulations and policies regarding the appropriate operational and equipment requirements for bikebus pedicabs, in accordance with Vehicle Code section 21215 et seq.

22.17.100 Permit fees.

- (a) The city shall charge a nonrefundable fee for each driver permit and bikebus pedicab permit application and renewal, in an amount established by resolution of city council, to recover the cost of the administration, regulation, and issuance of driver and bikebus pedicab permits.
- (b) The city shall charge to each bikebus pedicab owner a nonrefundable inspection fee, in an amount established by resolution of city council, to recover the cost of inspecting each bikebus pedicab.

22.17.110 Report of accidents.

- (a) A bikebus pedicab driver shall immediately report to the owner of the bikebus pedicab any accident or collision in which he or she is involved while operating a bikebus pedicab, which results in property damage or personal injury of any kind.
- (b) A bikebus pedicab owner whose bikebus pedicab is involved in any accident or collision resulting in property damage or personal injury of any kind shall within forty-eight (48) hours of being informed of the accident or collision give a written report thereof to the Police Chief.

22.17.120 Denial of permits.

The Police Chief may deny issuance of a bikebus pedicab driver permit or bikebus pedicab permit if an applicant for such permit:

- (a) Fails to comply with the requirements of this Article;
- (b) Misrepresents facts relevant to the fitness of the applicant;
- (c) Is currently required to register pursuant to California Penal Code Section 290;
- (d) Has been convicted of a crime involving moral turpitude; or
- (e) 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 permit.

22.17.130 Suspension, modification, or revocation of permits.

The Police Chief may suspend, modify or revoke a bikebus pedicab driver permit or bikebus pedicab permit if the holder of the permit:

- (a) Fails to comply with the requirements of this Article;
- (b) Misrepresents facts relevant to the fitness of the bikebus pedicab owner, driver, or bikebus pedicab, as may be relevant, if such misrepresentation becomes known after a permit has been issued;
- (c) Violates the traffic laws of the city, county or state;
- (d) Fails to operate and maintain bikebus pedicabs in good order and repair;
- (e) Fails to pay any fines, penalties, fees or damages lawfully assessed upon the owner or driver of a bikebus pedicab; or
- (f) Fails to comply with the rules and regulations prescribed by the Police Chief, including any equipment or operational conditions imposed upon the granting of a permit.

22.17.140 Right of appeal from denial, suspension, modification, or revocation of permit.

Any applicant or permittee aggrieved by a decision of the Police Chief in denying, suspending, modifying or revoking a permit, or imposing conditions on the issuance of a permit or permit renewal, may appeal the decision to the city manager in accordance with the procedures set forth in Section 22.17.160.

22.17.150 Appeal proceedings.

- (a) Appeal to city manager or his or her designee.
 - (1) Any applicant or permittee who desires to appeal a decision of the police chief as specified in Section 22.17.150, may appeal the decision by submitting a written

appeal to the city manager within ten calendar days from the date of service of the notice of denial, suspension, modification, revocation, or conditioned approval or renewal. The written appeal shall contain:

- (A) A brief statement in ordinary and concise language of the specific decision or condition protested, together with any material facts claimed to support the contentions of the appellant;
 - (B) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;
 - (C) The signatures of all parties named as appellants and their official mailing addresses; and
 - (D) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- (2) Upon receipt of a timely filed appeal, the city manager may hire or appoint a hearing officer or may serve as the hearing officer.
 - (3) Upon receipt of any appeal filed pursuant to this section, the hearing officer shall calendar it for hearing within fifteen calendar days.
 - (4) Written notice of the time and place of the hearing shall be given at least seven calendar days prior to the date of the hearing to each named appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address(es) shown on the appeal.
 - (5) Failure of any person to timely file an appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and decision, or any portion thereof.
 - (6) Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.
 - (7) In the case of a suspension, modification, or revocation of a permit or permit renewal, the permittee may continue to conduct bikebus pedicab operations (as driver or owner, as applicable) during the pendency of any appeal.
- (b) Hearings—Generally.
- (1) At the time set for hearing, the hearing officer shall proceed to hear the testimony of the police chief, the appellant, and other competent persons, including members of the public, respecting those matters or issues specifically raised by the appellant in the notice of appeal.
 - (2) The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

- (3) The hearing officer may, upon request of the appellant or upon request of the city, grant continuances from time to time for good cause shown, or upon his or her own motion.
 - (4) In any proceedings under this chapter, the hearing officer has the power to administer oaths and affirmations and to certify to official acts.
- (c) Conduct of hearing.
- (1) Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
 - (2) Oral evidence shall be taken only upon oath or affirmation.
 - (3) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
 - (4) The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
 - (5) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.
 - (6) Each party shall have these rights, among others:
 - (A) To call and examine witnesses on any matter relevant to the issues of the hearing;
 - (B) To introduce documentary and physical evidence;
 - (C) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - (D) To impeach any witness regardless of which party first called the witness to testify;
 - (E) To rebut the evidence presented against the party; and
 - (F) To represent him, her, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.
 - (7) In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.
- (d) Form and contents of decision—Finality of decision.
- (1) If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, modify, or revoke the permit, the hearing officer shall affirm the police chief's decision to deny, suspend, modify, revoke or condition the permit. Following the hearing and after reviewing the testimony and evidence presented

at the hearing, the city manager shall issue a decision, or if the city manager appointed a hearing officer, the hearing officer shall issue a recommendation to the city manager, regarding the propriety of the police chief's determination. The decision or recommendation shall be in writing and shall contain findings of fact and a determination of the issues presented. The city manager shall accept, amend and accept, or reject a hearing officer's recommendation.

- (2) The city manager's determination of the appeal shall be final.
- (3) The final decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be delivered to the appellant personally or sent by certified mail to the address shown on the appeal within ten business days following the conclusion of the hearing.
- (4) The decision shall be final when signed by the city manager and served as provided in this section.

22.17.160 Enforcement authority.

- (a) In addition to any other remedy allowed by law, any person who violates a provision of this Article is subject to criminal sanctions, civil actions, and administrative citations pursuant to Article 1.02.
- (b) Any person who violates a provision of this chapter is guilty of an infraction, punishable by a fine in accordance with Section 36900 of the California Government Code.
- (c) All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions of this Article.

Senate Bill No. 530

CHAPTER 496

An act to amend Sections 467.5 and 23229 of, and to add Article 4.5 (commencing with Section 21215) to Chapter 1 of Division 11 of, and to repeal Section 21215.2 of, the Vehicle Code, relating to vehicles.

[Approved by Governor October 4, 2015. Filed with
Secretary of State October 4, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 530, Pan. Pedicabs.

Existing law generally regulates the operation of bicycles, including, among other things, providing that a person operating a bicycle on the highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle, including a prohibition against operating a bicycle while under the influence of an alcoholic beverage or any drug. These provisions also apply to a pedicab, as defined. A violation of the provisions regulating the operation of a bicycle or pedicab is an offense.

This bill would expand the definition of a pedicab to include a 4-wheeled device that is primarily or exclusively pedal-powered, has a seating capacity for 8 or more passengers, cannot travel in excess of 15 miles per hour, and is being used for transporting passengers for hire, as prescribed. The bill would impose specified requirements on these pedicabs defined by the bill, relating to, among other things, a maximum seating capacity for 15 passengers, local authorization to operate, operator qualifications and training, safety equipment, inspections, financial responsibility, reporting of accidents to the Department of the California Highway Patrol, the loading and unloading of passengers, and general operation of pedicabs. The bill would, until January 1, 2020, establish requirements for pedicabs that allow passenger alcohol consumption. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 467.5 of the Vehicle Code is amended to read:
467.5. "Pedicab" means any of the following:

(a) 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.

(b) 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.

(c) 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.

SEC. 2. Article 4.5 (commencing with Section 21215) is added to Chapter 1 of Division 11 of the Vehicle Code, to read:

Article 4.5. Operation of Pedicabs

21215. (a) A pedicab defined in subdivision (c) of Section 467.5 shall operate subject to all of the following requirements:

(1) The pedicab shall have a seating capacity for not more than 15 passengers.

(2) The pedicab shall be authorized by local ordinance or resolution to operate within the applicable local jurisdiction.

(3) The operator of the pedicab shall be at least 21 years of age, with a valid California driver's license.

(4) The pedicab shall be equipped with seatbelts for all passengers, seat backs, brakes, reflectors, headlights, and grab rails. The pedicab shall be inspected annually for compliance with the requirements of this paragraph by an entity designated by the local jurisdiction that authorized the pedicab to operate. The entity may charge a reasonable fee to cover the costs of the inspection. A pedicab that does not meet these requirements shall meet these requirements by January 1, 2017, in order to continue operation.

(5) The operator of the pedicab shall at all times be able to establish financial responsibility in a minimum amount of one million dollars (\$1,000,000) general liability insurance coverage and an additional five hundred thousand dollars (\$500,000) general umbrella insurance that covers the pedicab. The local jurisdiction that authorized the pedicab to operate may require additional proof of financial responsibility.

(6) A pedicab shall not operate on any highway under the jurisdiction of the local authority unless authorized by resolution or ordinance. A pedicab shall not operate on any freeway and shall not operate on any highway with a posted speed limit in excess of 30 miles per hour, except to cross the highway at an intersection.

(7) The operator of the pedicab shall annually report to the Department of the California Highway Patrol, commencing on January 1, 2016, any accidents caused or experienced by the pedicabs.

(8) The pedicab shall not load or unload passengers on roadways or in the middle of highways.

(9) 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.

(b) This article only applies to pedicabs defined by subdivision (c) of Section 467.5, and does not apply to pedicabs defined in subdivision (a) or (b) of Section 467.5.

21215.2. (a) If alcoholic beverages are consumed on board the pedicab, a pedicab defined in subdivision (c) of Section 467.5 shall additionally operate subject to all of the following requirements:

(1) The consumption of alcoholic beverages onboard the pedicab shall be authorized by local ordinance or resolution.

(2) 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 during the operation of the pedicab.

(3) Both the operator and 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.

(4) Alcoholic beverages shall not be provided by the operator or onboard safety monitor or any employee or agent of the operator or onboard safety monitor of the pedicab. 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 that have been labeled pursuant to Chapter 13 (commencing with Section 25170) of Division 9 of the Business and Professions Code prior to their consumption on board the pedicab.

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

(6) All passengers shall be 21 years of age or older if alcohol is consumed during the operation of the pedicab.

(7) For purposes of this subdivision, passengers who are pedaling the device are not operators.

(b) A license or permit from the Department of Alcoholic Beverage Control shall not be required of the operator or onboard safety monitor, so long as neither they, nor their employees or agents sell, serve, or furnish any alcoholic beverage to any passenger.

(c) For purposes of this section, “alcoholic beverage” has the same meaning as defined in Section 23004 of the Business and Professions Code.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

21215.5. This article does not preclude a local authority from imposing more stringent operating or equipment requirements on a pedicab subject to this article.

SEC. 3. Section 23229 of the Vehicle Code is amended to read:

23229. (a) Except as provided in Section 23229.1, Sections 23221 and 23223 do not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, the living quarters of a housecar or camper, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

(b) Except as provided in Section 23229.1, Section 23225 does not apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or of a pedicab operated pursuant to Article 4.5 (commencing with Section 21215) of Chapter 1.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Attachment 3 – Bikebus Pedicab Photos

(from Bikebus Business Websites)



“Fun-seekers pose for a photo during a Sacramento Brew Bike tour (Photo: Tyler Mussetter with M PORTRAITS)

Davis City Council,

My name is James Meinert. I am a graduate of UCD (1989). I have been residing in Davis since 1998, and I have been practicing dentistry in my Davis office since 2000.

I am interested in bringing a bike bus business to our city of Davis. Due to the great bike culture and the fun and easy-going vibe of the downtown core, I feel that a bike bus would be a great fit.

The bikes seat 15 people, with 10 of those seats being attached to moving pedals. Each seat has a seatbelt. The 10 people can pedal, but the driver of the bike bus determines the speed and direction of the bike bus. The bike bus only gets up to 7 mph. The bike bus has lights, music and cooling misters to increase the enjoyment of the ride for its patrons. Each tour is approximately \$350 per 2 hour segment of time.

The bike bus is an active entertainment venue which promotes local business and restaurants establishments. The patrons would be residents of Davis who want a special and unique way to enjoy time with their friends and families and/or parents and family members who come to visit Davis and want to get to become more familiar with our town.

Some example of bike bus tours include:

Progressive dinner tour – appetizer/dinner/dessert stops at designated establishments

Wine tasting – 3 different stops at winery locations

Pub tours – 3 different stops at pub breweries

Historical Davis tours – downtown and Old North Davis

Birthday parties – through town or specified neighborhoods

Holiday caroling – hot chocolate and treats

Spin classes – with local gyms

Picnic Day Parade

UCD campus tours

Thank you for your time,

James Meinert