

SUBSTITUTE
ORDINANCE

0005-00 17191

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 9-110-060 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

9-110-060 Investigation and issuance of pedicab license.

(Omitted text is unaffected by this ordinance)

(f) If an application is denied, the applicant may, within ten days of the mailing of notice of the denial, make written demand upon the Commissioner for a hearing. Upon receipt of a timely written demand for a hearing, the Commission shall conduct a hearing within 30 days. If, upon such a hearing, the applicant establishes through competent evidence that the denial was based upon incorrect findings, the Commissioner shall issue the license. If, upon such a hearing, the denial is found to have been based upon correct findings, the denial shall become final. After entry of a final denial the applicant shall be ineligible to make a new application for a period of 12 months.

SECTION 2. Section 9-110-090 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

9-110-090 Pedicab license decal and metal plate – Required.

(Omitted text is unaffected by this ordinance)

(d) The total number of ~~initial~~ pedicab license decals to be issued shall not exceed 200 (two hundred). No licensee shall be issued, or shall control, in whole or in part, directly or indirectly, more than 20 percent of the total number of pedicab license decals available to be issued. ~~The Commissioner may increase the total number of pedicab license decals to be issued and may determine the percentage of pedicab license decals to be issued to a licensee by rules and regulation promulgated pursuant to this chapter. In making such determination, the Commissioner shall consider the impact that additional pedicabs may have on the safe and efficient flow of traffic in the city and shall consult with the Superintendent of Police and the Commissioner of Transportation, or their respective designees, before raising the number of pedicab license decals to be issued. If the Commissioner determines that there are more qualified applicants for pedicab license decals than the maximum number of decals that the Commissioner has set to issue at any given time, the Commissioner shall conduct a lottery or other neutral process for allocating decals among qualified applicants as set forth by rules promulgated by the Commissioner.~~

(Omitted text is unaffected by this ordinance)

SECTION 3. Section 9-110-130 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

9-110-130 Pedicab chauffeur license – Application.

(Omitted text is unaffected by this ordinance)

(e) If an application for the issuance or renewal of a pedicab chauffeur license is denied the applicant may, within ten days of the mailing of notice of the denial, make written demand upon the Commissioner for a hearing. Upon receipt of a timely written demand for a hearing, the Department shall within 30 days conduct a hearing. If at such a hearing the applicant establishes through competent evidence that the denial was based upon incorrect findings the Commissioner shall issue the license. If at such a hearing the denial is found to have been based upon correct findings the denial shall become final. After entry of a final denial the applicant shall be ineligible to make a new application for a period of ~~48~~12 months.

(Omitted text is unaffected by this ordinance)

SECTION 4. Section 9-110-140 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

9-110-140 Pedicab chauffeur identification license card.

(Omitted text is unaffected by this ordinance)

(b) While a pedicab is in operation, the pedicab chauffeur shall wear the identification license card at all times, in a manner clearly visible to the public. The identification license card shall not be altered in any way.

SECTION 5. Chapter 9-110 of the Municipal Code of Chicago is hereby amended by deleting Section 9-110-180 in its entirety, and by inserting a new Section 9-110-180, as follows:

9-110-180 Enforcement authority.

(a) The Commissioner, the Comptroller, the Commissioner of Transportation, and the Commissioner of Streets and Sanitation are authorized to enforce this Chapter. The Department of Police is authorized to enforce the safety-related provisions of this Chapter and all traffic laws, ordinances, rules, and regulations as they apply to pedicab licensees and chauffeurs.

(b) The Commissioner, in consultation with the Superintendent of Police, Commissioner of Transportation, and the Commissioner of Streets and Sanitation, shall adopt rules for uniform enforcement of this Chapter. Such rules shall require that any City personnel authorized to enforce this Chapter shall (i) prioritize enforcement of Section 9-110-020 (operation of an unlicensed pedicab) and Section 9-110-110 (unlicensed operation of a pedicab); and (ii) prioritize the enforcement of the safety-related provisions of this Chapter over the enforcement of compliance-related provisions.

SECTION 6. Chapter 9-110 of the Municipal Code of Chicago is hereby amended by adding a new Section 9-110-185, as follows:

9-110-185 Impoundment.

(a) *General.* The Department of Police and the Department of Streets and Sanitation are authorized to impound pedicabs for any violation of Section 9-110-020, Section 9-110-090,

Section 9-110-110, or Sections 9-110-150(b)(1), (2), (5), or (10). Impoundment may be a penalty in addition to any other penalty authorized under this Chapter.

(b) Licensed pedicabs.

(1) Whenever a licensed pedicab is impounded, the Department shall, within ten business days of impoundment, notify by certified mail the licensee of the licensee's right to request a hearing before the Department of Administrative Hearings to challenge whether a violation of this Chapter for which seizure and impoundment applies has occurred. The notice shall state that a vehicle not released by payment of any applicable fines and fees and remaining in the City pound may be sold or disposed of by the City. If the licensee requests a hearing by writing to the Department of Administrative Hearings within 15 days after the notice was mailed, an administrative law officer of the Department of Administrative Hearings shall conduct such hearing within 30 days after a request for a hearing has been made. If, after the hearing, the administrative law officer does not determine by a preponderance of the evidence that the pedicab was used in a violation of this Chapter for which impoundment applies, the administrative law officer shall enter an order finding for the licensee and for the return of the pedicab and any previously paid fines and fees. If, after the hearing, the administrative law officer determines by a preponderance of the evidence that the pedicab was used in a violation of this Chapter for which impoundment applies, the administrative law officer shall enter an order finding the licensee liable to the City for the amount of the fine prescribed for the violation, if any, plus towing and storage fees.

(2) If the licensee requests a hearing but fails to appear at the hearing, or if the licensee fails to request a hearing in a timely manner, an administrative law officer of the Department of Administrative Hearings shall enter a default order in favor of the City in the amount of the fine prescribed for the violation, if any, plus towing and storage fees.

(3) Any pedicab that is not reclaimed within ten days after the expiration of: (i) the time during which the licensee may seek judicial review of the City's action under this section; or (ii) if judicial review is sought, the time at which a final judgment is rendered in favor of the City; or (iii) the time a final administrative decision is rendered against any licensee who is in default, may be disposed of as an unclaimed vehicle.

(c) Unlicensed pedicabs.

(1) Whenever an unlicensed pedicab is impounded, the Department of Police shall, at the time of the impoundment, provide written notice to the person who was found to be in control of the pedicab at the time of the alleged violation of the right to request a finding of ownership of the pedicab by the Department. Within ten business days of the impoundment, the Department shall publish notice of the impoundment in a newspaper of general circulation for no fewer than five successive days if the newspaper is published daily, or two successive weeks if the newspaper is published weekly. Within ten business days of the final day of newspaper publication, any alleged owner may come forward to request a finding of ownership by the Department. In order to request a finding of ownership by the Department, the alleged owner must provide to the Department sufficient evidence the alleged owner may have to prove ownership of the pedicab. Such evidence shall be: (i) insurance certificate that lists the owner of the pedicab; or (ii) a sworn affidavit attesting ownership of the pedicab with additional documentation, if any, including, but not limited to, a bill of sale of the pedicab, registration of the pedicab with the State or another state, or a lease for the pedicab. If no alleged owner comes forward within ten business days of the final day of newspaper publication, the pedicab may be disposed of. If an alleged owner comes forward, the Department shall make an ownership determination within ten business days after a

request for ownership determination has been made. If an alleged owner comes forward but did not provide to the Department sufficient evidence to show the alleged owner's ownership of the pedicab as provided in this subsection, the pedicab may be disposed of ten days after the expiration of the time during which the alleged owner may seek judicial review of the Department's decision.

(2) If the Department makes a finding of ownership, it shall notify the pedicab owner by certified mail of the pedicab owner's right to request a hearing before the Department of Administrative Hearings to challenge whether a violation of this Chapter for which seizure and impoundment applies has occurred. If the owner requests a hearing by writing to the Department of Administrative Hearings within 15 days after the right to request a hearing notice was mailed, an administrative law officer of the Department of Administrative Hearings shall conduct such hearing within 30 days. If, after the hearing, the administrative law officer does not determine by a preponderance of the evidence that the pedicab was used in violation of this Chapter for which impoundment applies, the administrative law officer shall enter an order finding for the owner and for the return of the pedicab and any previously paid fines and fees. If, after the hearing, the administrative law officer determines by a preponderance of the evidence that the pedicab was used in violation of this Chapter for which impoundment applies, the administrative law officer shall enter an order finding the owner liable to the City for towing and storage fees.

(3) If the pedicab owner requests a hearing but fails to appear at the hearing, or if the pedicab owner fails to request a hearing in a timely manner, an administrative law officer of the Department of Administrative Hearings shall enter a default order in favor of the City in the amount of towing and storage fees.

(4) Any pedicab that is not reclaimed within ten days after the expiration of: (i) the time during which the owner may seek judicial review of the City's action under this section; or (ii) if judicial review is sought, the time at which a final judgment is rendered in favor of the City; or (iii) the time a final administrative decision is rendered against any owner who is in default, may be disposed of as an unclaimed vehicle.

(d) *Payment.* A fine or towing and storage fees, or both, imposed pursuant to this section shall constitute a debt due and owing to the city which may be enforced pursuant to Section 2-14-103 or in any other manner provided by law. Except as provided otherwise in this section, a pedicab shall continue to be impounded until the payment of any applicable fine or towing and storage fees, or both. The towing fee for an impounded pedicab shall be \$150 and the storage fee for an impounded pedicab shall be \$25 per day.

(e) *Defense.* A pedicab is not considered to have been used in a violation of this Chapter that would render the pedicab subject to impoundment if the pedicab used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered.

(f) *Rules.* The Commissioner of Business Affairs and Consumer Protection, in consultation with the Superintendent of Police and the Commissioner of Streets and Sanitation, is authorized to adopt rules for the proper administration and enforcement of this section, including rules regarding the release and disposal of impounded pedicabs.

SECTION 7. Section 9-110-190 of the Municipal Code of Chicago is hereby amended by deleting the language struck-through, and inserting the language underscored, as follows:

9-110-190 Violation – Penalty.

If any person violates any of the provisions of this chapter or any rule or regulation promulgated hereunder, such person shall be subject to a fine of not less than \$100.00 and not more than \$500.00 for each such violation. Each day that any violation shall continue shall be deemed a separate and distinct offense. A second or subsequent violation of this chapter committed within 12 months of a previous violation under this chapter shall be ground for a fine of not less than \$500.00 and not more than \$1,000.00 or community service, or any combination thereof for each violation.

If any person violates Section 9-110-090(b), Section 9-110-090(f), or Section 9-110-150(e), such person shall be subject to a fine of not less than \$1,000.00 and not more than \$5,000.00.

In addition to fines, penalties for any violation of this chapter may include license suspension, rescission, revocation, or impoundment pursuant to ~~Section 9-110-180(b)~~ 9-110-185.

SECTION 8. This ordinance takes effect ten days after passage and publication.