

ORDINANCE 2012-16

TO BE ENTITLED: "AN ORDINANCE TO AMEND FRANKLIN MUNICIPAL CODE TITLE 9, CHAPTER 10 TO REGULATE CARRIAGES ON CITY STREETS."

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee desire to keep its city streets safe for the traveling public and pedestrians; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, find that horsedrawn carriages may not necessarily pose a significant threat to the health, safety and welfare of the traveling public, considering current traffic congestion; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee believes it is in the best interest of the citizens of Franklin to allow horsedrawn carriages in a limited capacity in the City.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Chapter 10 of Title 9 of the Franklin Municipal Code is hereby amended by adding the text as shown in **bold** and deleting text shown in ~~strikethrough~~, so that it shall read as follows:

"TITLE 9
CHAPTER 10
PEDICABS AND CARRIAGES

Sec. 9-1001. Definitions.

- (1) **Carriage. A non-motorized vehicle pulled or propelled by animal labor.**
- (2) *Company.* The holder of a permit to operate a pedicab **or carriage** business under the provisions of this chapter whether a person, firm, partnership or corporation, whether for-profit, not-for-profit, or a free service.
- (3) *Driver.* Any person who drives or operates a pedicab **or carriage** on the streets of Franklin for a permitted company.
- (4) *Driver's permit.* The written authority granted by the city for a person to operate a pedicab **and/or carriage** within the City of Franklin.
- (5) *Pedicab.* A pedal vehicle with three or more wheels operated by one person for the purpose of, or capable of, transporting passengers in seats or a platform made a part of the pedicab. This definition shall not include a bicycle built for two where the operators are seated one behind the other, nor shall it include a bicycle with trainer or beginner wheels affixed thereto, nor shall it include a wheelchair or other vehicle for the purpose of transporting a handicapped person, nor shall it include a tricycle built for a child or an adult with a seat for only one operator and no passenger. Includes pedal carriages and rickshaws as defined by Tennessee Code Annotated, §55-26-101.
- (6) *Street.* The word "street" shall mean and include any street, alley, lane, avenue, court, or other public vehicular right-of-way within the City of Franklin.

Sec. 9-1002. Permit required; permit fee.

- (1) No person, firm or corporation shall operate a profit or not-for-profit business, or any free service, involving the use of one or more pedicabs **and/or carriages** on the streets of the city unless a pedicab/**carriage** permit has first been obtained. The permit shall be effective only for the calendar year stated, unless suspended or revoked sooner.
- (2) Application for the permit shall ~~be~~ provide such information as is required for other business license applications and such additional information as may be necessary to define completely the pedicab **or carriage** operation. Renewal of the permit shall be required annually.
- (3) No separate fee for the pedicab permit shall be required; however, businesses shall be required to obtain a business license pursuant to title 5, Chapter 2 of this Code.

Sec. 9-1003. Fixed headquarters required.

Each pedicab **or carriage** company, as a condition for holding a permit under the provisions of this chapter, shall establish and maintain a fixed headquarters on private property for the operation of the company's business. The headquarters shall conform to ordinances of the city and shall provide adequate off-street parking space for all pedicabs **and/or carriages** not in service on the streets. The company headquarters shall not be moved except by the approved transfer of the company's permit to another location.

Sec. 9-1004. Indemnity for benefit of city.

Any pedicab **or carriage company** permittee operating under this chapter shall hold the city harmless against any and all liability, loss, costs, damages, or expense which may accrue to the city by reason of the negligence, default, or misconduct of the company in connection with the rights granted to such company under this chapter. Nothing in this chapter shall be considered to make the city liable for damages because of any negligent act or omission or commission by the company, its owner, operator, servants, agents, drivers, or other employees, during the operation of the business or service, either with respect to injuries to persons or damage to property which may be sustained.

Sec. 9-1005. Insurance.

Any pedicab **or carriage** company desiring a pedicab/**carriage** permit shall give and maintain a policy of comprehensive general liability insurance from an insurance company authorized to do business in the State of Tennessee for each pedicab **or carriage** in use as a transportation vehicle, with minimum general liability coverage as specified in title 22, comprehensive fees and penalties. Such insurance shall inure to the benefit of any person who shall be injured or shall sustain damage to property caused by the negligence or misconduct of the company, its servants or agents. Copies of such insurance policies shall be filed with the city risk manager and shall specifically provide that such policy shall not be cancelled for any cause, nonpayment of premium or otherwise without ten days' notice to the city before the cancellation shall take effect.

Sec. 9-1006. Driver's permit.

No person shall operate a pedicab **or carriage** upon the city streets, and no person who owns or operates a pedicab **or carriage** company shall permit a pedicab **or carriage** to be driven or operated under a permit, unless the driver shall first have obtained and shall have then in force a driver's permit issued under the provisions of this chapter.

Sec. 9-1007. Application.

Any person desiring a pedicab **or carriage** permit shall submit an application in writing to the business license department. The application shall be made under oath and shall state the age of the applicant, his or her address, and whether he or she has been convicted of or pled nolo contendere to a violation of any of the laws of the state or of this Code or other ordinances of the city and, if so, when and of what offense and the sentence of the court.

Sec. 9-1008. Physician's certificate required of pedicab drivers. Deleted.

~~Each application for a pedicab driver's permit shall be accompanied by a certificate from a reputable physician of the city certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him or her an unsafe or unsatisfactory pedicab operator. In the case of renewal of a pedicab driver's permit, the certificate shall be updated every two years.~~

Sec. 9-1009. Qualifications of applicant.

An applicant for a driver's permit under this chapter may not be less than 16 years of age, with no physical infirmities which might make the applicant an unsafe or unsatisfactory driver. No permit shall be issued to any person who has been convicted of operating a motor vehicle while under the influence of intoxicating beverages or drugs within one year prior to the date of the application for such permit or who has been convicted of the offense three or more times within five years prior to the date of the application for the permit. Nor shall a permit be issued to any person who has within three years prior to the date of the application for such permit been convicted of any crime related to transporting persons for immoral purposes or has within three years prior to the date of the application for such permit been convicted of a felony.

Sec. 9-1010. Driver's permit fee.

Before any permit is granted under this chapter, a driver's permit fee as specified in title 22, comprehensive fees and penalties, shall be paid by the applicant.

Sec. 9-1011. Current state driver's license required.

Any person applying for a driver's permit under this chapter must show that he has a current motor vehicle operator's license issued or approved by the State of Tennessee, and that the license is not under suspension or revocation.

Sec. 9-1012. Driver's permit to be displayed on pedicab **or carriage**.

The pedicab driver's permit issued under the provisions of this chapter shall be worn by permittee or displayed on the pedicab, **or carriage to be operated by the holder of the permit**, where the permit will be in clear view of the passengers at all times.

Sec. 9-1013. Alteration of permits prohibited.

It shall be unlawful for any person ~~to~~ willfully ~~to~~ alter, deface, obliterate, or destroy a driver's permit, or cause or allow the same.

Sec. 9-1014. Duration of permit; permit not transferable.

Any driver's permit shall be in effect for 12 months from the date of issue. Permits may be renewed, upon application and payment of the required fee, for each 12-month period thereafter, unless the permit for the preceding period has been revoked or is under suspension.

Any driver's permit issued under this chapter is not transferable, and is to be used solely by the person to whom it is issued.

Sec. 9-1015. Suspension of driver's permit.

Upon recommendation of the chief of police, the city administrator shall have authority to suspend a driver's permit for the following reasons:

- (1) Making any false statement in the application for the permit;
 - (2) Operating a pedicab **or carriage** in violation of any provision of this chapter or state law.
- The suspension by the city administrator shall be lifted upon dismissal or dropping of the charges described, upon satisfactory correction of any false statement in the application, upon correction of the violation of any provision of this chapter, upon ruling in favor of the driver in any hearing before the administrative hearing panel, or at the expiration of 60 days from the date of suspension. From the decision of the city administrator to suspend a permit, the holder of such permit shall have the right to appeal to an administrative hearing panel, as provided in this chapter.

Sec. 9-1016. Revocation of driver's permit.

In the event that any driver holding a permit under this chapter at any time ceases to meet the qualifications of a permit holder or fails to correct satisfactorily any false statement made in the application for the permit, or fails to operate a pedicab **or carriage** in accordance with the provisions of this chapter, the city administrator shall be empowered to revoke permanently the permit or to restore the same after a hearing as provided in this chapter.

Sec. 9-1017. Operating after suspension or revocation.

It shall be unlawful for any person to operate a pedicab **or carriage** for the transportation of passengers during any period in which the permit to do so is suspended or revoked in accordance with the provisions of this chapter.

Sec. 9-1018. Administrative hearing and appeal.

- (1) *Administration.* This chapter shall be administered by the business license administrator, who shall have authority to recommend to the city administrator the suspension of a pedicab driver's permit for violation of this chapter or state law. The city administrator shall have authority to suspend a driver's permit for violation of this chapter or state law.
- (2) *Administrative hearing and appeal.* Any decision of the city administrator to suspend a driver's permit may be appealed within ten business days. All appeals shall be made in writing to the city attorney. Such appeal shall be heard by an administrative hearing panel made up of:
 - (a) The assistant city administrator;
 - (b) The codes director or his designee;
 - (c) The city engineer or his designee; and
 - (d) The police chief or his designee.

The administrative hearing shall be informal and shall be presided over by the city attorney or his designee. The majority decision of the administrative hearing panel shall be provided to the company or driver in writing within three business days of the hearing. Decisions of the administrative hearing panel may, within ten days of notification, be appealed in writing to the board of mayor and aldermen and placed on the board's next regular agenda, whose ruling shall be final.

Sec. 9-1019. Identification and marking generally.

Every pedicab **or carriage** shall have a sign plainly indicated on ~~each side of~~ the vehicle containing the full name of the permittee.

Sec. 9-1020. Safe mechanical condition required.

Every pedicab **or carriage** operated on the streets of the city shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operative at all times when the pedicab **or carriage** is in service.

Sec. 9-1021. Cleanliness required.

Each vehicle operating under this chapter shall be kept painted and in a clean and sanitary condition, free of litter and debris, and at all times suitable for public transportation of passengers. **For carriages, all animals shall be fitted with manure bags that shall be emptied regularly. Manure shall not be deposited on any public street, way or property, nor in city trash disposal receptacles on city streets.**

Sec. 9-1022. Authority for removal of pedicabs **or carriages** from the streets.

The chief of police and the codes administration director shall each have the authority to immediately remove from operation on the streets of the city any pedicab **or carriage** which is in violation of this chapter, and to prohibit operation of the vehicle until all deficiencies have been corrected. An order to remove a pedicab **or carriage** from the streets may be appealed as provided in this chapter.

Sec. 9-1023. Rates of fare.

- (1) *Rate card required.* No owner or driver of a pedicab **or carriage** shall charge a greater amount for the use of the vehicle than in accordance with the published and advertised rates which shall be displayed on each vehicle. Rates shall be displayed in such place as to be conspicuous and to be in clear view of all passengers. If a permittee provides a free service or service for tips, a rate card stating "free service" shall be prominently displayed at all times.
- (2) *Published literature.* Any published literature provided by pedicab **or carriage** companies shall describe specifically all services offered and the rate to be charged.

Sec. 9-1024. Loading and unloading; stopping, standing and parking.

Pedicabs **and carriages** shall stop for the purpose of loading and unloading passengers only off the traveled lanes of the street. Pedicabs **and carriages** shall stop, stand or park only where motorized vehicles are permitted to park under all applicable laws.

Sec. 9-1025. Restriction on number of passengers.

No driver shall permit more persons to be carried in a pedicab **or carriage** as passengers than the rated seating capacity and weight of the vehicle. A child in arms shall not be counted as a passenger.

Sec. 9-1026. Refusal to carry orderly passengers prohibited.

No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.

Sec. 9-1027. Prohibitions of pedicab or carriage drivers.

It shall be unlawful for any driver of a pedicab to solicit business for any business or to attempt to divert patronage from one business to another or to use a pedicab **or carriage** for any purpose other than transportation of passengers.

Sec. 9-1028. Movement prohibited under certain circumstances.

No driver shall collect fares, make change, or take on or discharge passengers while his or her pedicab **or carriage** is in motion.

Sec. 9-1029. Safety equipment required; sirens or whistles prohibited.

Each pedicab **or carriage** shall be equipped with electrically powered lights or lanterns and with reflectors, which lights shall be in use when operating during the hours of darkness and when raining. The lights and reflectors shall be mounted so that they are visible from a distance of 500 feet in any direction. A pedicab shall not be equipped with nor shall any person use upon a pedicab any siren or whistle.

Sec. 9-1030. Area and time of operation; loading/unloading.

Pedicabs **and carriages** carrying passengers shall be confined to streets within the area bounded on the north by N. Margin Street; on the west by 10th Avenue; on the east by 1st Avenue and on the south by S. Margin Street. Pedicabs **and carriages** are prohibited in the city at all times, except on the aforementioned streets and street segments within the area defined above between the hours of 9:00 A.M. and 9:00 P.M. daily. **6:00 P.M. to 10:00 P.M. Monday through Friday; 11:00 A.M. to 10:00 P.M. Saturday; and 1:00 P.M. to 10:00 P.M. Sunday.**

Sec. 9-1031. Traffic regulations.

- (1) Pedicabs **and carriages** shall be prohibited from stopping in traffic or delaying any on-street traffic for the purpose of loading or unloading passengers or for any other purposes.
- (2) Every person driving a pedicab **or carriage** within the city limits of the City of Franklin shall be subject to the provisions of this chapter and shall operate pedicabs **and carriages** in accordance with the traffic laws of the State of Tennessee and the City of Franklin, ~~except that U-turns shall be permitted where both lanes of traffic are clear.~~
- (3) Considering the nature of operating pedicabs **and carriages** in areas of congestion and heavy traffic, pedicabs **and carriages** shall be operated with extra caution and due care for safety.

Sec. 9-1032. Impediment of traffic flow.

It shall be unlawful for the operator of any pedicab **or carriage** to willfully impede the normal flow of traffic on any street at any time. Pedicab and carriage drivers shall be required to pull immediately to the nearest curb area when one or more motor vehicles are unable to safely pass or continue in normal traffic flow.

The willful failure of any person to comply with this section shall constitute an offense which shall be punishable by a fine and/or suspension of the pedicab **or carriage** driver's permit for a period not to exceed 30 days for the first violation of this section. Second and subsequent violations shall be punishable by a fine and/or suspension of the driver's permit for not more than 60 days.

Sec. 9-1033. Compliance required; sunset provision.

Failure to comply with this chapter or any of the laws, ordinances, and regulations of the city can result in suspension or revocation of a pedicab **or carriage** driver's permit and shall be punishable by fine as specified in Title 22, comprehensive fees and penalties, per violation."

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____

Eric S. Stuckey
City Administrator

BY: _____

Dr. Ken Moore
Mayor

PASSED FIRST READING

April 10, 2012

PASSED SECOND READING

Approved as to form by:

Kristen L. Corn

Kristen L. Corn, Staff Attorney