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Sponsors: Leroy G. Comrie, Jr., Christine C. Quinn, Miguel Martinez, Michael E. McMahon, Hiram Monserrate, Larry B. Seabrook, Kendall Stewart, Thomas White, Jr., Domenic M. Recchia, Jr., Vincent J. Gentile, Daniel R. Garodnick, G. Oliver Koppell, John C. Liu, James F. Gennaro, Helen Sears, Bill De Blasio, (in conjunction with the Mayor)

Indexes:

Attachments: 1. Int. No. 331 - 5/10/06, 2. Proposed Int. No. 331-A - 12/11/06, 3. Memo In Support, 4. Committee Report 12/11/06, 5. Hearing Transcript 12/11/06, 6. Committee Report 2/28/07, 7. Hearing Transcript 2/28/07, 8. Resolution, 9. Hearing Transcript - Stated Meeting 2/28/07, 10. Fiscal Impact Statement, 11. Mayor's Veto Message, 12. Press Release 3/30/07, 13. Committee Report 4/20/06, 14. Hearing Transcript 4/20/07, 15. Press Release 4/23/07, 16. Hearing Transcript - Stated Meeting 4/23/07, 17. Local Law

Date	Ver.	Action By	Action	Result
5/10/2006	*	City Council	Introduced by Council	
5/10/2006	*	City Council	Referred to Comm by Council	
12/11/2006	*	Committee on Consumer Affairs	Hearing Held by Committee	
12/11/2006	*	Committee on Consumer Affairs	Amendment Proposed by Comm	
12/11/2006	*	Committee on Consumer Affairs	Laid Over by Committee	
2/28/2007	*	Committee on Consumer Affairs	Hearing Held by Committee	
2/28/2007	*	Committee on Consumer Affairs	Amendment Proposed by Comm	
2/28/2007	*	Committee on Consumer Affairs	Amended by Committee	
2/28/2007	A	Committee on Consumer Affairs	Approved by Committee	Pass
2/28/2007	A	City Council	Approved by Council	Pass
2/28/2007	A	City Council	Sent to Mayor by Council	
3/30/2007	A	Mayor	Vetoed by Mayor	
4/20/2007	A	Committee on Consumer Affairs	Hearing Held by Committee	
4/20/2007	A	Committee on Consumer Affairs	Approved by Committee	Pass
4/23/2007	A	City Council	Overridden by Council	Pass

Int. No. 331-A

By Council Members Comrie, The Speaker (Council Member Quinn), Martinez, McMahon, Monserrate, Seabrook, Stewart, White Jr., Recchia Jr., Gentile, Garodnick, Koppell, Liu, Gennaro, Sears, and DeBlasio (in conjunction with the Mayor)

A Local Law to amend the administrative code of the city of New York in relation to regulating and licensing pedicabs.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 9 to read as follows.

Subchapter 9

Pedicabs

§20-248 Legislative findings.

§20-249 Definitions.

§20-250 Pedicab business license.

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§20-252 Issuance of pedicab business license.

§20-253 Insurance.

§20-254 Required equipment of pedicabs.

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§20-256 Records.

§20-257 Pedicab driver license.

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§20-259 Restrictions on the operation of pedicabs.

§20-260 Rates of pedicabs.

§20-261 Denial of license or renewal, suspension and revocation.

§20-262 Failure to display pedicab registration or pedicab driver's license.

§20-263 Penalties.

§20-264 Enforcement.

§20-265 Rules.

§20-266 Reporting.

§20-248 Legislative findings. It is the purpose of this subchapter to regulate and control pedicab businesses to protect consumers and to ensure the safety of the public, including passengers and drivers operating pedicabs. It is also the purpose of this subchapter to minimize the effect of pedicabs on traffic and congestion by establishing a maximum number of pedicabs that can be authorized to operate in the city. It is the purpose of this subchapter to require the inspection of pedicabs to ensure that pedicabs are safely operated in the streets of the city, and to provide a process for their removal if they have not been inspected as required.

§20-249 Definitions. Whenever used in this subchapter:

a. "Family member" shall mean a member of the immediate family, including, but not limited to, a spouse, domestic partner, sibling, child, grandchild, parent or grandparent.

b. "Owned" or "owns" shall mean possession with good legal title, or possession under a lease, reserve title contract, conditional sales agreement or vendor's agreement or similar agreement.

c. "Pedicab" shall mean a bicycle as defined in the vehicle and traffic law or other device that is designed and constructed to

transport or carry passengers, that is solely propelled by human power, and that is operated to transport passengers for hire.

d. "Pedicab owner" or "owner" shall mean any person who owns one or more pedicabs in the city of New York.

e. "Pedicab business" or "business" shall mean a pedicab owner who operates or authorizes the operation of one or more pedicabs in the city of New York.

f. "Pedicab business license" shall mean a license issued by the commissioner pursuant to section 20-250.

g. "Pedicab driver" shall mean any natural person who propels and operates a pedicab in the city of New York.

h. "Pedicab driver license" shall mean a license issued by the commissioner to a pedicab driver to operate a pedicab.

i. "Person" shall mean any natural person, firm, partnership, joint venture, corporation or association.

§20-250 **Pedicab business license.** a. It shall be unlawful for a pedicab owner to conduct a pedicab business unless such pedicab owner shall have first obtained from the commissioner a pedicab business license.

b. In order to obtain, amend or renew a pedicab business license, a pedicab owner must provide the commissioner with the following:

1. A list of all pedicabs owned, leased or controlled by such pedicab owner for which such owner seeks registration pursuant to section 20-255. Each such pedicab shall be uniquely identified on such list;

2. Proof that there is in force for the full license term a policy of public liability and property damage insurance that meets the requirements of section 20-253 of this subchapter for each pedicab listed pursuant to paragraph one of this subdivision; and

3. Such other information as the commissioner may require to establish the pedicab owner's eligibility for a pedicab business license under this subchapter.

c. A pedicab business license shall be valid for a term of one year. There shall be an annual fee of one hundred and ten dollars for such license that shall include the fee for registration, required by section 20-255, of one pedicab. The registration fee for each additional pedicab shall be sixty dollars.

d. Notwithstanding subdivision a of this section, a person holding a pedicab driver license shall not be required to obtain a pedicab business license to drive a pedicab that is owned by a pedicab business licensed under this subchapter.

§20-251 **Cap on pedicabs** . a. The commissioner shall not issue registration plates or replaceable registration tags or decals, pursuant to section 20-255, to more than three hundred and twenty-five pedicabs at any one time.

b. The commissioner shall not issue registration plates or replaceable registration tags or decals to more than thirty pedicabs for any pedicab business at any one time. A pedicab business shall be deemed to have more than thirty pedicab registrations if:

(1) an owner of such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty pedicab registrations;

(2) a family member of the owner of such business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty pedicab registrations;

(3) a person who has a direct or indirect beneficial interest in such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty pedicab registrations; or

(4) a family member of a person who has a direct or indirect beneficial interest in such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty pedicab registrations.

c. The commissioner may prescribe by rule the process by which the number of pedicabs that each pedicab business can register is determined, consistent with the caps specified in subdivisions a and b of this section, including but not limited to, the procedures for the initial application and issuance of pedicab business licenses. Such selection process may consider whether the applicant has, prior to the enactment of this subchapter, owned or operated a pedicab and give priority to applicants who can provide proof of such previous ownership or operation of a pedicab.

§20-252 **Issuance of pedicab business license.** a. A pedicab business license shall be issued only to a person who meets all the requirements of this subchapter and any rules promulgated by the commissioner to effectuate the purposes of this subchapter.

b. A pedicab business license shall be valid only for the person in whose name it is issued.

c. The commissioner may refuse to issue to a pedicab owner a pedicab business license or to renew a pedicab business license to a pedicab owner based upon a determination that such applicant has engaged in conduct that would constitute a basis for license suspension or revocation as set forth in subdivision a of section 20-261 of this subchapter.

d. A pedicab business license cannot be transferred or sold. The commissioner shall promulgate rules as to whether, and the extent to which, a pedicab business license remains valid after any change in the beneficial ownership of a pedicab business, including, without limitation, any such change resulting from a direct or indirect, voluntary or involuntary, sale or transfer of a beneficial ownership interest.

20-253 **Insurance.** a. It shall be unlawful for any pedicab business to operate or authorize the operation of a pedicab within the city unless there is in force for such pedicab a policy of insurance that meets the requirements of this section.

b. Such policy of liability insurance shall insure such pedicab business and all pedicab drivers of the pedicabs of such business, whether such pedicab drivers are employees of the pedicab business or operate such pedicabs otherwise by agreement with the pedicab business. Such insurance policy must provide, at minimum, the following protection:

1. The pedicab business carries a policy providing liability coverage for injury or death of any person or persons, and damage to or destruction of any property in a combined single limit amount of two million dollars, or such higher amount as the

commissioner may determine pursuant to rule, with a maximum of one million dollars for each accident, where liability for such injury or death of a person or persons, or damage to or destruction of property shall arise out of the operation of the pedicab business's pedicabs; or

2. Each pedicab is insured in at least the following amounts, unless the commissioner establishes higher amounts pursuant to rule, where liability for such injury or death of a person or persons, or damage to or destruction of property shall arise out of the operation of the pedicab:

(i) for personal injury or death to one person, one hundred thousand dollars;

(ii) for personal injury or death to all persons in one accident, three hundred thousand dollars, with a maximum of one hundred thousand dollars for each person; and

(iii) for property damage, fifty thousand dollars.

c. Such policy of liability insurance shall name the city of New York as an insured party.

d. The pedicab business shall notify the commissioner of any modification, amendment, cancellation or substitution of any insurance policy required under subdivision b of this section within fourteen days of the date of the notice to the pedicab business of such modification, amendment, cancellation or substitution.

e. If the policy of insurance required by this section lapses for any reason, the license issued pursuant to section 20-250 shall become void for such pedicab business.

§20-254 **Required equipment of pedicabs.** a. Each pedicab operated in the city shall be equipped with the following features:

1. three or more wheels;

2. a unibody frame for the entire vehicle;

3. seating for no more than three passengers;

4. hydraulic or mechanical disc or drum brakes, which are unaffected by rain or wet conditions;

5. a secondary or emergency brake system;

6. battery-operated headlights capable of projecting a beam of light for a distance of 300 feet;

7. battery-operated taillights which are visible from 500 feet;

8. turn lights;

9. passenger seat belts;

10. an audible signaling device;

11. reflectors on the spokes of the wheels of the pedicab;

12. a timer, of a type approved by the commissioner, affixed within clear view of passengers, if the rate charged is based on period of use;

13. a sign attached to the interior of the pedicab within view of passengers indicating the name and telephone number of the pedicab business, the pedicab's registration number and a telephone number that can be used to direct consumer complaints about such pedicab to the department; and

14. a sign conspicuously posted on the exterior of the pedicab indicating the amount to be charged for the use of the pedicab or the basis for calculating such amount.

b. The maximum width of a pedicab shall be fifty-five inches and the maximum length of a pedicab shall be ten feet.

c. It shall be unlawful for a pedicab business to operate or authorize the operation of, or for a pedicab driver to operate, a pedicab that does not comply with the requirements of this section.

§20-255 Inspection; pedicab registration plate.

a. It shall be unlawful for a pedicab business to operate or authorize the operation of, or for a pedicab driver to operate, a pedicab unless:

1. it has been inspected by the department;

2. it has been issued a registration plate that indicates on such plate, or by a replaceable registration tag or decal, the expiration date of the current registration; and

3. such registration is in effect.

b. The registration shall be valid for a period no longer than one year and the expiration date of such registration plate or replaceable registration tag or decal shall be a date specified by the commissioner by rule.

c. If the commissioner determines after such inspection that a pedicab is equipped with the features set forth in subdivision a of section 20-254, upon payment of the registration fee provided by section 20-250 of this subchapter, the department shall issue a registration plate or replaceable registration tag or decal to the pedicab business that leased or otherwise authorized the operation of such pedicab.

d. Such registration plate shall be securely affixed by the department to a conspicuous and indispensable part of each pedicab.

e. The registration plate may, in the discretion of the commissioner, be of a permanent nature with a replaceable registration tag or decal attached thereto, indicating the expiration date of the current registration tag or decal.

f. The registration plate and the replaceable registration tag or decal shall be of such material, form, design and dimension and set forth such distinguishing number or other identification marks as the commissioner shall prescribe.

g. A pedicab business shall pay an additional fifty-five dollars as the re-inspection fee for any pedicab that is determined upon inspection not to meet the requirements of this section and such business re-applies for a registration plate or replaceable registration tag or decal.

§20-256 **Records.** Every pedicab business shall maintain such records related to the ownership and operation of its pedicabs as the commissioner may prescribe by rule. Such records shall be made available for inspection by the commissioner at his or her request at either the offices of the pedicab business or at the offices of the department.

§20-257 **Pedicab driver license.** a. It shall be unlawful for a pedicab driver to operate a pedicab unless the pedicab driver shall have first obtained a pedicab driver license from the commissioner.

b. It shall be unlawful for a pedicab business to permit the operation of any pedicabs owned by it by a person who does not have a pedicab driver license and a motor vehicle driver's license in full force and effect.

c. In order to obtain or renew a pedicab driver license, a pedicab driver shall file an application with the commissioner for such pedicab driver license. Such application shall be made upon such form as prescribed by the commissioner and shall contain such information as the commissioner may require to establish the applicant's eligibility for a pedicab driver license under this subchapter.

d. To be eligible for a pedicab driver license, an applicant shall:

1. be at least eighteen years of age;
2. possess a currently valid motor vehicle driver's license;
3. not have his or her New York State motor vehicle driver's license suspended or revoked; and
4. meet such fitness requirements as the commissioner may determine by rule.

e. A pedicab driver license shall be valid for a term of one year. There shall be a fee of thirty-five dollars for such license.

The commissioner shall establish the expiration date for such license by rule.

f. The commissioner may refuse to issue a pedicab driver license or to renew such a license based upon a determination that such pedicab driver has engaged in conduct which would constitute a basis for the suspension or revocation of a pedicab driver license as set forth in subdivision c of section 20-261 of this subchapter.

§20-258 **Display of pedicab driver's identification.** a. The commissioner shall provide a photo identification card to each pedicab driver who has obtained a pedicab driver license. Such photo identification card shall include the license number of such pedicab driver license and the motor vehicle driver's license number of such pedicab driver, as well as the issuing state of such motor vehicle driver's license.

b. The pedicab driver shall wear such photo identification card so that it is visible to passengers and enforcement officers when such pedicab driver is operating a pedicab. A copy of such photo identification card shall also be displayed inside any pedicab

under the control of such driver in a manner clearly visible to the passengers of such pedicab.

§20-259 Restrictions on the operation of pedicabs. a. A pedicab driver shall be subject to all provisions of state and local law governing the operation of a bicycle, which include, but are not limited to, provisions of the vehicle and traffic law, the New York city administrative code, and rules of the city of New York promulgated by the department of transportation and the department of parks and recreation.

b. A pedicab driver shall not:

1. operate a pedicab to transport more than three passengers.

2. operate a pedicab in motion while a passenger is standing in such pedicab.

3. operate a pedicab on any bridge or in any tunnel or in any bicycle lane.

4. permit a pedicab to be operated simultaneously by anyone in addition to him or herself.

5. operate a pedicab that is designed or constructed to permit propulsion by more than one individual at any one time.

6. operate a pedicab while such pedicab driver's ability to operate such pedicab is impaired by the consumption of alcohol, the use of any drug or by any other means or while such pedicab driver is in an intoxicated condition. A pedicab driver operating a pedicab which has been involved in an accident or has been operated in violation of subdivision a of this section shall be deemed to have given consent to a breath test and shall, at the request of a police officer, submit to a breath test to be administered by the police officer. Failure to submit to such breath test shall serve as the basis for an immediate suspension of the pedicab driver's license, subject to a prompt post-suspension hearing.

7. operate a pedicab without a currently valid motor vehicle driver's license or while such pedicab driver's New York State motor vehicle driver's license is suspended or revoked.

c. Pedicabs can be operated within any public park or any property under the charge or control of the department of parks and recreation pursuant to the rules of the department of parks and recreation and in accordance with the rules of the department of transportation.

d. A pedicab business shall submit to the department, upon such form prescribed by the commissioner, a written report of every accident relating to a pedicab by such pedicab business within twenty-four hours after the occurrence of such accident. Such form shall be signed by a principal or officer of such pedicab business as well as by the pedicab driver involved in such accident with an affirmation of the truth of the contents of the form.

e. If there are exigent circumstances and a police officer or other authorized officer or employee of any city agency directs a pedicab driver to move his or her pedicab from any street, avenue or other location, such pedicab driver shall not operate his or her pedicab at such street, avenue or location for the duration of such exigent circumstances.

1. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space, an accident, fire or other emergency, a parade, demonstration or other such event at or near such location.

f. If there are exceptional circumstances, the police commissioner, in consultation with the commissioners of the departments of consumer affairs and transportation, shall be authorized, upon notice, to restrict or prohibit any pedicab driver from operating his or her pedicab on any street, avenue or other location for a specified period of time. Such specified period of time shall not exceed fourteen days except, during the period that commences November 12 and concludes January 7 of the following year, in and around the area of Manhattan bound on the north by Fifty-ninth Street, on the south by Thirty-ninth Street, on the east by Lexington Avenue and on the west by Eighth Avenue, the fourteen day time limit shall not be in effect.

1. For the purposes of this subdivision, exceptional circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space, a parade, demonstration or other such event or occurrence at or near such location.

g. Every affected community board may, at any time subsequent to enactment of this local law, conduct public hearings hereon and submit written recommendations to the department of consumer affairs, the department of transportation, the police department and the council. Such recommendations may include, but not be limited to, methods to address any impact this law may have on such community with respect to pedestrian and vehicle traffic flow.

§20-260 **Rates of pedicabs.** a. The basis for calculating the amount of the charge for the use of a pedicab shall be displayed on the pedicab at all times.

b. It shall be unlawful for a pedicab driver to charge a passenger more than the amount or rate displayed on the pedicab.

c. The pedicab driver shall provide passengers with a receipt listing the amount of the charge for the use of the pedicab, the license number of the pedicab business and a telephone number of such business to which complaints by consumers shall be directed, the pedicab driver's license number and the telephone number at the department where complaints by consumers can be reported.

§20-261 **Denial of license or renewal, suspension and revocation.**

a. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, the commissioner, after due notice and an opportunity to be heard, may suspend or revoke a pedicab business license upon the occurrence of any one or more of the following conditions:

1. the occurrence of fraud, misrepresentation, or false statements contained in the application for such license;

2. the operation of a pedicab, owned by the pedicab business, by a pedicab driver who does not have in full force and effect a pedicab driver license and a motor vehicle driver's license;

3. the operation of a pedicab, owned by the pedicab business, that has not been inspected or that does not have affixed to it a registration plate or replaceable registration tag or decal as required by section 20-255 of this subchapter; or

4. violation by a pedicab business of any of the provisions of chapter one of this title, provisions of this subchapter, rules promulgated pursuant to this subchapter, or any other law applicable to the operation of a pedicab business.

b. Notwithstanding subdivision a of this section, upon the occurrence of any of the conditions set forth in subdivision a, if the commissioner determines that continued possession by a pedicab owner of a pedicab business license would pose an exigent danger to the public, the commissioner may suspend such pedicab business license, subject to a prompt post-suspension hearing.

c. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, the commissioner, after due notice and an opportunity to be heard, may suspend or revoke a pedicab driver license upon the occurrence of any one or more of the following conditions:

1. the occurrence of fraud, misrepresentation, or false statements contained in the application for such license;

2. the operation of a pedicab that has not been inspected or that does not have affixed to it a registration plate or replaceable registration tag or decal as required by section 20-255 of this subchapter; or

3. the violation by a pedicab driver of any of the provisions of chapter one of this title, provisions of this subchapter, rules promulgated pursuant to this subchapter, or of any other law applicable to the operation of a pedicab by such pedicab driver.

d. Notwithstanding subdivision c of this section, upon the occurrence of any of the provisions set forth in subdivision c of this section, if the commissioner determines that continued possession by a pedicab driver of a pedicab driver license would pose an exigent danger to the public, the commissioner may suspend such pedicab driver license, subject to a prompt post-suspension hearing.

e. Any pedicab business that has been found, or pedicab driver who has been found, to have committed at least three violations of this subchapter within any twelve-month period shall have its, his or her license suspended by the commissioner for a period of not less than three months. For purposes of this subdivision only, all violations committed on any one day shall constitute a single violation.

f. Notwithstanding the provisions of subdivision e of this section, any pedicab business that has been found, or pedicab driver who has been found, to have committed at least five violations of this subchapter within any twelve month period shall have its, his or her license revoked by the commissioner. For purposes of this subdivision only, all violations committed on any one day shall constitute a single violation.

g. A pedicab business that, or pedicab driver who, has had its, his or her license revoked, in accordance with this section may not apply for a new license for three years from the date of revocation.

§20-262 Failure to display pedicab registration or pedicab driver's license. a. In any civil, criminal or administrative

action or proceeding, the failure to display the registration tag or decal on the pedicab on which it is required to be displayed as provided in section 20-255 of this subchapter shall be presumptive evidence that such pedicab has not been inspected and is not duly registered as required by this subchapter.

b. In any civil, criminal or administrative action or proceeding, the failure by a pedicab driver who is required to be licensed pursuant to the provisions of this subchapter to display or to exhibit on demand such pedicab driver's license in accordance with the provisions of this subchapter to any officer or employee authorized to enforce the provisions of this subchapter, shall be presumptive evidence that such pedicab driver is not duly licensed.

§20-263 **Penalties.** a. It is a traffic infraction to violate any provision of this subchapter and such traffic infractions shall be punishable in accordance with section eighteen hundred of the New York state vehicle and traffic law.

b. Any person who violates any provision of this subchapter or any rules promulgated pursuant to this subchapter shall be subject to a civil penalty that shall not be: (1) less than two hundred nor more than five hundred dollars for the first violation and for each additional violation committed on the same day; (2) less than five hundred nor more than one thousand dollars for the second violation committed, and each additional violation committed on the same day, within a one year period; (3) less than one thousand nor more than four thousand dollars for the third violation committed, and each additional violation committed on the same day, within a one year period. The pedicab business that authorizes the operation of such pedicab shall be jointly and severally liable with the pedicab driver thereof, for the penalties imposed by this section.

c. A violation of section 20-250 or 20-257 or paragraph 6 of subdivision b of section 20-259 of this subchapter or any rules promulgated thereunder shall constitute a violation punishable by a fine of not more than five hundred dollars or imprisonment of up to fifteen days, or by both such fine and imprisonment.

d. Any police or peace officer or authorized officer or employee of the department, upon service on the pedicab business or pedicab driver of a notice of violation for the failure of the pedicab business to obtain the required inspection of a pedicab pursuant to subdivision a of section 20-255 or for the failure of a pedicab driver to be licensed pursuant to section 20-257, may seize such pedicab. Any pedicab seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. The commissioner shall hold a hearing to adjudicate the violation of subdivision a of section 20-255 or section 20-257 within two business days after the date of the seizure and shall render his or her determination within two business days after the conclusion of the hearing.

e. A pedicab business shall be eligible to obtain release of a pedicab seized pursuant to subdivision d of this section prior to the hearing provided for in such subdivision, if such business has not been found liable for a violation of subdivision a of section 20-

255 or section 20-257 within a five-year period prior to the violation resulting in seizure. The pedicab shall be released to such business upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount sufficient to cover the maximum civil penalties which may be imposed for a violation of subdivision a of section 20-255 or section 20-257 and all reasonable costs for removal and storage of such vehicle.

f. Where the commissioner, after adjudication of the violation of subdivision a of section 20-255 or section 20-257, finds that the pedicab business has not violated such subdivision, the department shall promptly release such pedicab upon written demand of the pedicab business.

g. Where the commissioner, after adjudication of the violation of subdivision a of section 20-255 or section 20-257, finds a violation of such subdivision or such section, then (i) if the pedicab is not subject to forfeiture pursuant to paragraph one of subdivision i of this section, the department shall release such pedicab to the pedicab business upon payment of all applicable civil penalties and all reasonable costs of removal and storage; or (ii) if the pedicab is subject to forfeiture pursuant to paragraph one of subdivision i of this section, the department may release such pedicab to the pedicab business upon payment of all civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the written demand by such business for such pedicab.

h. The department shall establish by rule the time within which pedicabs that are not redeemed may be deemed abandoned and the procedures for disposal.

i. 1. In addition to any other penalty or sanction provided for in section 20-261 or in this section, a pedicab seized pursuant to subdivision d of this section, and all rights, title and interest therein shall be subject to forfeiture to the city upon notice and judicial determination thereof if the pedicab business that owns such pedicab has been found liable at least two times within a five-year period for failing to have such pedicab inspected as required by subdivision a of section 20-255 or for permitting operation by an unlicensed pedicab driver in violation of section 20-257.

2. A forfeiture action pursuant to this subdivision shall be commenced by the filing of a summons with a notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on the pedicab business that owns such pedicab, and on any person listed on an application or other record of the department as an owner of such pedicab. A pedicab which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

3. Any person who receives notice of the institution of a forfeiture action who claims an interest in the pedicab subject to forfeiture may assert a claim in such action for the recovery of the pedicab or satisfaction of such owner's interest in such pedicab.

4. Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in such

pedicab pursuant to subdivision three of this subdivision, where such person establishes that: (i) such pedicab was operated without having been inspected as required by subdivision a of section 20-255 or operated in violation of section 20-257 without the knowledge of such person, or if such person had knowledge of such operation, that such person did not consent to such operation by doing all that could reasonably have been done to prevent such operation, or (ii) that the operation of such pedicab without having been inspected as required by subdivision a of section 20-255 or operated in violation of section 20-257 was conducted by any person other than such person claiming an interest in the pedicab, while such pedicab was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

5. The department or agency having custody of the pedicab, after judicial determination of forfeiture, shall, by public notice of at least five days, sell such forfeited pedicab at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

6. In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's interest in the forfeited pedicab, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle after deduction of the lawful expenses incurred by the city, including reasonable costs of removal and storage of the pedicab between the time of the seizure and the date of sale.

j. The penalties provided by subdivisions a, b, c, d and i of this section shall be in addition to any other penalty imposed by any other provision of law or rule promulgated thereunder.

§20-264 **Enforcement.** Authorized officers and employees of the department, the police department and any department designated by the commissioner, and any police or peace officer shall have the power to enforce any provision of this subchapter or any rule or regulation promulgated pursuant to this subchapter.

§20-265 **Rules.** a. The commissioner may make and promulgate such rules and prescribe such forms as are necessary to carry out the provisions of this subchapter. The commissioners of the department of transportation and the department of parks and recreation may also make and promulgate such rules as are necessary to carry out the provisions of this subchapter.

b. The commissioner may authorize pedicabs to display advertising to the extent permitted by rules promulgated pursuant to this section.

§20-266 **Reporting.** Eighteen months after the local law that added this section, the commissioner, in consultation with the commissioners of the departments of transportation and the police department, shall submit a report to the mayor and the speaker of the council regarding the effectiveness of these regulations at ensuring the safety of pedicab consumers and minimizing the effects of pedicabs on traffic and congestion. Such report shall include, among other things, the number of pedicab business licenses issued, the number of pedicabs that have registered, the number of pedicab driver licenses issued, the number of pedicab business and pedicab

driver applications received by the department, the number of pedicab business and pedicab driver applicants on a waiting list, if any, and the number of traffic accidents involving pedicabs.

§2. Subdivision b of section 20-452, as amended by local law 14 for the year 1995, is amended to read as follows:

b. “General vendor.” A person who hawks, peddles, sells, leases or offers to sell or lease, at retail, goods or services, including newspapers, periodicals, books, pamphlets or other similar written matter in a public space. This definition shall not include a food vendor as defined in subdivision c of section 17-306 of chapter three of title seventeen of this code, or a person required to be licensed under section 20-229 of subchapter seven of chapter two of this title of this code. This definition also shall not include persons who use stands or booths in a public space for the shining of shoes. This definition shall not include a pedicab driver licensed in accordance with subchapter nine of this chapter, who is operating a pedicab registered pursuant to subchapter nine and shall not include a pedicab owner licensed pursuant to such subchapter.

§3. Title 19 of the administrative code of the city of New York is amended by adding a new section 19-171.1 to read as follows:

§19-171.1. Multi-passenger wheeled device and motorized pedicab prohibited.

a. Definitions. For purposes of this section:

1. “Motorized pedicab” shall mean a wheeled device that is designed and constructed to transport or carry passengers, that is propelled in whole or in part by other than human power, and that is operated to transport passengers for hire.

2. “Multi-passenger wheeled device” shall mean a wheeled device with three or more wheels that is designed and constructed to permit seating by more than two people, that is propelled by human power, and that is designed to permit propulsion by more than two individuals simultaneously.

3. “Owner” shall mean any person who possesses with good legal title, or possesses under a lease, reserve title contract, conditional sales agreement or vendor’s agreement or similar agreement one or more motorized pedicabs or multi-passenger wheeled devices in the city of New York.

4. “Tandem bicycle” shall mean a wheeled device that is constructed so that its wheels are aligned in a straight line, one behind the other, permitting operation by two or more people.

b. It shall be unlawful to operate, or cause to be operated, any motorized pedicab or multi-passenger wheeled device, other than a tandem bicycle, on any street, sidewalk, highway, bridge, tunnel or park within New York City.

c. Any person who violates subdivision b of this section may be issued a notice of violation and shall be subject to a civil penalty that shall not be: (1) less than two hundred nor more than five hundred dollars for the first violation; (2) less than five hundred nor more than one thousand dollars for the second violation committed within a one year period; (3) less than one thousand nor more

than four thousand dollars for the third violation committed within a one year period. Such penalty may be recovered in a proceeding before the environmental control board.

d. A person who violates subdivision b of this section shall be guilty of a misdemeanor, punishable by a fine of not more than two hundred fifty dollars or imprisonment of up to sixteen days, or by both such fine and imprisonment.

e. Where a police or peace officer or an authorized employee of a department designated by the commissioner serves a summons or notice of violation for violation of this section on a person operating a multi-passenger wheeled device or motorized pedicab, such multi-passenger wheeled device or motorized pedicab may be seized. Any device seized pursuant to this subdivision shall be delivered into the custody of the police department. The environmental control board shall hold a hearing to adjudicate the violation of subdivision b of this section on an expedited schedule and shall render its determination accordingly.

f. The owner of a multi-passenger wheeled device or motorized pedicab seized pursuant to subdivision e of this section shall be eligible to obtain release of such device prior to the hearing provided for in such subdivision, if such owner has not been found liable for a violation of subdivision b of this section within a five year period prior to the violation resulting in seizure. The multi-passenger wheeled device or motorized pedicab shall be released to such owner upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount satisfactory to cover the maximum civil penalties which may be imposed for a violation of subdivision b of this section and all reasonable costs for removal and storage of such device.

g. Where the environmental control board finds that there was no violation of subdivision b of this section, the owner shall be entitled forthwith to possession of the multi-passenger wheeled device or motorized pedicab without charge or to the extent that any amount has been previously paid for release of the device, such amount shall be refunded.

h. Where the board, after adjudication of the violation of subdivision b of this section, finds a violation of such subdivision, then (i) if the multi-passenger wheeled device or motorized pedicab is not subject to forfeiture pursuant to paragraph one of subdivision j, the police department shall release such device to its owner upon payment of all applicable civil penalties and all reasonable costs of removal and storage; or (ii) if the multi-passenger wheeled device or motorized pedicab is subject to forfeiture pursuant to paragraph one of subdivision j of this section, the police department may release such device to its owner upon payment of all civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the written demand by such owner for such device.

i. The department shall establish by rule the time within which multi-passenger wheeled devices or motorized pedicabs that are not redeemed may be deemed abandoned and the procedures for disposal.

j. 1. In addition to any other penalty or sanction provided for in this section, a multi-passenger wheeled device or motorized pedicab seized pursuant to subdivision e of this section, and all rights, title and interest therein shall be subject to forfeiture to the city

upon notice and judicial determination thereof if the owner of such multi-passenger wheeled device or motorized pedicab has been found liable at least two times within a five-year period for violation of subdivision b of this section.

2. A forfeiture action pursuant to this subdivision shall be commenced by the filing of a summons with a notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on the owner of such multi-passenger wheeled device or motorized pedicab. A multi-passenger wheeled device or motorized pedicab which is the subject of such action shall remain in the custody of the police department or other appropriate agency pending the final determination of the forfeiture action.

3. Any person who receives notice of the institution of a forfeiture action who claims an interest in the multi-passenger wheeled device or motorized pedicab subject to forfeiture may assert a claim in such action for the recovery of such device or satisfaction of such owner's interest in such device.

4. Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in such device pursuant to subdivision three of this subdivision, where such person establishes that: (i) such multi-passenger wheeled device or motorized pedicab was operated in violation of this section without the knowledge of such person, or if such person had knowledge of such operation, that such person did not consent to such operation by doing all that could reasonably have been done to prevent such operation, or (ii) that the operation of such multi-passenger wheeled device or motorized pedicab in violation of this section was conducted by any person other than such person claiming an interest in the device, while such device was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

5. The police department, after judicial determination of forfeiture, shall, by public notice of at least five days, sell such forfeited multi-passenger wheeled device or motorized pedicab at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

6. In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's interest in the forfeited device, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited device after deduction of the lawful expenses incurred by the city, including reasonable costs of removal and storage of the device between the time of the seizure and the date of sale.

k. The penalties provided by subdivisions c, d, e and j of this section shall be in addition to any other penalty imposed by any other provision of law or rule promulgated thereunder.

§4. Severability clause.

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remaining portions of this local law, but shall be

confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§5. This local law shall take effect 150 days after it shall have become a law, except that prior to such date, the Commissioner may take such actions, including the promulgating of rules and the processing of applications as provided in subchapter 9 of chapter 2 of title 20 of the administrative code of the city of New York and in such rules, as necessary to implement this local law, and except that section three of this local law shall take effect immediately and except that section 20-251 of the administrative code of the city of New York, as added by section one of this local law, shall be deemed repealed two years after it shall have become a law.

T.S.F
2/16/2006