City of Birmingham
A Walkable Community

MEMORANDUM

Police Department

DATE: **September 4, 2015**

TO: **Joseph A. Valentine, City Manager Donald A.**

FROM: **Studt, Police Chief**

SUBJECT: **Pedi-Cabs and Commercial Quadricycles**

Pedal-pubs are quadricycles operated by a driver and seated patrons provide pedal power for tours around the community. Pedal-cabs are 3 wheeled cycles where the driver provides transportation for up to 2 seated patrons.

In July the governor signed legislation which would allow pedal-pubs to serve alcohol to passengers absent local regulations.

We reviewed pedal-pub operations and regulations in Royal Oak (pending approval), Bay City, Grand Rapids and Traverse City. None of these areas currently allow alcohol service.

In that we currently have no regulations for pedi-pubs or pedi-cabs the city has 3 alternatives:

1. Prohibit the use of pedi-cabs and pedi-pubs.

2. Allow operation, with restrictions, without the service of alcohol.

3. Allow operation with the service of alcohol.

Attached are 3 draft ordinances prepared by the City Attorney for consideration.

One prohibits operation of these vehicles.

The other 2 proved licensing requirements and regulations including hours of operation, dates of operation, limits on routes, drop-off/pick-up areas, parking and storage limitations as well as insurance standards. One prohibits, the other allows the service of alcohol.

We recommend the adoption of the draft ordinance allowing the operation of pedi-cabs and pedi-pubs without the service of alcohol subject to the delineated insurance, licensing and regulations provided.

SUGGESTED ACTION:
To adopt the attached ordinance, Chapter 110. Article X—PEDICABS AND COMMERICAL QUADRICYCLES. Further to authorize the mayor to sign on behalf of the City

To prohibit the operation of pedi-cabs and pedi-pubs within the city.

Or

To allow the operation of pedi-cabs and pedi-pubs without the service of alcohol, and to amend the schedule of fees, charges , bond and insurance, Police Department section to add a fee for pedi-cabs and commercial quadricycles application in the amount of $50.

Or

To allow the operation of pedi-cabs and pedi-pubs with the service of alcohol, and to amend the schedule of fees, charges , bond and insurance, Police Department section to add a fee for pedi-cabs and commercial quadricycles application in the amount of $50.

CITY OF BIRMINGHAM, MICHIGAN

PEDICAB AND COMMERCIAL QUADRICYCLE APPLICATION

License Year _____

Business Name _____

Business Address _____
Street City State Zip

Email: _____ Business Phone: _____ Cell Phone: _____

_____ Individual _____ Partnership _____ Corporation

Name of Authorized Representative: _____

Address: _____
Street City State Zip

Email: _____

Business Phone: _____ Cell Phone: _____

Hours of operation _____

_____ Attach a description of methods, procedures and equipment to be used
_____ Attach a photograph of pedicab or commercial quadricycle
_____ Attach a list of names, ages and addresses of all drivers
_____ Attach a map showing locations of proposed routes, pickup points and methods of operations
_____ Attach Insurance Certificate (Comprehensive General Liability Insurance in the amount of $2,000,000 listing the City of Birmingham as additional insured
_____ Application Fee ($50)

OFFICE USE ONLY

_____ **$50 License Fee**
_____ **Police Department**
_____ **Insurance**

License No. _____

Issued Date: _____

INSURANCE REQUIREMENTS FOR
PEDICAB OR COMMERCIAL QUADRICYCLE LICENSE

The owner of every pedicab or commercial quadricycle shall procure and file with the city clerk a liability insurance policy or similar proof of insurance issued by an insurance company authorized to do business in the state. The amount of such liability insurance for each pedicab or commercial quadricycle shall be as follows: An amount of not less than $2,000,000 because of bodily injury to or death of any one person; in an amount of $2,000,000 because of bodily injury of two or more persons in any one accident; in an amount of not less than $2,000,000 in medical coverage for each passenger. Such policy of insurance may be in the form of a separate policy for each pedicab or commercial quadricycle, or may be in the fleet policy covering all pedicabs or commercial quadricycles operated by such owner; provided, however, that such a policy provide for the same amount of liability for each pedicab or commercial quadricycle operated. Provided further, such policy shall name the City of Birmingham as an additional insured, and no such policy as required above may be cancelled until the expiration of 30 days after notice of intent to cancel has been given in writing to the city clerk of the city by registered mail or personal delivery of such notice and a provision to that effect is made a part of such policy.

CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE _____

THE CITY OF BIRMINGHAM ORDAINS:

_____

CHAPTER 110.

ARTICLE X. – PEDICABS AND COMMERCIAL QUADRICYCLES.

Sec. 110-275. – Purpose.

The transportation of persons by means of pedicabs or commercial quadricycles is a matter closely affecting the public interest. The public interest requires that pedicab and commercial quadricycle drivers be properly qualified persons, that the pedicabs and commercial quadricycles be fit for their intended purpose, and that the safety and welfare of passengers be protected in the operation of pedicabs and commercial quadricycles.

Sec. 110-276. – Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial quadricycle means a vehicle that is defined in PA 127 of 2015.

Operating permit means a written permit issued by the city manager or designee authorizing a person to operate a pedicab or commercial quadricycle.

Pedicab means a multiwheeled passenger vehicle that is moved by human power that is pulled, pushed, or otherwise propelled by a person, which is used in the movement of passengers on public rights-of-way and shall include vehicles pulled or pushed directly by human power and vehicles propelled through a cycle or other mechanical means. Pedicab shall include, but not be limited to, cycle rickshaws, cyclos, geotaxis, trishaws, bike taxis, and other pushcart or rickshaw-type vehicles.

Pedicab driver means a person who operates a pedicab.

Pedicab Owner means a person, corporation, limited liability company, partnership, or other such business entity that is the owner of a pedicab or a proprietor of a pedicab business who supplies pedicabs to others to operate as independent contractors or employees.

Sec. 110-277. – Prohibition on the operation of pedicabs and commercial quadricycles.

No person shall drive or operate a pedicab or commercial quadricycle upon the streets, highways, or thoroughfares of the city, and no person who owns or controls a pedicab or commercial quadricycle shall permit it to be so driven or operated without an operating permit issued by the city. Pedicabs and commercial quadricycles shall be driven or operated in strict compliance with all of the requirements of this article.

Sec. 110-278. – Application for operating permit.

(a) The city manager or designee shall issue operating permits for pedicabs and commercial quadricycles. Every person desiring to obtain an operating permit is required to make written application for a permit to the city manager or designee on forms provided by the city manager or designee. The applicant shall truthfully and fully provide the information requested on the application, including, but not limited to:

(1) The applicant's full name and residence address;

(2) The applicant's date of birth;

(3) The applicant's driver's license and number;

(4) The name of any business entity applying for an operating permit;

(5) A certificate of insurance satisfying the requirements of section 110.284;

(6) A map of the city showing proposed routes, stands, or pick up points;

(7) A list of each authorized pedicab or commercial quadricycle driver, including name, address, date of birth, driver's license number, the length of time such driver has been a resident of Michigan, and certification that the driver has completed the required training programs established by this article;

(8) A description of the pedicab and/or commercial quadricycle, including trade name, number of seats, serial number, if any, and body style; and

(9) Such other material as the city manager or designee may require.

(b) If the applicant is a corporation, limited liability company, partnership, or other such business entity, the person who will be acting as principal in charge of the business to be licensed shall sign the application, and all owners of the business entity shall meet all of the requirement for individual applicants.

Sec. 110-279. Review of application.

(a) Upon filing of the application for an operating permit, the city manager or designee shall review and evaluate the application. In determining whether a permit should be

issued, the city manager or designee shall evaluate whether the application and the applicant meet all of the following:

(1) Whether the proposed activities comply with all of the provisions of this article and the code;

(2) Whether the proposed activities involve the safe use of streets by the public for vehicles and pedestrians;

(3) Whether the applicant has not previously violated the provisions of this article or the code.

(b) The police department shall review the application to determine if it satisfies the requirements of this article.

(c) If the permit is not approved, the applicant may file an appeal with the city manager or designee.

Sec. 110-280. – Validity of operating permit.

(a) Operating permits shall expire on December 31 of each year.

(b) The holder of an operating permit may renew an operating permit for the ensuing year with the city manager or designee if in compliance with this article. In order to obtain a renewal, the operating permit holder shall submit such information and fees as shall be required by the city manager or designee.

(c) Operating permits shall become invalid immediately if the operating permit is defaced, altered, forged, or counterfeited.

Sec. 110-281. – Fee.

The annual fee for an operating permit under this article shall be those fees on file with the city manager or designee which have been approved by the city commission.

Section 110.282. – Operating regulations.

(a) Pedicabs and commercial quadricycles are only permitted to be driven or operated in the city on streets, highways, or thoroughfares designated by the city manager or designee.

(b) If a pedicab or commercial quadricycle owner desires that a person drive a pedicab or commercial quadricycle and such person was not listed in the application described above, the owner shall submit the information provided for in Sec. 110.278 to the city manager or designee. The city manager or designee shall review the information as provided previously and approve or deny such request.

(c) No person under the age of 18 shall operate a pedicab or commercial quadricycle.

(d) No person shall operate a pedicab or commercial quadricycle unless that person has a valid driver's license.

(e) No person shall operate, or cause to be operated, a pedicab or commercial quadricycle in an unsafe manner.

(f) All pedicab and commercial quadricycle drivers are subject to all applicable traffic laws, rules, and regulations of the city and the state.

(g) All pedicab and commercial quadricycle drivers shall wear respectable attire and a shirt that includes the name of the pedicab or commercial quadricycle owner.

(h) Pedicabs and commercial quadricycles are not permitted to park on streets, highways, or thoroughfares except as follows:

(1) At a portion of a street that may be designated as a "pedicab or commercial quadricycle stand" for the parking of pedicabs or commercial quadricycles.

(2) A single pedicab or commercial quadricycle may park temporarily at the curb or on a sidewalk only as long as necessary for passengers to board and exit the vehicle.

(3) In all cases, pedicabs and commercial quadricycles shall be parked in a location that does not impede pedestrian or vehicular traffic.

(i) No person shall use or allow any pedicab or commercial quadricycle to be used for any illegal purpose. No person shall use or permit or allow any pedicab or commercial quadricycle to be used in, or to aid or abet, any illegal act.

(j) No personal shall operate or knowingly permit any other person to operate any pedicab or commercial quadricycle under the influence of intoxicating liquor, any controlled, exhilarating, or stupefying substance, or of any combination of substances mentioned herein.

(k) No person shall operate a pedicab or commercial quadricycle when the number of passengers exceeds the number of available seats. No person shall operate a pedicab or commercial quadricycle unless all passengers are seated in a seat designed for that purpose and using the seatbelt provided for in the seat.

(l) Each pedicab or commercial quadricycle owner shall adopt and operate a system for the collection, storage, and return of personal property left in a pedicab or commercial quadricycle.

(m) The dates of operation of a pedicab or commercial quadricycle shall be limited to April 1 through October 31.

(n) The hours of operation of a commercial quadricycle shall be from 11:00 a.m. to 3:00 p.m. and 6:30 p.m. to 12:00 a.m. The hours of operation of a pedicab shall be determined by city manager or designee.

(o) No pedicab or commercial quadricycle shall be stored on any public property overnight, including but not limited to: streets; alleys; garages; or parking lots.

(p) No pedicab or commercial quadricycle shall be operated in the city when in conflict with a special event that has road closures on the streets, highways or thoroughfares designated by the city manager or designee pursuant to Sec. 110.282(a).

(q) The city manager or designee may impose such other regulations or restrictions on the pedicab or commercial quadricycle operator and owner as they deem appropriate to further the purpose of this article.

Section 110.283. – Consumption of alcohol.

(a) Owners of the pedicab or commercial quadricycle shall be licensed to serve alcohol for consumption on premises in the City of Birmingham pursuant to the laws of the State of Michigan and the ordinances of the City of Birmingham.

(b) Persons may possess and consume alcohol in accordance with Public Act 126 of 2015 as may from time to time be amended.

Section 110.284. – Vehicle regulations.

(a) All pedicab and commercial quadricycle vehicles must be constructed for and have the structural integrity to support pedicab or commercial quadricycle operations. Each pedicab or commercial quadricycle vehicle must be equipped with the following:

(1) Front and rear turn signals;

(2) Headlights;

(3) Taillights;

(4) Rearview mirror;

(5) A bell or horn;

(6) Seatbelts;

(7) Reflectors placed on each wheel and at each corner of the body of the pedicab or commercial quadricycle;

(8) A proper braking systems;

(9) Any other equipment required to comply with all applicable federal and state law; and

(10) A pedicab or commercial quadricycle must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of a vehicle and all springs, axles, and supporting structures of each pedicab or commercial quadricycle must be intact.

(b) Each pedicab or commercial quadricycle driver at all times shall keep each pedicab or commercial quadricycle vehicle clean and free of refuse and in safe operating condition. Prior to the operation of any pedicab or commercial quadricycle and at the beginning of each shift or each day of operation, the pedicab or commercial quadricycle driver shall thoroughly inspect the pedicab or commercial quadricycle for safe operating conditions and shall maintain records of such inspection if required by the city. For any condition found then or at any other time that will prevent the safe operation of the pedicab or commercial quadricycle, the pedicab or commercial quadricycle driver shall immediately remove the pedicab or commercial quadricycle from service and correct the condition before the pedicab or commercial quadricycle is in operating service.

(c) Each pedicab or commercial quadricycle shall have a unique, nontransferable vehicle identification number at least four inches in height, visible on both sides of the vehicle.

(d) Each pedicab or commercial quadricycle owner shall prepare a training program for pedicab or commercial quadricycle drivers covering, at a minimum, the safe operation of pedicab or commercial quadricycle vehicles, customer service policies, and the requirements of this chapter.

(e) Each pedicab or commercial quadricycle owner shall maintain at all times a policy of liability insurance in the minimum amount of $2,000,000 for personal injuries and property damage, listing the city as an additional insured, or such amounts as required by state law should the state law minimum amount be higher. Each owner shall further agree to hold the city harmless for any liability or claim arising out of the operation that is not covered by the required insurance.

(f) If a pedicab or commercial quadricycle vehicle is involved in an accident or collision, the pedicab or commercial quadricycle driver shall immediately notify the pedicab or commercial quadricycle owner and the department of public safety and remain at the scene until the police investigate the accident or collision.

(g) All pedicab or commercial quadricycle drivers must display an identification badge. Each identification badge must contain the following information:

(1) Name; and

(2) Photograph.

Section 110.285. – Grounds for suspension or revocation of operating permit or decal.

Operating permits may be denied, suspended, or revoked by the city based upon any of the following grounds:

(a) The pedicab or commercial quadricycle owner of a pedicab or commercial quadricycle driver fails or has failed to comply with any provisions of this article.

(b) A pedicab or commercial quadricycle driver has been convicted of any felony; reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions, or duties of the passenger transport business or the ability of the pedicab or commercial quadricycle driver to safely transport passengers; unless five years has elapsed from the successful completion of the sentence for any such conviction.

(c) A pedicab or commercial quadricycle driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.

(d) A pedicab or commercial quadricycle driver or the pedicab or commercial quadricycle owner has knowingly made a false statement of material fact, or knowingly failed to state a material fact in the application process for the operating permit or decal.

(e) A pedicab or commercial quadricycle driver's ability to drive lawfully in Michigan or in any other state is currently expired, suspended, or revoked.

(f) A pedicab or commercial quadricycle driver has engaged in activity that, in the judgment of the city manager or designee, constitutes a serious threat to public health, safety, or welfare. Such threat may be indicated by, but is not limited to:

(1) An arrest for driving under the influence of alcohol or a controlled substance while operating a pedicab or commercial quadricycle;

(2) An arrest for a crime that, if convicted, would require registration as a sex offender, and where a pedicab or commercial quadricycle was used in the planning of, perpetration of, or fleeing from the offense;

(3) A report from a law enforcement agency that the pedicab or commercial quadricycle driver was involved in a vehicle accident involving a pedicab or commercial quadricycle, where the pedicab or commercial quadricycle passengers were injured.

Section 110.286. – Notification of suspension or revocation of operating permit; appeals.

(a) Any operating permit issued by the city may be suspended or revoked by the issuing officer for cause as herein defined. In either case, a hearing shall be scheduled to be held by the city manager or the city manager's designee. Depending upon the necessity

for prompt action, the hearing shall be held in accordance with one of the following provisions:

(1) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the operating permit should be suspended or revoked. The holder of the operating permit shall be notified of the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed suspension or revocation. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments concerning the factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(2) If there is an immediate threat to the public health, safety or welfare, the operating permit may be suspended prior to the hearing. If an operating permit is suspended prior to the hearing, the hearing shall be commenced as soon as it is practical, but in no case more than ten days after the suspension. The hearing shall be held to determine whether to terminate or extend the suspension or whether the suspension should be converted into a revocation of the operating permit. The holder of the operating permit shall be notified of the time, date, and place of the hearing and shall be notified of the reason or reasons for the already-imposed suspension and for any contemplated future action. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments on factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(b) If any hearing held pursuant to the provisions of this article, the rules of evidence shall be followed as far as practicable, but a hearing officer or body may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community. A record of the hearing shall be maintained by the hearing officer or body.

Section 110.287. – Preliminary breath test.

A city police department officer who has reasonable cause to believe that the operator of a pedicab or commercial quadricycle who is or was operating a pedicab or commercial quadricycle upon a public highway or other place open to the public or generally accessible to a pedicab or commercial quadricycle, including an area designated for the parking of vehicles, and that the operator by the consumption of alcoholic liquor may have affected his or her ability to operate the pedicab or commercial quadricycle may require the operator to submit to a preliminary chemical breath analysis. A pedicab or commercial quadricycle operator's refusal to take or failure to properly take a preliminary chemical breath analysis as required by this section is a violation of this article.

Section 110.288. – Violation is a civil infraction.

Any violation of this article shall be a municipal civil infraction as provided for in section _____ of this Code.

Ordained this ___ day of, _____2015, but to become effective upon publication in a newspaper of general circulation within the City of Birmingham.

_____
Stuart Lee Sherman, Mayor

_____
Laura M. Pierce, City Clerk

I, Laura M. Pierce, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2015 and that a summary was published _____, 2015.

_____
Laura M. Pierce, City Clerk

CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE _____

THE CITY OF BIRMINGHAM ORDAINS:

_____

CHAPTER 110.

ARTICLE X. – Transportation.

Sec. 110-275. – Prohibition on the operation of pedicabs and commercial quadricycles.

No person shall drive or operate a pedicab or commercial quadricycle upon the streets, highways, or thoroughfares of the city.

Sec. 110-276. – Definitions.

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Pedicab driver means a person who operates a pedicab.

Pedicab Owner means a person, corporation, limited liability company, partnership, or other such business entity that is the owner of a pedicab or a proprietor of a pedicab business who supplies pedicabs to others to operate as independent contractors or employees.

Ordained this ___ day of, _____2015, but to become effective upon publication in a newspaper of general circulation within the City of Birmingham.

_____
Stuart Lee Sherman, Mayor

_____
Laura M. Pierce, City Clerk

I, Laura M. Pierce, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2015 and that a summary was published _____, 2015.

_____
Laura M. Pierce, City Clerk

1. CITY OF BIRMINGHAM

ORDINANCE NO. _____

AN ORDINANCE _____

THE CITY OF BIRMINGHAM ORDAINS:

_____

CHAPTER 110.

ARTICLE X. – PEDICABS AND COMMERCIAL QUADRICYCLES.

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(1) The applicant's full name and residence address;

(2) The applicant's date of birth;

(3) The applicant's driver's license and number;

(4) The name of any business entity applying for an operating permit;

(5) A certificate of insurance satisfying the requirements of section 110.284;

(6) A map of the city showing proposed routes, stands, or pick up points;

(7) A list of each authorized pedicab or commercial quadricycle driver, including name, address, date of birth, driver's license number, the length of time such driver has been a resident of Michigan, and certification that the driver has completed the required training programs established by this article;

(8) A description of the pedicab and/or commercial quadricycle, including trade name, number of seats, serial number, if any, and body style; and

(9) Such other material as the city manager or designee may require.

(b) If the applicant is a corporation, limited liability company, partnership, or other such business entity, the person who will be acting as principal in charge of the business to be licensed shall sign the application, and all owners of the business entity shall meet all of the requirement for individual applicants.

Sec. 110-279. Review of application.

(a) Upon filing of the application for an operating permit, the city manager or his designee shall review and evaluate the application. In determining whether a permit

should be issued, the city manager or his designee shall evaluate whether the application and the applicant meet all of the following:

(1) Whether the proposed activities comply with all of the provisions of this article and the code;

(2) Whether the proposed activities involve the safe use of streets by the public for vehicles and pedestrians;

(3) Whether the applicant has not previously violated the provisions of this article or the code.

(b) The police department shall review the application to determine if it satisfies the requirements of this article.

(c) If the permit is not approved, the applicant may file an appeal with the city manager or designee.

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(a) Operating permits shall expire on December 31 of each year.

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Sec. 110-281. – Fee.

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(b) If a pedicab or commercial quadricycle owner desires that a person drive a pedicab or commercial quadricycle and such person was not listed in the application described above, the owner shall submit the information provided for in Sec. 110.278 to the city manager or designee. The city manager or designee shall review the information as provided previously and approve or deny such request.

(c) No person under the age of 18 shall operate a pedicab or commercial quadricycle.

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(h) Pedicabs and commercial quadricycles are not permitted to park on streets, highways, or thoroughfares except as follows:

(1) At a portion of a street that may be designated as a "pedicab or commercial quadricycle stand" for the parking of pedicabs or commercial quadricycles.

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(j) No personal shall operate or knowingly permit any other person to operate any pedicab or commercial quadricycle under the influence of intoxicating liquor, any controlled, exhilarating, or stupefying substance, or of any combination of substances mentioned herein.

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(l) Each pedicab or commercial quadricycle owner shall adopt and operate a system for the collection, storage, and return of personal property left in a pedicab or commercial quadricycle.

(m) The dates of operation of a pedicab or commercial quadricycle shall be limited to April 1 through October 31.

(n) The hours of operation of a commercial quadricycle shall be from 11:00 a.m. to 3:00 p.m. and 6:30 p.m. to 12:00 a.m. The hours of operation of a pedicab shall be determined by the city manager or designee.

(o) No pedicab or commercial quadricycle shall be stored on any public property overnight, including but not limited to: streets; alleys; garages; or parking lots.

(p) No pedicab or commercial quadricycle shall be operated in the city when in conflict with a special event that has road closures on the streets, highways or thoroughfares designated by the city manager or designee pursuant to Sec. 110.282(a).

(q) The city manager or his designee may impose such other regulations or restrictions on the pedicab or commercial quadricycle operator and owner as they deem appropriate to further the purpose of this article.

Section 110.283. – Consumption of alcohol.

No person shall consume or possess in a container which is open, uncapped, or upon which the seal is broken, alcoholic beverages within or on a pedicab or commercial quadricycle.

Section 110.284. – Vehicle regulations.

(a) All pedicab and commercial quadricycle vehicles must be constructed for and have the structural integrity to support pedicab or commercial quadricycle operations. Each pedicab or commercial quadricycle vehicle must be equipped with the following:

(1) Front and rear turn signals;

(2) Headlights;

(3) Taillights;

(4) Rearview mirror;

(5) A bell or horn;

(6) Seatbelts;

(7) Reflectors placed on each wheel and at each corner of the body of the pedicab or commercial quadricycle;

(8) A proper braking systems;

(9) Any other equipment required to comply with all applicable federal and state law; and

(10) A pedicab or commercial quadricycle must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to

the hub of a vehicle and all springs, axles, and supporting structures of each pedicab or commercial quadricycle must be intact.

(b) Each pedicab or commercial quadricycle driver at all times shall keep each pedicab or commercial quadricycle vehicle clean and free of refuse and in safe operating condition. Prior to the operation of any pedicab or commercial quadricycle and at the beginning of each shift or each day of operation, the pedicab or commercial quadricycle driver shall thoroughly inspect the pedicab or commercial quadricycle for safe operating conditions and shall maintain records of such inspection if required by the city. For any condition found then or at any other time that will prevent the safe operation of the pedicab or commercial quadricycle, the pedicab or commercial quadricycle driver shall immediately remove the pedicab or commercial quadricycle from service and correct the condition before the pedicab or commercial quadricycle is in operating service.

(c) Each pedicab or commercial quadricycle shall have a unique, nontransferable vehicle identification number at least four inches in height, visible on both sides of the vehicle.

(d) Each pedicab or commercial quadricycle owner shall prepare a training program for pedicab or commercial quadricycle drivers covering, at a minimum, the safe operation of pedicab or commercial quadricycle vehicles, customer service policies, and the requirements of this chapter.

(e) Each pedicab or commercial quadricycle owner shall maintain at all times a policy of liability insurance in the minimum amount of $2,000,000 for personal injuries and property damage, listing the city as an additional insured, or such amounts as required by state law should the state law minimum amount be higher. Each owner shall further agree to hold the city harmless for any liability or claim arising out of the operation that is not covered by the required insurance.

(f) If a pedicab or commercial quadricycle vehicle is involved in an accident or collision, the pedicab or commercial quadricycle driver shall immediately notify the pedicab or commercial quadricycle owner and the department of public safety and remain at the scene until the police investigate the accident or collision.

(g) All pedicab or commercial quadricycle drivers must display an identification badge. Each identification badge must contain the following information:

(1) Name; and

(2) Photograph.

Section 110.285. – Grounds for suspension or revocation of operating permit or decal.

Operating permits may be denied, suspended, or revoked by the city based upon any of the following grounds:

(a) The pedicab or commercial quadricycle owner of a pedicab or commercial quadricycle driver fails or has failed to comply with any provisions of this article.

(b) A pedicab or commercial quadricycle driver has been convicted of any felony; reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions, or duties of the passenger transport business or the ability of the pedicab or commercial quadricycle driver to safely transport passengers; unless five years has elapsed from the successful completion of the sentence for any such conviction.

(c) A pedicab or commercial quadricycle driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.

(d) A pedicab or commercial quadricycle driver or the pedicab or commercial quadricycle owner has knowingly made a false statement of material fact, or knowingly failed to state a material fact in the application process for the operating permit or decal.

(e) A pedicab or commercial quadricycle driver's ability to drive lawfully in Michigan or in any other state is currently expired, suspended, or revoked.

(f) A pedicab or commercial quadricycle driver has engaged in activity that, in the judgment of the city manager or designee, constitutes a serious threat to public health, safety, or welfare. Such threat may be indicated by, but is not limited to:

(1) An arrest for driving under the influence of alcohol or a controlled substance while operating a pedicab or commercial quadricycle;

(2) An arrest for a crime that, if convicted, would require registration as a sex offender, and where a pedicab or commercial quadricycle was used in the planning of, perpetration of, or fleeing from the offense;

(3) A report from a law enforcement agency that the pedicab or commercial quadricycle driver was involved in a vehicle accident involving a pedicab or commercial quadricycle, where the pedicab or commercial quadricycle passengers were injured.

Section 110.286. – Notification of suspension or revocation of operating permit; appeals.

(a) Any operating permit issued by the city may be suspended or revoked by the issuing officer for cause as herein defined. In either case, a hearing shall be scheduled to be held by the city manager or the city manager's designee. Depending upon the necessity for prompt action, the hearing shall be held in accordance with one of the following provisions:

(1) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the operating permit should be suspended or revoked. The holder of the operating permit shall be notified of

the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed suspension or revocation. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments concerning the factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(2) If there is an immediate threat to the public health, safety or welfare, the operating permit may be suspended prior to the hearing. If an operating permit is suspended prior to the hearing, the hearing shall be commenced as soon as it is practical, but in no case more than ten days after the suspension. The hearing shall be held to determine whether to terminate or extend the suspension or whether the suspension should be converted into a revocation of the operating permit. The holder of the operating permit shall be notified of the time, date, and place of the hearing and shall be notified of the reason or reasons for the already-imposed suspension and for any contemplated future action. The operating permit holder shall be entitled to be represented by counsel, to submit evidence, to cross-examine testifying witnesses, and to make arguments on factual and legal issues. The hearing officer or body shall render a written decision stating the reasons for the decision.

(b) If any hearing held pursuant to the provisions of this article, the rules of evidence shall be followed as far as practicable, but a hearing officer or body may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community. A record of the hearing shall be maintained by the hearing officer or body.

Section 110.287. – Preliminary breath test.

A city police department officer who has reasonable cause to believe that the operator of a pedicab or commercial quadricycle who is or was operating a pedicab or commercial quadricycle upon a public highway or other place open to the public or generally accessible to a pedicab or commercial quadricycle, including an area designated for the parking of vehicles, and that the operator by the consumption of alcoholic liquor may have affected his or her ability to operate the pedicab or commercial quadricycle may require the operator to submit to a preliminary chemical breath analysis. A pedicab or commercial quadricycle operator's refusal to take or failure to properly take a preliminary chemical breath analysis as required by this section is a violation of this article.

Section 110.288. – Violation is a civil infraction.

Any violation of this article shall be a municipal civil infraction as provided for in section _____ of this Code.

Ordained this ___ day of, _____2015, but to become effective upon publication in a newspaper of general circulation within the City of Birmingham.

_____
Stuart Lee Sherman, Mayor

_____
Laura M. Pierce, City Clerk

I, Laura M. Pierce, City Clerk of the City of Birmingham, do hereby certify that the foregoing ordinance was passed by the Commission of the City of Birmingham, Michigan at a regular meeting held _____, 2015 and that a summary was published _____, 2015.

_____
Laura M. Pierce, City Clerk