

ORDINANCE NO.1562

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. 1562 OF THE CITY OF HOLLAND BY ADDING A NEW ARTICLE, WHICH NEW ARTICLE SHALL BE DESIGNATED AS ARTICLE III OF SAID ORDINANCE CODE.

The City of Holland ordains that Article III of Chapter 34 of the Ordinance Code of the City of Holland shall read as follows.

Article III. PEDICABS

Sec. 34-37. Purpose.

The transportation of persons by means of Pedicabs is a matter closely affecting the public interest. The public interest requires that Pedicab Drivers be properly qualified persons, that the Pedicabs be fit for their intended purpose and that the safety and welfare of passengers be protected in the operation of Pedicabs.

Sec. 34-38. Definitions.

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) Pedicab means a multi-wheeled 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 passenger(s) on public right-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 any other pushcart or rickshaw-type vehicle.
- (b) Pedicab Owner means a person who 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.
- (c) Pedicab Driver means a person who operates a Pedicab.
- (d) Operating Permit means a written permit issued by the City authorizing a person to operate a Pedicab.

Sec. 34-39. Prohibition on Operation of Pedicab.

No person shall drive or operate a Pedicab upon the streets, highways, or thoroughfares of the City of Holland and no person who owns or controls a Pedicab shall permit it to be so driven or operated unless the Pedicab is in compliance with all of the requirements of this

Article.

Sec. 34-40. Application For Operating Permit.

- (a) The City Clerk shall issue Operating Permits for Pedicabs. Every person desiring to obtain an Operating Permit is required to make written application for a permit to the City Clerk and accompanied by a fee established by resolution of the City Council. The applicant shall truthfully and fully state the information requested on the application such as:
- (1) The applicant's full name and residence address;
 - (2) The applicant's date of birth;
 - (3) The applicant's drivers license and number;
 - (4) The names and residence address of any shareholders, members, or partners of any entity applying for the Operating Permit;
 - (5) The name of the business;
 - (6) A certificate of insurance satisfying the requirements of Section 34-46;
 - (7) The proposed fare to be charged per ride;
 - (8) A list of each authorized Pedicab Driver, including name, address, the length of time such driver has been a resident of Michigan, date of birth, and certification that the driver has completed the required training program established in this Article;
 - (9) If a proposed Pedicab Driver does not have a valid current Michigan driver's license, the applicant shall provide a background check (showing traffic citations as well as criminal history) for such driver and the background check shall be current within 30 days of the filing of the application;
 - (10) A description of the Pedicab, including trade name, if any, serial number and body style; and

(11) Such other material as the City Clerk may require.

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

Sec. 34-41. Review of Application.

- (a) Upon the filing of the application for an Operating Permit, the City Clerk shall review and evaluate the application. In determining whether a permit should be issued, the City Clerk 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 the streets by the public for vehicles and pedestrians;
 - (3) Whether the applicant has not previously violated two (2) or more provisions of this Article or the Code.
- (b) The Department of Public Safety shall review the application to determine if it satisfies the requirements in this Article.
- (c) If the permit is not approved, the applicant may file an appeal as provided in section 32-48.
- (d) The City Clerk shall approve, deny, or approve with conditions an application which is complete for an Operating Permit within thirty (30) days of it being filed.

Sec. 34-42. Validity of Operating Permit.

- (a) Operating Permits shall be valid for a period of one year from the date of issuance.
- (b) Operating Permits shall become invalid immediately if the Operating Permit is defaced, altered, forged or counterfeited.

Sec. 34-43. Pedicab Operating Permit and Decal Fee.

The City shall charge a non-refundable fee to recover the cost of activities associated

with the administration, regulation, and issuance of decals and Operating Permits. The fee shall be determined annually by resolution of the City Council.

Sec. 34-44. Pedicab Identification Number and Decal.

- (a) It is unlawful for any owner to lease, rent, or allow a Pedicab to be operated for hire without first having obtained a decal issued by the City. The decal shall be affixed in a manner prescribed by the City. Each Pedicab shall have a unique, non-transferable vehicle identification number at least four (4) inches in height visible on both sides of the vehicle.
- (b) Before allowing a Pedicab to be operated for hire, owners shall have a decal and identification number.
- (c) The decal form shall be prescribed by the City.

Sec. 34-45. Operating Regulations.

- (a) Pedicabs are only permitted to be driven or operated in the City of Holland on streets, highways or thoroughfares described on a map that is approved by the City Council.
- (b) If a Pedicab Owner desires that a person drive a Pedicab and such person was not listed in the application described above, the Owner will submit the information provided for in section 34-40(8) to the City Clerk. The City Clerk 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.
- (d) No person shall drive or operate a Pedicab unless that person has a current valid driver's license.
- (e) No person shall operate, or cause to be operated, a Pedicab, in an unsafe condition.
- (f) All Pedicab Drivers are subject to all applicable traffic safety laws, rules, and regulations of the City of Holland and the State of Michigan.
- (g) All Pedicab Drivers shall wear respectable attire and a shirt that includes the name of the Pedicab Owner.
- (h) Pedicabs are not permitted to park on streets, highways or thoroughfares except as follows:

- (1) The Public Safety Director or its designee may designate a portion of a streets, highways or thoroughfares as "Pedicab stand," for the parking of Pedicabs. The Mainstreet Downtown Development Authority or the Principal Shopping District may designate Pedicab stands for the 8th Street to Kollen Park Dr. areas.
 - (2) A single Pedicab 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 shall be parked in a location that does not impede pedestrian or vehicular traffic.
- (i) Fares must be established and provided with application and if rates are changed they must be reported to the City Clerk's office.
 - (j) No person shall use or allow any Pedicab to be used, for any illegal purpose. No person shall use or permit or allow any Pedicab to be used in, or to aid or abet, any illegal act.
 - (k) No person shall operate or knowingly permit any other person to operate any Pedicab under the influence of intoxicating liquor, any controlled, exhilarating or stupefying substance or of any combination of substances mentioned herein.
 - (l) No person shall operate a Pedicab when the number of passengers exceeds the number of available seats. No person shall operate a Pedicab unless all passengers are seated in a seat designed for that purpose and using the seatbelt provided for in the seat.
 - (m) Each Pedicab owner shall adopt and operate a system for the collection, storage and return of personal property left in a Pedicab.

Sec. 34-46. Vehicle Regulations.

- (a) All Pedicab owners must have each Pedicab vehicle inspected by the Department of Public Safety prior to operation. All Pedicab vehicles must be constructed for and have the structural integrity to support Pedicab operations. Each Pedicab vehicle must be equipped with the following:
 - (1) Front and rear turn signals;
 - (2) Head lights;
 - (3) Tail lights;
 - (4) Rear view mirror;

- (5) A bell or horn;
 - (6) Seatbelts for passengers;
 - (7) Reflectors placed on each wheel and at each corner of the body of the Pedicab;
 - (8) A proper braking system; and
 - (9) Any other equipment required to comply with all applicable federal and state laws.
 - (10) A Pedicab 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 vehicle must be intact.
- (b) Each Pedicab Driver at all times shall keep each Pedicab vehicle clean and free of refuse and in safe operating condition. Prior to the operation of any Pedicab and at the beginning of each shift or each day of operation, the Pedicab Driver shall thoroughly inspect the Pedicab 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, the Pedicab Driver shall immediately remove the Pedicab from service and correct the condition before the Pedicab is in operating service.
 - (c) Each Pedicab shall have a unique, non-transferable vehicle identification number at least four inches in height visible on both sides of the vehicle.
 - (d) Each Pedicab owner shall prepare a training program for Pedicab Drivers covering, at a minimum, the safe operation of Pedicab vehicles, customer service policies, and the requirements of this Chapter.
 - (e) Each Pedicab owner shall maintain at all times a policy of liability insurance in the minimum amount of one million dollars (\$1,000,000.00) for personal injuries, and property damage. The policy shall directly protect the City of Holland, its officials, officers, members, volunteers, sponsors, directors, employees, and agents as additional named insured, and shall provide that the insurance be primary insurance and that no other insurance purchased by the City will be called on to contribute to a loss covered by said policy. The policy shall further provide ten (10) days notice of cancellation or material change to the City's designated agent. Evidence of insurance coverage is required before any permit is issued. Prior approval of the City of Holland is required. Each owner and Pedicab Driver shall further agree to hold the City harmless for any liability or claim arising out of his or her operation that is not covered by the required insurance.

- (f) If a Pedicab vehicle is involved in an accident or collision, the Pedicab Driver shall immediately notify the Pedicab owner and the Department of Public Safety and remain at the scene until the police investigate the accident or collision. The Pedicab owner shall submit a full written report on the condition of the Pedicab vehicle to the Department of Public Safety within 72 hours after the occurrence. Before operating the Pedicab vehicle again, the Pedicab owner shall have the vehicle re-inspected by the Department of Public Safety for safety.
- (g) Each Pedicab owner must file a business information card with the Department of Public Safety prior to operation.
- (h) All Pedicab Drivers must display an identification badge. Each identification badge must contain the following information:
 - (1) Name; and
 - (2) Photograph.

Sec. 34-47. Grounds Suspension or Revocation of Operating Permit or Decal.

- (a) Operating Permits or decals may be denied, suspended or revoked by the City based upon any of the following grounds:
 - (1) The Pedicab owner or a Pedicab Driver fails or has failed to comply with any provisions of this Chapter.
 - (2) A Pedicab Driver has been convicted of any felony; any misdemeanor or 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 Driver to safely transport passengers; unless five (5) years has elapsed from the successful completion of the sentence for any such conviction.
 - (3) A Pedicab Driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.
 - (4) A Pedicab Driver or the Pedicab 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.
 - (5) A Pedicab Driver's ability to drive lawfully in Michigan or in any other state is currently expired, suspended or revoked.

- (6) A Pedicab Driver has engaged in activity that, in the judgment of the City Clerk, constitutes a serious threat to public health, safety, or welfare. Such threat may be indicated by, but is not limited to:
 - i. an arrest for driving under the influence of alcohol or a controlled substance while operating a Pedicab;
 - ii. an arrest for a crime, that if convicted, would require registration as a sex offender, and where a Pedicab was used in the planning of, perpetration of, or fleeing from the offense;
 - iii. a report from a law enforcement agency that the Pedicab or Pedicab Driver was involved in a vehicle accident involving a Pedicab, where the Pedicab passengers were injured.

Sec. 34-48. 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 (1) 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 (10) 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) In 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.

- (c) Any person seeking to appeal the decision of the City Manager or other appropriate hearing officer or body may appeal to the City Council, provided that a written request for such an appeal shall be filed within seven (7) days of the date of the decision to be appealed. The City Council shall schedule a hearing on the appeal within fourteen (14) days of the receipt of the request for appeal by the City Clerk. The hearing shall be scheduled and held before the entire City Council, as the City Council shall determine. The factual record made in the hearing below shall constitute the basic record for the appeal. The City Council may, but need not, allow the presentation of additional evidence by a majority vote. Argument as to relevant factual and legal issues shall be permitted. The decision of the City Council shall be by majority vote. The Council may affirm, reverse or modify any action taken relative to a license. The decision of the City Council shall be final.

Sec. 34-49. Preliminary Breath Test.

A Public Safety Department Officer who has reasonable cause to believe that a person is or was operating a Pedicab upon a public highway or other place open to the public or generally accessible to a Pedicab, including an area designated for the parking of vehicles, and that the person by the consumption of alcoholic liquor may have affected his or her ability to operate a Pedicab may require the person to submit to a preliminary chemical breath analysis. A Pedicab Driver's refusal to take or failure to properly take a preliminary chemical breath analysis as required by this Section is a violation of this Code.

Section 34-50. Violation is a Civil Infraction.

Any violation of this Article shall be a municipal civil infraction as provided for in Chapter 2 of this Code.

Section 34-51. Effective Date/Emergency Ordinance.

This Article was adopted as an emergency ordinance by the City Council of the City of Holland pursuant to section 5.4 of the Holland City Charter, and shall be effective upon the date of adoption.

All of provisions of Chapter 34 shall remain in full force and effect.

Ordinance Adoption Date: March 23, 2011

Ordinance Effective Date: March 23, 2011



City of Holland

CITY CLERK
2nd Floor - City Hall
270 S. River Ave, Holland, MI 49423
Phone: 616.355.1301 Fax: 616.355.1490
Email: clerk@cityofholland.com
Website: www.cityofholland.com/clerk



APPLICATION FOR PEDI-CAB

Owner Information

Name of Business: _____ Business Phone: _____ Cell: _____

Address: (including mailing if different) _____

Email and Web Site Address: _____

Drivers License Number: _____ Date of Birth: _____

Date: _____ Signature: _____

**Please provide an attachment to include the following: Owners/Shareholders Name/Address/Phone Number*

Pedi-Cab Information

Brand Name	Serial #	Color	Certificate Number (issued by Public Safety, Police Division)

Inspected By: Public Safety (Police Division) _____ Approved / Denied _____ Date: _____

Operator Information

Name of Applicant: (First, Middle, Last) _____ Phone: _____ Cell: _____

Street Address: (including mailing address, if different) _____ City, State Zip Code: _____

Drivers License Number: _____ Date of Birth: _____

Please provide an attachment to include the following: Proposed Fee, Length of Michigan Residency, Training course completion date.

Date: _____ Signature of Operator: _____

Owner Requirements:

Insurance requirements: (**submit proof with application**)

\$1,000,000 liability insurance –must include clause stating the City of Holland, officials, officers, members, volunteers, sponsors directors, employees, and agents as additional named insured.

The insurance policy shall bear an endorsement that the insurance company shall notify the city clerk in writing at least ten (10) days before the expiration of such policy, whether by way of cancellation or limitation of term. **ICHAT is required for both Owner and Operators for this type of license.**

Inspections are required to be scheduled yearly with the Public Safety, Police Division, prior to license renewal.

(A complete copy of Chapter 34 "Pedicab" of the Holland City Code is available in the Holland City Clerk's Office or available on the City's Website at www.cityofholland.com)

PLEASE RETURN FORM TO THE CITY CLERK'S OFFICE – 2nd floor – CITY HALL

Upon approval of license you are required to pick up a 'City of Holland ID Card' that you **must** have on your person at all times while working in the City of Holland.