

TITLE 3
CHAPTER 9

BICYCLE-POWERED TRANSPORTATION DEVICES

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3-9-1: DEFINITIONS: As used in this chapter, unless the context clearly indicates otherwise, the following words and phrases mean:

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| BICYCLE-POWERED TRANSPORTATION | A vehicle other than a taxicab or other motor vehicle, that has three or more wheels and is propelled by pedal power or a power assist engine of not more than 50 cc's, that is used for the transportation of one or more passengers for hire. |
| CITY RECORDER | The person so designated by the City Manager to perform the functions described in this chapter. |
| COMMITTEE | The Transit Advisory Committee of the City of Florence. |
| DRIVER | Any person in direct and immediate possession or charge of a bicycle-powered transportation device, either as an agent, employee, or otherwise of the owner, or as owner, or under the direction of the owner. |
| LICENSEE | The holder of an operator's license as described in this chapter. |
| OPERATOR'S LICENSE | A license to operate a bicycle-powered transportation device business as provided by this chapter. |
| OWNER | Any person having use or control of any bicycle-powered transportation device, whether as owner, lessee or otherwise, and also includes any shareholder, partner or associate with an ownership interest in the bicycle-powered transportation device business. |

3-9-2: LICENSE AND PERMIT REQUIRED: No person shall operate a bicycle-powered transportation device business within the City without first obtaining a license as provided in this chapter. No person shall drive a bicycle-powered transportation device within the City without first having secured a permit therefore, and no bicycle-powered transportation device shall be operated in violation of this chapter.

3-9-3: APPLICATION - INFORMATION, REQUIREMENTS:

- A. An application for an original operator's license shall be filed with the City Recorder on a form provided by the City, verified under penalty of perjury, accompanied by the non-refundable application investigation fee in an amount set by Council resolution, and contain the following:
1. The name, business address, residence address and date of birth of the owner(s) or person(s) applying;
 2. The name(s), business address, residence address and date of birth of each officer(s) and key personnel of the proposed business;
 3. The business name under which the bicycle-powered transportation device service shall operate, the business address and telephone number;
 4. The make, type, year of manufacture, and seating capacity of the bicycle-powered transportation devices the applicant intends to operate;
 5. A description of the proposed color scheme, insignia, or other distinguishing characteristics of the proposed bicycle-powered transportation device business;
 6. A statement of whether the applicant or any officer or key personnel of the applicant have:
 - a. Been convicted of any felony, misdemeanor or violation of any municipal ordinance or state law (other than minor traffic and parking offenses), the nature of the offense and the punishment or penalty assessed;
 - b. Had a business license or bond denied, revoked or suspended and, if so, a description of the reason for such revocation or suspension.
 7. The rate(s) the applicant proposes to charge for the bicycle-powered transportation device service;
 8. A description of the applicant and applicant's officers and key personnel prior business and work experience; and
 9. Such other relevant information as the City Recorder may deem necessary for the proper protection of the public.
- B. Each licensed bicycle-powered transportation device operator shall continue to keep the information provided in its application current, and shall inform the City Recorder of any changes within ten days of the occurrence.

3-9-4: TERM OF LICENSE: An operator's license is issued for a term of one year, except, all operator licenses shall expire on December 31st of the year issued. If a licensee intends to continue to operate in the next following license year, not less than thirty days prior to the license expiration date, he/she shall advise the City Recorder of his/her intent to renew the license and submit the annual license fee, as described in Section 3-9-5 to the City Recorder.

3-9-5: OPERATOR'S LICENSE FEES: The annual license fee for an operator's license shall be set by Council resolution, and shall be based on a per type and/or class of bicycle-powered transportation device(s) the applicant intends to operate. The annual license fee shall be paid before a license will be issued, and thereafter shall be paid on or before January 1st of each year. If the initial operator's license is issued on or after July 1st, the first license fee shall be reduced by one-half for the initial license year. The per bicycle-powered transportation device license fee rate shall be paid on each new device added throughout the license year which does not replace a comparable currently permitted device.

3-9-6: DRIVER'S PERMIT - APPLICATION, TERM, FEES, STANDARDS:

- A. Application for a bicycle-powered transportation device driver's permit shall be made to the City Recorder on a form provided by the City and accompanied by the payment of a non-refundable original application investigation fee as set by Council resolution. Upon approval of the application, the annual license fee as set forth in Subsection B of this section must be paid before the license is granted. Applications shall contain the name, address, date of birth, Oregon driver's license number of the applicant, any other relevant information requested by the City Recorder, and shall be accompanied by a current photograph of the applicant. Each applicant shall provide satisfactory proof to the City Recorder that the applicant possesses the appropriate valid Oregon driver's license. Each applicant shall be fingerprinted.
- B. Each person approved to drive a bicycle-powered transportation device shall pay an annual permit fee as set by Council resolution. All permits shall expire on December 31st of the year issued. If the original permit is issued on or after July 1st the permit fee may be reduced by one-half the annual fee for the initial permit year. Permits may be renewed upon payment of the annual permit fee on or before January 1st of each year.
- C. The City Recorder shall review each application to determine the applicant's fitness to operate a bicycle-powered transportation device. Among the factors which may be considered are:
 - 1. Whether the applicant has any physical or mental condition which would, in the judgment of the City Recorder, impair the applicant's ability to safely operate a bicycle-powered transportation device;
 - 2. The applicant's prior criminal history;
 - 3. Prior traffic violations by the applicant and prior violations of municipal regulations of the City or other municipalities governing bicycle-powered transportation device services;
 - 4. The applicant's motor vehicle driving safety record;
 - 5. Any other relevant factors which the City Recorder may deem necessary.

3-9-7: OPERATING REGULATIONS:

- A. Each licensee shall maintain an office or place of business within the City, equipped with a telephone where the licensee or other personnel may be contacted. At the time a license is issued, the licensee shall certify to the City Recorder the number and/or type of bicycle-powered transportation devices that will be available to serve the public, the hours the services will be available, and the rates to be charged for the services.
- B. Bicycle-powered transportation device shall be operated only on the specific routes which are pre-approved by the Committee. Operation of a bicycle-powered transportation device at any location within the City not previously approved by the Committee shall constitute grounds for revocation of the operator's license and/or driver's permit.
- C. Each driver, if requested, shall give a correct receipt upon payment of the correct rate for the service provided.
- D. No person may refuse to pay the lawful bicycle-powered transportation device rate as approved by the Committee after employing or hiring the bicycle-powered transportation device.
- E. The driver of a bicycle-powered transportation device shall not permit its stated passenger capacity limitation to be exceeded.

- F. Each licensee and driver shall promptly notify the City Police Department within twenty-four hours of any property of value left in any bicycle-powered transportation device by any passenger.
- G. The driver's permit shall be displayed in the bicycle-powered transportation device where it may be readily viewed by passengers at all times that the bicycle-powered transportation device is in operation.
- H. The licensee's rate schedule shall be posted in each bicycle-powered transportation device in a place where it may be readily viewed by passengers.
- I. Rates established by a licensee shall not be less than the minimum rate approved by the Committee. Thirty days before implementing any changes in the rates, the licensee shall file a copy of the proposed rates with the City Recorder, and upon approval thereof by the Committee, maintain a current rate schedule for the bicycle-powered transportation device services on file with the City Recorder.
- J. A customer of a bicycle-powered transportation device service shall be charged for service rendered only according to the rates established and filed as required by this section.
- K. Each licensee and driver shall cause a complete and accurate record of each trip of each bicycle-powered transportation device to be made on a daily trip sheet, the form of which shall be approved by the City Recorder, showing the time and place of origin and destination of each trip, the number of passengers carried, and the amount of fare collected.
- L. Each licensee shall maintain a complete set of records indicating income and expenses for each bicycle-powered transportation device operated.
- M. Each licensee shall maintain a record of all complaints received either in writing or by telephone regarding bicycle-powered transportation device service.

3-9-8: EQUIPMENT - MAINTENANCE:

- A. Each bicycle-powered transportation device shall be equipped with red taillights, a reflectorized caution symbol sign mounted on the back of the device, and carriage lamps or headlights. The design and operation of the device shall comply with all other State and local regulations for non-motorized vehicles operating on public streets.
- B. All aspects of the bicycle-powered transportation device service, including the device, driver, and signage, shall maintain a clean appearance at all times during hours of operation.
- C. Each bicycle-powered transportation device operating under this chapter shall be maintained in a clean, sanitary, safe and mechanically sound condition. No driver shall operate a bicycle-powered transportation device which does not comply with the requirements of this chapter, and no licensee shall allow such a bicycle-powered transportation device to be operated. The City Recorder may order any bicycle-powered transportation device found to be unsafe or in any way unsuitable to be immediately removed from service and any problems corrected before the bicycle-powered transportation device is again placed in service.
- D. The licensee shall comply with all requests by the City for safety inspections of bicycle-powered transportation devices. Unless expressly authorized in writing by the City, no bicycle-powered transportation device shall be operated following a request for a special safety inspection until after the safety inspection has been passed.

3-9-9: INSURANCE:

No licensee shall operate or cause or allow to be operated, any bicycle-powered transportation device in the City unless the licensee has a policy of liability insurance which is in full force and effect, insuring the operation of the bicycle-powered transportation devices operating under this chapter, and which provides coverage of at least the minimum amounts specified for municipal liability in the Oregon Tort Claims Act for injury or destruction of property or for bodily injury or death.

3-9-10: BOND REQUIRED:

Each licensee shall post and maintain a five thousand dollar (\$5,000) bond acceptable to the City Recorder which shall be available to satisfy any claims against the licensee, either in the nature of fines imposed by the City for violations of this chapter or civil judgment entered against the licensee arising out of licensee's bicycle-powered transportation device service.

3-9-11: INDEMNIFICATION:

- A. Each licensee shall agree to pay all damages and penalties the City may legally be required to pay as a result of granting such license and shall agree to defend and indemnify the City, its officers, employees and agents against all claims resulting from the granting of such a license. These damages or penalties shall include, but not be limited to, damages arising out of the operation or maintenance of a bicycle-powered transportation device as authorized by this chapter whether or not any act or omission complained of is authorized or prohibited by this chapter.
- B. By its application and the granting of an operator's license, the licensee agrees to pay all necessary and reasonable expenses incurred by the City in defending itself under this section, including, but not limited to, reasonable attorney's fees.

3-9-12: SUSPENSION, DENIAL OR REVOCATION OF LICENSES OR PERMITS:

- A. The Committee is authorized to deny any application for a license or permit or to suspend any license or permit issued pursuant to this chapter after reasonable notice and opportunity granted to the holder thereof to be heard, if the Committee finds probable cause to believe that the holder has:
 - 1. Been found guilty of any violation of this chapter; or
 - 2. Been convicted of an offense against person or property for which a sentence of incarceration could have been imposed under Oregon law, or having a character, reputation or moral integrity inimical to the public safety or the general welfare of the City;
 - 3. Knowingly made any false, misleading or fraudulent statement of material fact in the application for a license or permit, or in any report or record required to be filed with any governmental entity; or
 - 4. Failed to comply with any of the general ordinances of the City applicable to the business or merchant activities of the applicant, licensee or permittee.
- B. In addition to the grounds in Subsection A of this section, the Committee may deny an application for operator's license or suspend or revoke an operator's license upon finding that:
 - 1. The applicant, operator or key personnel fails to meet the requirements of this chapter, or is doing business in violation of this chapter or applicable Federal, State, County or City law;
 - 2. The applicant, operator or key personnel has provided false or misleading material, information, or has omitted disclosure of a material fact on the application or related materials, or on his/her business records;

3. The applicant's operator's or key personnel's past or present violation of law or ordinance presents a reasonable doubt about the applicant's or operator's ability to provide bicycle-powered transportation device service without endangering property or the public health and safety;
 4. The information supplied for the review does not indicate that the applicant or key personnel has the experience, knowledge or ability to provide the services required under this chapter.
- C. In addition to the grounds in Subsection A of this section, the Committee may deny an application for driver's permit or suspend or revoke a driver's permit if the City Recorder determines the applicant unfit based on the factors in Section 3-9-6 or if a permittee is convicted of a violation of this chapter or similar regulations of another municipality, or is convicted of a violation of any of the statutes of the State involving the operation of a motor vehicle, or if the Committee has reasonable grounds to believe that the permittee would endanger life or property while operating a motor vehicle.
 - D. The City Recorder may refuse to issue a bicycle-powered transportation device permit for any bicycle-powered transportation device found not to comply with the requirements of this chapter.
 - E. The City Recorder shall provide written notice to the applicant, licensee or permittee of his/her recommendation to the Committee that the application, license or permit be denied or revoked. The notice shall state the reason for the recommendation and shall inform the applicant, licensee or permittee of the right to present evidence, testimony and arguments to the Committee before it renders a decision in the matter.
 - F. The City Recorder's notice shall be given at least 15 days before the Committee considers the matter. When the City Recorder is recommending revocation of a license or permit because of a violation of this Chapter, if the licensee or permittee corrects the violation within the 15 days, the City Recorder may withdraw his/her recommendation and the proceedings shall cease unless the Committee directs to the contrary.
 - G. The Committee shall consider the City Recorder's recommendation by conducting a hearing at which it shall receive any relevant evidence, testimony and argument the City Recorder, the applicant, the licensee, the permittee or others may wish to present. While proceedings before the Committee are not bound by the rules of evidence used by courts of law, the decision of the Committee shall be based on substantive evidence. The decision shall include the Committee's findings and shall be in writing. The Committee's decision shall be mailed or personally served upon the applicant, licensee or permittee and any other requesting notice of the decision.
 - H. A person whose application for a license has been denied or whose license has been revoked may, after one year from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

3-9-13: SUMMARY SUSPENSION OF OPERATOR'S LICENSE OR PERMITS:

- A. Notwithstanding the requirements of Section 3-9-12, if the conduct of a licensee or permittee creates an eminent threat to life or property, the City Recorder may summarily order the licensee or permittee to cease the activity creating the threat. In the event the licensee or permittee fails to promptly cease the threatening activity and correct the threatening condition, the City Recorder may, without further notice or opportunity to be heard, suspend the license or permit. If the activities of the licensee or permittee causes any property to be or remain in the public way, the City Recorder may cause the property of the licensee or permittee to be removed from the public way and assess the costs of such removal to the licensee or permittee.
- B. A summary suspension under this section may be appealed by the licensee or permittee in the manner set forth in Section 3-9-14.

3-19-14: APPEAL:

- A. An applicant whose application for a license or permit has been denied, or a licensee or permittee whose license or permit has been denied renewal, been suspended or is revoked may appeal the decision within ten days after the date of notice of the denial, suspension, or revocation. The appeal shall be in writing, filed with the City Recorder and shall state:
1. The name and address of the appellant;
 2. The nature of the determination being appealed;
 3. The reason the determination is incorrect; and
 4. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed. Within ten days of the Committee's decision, the City Council on its own motion may initiate review of any Committee decision.

- B. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.
- C. Unless all parties to the appeal and the City Recorder agree to a longer period, an appeal shall be heard by the Council within 20 days of the receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the parties.
- D. The Council shall hear and determine the appeal on the basis of the appellant's notice of appeal, the record of the Committee's consideration of the matter and any oral or written argument the parties may present. At the hearing the appellant may present oral argument personally or by counsel.
- E. If the appeal is from the Committee's denial of the appellant's request, the appellant shall carry the burden of proving that he/she is entitled to the remedy sought.
- F. The Council shall render its decision by resolution within 20 days of the hearing date. The decision of the Council shall be final.

3-9-15: ADMINISTRATIVE RULES:

The City Recorder may propose administrative rules to implement the administration of this Chapter. Such rules or amendment thereto shall be effective after review by the Committee and approval by the City Council.

3-9-16: CITY ENFORCEMENT:

- A. The City shall enforce the provisions of this Chapter by administrative, civil or criminal action or any combination thereof as necessary to obtain compliance with this Chapter.
- B. Except as limited by paragraph C of this subsection, the penalty for violating any provision of this Chapter shall be that established in Chapter 1-4 of this Code.
- C. The penalty for violation of this Chapter which is also a violation of State law or regulation shall not exceed the penalty imposed by State law or regulation for the same conduct.

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