



Legislation Text

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An Ordinance to Amend the Code of the City of Ann Arbor by Adding a New Chapter, which Chapter Shall be Designated as Chapter 131, Commercial Quadricycles, of Title X of Said Code (Ordinance No. ORD-16-11)

Commercial Quadricycles - commonly called "pedal pubs" are a form of chauffeured transportation. The four-wheeled open-air vehicles are capable of seating around a dozen passengers, who propel the vehicle using pedals while a single operator handles the steering and braking. Commercial quadricycles are currently operating in the communities of Grand Rapids, Bay City, Traverse City and Marquette. In those locations the quadricycles shuttle riders through downtown areas and between popular tourist attractions.

Public Acts 126 and 127 of 2015 clarified an ambiguity with regard to classification and licensing of commercial quadricycles, establishing regulations specifically for quadricycles in the Michigan Motor Vehicle Code. In addition, changes in the law authorized a local unit of government to regulate the operation of commercial quadricycles on its sidewalks, highways, streets or crosswalks. City may also prohibit operation in an area open to pedestrian traffic adjacent to a waterfront or on a trail under its jurisdictions or in a downtown or central business district.

The attached ordinance would establish regulation of commercial quadricycles within the City. It has been reviewed by City staff and is recommended by the Council Liquor License Review Committee for consideration.

Prepared by: Mary Joan Fales, Assistant City Attorney

Reviewed and Sponsored by: Council Liquor License Review Committee

ORDINANCE NO. ORD-16-11

First Reading:	May 2 and June 6, 2016	Approved: June 20, 2016
Public Hearing:	June 6 and June 20, 2016	Published: June 23, 2016
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COMMERCIAL QUADRICYCLES

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ANN ARBOR BY ADDING A NEW CHAPTER, WHICH CHAPTER, SHALL BE DESIGNATED AS CHAPTER 131, COMMERCIAL QUADRICYCLES, OF TITLE X OF SAID CODE.

The City of Ann Arbor Ordains.

Section 1. That Chapter 131, Commercial Quadricycles, of Title X of the Code of the City of Ann Arbor be added to read as follows:

Chapter 131

COMMERCIAL QUADRICYCLES

10:211. Findings and Purpose

The transportation of persons by means of Commercial Quadricycles is a matter closely affecting the public interest. Due to the high volume of pedestrian, bicycle and vehicular traffic in the City of Ann Arbor, it is necessary to regulate the operation of Commercial Quadricycles on streets, highways, and thoroughfares within the City.

The public interest requires that Commercial Quadricycle operators be properly qualified persons, that the Commercial Quadricycles themselves be fit for their intended purpose and that the safety and welfare of passengers be protected in the operation of Commercial Quadricycles.

10:212. Definitions.

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

1. "City Administrator" means the City Administrator of the City of Ann Arbor or his/her authorized subordinate.
2. "Commercial Quadricycle" means a vehicle that satisfies all of the following: (a) has fully operative pedals for propulsion entirely by human power; (b) has at least 4 wheels and is operated in a manner similar to a bicycle; (c) has at least 6 seats for passengers; (d) is designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power; (e) is used for commercial purposes; and (f) is operated by the owner of the vehicle or an employee of the owner of the vehicle.
3. "Commercial Quadricycle Owner" means a person who is the owner of a Commercial Quadricycle or Commercial Quadricycle business.
4. "Commercial Quadricycle Operator" means the business owner or employee operating the vehicle.
5. "Operating Permit" means a written permit issued by the City authorizing a person to operate a Commercial Quadricycle.

10:213. Operating Regulations.

No person shall drive or operate a Commercial Quadricycle for hire upon the streets, highways or thoroughfares of the City of Ann Arbor and no person who owns or controls a Commercial Quadricycle shall permit it to be so driven or operated unless the Commercial Quadricycle is operated in compliance with all of the requirements of this Section.

1. No person, firm or corporation shall operate a Commercial Quadricycle for hire without an operating permit.
2. No person under the age of 18 shall operate a Commercial Quadricycle.

3. No person shall drive or operate a Commercial Quadricycle unless that person has a current valid Michigan driver's license.
4. No person shall operate, or cause to be operated, a Commercial Quadricycle, in an unsafe condition.
5. Commercial Quadricycles are only permitted to be driven or operated in the city on designated streets, highways, or thoroughfares. All Commercial Quadricycle drivers are subject to all applicable traffic safety laws, rules, and regulations of the City of Ann Arbor and the State of Michigan. Commercial Quadricycles shall be operated at a speed of not more than 25 miles per hour.
6. A Commercial Quadricycle is not permitted to park on public property except as follows:
 - a. The City Administrator may designate a portion of a public street, alley, plaza, park or similar public place as a "Quadricycle stand" or other designated loading/unloading zones for the parking of Commercial Quadricycles.
 - b. In a legal parking space, provided that the fee for occupying said space is paid, if applicable.
 - c. A single Commercial Quadricycle may park temporarily at the curb only as long as necessary for passengers to board and exit the vehicle.
 - d. In all cases, Commercial Quadricycles shall be parked in a location that does not impede pedestrian or vehicular traffic.
7. A Commercial Quadricycle shall not board or allow passengers to exit the vehicle from a traffic travel lane.
8. A Commercial Quadricycle shall not be operated on a sidewalk or a designated path constructed for use by pedestrians.
9. Rides must be pre-arranged. Fares and/or rental fees must be agreed upon at or before the beginning of each trip. Commercial quadricycles are prohibited from picking up fares or otherwise acting as a taxicab.
10. No person shall use or allow any Commercial Quadricycle to be used, for any illegal purpose. No person shall use or permit or allow another to use any Commercial Quadricycle to aid or abet, any illegal act.
11. No Commercial Quadricycle Operator shall operate or knowingly permit any other person to operate any Commercial Quadricycle under the influence of intoxicating liquor, any controlled, exhilarating or stupefying substance or of any combination of substances mentioned herein.
12. No person shall operate a Commercial Quadricycle when the number of passengers exceeds the number of available seats. No person shall operate a Commercial Quadricycle unless all

passengers are seated in a seat designated for that purpose.

13. Each Commercial Quadricycle Owner shall adopt and operate a system for the collection, storage and return of personal property left on-board a Commercial Quadricycle.

10:214. Vehicle Regulations.

No person shall drive or operate a Commercial Quadricycle upon the streets, highways or thoroughfares of the City of Ann Arbor and no person who owns or controls a Commercial Quadricycle shall permit it to be so driven or operated unless the vehicle is in compliance with all of the requirements of this section.

1. All Commercial Quadricycle Owners must have the vehicle inspected by the City of Ann Arbor Police Department prior to operation. All vehicles must be construed for and have the structural integrity to support its operation. Each vehicle must be equipped with the following:
 - a. Front and rear turn signals.
 - b. Head lights.
 - c. Tail lights.
 - d. Rearview mirror.
 - e. A bell or horn
 - f. Reflectors placed on each wheel and at each corner of the body of the vehicle.
 - g. A proper braking system approved by the City Police Department
 - h. Any other equipment required to comply with all applicable federal and state laws.
 - i. A vehicle must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of the vehicle and all springs, axles, and supporting structures of each vehicle must be intact.
2. Each Commercial Quadricycle Owner shall, at all times, keep each Commercial Quadricycle vehicle clean and free of refuse and in safe operating condition. Prior to the operation of any Commercial Quadricycle, and at the beginning of each shift or each day of operation, the vehicle owner shall thoroughly inspect the vehicle for safe operating conditions. For any condition found then or at any other time that will prevent the safe operation of the Commercial Quadricycle, the owner shall immediately remove the vehicle from service and correct the condition before the Commercial Quadricycle is returned to service.
3. Each Commercial Quadricycle shall have a City issued unique, non-transferable vehicle identification number at least four inches in height visible on both sides of the vehicle.

4. Each Commercial Quadricycle Owner shall prepare a training program for its drivers covering, at a minimum, the safe operation of Commercial Quadricycle vehicles, customer service policies and the requirements of this chapter.
5. Each Commercial Quadricycle Owner shall at all times maintain a policy of bodily injury and property damage liability insurance in the minimum combined single limit of two million dollars (\$2,000,000.00) for all persons injured or for property damage arising out of the permitted operation or such other amount as the may be required by statute. The policy shall directly protect the City of Ann Arbor, its officers and employees and agents as additional named insureds, 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 Attorney. Evidence of insurance coverage must be provided before any permit is issued. Prior approval of the City of Ann Arbor is required. Each owner and operator shall further agree to hold the City harmless for any liability or claim arising out of his/her operation that is not covered by the required insurance. Any deviation from the listed insurance coverage is subject to the approval of the City of Ann Arbor.
6. If a Commercial Quadricycle vehicle is involved in an accident or collision, the driver shall immediately notify the Commercial Quadricycle Owner (if the owner and operator are not the same individual) and the police department and remain at the scene until the accident or collision is investigated by the police. The Commercial Quadricycle Owner shall submit a full written report on the condition of the vehicle to the City Clerk within 72 hours after the occurrence. Before operating the Commercial Quadricycle again, its owner shall have the vehicle re-inspected by the City Police Department for safety.
7. Each Commercial Quadricycle Owner must file an application and business information form with the City Clerk prior to operation. The City Clerk shall provide the application forms.
8. All Commercial Quadricycle Drivers must display an identification badge. Each identification badge must contain the following information:
 - a. Name;
 - b. Age;
 - c. Height; and
 - d. Photograph.

A Commercial Quadricycle Driver shall wear respectable attire and a shirt that includes the name of the Commercial Quadricycle business, or other identifying information on his/her person (i.e. name tag or similar device).

10:215. Application for Operating Permit.

The operating permit application form shall be prescribed by the City. Any application that does not include all information requested by the application form or is not supported by the materials required

in this chapter shall be denied.

1. Every person desiring to obtain an operating permit is required to make written application for a permit to the City Clerk. The applicant shall truthfully and fully provide the information requested on the application, including but not limited to:
 - a. The applicant's full name and residence address;
 - b. The applicant's date of birth;
 - c. The applicant's driver's license and number
 - d. The name of any business entity applying for an operating permit;
 - e. A certificate of insurance satisfying the requirements of this Chapter;
 - f. A map of the city showing proposed routes, stands, or pick up points;
 - g. A list of each authorized 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 shall complete the required training program established by this Chapter;
 - h. A description of the Commercial Quadricycle, including trade name, number of seats, serial number, if any, and body style; and
 - i. Such other information as the City may require.
2. If the applicant is a corporation, limited liability company, partnership or such other 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 requirements for individual applicants.

Upon receipt of an application for a license or an application for renewal, the City Clerk shall request an investigation by City service units (Police, Public Services, Treasury, City Attorney's Office) to determine conditions related to the health, safety and welfare of the City. In determining whether a permit should be issued, the application and applicant shall be evaluated on the following grounds:

1. Whether the proposed activities comply with all of the provisions of this chapter and City Code;
2. Whether the proposed activities involve the safe use of streets by the public for vehicles and pedestrians; and
3. Whether the applicant has not previously violated the provisions of this chapter or City Code.

No license or renewal thereof shall be granted without the approval of the routes and vehicle in accordance with the provisions of this chapter.

Upon completion of investigation, the City Clerk shall either issue the license or a denial of the

license. If the license is denied, the reasons for denial shall be given to the applicant in writing.

10:216. Validity of Operating Permit; Renewal

Operating permits shall be valid for a period of one year expiring on the next March 1 immediately following the date the permit was issued. Operating permits shall become invalid immediately if the operating permit is defaced, altered, forged or counterfeited.

The permit holder, at the expiration of any license year, shall be entitled to a renewal of the permit for the ensuing year by the City Clerk upon compliance with this chapter. The permit holder shall submit an application for renewal, and such information as shall be required by the City.

10:217. Commercial Quadricycle Identification Number and Decal.

It is unlawful for any owner to lease, rent, or allow a Commercial Quadricycle to be operated for hire without first having obtained a decal from the City. The decal shall be affixed in a manner prescribed by the City. Each Commercial Quadricycle shall have a unique, non-transferable vehicle identification number at least four inches in height visible on both sides of the vehicle. The decal form shall be prescribed by the City.

An application for a decal and identification number must include the following information:

1. The full name and address of the applicant;
2. The names and address of all legal and registered owners of the quadricycle;
3. A description of the vehicle, include trade name, if any serial number and body style;
4. Proof of insurance in accordance with the provisions of this Code; and
5. Such other information as the city may require.

10:218. 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 by resolution of City Council upon the recommendation of the City Administrator.

10:219. Grounds for Denial, Suspension or Revocation of Operating Permit or Decal.

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

1. The operator or owner of the Commercial Quadricycle fails or has failed to comply with the application provisions of this chapter;
2. The operator has been convicted of any felony involving force and violence; 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 operator to safely transport passengers; unless five years has elapsed from the successful completion of the sentence for any such convictions;

3. The operator or 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;
4. The operator's ability to drive lawfully in Michigan is currently expired, suspended or revoked;
5. The operator has engaged in activity that, in the judgment of the City Administrator, constitutes a serious threat to public health, safety or welfare. Such threat may be indicated by, but is not limited to:
 - a. an arrest for driving under the influence of alcohol or a controlled substance while operating a Commercial Quadricycle;
 - b. an arrest for a crime, that if convicted, would require registration as a sex offender, and where a Commercial Quadricycle was used in the planning of, perpetration of, or fleeing from the offense;
 - c. a report from a law enforcement agency that the vehicle or vehicle operator was involved in a vehicle accident involving a Commercial Quadricycle, where the Commercial Quadricycle passengers were injured; or
6. The operator or owner is in default to the City, including being delinquent in the payment of any taxes, fees or other City charges.

10:220. Notification of Suspension or Revocation of Operating Permit; Appeals.

Any operating permit issued by the City may be suspended or revoked by the City Clerk for cause as herein defined. In either case, a hearing shall be scheduled to be held by the City Administrator. Depending on 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(s) 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 City Administrator shall render a written decision stating the reasons for the decision; or
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 a license or permit is suspended prior to the hearing, the hearing shall be commenced as soon as 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(s) 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 concerning the factual and legal issues. The City Administrator shall render a written decision stating the reasons for the decision.

In any hearing held pursuant to the provisions of this chapter, 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.

Any person dissatisfied with the decision of the City Administrator may appeal to the City Council, provided that a written request for such an appeal shall be filed within seven days of the date of the decision to be appealed. The City Council shall schedule a hearing on the appeal within eight 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 or hearing officer, 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 or designated hearing officer may, but need not, allow for the presentation of additional evidence. Argument as to relevant factual and legal issues shall be permitted. If the hearing is conducted by the City Council, the decision of the City Council shall be by majority vote. If the hearing is conducted by a designated hearing officer, it shall be the responsibility of the hearing officer to make a recommendation to the City Council for the Council's final review and decision. The City Council may affirm, reverse or modify any action taken relative to a license. The decision of the City Council shall be final.

10:221. Preliminary Breath Test.

A sworn police officer who has reasonable cause to believe that a person is or was operating a Commercial Quadricycle upon a public highway or other place open to the public or generally accessible to a Commercial Quadricycle, including an area designated for the parking of vehicles, and that the person by the consumption of alcoholic liquor may have affected his/her ability to operate a Commercial Quadricycle may require the person to submit to a preliminary chemical breath analysis. A 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.

10:222. Area of Operation.

1. Operation of a Commercial Quadricycle with the city limits of the City of Ann Arbor shall be limited to designated streets, highways, or thoroughfares within the City with a posted speed limit of 25 mph or less. Designated areas/routes may be established, altered or prohibited when necessary for the safety and welfare of the public by resolution of City Council. A map of the designated area/routes shall be on file with the City Clerk and attached to any application for a permit under this chapter:
2. Operation of a Commercial Quadricycle within the designated area/routes or on a specific street within the designated area/routes of the City of Ann Arbor shall be specifically prohibited:

- a. On a street closed in connection with an approved City Special Event Permit during the duration of the closure;
 - b. On all University of Michigan Stadium event days, including but not limited to University of Michigan home football game days;
 - c. On any date designated or within the boundaries of the Art Fair;
 - d. On any City park pathway or within any City park parking area;
 - e. On a highway or street with a speed limit of more than 25 miles per hour except for the purpose of crossing that highway or street;
 - f. On any highway or street under the jurisdiction of the Michigan Department of Transportation has designated prohibited in the interest of public safety; and
 - g. On Main Street within the central business district during the hours of 4:00 - 6:00 p.m., Monday through Friday.
3. Within the designated area/routes of operation each person operating a Commercial Quadricycle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle under the Michigan Vehicle Code, 1949 P.A. 300, as amended, except for the provision therein that by their nature do not apply and except for the special regulations of this chapter.

10:223. Transfers

No permit or interest therein shall be transferred directly or indirectly without the consent of the City Clerk. Transfers shall be construed and processed as a new application for a permit.

10:224. Other Licenses and Permits.

A permit obtained under this chapter shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by another ordinance, statute or administrative rule.

10:225. Penalty

A person operating a Commercial Quadricycle in the City of Ann Arbor without an Operating Permit approved by the City is responsible for a civil infraction. The Court, in its discretion, may impose the following sanctions:

- (i) For a first violation: a civil fine of not more than Fifty dollars (\$50.00)
- (ii)
- (iii) For a second or subsequent violation: a civil fine of not more than One hundred dollars (\$100.00)

Section 2. Severability. If any Section, subsection, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect July 1, 2016.

As Amended by Ann Arbor City Council at First Reading on June 6, 2016 and Second Reading on June 20, 2016.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of June 20, 2016.

Jacqueline Beaudry, City Clerk

Date

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on June 23, 2016.

Jacqueline Beaudry, City Clerk