



MIAMI BEACH

OFFICE OF THE CITY MANAGER
NO. LTC # 126-2008

RECEIVED

2008 APR 28 PM 2:20
LETTER TO COMMISSION
CITY CLERK'S OFFICE

TO: Mayor Matti Herrera Bower and Members of the City Commission
FROM: Jorge M. Gonzalez, City Manager
DATE: April 28, 2008
SUBJECT: Inquiries regarding pedicabs

This Letter to Commission is intended to provide you with information relating to pedicabs in the City. As some of you may recall, at the December 6, 2006 Commission Meeting, the Commission considered a proposed ordinance requested by Commissioner Simon Cruz relating to pedicabs that specifically developed a comprehensive program regulating this industry. In light of testimony from Police, Parking and Public Works staff that pedicab use in heavily traveled areas represented traffic and safety concerns, the Commission decided not to move forward with that ordinance. Consistent with the testimony and City Commission discussion on December 6, 2006, and in consultation with our City Attorney's office, in January 2007, the City Administration issued an Administrative Policy that addressed which roads non-motorized, for-hire vehicles were not permitted to be used in the City. The Administrative Policy was specific to the conflicts and hazards posed on heavily traveled roads in the City for which the City has direct regulatory authority granted by the State. As the State authority, testimony, and Commission discussion focuses on heavily traveled roads, only these roads were considered in the policy. Namely, non-motorized, for-hire vehicles are not permitted in high traffic, congested roads in the City, such as Ocean Drive, Collins Avenue, Washington Avenue, Alton Road and Dade Boulevard. The policy did not and was not intended to provide an outright ban on pedicab use in the City. Further, the policy does not address bicycles for personal use.

Several weeks ago, many of you received calls and emails from a pedicab operator with a company called Green Ride who had received numerous code violations relating to his operation of a pedicab in the City without a license. The operator had obtained a license for a storage facility, identified on his license as storage for rental bicycles. Staff from Legal, Finance (Occupational Licensing), Code Compliance and the City Manager's office met to discuss the current available licensing for this type of activity, as well as the administrative policy. It was concluded that the use of a pedicab for *personal* transportation is comparable to the use of a three-wheeler bicycle. However, there is currently an existing licensing category in the list of taxable occupations that would be necessary to obtain from the City in order to permit a pedicab to be operated on eligible streets within the City. Specifically:

"Transportation Service (insurance required) Including but not limited to vans, cars, rickshaws, horse and buggy, etc., each vehicle"

This and other categories of licenses are under review through our Occupational Licensing review working committee.

The individual from Green Ride was provided information on current licensing options. Because his emails were sent to the entire commission, the responses to his emails were shared with all of you via two separate emails on March 27, 2008 and April 5, 2008; they are attached for reference. The emails included information on the appropriate license he would require if he was interested in a bicycle rental business, as well as the requirements for a for-hire, non-motorized vehicle (including

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the restrictions in the administrative policy). Shortly thereafter, the individual obtained the appropriate license to engage in a bicycle rental and a non-motorized, for hire (pedicab) business in the city, with the administrative policy included as a condition of the occupational license. The license permits only two pedicabs. Subsequently, a second company applied for a similar license that also only permits two pedicabs and also includes as a condition the administrative policy relating to prohibited roads.

Recently, one of the individuals involved in the initial discussion relating to the pedicabs, Mr. Felipe Azenha, has met with most of you relating to this issue. He has also met with my staff. Attached, please find an email to Mr. Azenha in response to an email sent to the mayor and commissioners regarding the licensing of pedicabs. In short, Mr. Azenha can apply for a similar transportation service license, although he has acknowledged that the restrictions in the administrative policy are such that it might not make sense from a financial perspective.

Code Compliance has been monitoring the two currently licensed companies in response to complaints relating to the number of pedicabs that have been observed and the locations where they have been observed. For example, we have received complaints of pedicabs on Ocean Drive. However, when Code has responded, the pedicabs did not have passengers; in those circumstances, they are considered as we would a bicycle. In light of the continued interest in this issue, a referral to Committee is being placed on the next Commission Agenda to allow further discussion and direction on this issue. Until such time, we will only permit licenses to be issued for up to two pedicabs per license, consistent with the licenses that have been issued to date.

I hope this helps clarify this matter. As always, please feel free to call me should you have any questions or require additional information.

Attachments

JMG/hmf

Fernandez, Hilda

From: Fernandez, Hilda
Sent: Saturday, April 05, 2008 5:35 PM
To: 'Green Ride Miami'
Cc: Middaugh, Bob; Smith, Jose; Gross, Saul; Wolfson, Jonah; Tobin, Ed; Weithorn, Deede; Bower, Matti H.; Libbin, Jerry; Steinberg, Richard; Gonzalez, Jorge; Vazquez, Angel; Guzman, Vivian; Frances, Saul
Subject: RE: Response to inquiry
Attachments: FW: Certificate Of Use; Response to inquiry

Mr. Zimmerman:

I have attached a copy of my previous emails, as I believe they clearly explain the City's rules and regulations relating to your inquiries.

It is also my understanding that you have, subsequent to receipt of these email, met with Mr. Marquez in our Finance Department, and that he has provided you with the copy of the Administrative Rules relating to the locations prohibited for non-motorized vehicles with a Transportation Service Business Tax Receipt to use. The City has established these rules to protect the safety and well-being of our residents and visitors. Please let me know if you require an additional copy of this document.

You have requested that I provide you with all "orders to code compliance officers and administrators" with regards to you and your company, pursuant to Article 1, Section 24 of the Florida Constitution. As you are aware from the cc: on the email to you, representatives from the Parking Department, Police Department, Finance Department, City Attorney's Office and Code Compliance Division were all provided with the information that was provided to you.

You have indicated below that you disagree with the violations that have been issued to you. As you are aware, you are entitled to appeal the violations and appear before the Special Master.

It is my understanding that you have endeavored to obtain the appropriate Business Tax Receipt to engage in the business venture(s) that you are interested in. There has been no directive to staff other than to ensure that all businesses in our City have the appropriate Business Tax Receipt. At the time of my email, and your reply, it is my understanding that you did not have the appropriate Business Tax Receipt. Again, if a violation has been issued in error, I encourage you to avail yourself of the process that exists to appeal a violation. In addition, please be advised that our Code Compliance staff must respond to all complaints received.

Please let me know if you require additional information.

Thank you,

Hilda

MIAMIBEACH

Hilda M. Fernandez, *Assistant City Manager*

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hildafernandez@miamibeachfl.gov

04/24/2008

Fernandez, Hilda

From: Fernandez, Hilda
Sent: Thursday, March 27, 2008 5:28 PM
To: 'Green Ride Miami'
Cc: Middaugh, Bob; Smith, Jose; Gross, Saul; Wolfson, Jonah; Tobin, Ed; Weithorn, Deede; Bower, Matti H.; Libbin, Jerry; Steinberg, Richard; Gonzalez, Jorge; Vazquez, Angel; Guzman, Vivian; Frances, Saul
Subject: Response to inquiry

Mr. Zimmerman and Mr. Zabari:

I am in receipt of your email regarding your concerns about enforcement of City Code relating to a bicycle rental business, and am also aware that you have made inquiries with other departments of the City. This email serves to provide you with clarification relating to the issues you have raised on behalf of all of the City departments.

As you have been previously advised, you must obtain a Business Tax Receipt (formerly known as an occupational license) to do business in the City. In your email, you state that you are in the business of "renting passenger carrying bicycles to the general public." A review of our records indicate that you applied and were issued a Business Tax Receipt (RL-10001040) for a Warehouse. The Business Tax Receipt issued to you (and attached for your easy reference) specifically states:

- Bicycle Storage OK in Warehouse
- Office on Mezzanine OK
- No Public Access or bicycle rental from this warehouse space
- Bicycle rental must be delivered/off site

This current Business Tax Receipt is NOT for "Bicycles, rent and repairs." If you wish to rent "passenger carrying bicycles to the general public," you may obtain a Business Tax Receipt for "Bicycle, rent and repairs." However, until such time as you do, **the rental of a bicycle without a Business Tax Receipt for this purpose is a violation of City Code and is subject to enforcement.**

Further, the actual rental of the bicycle may not occur on the public right of way. Any rental transaction that occurs on the public right of way would be a violation of Sec. 82-1 of the City Code and is also subject to enforcement. As such, it is necessary for you to apply for the appropriate license for bicycle rental, and follow the requirements for how the rentals can occur. As you are aware, individuals that have identified themselves as your employees have been observed soliciting business from pedestrians. The business they have been observed soliciting is not for bicycle rental, but for "for-hire" pedicab services.

Notwithstanding, I wish to clarify that the rental of a bicycle **does not** include a for-hire chauffer. In other words, if the bicycle rental includes a driver, then a "Bicycle, rent and repair" Business Tax Receipt **is not appropriate**. The appropriate Business Tax Receipt for a for-hire, non-motorized vehicle is "Transportation Service." However, a "Transportation Service" Business Tax Receipt would be subject to limitations in the City's Administrative Rules relating to non-motorized vehicles. Namely, non-motorized vehicles with a Business Tax Receipt for "Transportation Service" are not permitted on heavily traveled roads within the City of Miami Beach. A limited sample of these roads where non-motorized vehicles with a "Transportation Service" Business Tax Receipt are prohibited include, but are not limited to: Collins Avenue, Washington Avenue, Alton Road, 5th Street, Dade Boulevard and Ocean Drive.

Based on the information you have, yourself, acknowledged in your email, you have indicated that you are operating a bicycle rental business that is **NOT** licensed by the City of Miami Beach. I encourage you to cease and desist from engaging in this activity, as well as providing transportation service (for-hire pedicab) until such time as you can obtain the appropriate Business Tax Receipt, or you may be subject to additional violations and fines.

Further, you are advised that the bicycles cannot be placed in any metered parking spaces or other restricted parking areas (e.g. valet parking ramps, loading zones, etc.).

04/24/2008

This information has been shared with the Police Department, Parking Department, Legal Department and our Code Compliance Division to ensure that everyone has the information relating to the various provisions of City Code - the law - referenced above, namely: "Transportation Service" as it relates to non-motorized vehicles, "Bicycle, rent and repairs" Business Tax License provisions, the Administrative rules relating to non-motorized vehicles, and the Code requirements prohibiting the conducting of business on streets, parks or other public property.

I hope this serves to clarify this issue. You may contact the Finance Department for additional information relating to the appropriate Business Tax Receipt.

Thank you.

Hilda M. Fernandez

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Hilda M. Fernandez, *Assistant City Manager*

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hildafernandez@miamibeachfl.gov

From: Fernandez, Hilda

Sent: Sunday, April 13, 2008 11:56 PM

To: felipe azenha; Bower, Matti H.; Libbin, Jerry; Gross, Saul; Wolfson, Jonah; Steinberg, Richard; Tobin, Ed; Weithorn, Deede; City Manager's mailbox

Cc: Hemstreet, Tim; Middaugh, Bob

Subject: RE: Pedicabs on South Beach - Information from Mayor Bower's Office

Mr. Azenha:

As you are aware, you were provided with a copy of an Administrative Policy that delineated where motorized vehicles were and were not permitted. However, I am not aware that you were ever advised that pedicabs were not permitted altogether.

The appropriate Business Tax Receipt for a "for hire" vehicle such as a pedicab is "transportation service." However, anyone with that Business Tax Receipt (formerly called an occupational license) will be subject to the Administrative Policy. As such, Pedicabs are NOT permitted on Collins Avenue, Ocean Drive, etc. I have forwarded your email to Code Compliance to ensure strict enforcement of the Administrative Policy.

Please feel free to call me should you have any questions.

Hilda

From: felipe azenha [mailto:felipe.azenha@mail.sit.edu]

Sent: Sun 4/13/2008 9:54 PM

To: Bower, Matti H.; Libbin, Jerry; Gross, Saul; Wolfson, Jonah; Steinberg, Richard; Tobin, Ed; Weithorn, Deede; City Manager's mailbox

Cc: Fernandez, Hilda; Hemstreet, Tim; Middaugh, Bob

Subject: Fwd:Pedicabs on South Beach - Information from Mayor Bower's Office

Dear Mayor Bower, Commissioners, and Mr. City Manager,

I am delighted to inform all of you that pedicabs are now permitted to operate on Miami Beach. On Friday evening, at about 9:00 p.m., I called Code Compliance after I spotted a pedicab operating on Ocean Drive. To my surprise, Code Compliance informed me that a company called Green Ride Miami had been issued a permit to operate pedicabs. I would like to congratulate the administration for taking the progressive stance to allow these non-motorized vehicles to operate.

As all of you know I have been trying to establish a pedicab business on Miami Beach for the past 5 years, but the attached memo "ADMINISTRATIVE POLICY RELATIVE TO NON-MOTORIZED VEHICLES", prohibited pedicabs from operating on "heavily traveled roadway" such as Ocean Drive, Collins and Washington Avenue, where I personally witnessed the pedicab operating on Friday evening.

As recently as March 19th 2008, Ms. Yvonne Sepulveda confirmed to me via email (please see below) that pedicabs were not "not allowed" to operate on Miami Beach. I am unsure what the motivation has been for the City of Miami Beach to finally allow pedicabs, but I am ecstatic to see that the administration now recognizes the benefits of pedicabs and has chosen to allow the operation of such non-motorized vehicles. On Monday I will be requesting the same permit in order to begin operating my pedicab business.

Once again, I applaud the administration's decision and look forward to working with all of you to make pedicabs a complete success on South Beach.

Best Regards,

Felipe Azenha