

NOTICE OF RULES ADOPTION

POSTING DATE: July 20, 2012

ADOPTION DATE: July 20, 2012

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AUSTIN CITY CLERK
RECEIVED

By: Art Acevedo, Chief of Police
Austin Police Department

Adoption of Rules and Effective Date.

The Chief of Police of the Austin Police Department hereby adopts the following rules, **effective as of August 1, 2012:** "Pedicab Rules, Operation Within Sixth St. Barricaded Area." The rules adopt policies relating to operation of pedicabs within the barricaded area known as the "Sixth Street Entertainment District."

A Notice of Proposed Rules was posted on April 23, 2012. Comments from the public were solicited by the Notice of Proposed Rules. This Notice of Rules Adoption is issued pursuant to Section 1-2-8 of the City Code. Adoption of one or more of these rules may be appealed pursuant to Section 1-2-10, and following, as explained below.

Comments on Proposed Rules

One (1) written comment was received from the public. The comment was in favor of the proposed rule and suggested changes.

The person from whom the comment was received is Chris Symmank. His suggestions are:

(1) "Make it explicit to law enforcement that when a pedicab driver is dropping off that they are not counted towards the max number of cabs allowed to cue up at an intersection, I have already heard from pedicab operators that they have been threatened with arrest or other actions because an officer did count them as the max at an intersection. Operators already know to leave as soon as their fair has exited the vehicle and to get to the back of the line and not pick up additional passengers if there is already a line there."

Response: The Austin Police Department agrees with the comment and has modified the rule to state that a pedicab may briefly stop at the locations listed in paragraph 10 to drop off passengers. A pedicab dropping off passengers will not be counted as part of the number of pedicabs that may stage at these locations. A pedicab that is dropping off passengers at these locations must promptly leave the area when the passengers have been dropped off.

(2) "Pedicabs need another way to cross barricaded area during super events. Not having any way to cross sixth during such events causes a lot of problems for riders and could lead to public safety issues or loss of rides. While it is understandable to limit vehicles crossing the main areas of sixth, there should be at least one place to cross at Neches or Red River during these events. Also, maybe making Sabine a two way during these times and having a south side contra lane from Sabine to Red River (Like the one on Brazos across from the Driskol) might help this issue. but bottom line is that Neches or Red River would be the most practical and desirable crossing areas for pedicabs."

Response: The Department interprets Mr. Symmank's use of the term "super event" to mean a street closure for an event such as the Mardi Gras, Halloween, Texas Relays, or the Republic of Texas Rally (ROT Rally), rather than a normal weekend street closure. The Department disagrees with the comment because those special events or super events have significantly higher attendance than a weekend closure situation. The Department considers the safety of pedestrian attendees at such events to be a factor that weighs against allowing pedicabs to cross East Sixth Street at the locations suggested. The Department disagrees with the suggestion that Sabine be designated a two-way street during a super event, and creating a contra lane between Sabine and Red River. Such modifications have a cost that is not justified.

(3) "Also, during super events, if we could have a two-way contra lane on the north side of fifth street between Red River and Congress (or Brazos) and on the south side of 7th between Sabine and Neches, that would help to offset the loss of alleyway access during these events, and of course these would be great during regular weekends too of course."

Response: The Department disagrees with the comment because of the expense required to install and manage a barricaded "contra lane" for pedicabs in the suggested areas.

Other Comment: Several pedicab owners have pointed out that the proposed rule contains the following statement: "Any pedicab operating or staging outside the scope of these rules will result in the driver receiving a citation for violation of a city ordinance." The comments were that violation of a rule does not necessarily constitute a violation of a city ordinance, and that issuance of a citation may not be appropriate in all cases.

Response: The Department agrees with the comments, and has removed that sentence from the proposed rule.

Text of Adopted Rules:

**Austin Police Department
Pedicab Rules**

Operation Within 6th St. Barricaded Area

These are the rules for pedicabs to operate inside the barricaded area known as the “6th Street Entertainment District” between the 200 block and the 700 block of E. 6th Street, and all cross streets in this block range between E.5th and E.7th Streets. For the purpose of these rules, this area shall be referred to as the “6th Street Entertainment District.” This authority is intended to apply during temporary street closures due to overcrowding by pedestrians that typically occur on Thursday, Friday, and Saturday and occasionally on other nights during the week. The authority to operate within these areas will be limited to the conditions herein and will be strictly enforced. This document shall serve as notice of the rules to operate within this area. Failure of individuals to abide by these terms may result in temporary or permanent suspension to operate within the APD barricades. These terms shall only apply during the time that the barricades are in place.

The Austin Police Department retains the right and authority to suspend the operation of pedicabs within the “6th Street Entertainment District” during special events such as, but not limited to, Mardi-Gras, Halloween, New Year’s Eve, Texas Relays or the Republic of Texas Rally, aka ROT Rally.

The following are the terms for the operation of pedicabs within the APD barricaded area of the “6th Street Entertainment District.” Any privilege that is not specifically addressed within this document is forbidden within the APD barricades.

1. Pedestrians will have right of way, and pedicabs will yield to all pedestrians at all times.
2. Pedicabs may not operate at a speed greater than an ordinary walk when approaching pedestrian traffic anywhere inside the barricaded zone. Pedicabs crossing sidewalks at alley entrances and exits must yield to pedestrians on the sidewalk.
3. While inside the barricaded area, pedicabs will yield right of way to all emergency vehicles at all times.
4. While inside the barricaded area the use of sidewalks is strictly forbidden.
5. Pedicabs will operate in the same manner as taxi cabs in regard to customer pick-ups. The pedicabs will line up in a single-file manner in a first-come-first-serve manner in the allotted areas indicated on the attached map (see below). Pedicab operators will not accept a customer if they are not at the front of the line and will refer that customer to the front of the line. Pedicab customers will hire the first pedicab in the front of the line, and the remaining pedicabs will move forward to fill the void.

At all pedicab staging areas:

6. Pedicabs will not stage in a way that impedes a pedestrian crossing.
7. Pedicabs will not stage within an intersection.
8. Pedicabs will not ride against the normal flow of traffic, unless specifically allowed within these rules.
9. Pedicabs are not allowed to use any portion of 6th St. for transport between Brazos and Red River.
10. Pedicabs will not operate or stage within the barricaded area except for these listed locations:

- North and South alleys of E. 6th Street from Sabine Street to Brazos Street
 - Pedicabs will be allowed to utilize the north and south alleys of E. 6th Street from Sabine Street to Brazos Street. In both the alleyways pedicabs will be allowed to travel both east and west bound regardless of the normal regulated direction of travel.

- 6th Street/Brazos Street
 - Pedicabs are allowed to form two (2) lines of eight (8) pedicabs in the outside two lanes of E.6th Street at Brazos (200 blk. of E.6th Street) Pedicabs will not ride east of the first parking stall in the 200blk of E6th Street.
 - The pedicabs will face west-bound in the direction of regular vehicular traffic.
 - Pedicabs will enter and leave this staging area only from Brazos Street
 - For the purpose of these rules, pedicabs will be allowed to enter against the normal flow of traffic on E.6th Street only to allow them to go to the back of the staging area. All other traffic laws and ordinances will be adhered to.
 - Pedicabs will be allowed to travel both north and south-bound on Brazos, inside the barricaded area on the east side of the street, between E. 6th Street and the north alley.

- 6th Street/San Jacinto Street
 - A maximum of three (3) pedicabs may stage in a single-file line on the west curb line in the 500 block of San Jacinto Street, facing E. 6th Street.
 - Additional pedicabs may stage in a single-file line south of the south alley in the 500 block of San Jacinto Street and may move up to stage at E. 6th Street when a spot becomes available.
 - While staging at the south alley of San Jacinto Street, the first pedicab is available for hire.

- 500 block and 600 block of Trinity
 - A maximum of five (5) pedicabs may be staged in a single-file line south of the south alley in the 500 block of Trinity on the east curb line.
 - A maximum of five (5) pedicabs may be staged in a single-file line north of the north alley in the 600 block of Trinity on the west curb line.
 - Pedicabs will not enter the area between the north and south alleys in the 500 and 600 blocks of Trinity Street.

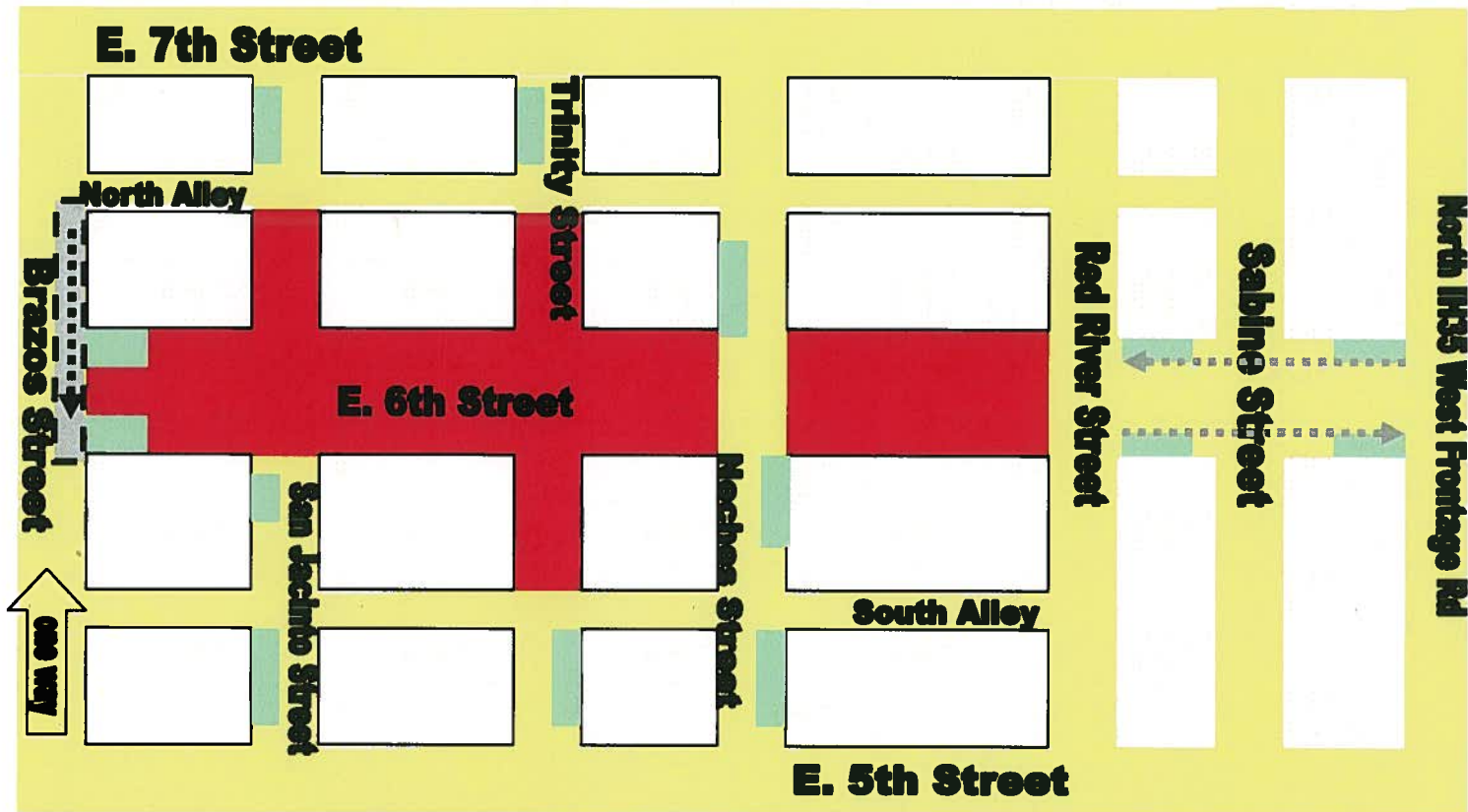
- E. 6th Street/Neches Street
 - A maximum of four (4) pedicabs may stage in a single-file line on the east curb line in the 500 block of Neches Street, facing E 6th Street. Additional pedicabs may stage in a single-file line south of the south alley in the 500 blk. of Neches Street and may move up to stage at E. 6th Street when a spot becomes available. While staging at the south alley, the first pedicab is available for hire.
 - A maximum of four (4) pedicabs may stage in a single-file line on the west curb line in the 600 block of Neches Street, facing E 6th Street.
 - Additional pedicabs may stage in a single-file line north of the north alley in the 600 block of Neches Street and may move up to stage at E. 6th Street when a spot becomes available. While staging at the north alley, the first pedicab is available for hire.
 - Pedicabs will be allowed to cross both north-bound and south-bound on Neches Street at E.6th Street, but may not stop in the intersection.

- 600-700 blocks of E. 6th Street
 - Pedicabs will be allowed to travel west and eastbound on 6th St. between I-35 and Red River.
 - While operating in this area, pedicabs will ride to the far right side of the roadway in order to avoid other pedicabs coming from the opposite direction.
 - Pedicabs will only stage at designated locations within this block range.

- E. 6th Street at Red River (600 block of E. 6th Street)
 - Pedicabs are allowed to form two (2) lines in the outside two lanes of the 600 block of E. 6th Street at Red River. The pedicabs will stage facing west bound. These two lines will not be more than five (5) pedicabs long (10 total pedicabs at this location) and will not extend beyond the first parking stall from Red River.

- E. 6th Street/Sabine Street
 - Pedicabs are allowed to cross or enter E 6th Street at Sabine, but may not stop in the intersection or stage in this location. Sabine is north-bound only, and pedicabs will not travel south bound on Sabine Street.

 - E. 6th Street/North IH35 West Frontage Road (700 block E. 6th Street)
 - Pedicabs are allowed to form two (2) lines in the outside two lanes of the 700 block of E. 6th Street at North IH35 West Frontage Road. The pedicabs will stage facing west bound. These two lines will not be more than five (5) pedicabs long (10 total pedicabs at this location) and will not extend beyond the first parking stall on the north curb line from North IH35 West Frontage Rd.
11. A pedicab may briefly stop at the locations listed in paragraph 10 to drop off passengers. A pedicab dropping off passengers will not be counted as part of the number of pedicabs that may stage at these locations. A pedicab that is dropping off passengers at these locations must promptly leave the area when the passengers have been dropped off. If the maximum number of pedicabs at that location has not been reached, the pedicab may stage at the back of the staging line.



Travel routes

Restricted area

Staging areas

New route

(- End of Text of Adopted Rule -)

Changes from Proposed Rules

The adopted Rules contains changes from the proposed Rules. The changes are in new paragraph # 11, and the deletion of a sentence that immediately preceded the street diagram at the end of the rule.

Authority for Adoption of Rules

The authority and procedure for adoption of rules is set forth in Chapters 1-2 and 13-2 of the City Code, and in Sections 542.201 and 542.202 of the Texas Transportation Code.

Appeal of Adopted Rule to City Manager


Any person may appeal the adoption of a rule to the City Manager. AN APPEAL MUST BE FILED WITH THE CITY CLERK NO LATER THAN 30 DAYS AFTER THE DATE THE NOTICE OF RULE ADOPTION IS POSTED. If the 30th day is Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An appeal is initiated by filing a written statement with the City Clerk that states the name, mailing address, and telephone number of the person filing the appeal, identifies the rule being appealed, and includes a statement of specific reasons why the rule should be modified or withdrawn. An appeal form is available from the City Clerk.

Notice that an appeal has been filed will be posted by the City Clerk and copies of the appeal will be provided to the City Manager, Chief of Police and the City Council. The adopted rule will be suspended pending the City Manager's decision. The City Manager may affirm, modify, or withdraw the adopted rule. If the City Manager fails to render a decision within 60 days after the date the notice of rule adoption was posted, the rule is withdrawn. Notice of the City Manager's decision in the appeal will be posted by the City Clerk.

The City Manager may reconsider the decision no later than 16 days after the City Clerk has posted notice of the City Manager's decision, and shall complete reconsideration no later than 31 days after giving notice of the intent to reconsider.

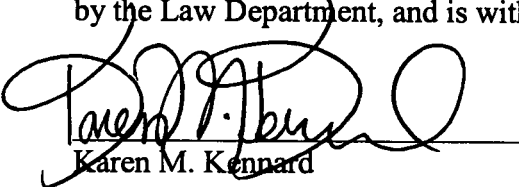
REVIEWED AND APPROVED:


Art Acevedo, Chief of Police
Austin Police Department

Date: 07/19/2012

Certification by City Attorney

By signing this notice, the City Attorney certifies that the adopted rule has been reviewed by the Law Department, and is within the authority of the Chief of Police to adopt.


Karen M. Kennard
City Attorney

Date: July 20, 2012