

ORDINANCE 09-23

Passed 8-0
Votaw absent

TO AMEND TITLE 4 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED
"BUSINESS LICENSES AND REGULATIONS"
(Adopting Chapter 4.26 entitled, "Velocabs")

WHEREAS, the Bloomington Municipal Code does not provide for the regulation of velocabs;
and

WHEREAS, the efficient and effective regulation of velocabs is necessary to promote the
health, welfare and safety of the community; and

WHEREAS, velocabs are becoming an increasingly-popular mode of environmentally-friendly
transportation throughout the country; and

WHEREAS, when someone chooses a velocab over transportation reliant on fossil fuels, that person
reduces the amount of carbon dioxide and other greenhouse gasses emitted into
the atmosphere; and

WHEREAS, provisioning for this mode of clean transportation supports the City of Bloomington's
commitment to reducing greenhouse gas emissions as indicated by the Mayor's
signature of the *U.S. Mayors Climate Protection Agreement* and the City Council's
adoption of *Resolution 06-05: Supporting the Kyoto Protocol and the Reduction of the
Community's Greenhouse Gas Emissions*; and

WHEREAS, velocabs enhance the community character and support its goal of promoting the City as
a tourist destination; and

WHEREAS, the City wishes to foster local entrepreneurialism, while encouraging innovation and
adaptation to changing transportation needs;

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BLOOMINGTON
THAT:

SECTION 1. The Bloomington Municipal Code shall be amended by inserting Chapter 4.26 entitled
"Velocabs" shall be inserted in the table of contents for Title 4 and shall read as follows:

Velocabs	
4.26.010	Purpose
4.26.020	Definitions
4.26.030	Velocab License - Required for Operation
4.26.040	Velocab License - Application
4.26.050	Velocab License - Qualifications of Operators
4.26.060	Velocab License - Safety
4.26.070	Velocab License - Insurance Requirements
4.26.080	Velocab License - Issuance
4.26.090	Velocab License - Denial, Suspension and Revocation
4.26.100	Velocab License - Fee & Term
4.26.110	Velocabs - Fare Card
4.26.120	Velocabs - Driver Card
4.26.130	Velocabs - Signs
4.26.140	Other Laws Applicable to Velocabs
4.26.150	Equipment Regulations
4.26.160	Prohibition on the Manner of Operation
4.26.170	Penalty
4.26.180	Appeal
4.26.190	One-Year Review
4.26.200	No Effect on Taxicab Regulations

4.26.010 Purpose

The purpose of this Chapter is to provide for the safe, fair, and efficient operation of velocabs on City of Bloomington streets. Because transportation so fundamentally affects the City's well being and that of its citizens, some regulation is necessary to insure that the public safety is protected, the public need provided, and the public convenience promoted.

4.26.020 Definitions

"Darkness" means any time from one-half hour after sunset until one-half hour before sunrise and any other time when, due to insufficient light or unfavorable atmospheric conditions, vehicles are not clearly discernible at a distance of five hundred (500) feet to the front and rear.

"Operator" means the individual who is in actual physical control of the velocab whether as the owner, an employee of the owner or as an independent contractor.

"Owner" means any person who possesses the velocab with good legal title, or possesses a velocab under a lease, reserve title contract, conditional sales agreement, or vendor's agreement or similar agreement.

"Velocab" means any single-unit device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, having two or more wheels and designed and constructed in such a manner as to engage in the business of carrying passengers for hire. Velocabs are commonly known as "pedicabs."

"Person" means any corporation, association, syndicate, joint stock company, partnership, or individual.

4.26.030 Velocab License – Required for Operation

It shall be unlawful for any person to operate a velocab within the City of Bloomington without having a valid velocab license issued by the City pursuant to this Chapter.

4.26.040 Velocab License – Application

Any person who wishes to obtain a license under this Chapter must first complete an application prescribed by the City Controller.

- (a) An application for a velocab license shall include the following information:
 - (1) applicant's full name and current physical address;
 - (2) name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization by which the applicant is employed;
 - (3) applicant's date of birth;
 - (4) applicant's Indiana driver's license number and a copy of the license appended thereto;
 - (5) if the applicant is a corporation, the names and addresses of each of the principal officers of the corporation. If the applicant is not a corporation, the names and addresses of the partners, trustees, owners or other persons with controlling interests;
 - (6) the number of velocabs to be operated;
 - (7) a description of each velocab, including the vehicle type, seating capacity, manufacturer, serial number, and a recent color photograph appended thereto;
 - (8) the names and physical addresses of each person who will act as an operator of a licensed velocab;
 - (9) the telephone number of the velocab dispatch operator;
 - (10) the rates proposed to be charged to patrons using the service;
 - (11) a map of the City indicating streets upon which the velocab proposes to operate;
 - (12) proof of insurance as required by Section 4.26.070 below; and
 - (13) such other material as the City Controller may require.
- (b) Each applicant shall sign the application which shall contain a warning that the application may be denied or the permit suspended or revoked if the applicant misrepresents facts relevant to the fitness of the applicant to be granted a velocab license.

- (c) Each applicant shall provide separate signed statements asserting whether the applicant or the person or persons to operate the velocab:
 - (1) has been convicted of any crime, misdemeanor, or violation of any municipal regulation or ordinance together with the details thereof;
 - (2) has been convicted of four or more violations of the motor vehicle provisions of the Indiana Code within any 12-month period;
 - (3) is free of defective vision, defective hearing and any other infirmities as provided by the Indiana Code 9-24-2-3;
 - (4) has been involved in an incident described in 4.26.090(f);
 - (5) has had a license revoked under this Chapter, or any other similar ordinance of the City of Bloomington or any county or municipality, has been revoked together with the details thereof; and
 - (6) has read the requirements of this Chapter and understands its provisions.
- (d) Any person issued a license shall immediately notify the Controller if any information required herein changes.
- (e) Any application that does not include all information requested by the application or is not supported by the materials required herein shall be denied.

4.26.050 Velocab License – Qualifications of Operators

Prior to the issuance of a license or a renewal of a license under this Chapter, the applicant shall attest that each person identified as an operator of a velocab is:

- (a) The holder of a valid motor vehicle operator's license issued by the State of Indiana; and
- (b) At least eighteen years of age.

4.26.060 Velocab License – Safety

- (a) No velocab license shall be issued or renewed unless the person who wishes to obtain a license under this Chapter submits proof that each vehicle designated in the application complies with the requirements of 4.26.150 and verifies that each vehicle has undergone an independent safety inspection.
- (b) It is unlawful to operate a velocab or employ a person to operate a velocab which is unsafe for public transportation, which does not meet the requirements of 4.26.150, or which has not undergone an independent safety inspection.
- (c) If, at any time after issuing a license for a velocab, that velocab is determined to be unsafe for public transportation by the Chief of Police or his or her designee, the velocab shall be taken out of service until the time the Chief of Police is satisfied that it has been repaired and is sufficiently safe to be returned to public service.

4.26.070 Velocab License – Insurance Requirements

- (a) It is unlawful for any person to operate a velocab within the City of Bloomington unless at the time of such operation the owner has in effect a valid policy of commercial general liability coverage or business auto coverage with a velocab endorsement on the vehicle. Proof of insurance shall be provided by an applicant for a velocab license at the time of application. Applicant shall also provide the City with a municipal hold-harmless certificate.
- (b) The terms of the policy shall provide that the insurance company assumes financial responsibility in an amount not less than \$1,000,000 per occurrence or \$2,000,000 in the aggregate for bodily injuries and personal injuries or property damage caused by the operation of the velocab, including but not limited to, velocabs operated by the officers, employees, agents, or lessees of the owner.
- (c) A valid certificate of insurance issued by a company providing the required insurance policy shall be available for inspection at the owner's principal place of business. A certificate of insurance shall provide that the insurer will immediately notify the Controller of any cancellation of, or change in, the owner's insurance policy and that such notice shall be in writing and shall be sent by registered mail at least thirty days before cancellation of the policy. The certificate shall include all of the following:
 - (1) the full name of the insurer;
 - (2) the name and address of the insured;
 - (3) the insurance policy number;
 - (4) the type and limits of coverage;
 - (5) the specific vehicles insured;
 - (6) the effective dates of the insurance policy; and
 - (7) the certificate issue date.

- (d) Proof of insurance shall include that the City of Bloomington shall be held harmless and included as an additional insured on said insurance.

4.26.080 Velocab License – Issuance

- (a) After consideration of the application and all information and data obtained relative thereto, the Controller shall issue a license to the applicant within fourteen days of the receipt of the complete application if he or she determines that the applicant has the qualifications and meets the requirements of this Chapter and all other applicable laws and policies.
- (b) If the Controller fails to issue the license within fourteen days of completion of the application, the applicant may appeal to the Board of Public Works. The Board shall, in an expeditious manner, determine whether the applicant has complied with all provisions of this chapter and shall authorize the controller to issue the license if there is such compliance.
- (c) The Controller shall not issue a license if applicant does not satisfy the requirements of this Chapter.

4.26.090 Velocab License – Denial, Suspension and Revocation

The Controller shall not approve a license and may suspend, revoke, or decline to renew a license if any of the following conditions are present:

- (a) An owner or operator is in violation of any City ordinance;
- (b) An operator has been convicted of assault; battery; resisting arrest; any felony involving force and violence; any misdemeanor or felony reckless driving or driving under the influence; or any crime reasonably related to the qualifications, function, or duties of the passenger transport business or the ability of the operator to safely transport passenger, unless five years has elapsed from the date of discharge from a penal institution, or the successful completion of probation for such conviction;
- (c) An applicant or operator has been convicted of a crime that requires registration under the Indiana Penal Code as a sex offender;
- (d) An applicant made a false statement in the application or has submitted an incomplete application or has not fulfilled a promise made with, or in, the application;
- (e) Any requirement of this Chapter is not being, or cannot be, met;
- (f) The velocab or velocab operator was involved in a vehicle accident involving a velocab, where velocab passengers were injured and where the velocab operator was found to be at fault;
- (g) Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, at any time, had a license under this Chapter by the City or any other velocab law revoked any other governmental agency or body. An application shall also be denied if the purpose of the business is otherwise unlawful;
- (h) Any person who is to participate in the business or any person who will be responsible for the management or supervision of the applicant's business has, within ten (10) years, violated the provisions of this Chapter; and
- (i) Immediately upon the revocation of a license issued under this Chapter, written notice thereof shall be given by the Controller to the holder of a license by certified mail, return receipt requested, addressed to the applicant's physical address or his/her agent as set forth in the application. Immediately upon the mailing of such notice, the license shall become null and void. Concurrently, City staff shall notify the licensee of the revocation in person or by phone.

4.26.100 Velocab License – Fee & Term

- (a) Fee. The Controller shall charge a nonrefundable fee of \$30 to recover the cost of activities associated with the administration, regulation and issuance of velocab licenses. This fee does not include the cost of inspection.
- (b) Term.
 - (1) Velocab licenses shall be valid for a period of one year from the date of issuance; and
 - (2) Velocab licenses shall become invalid immediately if the velocab license is defaced, altered, forged or counterfeited.

4.26.110 Velocabs – Fare Card

- (a) Every licensed velocab shall be equipped with a card prominently displayed showing the fares and rates to be charged for the transportation of passengers. Such card shall be affixed to the velocab in such a way as to be visible to all passengers.
- (b) It is unlawful to collect fares and charges other than those specified on the license application and fare card.

4.26.120 Velocabs – Driver Card

Every licensed velocab shall be equipped with a card showing the name and photograph of the driver operating the velocab. Such card shall be affixed to the velocab in such a way as to be visible to all passengers.

4.26.130 Velocabs – Signs

Every licensed velocab shall be designated by the name of the company and telephone number as it appears on the business license and the name and telephone number shall be printed in legible letters on each side of the vehicle that are readable at one hundred fifty feet or more by the naked eye by a person with normal vision

4.26.140 Other Laws Applicable to Velocabs

Every operator shall be subject to all applicable laws, rules and regulations of Chapter 15.56 of the Bloomington Municipal Code and the Indiana Code, 9-21-11 et seq. and any other applicable City of Bloomington or State of Indiana law.

4.26.150 Equipment Regulations

(a) During the hours of darkness, an operator must use:

- (1) a headlight capable of projecting a beam of white light for a distance of at least 500 (five hundred) feet to the front; and
- (2) battery-powered taillights mounted on the right and left, respectively, at the same level on the rear exterior of the passenger compartment. Taillights shall be red in color and plainly visible from all distances within at least 1,000 (one-thousand) feet to the rear of the velocab.

(b) All velocabs must be equipped with the following:

- (1) rear and side reflectors;
- (2) lighted turn signals visible from both the front and the rear of the velocab; such turn signals must be able to operate independently to signal a left or right turn and simultaneously to signal "hazard;"
- (3) an operational braking system and one that is appropriate for the maximum carrying capacity of the velocab; the braking system must enable the operator to make the braked wheels skid on dry, level, clean pavement;
- (4) a horn or bell capable of emitting sound audible under normal conditions from a distance of not less than 200 feet; however, a velocab may not be equipped with a siren or whistle;
- (5) rearview mirror;
- (6) tires having a tread depth sufficient to be designated as operationally safe;
- (7) seatbelts for passengers; and
- (8) other items as the City may so deem necessary.

(c) An operator may not operate a velocab:

- (1) with any lighting on the exterior in excess of the requirements provided herein or with any flashing or twinkling lights on the interior;
- (2) which has an attached sidecar and/or which is used to tow another vehicle of any type while transporting passengers; and
- (3) wider than fifty-two inches at its widest point.

(d) All velocabs shall be commercially manufactured. Homemade velocabs are prohibited.

4.26.160 Prohibited Manner of Operation

It shall be unlawful for any person:

- (a) To operate, or cause to be operated, a velocab upon or along any street or street segment unless such street or street segment is first approved for velocab operation by the Chief of Police and/or the Director of Public Works. The Chief of Police and/or Director of Public Works may deny operations on designated streets at certain times;
- (b) To operate, or cause to be operated, a velocab on a sidewalk;
- (c) To operate a velocab on any sidepath or multi-use trail designed for use by pedestrians and bicyclists, unless the velocab operator yields to slower users and to on-coming users of the facility;
- (d) To stand, park or solicit on City of Bloomington Parks and Recreation property unless such activity is approved by the Board of Park Commissioners;

- (e) To operate a velocab in any traffic lane on any public street other than the lane nearest the curb, except when making left turns;
- (f) To load or unload passengers in the roadway unless such is done safely, appropriate to existing roadway conditions, and in a manner that does not impede traffic;
- (g) To load or unload passengers without using flashing hazard lights;
- (h) To operate, or cause to be operated, a velocab in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law;
- (i) To operate, or cause to be operated, a velocab in an unsafe manner or condition;
- (j) To operate, or cause to be operated, a velocab while under the influence of alcoholic beverages or controlled substances, including medication prescribed by physician if said medication impairs driving;
- (k) To smoke while operating a velocab;
- (l) To exceed the occupancy limits of the velocab as outlined in the rated seating capacity of the vehicle;
- (m) To permit a passenger to ride on any part of the velocab other than by sitting on the seats designed for such purpose; and
- (n) To solicit patronage in a loud tone of voice or in any manner so as to annoy or obstruct the movement of a person, nor shall an operator follow a person for the purpose of soliciting patronage.

4.26.170 Penalty

Citations may be issued by the Chief of Police or his or her designee:

- (a) Each day that any violation continues shall be considered a separate violation for purposes of the penalties specified in this Chapter.
- (b) Any person, firm, limited liability company, corporation or organization who violates any provision of this Chapter, or who makes a false statement upon an application for a license provided herein, shall be subject to a fine of two hundred and fifty dollars (\$250.00).
- (c) Any person, firm, limited liability company, corporation or organization who conducts any business described in this Chapter, without first obtaining a license as described herein, shall be assessed a fine of five hundred dollars (\$500.00).

4.26.180 Appeal

Any person aggrieved by the action of the City Controller in the denial, suspension or revocation of a license shall have the right of appeal to the Board of Public Works. Such appeal shall be taken by filing with the Department of Public Works within ten (10) days after the action complained of, a written statement setting forth fully the grounds for appeal.

4.26.190 One-Year Review.

One year from the effective date of this ordinance, the Common Council shall review the requirements of this ordinance and revise this Chapter as necessary.

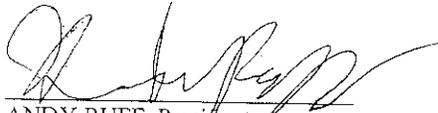
4.26.200 No Effect On Taxicab Regulations.

Nothing contained in this Chapter shall in any manner repeal, change or otherwise modify the provisions of the Bloomington Municipal Code Chapter 4.24 applicable to taxicabs.

SECTION 2. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every Section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 16th day of DECEMBER, 2009.


ANDY RUFF, President
Bloomington Common Council

ATTEST:


REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17th day of DECEMBER, 2009.

SIGNED and APPROVED by me upon this 18th day of DECEMBER, 2009.


MARK KRIZAN, Mayor
City of Bloomington

Synopsis

This ordinance is sponsored by Councilmember Satterfield and adds Chapter 4.26 "Velocabs" to Title 4 "Business Licenses Regulations" of the Bloomington Municipal Code. Chapter 4.26 requires that all persons wishing to operate a velocab within the City of Bloomington obtain an operator's license, adhere to numerous safety equipment requirements, follow safe operating practices, submit to an independent safety inspection, and carry velocab-specific liability insurance. The Chief of Police and/or the Director of Public Works must approve the streets upon which velocab operators wish to operate. The ordinance calls for the Council to revisit this provision one year after the ordinance's effective date and revise the ordinance as necessary.

Note: On December 16, 2009, the Council adopted Ord 09-23 with the adoption of Am 1, which made a number of changes to clarify the requirements of the ordinance and to correct scrivener's errors. The amendment eliminated the provision of the ordinance prohibiting any lighting in excess of the lighting requirements provided by the ordinance and replaced this provision with a prohibition against any extra exterior lighting in excess of the requirements of the ordinance and prohibited flashing or twinkling lights on the velocab's interior. The following provisions were affected by Am 1: 4.26.020, 4.26.150, 4.26.090 and 4.26.200.

Signed copies to:

Legal (6)
Controller
POLICE CHIEF
Dir. Public Works
Dir. Public Works

Parks & Rec.
bd. Park Commissioners
GA/CA (2)
Clerk (2)
PMC (2)