Text Amendment to Chapter 14; Article VII, Sec 14 and Chapter 18; Article 1 to create an allowance for a Commercial Pedal Vehicle that would allow the consumption of alcohol. Applicant Tina Bell, Pleasure Island Peddler, LLC

BACKGROUND:

The Applicant, Tina Bell applied for a text amendment that would allow for tours that would permit customers to consume beer and unfortified wine while on a trolley-style vehicle that would tour along an approved route throughout town. This type of vehicle currently operates in Wilmington, Raleigh and Charlotte. The town’s current ordinance allows for the operation of taxi cabs, private bus services, rickshaws and pedicabs, but does not address a commercial vehicle that is propelled by multiple passengers not including the operator. Staff has drafted an ordinance to address the allowance of a “Commercial Pedal Vehicle” that is a non-motorized device with four wheels steering for a forward seat driver, 8-16 passenger saddle seats, and pedals by which the device may be propelled upon a street at low speed. A proposed Commercial Pedal Vehicle would need to be approved by Town Council. The ordinance would address operating hours, route approval, addresses the consumption of alcohol, and safety concerns. The vehicle is constructed with a low running board, built in coolers, and a bar at which passenger sit and peddle, and are allowed to consume beer and wine, which they must provide themselves. The vehicle is not considered a low speed vehicle and does not have a license plate.

State laws would not prohibit the consumption of alcohol for its passengers for this type of vehicle. The operation of this type of vehicle does not violate the state’s impaired driving laws because the drinkers aren’t drivers. They simply provide the power. They don’t steer, and they aren’t in physical control of the vehicle. The driver is an employee of the business and is not allowed to consume any alcohol. While state law prohibits passengers from consuming alcoholic beverages in the passenger area of a motor vehicle that is being driven on a public street, an exception applies for motor vehicles designed, maintained, or used primarily for the transportation of persons for compensation. However, the possession
and consumption of beer and wine would violate the town’s open container laws. The proposed amendment to the town’s open container laws will allow passengers aboard a Commercial Pedal Vehicle business that has been approved by town council to possess and consume beer and unfortified wine. Passengers of a Commercial Pedal Vehicle would not be allowed to bring liquor aboard. That restriction is required by the state’s ABC laws, which prohibit individuals from transporting open containers of fortified wine or spirituous liquor in the passenger area of a vehicle.

**ACTION REQUESTED:**

The Town Manager recommends approval of the Text Amendment to allow for Pedal Vehicles.
Consider approving Ordinance 18-1076.

**COMMITTEE RECOMMENDATION:**

Staff Reviewed the proposal with the Police Advisory Committee and recommended approval for the allowance to provide tours while consuming alcohol on a Commercial Pedal Vehicle, but had the following concerns,
- Customer meeting space and loading area should take place on private property.
- Operating on Dow RD and N. Lake Park Blvd., recommend staying on side streets.

**ATTACHMENTS:**

[Pedal Pub Text Amendment Application](#)
[Proposed Ordinance](#)
[Bike Pub Text Amendment](#)
PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner’s Full Name: Tina Elizabeth Bell
Phone #: (919) 270-4299
Street Address: 206 Ocean Blvd
City: Carolina Beach State: NC Zip: 28428
Email: tbell12846@yahoo.com; david.matthew.ramlet@gmail.com

REQUESTED TEXT AMENDMENT

Town Code Section(s) Requested to be Amended:

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the $350 fee for review is nonrefundable.

Signature of Petitioner: Tina Elizabeth Bell
Date: 11/8/17
Ordinance Update Request

In accordance with NC law G.S. 20-138.7 section (a2-1), David Hamlet and Tina Bell would like to permit customers to consume beer and unfortified wine while on a trolley-style passenger vehicle that would implement tours along a specified route throughout the business district of the town of Carolina Beach. Alongside our request, the ordinance update alcohol consumption would be limited to an approved trolley passenger vehicle and not all commercial vehicles for hire.
ARTICLE VII. - RESERVED Commercial Pedal Vehicle

Section 14-353. – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

*Commercial pedal vehicle:* A pedal car is a non-motorized, but has a low speed assist, four (4) or more wheeled bicycle-like vehicle that is human powered that transports passengers on bicycle-like seats and is propelled by five or more passengers not including the operator. A pedal car may have a maximum length of twenty (20) feet, a maximum width of eight (8) feet six (6) inches and a maximum height of twelve (12) feet.

*Commercial pedal vehicle business:* The business of operating one (1) or more commercial pedal car vehicle(s) for profit or not-for-profit.

*Commercial pedal car vehicle:* Any person who is responsible for the safe operation of a commercial pedal car, including but not limited to the steering and braking and maintaining compliance with all state and local traffic regulations.

*Street:* Any street or roadway within the town limits.

*Vehicle:* means every device in, upon, or by which any person is or may be transported or drawn upon a highway or street.

Sec 14-354. - License fee.

The annual fee for a commercial pedal vehicle business license shall be as established the town's annually adopted rates and fees schedule.

Sec 14-355. - License application.
(a) Except as otherwise provided in this section, no person shall operate a Commercial Pedal Vehicle Business in the town unless such person shall have applied to and obtained from the town council a commercial pedal vehicle permit authorizing such operation. Application for a commercial pedal vehicle permit shall be made in writing to the Town Clerk, on forms furnished by the Town Clerk and shall set forth the following information:

1. The name, age, residence and business address of the applicant if he is an individual, or if the applicant is a corporation, the address of the principal office of the corporation and the names and addresses of all persons authorized to operate a commercial pedal vehicle on behalf of the licensee.

2. A list of the number, age, body type, seating capacity of vehicles and the number of vehicles the applicant proposes to use in the business.

3. The streets over which, and the fixed termini and regular routes between which and over which, the applicant proposes to operate.

4. A schedule of operation showing the time of arrival and departure from terminal and intermediate points and days of service.

5. Site plan for each stop with details of any proposed signs, structures, and/or benches.

6. Such other information as the town council may require.

(b) The application shall be verified as to the truth of the statements therein contained by the oath of the person making such application if he is an individual, by one of the partners if the applicant is a partnership, and by an officer of the company if the applicant is a corporation.

Sec 14-356. - Operating restrictions and conditions.

(a) The consumption of alcoholic beverages of beer or unfortified wind is permitted meeting the following regulations:

1. No commercial pedal vehicle driver shall consume any alcoholic beverages while on duty or operate a commercial pedal vehicle while impaired in any manner to any threshold.

2. All commercial pedal vehicle passengers consuming alcohol shall be of legal age.

3. No alcoholic beverages other than beer and unfortified wine, may be consumed by passengers of a commercial pedal car.

4. Limit the number of servings of beer and/or unfortified wine permitted to three (3) per person.
(5) Shall not permit customers to exit the vehicle with an open container of beer or
unfortified wine.

(b) Appearance guidelines.

(1) All commercial pedal vehicles shall be clean and maintained in a good state of repair,
well painted and have an appearance free of damage or deterioration, and a safe
operational condition.
(2) All commercial pedal vehicles shall have the trade name and phone number of the
licensee conspicuously displayed on the pedal vehicle.

(c) Insurance requirements.

(1) Applicants shall acquire and provide a copy of liability insurance naming the Town of
Carolina Beach as an additional insured entity for not less than $1,000,000.00.

(2) Commercial pedal vehicle drivers shall have in their possession proof of insurance,
valid state driver’s license and shall operate the pedal vehicle in compliance with all
applicable federal, state, and local traffic laws, ordinances, or other applicable
regulations and in a manner so as to assure the safety of persons and property. These
documents shall be made available upon request of law enforcement, an authorized
city license inspector or traffic control agent.

(d) Operational safety requirements

(1) All commercial pedal vehicle drivers shall obey and comply with any lawful order or
direction of any police officer, traffic control agent, or license inspector, and shall
refrain from the use of any profane language or from interference with such officials
while in the performance of their duties.

(2) No commercial pedal vehicle driver shall permit more passengers to be carried in a
commercial pedal car than the commercial pedal car’s normal seating capacity and no
more than two (2) persons in addition to the driver may be in the center aisle while
vehicle is in motion.

(3) No commercial pedal car driver shall allow a passenger or other individuals to drive
their commercial pedal car.

(4) No glassware of any kind shall be allowed on a commercial pedal car including but
not limited to bottles, receptacles or drinking glasses.

(5) No music or amplified sound shall be played, nor yelling or conversation be
conducted, in such a manner that the sound of which carries to points of habitation or
adjacent properties and is audible above the level of conversational speech at a
distance of fifty (50) feet or more from the point of origin of the sound.
(6) It is the responsibility of the commercial pedal vehicle driver to properly dispose of all trash.

(7) No commercial pedal car driver shall load or unload in any such manner that will in any way impede or interfere with the orderly flow of traffic on the streets.

(8) The primary location of the business, passenger meeting area, loading and vehicle storage shall be located on private property in a designated approved area not impeding any drive aisles or required parking spaces.

(9) It is the responsibility of the commercial pedal car driver to actively and affirmatively manage the behavior of the passengers of the commercial pedal car so that their behavior remains law-abiding during the excursion, both while the pedal car is in motion and at a stop. Behavior which shall be prohibited and prevented includes specifically, but is not limited to, indecent exposure, disorderly conduct, public urination and littering.

(10) Hours of operation shall not exceed 12:00 am.

Sec 14-355. - Revocation or suspension.

In addition to all other penalties, any violation of the terms of this chapter shall be grounds for revocation, suspension, or non-renewal of the license provided for in this chapter by Town Council.


Chapter 18 - OFFENSES

ARTICLE I. - IN GENERAL

(a) The consumption of alcoholic beverages, whether in its packaged form or mixed, within any public area shall be prohibited (G.S. 18B-300(c)).

(1) It shall be unlawful for any person to consume or drink any alcoholic beverages on the public streets in the town by persons who are not occupants of motor vehicles and on property owned, occupied or controlled by the town.

(2) It shall be unlawful for any person to possess an open container of alcoholic beverages on the public streets in the town by persons who are not occupants of motor vehicles and on property owned, occupied or controlled by the town.
(3) It shall be unlawful for any person to possess alcoholic beverages on public streets, alleys, or parking lots, which are temporarily closed to regular traffic for special events unless a special use permit is obtained from the Town Manager or his designee a minimum of ten working days prior to the event.

(4) Notwithstanding the provisions of this section, alcoholic beverages may be served at sidewalk cafes and consumed on Commercial Pedal Vehicles provided the requirements of article VII of, sidewalk cafes, and ARTICLE VII., Commercial Pedal Vehicles are met.

Adopted this 13th day of February, 2018.

_____________________________ ______________________________
Mayor Joseph Benson Kimberlee Ward, Town Clerk
Pleasure Island Coastal Cruiser
What is it?

- 8-16 passenger saddle seats vehicle with four wheels,
- Has a driver that controls the steering and breaking.
- Passengers pedal, does have an electrical assist.
- Tours around town, bars, state park.
- Allows for the consumption of alcohol by passengers (BYOB/W)
- 7.5’ wide x 17.6’ length
- Not considered a low speed vehicle
- Not registered, no license plate
Consumption of Alcohol

1. Change Town Code to allow passengers to consume beer and unfortified wine on a town street aboard a Commercial Pedal Vehicle business that has been approved by Town Council.

2. State law prohibits passengers from consuming alcoholic beverages in the passengers area of a vehicle, except for vehicles designed and used primarily for the transportation of persons for compensation.

3. Cannot consume liquor (state laws prohibits)
Create Ordinance and Application Process

Permits approved by Town Council

- Number of vehicles the applicant proposes to use
- Site plan for each stop with details of any proposed signs, structures, and/or benches
- Route approval with schedule of operation of arrival and departure
- Alcohol Regulations
  - Driver can’t consume
  - Legal age
  - Limit the number of servings of beer and/or unfortified wine
  - Cannot exit the vehicle with an open container of beer or unfortified wine.
- Appearance shall be clean and maintained in a good state of repair
- Insurance liability requirements
- Regulation of sound of music and amplified music
- Safety - no bottles, employee’s can only drive, not to exceed capacity, loading and unloading areas cannot impede or interfere with flow of traffic. manage the behavior of the passengers
- Bike storage location
- Operation times until 12:00am
- The passenger meeting area and loading areas shall occur on private property.
Action

• Approve or Deny the proposed amendment to allow for a Commercial Pedal Vehicle with the consumption of Alcohol.