AGENDA ITEM
Meeting: Regular Town Council - 13 Mar 2018
Prepared By: Jeremy Hardison
Department: Planning

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:

At the last scheduled meeting Town Council reviewed a text amendment application from Tina Bell on creating an allowance for a Commercial Pedal Vehicle that would allow for tours that would permit customers to consume beer and unfortified wine while on a trolley-style vehicle. Staff heard the following concerns from Council in regards to the application.

1. Additional safety regulations - The ordinance was updated to address headlights, turn signals, tail lights, horns, breaks, and inspections of the vehicle.

2. Limit the number of permits that can be issued – The proposed ordinance allows two permits. Each permit only allows one vehicle and the same applicant can’t have both permits.

3. A permit issued by Town Council detailing the route – The initial permit will be issued by Town Council. An annual permit will be issued by staff thereafter. At the time a permit application is received the applicant will present the route to Town Council for approval.

4. Address what streets the vehicle is allowed on, how are the pick up and drop offs occurring, and how they collect their fares. – Staff recommends that the vehicle should not be on Lake Park Blvd and Dow Rd except to cross at a controlled intersection. Also, not to operate in the R-2 and R-3 zoning areas. Drop offs and pickups should occur on private property or with in a designated parking space. The business location where the initial meeting place for patrons should occur on private property, not in a public area. The applicant would
like for there to be a stipulation that the above items could be waived by Town Council under the permit review.

**ACTION REQUESTED:**

Staff recommends Ordinance 18-1076 and the budget ordinance to the rates and fees schedule for the amendment to allow for Pedal Vehicles that vehicle should not be on Lake Park Blvd and Dow Rd except to cross at a controlled intersection. Also, not to operate in the R-2 and R-3 zoning areas. Drop offs and pickups should occur on private property or with in a designated parking space. The business location where the initial meeting place for patrons should occur on private property, not in a public area.

**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 Road and N. Lake Park Blvd., recommend staying on side streets.

**ATTACHMENTS:**

- Pedal Pub Text Amendment Application
- Pedal Pub Proposed Ordinance Draft
- Budget Ord.
- Bike Pub
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.matthewramlet@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.

Please see attached request.

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 E. 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.
ODINANCE NO. 18-1076

Amend Article VII, Chapter 14 and Chapter 18, Article 1

ARTICLE VII. - RESERVED Commercial Pedal Vehicle

Sec. 14-353. - Purpose and intent

It is the purpose of this article to provide citizens and visitors amusement tour activities while protecting the public interest. Due to the high volume of pedestrian, bicycle and vehicular traffic in the town, it is necessary to regulate the operation of commercial pedal vehicles within the town. The public interest requires that commercial pedal vehicles be fit for their intended purpose and that the safety and welfare of passengers and the traveling public to be protected in the operation of a commercial pedal vehicle business.

Sec 14-354. – 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 with a motor assist with 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) commercial pedal car vehicle for profit or not-for-profit.

Commercial pedal vehicle driver: 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 14-355. - 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 14-356. - 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. After the initial application approval by town council an annual permit will be required to be issued from town staff. Application for a commercial pedal vehicle permit shall be made in writing, on forms furnished by the Town 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 and how fares are to be collected.

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.

(c) Two permits for Commercial Pedal Vehicle are authorized by Town Council. Each permit issued by Town Council allows one vehicle to operate. The same applicant or business entity shall not receive more than one permit.
Sec 14-357. - Operating restrictions and conditions.

(a) The consumption of alcoholic beverages of beer or unfortified wine 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) 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.

(8) Drivers of pedal vehicles shall stay to the far right of the traveled portion of the road and yield the right-of-way to overtaking motor vehicles.

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

(10) The operator of the pedal vehicle shall comply with all traffic rules and regulations adopted by the State of North Carolina and the Town of Carolina Beach which governs the operation of motor vehicles.

The following operational safety requirements shall be required unless modified by Town Council under the permit application approval process.

(11) 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.
(12) No commercial pedal vehicle operation shall load or unload passengers in the right-of-way, except in a designated on-street parking space that will not in any way impede or interfere with the orderly flow of traffic on the streets.

(13) Commercial Pedal Vehicles shall not drive on the following areas except to cross at controlled intersections.
(A) Dow Rd
(B) N. and S. Lake Park Blvd.
(C) R-2 and R-3 zoned areas with the exception of Harper Ave and Cape Fear Blvd.

(e) Vehicle and equipment standards.

(1) Tires. Tires shall be of a size appropriate for the commercial pedal vehicle with no mismatched tires per the design of the vehicle. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.

(2) Operational horn. The commercial pedal vehicle shall be equipped with a fully operational horn or bell.

(3) Brakes. It shall be unlawful to operate, or cause to be operated, a commercial pedal vehicle that is not equipped with a front and rear braking system capable of being manipulated by the driver from driver’s normal position of operation and capable of causing a commercial pedal car with a loaded passenger compartment to come to a complete stop.

(4) Shall be equipped with headlights, tail lights, and turn signal lamps.

(5) Shall be equipped with at least one fixed operational mirror allowing the operator to see behind the cart.

(f) Inspections.

(1) In-operation inspections. If a Police Officer finds a commercial pedal vehicle in operation exhibiting continuing and present safety concerns, the commercial pedal car may be immediately ordered out of service until necessary repairs are made or the safety concerns are resolved. Qualifying safety concerns may include but are not limited to the loss of control of passengers or their failure to abide by applicable ordinances, laws or rules, flat tires, inoperable head lights or tail lights, or other mechanical or operational issues making the vehicle presently unsafe to operate.

Sec 14-358. - 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 March, 2018.

_______________________________ ______________________________
Kimberlee Ward, Town Clerk Mayor Joseph Benson
ODINANCE NO. 18-1076
Amend Budget Ordinance Rates & Fee Schedule
RATES & FEES

PLANNING AND ZONING PERMIT PROCESSING FEE SCHEDULE

<table>
<thead>
<tr>
<th>Special Permits</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Commercial Pedal Vehicle</td>
<td>$200.00 to include a parking pass</td>
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Adopted this 13th day of March, 2018.

_______________________________ ______________________________
Kimberlee Ward, Town Clerk Mayor Joseph Benson
Pleasure Island Coastal Cruiser
## Amendment Licenses and Business Regulations

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<tr>
<td>Vending</td>
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<td>Ice cream truck</td>
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<td>- Single-family, duplex, multi-family</td>
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<td>Taxi cabs</td>
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<td>Pedicabs</td>
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<td>- Retail, office, hotel, restaurant</td>
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<td>Rickshaws</td>
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<td>Industrial</td>
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<tr>
<td>Private Bus Service</td>
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<td>- Manufacturing, assembly, processing</td>
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<td><strong>Commercial Pedal Vehicles</strong></td>
<td></td>
<td>Institutional</td>
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<td></td>
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<td>- Churches, schools, government buildings</td>
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</table>
Concerns

Safety Concerns

Vehicle and equipment standards.

1) **Tires.** Tires shall be of a size appropriate for the commercial pedal vehicle with no mismatched tires per the design of the vehicle. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.

2) **Operational horn.** The commercial pedal vehicle shall be equipped with a fully operational horn or bell.

3) **Brakes.** It shall be unlawful to operate, or cause to be operated, a commercial pedal vehicle that is not equipped with a front and rear braking system capable of being manipulated by the driver from driver’s normal position of operation and capable of causing a commercial pedal car with a loaded passenger compartment to come to a complete stop.

4) Shall be equipped with **headlights, tail lights,** and **turn signal lamps.**

5) Shall be equipped with at least one fixed **operational mirror** allowing the operator to see behind the cart.

Inspections.

1) **In-operation inspections.** If a Police Officer finds a commercial pedal vehicle in operation exhibiting continuing and present safety concerns, the commercial pedal car may be immediately ordered out of service until necessary repairs are made or the safety concerns are resolved. Qualifying safety concerns may include but are not limited to the loss of control of passengers or their failure to abide by applicable ordinances, laws or rules, flat tires, inoperable head lights or tail lights, or other mechanical or operational issues making the vehicle presently unsafe to operate.
Concerns

Limit the number of permits

Two permits for Commercial Pedal Vehicle are authorized by Town Council. Each permit issued by Town Council allows one vehicle to operate. The same applicant or business entity shall not receive more than one permit.

How fares will be collected

Application:
A schedule of operation showing the time of arrival and departure from terminal and intermediate points and days of service and how fares are to be collected.
Route stipulations

The following operational safety requirements shall be required unless modified by Town Council under the permit application approval process.

(1) 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.

(2) No commercial pedal vehicle operation shall load or unload passengers in the right-of-way, except in a designated on-street parking space that will not in any way impede or interfere with the orderly flow of traffic on the streets.

(3) Commercial Pedal Vehicles shall not drive on the following areas except to cross at controlled intersections.
   (A) Dow Rd
   (B) N. and S. Lake Park Blvd.
   (C) R-2 and R-3 zoned areas with the exception of Harper Ave and Cape Fear Blvd.
Action

Approve, deny or modify the proposed amendment to the ordinance for a Commercial Pedal Vehicle with the consumption of Alcohol.