



TRANSPORTATION COMMITTEE MEETING OF FEBRUARY 25, 2020

TO: Transportation Committee

THRU: Susan Norton, Chief of Staff

FROM: Devin Howland, Director of Economic Vitality
Blake Pennington, Assistant City Attorney

DATE: February 19, 2020

SUBJECT: An Ordinance establishing the rules of operation and zone of operation for pedal carriages in the City of Fayetteville

RECOMMENDATION:

Staff is recommending the approval of an ordinance which establishes the rules of operation and a zone of operation for pedal carriages in the City of Fayetteville.

BACKGROUND:

In 2019, staff was approached by a local entrepreneur, Amber Sinclair, who was interested in seeking the rights to operate a pedal carriage business in the core of Fayetteville. Staff worked with various City departments, including the Fayetteville Police Department and City Attorney's Office to craft the attached ordinance.

DISCUSSION:

A pedal carriage is defined as *"A non-motorized or electric powered bicycle-type vehicle with a unibody frame and four or more wheels operated by one or more persons which transports or is held out to the public as available to transport passengers for hire, or for a gratuity, and is specifically designed and manufactured for that purpose."* A wide range of companies operate these vehicles in numerous municipalities across the country. Staff feels these types of carriages can have a positive impact in the areas they operate, while providing an experiential opportunity for residents and tourists alike to utilize their services.

The proposed ordinance states these carriages must be operated by a driver at least 21 years of age who would be an employee of the company and hold a Certificate of Public Convenience and Necessity and a Pedal Carriage Drivers Permit from the Fayetteville Police Department, as outlined in the ordinance. The ordinance also requires the permit holder to carry general liability insurance for bodily injury and property damage of not less than one million dollars. Numerous safety parameters are further outlined in the ordinance, including enhanced braking systems.

Due to their size, pedal carriages should not be allowed to operate on sidewalks, trails, or any closed street. These carriages can be up to 212 inches long, 94 inches wide, and weigh over 2,000 pounds.

Zone of Operation: Attached you will find a zone of operations map where pedal carriages whom possess the proper permits from the Fayetteville Police Department will be legally allowed to operate. At the applicant's request, two approved routes are also included so that the pedal carriages can access other unique areas of interest outside of Downtown. The southern route utilizes S. Hill Avenue, S. Ellis Avenue, W. 13th Street and a City owned alley to access Nomad's at the intersection of S. School and 15th Street. The route to the north utilizes N Leverett Avenue to access the concentration of breweries and restaurants located in between W. Ash Street and W. Poplar Street.

Note on Alcohol Consumption: Legal consumption of alcohol by patrons on a pedal carriage would only be permissible within an area that met the following conditions:

1. The area was designated as an "Entertainment District" per Act 812 of 2019;
2. The rules of the "Entertainment District" permitted alcohol consumption on carriages.

Pedal carriages operate successfully across the country with no alcohol consumption. Staff has discussed revisiting alcohol consumption in the future with the applicant following a successful operation period of both pedal carriages and an entertainment district, should City Council vote to designate a portion of the zone of operations for pedal carriages as an entertainment district in the future. At this point in time the applicant plans to partner with local businesses to do "pedal tours" of various bars and breweries in Fayetteville.

BUDGET/STAFF IMPACT:

N/A

Attachments:

Zone of Operations Map
Ordinance

ARTICLE X - PEDAL CARRIAGES

117.120 - Definitions

For the purpose of this article, the following words and terms have the meaning ascribed thereto:

Driver. An individual at least twenty-one (21) years of age who operates a pedal carriage.

Holder. A person who is granted a Certificate of Public Convenience and Necessity under this article to provide pedal carriage service in the city.

Pedal carriage. A non-motorized or electric powered bicycle-type vehicle with a unibody frame and four or more wheels operated by one or more persons which transports or is held out to the public as available to transport passengers for hire, or for a gratuity, and is specifically designed and manufactured for that purpose.

Pedal carriage service. The business of offering or providing transportation of persons for hire, or for a gratuity, in a pedal carriage, when:

- (1) A driver is furnished as part of the service; and
- (2) The service is offered only in accordance with a pre-approved route or within a zone of operation by right.

Pedal carriage driver's permit. A permit issued to an individual by the Chief of Police to operate a pedal carriage for hire in the city.

Operate. To drive or be in actual physical control of a pedal carriage.

Permittee. An individual who has been issued a pedal carriage driver's permit under this article.

Person. An individual, corporation, governmental subdivision or an agency, trust, partnership, or two (2) or more persons having a common economic interest.

Preapproved route. Pedal carriage service operating on a predetermined schedule with fixed pickup and destination points located on a route approved by and on file with the Police Department.

117.121 - Certificate Of Public Convenience And Necessity Required; Issuance Procedure

- (A) *Certificate Needed For Operation.* No person shall operate or permit a pedal carriage owned, leased or controlled by the person to be operated as a vehicle for hire upon the streets or trails of the city without having first obtained a Certificate of Public Convenience and Necessity from the Fayetteville City Council.
- (B) *Information Required for Certificate.* An application for a certificate shall be filed with the Police Department upon forms provided by the city, and said application shall be verified under oath and shall furnish the following information:
 - (1) The name and address of the applicant, including the name and address of all officers and stockholders of the company, if incorporated, and the name, address and telephone number of the person to whom complaints should be directed;

- (2) The financial status of the applicant, including the financial status of the officers and stockholders of the company, if incorporated, including the amount of all unpaid judgments against the applicant (officers and stockholders of the company, if incorporated), and the nature of the transaction or acts giving rise to said judgments;
 - (3) The experience of the applicant including all officers and stockholders of the company, if incorporated, in the transportation of passengers, especially as related to pedal carriages;
 - (4) Any facts which the applicant believes tend to prove that Public Convenience and Necessity require the granting of a certificate;
 - (5) The number of pedal carriages to be available for operation or controlled by the applicant and the location of proposed storage areas for the pedal carriages when not in active service. The applicant shall furnish a minimum and maximum number of requested vehicles to be permitted;
 - (6) A complete description of each model or type of pedal carriage sought to be used to include length, width, brakes, any motor assist, year, make, model, rated capacity, lighting and safety features;
 - (7) The hours between which the applicant proposes to provide pedal carriage service to the general public, and the dates, if any, on which the applicant does not propose to provide pedal carriage service to the general public, and;
 - (8) The rate schedule which the applicant proposes to use to charge passengers or receive gratuities.
 - (9) Any proposed preapproved route with scheduled and fixed pick-up and destination points and proposed fare for such pedal carriage service;
 - (10) Documentary evidence from an insurance company indicating a willingness to provide liability insurance as required by this chapter;
 - (11) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and,
 - (12) Such additional information as may be determined to be necessary to assist or promote the implementation or enforcement of this article, or the protection of the public safety.
- (C) *Public Hearing for Certificate.* When the Police Department notifies the City Clerk that a proper and adequate application has been filed, the City Clerk shall fix a time and place for a public hearing thereon. The City Clerk shall thereupon notify the applicant who shall have the duty to notify all holders of current and valid Certificates of Public Convenience and Necessity for taxicabs and pedal carriages and provide proof of such service to the City Council. Any interested person shall have the right either in person or by representatives of their own choosing, to be present at all such hearings and to introduce evidence and to be heard either in support of or opposition to the issuance of a certificate.
- (D) *Findings of the City Council.*
- (1) If the City Council finds that pedal carriage or further pedal carriage service is required by the public convenience and necessity and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this subchapter, then the City Clerk shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under the certificate and the date of issuance; otherwise, the application shall be denied.

- (2) The City Council shall deny any application in which the proposed hours of service, the proposed rate schedule or the gratuity request are found to be unreasonable to meet the public need.
- (3) In making the above findings, the City Council shall take into consideration the number of pedal carriages already in operation, the probable effect of increased service on local traffic conditions and traffic safety, and the character, experience, and responsibility of the applicant.

117.122 - Pedal Carriage Permitted Zone Of Operation And Preapproved Fixed Routes

- (A) *Permitted Zone of Operation.* Pedal carriages may only operate and carry passengers within the pedal carriage permitted zone of operation, as shown on the attached map as authorized by the City Council when granting a Certificate of Convenience and Necessity or on preapproved routes or for special events as authorized by the Transportation Services Director. Pedal carriages (without passengers) may be taken by licensed pedal carriage operators from a storage, repair, maintenance or cleaning area outside the pedal carriage permitted zone of operation into such zone or onto a preapproved route where operations may begin. The City Council may further restrict the hours and dates of operation in pedal carriage permitted zone of operation for any or all pedal carriage companies.
- (B) *Route Approval.*
 - (1) All routes outside of the permitted zone of operation shall be approved by the Police Department.
 - (2) Operators shall submit to the Police Department all requests for temporary changes in preapproved routes, or for participation in special events such as festivals, parades or weddings, not less than three (3) days before the effective date of the change or event.
- (C) No pedal carriage shall be operated in a location where such operation is not authorized by this ordinance or prohibited by the laws of the State of Arkansas or the Fayetteville City Code.
- (E) The operator of a pedal carriage shall maintain at least one (1) hand on the steering wheel at all times during movement of the pedal carriage.
- (F) No pedal carriage shall be operated on a street with posted speed limit of thirty-five (35) miles per hour or greater except for the purpose of crossing that street, unless authorized by the Police Department.
- (G) No pedal carriage shall be operated using a gas powered assist motor.

117.123 - Pedal Carriage Driver's Permit

- (A) *Pedal Carriage Driver's Permit Required.* No person shall operate a pedal carriage for hire or for a gratuity upon the streets of the city, and no person who owns or controls a pedal carriage shall permit it to be so operated, unless the driver of said vehicle shall have first obtained and shall have then in force a pedal carriage driver's permit issued under the provisions of this article.
- (B) *Pedal Carriage Driver's Permit Application.*

- (1) An application for a pedal carriage driver's permit shall be filed with the Fayetteville Police Department on forms provided by the city. Such application shall be verified under oath and shall contain the following information:
 - (a) Valid current Arkansas Driver's license;
 - (b) The names and addresses of four (4) residents of the county, who have known the applicant for a period of one (1) year and who will vouch for the sobriety, honesty, and general good character of the applicant;
 - (c) A concise history of the applicant's employment;
 - (d) Proof of training in the use and operation of a pedal carriage pursuant to a curriculum approved by the Chief of Police; and
 - (e) Proof of existing employment or a promise of employment when a pedal carriage driver's permit is issued with the pedal carriage company that has a valid Certificate of Public Convenience and Necessity.
- (C) *Police Investigation.* The Police Department shall conduct an investigation of each applicant for a pedal carriage driver's permit, and a report of such investigation with a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the Chief of Police.
- (D) *Issuance of Permit.* The Chief of Police or designee shall, upon consideration of the application and the reports required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the City Council to offer evidence why his/her application should be reconsidered.
- (E) *Form and Term of Permit.*
 - (1) Upon approval of an application for a pedal carriage driver's permit, the Chief of Police or designee shall issue a permit to the applicant for an issuance fee of \$35.00, which shall bear the name, address, age, signature, and photograph of the applicant.
 - (2) The pedal carriage driver's permit shall remain in effect unless suspended or revoked until January 31, the following year. The pedal carriage driver's permit may be reissued for another year for a reissuance fee of \$35.00 by the Chief of Police or designee after ensuring the applicant continues to meet all requirements of this section.
- (F) *Application Returned to Pedal Carriage Company.* When a driver's permit is issued, the application and supporting information shall be returned to the holder of the Certificate of Public Convenience and Necessity to be held by the certificate holder so long as the driver is employed by the certificate holder.

117.124 - Display Of Permit

Every permittee under this article shall post his or her driver's permit in such a place as to be in full view of all passengers while the driver is operating a pedal carriage.

117.125 - Suspension, Revocation Of Permit

The Chief of Police or Assistant Chief is given the authority to suspend any pedal carriage driver's permit issued under this article for a driver's failure or refusal to comply with the provisions of this article, such suspension to last for a period of not more than ten (10) days. The Chief of Police or Assistant Chief is

also given authority to revoke any driver's permit for failure to comply with the provisions of this article of for the violation of any local, state or federal law. However, a permit may not be suspended or revoked unless the driver has received notice and has had an opportunity to present evidence in his or her behalf.

117.126 - Insurance Requirements

- (A) A holder shall procure and keep in full force and effect commercial general liability insurance written by an insurance company approved by the State of Arkansas and acceptable to the city and issued in the standard form approved by the State Board of Insurance. All provisions of the policy must be acceptable to the city. The insured provisions of the policy must name the city as additional insured and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a pedal carriage service by the holder.
- (B) The commercial general liability insurance must provide combined single limits of liability for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) for each occurrence and \$5,000,000.00 aggregate, and shall include coverage for premises operations, independent contractors, products, completed operations, personal injury, and contractual liability.
- (C) Insurance required under this section must include:
 - (1) A cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew, or making a material change to the insurance policy; and,
 - (2) A provision to cover all pedal carriages, whether owned or not by the holder if operated under the holder's Certificate of Public Convenience and Necessity.
- (D) No insurance required by this section may be obtained from an assigned risk pool.
- (E) A Certificate of Public Convenience and Necessity will not be granted and renewed unless the applicant or holder furnishes the city with such proof of insurance as the city considers necessary to determine whether the applicant or holder is adequately insured under this section.
- (F) If the insurance of the holder lapses or is canceled and new insurance is not obtained, the Certificate of Public Convenience and necessity shall be suspended until insurance coverage required by this section has been obtained. A person shall not operate a pedal carriage service while the certificate is suspended under this section.
- (G) The holder shall provide adequate employer's liability insurance for the employees as provided by law.

117.127 - Conduct Of Drivers

Drivers shall at all times:

- (A) Act in a reasonable, prudent, and courteous manner, including with disorderly passengers;
- (B) Maintain a sanitary and well-groomed appearance;
- (C) Not inhale or consume any alcoholic beverage, drug, or other substance that could adversely affect his or her ability to operate a pedal carriage;
- (D) Not permit a person other than another employee of the pedal carriage service with a valid pedal carriage driver's permit to operate a pedal carriage under his or her control;

(E) Not permit any person to ride on a place not intended for passengers of the pedal carriage.

(F) Ensure compliance with the City's noise ordinance.

(G) Follow all applicable traffic regulations, whether in the City of Fayetteville Code of Ordinance or in Arkansas law, and shall not stop to load or unload passengers in the intersections of any streets, in any crosswalk, or in any manner or location that would impede the flow of traffic or be considered unsafe.

117.128 - Pedal Carriage Equipment; Inspection

(A) *Inspection and Maintenance.* Each pedal carriage shall comply with all the safety requirements imposed by all state, federal or local laws. Each pedal carriage shall submit to an annual inspection for compliance with the requirements of this article. The inspection shall be performed by the Transportation Services Department. The fee for inspection shall be \$50.00 per pedal carriage inspected. No certificate shall be issued or continued in operation unless the holder thereof provides proof of annual pedal carriage inspection for each pedal carriage in service.

(B) *Required Equipment.* A holder or driver shall, at all times, provide and maintain in good operating condition the following equipment for each pedal carriage:

(1) Headlight;

(2) Tail lights;

(3) Lights or reflectors on the front and rear corners of the passenger compartment;

(4) Approved braking system, which shall include hydraulic or mechanical disc or drum brakes, or other type of brakes that are unaffected by rain or wet conditions, as well as a secondary braking system;

(5) Pneumatic tires that conform with the manufacturer's specifications on all wheels with adequate tread depth;

(6) Evidence of insurance and city map;

(7) Mirror;

(8) No exposed rust, ripped upholstery or fabric, visible chips or scratches on any painted surface, exposed wood that is not painted and in good condition, or dirt or debris on any surface accessible to passengers.

(9) Rate card complying with their Certificate of Convenience and Necessity and this code posted in clear view of passengers;

(10) Child safety helmet available for passenger use;

(k) Sound-warning device;

(l) The identification number assigned by the Fayetteville Police Department for the pedal carriage and telephone number of the pedal carriage company shall be displayed on the rear of the pedal carriage with numerals no smaller than 2 inches in height and 1 inch in width.

117.129 – Rate Schedules

The holder shall maintain a current rate schedule on file with the Police Department and shall not advertise or charge any rate or fee other than the amount on file.

117.130 - Transfer Of Certificate

No Certificate of Public Convenience and Necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the City Council.

117.131 - License Fees

No certificate shall be issued unless the applicant has paid a license fee of \$100.00 to offset the administrative costs to issue a Certificate of Public Convenience and Necessity.

117.132 - Suspension, Revocation, And Cancellation Of Certificate

- (A) A certificate issued under the provisions of this article may be revoked or suspended by the Fayetteville City Council if the holder thereof has:
- (1) Violated any of the provisions of this article;
 - (2) Violated any ordinances of the city, or the laws, federal or state, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.
- (B) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.
- (C) If any holder of a certificate goes out of business, fails to operate under the certificate for one (1) calendar year, fails to have any vehicle inspected to operate under the certificate for one (1) calendar year or fails to have any driver or operator properly permitted under the certificate for one (1) calendar year, the holder's Certificate of Public Convenience and Necessity shall be deemed abandoned and shall be denoted as cancelled and invalid by the City Clerk.

117.133 - Number Of Passengers In Pedal Carriages Limited

Pedal carriage drivers must ensure that the manufacturer rated carrying capacity of their pedal carriages is never exceeded.

117.134 - Pedal Carriages May Not Use Public Sidewalks, Trails, or Closed Streets

Pedal carriages may not operate on or park on public sidewalks in Fayetteville. Pedal carriages must pay a full normal parking space fee when stopped for more than one (1) minute or parked within a paid parking space. Pedal carriages shall not be operated on any trails in the city or on any closed street.

117.135 - A.D.A. Compliance

Holders shall comply with all applicable provisions of the Americans with Disabilities Act.

117.136 – Accidents

All accidents arising from or in connection with the operation of a pedal carriage shall be immediately reported to the Police Department if the accident results in death or bodily injury to any person or damage to any vehicle or property in an amount exceeding five hundred dollars (\$500.00). Any other

accident shall be reported to the Police Department within seventy-two hours from the time of the accident occurrence.

Pedal Carriage Zone of Operation Map

Dashed Green Line = approved routes

* Pedal carriages shall not be permitted to drive down College Avenue or Archibald Yell Blvd.

* Crossing of College Avenue would only be permitted at signalized intersections.

