

ORDINANCE NO.18-017

AN ORDINANCE PERTAINING TO THE USE OF COMMERCIAL PEDAL CARS IN THE CITY OF BROOKINGS, SOUTH DAKOTA.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BROOKINGS, SOUTH DAKOTA, AS FOLLOWS:

I.

ARTICLE IV. COMMERCIAL PEDAL CARS

Sec. 6-141. Definitions. As used in this article, the following terms shall have the meanings indicated:

Alcohol Beverages: Means any distilled spirits, wine and malt beverages as defined in SDCL Chapter 35.

Commercial Pedal Car/ also known as a Quadricycle: A vehicle with fully operational pedals for propulsion entirely by human power, that has four wheels and is operated in a manner similar to a bicycle, that is equipped with at least four (4) seats for passengers, that is designed to be occupied by a driver and passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes.

Malt Beverages: Has the meaning set forth in SDCL 35-1-1(8).

Wine and Wine Based Beverages: Has the meaning set forth in SDCL 35-1-1(25).

Sec. 6-142. Compliance with city ordinances.

- (1) Commercial pedal cars operating within the City shall also comply with Brookings Ordinance Chapter 82, Article XI, relating to bicycles.
- (2) Commercial pedal cars operating within the City shall also comply with Brookings Ordinance Chapter 6, which pertains to alcoholic beverages. Any alcoholic beverages sold in the City of Brookings shall be purchased in the City of Brookings.

Sec. 6-143. Parking on sidewalk prohibited. No person shall park a commercial pedal car upon any sidewalk in the City. The pedal car may, however, occupy up to two diagonal parking spaces and may park parallel to the curb.

Sec. 6-144. License required. No person shall drive or operate a commercial pedal car upon any street, sidewalk or other public place in the city without first registering and obtaining a city license for such commercial pedal car.

Sec. 6-145. License application procedure.

- (1) Application for a license for a commercial pedal car shall be made by the owner of the pedal car to the city clerk, in writing, upon forms furnished by the city. Such application shall be signed by the owner and submitted to the city clerk for approval on an annual basis. The fee for an annual license shall be set by resolution of the City Council and paid to the City prior to issuance of the license. Such license shall be issued in January each year, or thereafter when applied for, and shall expire on the 31st day of December following its issuance.
- (2) Upon payment of the necessary fees and approval of the City Manager or the designee of the City Manager, the City may issue or cause to be issued a license for the owner. Transfer of the license to another person is prohibited.
- (3) Revocation. A license may be revoked by the city clerk or the designee of the city clerk at the request of the City Manager or Police Chief for any of the following reasons:
 - (a) Failure to comply with any of the provisions of this Article;
 - (b) Violating any State statute or City ordinance.
- (4) Any applicant whose license has been denied or revoked under the provisions of this section may appeal said denial or revocation to the City Manager.

Sec. 6-146. Consumption of alcoholic beverages.

- (1) No alcohol beverage, other than beer, wine, hard cider or malt-based beverages below six (6) percent alcohol content may be consumed by passengers of a commercial pedal car.
- (2) The above restrictions shall apply whenever a pedal car is being used or operated.

Sec. 6-147. Equipment requirements. Commercial pedal cars operating within the City shall be equipped with the following:

- (1) Lighting on the vehicle which shall be the following:
 - (a) A light on the front which shall emit a white light visible from a distance of 300 feet to the front.
 - (b) A taillight mounted on the rear, which when lighted shall emit a red light plainly visible from a distance of 500 feet to the rear.
 - (c) A brake light on the rear which shall emit a red light and which shall be actuated upon application of the service (foot) brake and which may, but need not, be incorporated with a taillight. Every brake light

shall be plainly visible from a distance of 300 feet to the rear, both during normal sunlight and at nighttime.

- (2) Rear signage which shall conform with those standards and specifications adopted for slow-moving vehicles by the American Society of Agricultural Engineers standard ASAE S276.3, or shall be an emblem of the same shape and size painted on such vehicle in a bright and conspicuous retro reflective red orange paint. Such emblem shall be mounted on the rear of a pedal car, in the approximate horizontal geometric center of the vehicle, at a height of three to five feet above the roadway, and shall be maintained at all times in a clean and reflective condition.
- (3) A mirror capable of showing the driver a view of the roadway for a distance of 200 feet to the rear of the vehicle.
- (4) A braking system, operable by the driver, that is capable of overriding all methods of propulsion and bringing the vehicle to a complete stop.
- (5) No commercial pedal car drivers shall permit more passengers to be carried in a commercial pedal car than the commercial pedal car's normal seating capacity.

Sec. 6-148. Insurance requirements. All pedal cars operating for commercial purposes must maintain the following insurance:

- (1) No owner of a commercial pedal car or any other person shall operate or authorize any other person to operate a pedal car for commercial purposes within the City of Brookings unless the owner has in effect a policy of comprehensive general liability insurance issued by an insurance company duly authorized to do business in the State of South Dakota, which policy provides for the payment of damages for bodily injury or death of a person, and for injury to or destruction of property of a person or entity, due to the liability of the owner or operator of a pedal car arising out of the ownership, operation, use, or maintenance of a pedal car. The policy shall provide coverage with limits in an amount of not less than \$1,000,000 per accident. The policy shall provide that the insurer shall give notice of any cancellation or nonrenewal of the policy.
- (2) The owner of a pedal car shall provide to the city clerk a copy of the certificate of insurance required by subparagraph (1) above. Failure to comply with this provision shall result in the immediate suspension of the owner's rights and privileges to operate the pedal car commercially within the city.

Sec. 6-149. Pedal car operator requirements.

- (1) The operator of a commercial pedal car must be twenty-one (21) years of age and must have a valid South Dakota Driver's License to drive/operate a commercial pedal car in the City of Brookings.
- (2) No operator of a commercial pedal car may consume alcohol while the commercial pedal car is occupied by passengers.
- (3) No operator may operate a commercial pedal car while impaired in any manner which would violate SDCL 32-12A-43 (Operation of a commercial motor vehicle with any measurable or detectable amount of alcohol in system prohibited).
- (4) No operator may operate a commercial pedal car on which any alcohol beverages are carried or consumed other than beer, wine, hard-cider or malt based beverages.
- (5) The owner or operator of a commercial pedal car shall advise passengers that they may only consume beer, wine, hard-cider or malt based beverages on a pedal car.
- (6) No person shall operate a commercial pedal car if alcoholic beverages are present unless all passengers at all times are twenty-one (21) years of age.

Sec. 6-150. Pedal car passenger requirements.

- (1) No passenger may occupy a commercial pedal car on a seat equipped with a pedal unless such person is physically able to sit upright in the seat and operate the pedals which power the vehicle.
- (2) No alcohol beverages shall be possessed, carried upon or consumed on a commercial pedal car if any passenger has not attained the age of twenty-one (21).

Sec. 6-151. Glass beverage containers prohibited. No glass beverage containers shall be carried upon a commercial pedal car while operated on the public right-of-way.

Sec. 6-152. Hours of operation. A commercial pedal car may operate between the hours of 10:00 a.m. to 12:00 a.m. daily. Upon the approval of a written request to the City Manager, the hours of operation may be extended for special events.

Sec. 6-153. Pedal car route.

- (1) The City Manager or designee of the City Manager shall establish the pedal car route and the operator shall adhere to the approved pedal car route.

- (2) The plan of operation of a licensed commercial pedal car shall be reviewed by City staff as determined by the City Manager. The plan of operation must include the route in which the pedal car shall routinely operate and may include a description of procedures for notifying police or other authorities when anticipated operation of a commercial pedal car deviates from its customary routes. In any event, the pedal car route shall comply with the route approved by the City Manager.
- (3) Operation of a pedal car upon residential streets or upon or adjacent to the SDSU Campus is prohibited unless the permitted route authorizes travel upon a specific residential street or in the case of streets adjacent to the SDSU campus, after consideration of the approval by SDSU empowered officials.

Sec. 6-154. Failure of a licensee to comply with the regulations of this section shall constitute grounds for nonrenewal, suspension or revocation of the license.

II.

Any or all ordinances in conflict herewith are hereby repealed.

FIRST READING: November 27, 2018

SECOND READING: December 11, 2018

PUBLISHED: December 14, 2018

CITY OF BROOKINGS, SOUTH DAKOTA

Keith Corbett, Mayor

ATTEST:

Shari L. Thornes, City Clerk