

City of Oconomowoc
Protection & Welfare Committee
Aldermen: Rosek, Chairman / Rogers, Secy / Schellpeper

Tuesday, May 19, 2020 - 5:50 PM
City Hall - Conference Room 3



Notice: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in accessible format, call the City Clerk at least 48 hours prior to the meeting to request adequate accommodations. Tel: 569-2186.

1. Call to order and confirmation of appropriate meeting notification
2. Committee Business
 - a. Consider/recommend Ordinance 20-O978 to Create 12.18 of the Municipal Code Regarding Commercial Quadricycles
 - b. Consider/recommend Approving Application by Vino Etc. to Operate a Commercial Quadricycle in the Downtown
3. Adjourn

Diane Coenen, City Clerk
City of Oconomowoc

Notice is hereby given that a majority of the Common Council will be present at the above scheduled meeting to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the Common Council pursuant to State ex rel. Badke v. Greendale Village Board, 173Wis. 2d 553, 494 N.W. 2d 408 (1993) and must be noticed as such, although the Common Council will not take any formal action at this meeting.



MEMORANDUM

CLERKS

Date: May 15, 2020
To: Mayor Magnus
Common Council
From: Diane Coenen
Re: Commercial Quadricycle Ordinance

RELATES TO THE STRATEGIC PLAN

Strategic Goal - Focus on Economic Development

BACKGROUND

The City was approached in February by the owner of Vino Etc., Brian Borkowski, about the possibility of operating a Peddle Tavern in the downtown. Mr. Borkowski attended a Staff Meeting on March 4th and received feedback regarding his proposed business activity. In addition, staff informed the applicant that the City did not have an ordinance regulating commercial quadricycles and we would need to draft one in order to allow and regulate this type of business.

ADDITIONAL ANALYSIS

Staff drafted the ordinance and it has been reviewed by Atty Riffle. The ordinance includes provisions on responsibility, licenses, operation, equipment, routes, time of operation, alcohol consumption, insurance, fees, revocation and penalties.

In addition, I contacted the Cities of Green Bay, La Crosse and Wausau to review their ordinances and get feedback on any issues they may be having by allowing a commercial quadricycle. There were none.

FINANCIAL IMPACT

n/a

RECOMMENDATION

Commercial quadricycles have gained popularity in Wisconsin and other States. I recommend adopting this ordinance to allow the operation of a Peddle Tavern which will bring more activity to our downtown.

SUGGESTED MOTION

Motion to adopt ordinance to create Section 12.18 of the City of Oconomowoc Municipal Code regarding commercial quadricycles.

ORDINANCE NO. 20-0978

**AN ORDINANCE TO CREATE §12.18 OF THE CITY OF OCONOMOWOC MUNICIPAL CODE
REGARDING COMMERCIAL QUADRICYCLES**

The Common Council of the City of Oconomowoc, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. Section 12.18 of the City of Oconomowoc Code of Ordinances is hereby created as follows:

(1) **DEFINITIONS.** As used in this section, the following terms shall have the meanings indicated:

Alcohol Beverages: In accordance with Wis. Stats. §125.02(1).

Commercial 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 6 seats for passengers, that is designed to be occupied by a driver and passengers providing pedal power to the drive train of the vehicle, and that is operated by the vehicle owner or an employee of the owner.

Commercial Quadricycle Business: Any enterprise that owns a commercial quadricycle or manages the operation of a commercial quadricycle.

(2) **RESPONSIBILITY.** The owner and operator of a commercial quadricycle are jointly and severally responsible for ensuring compliance with the requirements of this section. An owner and operator may both be cited and convicted for any violation of this section. The violation of any of the provisions of this section by an operator is prima facie evidence that the operator permitted said violation.

(3) **RULES OF THE ROAD.** In addition to any regulations in this section, and except as provided in this section, commercial quadricycles operating within the city shall comply with the provisions of Chapter 12 of the Municipal Code, and all rules of the road according to Wis. Stats. Ch. 346.

(4) **LICENSES.**

(a) No person, firm, or corporation shall engage in the business of operating vehicles for transportation of persons for hire within the city without having an owner/operators permit from the city for each vehicle operated.

1. Application for a commercial quadricycle owner/operators permit shall be made in writing to the city clerk upon a form furnished by the clerk or city website, which the owner of the business shall sign. For a partnership, the name of the business and the names and addresses of the partners must also be provided, and one of the partners shall sign the application. For an LLC or a corporation, the applicant shall also provide the names and addresses of the principal officers, and the president shall sign the application.

2. The license application shall identify each commercial quadricycle owned or leased by the permit holder to be used in the city. Should the holder of a commercial quadricycle owner/operators permit wish to obtain a commercial quadricycle not listed at the time of application, the license holder shall provide an amendment to the application before putting the commercial quadricycle into service.

3. The license application shall identify the proposed route or routes over which the commercial quadricycle shall operate. No license shall be issued under this section until the Common Council has approved the proposed route as recommended by the police chief or his/her designee. Should the holder of a commercial quadricycle owner/operators permit wish to modify a route or add a new route, the license holder shall make a new license application and pay the required fee, if any.
 4. At the time of application, the applicant shall provide evidence of vehicle inspection compliance from a reputable bike repair shop in accordance with the requirements of section 12.12(6).
 5. Any permit/license issued pursuant to this subsection shall be issued upon granting and shall expire on June 30th of each year.
- (b) No person shall operate or permit the operation of a commercial quadricycle in the city unless the operator has a valid taxicab driver's license, and unless valid owner/operators permit, and taxicab driver's license are visible in the proper registration area. The fact that an unlicensed person is driving a vehicle for which a taxicab vehicle license has been issued or applied for is prima facie evidence that the owner of the vehicle is in violation of this subsection.
1. Application for a commercial quadricycle taxicab driver's license shall be made by the driver of the quadricycle, in writing to the city clerk upon a form furnished by the clerk or city website. Such application shall be signed by the driver and granted by the Common Council.
 2. Upon payment of the necessary fees, if any and approval of the Common Council after a recommendation of the Protection and Welfare Committee, the city may issue or cause to be issued a proper license certificate. Transfer of the license to another person is prohibited.
 3. Any license issued pursuant to this subsection shall be issued upon granting and shall expire on June 30th of each year.
- (c) The driver of a commercial quadricycle in the city must possess a valid state driver's license which is not suspended, revoked, canceled or expired.
- (5) AGE. No person shall operate or permit the operation of a commercial quadricycle in the city unless such person is at least 21 years of age.
- (6) PARKING. No person shall park or permit the parking of a commercial quadricycle upon any sidewalk or in any place not specifically designated for parking. The commercial quadricycle may occupy up to two designated parking stalls but shall pay the appropriate parking fee for both stalls, if applicable.
- (7) EQUIPMENT REQUIREMENTS. No person shall operate or permit operation of a commercial quadricycle in the city unless said commercial quadricycle is equipped with the following:
- (a) Lighting on the vehicle which shall be the following:
 1. A light on the front which shall emit a white light visible from a distance of 300 feet to the front. When the quadricycle is operating, if the front light does not remain on at all times, it must be manually lit thirty (30) minutes before dusk.
 2. 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. When the quadricycle is operating,

if the taillight does not remain on at all times, it must be manually lit thirty (30) minutes before dusk.

3. 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 and understandable from a distance of 300 feet to the rear regardless of the time of day.
 4. Rear signage which shall conform with those standards and specifications adopted by Trans 304 of the Wisconsin Administrative Code, 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 such vehicles, in the approximate horizontal geometric center of the vehicle, at a height of three to five feet above the roadway and shall always be maintained in a clean and reflective condition.
 5. A mirror capable of showing the driver a view of the roadway for a distance of 200 feet to the rear of the vehicle.
 6. A braking system, operable by the driver, that can override all methods of propulsion and bring the vehicle to a complete and abrupt stop.
 7. Reflectors placed on each side of the quadricycle.
- (8) ROUTES. No person shall operate or permit the operation of a commercial quadricycle on routes or in locations other than those approved by the Common Council as recommended by the police chief or his or her designee.
- (9) TIME OF OPERATION. No person shall operate or permit the operation of a commercial quadricycle with passengers in the city except between the hours of 10:00 a.m. and 10:00 p.m.
- (10) DISPLAY. No person shall operate or permit the operation of a commercial quadricycle in the city unless said quadricycle is conspicuously displaying on the exterior driver and passenger side of the vehicle the name or trade name and telephone number of the commercial quadricycle business. Additionally, no person shall permit or permit the operation of a commercial quadricycle in the city unless the operator is conspicuously displaying within the front passenger compartment a display holder containing the owner/operators permit and taxicab driver's license.
- (11) ALCOHOLIC BEVERAGES.
- (a) No passenger on a commercial quadricycle may possess on or carry onto the commercial quadricycle more than 36 ounces of fermented malt beverages as defined in Wis. Stats. §125.02(6). No passenger may possess, carry upon, or consume any other alcohol beverages, as defined in Wis. Stats. Ch. 125, upon a commercial quadricycle.
 - (b) No person may operate a commercial quadricycle on which any alcohol beverages are carried or consumed other than fermented malt beverages in the amounts permitted in subsection (a).

- (c) No person may operate a commercial quadricycle on which alcohol beverages are sold, nor may any person transport alcohol beverages on a commercial quadricycle for the purposes of sale or delivery upon sale.
 - (d) No operator of a commercial quadricycle may consume alcohol while the commercial quadricycle is occupied by passengers, nor shall any person operate a commercial quadricycle with an alcohol concentration of more than 0.02.
 - (e) The operator of a commercial quadricycle shall advise all passengers that no alcohol beverages shall be possessed on, carried upon, or consumed on a commercial quadricycle in violation of city ordinance or state statute, and shall conspicuously and legibly post a notice of these restrictions upon the commercial quadricycle.
 - (f) No person under the age of 21 shall be permitted to ride on a commercial quadricycle on which alcohol beverages are being consumed.
- (12) GLASS CONTAINERS. No person shall carry, possess, or permit the carrying or possession of any glass container on a commercial quadricycle.
- (13) TRASH/RECYCLABLES. All trash shall be placed within a trash receptacle located on the commercial quadricycle and disposed of properly by the driver.
- (14) MUSIC. Music can be played through the sound system provided on the commercial quadricycle in accordance with section 9.06.
- (15) FEES.
- (a) The fee for a commercial quadricycle owner/operators permit as required by this section shall be as set forth by separate Resolution of the Common Council as amended from time to time.
 - (b) The fee for a commercial quadricycle taxicab driver's license required by this section shall be as set forth by separate Resolution of the Common Council as amended from time to time.
- (16) INSURANCE
- (a) No owner of a commercial quadricycle or any other person shall operate or authorize any other person to operate a quadricycle for commercial purposes within the city 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 Wisconsin, indemnifying the applicant in an amount not less than \$500,000.00 for damage to property, \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to more than one person caused by the operation of said vehicles in the City, due to the liability of the owner or operator of a quadricycle arising out of the ownership, operation, use, or maintenance of a quadricycle. The policy shall provide that the insurer shall give the city notice of any cancellation or nonrenewal of the policy which is due the named insured.
 - (b) Each commercial quadricycle insurance policy shall contain a provision that the same may not be canceled before the expiration of its term except upon 30 days' written notice to the city clerk. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate all licenses issued for the commercial quadricycle covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination. Failure to comply with this provision shall result in the immediate

suspension of the owner's rights and privileges to operate the quadricycle commercially within the city.

(17) REVOCATION.

- (a) A license may be suspended or revoked by the at any time by the Chief of Police or his/her designee for any of the following reasons:
 - 1. Failure to comply with any of the provisions of this section;
 - 2. Violating any state statutes or City Code violations;
- (b) Any applicant whose license has been denied, suspended or revoked under the provisions of this section may appeal said denial, suspension or revocation to the Common Council.

(18) PENALTIES.

A violation of any of the provisions of this section for which a penalty has not otherwise been specified shall subject the violator to a forfeiture of not less than \$50.00 and not more than \$500.00, together with the costs of prosecution.

SECTION 2. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective upon passage and publication as required by law.

DATED: _____

CITY OF OCONOMOWOC

ATTEST:

By: _____
Robert P. Magnus, Mayor

Diane Coenen, Clerk

Date Adopted: _____

Date Published: _____

Effective Date: _____



MEMORANDUM

CLERKS

Date: May 15, 2020
To: Mayor Magnus
Common Council
From: Diane Coenen
Re: Vino Etc. Application to Operate a Commercial Quadricycle

RELATES TO THE STRATEGIC PLAN

Strategic Goal – Focus on Economic Development

BACKGROUND

Brian Borkowski, owner of Vino Etc. located at 120 E. Wisconsin Avenue has submitted an application to operate a Peddle Tavern as part of his business plan. The applicant is looking to start offering commercial quadricycle rides in June on Thursdays, Fridays, Saturdays and Sundays with limited hours and number of runs.

ADDITIONAL ANALYSIS

The commercial quadricycle will be controlled by a licensed driver, must comply with all State Statutes and City codes, must provide a certificate of insurance, equipment inspection report and the route must be approved by our Police Chief and Common Council.

Staff worked with the applicant on the proposed route and both the Police Chief and City Planner approve it.

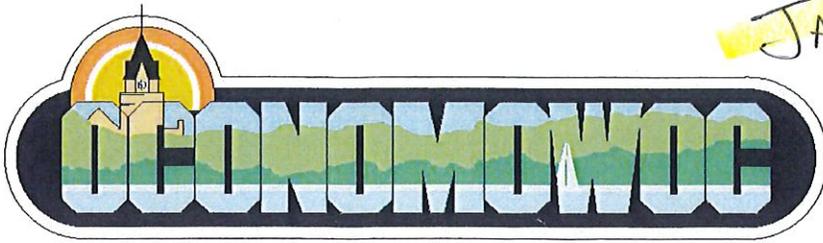
FINANCIAL IMPACT

RECOMMENDATION

To approve the application of Vino Etc. to operate a commercial quadricycle within the downtown upon the successful adoption of a Commercial Quadricycle ordinance.

SUGGESTED MOTION

Motion to approve the application of Vino Etc. for the operation of a commercial quadricycle as proposed.



JASON



Department of City Planning
174 E. Wisconsin Avenue Oconomowoc, WI
www.oconomowoc-wi.gov | 262.569.2166

Staff Meeting Appearance Request

Project Name: VINO ETC PEDAL TAVERN

Project Address/Location: 120 E. WISCONSIN AVE

General Project Description: BRING AN EXCITING + FUN EXPERIENCE TO OUR OUTSTANDING DOWNTOWN.

Utility – Projected Needs for Sewer/Water/Electric: N/A

Name of Applicant/Agent requesting the project: BRIAN BARKANSKI
Applicant's Address (include city, state and zip code): 752 ADAMS OCONOMOWOC, WI 53066
Applicant's telephone number: 414-520-8339
Applicant's email address: VINOETC@GMAIL.COM

Property Owner of establishment requesting the project: VINO ETC / JLD ADAMS
Property Owner's Address (include city, state and zip code): 120 E. WISCONSIN AVE
Property Owner's telephone number: 414-520-8339
Property Owner's email address: VINOETC@GMAIL.COM

Desired Start Date: MEMORIAL DAY WEEKEND **Anticipated Completion Date:** ON GOING SEASONAL

As Applicant Property Owner (please mark the responsible party), I agree to the City of Oconomowoc's chargeback fee policy. The policy is noted in the [Development Process and Fees Booklet](#), and any questions can be directed to the Finance Department at 262.569.3234.

Applicant Signature: [Signature] **Date:** 2/26/20
Property Owner Signature: _____ **Date:** _____

VINO ETC

OBJECTIVE:

To bring a fun and exciting innovative attraction to downtown Oconomowoc to create more interest in our amazing city. We guarantee you will leave with a new love for our city and its impressive past.

LOCATION:

VINO ETC. 120 E. Wisconsin Ave
(Start and Finish)

HOURS OF OPERATION:

Saturday 5/16 to 11/31

Thursdays - 7-8:45pm (1 run)

Fridays - 5-8:45pm (2 runs)

Saturdays - 11am - 8:45pm (5 runs)

Sundays - 11am - 5:00pm (3 runs)

Bike will coordinate around City events and festivals.

INFORMATION:

In partnership with MKE PEDAL TAVERN, VINO ETC will be launching Lake Country's first pedal tavern!!! Featured on MKE PEDAL TAVERN WEBSITE showing Oconomowoc location.

Safe and experienced driver

Bike will be driven on the roads as seen in other cities

All passengers must be 21 and over

1 cooler on the bike

3 drink maximum while on the bike

Cans only / No Liquor

Suggested Route - PD Approval Needed

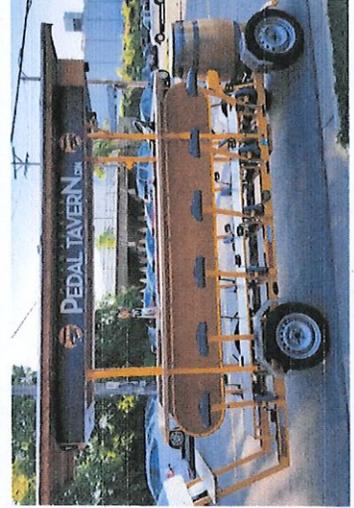
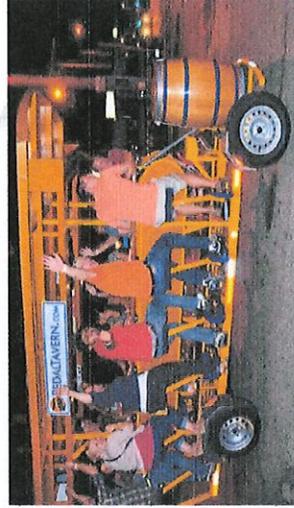
Bike will be trailered to Oconomowoc. Trailer will return to MKE PEDAL TAVERN.

Bike will be stored in a covered location when not occupied.

Music will be on the pedal tavern controlled by driver

Insurance is handled through MKE PEDAL TAVERN

Bike goes 5mph - controlled and steered by driver



PROPOSED COMMERCIAL QUADRICYCLE ROUTE:

Start behind Vino Etc. to load (Public Parking Lot)
East on Pheasant Street
Right on Walnut Street
West on Wisconsin Ave to round about onto Silver Lake Street
Right on East Collins St.
Straight on Collins St.
Right on Main Street
Left on W South Street
Right on S Worthington Street
Right on Wisconsin Ave
Left on St. Paul
Back to loading spot behind Vino Etc. (Public Parking Lot)



VINO^{ETC}

