

Electric bikes stir up bylaw confusion

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PROVINCETOWN — It may not be such a smooth ride for electric bicycles to coast into town, as officials struggle to define and regulate these relatively new devices.

The select board will hold a traffic hearing to go over regulations at 6 p.m. Monday, June 11, following the introduction of scooter-style and “pedal-assist” electric bikes to town.

Erica Apicella and Heather Baker, owners of Coast Provincetown, have started renting out 14 URB-E bikes that they purchased for \$2,000 each. Provincetown Bike Rental also offers pedal-assist electric bikes for rent. And the Bike Shack sells electric bikes for purchase only.

Apicella argues that the URB-Es should be regulated as bicycles, not vehicles. Town officials, however, are not sure what to call them.

Town Counsel John Giorgio, of KP Law, advised officials to hold the traffic hearing, to “regulate the operation of these motorized two-wheel vehicles,” according to a press release from Assistant Town Manager David Gardner.

According to town zoning bylaws, officials have the right to restrict where such businesses can operate. It is “not acceptable to conduct business within the public way or on town property without the proper licensing or approval of the [select board],” Gardner stated in the press release. It is also not acceptable to conduct business on MacMillan Pier without approval from the Public Pier Corp.

On that point, town officials and the owners of Coast Provincetown agree.

Though their business plan called for dropping off bicycles at MacMillan Pier as soon as customers arrived by ferry from Boston, they are fine with limiting drop-off and pick-up of the bikes to private property. They also agree that the

bikes must park in car parking spaces rather than at bike racks, to conform to town bylaws, Baker said.

“Our thought is not to be in anyone’s way,” Baker said. “We were told we can be in a legal parking space, not in traffic, and can still meet visitors at private inns. That’s what we wanted to do to begin with.”

“There’s a congestion issue and we respect that,” Apicella said. “We’re not looking to cause problems. We are looking to rent bikes and make some extra income so we can live here. Our goal is to live here. We decided to start a business and in a short time if we do this right we can buy property. ... We want an open conversation with the town and the chance to show them that this is a harmless and safe business.”

The Coast Provincetown owners insist that URB-Es have been classified by the federal government as bikes, not vehicles.

“I highly recommend they call us a bike because that’s what we are,” said Apicella, who, with Baker, has invested about \$70,000 in the business.

“I don’t have to defend what my URB-E is,” Apicella said. “URB-Es are federally recognized as a type-two electric bicycle. No matter what, it’s going to be here. [The town] needs to treat us like a bike.”

“Technology moves faster than laws do,” Baker added. “That’s a fact. The town wants to figure out what the language is — is it a bike or is it not.”

According to Chapter 9-7 of the town’s general bylaws, prohibited businesses include the “rental of motorized two-wheeled vehicles ... No person shall rent or hire any motorized two-wheeled vehicle.”

Yet Giorgio stated that Chapter 9-7 may not effectively ban the URB-Es or other electric bikes.

“Although electric bicycles may be classified as ‘motorized two-wheel vehicles’ for purposes of the bylaw, it is my opinion that the bylaw is not enforceable as a result of prior litigation involving a similar issue,” Giorgio is quoted in the press release. He referred to the case of Rogers v. Town of Provincetown, in which the

court ruled the “bylaw was invalid because it was inconsistent with state law, [which] allows the use of such vehicles on any public ways in the commonwealth.

“In my opinion, although the wording in the present bylaw is slightly different than the wording of the bylaw considered by the court in Rogers, the result would be the same if the town attempted to apply the present bylaw to prohibit the operation of a motorized vehicle,” Giorgio stated.

Mike Reilly, owner of Provincetown Bike Rental, said he can see the confusion in the bylaw’s current language.

“As I understand it, the bylaw was originally drafted to keep mopeds out of town,” he said. “But I really don’t think it applies to these newer models. These are bikes.”

He added that when he purchased electric bikes for rental, he knew about the Rogers v. Town of Provincetown case. His bikes come with a pedal assist, which includes a battery pack that allows users to go electric when they wish.

“I felt confident because the bylaw was defeated in the past,” Reilly said. “The definitions are hazy. ... These bikes are great for many people, especially people with disabilities. I had a family come in last year. It was a mother and father with two kids and the mother had a cane. Thanks to the pedal assist on my e-bikes, she was able to join her family for a day of riding.”

But not all bike shop owners are happy about the new wave of electric bikes coming into town and particularly to Commercial Street.

“It’s the kind of power that you don’t want on Commercial Street,” said Bike Shack owner Liz Athineos. “These bikes have no business being [downtown]. Safety is such a huge deal and

I don’t think these are safe. And the way they will be used is by people on vacation wanting to have a good time.”

Athineos also said she thinks it’s not a level playing field among the bike shop owners in town.

"I'm getting groups of six to eight people coming into my shop," she said. "One person wants to rent an e-bike and the others don't. They just want to go get it all in one place and not go from one shop to another, so I'm already losing customers. And it's like, wait, we were told we couldn't rent them and we've been following the rules. ... I want to be able to compete fairly. And I want it to be safe, that's all."

Giorgio said that though the bylaw might not stand up in court there are other options the town could pursue.

"The town could petition for special legislation to exempt it from certain provisions of the general laws in order to address unique circumstances that may not be shared with other communities," he stated. "Downtown Provincetown and Commercial Street area are heavily congested, with narrow streets and sidewalks, and a great deal of pedestrian and vehicle traffic, particularly in the summer months."