

ORDINANCE NO. 18-19

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING TITLE 7, "TRAFFIC CODE", OF THE CODE OF ORDINANCES BY ADDING A NEW CHAPTER 73, "MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS," PROHIBITING THE OPERATION OF MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS; AMENDING TITLE 11, "BUSINESS REGULATIONS", BY ADDING A NEW CHAPTER 121, "RENTALS OR LEASES OF MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS", TO PROHIBIT THE SALE, RENTAL, OR LEASING OF MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS, PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, the City Commission of the City of Delray Beach is aware of the growing number of serious, life-threatening accidents nationwide involving the use of motor scooters, go-peds and electric bicycles both locally and nationwide; and

WHEREAS, the City Commission desires to prohibit the use of such motorized scooters, electric bicycles and go-peds finding that use of such devices constitutes a threat to the life, safety and welfare of the citizen of the City of Delray Beach; and

WHEREAS, the City Commission further desires to prohibit the sale, lease or rental of motorized scooters, go-peds and electric bicycles; and

WHEREAS, the City Commission of Delray Beach find adoption of this Ordinance is in the best interest and promotes the health, safety, and welfare of the citizens, residents, and businesses of the City of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

Section 2. That Title 7, "Traffic Code", of the Code of Ordinances of the City of Delray Beach, Florida, shall be amended to add Chapter 73, "Motorized Scooters, Electric Bicycles and Go-Peds", to read as follows:

CHAPTER 73. –MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS
Sec. 73.01. - DEFINITIONS.

For the purpose of this Chapter the following definition shall apply unless the context clearly indicates or requires a different meaning:

Electric Bicycle. A bicycle propelled by an electric motor, having two tandem wheels, and including any device generally recognized as an electric bicycle though equipped with two front or two rear wheels.

Go-ped. A two-wheeled scooter with a gasoline powered engine, operating in a standing position which has no seat and no pedal and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Motorized scooter. Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Sec. 73.02. – PROHIBITED ACTIVITIES.

(A) It shall be unlawful for any person to use or operate any motorized scooter, electric bicycle, or go-ped on any City street, roadway, sidewalk, or on any other private property where the public has the right to travel by motor vehicle within the City.

(B) It shall be unlawful to use a motorized scooter, electric bicycle, or go-ped on private property in a reckless manner. Persons operating these devices on private property shall exercise due care for the safety of others using the property and yield the right-of-way to pedestrians or other vehicular traffic.

(C) A violation of the provisions in this section shall be enforced by a police officer and shall be deemed a noncriminal infraction as defined in F.S. § 318.13(3) and shall be subject to the penalties set forth in F.S. § 316.655, as may be amended.

Sec. 73.03. - ABANDONED MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS.

(A) When any motorized scooter, electric bicycle or go-ped remains upon any public street or other public way, public park, or other public grounds of the City for a period of twenty-four (24) hours or more, or reasonably appears to be abandoned, the motorized scooter, electric bicycle or go-ped shall be taken possession of by the City and stored at some convenient place.

(B) If the owner of the motorized scooter, electric bicycle or go-ped is known, he or she shall at once be notified that the motorized scooter, electric bicycle or go-ped is in the custody of the City and directed to repossess himself of the motorized scooter, electric bicycle or go-ped within seventy-two (72)

hours and that, if the motorized scooter, electric bicycle or go-ped is not picked up, it will be disposed of as provided in section (D) below.

(C) A confiscated motorized scooter, electric bicycle or go-ped shall be released upon proof of ownership and payment of a one hundred dollar (\$100.00) fee for removal and storage.

(D) Motorized scooters, electric bicycles or go-peds held over seventy-two (72) hours after confiscation by the City or after notification to the owner may be disposed of by discarding, donation, auction, or any other manner deemed appropriate by the City. The City shall bear no responsibility to the owner or operator for loss of or damage to a confiscated motorized scooter, electric bicycle, or go-ped, including any chain or locking mechanism, in its enforcement of this section.

Section 2. That Title 11, “Business Regulations”, of the Code of Ordinances of the City of Delray Beach, Florida, by enacting a new Chapter 121, “Rentals or Leases of Motorized Scooters, Electric Bicycles and Go-Peds”, to read as follows:

CHAPTER 121. – RENTALS OR LEASES OF MOTORIZED SCOOTERS, ELECTRIC BICYCLES AND GO-PEDS

Sec. 121.01. – DEFINITIONS.

For the purpose of this Chapter the following definition shall apply unless the context clearly indicates or requires a different meaning:

Electric Bicycle. A bicycle propelled by an electric motor, having two tandem wheels, and including any device generally recognized as an electric bicycle though equipped with two front or two rear wheels.

Go-ped. A two-wheeled scooter with a gasoline powered engine, operating in a standing position which has no seat and no pedal and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Motorized scooter. Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Sec. 121.02. – PROHIBITED ACTIVITIES.

It shall be unlawful for any person or business entity to rent, lease, offer for rent or lease, or permit to be rented or leased, with or without compensation, any motorized scooter, electric bicycle, or go-ped for use on any City street, roadway, sidewalk unless such motorized scooter, electric bicycle, or go-ped is intended to be used exclusively on private property.

Sec. 121.03. – VIOLATIONS AND PENALTIES.

It shall be the duty of the Code Enforcement Division of the Neighborhood and Community Services Department to enforce all the provisions of this section in conjunction with Chapter 37 of the Code of Ordinances of the City of Delray Beach.

Section 3. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 4. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 5. Specific authority is hereby given to codify this Ordinance.

Section 6. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2019.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney