

ORDINANCE NO. 28-20

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING TITLE 7, "TRAFFIC CODE", BY ENACTING A NEW CHAPTER 73, "REGULATION OF MICROMOBILITY DEVICES, DOCKLESS BICYCLE SHARING DEVICES, AND MOTORIZED SCOOTERS WITHIN THE CITY" TO REGULATE THE RENTAL OF SUCH DEVICES; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, there has recently been an influx of shared mobility devices on a national, state, and local level; and

WHEREAS, shared mobility devices, commonly referred to as "micromobility" devices, consist of devices, such as motorized bikes, electric bicycles, or scooters that do not require fixed docking stations for users to receive or return units. Such devices are typically "shared," meaning that any user can unlock, rent, and ride such devices using a smartphone application; and

WHEREAS, local jurisdictions across the United States complain that these devices impede sidewalks and right of ways and that users operate these devices erratically thereby creating public safety hazards and nuisances; and

WHEREAS, abandoned or improperly deployed shared mobility devices can impede the safe use of the City property and sidewalks and create violations of the Americans with Disabilities Act; and

WHEREAS, the City Commission is cognizant of the increasing number of serious, life-threatening and sometimes fatal accidents involving the use of shared mobility devices in the South Florida area as well as nationwide and finds that that use of such vehicles constitutes a threat to the life, safety and welfare of the citizens of Delray Beach; and

WHEREAS, in 2019, a review by the Sun-Sentinel of the City of Fort Lauderdale's fire-rescue records found seventy-four (74) accidents involving dockless mobility devices in a span of five months. Of those accidents, fifty-seven (57) individuals were taken to the hospital, ten (10) were listed as suffering severe injuries, and one (1) individual died; and

WHEREAS, in 2019, the Journal of the American Medical Association published a paper entitled, "Injuries Associated with Standing Electric Scooter Use," that characterized the types of injuries associated with the use of standing electric scooters and the clinical outcomes of those that were injured. Notably, injuries resulting from electric scooters arose from not only riders but also nonrider pedestrians. The study found that

the most common injuries suffered by riders included fractures, contusions, sprains and head injuries. The study also noted injuries suffered by nonrider pedestrian injuries from tripping over scooters, being hit by scooters and attempting to carry or lift scooters; and

WHEREAS, section 316.008, Florida Statutes, provides that a municipality may enact an ordinance to permit, control or regulate the operation of vehicles, motorized vehicles, and electric personal assistive mobility devices with certain limitations; and

WHEREAS, the City Commission has determined that it is in the City's best interest to prohibit the operation of motorized/electric vehicles and shared mobility devices within the City.

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 by enacting a new Chapter 73, "REGULATION OF MICROMOBILITY DEVICES, DOCKLESS BICYCLE SHARING DEVICES, AND MOTORIZED SCOOTERS WITHIN THE CITY", to read as follows:

CHAPTER 73. – REGULATION OF MICROMOBILITY DEVICES, DOCKLESS BICYCLE SHARING DEVICES, AND MOTORIZED SCOOTERS WITHIN THE CITY.

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:

Bicycle: As defined in Florida Statute 316.003(4), as may be amended, every vehicle propelled solely by human power, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front and two rear wheels. The term does not include a scooter or similar device.

Dockless bicycle sharing devices: A micromobility device that meets the definition of a bicycle or electric bicycle but that requires no specific location for pick up and drop off.

Electric Bicycle: As defined in Florida Statute 316.003(22), as may be amended, a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- (a) “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- (b) “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- (c) “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.

Micromobility Device: As defined in Florida Statute 316.003(39), as may be amended, any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed great than 28 miles per hour on level ground. For purposes of this Section, this term includes motorized scooters, bicycles, and electronic bicycles.

Motorized Scooter: As defined in Florida Statute 316.003(46), as may be amended, any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

Sec. 73.02. – PROHIBITION ON MICROMOBILITY DEVICES, DOCKLESS BICYCLE SHARING DEVICES, AND MOTORIZED SCOOTERS WITHIN THE CITY.

(A) No person or business shall display, offer, or make available for rent any micromobility device within the City.

(B) No person or business shall display, offer, or make available for rent any dockless bicycle sharing device as defined herein within the City.

(C) No person or business shall display, offer, or make available for rent any motorized scooters as defined herein within the City.

(D) A violation of this Section shall be considered a code enforcement violation and is punishable with a fine of \$500.00 per instance. Each day the person or company with ownership of the micromobility device displays, offers, or makes available a micromobility device in the City in violation of this Section shall be considered a separate instance and a separate violation of this Section.

(E) Impoundment: A micromobility device that is displayed, offered, or made available for rent by a person or company or a micromobility device that is abandoned on the City right-of-way or private property without permission shall be subject to immediate impoundment by the City. In order to retrieve an impounded micromobility device, a person or company must demonstrate proper proof of ownership and pay a \$50.00 impoundment fee per device reflecting the City's enforcement, investigation, storage and impound costs.

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 _____, 2020.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading_____

Second Reading_____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney