

ORDINANCE NO. 21-12

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES, ENTITLED "AMUSEMENTS AND ENTERTAINMENT" BY AMENDING SECTION 6-116, TO AMEND DEFINITIONS; BY AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES, ENTITLED "BUSINESSES" BY AMENDING SECTION 18-354, SECTION 18-355, SECTION 18-358, SECTION 18-359, SECTION 18-381, SECTION 18-382, SECTION 18-383, SECTION 18-384, and SECTION 18-385, IN ORDER TO AMEND THE CHAPTER TO CONFORM WITH FLORIDA STATUTES AND ADD ADDITIONAL SAFETY REGULATIONS; BY AMENDING SECTIONS 18-355, 18-358, AND 18-359, TO AMEND PROCEDURE FOR REVIEW OF RECREATIONAL RENTAL VEHICLES AND DECAL IDENTIFICATION; BY ADDING SECTION 18-387 TO CLARIFY INSURANCE REQUIREMENTS FOR RECREATIONAL RENTAL VEHICLES; BY AMENDING 18-356, TO PROVIDE FOR A ONE-YEAR PERIOD FOR THE CITY TO CONDUCT A TRAFFIC STUDY AND SET THE AMOUNT OF RECREATIONAL RENTAL VEHICLES; BY AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC AND VEHICLES" BY AMENDING SECTION 70-1, TO AMEND DEFINITIONS; BY AMENDING SECTION 70-119, TO AMEND PARKING IN UNDESIGNATED AREA; BY ADDING ARTICLE IX, ENTITLED "ELECTRIC BICYCLE, MOTORIZED SCOOTERS AND MICROMOBILITY DEVICES" SECTIONS 70-901 TO 70-902; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West finds that it is necessary to amend its Code of Ordinances; and

WHEREAS, the Florida legislature recently enacted House

Bill 453, related to motorized scooters and micromobility devices, which amended Chapter 316, State Uniform Traffic Control; and

WHEREAS, Florida Statute 316.003(38) defines a "micromobility device" as "[a]ny motorized transportation 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 greater than 20 miles per hour on level ground;" and

WHEREAS, Florida Statute 316.003(45) defines a "motorized scooter" as "[a]ny vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is 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;" and

WHEREAS, Florida Statute 316.2128(1) grants micromobility devices and motorized scooters "all of the rights and duties applicable to the rider of a bicycle," including the right to operate motorized scooters on sidewalks, streets, and trails; and

WHEREAS, Florida Statute 316.2128(1) allows local governments to adopt ordinances governing the operation of

micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; and

WHEREAS, the Florida legislature recently enacted House Bill 971, related to electrical bicycles, which amended Chapter 316, State Uniform Traffic Control; and

WHEREAS, Florida Statute 316.003(4) defines a "Bicycle" as "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 or two rear wheels;" and

WHEREAS, Florida Statute 316.003(22) defines an "electrical bicycle" as "a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications" and classifies electrical bicycles into "Class 1 electric bicycle", "Class 2 electric bicycle" and "Class 3 electric bicycle" depending on speed and means of assistance; and

WHEREAS, Florida Statute 316.20655(1) grants operators of electric bicycles "all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of

a bicycle, including s. 316.2065"; and

WHEREAS, Florida Statute 316.20655(1) allows local governments to adopt ordinances governing the operation of micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; and

WHEREAS, "[w]hile section 316.20655 unambiguously requires that e-bike operators be given the same rights and privileges as operators of ordinary bicycles, nevertheless, when it speaks about where e-bikes may be ridden, the statute mentions only places clearly designed to accommodate vehicular traffic [...] The better reading of section 316.20655(1) is that it preserves the power of local authorities to prohibit the use of e-bikes in areas where, under subsection (7), their operation would otherwise be statutorily permitted." Ernesto Gonzalez v. Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 2020 WL 7147420, Case no. 20-4051RX (DOAH Dec. 1, 2020).

WHEREAS, Florida Statute 316.008 allows local governments to enact ordinances governing the operation of motorized scooters and electric bicycles on sidewalks or sidewalk areas when such use is permissible under federal law

as long as any such use restricts such devices to a maximum speed of 15 miles per hour in such areas; and

WHEREAS, the City is aware of other cities which have experienced negative impacts to the safety and/or welfare of the public by the unregulated use of personal transportation vehicles, such as electrical bicycles, motorized scooters, and micromobility devices; and

WHEREAS, the City wants to encourage alternative means of transportation within the City to reduce automobile traffic and alleviate parking issues in a manner which will encourage the use of certain devices including but not limited to electrical bicycles, motorized scooters, micromobility devices and Recreational Rental Vehicles and other similar devices in the public right-of-way in a manner which will better promote the safety and general welfare of the City; and

WHEREAS, the City finds that the use of these devices on the sidewalks, shared use paths, streets, and roads may create a potential hazard due to the heavy use of such public areas by pedestrians and vehicles; and

WHEREAS, the City Commission deems it beneficial for the public's health, safety, and welfare, and in the City's best interests to amend its Code of Ordinances to conform with

Florida Statutes and serve as a more practical set of regulations of bicycles, electric bicycles, motorized scooters, micromobility devices, and mopeds; and

WHEREAS, the City Commission deems it beneficial for the public's health, safety, and welfare, and in the City's best interests to amend its Code of Ordinances to conform its commercial rental vehicle regulations with Florida Statutes and provide additional safety precautions with the use and rental of bicycles, electric bicycles, motorized scooters, micromobility devices, and mopeds; and

WHEREAS, the City finds a comprehensive regulatory scheme is necessary to mitigate the risks and dangers posed by these devices within the City; and

WHEREAS, the City finds that a traffic study is necessary to study the effects of these devices within the City, particularly, current allotted Recreational Rental Vehicles; and

WHEREAS, the City Commission finds that the public had notice that the Commission was considering changes to Chapter 18, Art. VII.—Recreational Rental Vehicles and any applications submitted and received by the City pursuant to this Article after April 10, 2021 are subject to the moratorium described in City of Key West Code of Ordinances 18-356.**

WHEREAS, the City Commission hereby finds that this Ordinance serves a legitimate government purpose, it is a permissible exercise of the City's powers and authority, and benefits the public health, safety, and welfare of the citizens, residents and guests of the City of Key West.

**Added language is double underlined and ~~double struck through~~ and proposed *for second reading*.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY
WEST, FLORIDA:

Section 1: That Section 6-116 of the Code of Ordinances is hereby amended as follows*:

Sec. 6-116. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Autocycle shall mean a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.

[...]

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Recreational rental vehicle shall mean a moped, motorized scooter, an "animal-driven vehicle," a "bicycle tour," a "motorized entertainment vehicle," a "multi-person human powered entertainment vehicle," ~~or~~ a "nonmotorized entertainment vehicle", an "electric bicycle", ~~or~~ a micromobility device, an autocycle, or any motorized vehicle that is not an automobile, including but not limited to, motorcycles and golf carts as defined by the Code of Ordinances, for which a permit is required.

Section 2: That Section 18-354 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-354. - Permit required; application; franchise fees.

(d) The holder of a recreational rental vehicle permit may obtain a renewal of the permit each year on or prior to May 30 by applying to the licensing office and submitting the following information:

[...]

(2) As of July 20, 2021, A a renewal fee of \$50.00 per moped-scooter Recreational Rental Vehicle and electric car business plus \$1.00 per unit; and \$100.00 per bike tour business shall be collected if paid prior to June 1, with a penalty of \$25.00 if paid after June 1. Future modification to these fees shall be as established by resolution of the city commission.**

(f) Violations of ~~this section~~ Article VII Recreational Rental Vehicles shall be penalized as provided in section 1-15 and subject to prosecution and fine under civil citation procedures of sections 2-676 through 2-680.

Section 3: That Section 18-355 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-355. - Recreational rental vehicle deemed conditional use.

As of the effective date of this ordinance, all moped, scooter, electric car, bike tour and other recreation rental establishments are considered deemed to have a valid conditional use approval as required by section 122-61, with the number of legally established registered rental units according to section 18-351 and 18-356 for which the number has been recorded in city records. The establishment of any new or relocation of a recreational rental vehicle use shall require a conditional use approval and ~~may~~ shall be established only within the zoning districts which allow small recreational power-driven equipment rentals as a conditional use.

Applications for conditional uses to include more than one docking location on private property shall be accepted by the City Planner for review by the Planning Board. Review fees will be assessed based upon the number of additional locations on private property.

Section 4: That Section 18-356 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-356. ~~Thirty-day~~ One-Year period to establish numbers of recreational rental vehicles.

As of the effective date of this ordinance, a period of ~~30 days~~ one year is created to correctly establish the number of rental mopeds/scooters, bike tours, electric cars and other recreational rental vehicles in use during the creation and publication of a ~~the Key West Carrying Capacity Traffic Study in 2011,~~ and also to establish the number of current and

active business tax receipt holders of recreational rental vehicle businesses that were in place on January 1, ~~2013~~ 2021, in order to establish the maximum number of recreational rental vehicle units operating on city streets. The city shall during the ~~30-day~~ one-year period establish a method for registration of businesses and rental units and publish notice of the process. To facilitate the traffic study, this one-year period shall also include a moratorium on the issuance of new licenses for Recreational Rental Vehicles.

Section 5: That Section 18-358 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-358. - Identification by decal. Traffic impacts on level of service and nuisance prevention.

Any new or relocated non-motorized and/or motorized recreational rental vehicle rental permit applicant shall be required to complete a traffic impact analysis to demonstrate that the size, location and operation of the facility does not degrade the existing traffic level of service (LOS) of use. If the traffic analysis, in the opinion of city staff and its consultants, demonstrates an increase of average daily or peak hour traffic of three percent or more, impacting city streets and intersections, the applicant shall mitigate the impact by constructing a capital improvement for that section impacted or a transportation mitigation program, which may include, at city's sole discretion, payment of traffic impact fees appropriate to the impacts created, and which may include projects designed to improve pedestrian safety. The identification of a significant (as described above) traffic impact, as determined by the planning board may serve as one reason to deny the application.

Required traffic analyses shall include information on vehicle rental periods per day for each vehicle type, and a description of all anticipated vehicle storage, drop-off and retrieval locations. Required traffic analyses shall also include a description of the decibel level of each proposed vehicle type and vehicle fuel source. Based upon the proposed

fleet and business model, staff shall propose conditions for consideration by the Planning Board to minimize potential nuisance including noise and fumes, especially as those impacts may occur in mixed use and residential neighborhoods.

Section 6: That Section 18-359 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-359. - Identification by decal.

(a) Within 90 days of the effective date of this ordinance, the city shall provide to each licensee of each recreational rental vehicle establishment, a vehicle identification decal each of the recreational vehicles licensed to the licensed site. During this 90-day period, city code compliance staff shall inspect each licensed site, to establish that the decals are permanently and properly affixed to the specific vehicle corresponding to the vehicle identification number registered to that site or sites when a business licensee operates from multiple sites.

(b) Within 90 days of the effective date of this ordinance, the city shall provide to each licensee of each recreational rental vehicle establishment which operates electric bicycles, a vehicle identification decal for each of the electric bicycles licensed to the licensed site. Said decals will be of a different color than the decals identified in sub-section (a). During this 90-day period, city code compliance staff shall inspect each licensed site, to establish that the electric bicycle decals are permanently and properly affixed to the specific vehicle corresponding to the vehicle identification number and/or registration number registered to that site or sites when a business licensee operates from multiple sites.

Section 7: That Sec. 18-381 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-381. - Instruction, ~~and Training, and~~ Operations.

(a) Required. Every person in the business of renting Recreational Rental Vehicles ~~mopeds or scooters~~ to the public shall provide instruction and training to each customer in advance of the rental ~~of the moped or scooter.~~

(b) Instruction.

(1) The owner and/or designee** shall instruct the renter to abide by all applicable traffic and parking laws, particularly including but not limited to the following:

a. The ~~driver~~ operator shall not drive on the sidewalk unless the operator meets the exceptions in Sec. 70-902 or as otherwise allowed by law,

[...]

(3) The owner and/or designee** shall evaluate the prospective renter's ability to understand instructions and determine whether to refuse to rent the electric bicycle, moped or scooter Recreational Rental Vehicle. Sec. 18-381(b)(3) does not create any right, including the right to bring a lawsuit, or benefit, substantive or procedural, enforceable at law or in equity, by a renter.**

[...]

(d) Operations.

(1) All businesses, their employees, agents, operators, owners, etc. (Businesses) shall comply with all applicable rules, regulations, and laws, including any additional rules and regulations promulgated by the city manager, or their designee.

(2) Recreational Rental Vehicle users shall be

subject to all rules, regulations, and laws, including any additional rules and regulations promulgated by the city manager, or their designee, applicable to the user, except those which, by their very nature, can have no application.

(3) The city manager or their designee, may promulgate rules and regulations during the following events:

- Extreme weather and Emergencies (e.g. hurricanes, floods, fires etc.)
- Special events (e.g. marathons, events, parades, etc.)
- Maintenance and construction (e.g. debris and trash removal, permitted construction)

(4) Businesses shall maintain a 24-hour customer service phone number prominently posted on each motorized Recreational Rental Vehicle for customers and citizens to report safety concerns, make complaints, ask questions, or request that a device be relocated.

(5) Businesses shall provide the city with the contact information for someone who can rebalance, remove, and/or relocate the Recreational Rental Vehicle. The Businesses shall rebalance, remove, and/or relocate a Recreational Rental Vehicle within two hours of receiving notification from the city. A Business shall notify the city within 24 hours of a change in contact information.

(6) The city may, without prior notice to the Business or Recreational Rental Vehicle user, remove any Recreational Rental Vehicle that is/are visibly damaged or non-functional, or blocking the public right-of-way, and take it to a city facility for storage, at the sole expense of the Business. The city shall charge a fee of not to exceed \$25.00 per Recreational Rental Vehicle for removal and storage. The city shall invoice the operator for the cost of removal and storage. Any Recreational Rental Vehicle that remains unclaimed with the city for five days is subject to sale pursuant to the procedures for abandoned or lost property set forth in F.S. § 705.103, or by any other method allowed by the laws of the State of Florida or the city.

Section 8: That Sec. 18-382 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-382. - Posting of sign warning of danger.

Every person in the business of renting ~~mopeds or scooters~~ Recreational Rental Vehicles to the public shall post a sign on the premises, or on its online application, website or software only if solely operating micromobility devices, clearly visible to customers, warning of the potential dangers of a ~~mopeds or scooters~~ Recreational Rental Vehicle rental in the city. The licensing division shall establish standard language for the sign in cooperation with the rental businesses and the community traffic safety program.

Section 9: That Sec. 18-383 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-383. - Notice issued to customer.

Every person in the business of renting ~~mopeds or scooters~~ Recreational Rental Vehicles shall issue each customer a written notice. The notice shall be filled out in duplicate with the customer carrying the notice at all times while operating the ~~mopeds or scooters~~ Recreational Rental Vehicle, and the business maintaining a copy for at least 60 days after the completion of the rental. The notice may be included in a copy of the rental contract and/or rental agreement or may constitute a separate document. The notice may be provided by electronic means if the customer consents. If the notice is contained in the contract, it shall be legible and published in bold print. The notice shall include the following information:

(1) The renter has received instruction and training in accordance with the requirements of this article.

(2) The renter understands the potential dangers of operating ~~mopeds or scooters~~ the Recreational Rental Vehicle in the city and that no insurance coverage is provided for property damage or personal injury.

(3) The name, address and phone number of a person to be notified in case of accident.

(4) Recreational Rental Vehicles are to be operated at a person's own risk, and that no representation is being made by the city as to the condition of any sidewalk, street, road, bike path, lane, sidewalk area, etc.

(5) The renter's signature of acknowledgment.

Section 10: That Sec. 18-384 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-384. - Offer of helmet.

Every person in the business of renting ~~mopeds or scooters~~, Motorized and Non-Motorized Recreational Rental Vehicles to the public shall offer a bicycle helmet, certified for head injury protection, to the customer. In addition, such business shall require customers renting motor vehicles with a motor rated in excess of two brake horsepower and a displacement of 50 cubic centimeters or more to wear state-required motorcycle headgear. A failure to issue required headgear to a customer may result in a citation to the business pursuant to Sec. 18-361. ~~in business tax receipt revocation.~~

Section 11: That Sec. 18-385 of the Code of Ordinances is hereby amended as follows*:

Sec. 18-385. - Rear reflector and lights.

Every person in the business of renting mopeds ~~or scooters~~ to the public shall equip the rear of each moped ~~or~~

scooter with an approved reflector that will serve to increase the visibility of the moped or scooter in traffic. All bicycles, as defined in Sec 70-1, and motorized scooters, as defined in Sec 70-1, shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or motorized scooter or its rider may be equipped with lights or reflectors in addition to those required by this section. All electric bicycles, as defined in Sec 70-1, shall comply with the lighting standards set forth in F.S. § 316.20655, as may be amended or revised.

Section 12: That Section 18-387 of the Code of Ordinances is hereby added as follows*:

Sec. 18-387. - Insurance Requirements.

(a) This section shall pertain to all businesses which provide motorized Recreational Rental Vehicles.

(b) An operator shall procure and keep in full force and effect no less than the insurance coverage required by this section through a policy or policies written by an insurance company or companies authorized to do business in Florida, who are rated A- (V) or better per A.M. Best's Key Rating Guide.

(c) The insured provisions of the policy or policies must list the city, their officers and employees as additional insureds, and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a motorized scooter.

(d) An operator shall maintain the following insurance coverages:

(1) Commercial general liability with limits of \$1,000,000.00 per occurrence, \$5,000,000.00 policy aggregate affording coverage for claims resulting from bodily injury (including death) and property damage.

(2) Automobile/motorcycle liability affording

coverage on all motorized recreational rental vehicles used in connection with the operations or activities contemplated under this article. The operator should furnish the city with a policy affording coverage on all motorized recreational rental vehicles utilized by the business as rentals, including coverage for hired and non-owned auto exposures, with a combined single limit for bodily injury (including death) and property damage of \$1,000,000.00 per accident.

(3) The city retains the right to require additional insurance coverage in connection with the activities performed by the operator under this article as may be determined by the city risk management department, considering the size of the fleet and other liability insurance related factors.

(4) Failure to maintain required insurance coverage is cause for immediate cancellation of the license by the city manager or their designee.

(e) Any insurance policy required by this section must be on file with the risk management department and/or the licensing department, in a form acceptable to the city manager, or their designee, prior to the issuance of a License under this article.

(f) Insurance required under this section must include a cancelation provision in which the insurance company is required to notify both the operator and city manager, or their designee, in writing not fewer than 30 days before cancelling any insurance policy or before making a reduction in coverage. A business, upon receiving said notice, shall file with the risk management department, in a form acceptable to the city manager, or their designee, any and all replacement insurance policies prior to the cancelation or reduction of the same.

(g) A business may not be self-insured.

(h) All businesses in operation prior to the effective date of this ordinance shall have a period of six (6) months from the effective date of the ordinance to comply with the provisions of this section.

Section 13: That Section 70-1 of the Code of Ordinances is hereby amended as follows*:

Sec. 70-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bicycle means ~~every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, and including any such device having two tandem axles though equipped with two front or rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position.~~ vehicle propelled solely by human power, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include a scooter, electric bicycle, Multi-person human powered entertainment vehicle, or similar device.

[...]

Electric Bicycle means a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the 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 means 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 greater than 20 miles per hour on level ground. This term includes motorized scooters, electric bicycles and bicycles as defined in this chapter.

[...]

Moped means any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters. This term does not include an electric bicycle or motorized scooter as defined by this chapter.

~~Motor-driven cycle means every motorcycle and every motor scooter with a motor which produces not to exceed five brake horsepower, including every vehicle which would meet the definition of the term "bicycle" but for being propelled by a helper motor rated in excess of 1½ brake horsepower.~~

[...]

Motorized Scooter means 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 is 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. A motorized scooter capable of speeds

greater than 20 miles per hour on level ground shall be regulated as a motorcycle or a moped depending on its motor capability. The term does not include an electric bicycle or moped as defined by this chapter.

[...]

Multi-use or Shared-use Path a paved path for pedestrians, biking, multiple use, or Recreation Device use (as defined by Code of Ordinances 70-901) and does not include on-road bike lanes or sidewalks.



[...]

Sidewalk means that portion of a street between the curblin, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

[...]

Scooter means a motor vehicle that is either a motorcycle or that is a vehicle with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground, and whose displacement does not exceed 50 cubic centimeters. A

~~scooter shall be regulated as a motorcycle or akin to a moped depending on its motor capability.~~

Section 14: That Section 70-119 of the Code of Ordinances is hereby amended as follows*:

Sec. 70-119. - Parking in Undesignated Area.

(a) It shall be unlawful for any bicycle, tractor-trailer, trailer or other type of motor vehicle to be standing or parked, whether occupied or not, in any area of a public street within the city that is not designated to accommodate parking. Angle parking in any parking area not specifically marked for angle parking shall constitute a violation of this section.

(b) Specifically, a person may not park a bicycle, electric bicycle, motorized scooter, autocycle, or other micromobility device, or other similar device:

- (1) In a manner that obstructs or interferes with pedestrian or vehicular traffic; or on an accessibility ramp for persons with disabilities, or any part thereof, or in any manner that would restrict the movement of persons with disabilities; or
- (2) In a manner that impedes loading zones, curb ramps, business or residential entryways, driveways, travel lanes or bicycle lanes; or
- (3) within 6 feet of a fire hydrant; or
- (4) within a motor vehicle parking space not designed for bicycle, electric bicycle, motorized scooter or other micromobility device use; or
- (5) on any public property, except in areas designated for bicycle, electric bicycle, motorized scooter or other micromobility device parking; or
- (6) on any private property without the permission of the owner. Placing a bicycle, electric bicycle, motorized scooter or other micromobility device rack shall be deemed permission for the general

public to park a bicycle, electric bicycle, motorized scooter or other micromobility device within that rack, unless otherwise expressly stated in a clearly visible sign.

(7) A person may not attach, secure, store, or park a bicycle, electric bicycle, motorized scooter or other micromobility device to or upon public property, including but not limited to, a sign or a light post, in a manner that may cause injury or damage to any person or thing or in a manner that renders the public property unusable or impassable.

i. Notwithstanding 70-119(b)(7), at no time whatsoever may a bicycle, electric bicycle, motorized scooter or other micromobility device be parked or secured or stored or attached to a tree located on public property and/or on the public right-of-way.

(c) Violations of Section 70-119 shall be penalized as provided in section 1-15 and subject to prosecution and fine under civil citation procedures of sections 2-676 through 2-680.

Section 15: That Article IX-Electric Bicycle, Motorized Scooters and Micromobility Devices (Sec. 70-901 and Sec. 70-902) of the Code of Ordinances is hereby added as follows*:

Article IX Electric Bicycle, Motorized Scooters and Micromobility Devices

Sec. 70-901. - Definitions.

The following words, terms and phrases, when used in Article IX, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Recreational Devices shall mean electric bicycle, motorized scooter or other micromobility devices. This term shall not mean bicycles, mopeds or any self-propelled or motorized vehicle capable of exceeding 28 mph.

Sec. 70-902. -Device Use

(a) All public sidewalks and/or pedestrian pathways, shall be only available for use by pedestrians or non-motorized or non-electric bicycles unless said public sidewalk or pathway has been designated for multi-use and/or shared use as defined in Code of Ordinances 70-1.

(1) Notwithstanding the above provision, an individual utilizing a Recreational Device pursuant to the Americans with Disabilities Act (ADA) may operate those devices on any city street, multi-use/shared-use path or sidewalk, regardless of designation.

(b) The riding and operating of Recreational Devices is permissible upon all multi-use and/or shared use paths a bicycle may legally travel, located on or within City of Key West limits, with restrictions as follows:

(1) Recreational Devices shall be restricted to a maximum speed of 15 miles per hour when operating on a public multi-use and/or shared path.

(2) A person operating a Recreational Device upon and along a sidewalk, sidewalk area, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances, and shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(b) Violations of Article IX-Electric Bicycle, Motorized Scooters and Micromobility Devices shall be penalized as provided in section 1-15 and subject to prosecution and fine under civil citation procedures of sections 2-676 through 2-680.

Section 16: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 17: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 18: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

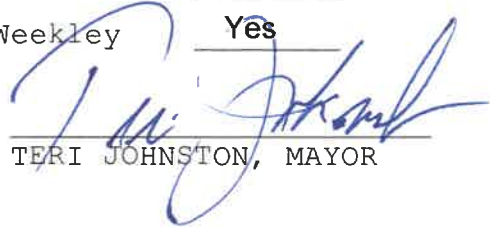
Read and passed on first reading at a regular meeting held this 17th day of February, 2021.

Read and passed on final reading at a regular meeting held this 20th day of July, 2021.

Authenticated by the presiding officer and Clerk of the Commission on 21st day of July, 2021.

Filed with the Clerk July 21, 2021.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>No</u>
Commissioner Jimmy Weekley	<u>Yes</u>


TERI JOHNSTON, MAYOR

ATTEST:


KERI O'BRIEN, DEPUTY CITY CLERK