


## MEMORANDUM

**TO:** Mayor England  
Vice Mayor Kostka  
Commissioner George  
Commissioner Samora  
Commissioner Rumrell

**FROM:** Max Royle, City Manager 

**DATE:** December 10, 2019

**SUBJECT:** Ordinance 20-01, First Reading: Restricting Shared Mobility Devices in Certain Areas and on Sidewalks

This Ordinance is the result of your discussion whether to permit dockless or docked mobility devices, such as e-scooters and e-bicycles in the City.

Attached (pages 1-2) are the minutes of your last discussion, which occurred at your November 6, 2019, continuation meeting.

In response, Mr. Wilson prepared Ordinance 20-01 (pages 3-9 attached).

### ACTION REQUESTED

It is that you discuss the Ordinance with Mr. Wilson and, if you are satisfied with it, that you pass in on first reading.

5. Dockless Scooters, E-Bicycles and Bicycles: Review of Proposed Ordinance to Regulate (Presenter: Jim Wilson, City Attorney)

Mayor George introduced Item 5 and asked for a report from City Attorney Wilson.

City Attorney Wilson advised he made changes as requested from the Commission and asked if the Commission wants to adopt this for first reading. He asked the Commission whether they want to regulate these or prohibit dockless e-scooters within the City.

Mayor George advised that she had an open mind, but she is having a hard time allowing this.

Commissioner Samora advised that the City and neighboring cities have mobility issues and had hoped that this would be a solution. He explained that he did a lot of research and listened to what staff has presented. He looked during his travels this month and have found them all over the cities where he visited, and he spoke to a lot of people who said that they are a problem and a liability. He said it would be okay if there was a business to rent it from and bring them back; however, dockless he would not be in favor of for the City.

Commissioner Rumrell researched and downloaded an app on one of the companies and the one thing that stood out to him was the insurance liability. He contacted his insurance company and they told him the person would have to get a separate rider on your policy to be insured. He explained that citizens he has spoken to are adamantly opposed to it. He was concerned if someone was injured on the sidewalk or street would they sue the City for allowing the e-scooters or if there was a pothole in the street, etc.; City Attorney Wilson advised that the City would be responsible for someone getting hurt for potholes, etc.

Vice Mayor England advised that something like a bike rental business would be alright but had concerns over a dockless e-scooter business. She explained that there must be agreements with the businesses within the City or the City to bring the e-scooters back to a docking place, like bicycles.

Commissioner Kostka advised that she could not support this because of the public safety and enforcement issues would have to fall on the Police Department, which are already very busy with safety issues. She asked Police Chief Hardwick to research other cities that have ordinances on e-scooters and either they could not get back with them right away or they didn't have any regulations in place. She was concerned about liability for the City and if they set up docks the owners are not going to be in the City to take care of them. She commented that people might want to purchase them for their own use.

Mayor George asked for Commission discussion.

Mayor George opened the Public Comments section. The following addressed the Commission:

Ed Slavin, P.O. Box 3084, St. Augustine, FL, agreed with the Commission not to do this due to the nuisance of it, the liability issues and coverages and asked not to allow salesmen to be put on the agenda in the future.

Steven Dennison, 217 Arcola, St. Augustine, FL, presentative for FROG, explained that this is a public service and suggested a pilot program. He explained that it reduces cars and traffic and is less of a carbon footprint and it would give revenue to the City.

Merrill Roland, 6280 Old Dixie Drive, St. Augustine, FL, suggested to use the City's garage building that is being used by the Civic Association for \$1 a year and allow FROG to use it.

Mayor George closed the Public Comments section and asked for any further Commission discussion.

Mayor George explained that it was the consensus of the Commission not to have e-scooters in the City.

City Attorney Wilson asked if the Commission wants to ban the operation of e-scooters businesses within the City and if so, he could bring it back to the Commission.

Vice Mayor England asked if e-bicycles could be included and not be on sidewalks.

It was the consensus of the Commission to have the City Attorney Wilson bring an ordinance back to the Commission at the next meeting to ban the rental of dockless e-scooters and e-bicycles within the City limits.

Mayor George thanked Mr. Dennison for coming tonight and was sorry to bring you home empty handed.

Mr. Dennison, FROG, thanked the Commission and suggested to stop gas scooters.

Mayor George moved on to Item 6.

**ORDINANCE NO. 20-01**

**AN ORDINANCE OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA, CREATING ARTICLE IV OF CHAPTER 19 OF THE CODE OF THE CITY OF ST. AUGUSTINE BEACH; PROVIDING DEFINITIONS; RESTRICTING CERTAIN VEHICLES IN CERTAIN AREAS AND SIDEWALKS OF THE CITY; PROVIDING REGULATIONS RELATING TO THE CITY'S PUBLIC PROVIDING PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE BEACH; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

**WHEREAS**, St. Johns County receives over 6 million visitors per year, many of which come to downtown St. Augustine Beach; and

**WHEREAS**, the City of St. Augustine Beach welcomes countless visitors per year into a small and dense space with limited public space, parking, and mobility options; and

**WHEREAS**, the City of St. Augustine has limited parking and space on City rights-of-way; and

**WHEREAS**, the City of St. Augustine is committed to keeping the City accessible for the mobility-impaired; and

**WHEREAS**, the City of St. Augustine Beach strives to keep the City rights-of-way compliant with the Americans with Disabilities Act (ADA) and other federal and state regulations; and

**WHEREAS**, the City of St. Augustine Beach is subject to the Florida Uniform Traffic Control Law; and

**WHEREAS**, the City of St. Augustine Beach has a significant interest in ensuring the public safety and order and in promoting the free flow of pedestrian traffic in city parks, streets, and sidewalks.

**WHEREAS**, bicycles and dockless shared mobility devices left unattended and parked or leaned on walls or left on sidewalks creates a hazard to pedestrians and individuals needing access and maneuverability for ADA mobility devices; and

**WHEREAS**, the City of St. Augustine Beach has a significant interest in promoting the safety and convenience of its citizens on public streets and rights-of-way; and

**WHEREAS**, the Florida Uniform Traffic Control Law allows municipalities to enact ordinances to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law as long as such vehicles are restricted to a maximum speed of 15 miles per hour. *Section 316.008(7)(a), Florida Statutes*; and

**WHEREAS**, the Florida Uniform Traffic Control Law gives bicycles the same rights and duties applicable to the driver of any other vehicle on city streets, with limited exception. *Section 316.2065(1), Florida Statutes*; and

**WHEREAS**, in some instances, bicycles that are propelled by human power and not motors may be compatible with pedestrians on sidewalks; and

**WHEREAS**, the Florida Uniform Traffic Control Law gives cities the power to regulate the operation of bicycles with the reasonable exercise of police power. *Section 316.008(1)(h), Florida Statutes*; and

**WHEREAS**, the Florida Uniform Traffic Control Law allows electric personal assistive mobility devices, also known as Segways, to operate: on streets where the speed limit is 25 miles per hour or less; on marked bicycle paths; on any street or road where bicycles are permitted; and

on sidewalks, as long as the Segway operator yields to pedestrians. *Section 316.2068, Florida Statutes*; and

**WHEREAS**, the Florida Uniform Traffic Control Law allows municipalities to regulate the operation of Segways on any road, street, sidewalk, or bicycle path under its jurisdiction if the governing body of the municipality determines that the regulation is necessary in the interest of safety; *Section 316.2068, Florida Statutes*; and

**WHEREAS**, the City of St. Augustine Beach finds that the operation of Segways on narrow sidewalks hinders ADA mobility and the potential for collisions or accidents caused by people attempting to avoid collisions can be unsafe for pedestrians and those who rely on ADA devices for mobility; and

**WHEREAS**, the City of St. Augustine Beach finds that abandoned shared mobility devices in the public areas of the city presents a serious threat to the public health, safety, or welfare of the visitors and residents of the city; and

**WHEREAS**, the City Commission for the City of St. Augustine Beach finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:**

Section 1. Chapter 19, Article IV, Public Sidewalks and Walkways, is hereby created, as follows:

**Sec. 19-65 - Definitions.**

The following words and phrases, when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section. The definitions in F.S. Ch. 316 apply to this chapter and are hereby incorporated by reference.

- (a) *Curb or curbline.* The lateral boundaries of that portion of the street designated for the use of vehicles, whether marked by concrete curbing or curbstones, or not so marked.

(b) *Pedestrian only* shall be defined as including:

- (1) Pedestrians, which shall include people using wheelchairs or other ADA-compliant devices;
- (2) Authorized government personnel vehicles;
- (3) Devices utilized to provide mobility assistance to handicapped or disabled persons consistent with the Americans with Disabilities Act (ADA); or
- (4) Permitted construction or maintenance vehicles as necessary.

(c) *Shared mobility device*. A vehicle other than a motor vehicle, as defined by ch. 316, F.S., such as, but not limited to, a bicycle, motorized or electronic scooters (e-scooters), or another similar device, which may be colloquially known as a micro-mobility device, that is owned by a person other than the person that is utilizing the device, and intended for rental on a short-term, per-ride basis, as part of a shared mobility device program.

(d) *Shared mobility device program*. A program in which shared mobility devices are made available for shared use to individuals on a short-term, per ride basis at no cost or for a fee. This definition does not include rentals that are rented from a fixed location where the renter signs a lease for use of a vehicle for a fixed term.

**Sec. 19-66. - Use of sidewalks and certain other rights-of-way.**

(a) All public sidewalks, pedestrian pathways, courtyards, arcades, promenades, seawalls, and boardwalks shall be only available for use by pedestrians or non-motorized or non-electric bicycles except for the following:

- (1) Those areas under the control of the federal government or the state of Florida, Department of Transportation (FDOT), in which cases, those regulations shall apply;
- (2) Shared use paths, as designated by the City Manager, and marked by signage, shall be open to all restricted vehicles or devices; and
- (3) Sidewalks that are at least 8 feet wide.

(b) Restricted vehicles or devices shall include:

- (1) Electronic Personal Assistive Mobility Devices, regulated pursuant to s. 316.2068, F.S., colloquially known as Segways;

fee is in addition to any other fee or penalty that may be applied for any underlying violation of this article.

- (c) The city shall comply with the lost or abandoned property provisions found in ch. 705, F.S. Additional courtesy holds may be granted at the discretion of the Chief of Police.

**Sec. 19-69 - Enforcement and penalties.**

- (a) Enforcement. Violations of this article shall be enforced as non-criminal infractions of city ordinances.

- (b) Penalties.

The amount of penalties for violations of this article shall be as provided for in Section 1-9 of this code, as amended from time to time.

Section 5. Inclusion in Code. The City Commission intends that the provisions of this Ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this Ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 6. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Severance of Invalid Provisions. In the event that any section, subsection, sentence, clause, phrase, word, term or provision of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly invalid, unconstitutional or unenforceable or involved for any reason whatsoever, any such invalidity, unconstitutionality, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, unconstitutional, illegal, or unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

Section 8. Effective Date. This Ordinance shall become effective immediately upon passage.



- (2) Bicycles, including, but not limited to, electric bicycles or motorized bicycles;
  - (3) Push scooters, roller skates, rollerblades, inline skates, skateboards, and other similar devices without any motorized parts; and
  - (4) Electronic or motorized scooters (hereinafter referred to as e-scooters), as defined by the Florida Uniform Traffic Control Law.
- (c) Prohibited vehicles or devices shall include:
- (1) Shared mobility devices, unless operating on motor vehicle traffic lanes where allowed by the Florida Uniform Traffic Control Law;
- (d) If any restricted vehicle or device is specifically permitted to be used on sidewalks or other rights-of-way controlled by the state or federal government and allowed by the Florida Uniform Traffic Control Law (FUTCL), it shall not be a violation of this chapter to do so, notwithstanding the above provisions. Individuals utilizing mobility devices pursuant to the Americans with Disabilities Act (ADA) may operate those devices on any city street, sidewalk, or walkway.
- (e) Any restricted vehicles or devices left unattended on public property, including in parks and rights-of-way of the FDOT or the City of St. Augustine Beach may be impounded by the Chief of Police or his or her designee. A restricted vehicle or device is not considered unattended if it is secured in a designated bicycle parking area or another location or device intended for the purpose of securing such devices.

**Sec. 19-67 - Operation of a shared mobility device program.**

- (a) As used in this article, the “operator” of a shared mobility device program is the owner or the owner’s agent of a shared mobility program. No operator of a shared mobility device program shall display, offer, or make available for rent any shared mobility device within the city.

**Sec. 19-68 –Impounding.**

- (a) Any shared mobility device left unattended on public property, including in parks and rights-of-way of the FDOT or the City of St. Augustine Beach may be impounded by the Chief of Police or his or her designee. A shared mobility device is not considered unattended if it is secured in a designated bicycle parking area.
- (b) The owner of the shared mobility device or the operator shall pay a \$25 fee to the St. Augustine Beach Police Department to retrieve the device, in order to offset the administrative expense of impounding and storing the device. This

**PASSED** by the City Commission of the City of St. Augustine, Florida, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

**CITY COMMISSION OF THE  
CITY OF ST. AUGUSTINE BEACH**

**ATTEST:** \_\_\_\_\_  
City Manager, Max Royle

**BY:** \_\_\_\_\_  
\_\_\_\_\_, Mayor

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_