


MEMORANDUM

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

FROM: Max Royle, City Manager 

DATE: January 23, 2020

SUBJECT: Ordinance 20-01, Public Hearing and Final Reading: Restricting Micromobility Devices in Certain Areas and on Sidewalks

INTRODUCTION

You reviewed Ordinance 20-01 at your January 14 special meeting. After discussion, you passed it on first reading with changes. The City Attorney has incorporated the changes in the draft that has been advertised for a public hearing and final reading at your February 3rd meeting.

Attached is the following:

- a. Pages 1-2, the minutes of that part of your January 14th meeting when you passed Ordinance 20-01 on first reading.
- b. Pages 3-9, the Ordinance with the changes you approved at your January meeting.

ACTION REQUESTED

It is that you hold the public hearing and pass Ordinance 20-01 on its second and final reading.

I. OLD BUSINESS

6. Ordinance 20-01, First Reading: Restricting Shared Mobility Devices in Certain Areas and on Sidewalks (Presenter: Jim Wilson, City Attorney)

Mayor England introduced Item 6 and asked City Attorney Wilson for his report.

City Attorney Wilson reported that the Commission requested an ordinance to prohibit shared mobility devices to keep them from being left on the City's sidewalks. He explained that the City can prohibit that kind of business but can't prohibit private use of mobility devices. He commented that these devices are starting to become more common. He tried to keep the devices off the sidewalks but cannot prohibit the devices within the City. He then read the title of Ordinance 20-01.

Mayor England advised that on page 3 and 7 "Beach" needs to be added to St. Augustine, the numbering of the ordinance pages needs to be changed and the sections skips from 66 to 69.

City Attorney Wilson advised that the pages got which, but the sections are correct.

Commissioner Samora asked if bicycles should also be on the sidewalks.

City Attorney Wilson advised that bicycles could be used on the sidewalks and his intent was not to change anything regarding regular bicycles.

Commissioner Samora questioned page 6, Section 19-66, Subsection (b) (2), shows that bicycles were restricted from the sidewalks.

Vice Mayor Kostka advised that it should read (2) "Electric bicycles or motorized bicycles;"

Discussion ensued regarding having the same language as the Florida State Statutes under the bicycle laws; and there is no bicycle lane on A1A Beach Boulevard; not allowing a company to have motorized bicycles in the City.

Mayor England asked if Section 19-66 (a) which says sidewalks would only be allowed by non-motorized devices except for listed items, but in Section 19-66 (a) (2) the City Manager can designate the shared use paths.

City Attorney Wilson advised that the City does not have any designated shared paths that he was aware of. He commented that Mickler Boulevard and Pope Road does have bike paths. He explained that throughout the City at this point everything could be a shared use path, but it does give the City Manager the option to restrict a bike path.

Commissioner Rumrell advised that some parts of the ordinance say Segway and others says mobility devices.

City Attorney Wilson explained that that is how it is described in the Florida Statutes.

Commissioner Rumrell asked to increase the fee from \$25 to \$100 because of the time it takes for the police to be dispatched and have the bicycle impounded.

Discussion ensued regarding the fee being \$25 or \$100; making it consistent with the parking fees; the fee only applies to mobility devices; owner of the mobility devices would be fined; police agreed to \$25 fee, which is consistent with the area; police knows the kids in the community; and micromobility devices is the new term.

Police Chief Hardwick advised to be consistent with the Florida Statutes, micromobility devices must be used as the language not mobility.

The Commission agreed to change all language in the ordinance to micromobility device or devices and to change Section 19-66 (4).

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

Ed Slavin, P.O. Box 3084, St. Augustine Beach, FL, agreed with the ordinance and feels micromobility devices are unsafe.

Mayor England closed the Public Comments section and asked for Commission discussion.

Mayor England asked for a motion.

Motion: to approve Ordinance 20-01 for First Reading with the following corrections: 1) correct the page numbering; 2) insert St. Augustine Beach on page 3; and 3) that we add as appropriate micromobility in Section 19-66. **Moved by** Mayor England, **Seconded by** Commissioner George. Motion passed unanimously.

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 Beach has limited parking and space on City rights-of-way; and

WHEREAS, the City of St. Augustine Beach 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 micromobility 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 or micromobility 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;

- (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, motorized scooters or micromobility devices (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 or micromobility 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 or micromobility 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 micromobility 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 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.

PASSED by the City Commission of the City of St. Augustine, Florida, this
_____ day of _____, 2019.

Margaret England, Mayor

ATTEST:

Max Royle, City Manager

(SEAL)

First reading: _____

Second reading: _____