

DRAFT “BICYCLE ORDINANCE” UPDATE

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING SECTIONS 17-76, 17-78 THRU 17-87 AND 17-93 AND ADDING SECTIONS 17-88 AND 17-89 TO THE SCOTTSDALE REVISED CODE RELATING TO BICYCLES, SKATEBOARDS AND MOTORIZED SKATEBOARDS

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Sections 17-76 of the Scottsdale Revised Code is hereby amended as follows:

Section 17-76. 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:

Bicycle means every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than sixteen (16) inches in diameter or having three (3) wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

Electric bicycle means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:

(a) *Class 1 electric bicycle* means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(b) *Class 2 electric bicycle* means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.

(c) *Class 3 electric bicycle* means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.

Electric personal assistive mobility device means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.

Owner means any person holding the legal title of a bicycle, electric bicycle, motorized bicycle, motorized skateboard or motorized play vehicle or any person who is a lessee, conditional vendee or mortgagor of a bicycle, electric bicycle, motorized bicycle, motorized skateboard or motorized play vehicle with a right to immediate possession.

Motorized bicycle means a motorized gas powered bicycle or tricycle that is equipped with a helper motor that has a maximum piston displacement of forty-eight cubic centimeters or less,

that may also be self-propelled and that is operated at speeds of less than twenty miles per hour.

Pedestrian through zone is the portion of the sidewalk used primarily by pedestrians for travel, accessing transit or buildings.

Stand-up electric mini-scooter means a self-propelled device which has an electric motor of less than 1000 watts, a deck on which a person may ride, at least two (2) tandem wheels in contact with the ground, handle bars, brakes and does not exceed 20 miles per hour and which is not otherwise defined in Arizona Revised Statutes Title 28, as amended, as a "motor vehicle," "motorcycle," or "motor-driven cycle."

Section 2. Sections 17-78 thru 17-87 of the Scottsdale Revised Code are hereby amended as follows:

Section 17-78. Impoundment.

(a) If a Scottsdale police officer is unable to ascertain the true identity of any person deemed in violation of this article, the police officer shall be empowered to impound any vehicle or device used in the commission of the violation. The vehicle or device shall be returned to the person or his parents upon furnishing of satisfactory identification.

(b) Unlawfully parked, inoperable or abandoned bicycles, electric bicycles, motorized bicycles, motorized skateboards, motorized play vehicles or stand-up electric mini-scooters may be impounded or relocated by city employees as necessary to protect the health, safety and welfare of the public or as otherwise authorized by law.

Section 17-79. Voluntary registration.

(a) Every owner of a bicycle or electric bicycle may voluntarily register his bicycle with the chief of police or designee. The police registration form shall contain the owner's name, residence address and any other necessary information prescribed by the chief of police or designee. ~~social security number, provided that a child applicant shall use the social security number of a parent or guardian.~~

(b) Upon registration, a police department decal shall be affixed to the bicycle indicating that it has been registered with the police department. ~~When the decal is delivered to the registrant, the chief of police shall cause the social security number of the owner, or in the case of a child, the social security number of one (1) of his parents or guardian, to be inscribed on the bicycle.~~

Section 17-80. Application of traffic laws.

Every person riding a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter upon a roadway in the city shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic laws of the city applicable to the driver of a vehicle, except as to special regulations herein and except as to those provisions which by their nature can have no application.

Section 17-81. Obedience to traffic-control devices.

(a) Any person operating a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police peace officer, police aide or other

person vested with the authority to direct traffic on public highways.

(b) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter shall disobey the direction of any such sign, except where such person dismounts from the bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter to make such turn, in which event such person shall then obey the regulations applicable to pedestrians.

Section 17-82. Emerging from alley or driveway.

The operator of a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

Section 17-83. No riding or parking signs.

The chief of police or designee may erect signs on any sidewalk or roadway prohibiting the riding or parking of bicycles, electric bicycle, motorized bicycle or stand-up electric mini-scooter thereon by any person, and, when such signs are in place, no person shall disobey the same.

Section 17-84. Speed.

~~No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.~~

A person shall not operate a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter on a sidewalk or roadway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. A person shall control the speed of a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others

Section 17-85. Parking.

~~No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.~~

(a) No person shall park a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter in any of the following places:

- (1) Where prohibited by official signs or where the curb is painted red.
- (2) Within a designated public transit stop, except in designated bicycle racks or designated bicycle parking areas.
- (3) On a public sidewalk obstructing the pedestrian through zone, multiuse path or trail.
- (4) On those roadways without curbs in a manner so as to force a pedestrian to walk in the traveled portion of the roadway.

- (5) Within a designated handicapped parking stall and adjoining clear zones.
- (6) In front of or within a public or private driveway or the entrance to an alley.
- (7) Within any portion of a sidewalk, street, trail, or building entrance or exit that provides access to disabled persons pursuant to the American With Disabilities Act.
- (8) Within fifteen (15) feet of a fire hydrant.
- (9) In a pedestrian crosswalk.
- (10) Within twenty (20) feet of the driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly posted.
- (11) Within a designated turn or bicycle lane.
- (12) Within the traveled portion of a roadway, including an intersection and pedestrian crossing.
- (13) Within a designated no-parking zone.
- (14) Within a landscaped or planted area.
- (15) Within a roadway median.

(b) The chief of police or designee may designate or limit public areas or streets available for parking bicycles, electric bicycle, motorized bicycle or stand-up electric mini-scooters.

(c) No bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter shall be placed on private property without permission of the owner of that property.

(d) The property owner of any non-residential property open to the public is deemed to have given consent to unrestricted bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter parking by the general public in designated bicycle parking areas or racks, unless such parking is otherwise restricted under the Scottsdale Revised Code, state or federal law. The property owner of any non-residential property open to the public may develop its own rules and regulations as to an abandoned or unlawfully parked bicycles, electric bicycles, motorized bicycles or stand-up electric mini-scooters and may contract with private parties for the removal and impoundment of such bicycles, electric bicycles and motorized bicycles.

(e) The property owner of any multi-family residential property is deemed to have given consent to unrestricted bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter parking by residents and authorized visitors in designated bicycle parking areas or racks, unless such parking is otherwise restricted under the Scottsdale Revised Code, state or federal law. The property owner of any multi-family residential property may develop its own rules and regulations as to an abandoned or unlawfully parked bicycles, electric bicycles or motorized bicycles and may contract with private parties for the removal and impoundment of such bicycles, electric bicycles, motorized bicycles and stand-up electric mini-scooters.

(f) It is unlawful for an owner to allow a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter owned by the owner to remain unlawfully parked on publicly owned property after receiving notification from any person of such violation.

(g) It is unlawful for an owner to allow a bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter owned by the owner to remain parked in the same location on publicly owned property for seventy two (72) hours or more.

(h) It is unlawful for any person including an owner to leave an inoperable bicycle, electric bicycle, motorized bicycle or stand-up electric mini-scooter on public property for more than two (2) hours after receiving notification from any person of such violation.

(i) Except as authorized by city permit, no person or owner shall place or park on publicly owned property more than five (5) bicycles, electric bicycles, motorized bicycles or stand-up electric mini-scooters owned by the same owner within two hundred (200) feet of each other.

(j) Any employee authorized to issue a notice of violation for parking violations pursuant to section 17-104(d) or the City Manager or designee may issue notices of violations and civil complaints for the enforcement of this section. Nothing in this subsection shall be construed to limit a Scottsdale police officer or the City Attorney from enforcing any other section of this Division.

Section 17-86. Riding in prohibited areas; class 3 electric bicycles prohibited on sidewalks; stand-up electric mini-scooters prohibited on streets greater than thirty-five miles per hour without bike lane.

(a) No person shall ride or operate a bicycle, electric bicycle, motorized bicycle, stand-up electric mini-scooter, skateboard, roller skates or any other nonself-propelled vehicle or device, except wheelchairs or an electric personal assistive mobility device, in or upon any area having posted signs expressly prohibiting said self-propelled vehicles or devices.

(b) No person shall ride, park or operate a class 3 electric bicycle on any sidewalk within the city.

(c) No person shall ride or operate a stand-up electric mini-scooter on a street without a designated bike lane when the street has a posted speed limit of thirty-five (35) miles per hour or greater, except for crossing that street.

Section 17-87. - Exceptions.

The prohibitions set forth in sections 17-83 and 17-86 of this article shall not apply to law enforcement, fire or emergency medical officials while engaged in the performance of their official duties.

Section 3. Sections 17-88 thru 17-89 of the Scottsdale Revised Code are hereby added as follows:

Section 17-88. Penalties.

Unless otherwise provided:

(a) A first violation of this Division is a civil offense and shall be punished by a fine of not less than fifty dollars (\$50.00) per violation.

(b) A second violation of this Division is a civil offense and shall be punished by a fine of not less than two hundred fifty (\$250.00) per violation.

(c) A third or subsequent violation of this Division within one (1) year of conviction of a first violation is a class one misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not less than one thousand dollars (\$1,000.00) per violation.

(d) Notwithstanding subsection c above, the City may designate third or subsequent violations of this Division as civil offenses and such violations shall be punished by a fine of not less than five hundred (\$500.00) per violation.

(e) The court shall not suspend any part of any fine required by this section.

(f) Each day any violation of this Division continues shall constitute a separate offense.

Section 17-89 - Refusing to provide truthful name and date of birth when lawfully detained; penalty.

(a) It is unlawful for a person, after being advised that the person's refusal to answer is unlawful, to fail or refuse to state the person's true full name and date of birth on request of a peace officer who has lawfully detained the person based on reasonable suspicion that the person has committed a violation of this chapter. A person detained under this section shall state the person's true full name and date of birth, but shall not be compelled to answer any other inquiry of a peace officer.

(b) A person who violates this section is guilty of a class 2 misdemeanor.

17-89.1. - Riding, operating or actual physical control while under the influence; presumptions; admissible evidence; sentencing.

A. It is unlawful for a person to ride, operate or be in actual physical control of an electric bicycle, motorized bicycle, motorized skateboard, motorized play vehicle or stand-up electric mini-scooter under any of the following circumstances:

1. While under the influence of intoxicating liquor, any drug, a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree.

2. If the person has an alcohol concentration of 0.08 or more within two hours of riding, operating or being in actual physical control of the electric bicycle, motorized bicycle, motorized skateboard, motorized play vehicle or stand-up electric mini-scooter and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the electric bicycle, motorized bicycle, motorized skateboard, motorized play vehicle or stand-up electric mini-scooter

3. While there is any drug defined in Arizona Revised Statute Section 13-3401 or its metabolite in the person's body.

B. It is not a defense to a charge of a violation of subsection A, paragraph 1 of this section that the person is or has been entitled to use the drug under the laws of this state.

C. A person who is convicted of a violation of this section is guilty of a class 1 misdemeanor.

D. A person using a drug as prescribed by a medical practitioner who is licensed pursuant to title 32 and who is authorized to prescribe the drug is not guilty of violating subsection A, paragraph 3 of this section.

E. In a trial, action or proceeding for a violation of this section, the defendant's alcohol concentration within two hours of the time of riding, operating or being in actual physical control

as shown by analysis of the defendant's blood, breath or other bodily substance gives rise to the following presumptions:

1. If there was at that time 0.05 or less alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was not under the influence of intoxicating liquor.

2. If there was at that time in excess of 0.05 but less than 0.08 alcohol concentration in the defendant's blood, breath or other bodily substance, that fact shall not give rise to a presumption that the defendant was or was not under the influence of intoxicating liquor, but that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

3. If there was at that time 0.08 or more alcohol concentration in the defendant's blood, breath or other bodily substance, it may be presumed that the defendant was under the influence of intoxicating liquor.

F. Subsection E of this section does not limit the introduction of any other competent evidence bearing on the question of whether or not the defendant was under the influence of intoxicating liquor.

G. A person who is convicted of a violation of this section:

1. Shall be sentenced to serve not less than five (5) consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.

2. Shall pay a fine of not less than two hundred fifty (250) dollars.

3. May be ordered by a court to perform community restitution.

H. Notwithstanding subsection G, paragraph 1 of this section, at the time of sentencing the judge may suspend all but twenty four hours (24) of the sentence if the person completes a court ordered alcohol or other drug screening, education or treatment program. If the person fails to complete the court ordered alcohol or other drug screening, education or treatment program and has not been placed on probation, the court shall issue an order to show cause to the defendant as to why the remaining jail sentence should not be served.

Section 4. Sections 17-93 of the Scottsdale Revised Code is hereby amended as follows:

Section 17-93. Prohibited operation.

(a) No person shall ride, operate, place or park a motorized skateboard or motorized play vehicle:

(1) On any sidewalk in the city, except for use in crossing such sidewalk by the most direct route to gain access to any public or private road or driveway.

(2) In any city parking structure, city park, or other public property except for use on public roadways within a city park.

(3) On any private property that has been posted or designated by the owner of such property as an area prohibiting "skateboards."

(4) On any public roadway consisting of a total of four (4) or more marked traffic lanes, or having

an established speed limit of greater than twenty-five (25) miles per hour.

(5) On any private property of another, without the written permission of the property owner, the person entitled to immediate possession of the property, or the authorized agent of either.

(6) On any sidewalk, or any designated bicycle lane, unpaved trail or multiuse path.

(b) It is a civil offense subject to the penalties specified in section 17-88 for an owner to allow a motorized skateboard or motorized play vehicle owned by the owner to remain unlawfully parked on publicly owned property after receiving notification from any person of such violation.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this ____ day of _____, 2018.

CITY OF SCOTTSDALE, an Arizona
municipal corporation

ATTEST:

Carolyn Jagger, City Clerk

W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

Bruce Washburn, City Attorney
By: Luis E. Santaella
Senior Assistant City Attorney