

ORDINANCE NO. 9348-19

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, RELATING TO THE REGULATION OF MICROMOBILITY DEVICES AND MOTORIZED SCOOTERS; AMENDING CODE OF ORDINANCES CHAPTER 25 – PUBLIC TRANSPORTATION CARRIERS, ARTICLE I. – PUBLIC CONVEYANCES; ADDING DEFINITIONS OF MICROMOBILITY DEVICE, SHARED MOBILITY DEVICE PROVIDER, MOTORIZED SCOOTER, AND SIDEWALK TO SECTION 25.01, AND AMENDING DEFINITION OF RECREATIONAL VEHICLE TO ADD MICROMOBILITY DEVICE AND MOTORIZED SCOOTER; AMENDING SECTION 25.02 TO ADD REGULATIONS FOR OPERATION OF MICROMOBILITY DEVICES; AMENDING SEC. 25.19 TO ADD SHARED MOBILITY DEVICE PROVIDER LICENSE REQUIREMENT AND ALLOW FOR PILOT PROGRAM; AMENDING SECTION 25.20 TO ADD PENALTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida enacted Chapter 2019-109 codifying House Bill 453, “Micromobility Devices,” which amended Chapter 316, Florida Statutes to regulate the use and provision of for-hire motorized scooters; and

WHEREAS, Chapter 316 defines a “micromobility device” as “[a]ny 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 and bicycles as defined in this chapter;” and

WHEREAS, Chapter 316 grants micromobility devices “all of the rights and duties applicable to the rider of a bicycle,” unless local government adopts an ordinance governing their operation; and

WHEREAS, docked and dockless or station-less shared, aka for-hire, motorized scooter programs provide City residents, workers, and visitors with additional transportation options that improve mobility, reduce congestions, and support healthy communities; and

WHEREAS, the City is aware of other cities within our nation where the safety and/or welfare of the public has been negatively impacted by the unregulated use of micromobility devices; and

WHEREAS, the City believes it is in the public health, safety, and welfare to establish regulations for operators who provide micromobility devices and regulations for the use of these devices, in addition to those provided by the state; and

WHEREAS, it is in the best interest of the City to allow for the creation and implementation of a pilot program for a limited period of time in order to evaluate the resulting use and operation of micromobility devices and develop responsible regulation; and,

WHEREAS, the City Council of the City of Clearwater desires to revise certain provisions of Chapter 25, Public Transportation Carriers, to allow for creation of a pilot program and to prohibit the use and offering for hire of micromobility devices without providers first obtaining a license and operating agreement with the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY
COUNCIL OF THE CITY OF CLEARWATER, FLORIDA;

Section 1: Sec. 25.01, Clearwater Code of Ordinances is hereby amended to read as follows:

Sec. 25.01. – 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 a vehicle propelled solely by human power, and a motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, 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 or similar device that does not have a seat or saddle for the use of the rider.

Certificate to engage in business means a certificate issued by the director of planning and development to engage in the business of operating one or more public conveyances in the City of Clearwater.

Driver means every individual operating a pedicab or low-speed for hire vehicle, either as owner, agent, employee or otherwise, pursuant to the pedicab or low-speed for hire vehicle driver's permit issued as herein provided.

Electric personal assistive mobility device means any self-balancing, two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (one horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.

Low-speed for hire vehicle means a vehicle as defined in F.S. § 320.01(42), that is, any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles, that complies with the safety standards in 49 C.F.R. s. 571.500 and F.S. § 316.2122 and that is used for transporting passengers for hire, fee, or compensation of any kind, including compensation derived from tips or advertising, upon or along the streets within the City of Clearwater.

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 and bicycles as defined in this article.

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; with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged; or, if an internal combustion engine is used, with a displacement not exceeding 50 cubic centimeters.

Motorcycle means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped.

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.

Pedicab means any vehicle that is propelled solely by human power and that is used for transporting passengers for hire, fee, or compensation of any kind, including compensation derived from tips or advertising, upon or along the streets or sidewalks within the City of Clearwater.

Pedicab or low-speed for hire vehicle driver's permit means a permit issued by the director of planning and development authorizing the holder thereof to drive a pedicab or low-speed for hire vehicle.

Permitting means had knowledge or reason to know that the activity was occurring, failed to intervene in an attempt to prevent the activity from occurring, and had the power or authority to prevent the activity from occurring.

Public conveyance means a pedicab, low-speed for hire vehicle, or recreational vehicle.

Public conveyance company means any business entity of whatever nature or composition that is issued a certificate by the director of planning and development to engage in the business of operating one or more public conveyances, and may be a corporation, partnership, joint venture, natural person, or other individual, association or combined persons or entities.

Qualified means one who, by possession of recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems relating to the subject matter, the work, or the project.

Recreational vehicle means any vehicle that is rented typically for less than one day and that the renter intends to drive for the renter's personal, recreational use, such as a motorcycle containing an internal combustion engine with a displacement of 50 cubic centimeters or less, an electric personal assistive mobility device, a bicycle, a micromobility device, motorized scooter, or a moped, but excluding a motor home, a camper, a motor vehicle leased from an entity that is engaged in the business of renting motor vehicles typically for more than one day, or an "off highway vehicle" as defined in F.S. § 261.03(6).

Shared mobility device provider means any person, entity, or public conveyance company which makes available to the public any number of micromobility devices or motorized scooters for use in the City.

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.

Street means all public streets, avenues, alleys, lanes, highways, and other publicly owned places laid out for the use of motor vehicles, including publicly owned parking lots.

Surrey bicycle means a bicycle containing three or more wheels that is designed to carry two or more persons and that has two or more pedaling positions.

Vehicle means every device, in, upon, or by which any person is or may be transported or drawn upon a street.

Section 2: Sec. 25.02, Clearwater Code of Ordinances is hereby amended to read as follows:

Sec. 25.02. - Standards for pedicabs, low-speed for hire vehicles, and surrey bicycles, and micromobility devices; equipment and restrictions.

(1) All pedicabs shall be deemed bicycles as that term is used in Florida Statutes. As such, all pedicabs shall comply with any and all regulations of the state applicable to bicycles. See, for example, F.S. § 316.2065. All pedicabs required to be regulated under this article shall be equipped with a battery operated headlight capable of projecting a beam of white light for a distance of 500 feet and a pair of battery operated taillights each exhibiting a red light visible from a distance of 600 feet to the rear. All pedicabs shall also be equipped with at least one front white reflector and at least one red rear reflector and at least one amber side reflector one each side of said pedicab. All pedicabs required to be regulated under this article shall be kept clean and sanitary throughout and shall be kept and maintained in sound operating condition. All safety devices and all other equipment shall be kept in such condition as to ensure safe operation. Any fares that are charged to the public shall be conspicuously posted in or on the pedicab. If a gratuity is accepted, "Gratuity appreciated" shall be conspicuously posted in or on the pedicab.

(2) All low-speed for hire vehicles shall comply with any and all regulations of the state applicable to low-speed vehicles. See, for example, F.S. § 316.2122. All low-speed for hire vehicles required to be regulated under this article shall be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers. All low-speed for hire vehicles required to be regulated under this article shall be kept clean and sanitary throughout and shall be kept and maintained in sound operating condition. All safety devices and all other equipment shall be kept in such condition as to ensure safe operation. Any fares that are charged to the public shall be conspicuously posted in or on the low-speed vehicle. If a gratuity is accepted, "Gratuity appreciated" shall be conspicuously posted in or on the low-speed vehicle.

(3) All surrey bicycles operated pursuant to this article shall be equipped with a single, low-gear ratio to prevent excessive speeds. Surrey bicycles operated pursuant to this article that have multiple gears capable of changing gear ratios are prohibited. Surrey bicycles operated pursuant to this article shall not be driven by anyone under the age of 16 unless accompanied by a responsible adult and shall not be operated in the "roundabout" on Clearwater Beach. It is unlawful for any person to operate, or cause to be operated, a surrey bicycle that is not equipped with a braking system that is capable of skidding each rear wheel in contact with the ground on dry, level, clean pavement by the operator from his normal position of operation.

(4) All micromobility devices are subject to the rules and regulations governing bicycles in the city code. In addition to the city code, micromobility devices are subject to any and all state laws pertaining to micromobility devices, as applicable, and as may be amended. No person under the age of 16 years old shall operate a micromobility device within the city of Clearwater. It is unlawful for the parent,

legal guardian or custodian of a minor child to knowingly permit the child to violate any provision of this article. Ridership of more than one person on any micromobility device shall be prohibited, unless the micromobility device is specifically designed to carry more than one person. Micromobility devices may not be ridden on sidewalks. Micromobility devices may be allowed on the Pinellas Trail if specifically allowed by Pinellas County. Micromobility devices shall not be parked in a manner that obstructs any ingress or egress from any building or parking area.

Section 3: Secs. 25.19—25.214, Clearwater Code of Ordinances is hereby amended to read as follows:

Secs. 25.19—25.214. - Reserved.

Sec. 25.19. – Shared Mobility Device License Required.

No shared mobility device provider shall display, offer, or make available for rent any micromobility device or motorized scooter within the City, unless the provider holds a shared mobility device license from the City through participation in a pilot program, a valid, fully executed operating agreement with the City, or approval from the City through an established process. No license shall be granted to allow shared mobility device provider operations on Clearwater Beach, Sand Key, Island Estates or any other area restricted pursuant to Section 25.18 of this Code.

Sec. 25.20. – Penalties.

Any person or entity who violates or fails to comply with any provision of this Article shall be guilty of a municipal ordinance violation, punishable as provided in Section 1.12 of this Code.

Secs. 25.21 - 25.214. - Reserved.

Section 4: This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

George N. Cretekos
Mayor

Approved as to form:

Attest:

Matthew Smith
Assistant City Attorney

Rosemarie Call
City Clerk