

ORDINANCE NO. 9358-20

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, RELATING TO THE REGULATION OF COMMERCIAL MEGACYCLES; AMENDING CODE OF ORDINANCES CHAPTER 25 – PUBLIC TRANSPORTATION CARRIERS, ARTICLE I. – PUBLIC CONVEYANCES; ADDING DEFINITION OF COMMERCIAL MEGACYCLE TO SEC. 25.01, AND AMENDING DEFINITION OF RECREATIONAL VEHICLE TO ADD COMMERCIAL MEGACYCLE; AMENDING SEC. 25.02 TO ADD REGULATIONS FOR OPERATION OF COMMERCIAL MEGACYCLES; AMENDING SEC. 25.04 TO PROVIDE FOR COMMERCIAL MEGACYCLE INSURANCE REQUIREMENT; AMENDING SEC. 25.21 TO ADD COMMERCIAL MEGACYCLE PROVIDER LICENSE REQUIREMENT AND ALLOW FOR PILOT PROGRAM; AMENDING CHAPTER 6 – ALCOHOLIC BEVERAGES, ARTICLE II – OPERATION OF ESTABLISHMENTS, SEC. 6.31 – PROHIBITED ACTS, TO EXEMPT MEGACYCLE PASSENGERS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Council adopted the 2018 Clearwater Downtown Redevelopment Plan that supports bicycle-friendly amenities and encourages the use of the Pinellas Trail; and

WHEREAS, the City values and promotes tourism and activities that allow tourists to explore Clearwater; and

WHEREAS, commercial megacycles are a healthy and environmentally sustainable form of travel that provide a fun way to enjoy Clearwater;

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.

Commercial megacycle means a vehicle that has fully operational pedals for propulsion entirely by human power and: (1) has four wheels and is operated in a manner similar to a bicycle; (2) has at least 5 but no more than 15 seats for passengers; and (3) is primarily powered by pedaling but may have an auxiliary motor capable of propelling the vehicle at no more than 15 miles per hour.

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-nontandemwheeled 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 commercial megacycle, 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 curbline, 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, surrey bicycles, micromobility devices, and commercial megacycles; 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.

(5) All commercial megacycles shall be operated at all times by its owner or lessee or an employee of the owner or lessee. The operator shall be at least 18 years of age and possess a Class E driver license. While the commercial megacycle is in motion, it shall be occupied by a safety monitor at least 18 years of age, who shall supervise the passengers. No alcoholic beverages other than beer, wine, hard cider or malt based beverages below 19 percent alcohol by volume may be consumed by passengers, and only while on the commercial megacycle. No persons under the age of 21 are allowed on the commercial megacycle during a ride where alcohol is or is planned on being consumed. All passenger seats on the commercial megacycle must have seat backs and seat

belts. All passengers under 16 years of age are required to wear helmets, and commercial megacycle operators must offer helmets for all passengers, regardless of age, at no cost.

Section 3: Sec. 25.04, Clearwater Code of Ordinances is hereby amended to read as follows:

Sec. 25.04. - Liability insurance coverage required.

(1) No certificate to engage in business shall be issued or renewed by the director of planning and development pursuant to this article unless there is in force a Commercial General Liability Insurance policy with the following minimum types and amounts: \$500,000.00 per occurrence (\$1,000,000.00 for commercial megacycles), combined single limit, for bodily injury, personal injury, and property damage. Such liability insurance policy shall specifically include the city as an additional insured and require each policy to be endorsed to state that coverage shall not be canceled by the applicant or carrier except after 30 days written notice sent via certified mail, return receipt requested, to the city. It is the applicant's responsibility to ensure notice to the city in accordance with the above requirement is met.

(2) The applicant will provide the director of planning and development with a certificate or certificates of insurance showing the existence of coverage as required and will, upon written request by the city, provide the director of planning and development with certified copies of all policies of insurance. New insurance certificates and, when requested in writing, certified copies of policies shall be provided to the director of planning and development whenever any policy is renewed, revised, or obtained from other insurance carriers.

Section 4: Secs. 25.21—25.214, Clearwater Code of Ordinances is hereby amended to read as follows:

Sec. 25.21. – Commercial Megacycle License Required.

No commercial megacycle provider shall display, offer, or make available for rent any commercial megacycle within the City, unless the provider holds a commercial megacycle 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 commercial megacycle provider operations on the Pier 60 roundabout, Sand Key, Island Estates, or any other area restricted pursuant to Section 25.18 of this Code. During the pilot program, commercial megacycles are permitted to operate only in the following areas:

- (1) East Avenue on the northbound roadway not trail section from Pierce Street to Cleveland Street;
- (2) Cleveland Street from MLK Avenue to Osceola Avenue;
- (3) North on Osceola Avenue from Cleveland Street to Drew Street Extension;
- (4) West on Drew Street Extension around Coachman Commons to Cleveland Street;
- (5) South on Osceola Avenue to Pierce Street;
- (6) East on Pierce Street to East Avenue completing one circuit; and
- (7) Clearwater Beach north and south of the Pier 60 roundabout on streets as shown on Diagram 1.

Insert Diagram 1, attached

Sec. 25.214. - Reserved.

Section 5: Sec. 6.31, Clearwater Code of Ordinances is hereby amended to read as follows:

Sec. 6.31. - Prohibited acts.

(1) It shall be a violation for any person licensed to operate an alcoholic beverage establishment, or employed by or acting as an agent of any such establishment, and who sells or causes to be sold any alcoholic beverage, to permit such beverage to be consumed on any property under the control, directly or indirectly, of the licensee, except within the area of the premises which is licensed for such sales and consumption.

(2) It shall be a violation for any person to consume any alcoholic beverage, or to possess any opened or unsealed container containing an alcoholic beverage, on any property under the control, directly or indirectly, of the licensee, except within the area of the premises which is licensed for such sales and consumption.

(3) It shall be a violation for any person to consume any alcoholic beverage, or to possess any opened or unsealed container containing an alcoholic beverage, off a licensed premises and within 500 feet thereof, except within enclosed buildings, within an area occupied by another alcoholic beverage establishment when that area is licensed for such consumption, or on property occupied by residential structures. The distance set forth in this subsection shall be measured by following a straight line from that portion of any structure licensed for the sale of alcoholic beverages nearest to the place of violation of this subsection.

(4) It shall be a violation for any person to sell or consume any alcoholic beverage, or to possess any opened or unsealed container containing an alcoholic beverage, at the following places, except pursuant to an alcoholic beverage special event permit issued under the provisions of section 22.88 through 22.91, pursuant to an outdoor cafe permit issued under the provisions of the Community Development Code, or pursuant to a license issued by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation that permits the sale or consumption at the location:

(a) On any public beach.

(b) On or in any public street, alley, sidewalk, parking lot or right-of-way, including but not limited to unimproved public street rights-of-way terminating at a body of navigable water. "Public street" or "parking lot" as used in this subsection shall mean those areas described in F.S. § 316.003(53), (2004), which are defined to include the entire width between the boundary lines of a way or place if any part of that way or place is open to public use for the purpose of vehicular traffic, including the parking lots of malls, strip centers, convenience stores, hotels, motels, or other commercial establishments. This paragraph shall not apply to passengers of a commercial megacycles authorized pursuant to Chapter 25; recent passengers not physically on the commercial megacycle are subject to the open container prohibitions contained in this section and in Florida Statutes.

(c) On any other publicly owned property, except on any portion of publicly owned property when rented to private parties or when authorized by the public agency that owns the property so long as the sale or consumption of alcoholic beverages would otherwise be in compliance with the Alcoholic Beverage Laws of the State of Florida.

(d) On any portion of the Courtney Campbell Recreation Area as defined in section 22.21.

(5) There shall be no bottle clubs.

Section 6: 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