

ORDINANCE NO. 103-2021 (PSH)

By Council Member Cobb

An Ordinance amending various sections of Chapter 373, “Bicycles and Motorcycles,” of Part Three, *Traffic Code*, of the Codified Ordinances of the City of Cleveland Heights; and declaring an emergency.

WHEREAS, Cuyahoga County has entered into an agreement with various vendors to encourage the use of mobility devices throughout the County wherein a municipality may opt-in to the agreement; and

WHEREAS, under the agreement, municipalities that opt-in will receive a \$0.15 fee for each trip that originates within that municipality; and

WHEREAS, Cuyahoga County has requested that any municipality that opts in to the agreement for the use of shared mobility devices within its jurisdiction agree that the County will have sole business licensing authority and that the City of Cleveland, because of its central location and likely majority of devices, be the only City in the County with permitting authority for said devices; and

WHEREAS, each municipality that opts in to the agreement may direct where the rebalancing stations for the mobility devices will be located within its boundaries and may further enact and enforce its own laws and regulations concerning traffic and the public right-of-way as they relate to mobility devices; and

WHEREAS, the cities of Cleveland Heights, Cleveland, Shaker Heights, Euclid, South Euclid, University Heights, and Lakewood, along with Cuyahoga County, have worked collaboratively in an attempt to establish uniform guidelines and regulations governing the usage of mobility devices for the benefit and ease of the users; and

WHEREAS, this Council recognizes that shared mobility is key to reducing environmental impact, decreasing motor vehicle traffic, and improving access to other forms of transportation; and

WHEREAS, the rental of shared mobility devices and bicycles is a fast-emerging industry; and

WHEREAS, the City of Cleveland Heights has experienced some impact from the presence of these devices; and

WHEREAS, establishing regulations for shared mobility devices is critical to ensuring the health, safety, and well-being of shared mobility riders, pedestrians and other users of the public right-of-way, and the general public.

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BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. Section 301.041, “Electric Bicycle,” of Chapter 301, “Definitions,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted to read as follows:

301.041 ELECTRIC BICYCLE

“Electric Bicycle” or “e-bike” means a two-wheeled device that has handlebars, a seat, and pedals designed to be operated similar to a bicycle, and is powered by electricity. The electricity is stored on board in a rechargeable battery.

SECTION 2. Section 301.042, “Electric Scooter,” of Chapter 301, “Definitions,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted to read as follows:

301.042 ELECTRIC SCOOTER

“Electric scooter” or “e-scooter” means a two-wheeled device that has handlebars, and a floor board, which designed to be stood upon when operating and is powered by electricity. Some devices of this type are equipped with a seat, but none has operable pedals. The electricity is stored on board in a rechargeable battery.

SECTION 3. Section 301.043, “Mobility Device,” of Chapter 301, “Definitions,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted to read as follows:

301.043 MOBILITY DEVICE

“Mobility device” means small mobility devices, such as an e-scooter, e-bike or other similar device. A mobility device does not include those designed solely for use by a child, those used as assistive mobility devices by persons with disabilities, or those defined as an electric personal assistive mobility device.

SECTION 4. Section 301.044, “Shared Mobility Device and Bicycle Vendor,” of Chapter 301, “Definitions,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is enacted to read as follows:

301.044 SHARED MOBILITY DEVICE AND BICYCLE VENDOR

“Shared mobility device and bicycle vendor” means an entity approved to use/occupy the public right-of-way for offering shared mobility devices, such as a bicycle, scooter, e-bike, e-scooter, or any other mobility device, to subscribers on a fee basis subscription for short-term rental in point-to-point trips.

SECTION 5. Section 373.01, “Code Application to Bicycles,” of Chapter 373,

“Bicycles and Motorcycles,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.01 CODE APPLICATION TO BICYCLES AND MOBILITY DEVICES.

(a) The provisions of this Traffic Code that are applicable to bicycles or mobility devices apply whenever a bicycle or mobility device is operated upon any street or upon any path set aside for the exclusive use of bicycles or mobility devices.

(b) Except as provided in subsection (d) of this section, a bicycle or mobility device operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or mobility devices may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle or mobility device shall not have any points assessed against the person’s driver’s license, commercial driver’s license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.

(c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle or mobility device operator or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle or mobility device riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle or mobility device operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.

(d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)

(e) The provisions of this Traffic Code shall apply to bicycles and mobility devices except those which by their nature are not applicable.

SECTION 6. Section 373.02, “Riding Upon Seats; Handle Bars; Helmets and Glasses,” of Chapter 373, “Bicycles and Motorcycles,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

(a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.

(b) No person operating a bicycle or mobility device shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or mobility device other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or mobility device other than upon such a firmly attached and regular seat.

(c) A person operating a mobility device without a permanent and regular seat attached thereto shall not ride other than standing upon the footboard.

(de) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other

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than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

(~~e~~) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(~~f~~) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(~~g~~) No person operating a bicycle or mobility device shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handle bars.

(~~h~~) No bicycle, mobility device, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

* * *

SECTION 7. Section 373.03, "Attaching Bicycle or Sled to Vehicle," of Chapter 373, "Bicycles and Motorcycles," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.03 ATTACHING BICYCLE, MOBILITY DEVICE, OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, coaster, mobility device, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(b) No operator shall knowingly permit any person riding upon any motorcycle, bicycle, coaster, mobility device, roller skates, sled or toy vehicle to attach the same or himself to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

(c) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

SECTION 8. Section 373.04, "Riding Bicycles and Motorcycles Abreast," of Chapter 373, "Bicycles and Motorcycles," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.04 RIDING BICYCLES, MOBILITY DEVICES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, mobility devices, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

(b) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(B))

SECTION 9. Section 373.04, "Lights and Reflector on Bicycle; Brakes," of Chapter 373, "Bicycles and Motorcycles," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.06 LIGHTS AND REFLECTOR ON BICYCLE OR MOBILITY DEVICE; BRAKES.

(a) Every bicycle or mobility device when in use at the times specified in Section 337.02, shall be equipped with the following:

(1) A lamp mounted on the front of either the bicycle, mobility device or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle is moving may be used to meet this requirement.

(2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector;

If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle.

(c) Every bicycle or mobility device shall be equipped with an adequate brake when used on a street or highway. (ORC 4511.56)

SECTION 10. Section 373.07, "Riding Bicycle on Right Side of Roadway; Obedience to Traffic Rules; Passing," of Chapter 373, "Bicycles and Motorcycles," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.07 RIDING BICYCLE OR MOBILITY DEVICE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle or mobility device upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle or mobility device to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or mobility device and an overtaking vehicle to travel safely side by side within the lane. (ORC 4511.55)

(c) No person operating a mobility device should do so on any streets with a speed limit over 35 miles per hour unless in a dedicated bike lane or shared use path.

(ed) Any person operating a bicycle or mobility shall:

(1) Obey the instructions of official traffic control devices applicable to vehicles, unless otherwise directed by a police officer;

(2) Before changing course, turning or stopping upon a roadway, exercise due care that the movement can be made with reasonable safety and give the hand and arm signals required by Section 331.15;

(3) Yield the right of way to pedestrian and vehicular traffic upon the roadway as

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lawfully required;

- (4) Yield the right of way to a pedestrian upon a sidewalk;
- (5) Give timely and audible signal before overtaking and passing a pedestrian upon a roadway or sidewalk.

(~~e~~) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(A))

SECTION 11. Section 373.08, “Reckless Operation; Control; Course and Speed,” of Chapter 373, “Bicycles and Motorcycles,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle or mobility device:

(~~1a~~) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;

(~~2b~~) Without exercising reasonable and ordinary control over such bicycle or mobility device;

(~~3e~~) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;

(~~4d~~) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);

(~~5e~~) At a speed greater than is reasonable and prudent under the conditions then existing.

(b) No person operating a mobility device shall exceed a speed greater than 15 miles per hour.

SECTION 12. Section 373.09, “Parking of Bicycle; Sidewalk Riding,” of Chapter 373, “Bicycles and Motorcycles,” of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.09 PARKING OF BICYCLE OR MOBILITY DEVICE; SIDEWALK RIDING.

(a) No person shall park a bicycle or mobility device upon a sidewalk in such a manner so as to unduly interfere with pedestrian flow. This includes ADA ramps, areas departing to and from buildings, and at transit stops. No person shall at any time park a bicycle upon a sidewalk or other public place customarily used by pedestrians, in such a manner as to unduly interfere with pedestrian traffic, nor shall a bicycle be parked upon a roadway so as to interfere with vehicular traffic.

(b) Where bicycle or mobility device racks or other such devices to park bicycles or mobility devices are provided in a commercial area, park, school or other such place, no person shall park a bicycle or mobility device in such area, except in the rack provided or other fixture designated for such purpose.

(Ord. 5-1975. Passed 1-20-75.)

(c) No person shall park a bicycle or mobility device upon any street including parking spots and loading zones so as to unduly interfere with vehicular traffic.

(d) All bicycles and mobility devices must be parked in an upright position.

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(ee) A bicycle, mobility device, or skateboard may be operated or ridden upon any public sidewalk in the City except where signs are erected prohibiting such operation.

(f) Whoever violates this section is guilty of a minor misdemeanor.

SECTION 13. Section 373.11, "Registration and Tag Required," of Chapter 373, "Bicycles and Motorcycles," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended to read as follows:

373.11 REGISTRATION AND TAG REQUIRED.

(a) No person shall operate a bicycle or mobility device upon any street or public place in the City unless such bicycle has been registered and tagged as provided for herein, or as provided in the bicycle owner's city of residence, except as provided in subsection (c) herein.

(b) This section shall not be applicable to the owner or operator of a bicycle, residing in a community which does not provide for registration and licensing of bicycles.

(c) Mobility devices registered to a Shared Mobility Device and Bicycle Vendor are exempt from local registration, licensing and tagging requirements.

(Ord. 5-1975. Passed 1-20-75.)

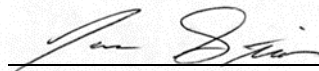
SECTION 14. All remaining portions of Chapter 373 shall remain as currently enacted.

SECTION 15. The City Manager be, and she is hereby, authorized to take all actions and execute all documents necessary for the securing, deployment, utilization, and balancing of all mobility devices within the City. All documents hereunder shall be approved as to form by and subject to the final approval of the Director of Law.

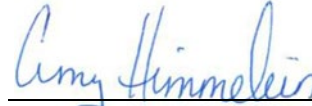
SECTION 16. Notice of passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 17. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the timely need to regulate shared mobility devices to ensure vehicular and pedestrian safety. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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JASON S. STEIN
President of the Council



AMY HIMMELEIN
Clerk of Council

PASSED: August 2, 2021