

ORDINANCE NO. 6459

AN ORDINANCE TO AMEND TITLE 9-TRAFFIC BY AMENDING CHAPTER 9.09.020 "DEFINITIONS" AND CHAPTER 9.09.030 "PROHIBITED OPERATION" OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 9-Traffic of the 2020 Municipal Code of Council Bluffs, Iowa, is hereby amended by amending Chapter 9.09.020 "Definitions" and amending Chapter 9.09.030 "Prohibited Operation" to read as follows:

9.09.010 Purpose Of Chapter

For the purpose of promoting the safety and general welfare of persons, and guarding against accidents in traffic and upon public property, this chapter shall provide reasonable rules and regulations for the operation of electric bicycles, electric scooters and other personal transport vehicles within the city of Council Bluffs, Iowa.

(Ord. 5802 § 1 (part), 2004)

9.09.020 Definitions

For the purpose of this chapter, the following words, terms, and phrases shall have the following meanings:

Electric bicycle: a device having two or three wheels with fully operable pedals and an electric motor of less than seven hundred fifty (750) watts (one horsepower), whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds.. Any electric bicycle in excess of any standards herein, or any gasoline powered bicycle, shall not be included under this chapter and shall be subject to any and all required registration, insurance, and licensure provisions under the Code of Iowa as a motorcycle or motorized bicycle.

Electric scooter: A device with an electric motor designed to transport one operator, with at least two wheels in contact with the ground, with the capability to propel exclusively by electric motorization or in combination with the application of human power, whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds. Any electric scooter in excess of any of these standards herein, or any gasoline powered scooter, shall not be included under this chapter and shall be subject to any and all required registration, insurance, and licensure provisions under the Code of Iowa as a motorcycle or motorized bicycle.

Other personal transport vehicles: A device with at least one ~~two~~ wheels in contact with the ground, that is designed to be stood on or sat upon by the operator and powered by an electric motor of less than 750 watts (one horsepower) whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds.

Operator: Any person who operates or is in actual physical control of a electric scooter, electric bicycle or other personal transport vehicle.

Roadway: That portion of the street or highway improved, designed, or ordinarily used for vehicular traffic, and does not include the sidewalks or any other area of public property between the roadway portion of the street or highway and the abutting private property line.

Sidewalk: That portion of the street between the curb lines and the adjacent property lines.

Street or highway: The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(Ord. 5802 § 1 (part), 2004)

HISTORY

Amended by Ord. 6403 on 11/18/2019

9.09.030 Prohibited Operation

It shall be unlawful to operate any electric scooter or other personal transport vehicle upon any highway or any sidewalk within the Skateboard Free Zone designated in CBMC 9.10.040 and specifically described as the area with a perimeter commencing at the intersection of the southern right-of-way line of 16th Avenue and the western right-of-way line of 7th Street; then running northerly to the northern right-of-way line of Kanessville Blvd.; then running northeasterly to the eastern right-of-way line of First Street; then running southeasterly to the southern right-of-way line of Pierce Street and then the eastern right-of-way Bluff Street to the southern right-of-way line of Fifth Avenue; then running westerly to the eastern right-of-way line of Main Street; then running southerly to the southern right-of-way line of 16th Avenue; then running westerly to the point of beginning in the city of Council Bluffs, Iowa.

Any electric bicycle as defined by this chapter shall be operated in accordance with the requirements of Chapter 9.12 of the Council Bluffs Municipal Code as a bicycle.

(Ord. 5802 § 1 (part), 2004)

(Ord. No. 6237, § 1, 6-8-2015)

9.09.040 Exceptions

1. This chapter shall not apply to any device used for the transportation or as a conveyance for persons where such device is considered a legitimate medical necessity, and the person operating the device can show proof of such necessity. Any person operating such a device within the confines of this exception shall obey all other applicable ordinances of the city of Council Bluffs, Iowa.
2. This chapter shall not apply to electric scooters, electric bicycles or other personal transport vehicles used temporarily in conjunction with traditionally accepted civic, patriotic, or religious holidays.

(Ord. 5802 § 1 (part), 2004)

9.09.050 Penalty

Any person who violates a provision of this chapter shall be guilty of a simple misdemeanor and, upon conviction, shall be subject to the penalty provisions contained in CBMC 8.02.020. At the discretion of the city attorney, any violation of this chapter may be pursued as a municipal infraction according to the terms of CBMC 1.95, in lieu of criminal prosecution.

(Ord. 5802 § 1 (part), 2004)

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

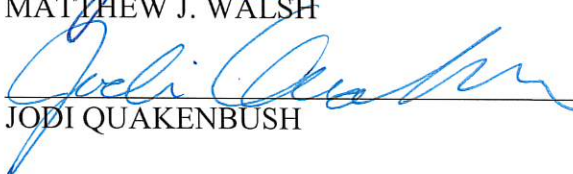
SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

July 12, 2021.


MATTHEW J. WALSH Mayor

Attest:


JODI QUAKENBUSH City Clerk

First Consideration: 6-14-21

Second Consideration: 6-28-21

Public Hearing: n/a

Third Consideration: 7-12-21

Council Communication

Department: City Clerk
Case/Project No.:
Submitted by: Brandon Garrett

Ordinance 6459
ITEM 6.A.

Council Action: 7/12/2021

Description

Ordinance to amend Title 9 Traffic by amending Chapter 9.09.020 "Definitions-Motorized Scooters, Electrified Bicycles, and Other Personal Transport Vehicles" and Chapter 9.09.030 "Prohibited Operation" of the 2020 Municipal Code.

Background/Discussion

Micromobility is the term given to the numerous existing and emerging options for people to get around. This includes a wide variety of human-powered and electric-powered bicycle types, scooter types, and other small modes of transportation. These modes are usually for individuals and usually limited in speed as opposed to larger vehicles with more horsepower capable of higher speeds and carrying multiple passengers.

Over the last five years, electric scooters in particular have gained significantly in popularity among all ages. They can be privately purchased and owned or rented from a service provider. Many electric scooters are comparable in price to a bicycle, so they are a relatively affordable transportation option for a wide range of people. When it comes to electric scooter rentals, oftentimes cities collect a fee for the usage. Currently, Omaha has such an arrangement, but Council Bluffs does not. Furthermore, the Council Bluffs Municipal Code prohibits electric scooters.

This ordinance legalizes electric scooter usage, separates and clarifies some definitions regarding motorized scooters versus other personal transport vehicles, and bans them from usage on sidewalks in the City's identified "Skateboard Free Zone" defined in CBMC 9.10.040 (generally the downtown area). In short, electric scooters, electric bicycles, and other personal transport vehicles will be allowed anywhere in Council Bluffs, except for sidewalks in the downtown area and on highways.

Recommendation

It is recommended to approve the amended Ordinance.

ATTACHMENTS:

Description	Type	Upload Date
Redline Version	Other	6/29/2021
Ordinance 6459 as amended	Ordinance	6/29/2021

9.09.010 Purpose Of Chapter

For the purpose of promoting the safety and general welfare of persons, and guarding against accidents in traffic and upon public property, this chapter shall provide reasonable rules and regulations for the operation of ~~motorized electric bicycles, electric scooters, electrified bicycles~~ and other personal transport vehicles within the city of Council Bluffs, Iowa.

(Ord. 5802 § 1 (part), 2004)

9.09.020 Definitions — ~~Motorized Scooters, Electrified Bicycles And Other Personal Transport Vehicles~~

For the purpose of this chapter, the following words, terms, and phrases shall have the following meanings:

Electricified bicycle: ~~a device having two or three wheels with fully operable pedals and an electric motor of less than seven hundred fifty (750) watts (one horsepower), whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds. A device having two or three wheels with fully operable pedals and an electric motor of less than seven hundred fifty (750) watts (one horsepower), not capable of operating at a speed in excess of twenty (20) miles per hour on level ground unassisted by human power and weighs no greater than eighty (80) pounds. Note under this definition, a~~Any electricified bicycle in excess of any of these standards herein, or a gasoline powered bicycle, ~~retrofitted or otherwise, is never a bicycle in City limits shall not be included under this chapter and shall be subject to any and all required is either a motorcycle or a motorized bicycle that requires registration, insurance, and licensure provisions under the Code of Iowa as a motorcycle or motorized bicycle to operate according to Iowa Code.~~

ElectricMotorized scooter: ~~A device with an electric motor designed to transport only one operator person, with at least two wheels in contact with the ground, propelled or with the capability to propel exclusively by electric motorization or in combination with the application of human power, whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds, and which cannot attain a speed of more than twenty (20) miles per hour on a paved level surface without the application of human power.~~ Any electric scooter in excess of any of these standards herein, or any gasoline powered scooter, shall not be included under this chapter and shall be subject to any and all required registration, insurance, and licensure provisions under the Code of Iowa as a motorcycle or motorized bicycle. ~~Note under this definition, any motorized scooter e in excess of any of these standards a gasoline powered scooter, retrofitted or otherwise, is never a motorized scooter in City limits and is either a motorcycle or a motorized bicycle that requires registration, insurance, and licensure to operate according to Iowa Code.~~

Motorized scooters, electrified bicycles and oOther personal transport vehicles: A device with at least ~~one two~~ wheels in contact with the ground, that is designed to be stood on or sat upon by the operator, ~~with handlebars for steering, and equipped with and~~ powered by an electric motor of less than 750 watts (one horsepower) whose maximum speed on a paved level surface when powered solely by such motor while ridden is less than twenty (20) miles per hour and weights no greater than eighty (80) pounds. ~~that is incapable of propelling the device up a three percent grade, on dry concrete pavement, at a speed of greater than twenty (20) miles per hour, and has the capability to be propelled by human power alone. Note under this definition, a gasoline powered bicycle,~~

~~retrofitted or otherwise, is never a bicycle in City limits and is either a motorcycle or a motorized bicycle that requires registration, insurance, and licensure to operate according to Iowa Code.~~

Operator: Any person who operates or is in actual physical control of a ~~electric~~motorized scooter, electric~~ified~~ bicycle or other personal transport vehicle.

Roadway: That portion of the street or highway improved, designed, or ordinarily used for vehicular traffic, and does not include the sidewalks or any other area of public property between the roadway portion of the street or highway and the abutting private property line.

Sidewalk: That portion of the street between the curb lines and the adjacent property lines.

Street or highway: The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

(Ord. 5802 § 1 (part), 2004)

HISTORY

Amended by Ord. 6403 on 11/18/2019

9.09.030 Prohibited Operation

It shall be unlawful to operate any ~~electric~~motorized scooter, ~~electricified bicycle~~, ~~(other than defined in CBMC 9.12.010)~~ or other personal transport vehicle upon any highway or any sidewalk within the Skateboard Free Zone designated in CBMC 9.10.040 and specifically described as the area with a perimeter commencing at the intersection of the southern right-of-way line of 16th Avenue and the western right-of-way line of 7th Street; then running northerly to the northern right-of-way line of Kanesville Blvd.; then running northeasterly to the eastern right-of-way line of First Street; then running southeasterly to the southern right-of-way line of Pierce Street and then the eastern right-of-way Bluff Street to the southern right-of-way line of Fifth Avenue; then running westerly to the eastern right-of-way line of Main Street; then running southerly to the southern right-of-way line of 16th Avenue; then running westerly to the point of beginning in roadway, sidewalk, street, or other public property of the city of Council Bluffs, Iowa.

Any electric bicycle as defined by this chapter shall be operated in accordance with the requirements of Chapter 9.12 of the Council Bluffs Municipal Code as a bicycle.

(Ord. 5802 § 1 (part), 2004)

(Ord. No. 6237, § 1, 6-8-2015)

9.09.040 Exceptions

1. This chapter shall not apply to any device used for the transportation or as a conveyance for persons where such device is considered a legitimate medical necessity, and the person operating the device can show proof of such necessity. Any person operating such a device within the confines of this exception shall obey all other applicable ordinances of the city of Council Bluffs, Iowa.
2. This chapter shall not apply to ~~electric~~motorized scooters, electric~~ified~~ bicycles or other personal transport vehicles used temporarily in conjunction with traditionally accepted civic, patriotic, or religious holidays.

(Ord. 5802 § 1 (part), 2004)

9.09.050 Penalty

Any person who violates a provision of this chapter shall be guilty of a simple misdemeanor and, upon conviction, shall be subject to the penalty provisions contained in CBMC 8.02.020. At the discretion of the city attorney, any violation of this chapter may be pursued as a municipal infraction according to the terms of CBMC 1.95, in lieu of criminal prosecution.

(Ord. 5802 § 1 (part), 2004)