

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE I OF CHAPTER 24 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING DEFINITIONS; REPEALING PROVISIONS RELATING TO RIDING OR LEADING ANIMALS; REPEALING PROVISIONS RELATING TO SKATEBOARDING AND ROLLER SKATING; AMENDING ARTICLE III OF CHAPTER 24 OF THE CODE OF THE CITY OF ST. AUGUSTINE; REPEALING PROVISIONS RELATING TO BICYCLES; RESTRICTING CERTAIN VEHICLES IN CERTAIN AREAS OF THE CITY; REPEALING PROVISIONS RELATING TO THE SALE OF ROLLER SKATES; REPEALING PROVISIONS RELATING TO THE SALE OF BICYCLES; PROVIDING REGULATIONS RELATING TO THE CITY'S PUBLIC SIDEWALKS AND OTHER NON-STREET RIGHTS-OF-WAY; PROVIDING REGULATIONS FOR SHARED MOBILITY DEVICE PROGRAMS; PROVIDING PRESUMPTIONS; PROVIDING REGULATIONS FOR SHARED MOBILITY DEVICE PROGRAM DOCKING STATIONS; PROVIDING FOR IMPOUNDING OF SHARED MOBILITY DEVICES; PROVIDING PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, St. Johns County receives over 6 million visitors per year, millions of which come to downtown St. Augustine; and

WHEREAS, the City of St. Augustine's Historic Town Plan is a National Landmark listed in the Register of Historic Places, and its streetscape and sidewalks are not standardized nor capable of being modified in many areas; and

WHEREAS, the City of St. Augustine welcomes millions of visitors per year into a small and dense space with limited public space, parking, and mobility options; and

WHEREAS, the City of St. Augustine is a small city of approximately 14,000 residents with only 53 sworn police officers; and

WHEREAS, the City of St. Augustine has limited space on City rights-of-way; and

WHEREAS, the City of St. Augustine is committed to keeping the City accessible for the mobility-impaired; and

WHEREAS, the City of St. Augustine strives to keep the City rights-of-way compliant with the Americans with Disabilities Act (ADA) and other federal and state regulations; and

WHEREAS, the City committed to maintaining its historic constrained rights-of-way accessible for residents and visitors using ADA mobility devices in *Access Now Inc. v. City of St. Augustine* by keeping its infrastructure ADA accessible wherever possible; and

WHEREAS, the City of St. Augustine has created a Mobility Department to develop and oversee multi-modal mobility solutions; and

WHEREAS, the City of St. Augustine is subject to the Florida Uniform Traffic Control Law; and,

WHEREAS, the City of St. Augustine has a significant interest in ensuring the public safety and order and in promoting the free flow of pedestrian traffic in city parks, streets, and sidewalks. *Ayres v. City of Chicago*, 125 F. 3d 1010, 1015 (7th Cir. 1997); and

WHEREAS, bicycles and dockless shared mobility devices left unattended and parked or leaned on walls or left on sidewalks creates a hazard to pedestrians and individuals needing access and maneuverability for ADA mobility devices, especially in and around the City's historic Town Plan; and

WHEREAS, the City of St. Augustine desires to study the impacts of dockless shared mobility devices; and

WHEREAS, the City Commission, on December 4, 2018, declared a one-year moratorium on the rental or leasing of dockless shared mobility devices in the City; and

WHEREAS, the City of St. Augustine will use the one-year moratorium period to study and consider possible additional regulations of shared mobility devices; and

WHEREAS, the City of St. Augustine has a significant interest in promoting the safety and convenience of its citizens on public streets and rights-of-way. *Madsen v. Women's Health Center*, 512 U.S. 753, 768 (1994); and

WHEREAS, the City of St. Augustine has a significant interest in the safety and convenience of citizens using public fora such as parks, streets, and sidewalks. *Heffron v. International Soc'y for Krishna Consciousness*, 452 U.S. 640, 650 (1981); and

WHEREAS, the Florida Uniform Traffic Control Law allows municipalities to enact ordinances to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law as long as such vehicles are restricted to a maximum speed of 15 miles per hour. *Section 316.008(7)(a), Florida Statutes*; and

WHEREAS, the Florida Uniform Traffic Control Law gives bicycles the same rights and duties applicable to the driver of any other vehicle on city streets, with limited exception. *Section 316.2065(1), Florida Statutes*; and

WHEREAS, the Florida Uniform Traffic Control Law gives cities the power to regulate the operation of bicycles with the reasonable exercise of police power. *Section 316.008(1)(h), Florida Statutes*; and

WHEREAS, the City of St. Augustine does not allow the use of bicycles on sidewalks, in public parks, or on St. George Street between Cathedral Place and the City Gates; and

WHEREAS, in *Bates v. City of St. Augustine*, the court agreed that maintaining the free-flow of pedestrians in busy, compact, and constrained historic pedestrian sidewalks and walkways was a legitimate time, place, and manner restriction; and

WHEREAS, the City of St. Augustine finds that abandoned shared mobility devices in the public areas of the city presents a serious threat to the public health, safety, or welfare of the visitors and residents of the city; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Chapter 24, Article I, Section 24-1. Chapter 24, Article I, Section 24-1 is hereby amended, as follows:

Sec. 24-1. - Definitions.

The following words and phrases, when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section. The definitions in F.S. ch. 316 apply to this chapter and are hereby incorporated by reference.

- (a) *Curb* or *curbline*. The lateral boundaries of that portion of the street designated for the use of vehicles, whether marked by concrete curbing or curbstones, or not so marked.

(b) Pedestrian only shall be defined as including:

- (1) **Pedestrians**, which shall include people using wheelchairs or other ADA-compliant devices;
 - (2) **Authorized government personnel vehicles**;
 - (3) **Devices utilized to provide mobility assistance to handicapped or disabled persons consistent with the Americans with Disabilities Act (ADA); or**
 - (4) **Permitted construction or maintenance vehicles as necessary.**
- (c) *Shared mobility device.* A vehicle other than a motor vehicle, as defined by ch. 316, F.S., such as, but not limited to, a bicycle, motorized or electronic scooters (e-scooters), or another similar device, which may be colloquially known as a micro-mobility device, that is owned by a person other than the person that is utilizing the device, and intended for rental on a short-term, per-ride basis, as part of a shared mobility device program.
- (d) *Shared mobility device program.* A program in which shared mobility devices are made available for shared use to individuals on a short-term, per ride basis at no cost or for a fee. This definition does not include rentals that are rented from a fixed location where the renter signs a lease for use of a vehicle for a fixed term.

Section 2. Amendment to Chapter 24, Article I, Section 24-3. Chapter 24, Article I, Section 24-3 is hereby amended, as follows:

Sec. 24-3. - Applicability to animals and animal-drawn vehicles.

Every person driving an animal-drawn vehicle upon a roadway is subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application. **The provisions of this chapter applicable to pedestrians apply to any person riding or leading an animal upon a roadway or the shoulder thereof.**

Section 3. Repeal of Chapter 24, Article I, Section 24-9. Chapter 24, Article I, Section 24-9 is hereby repealed, as follows:

Section 4. Amendment to Chapter 24, Article III, Sections 24-106 through 24-111. Chapter 24, Article III, Sections 24-106 through 24-111 are hereby amended, as follows:

ARTICLE III. – PEDESTRIANS, BICYCLES, AND VEHICLES

Sec. 24-106. - Use of sidewalks and certain other rights-of-way.

- (a) All public sidewalks, pedestrian pathways, courtyards, arcades, promenades, seawalls, and boardwalks shall be pedestrian-only except for the following:
- (1) Those areas under the control of the federal government or the state of Florida, Department of Transportation (FDOT), in which cases, those regulations shall apply;
 - (2) Shared use paths, as designated by the City Manager, and marked by signage, shall be open to all restricted vehicles or devices; and
 - (3) Sidewalks that are at least 8 feet wide, unless such sidewalk is:
 - a. An internal walkway of the Plaza de la Constitucion, whereby internal walkways do not include the perimeter sidewalk immediately adjacent to, and encircling, the Plaza;
 - b. Any walkways on or adjacent to St. George Street between Orange Street and Cathedral Place; and
 - c. The seawall along Avenida Menendez.
- (b) Restricted vehicles or devices shall include:
- (1) Electronic Personal Assistive Mobility Devices, regulated pursuant to s. 316.2068, F.S., colloquially known as Segways;
 - (2) Bicycles, including, but not limited to, electric bicycles or motorized bicycles;
 - (3) Push scooters, roller skates, rollerblades, inline skates, skateboards, and other similar devices without any motorized parts; and
 - (4) Electronic or motorized scooters (hereinafter referred to as e-scooters), as defined by the Florida Uniform Traffic Control Law.
- (c) Prohibited vehicles or devices shall include:
- (1) Shared mobility devices that have not entered into a valid franchise agreement or other contractual arrangement with the city; and
 - (2) Any restricted device when used with a tour guide and at least 3 restricted devices travelling in a group, except:
 - a. On motor vehicle traffic lanes where allowed by the Florida Uniform Traffic Control Law;

- b. Consistent with s. 316.2068, F.S., Segways may operate on sidewalks. However, they must yield to pedestrians and allow sufficient space on the sidewalk for pedestrian passage.
- (d) If any restricted vehicle or device is specifically permitted to be used on sidewalks or other rights-of-way controlled by the state or federal government and allowed by the Florida Uniform Traffic Control Law (FUTCL), it shall not be a violation of this chapter to do so, notwithstanding the above provisions. Individuals utilizing mobility devices pursuant to the Americans with Disabilities Act (ADA) may operate those devices on any city street, sidewalk, or walkway.
- (e) Any restricted vehicles or devices left unattended on public property, including in parks and rights-of-way of the FDOT or the City of St. Augustine may be impounded by the Chief of Police or his or her designee. A restricted vehicle or device is not considered unattended if it is secured in a designated parking area, rack, docking station, or another location or device intended for the purpose of securing such devices.

Sec. 24-107. - Operation of a shared mobility device program.

- (a) As used in this article, the “operator” of a shared mobility device program is the owner or the owner’s agent of a shared mobility program. No operator of a shared mobility device program shall display, offer, or make available for rent any shared mobility device within the city, unless the person has a validly-executed franchise or contractual agreement with the city.
- (b) The operator of a shared mobility device program is responsible for maintenance of each shared mobility device.
- (c) Each shared mobility device shall prominently display the operator’s company name and contact information, which may be satisfied by printing the company’s Uniform Resource Locator (URL) or providing a code to download the company’s mobile application.

Sec. 24-108. - Presumptions.

- (a) Shared mobility devices that contain a company name or other informal moniker, or a company logo, or a shared color scheme, or any other consistent markings that indicate that the vehicles are a part of a shared mobility device program, are presumed to be the property of the shared mobility device program.

- (b) If two or more shared mobility devices from an operator are found at a particular location within the city, it is presumed that they have been deployed by that operator.
- (c) If the conditions in subsection (a) are met, it is presumed that the operator operates a shared mobility device program.

Sec. 24-109. - Docking Stations.

- (a) The operator shall be responsible for ensuring that docking stations are in working condition.
- (b) Shared mobility devices must be placed in a dock at all times when not in use. No shared mobility device shall be left unattended on public property or rights-of-way except when engaged at a designated parking area, rack, or docking station unless the operator and the City of St. Augustine have specifically provided for a dockless system through the terms of a validly-executed franchise or contractual agreement.
- (c) No shared mobility device docking stations shall be placed in the public areas and/or rights-of-way of the City of St. Augustine except in locations agreed to by the City Manager or his or her designee, unless locations are specified provided by either a franchise or contractual agreement.

Sec. 24-110. -Impounding.

- (a) Any shared mobility device left unattended on public property, including in parks and rights-of-way of the FDOT or the City of St. Augustine may be impounded by the Chief of Police or his or her designee. A shared mobility device is not considered unattended if it is secured in a designated parking area, rack, docking station, or another location or device intended for the purpose of securing such devices.
- (b) The owner of the shared mobility device or the operator shall pay a \$25 fee to the St. Augustine Police Department to retrieve the device, in order to offset the administrative expense of impounding and storing the device. This fee is in addition to any other fee or penalty that may be applied for any underlying violation of this article.
- (c) The city shall comply with the lost or abandoned property provisions found in ch. 705, F.S. Additional courtesy holds may be granted at the discretion of the Chief of Police.

Sec. 24-111. - Enforcement and penalties.

- (a) Enforcement. Violations of this article shall be enforced as non-criminal infractions of city ordinances.
- (b) Penalties.
 - (1) The amount of penalties for violations of section 24-106 shall be as provided for in F.S. § 318.18(3) , as amended from time to time.
 - (2) Violations of Section 24-107 shall be fined \$250 for an initial offense, and \$500 for any repeat offenses within one year of the last offense by the same operator. Each day of non-compliance shall be a separate offense.
 - (3) Violations of Section 24-109 shall be fined \$50 per offense. Each day of non-compliance shall be a separate offense, unless the violation is for an undocked, unattended shared mobility device, in which case each incident is a separate offense, and the shared mobility device may be impounded in accordance with Section 24-110.

Section 5. Inclusion in Code. The City Commission intends that the provisions of this Ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this Ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 6. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Severance of Invalid Provisions. In the event that any section, subsection, sentence, clause, phrase, word, term or provision of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly invalid, unconstitutional or unenforceable or involved for any reason whatsoever, any such invalidity, unconstitutionality, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, unconstitutional, illegal, or

unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

Section 8. Effective Date. This Ordinance shall become effective immediately upon passage, pursuant to § 166.041(4), Florida Statutes.

.....

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

Nancy E. Shaver, Mayor-Commissioner

ATTEST:

Darlene Galambos, City Clerk

(SEAL)