

**SPECIAL WORKSHOP
DESTIN CITY COUNCIL
JULY 13, 2023
ANNEX COUNCIL CHAMBERS
5:30 PM**

*****Core Value of the Month - Integrity*****

CALL TO ORDER

*** INVOCATION**

PLEDGE OF ALLEGIANCE

WORKSHOP

- A. Wind Sign Regulations
- B. Mobile Vending Regulations
- C. E-Bike Regulations

PUBLIC COMMENTS

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CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: July 13, 2023

BOARD/COMMITTEE: City Council Special Workshop

TYPE OF AGENDA ITEM: Council Discussion Item

OUTLINE NUMBER: A.

TO: City Council Special Workshop

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney
Steve O'Connor, Principal Planner

FROM: Chris Willis, Planner

DATE: 6/29/2023

SUBJECT: Wind Sign Regulations

I. BACKGROUND: Per the direction of City Council, it was requested that Staff prepare a discussion item regarding wind signs. Staff conducted an analysis of the City's Land Development Code (LDC) regarding wind signs as well as a few surrounding or similar communities within Florida: Okaloosa County, City of Arcadia Florida, City of Fort Walton Beach Florida, and City of Milton Florida. Also included is additional background from Port Richey, FL, Mountain City, TN, and Santa Maria, CA.

Each community regulates wind signs differently, ranging from strict prohibition to allowing them on a permitted temporary basis. Staff's goal is to compare the City's regulations to other communities regarding wind signs, providing information to City Council to discuss their preference and future direction regulations concerning wind signs.

II. DISCUSSION: Wind signs, as defined in the LDC, consist of "*one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other objects or materials.*" LDC **Section 16.03.02.H. - Prohibited Signs** specifically prohibits wind signs as defined all together, either permanently or temporarily.

The following are examples of other Communities or Municipalities Regulations:

Okaloosa County, FL: Prohibits wind signs per **Article 8.06.00.** of their LDC. However, they do not explicitly define wind signs. Staff has reached out to County Staff to get clarity on how they specifically regulate or enforce. However, we have not gotten any response as of the publishing of this Staff Report.

The City of Arcadia, FL: Also prohibits wind signs per **Article 8.09.00.G.** of their development code. The City of Arcadia defines wind signs as:

“Any device, including but not limited to one or more banners, flags, pennants, ribbons, spinners, streamers, or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind not specifically exempted by section 8.08.00 of this article.”

The City of Fort Walton Beach, FL: Allows for wind signs as temporary signs, through a sign permit, for a period of 15 days in **Article 5.03.05.**

The City of Milton, FL: Wind signs are prohibited in **Section 16.3(9)** of their LDC. However, wind signs are allowed on a temporary basis for grand openings of Businesses, 30 days from the time a Business License is issued, and only in non-residential zoning districts. There is no option for renewal after the 30 days have elapsed.

The City of Port Richey, FL: In 2016 the City Council of Port Richey voted to continue to prohibit wind signs due to the visual blight and the lack of community character they bring. The difficulties and amount of time and effort to enforce any temporary allowance was discussed and ultimately the prohibition continued.

Mountain City, TN: Looking at how feather flags or wind signs are affecting communities across America, an article in *The Tomahawk*, a local newspaper for Mountain City, Tennessee, addresses how these signs have been a catalyst for a new sign ordinance in their community. Specifically, from a safety perspective, officials felt wind signs negatively affect visibility on city streets, creating visual obstructions. Furthermore, the larger issue dealt with how to categorize, permit, and regulate wind signs across the city. Wind signs by nature are temporary and don’t require a permit, creating difficulty with regulating and enforcing them that do not fit neatly into a category, especially temporary signs since they don’t require a permit in Mountain City.

Santa Maria, CA: The City of Santa Maria, California created a sign ordinance banning bow feather or wind signs altogether. The new ordinance was in direct response to the over-proliferation of these signs in the community. The City Council also made it clear that they did not want bow feather or wind signs being placed all over the city.

Comprehensive Plan Consistency: Any final decision on the direction of signage should be consistent with the following Comprehensive Plan Goals, Objectives, and Policies: ***Goal 1-1: Urban Form, Objective 1-1.1: Urban Development Principles.***

*Development standards in the city shall promote the economic viability of the commercial and mixed-use areas and promote the general welfare by enhancing aesthetics and encouraging healthy, active transportation and recreation. Within one year of plan adoption, the Land Development Code (LDC) shall be amended to include enhanced urban design criteria for building and site design. In addition, within one year of plan adoption, comprehensive design standards shall be developed to guide the character of future development through frontage, **signage**, landscape, and architectural design standards. The Policies stated below provide measures for implementing this objective.*

A. Link to Strategic Goals / Objectives: II. Enhanced quality of life and safety for

families I

II. Economic development and revitalization

IV. Effective, efficient, and aesthetically pleasing infrastructure

B. Effect on Budget (EOB): N/A

C. Level of Service (LOS): N/A

D. Legislative Sponsor:

III. CONCLUSION: The City of Destin, per LDC *Section 16.03.02.H. - Prohibited Signs* specifically prohibits wind signs as defined all together, either permanently or temporarily. Other cities in the Gulf Coast region either ban them or allow them temporarily for a period ranging from 15-30 days. However, there are challenges to any policy or regulation regarding signs. Issues with wind signs range from specificity of regulations, physical characteristics that could cause visual blight and safety concerns to enforceability such as tracking how long temporary signs had been left up.

Therefore, Staff has compiled three (3) options for City Council to consider when revisiting the sign regulations. They are as follows:

Option 1: The City could maintain the existing wind sign ban which is in line with Okaloosa County and the City of Acadia, FL

Option 2: This option would allow wind sign on a temporary basis (maximum number of days) in line with Fort Walton Beach, FL and Milton, FL

Option 3: The City could develop specific regulations that permit wind signs long-term or in specific instances.

STAFF RECOMMENDATION: Staff seeks input and direction from the Council regarding how to proceed.

IV. RECOMMENDED MOTION:

Attachments:

1. A. Okaloosa County Sign Code
2. B. City of Arcadia Sign Code
3. C. City of Fort Walton Beach Sign Code
4. D. City of Milton Sign Code
5. E. Mountain City Planning Commission Article
6. F. Santa Maria Feather Sign Article



LAND DEVELOPMENT CODE

Chapter 8 Signs

4. Incidental signs and any signs not exceeding one (1) square foot in area and bearing only property numbers, post office numbers, names of occupants of premises, or other identifications of premises not having commercial connotations;
5. Real estate signs which are securely constructed and erected on the site listed for sale, rent, or lease and do not exceed eight (8) square feet in size. The sign shall be removed when the property is no longer for sale, rent, or lease;
6. Flags and insignia of any government except when displayed in connection with commercial promotions;
7. Integral decorative or architectural features of buildings except letters, trademarks, and moving lights, and
8. Signs directing and guiding traffic and parking, but bearing no advertising matter, and not exceeding four (4) square feet in size. Off-site directional signs for churches, schools and other not for profit organizations shall not exceed six (6) square feet in size.
9. Normal servicing of previously permitted sign structures, including a change of copy for billboards and a panel change in structures designed to allow changeable copy.

8.06.00 PROHIBITED SIGNS.

It shall be unlawful to erect any sign not authorized or exempted from this code. The following signs are expressly prohibited:

1. Signs which are in violation of the building codes adopted by the county;
2. Any portion of a sign, including its surface supports, closer than ten (10) feet to the right-of-way line (property line) of any public street or the side or rear of the property lines, excluding signs for subdivisions and planned developments defined in Section 8.04.00 which may be located in the median where the entrance street is divided as approved by the County Public Works Department;
3. Abandoned signs,
4. Vehicles not used for operating purposes and parked on any parcel solely for advertising purposes, and
5. Signs, commonly referred to as snipe signs, made of any material whatsoever and attached in any way to a utility pole, tree, fence post, stake, stick or any other object located or situated on public property, except as otherwise expressly allowed by, or exempted from this code.
6. Wind signs,
7. Any description or representation, in whatever form, of nudity, sexual conduct, or sexual excitement, when it is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors, and taken as a whole, lacks serious literary, artistic, political, or scientific value.
8. Any sign which emits audible sound, vapor, smoke, or gaseous matter.

house and shall be removed immediately after conclusion of the event. No garage sale sign or open house sign may be erected upon any public right-of-way.

11. Signs placed within interior courtyards, the inside fence line of recreational fields and on golf courses, provided such signs are visible only to those persons visiting such place and are otherwise in compliance with this Article.

12. Address and street number signs not exceeding two (2) square feet.

13. Holiday and seasonal decorations shall not be construed as signs, providing that these contain no commercial advertising message.

Section 8.09.00. Prohibited Signs.

The following signs are expressly prohibited unless otherwise exempted or expressly authorized:

- A. Signs that violate the building code or electrical code.
- B. Any sign that presents safety, traffic or pedestrian hazards, including signs which obstruct visibility for those traveling on or entering public streets.
- C. Blank temporary signs. This shall be enforced pursuant to Section 8.15.00 within this Article.
- D. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for governmental traffic devices and signs and except automatic computerized message signs.
- E. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.
- F. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color, to include animated signs and automatic changeable message devices except automatic computerized message signs.
- G. Wind signs, as defined by this Code.
- H. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.
- I. Signs that emit audible sound, odor, or visible matter such as smoke or steam.
- J. Non-governmental signs that resemble any official sign or marker, erected by any governmental agency, in color, content, location, symbol or phrasing, that may be reasonably confused with or construed as, or conceal, a traffic-control device.
- K. Signs, within ten (10) feet of public right-of-way or one hundred (100) feet of traffic-control lights, that contain red or green lights that might be confused with traffic control lights, thereby creating a safety hazard for the public.
- L. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any properly because of glare or other characteristics. Searchlights used to promote business and attract customers are prohibited.
- M. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals.

5.03.05 Temporary Signs.

Temporary signs shall comply with the following standards.

- A. Temporary signs are permissible subject to receipt of a temporary sign permit specifying type, size, location, and duration of placement. Temporary sign permits are limited to three (3) per business in any one (1) calendar year. Temporary signs may be displayed for a period not exceeding fifteen (15) days.
- B. Temporary signs shall not be placed in the public right-of-way.
- C. Temporary signs shall not flash, blink, spin, or rotate.
- D. Temporary signs include banners, flags, and pennants. The placement of temporary signs shall comply with the clear visibility requirements set forth in Section 6.03.00, and such signs shall not block traffic or pedestrian visibility, or constitute a vehicular or pedestrian traffic hazard.
- E. The placement of temporary signs shall not cause a public nuisance.
- F. Permissible temporary signs shall be firmly secured to the ground or to a building according to the requirements of the temporary permit. Temporary signs may be attached to or cover an existing permitted sign only for the period during which the temporary sign is permitted.

- (17) Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics;
- (18) Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals;
- (19) Searchlights used to advertise or promote a business or to attract customers to a property;
- (20) Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs;
- (21) Signs placed upon trees, benches, bus shelters or waste receptacles, except as may be authorized in writing pursuant to F.S. § 337.407;
- (22) Signs erected on public property, or on private property (such as private utility poles) located on public property, other than signs erected by public authority for public purposes and signs authorized in writing pursuant to F.S. § 337.407;
- (23) Signs erected over or across any public street, except as may otherwise be expressly authorized by these regulations, and except governmental signs erected by or on the order of a public officer;
- (24) Signs displaying copy that is harmful to minors as defined by these regulations;
- (25) Signs attached to any vehicle, craft, or structure in or on a water body designed or used for the primary purpose of displaying advertisements. Provided, however, that this section shall not apply to any vehicle, craft, or structure which displays an advertisement or business notice engaged in the usual business or regular work of the owner, and not used to merely, mainly or primarily to display advertisement;
- (26) Placing of handbills or advertising materials on the windshields of vehicles shall be a violation of these regulations, unless permission to do so is first obtained from the owner and person in possession of such vehicle; and
- (27) Signs on or against roof slopes of less than 45 degrees.

https://www.thetomahawk.com/news/local/article_e5e88a86-bc24-11ed-9f66-5381829f7101.html

FEATURED

City Planning Commission acknowledges the need for a new sign ordinance

SARAH COLLIE News Reporter

Mar 14, 2023



Sarah Collie

At the Mountain City Planning Commission meeting on February 23, officials acknowledged that the town needs to update its current sign ordinance.

The current sign ordinance includes a one-time fee of \$100 for a lighted sign and \$50 for a non-lighted sign, but does not discuss the colorful, flowing feather flags that some businesses have adopted on Main Street.

First Tennessee Development District Community Planner Amber Orlikowski argued that the feather flags on Main Street pose a problem. “Main Street should be free of obstruction,” Orlikowski said. “Fifteen-foot flags are not good a size for visibility.”

Orlikowski went on to explain that several communities in East Tennessee—including Johnson City, Kingsport, Bristol, and Greeneville—already regulate feather flags, and Tusculum bans them entirely.

As it stands, temporary signs don’t require a permit within town limits, but the Planning Commission and Board of Aldermen will be evaluating whether it is time to update the sign ordinance to regulate signs that don’t fit neatly into such categories, including feather flags.

Feather flags are currently counted as temporary flags, since they can be removed. But Orlikowski pointed out that, since feather flags are installed in the ground, they should be counted as permanent structures that require a permit.

Orlikowski also suggested that the new sign ordinance might be updated to include a sliding scale price that would reflect the size of the sign, rather than a one-size-fits-all fee.

The question of directional signage also came up at the meeting.

Advertisement

According to the town’s current sign ordinance, businesses are limited to two signs—unless the signs are necessary for direction.

The Senior Center has approached the town about installing another sign that would signify shuttle parking, so that drivers could pick up seniors from the Arts Center parking lot and drive them over to the Senior Center. According to Orlikowski, “directional signs are viewed differently, and there can be more than one.”

One city resident also brought up concerns about abandoned business signs and post-election political signs. The Mayor asserted that the city does have an abandoned sign ordinance, and Orlikowski reminded the council that they could enforce a penalty for temporary signs left up for too long. Mayor Jordan proposed the idea of labeling signs so that the city could keep track of how long signs have been up.

Before the meeting was adjourned, it was agreed that Orlikowski would compile a presentation about feather flags and other communities’ regulations of them to bring to the next meeting. Since the Planning Commission only makes the recommendation, and the Board of Aldermen makes the final decision, it may be several weeks before the new sign ordinance is fully revised.

https://santamariatimes.com/news/local/govt-and-politics/bow-feather-signs-shot-down-by-city-hall/article_285fc4ec-1d54-11e0-b12b-001cc4c002e0.html

Bow feather signs shot down by City Hall

Enforcement of new sign ordinance eliminates some, allows others

By Brian Bullock / Staff Writer / bbullock@santamariatimes.com

Jan 11, 2011

1 of 2



Zeke Moreno, a senior city code enforcer, explains the city's ordinances regarding signage in front of a business on West Main Street with an feather sign, seen in the background.//Mark Brown/Staff

Signs are disappearing all over Santa Maria and it's not because of theft, it's a new law.

Sandwich board or A-frame signs, the original target of the city's new sign ordinance, and bow feather signs — tall, vertical fabric signs that look like a feather stuck into the ground — are illegal after a new city sign ordinance took effect Friday.

Sandwich boards can remain in the city's Downtown Specific Plan area until July, but bow feather signs have been disappearing fast.

Santa Maria's Senior Code Enforcement Officer, Zeke Moreno, said most businesses have complied with the new ordinance by removing offending signs both in the downtown area and elsewhere.

“About a month ago, you couldn’t go a block without seeing those, but now you hardly see any,” Moreno said of the bow feathers. “We think it’s mostly because of steps officers took to explain the orders. That little extra effort paid off.”

Larry Appel, director of community development, said the city began looking at the issue last summer when a two-year sunset clause allowing the advertising lapsed. There were also some concerns expressed to the city council about sandwich board signs and there was a sudden proliferation of bow feather signs.

He said when the council made it clear it didn’t want bow feather signs all over town, the city began notifying business owners about the impending ordinance change. Appel said the city was attempting to prevent them from investing in signs that would violate city ordinance.

The council decided to outlaw sandwich boards and bow feathers everywhere within city limits except the Downtown Specific Plan area, where sandwich boards will be allowed for another year. The Downtown Specific Plan area is bordered by Fesler Street to the north, Miller Street to the east, Morrison Street to the south and Pine Street to the west.

Moreno and the city enforcement officers will begin passive enforcement of the ordinance this week.

“We enforce the sign ordinance just like any ordinance once it takes effect,” Moreno explained. “We are sensitive to the fact that signage is required. You’ve got to draw people in to create business. There are folks who are tucked away a little bit who need that extra signage.”

“We’re not going to be going full bore with this. We’re not going to be issuing citations right away.”

Moreno said businesses using illegal signs will first be issued a compliance order and given two weeks to remove the offending placards. After that, the city's compliance board will consider violations on a case-by-case basis. All business signs in the city must have a permit, he added.

How and when the city enforces the ordinance doesn't concern some business owners as much as where the signs are allowed and why all businesses don't have to follow the same rules.

"On this side of (Miller) street, they're ugly and unsafe," said Marvin Marlett, owner of Christian Design Bible Books, who has reluctantly removed the sandwich board sign in front of his Main Street business to comply with the code. "I still think it's totally unfair that you have some people who are allowed to put up a sign and some people who are not allowed, even though it's the same kind of sign."

Marlett's business is about a block from the eastern boundary of the downtown zone where several signs legally sit along the sidewalk of the same street where his sign once sat.

"Even if I'm in the Downtown Specific area, my moral values tell me it's not right for me to have a sign and someone else not," he said.

While sandwich board signs are still OK downtown, bow feathers are out everywhere inside city limits. The last of the feathers on Broadway fell Thursday, when Del Taco removed four green and white signs advertising its 49-cent tacos.

"You've got to promote your business one way or another," said Marcos Huicochea, general manager of Del Taco. "Some cities allow them, some don't. You have to play by the rules."

Some of the new rules in Santa Maria allow the posting of temporary signs for up to two 30-day periods within a six-month time frame. Jeannie Ghano, director of operations for food service businesses owned by Martin and Debi Testa, which includes Del Taco, said the business would try to coordinate Del Taco promotions with the 30-day periods.

“We really like our bow flags. We think they really bring a lot of attention to our business. They’re good for our money-saving promotions,” she said. “Business is tough right now, we need everything we can to let people know what’s going on. We have to maintain that cash flow.”

Another new rule is allowing marketing flags to fly at new residential developments as long as they fit ordinance requirements.

Moreno visited JJ and A Auto Sales on West Main Street on Monday, the first day of enforcement for the new ordinance.

Gabriel and Maria Atrixco had four bow feather signs on their lot. They’ve owned the dealership for six years and posted the banners a couple of months ago.

The Atrixcos told Moreno they’d take the banners down today. Gabriel said they’re just trying to bring in some more business, which is down since a lot of the farm work west of Santa Maria has slowed.

“I’ve very happy with the way people have complied,” Appel said. “The city is looking great.”

To read the sign ordinance visit www.ci.santa-maria.ca.us/3033.shtml on the city’s website.

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: July 13, 2023**BOARD/COMMITTEE:** City Council Special Workshop**TYPE OF AGENDA ITEM:** Council Discussion Item**OUTLINE NUMBER:** B.**TO:** City Council Special Workshop**THRU:** Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney
Steve O'Connor, Principal Planner**FROM:** Daniel Butler, Senior Planner**DATE:** 6/27/2023**SUBJECT:** Mobile Vending Regulations

I. BACKGROUND: City Council has directed Staff to compile the City of Destin requirements and regulations regarding mobile vending (food trucks, etc.) and provide the same from other cities and municipalities around the area. This research should assist City Council in choosing whether to remain with the current City requirements, or if there should be some changes in the way that mobile vendors operate within the City. This Staff Report consists of the current City of Destin regulations, as well as the State preemption and a broad overview of a few other local government's (municipality/county) regulations.

II. DISCUSSION: City of Destin

Currently, mobile vending is regulated within the City of Destin through the Land Development Code (LDC) and the Code of Ordinances. **Section 7.21.00** of the LDC regulates how long, and where mobile vending operations are permitted within the City, while **Article IX** of the Code of Ordinances defines mobile vendor, as well as outlines the process for application and enforcement.

Mobile vendor is defined as such - *A person who is in the business of selling food, beverages, flowers or other merchandise or services from a vehicle, except, however, that the provisions of this ordinance shall not apply to mobile caterers, generally defined as a person engaged in the business of transporting, in motor vehicles, food, beverages, or service equipment to residential, business and industrial establishments pursuant to prearranged schedules, and dispensing from the vehicles the items or services at retail, for the convenience of the personnel of such establishments.*

The City distinguishes between short-term and long-term mobile vending. Short-term

mobile vendors may operate on a lot, parcel, or property for less than 72 hours, while long-term mobile vendors may operate for more than 72 hours. The following are the zoning districts in which long-term and short-term operations are permitted, per the LDC:

Short-term operations: South Harbor Mixed Use (SHMU), Calhoun Mixed Use (CMU), North Harbor Mixed Use (NHMU), Commercial Trades and Services (CTS), Industrial (IN), Institutional (INST), *Residential, Office and Institutional-General Development (ROI-GD)**, Town Center Mixed Use (TCMU)

**ROI-GD is no longer a zoning district within the City of Destin, per Ordinance 19-24-LC, which changed all ROI-GD zoning designations to ROI-VR.*

Long-term operations: South Harbor Mixed Use (SHMU) and Calhoun Mixed Use (CMU).

There are additional criteria for locating on private property, such as required parking for all uses on site, maximum density for vendors, ADA access, setbacks, and restroom facility access (*Destin LDC Section 7.21.00*).

The *Destin Code of Ordinances Section 13-161* currently reads as to require a permit be obtained for any mobile vendor to operate on public or private property. However, *Florida State Statute §509.102* now preempts the City from requiring a separate license, registration, fee, or permit other than what is required by the State, for a mobile vendor to operate within the City. Additionally, a municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction. Therefore, the City no longer requires any permits be obtained by mobile vendors. The location and duration of such mobile vendors is what is currently regulated by the City of Destin.

The following are examples of other Communities and Municipalities regulations:

City of Niceville

The City of Niceville defines mobile food vendors as:

Any vehicle mounted public food service establishment which is self-propelled or otherwise moveable from place to place, which vend food in a self-sufficient manner and includes self-contained utilities such as gas, water, electricity and liquid waste disposal.

Niceville further classifies vendors as 'resident' or 'non-resident' mobile food vendors. Resident mobile food vendors own or operate an established food/beverage restaurant business within the City, whereas non-resident vendors do not. Businesses owned/operated within unincorporated areas of the City do not qualify for residency. Staff reached out to the City of Niceville Planning Division to inquire if there were any benefits for the 'resident' mobile, as opposed to the 'non-resident' vendor; However, staff were not sure/aware of any benefits.

Mobile food vendors are permitted in Niceville throughout the City, in any non-residential or non-public zoning district, if a valid BTR is maintained. However, it does not appear that the code has been updated since the state's preemption, as a separate mobile food vendor permit is required per the Niceville Code of Ordinances.

Okaloosa County

Okaloosa County's regulations on mobile vendors are not easily found. However, Staff contacted Marissa Martinez, Senior Planner with Okaloosa County, to discuss the County's regulations for mobile food vendors. Ms. Martinez recognized that the County has been preempted by the State regarding requiring additional permits, and that mobile vendors are permitted to locate within any commercial zoning district within the County.

Additionally, Ms. Martinez stated that the County regulates a single, self-contained mobile vendor and 'food truck courts' separately. For example, a single, self-contained mobile vendor may locate on private property with no additional permits; however, if the desire is to connect to utilities, then a temporary use permit is required. If a 'food truck court' is proposed (multiple mobile vendors locating one on site or within a development), then a Development Order is required, so that Staff can review traffic circulation of the site, etc.

City of Pensacola

The City of Pensacola Planning Board finalized revisions to their existing mobile vending regulations at their regularly scheduled meeting on May 9, 2023. These operations created 'food truck courts' as a specific use within the Land Development Code (LDC). These are defined as areas that *provide parking pads for one or more mobile food trucks and may also include other site development features, such as parking and seating, is to allow for innovative development options within the commercial zoning districts*. These food truck courts are permitted uses within commercial, industrial, and the redevelopment zoning districts (C-1, C-2, C-2A, C-3, M-1, M-2, GRD, WRD). Additionally, they are a conditional use within the North Hill Preservation commercial zoning district (PC-1).

Pensacola has aligned with the State requirements in the fact that there is no additional permitting required, other than to acquire a city Business Tax Receipt (BTR). However, there are site design requirements, such as setbacks, required parking, lot coverage, restroom access, seating, screening, etc.

Comprehensive Plan Consistency: This proposed mobile vending item is consistent with **Comprehensive Plan Policy 1-1.2.1: Protect Residential Areas & Policy 1-1.2.4: Orderly Transition in Land Use.**

A. Link to Strategic Goals / Objectives:

- I. Financially Sound City Providing Service Excellence
- IV. Enhanced Quality of Life and Safety for Families
- V. Economic Development and Revitalization

B. Effect on Budget (EOB): There is no anticipated effect on the budget.

C. Level of Service (LOS): N/A

D. Legislative Sponsor:

III. CONCLUSION: As directed by City Council, Staff has gathered the City's current regulations regarding mobile vendors, as well as researched the local county and municipality regulations, while keeping in mind the Statutory preemption (*Florida State Statute §509.102*), which now prohibits the City from requiring a separate license, registration, fee, or permit other than what is required by the State, for a mobile vendor to operate within the City. Additionally, a municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction.

Therefore, Staff has compiled four (4) options for City Council to consider when revisiting the mobile vendor regulations. They are as follows:

Option 1: This option could be considered the ‘status quo option’. This would entail simply revising the LDC to align with the State’s current regulations (not requiring any other permits), while not altering the zoning districts and durations in which mobile vendors are permitted to locate within the City, as previously described in this report.

Option 2: This option would be to revise the LDC to align with the State’s current regulations, while also allowing mobile vendors to operate in the zoning districts in which ‘limited-service restaurants’ are permitted/conditional and removing the differentiation of ‘short’ vs ‘long’ term, as it is difficult to track exactly how long a mobile vendor has been located on a parcel. This means that mobile vending would become permitted in the Commercial Limited (CL), Commercial Trades and Services (CTS), Crystal Beach Resort (CBR), Town Center Mixed Use (TCMU), South Harbor Mixed Use (SHMU), North Harbor Mixed Use (NHMU), Gulf Resort Mixed Use (GRMU), and the Holiday Isle Mixed Use (HIMU) zoning district. ‘Limited service restaurants’ are also permitted in the Bay Resort Mixed Use (BRMU) and the Airport (A) zoning districts; however, these would not be appropriate for mobile vending, as BRMU is not utilized and A is not feasible for a mobile vendor. Meanwhile, mobile vendors would be a conditional use within the Commercial General (CG), Calhoun Mixed Use (CMU), and Calhoun Mixed Use – Village (CMU-V) zoning district.

Option 3: This option would be to revise the LDC to align with the State’s current regulations, while also allowing mobile vendors to operate in any zoning districts that were not residential or owned by the City (these are typically zoned Recreation – REC), on a permitted basis. This would allow mobile vendors to operate in all of the zoning districts listed above, including the zoning districts that were under the ‘conditional use’ category previously.

Option 4: This option would only allow mobile vendors to operate in the non-residential zoning districts south of Highway 98, which includes CG, CL, INST, CBR, HIMU, & GRMU.

Staff Recommendation: Staff is seeking input and direction from Council regarding how to proceed.

IV. RECOMMENDED MOTION:

Attachments:

1. 1 - Destin COO Article 9
2. 2 - Destin LDC Section 7.21.00
3. 3 - Niceville COO Division 2
4. 4 - Okaloosa County COO Appendix A
5. 5 - Pensacola LDC Title XII

ARTICLE IX. - MOBILE VENDING PERMITS

Sec. 13-160. - Mobile vendor, defined.

Mobile vendor: A person who is in the business of selling food, beverages, flowers or other merchandise or services from a vehicle, except, however, that the provisions of this ordinance shall not apply to mobile caterers, generally defined as a person engaged in the business of transporting, in motor vehicles, food, beverages, or service equipment to residential, business and industrial establishments pursuant to prearranged schedules, and dispensing from the vehicles the items or services at retail, for the convenience of the personnel of such establishments.

(Ord. No. 17-15-CC, § 2, 3-19-18)

Sec. 13-161. - Permit required.

It shall be unlawful for any mobile vendor to operate upon public or private property in the city without first having secured a permit as required by this section. All permits issued under the provisions of this article shall be valid for no more than one (1) year. It is not the intent of these regulations to be applied to mobile vendors temporarily approved in conjunction with a city special event permit.

(Ord. No. 17-15-CC, § 2, 3-19-18)

Sec. 13-162. - Process for application and revocation of permits.

- (1) *Filing application.* A person shall apply for a mobile vendor permit by completing a written application in a form provided by the city and paying the required permit fee. An application will not be considered until a complete application has been submitted to the city, the permit fee has been paid, any check or draft for such payment has cleared, and all information required by the City Code or Land Development Code has been provided to the city.
- (2) *Permit fee.* The permit fee to accompany the application shall be established by the city council and may be modified by the city council. Each application permit fee shall cover the one-year term of the permit.
- (3) *Permit Information.* In addition to the application and fee, the applicant shall provide satisfactory proof to the city that the mobile vendor has obtained all required licenses, permits and inspections required by any federal, state or local regulatory agency, including but not limited to a current state vehicle license and inspection.
- (4) *Action on permit.* An application for a mobile vending permit will be reviewed by the city manager or city manager's designee. A permit may be denied if the applicant or any person involved in the mobile vending operation has, within one year of the date the application is filed: (i) failed to provide any information or fee requested by the city pursuant to the City Code or Land Development Code or (ii) been found in violation of this article or any provision of the city Land Development Code regulating mobile vending; or (iii) had a permit issued pursuant to this article revoked.
- (5) *Revocation of permit.* A permit issued by the city under this article shall be conditional and may be revoked if:
 - (a) The city determines that any of the information provided in the application process or on the application was false when submitted or has become false since the permit was issued; or
 - (b) The permittee, or any person associated with the permittee's operations as a mobile vendor, violates any of the provisions of this article, any provision of the city Land Development Code regulating mobile vending, or the applicable regulations of any federal, state, or local regulatory authority; or

- (c) The activities of the permittee, or any person associated with the permittee's operations as a mobile food vendor, endanger, or are likely to endanger the public health, safety or welfare.
- (6) *Effect of permit revocation.* If a permit is revoked, the application fee shall be forfeited and the permit shall be null and void. A permittee whose permit has been revoked may not reapply for a permit for a period of one year from the date the permit was revoked.
- (7) *Appeal.* An applicant or permittee will be given written notice of the denial of an application or the revocation of a permit. Such applicant or permittee shall have thirty (30) days from receipt of the written notice to appeal the denial or revocation of the permit to the city council. The city council's determination shall be final.

(Ord. No. 17-15-CC, § 2, 3-19-18)

Sec. 13-163. - Permit not transferable.

No permit issued under this article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

(Ord. No. 17-15-CC, § 2, 3-19-18)

Sec. 13-164. - Enforcement.

Failure to comply with the provisions of this section shall be grounds for revocation of a permit in accordance with [section 13-162](#), denial of a business tax receipt, revocation an existing business tax receipt or may result in code enforcement or civil action against the mobile vendor or the owner of the subject property, or both.

(Ord. No. 17-15-CC, § 2, 3-19-18)

7.21.00. - Mobile vendors.

7.21.01. *Purpose and intent.* The following regulations are applicable to all mobile vendors, as defined in section 13-160, City Code. The intent of this section is to regulate activities of mobile vendors and to allow mobile vendors to operate in certain commercial and mixed use zoning districts of the City, in order to promote the public interest by contributing to an active and attractive pedestrian environment. In recognition thereof, regulation of mobile vendors is necessary to protect the public health, safety, and welfare and the interests of the City in the primary use of public streets, sidewalks, parking areas, and places of assembly, for use by vehicular and pedestrian traffic.

7.21.02. *Zoning districts.* The location of any mobile vendor shall be entirely within an approved zoning district.

- A. Long term operations (more than 72 hours). Mobile vendors may operate within the following zoning district: South Harbor Mixed Use (SHMU) and Calhoun Mixed Use (CMU).
- B. Short term operations (72 hours or less). Mobile vendors may operate within the following zoning districts: South Harbor Mixed Use (SHMU), Calhoun Mixed Use (CMU), North Harbor Mixed Use (NHMU), Commercial Trades and Services (CTS), Industrial (IN), Institutional (INST), Residential, Office and Institutional-General Development (ROI-GD), Town Center Mixed Use (TCMU).

7.21.03. *Location criteria.* A mobile vendor must comply with the following location criteria, whichever is applicable:

- A. *Public property.* Mobile vendors are prohibited from operating on public property unless the City issues a special event permit to the mobile vendor. A mobile vendor with a special event permit that is operating on public property shall comply with the following requirements:
 - 1. *Maximum area.* A mobile vendor shall not occupy an operating area of more than 420 square feet of space per site, including the vehicle, operator, trash receptacle, and covering, if applicable. More than one mobile vendor may be located on a site provided these maximum area requirements are met.
 - 2. *Maximum dimensions.* A mobile vendor shall not exceed ten feet in width by 40 feet in length.
 - 3. *Maximum height.* The maximum height of a mobile vendor, including any covering, such as its canopy, umbrella, and/or transparent enclosure, shall not exceed 15 feet, excluding venting equipment.
- B. *Private property.* A mobile vendor may operate on private property, provided that it complies with the following regulations:
 - 1. A mobile vendor may be located within off-street parking spaces but is prohibited from locating within required parking areas for existing uses on the property. The mobile vendor shall not obstruct or impede vehicular or pedestrian access, circulation, egress, or otherwise create a hazard.
 - 2. The property on which the mobile vendor proposes to locate shall contain a minimum size of one-half acre. No more than one mobile vendor per one-half acre shall be permitted, up to a maximum of five mobile vendors on a parcel. In the SHMU and CMU zoning district, no more than one mobile vendor per 100 feet of water frontage shall be allowed, with a maximum of five mobile vendors per parcel.
 - 3. All mobile vendors shall provide parking in the amount the vendor vehicle encumbers, plus one space for one employee on shift, two spaces for two—three employees on shift, and four spaces for four—six employees on shift.
 - 4. All mobile vendors shall be required to have access to permitted commercial restroom facilities within 300 feet of the mobile vendor on the same parcel, and a sign should be displayed directing customers to its location.

7.21.04. *Overnight parking.* Overnight parking of mobile vendor vehicles is prohibited, except in the SHMU and CMU zoning districts.

7.21.05. *ADA standards.* The mobile vendor vehicle and the property on which it is located shall meet all applicable ADA requirements.

7.21.06. *Maintenance and waste disposal.*

- A. All operations and equipment of the mobile vendor must be clean, and well maintained, with no visible rust, flat tires or other evidence of deferred maintenance.
- B. The property at which the mobile vendor is located must also be clean and orderly at all times, and the mobile vendor must provide a trash receptacle for use by its patrons.
- C. Trash receptacles must be removed at any time the mobile vendor is not located on the property, including but not limited to overnight, if applicable.
- D. Mobile vendors are prohibited from permitting waste to be deposited upon the ground, sidewalk, streets, City waste receptacles, or private dumpsters (without permission of the private property owner).

7.21.07. *Setbacks and separation requirements.* All setbacks and separation requirements shall be in accordance with existing zoning and building requirements of the zoning district in which the mobile vendor is located.

7.21.08. *Display and signage.*

- A. *Display of mobile vendor permit and business tax receipt.* All mobile vendors must display the mobile vendor permit and business tax receipt issued by the City in a prominent and visible manner.
- B. *Display of merchandise.* Merchandise shall not be displayed upon the sidewalk or right-of-way, may not intrude upon the accessible area around the mobile vendor vehicle, and may not otherwise impede parking or access to structures within the site.
- C. *Signage.* The amount of signage on the mobile vendor vehicle is not regulated but signs must be mounted flat against the vehicle and cannot project from the vehicles.
- D. *Harbor Boardwalk displays.* No merchandise or signage of any sort may be placed upon the Harbor Boardwalk.

7.21.09. *Prohibitions.*

- A. *Solicitations, prohibited.* A mobile vendor approved and located adjacent to a right-of-way or drive aisle shall not solicit or conduct business with persons in motor vehicles.
- B. *Nuisance, prohibited.* Mobile vendors shall not utilize moving objects, excessive noise, or lighting systems to bring attention to its products or services.
- C. *Unattended vehicles/equipment, prohibited.* No mobile vendor vehicle or equipment shall be left unattended, except for mobile vendors located with the SHMU and CMU zoning districts during non-business hours.
- D. *Hindrances, prohibited.* Vendors shall not hinder or impede the use of any phone kiosk, mailbox, parking meter, fire alarm, fire hydrant, or traffic control device.

7.21.10. *Public utilities.* Mobile vendors connected to public potable water and/or sewer, or which utilize liquid propane or natural gas for cooking shall be required to apply for appropriate approvals and inspections from the Destin Fire Control District, Destin Water Users and the City of Destin, as appropriate.

7.21.11. *Permit and licensing required.* Annually, the mobile vendor must secure (i) a City of Destin Business Tax Receipt (BTR), (ii) a mobile vendor permit pursuant to section 13-161, City Code, and (iii) must pay all relevant fees.

7.21.12. *Enforcement.* Failure to comply with the provisions of this section shall be grounds for denial or revocation of a mobile vendor permit in accordance with section 13-162 of the City Code, denial of a business tax receipt, revocation an existing business tax receipt or may result in code enforcement or civil action against the mobile vendor or the owner of the subject property, or both.

(Ord. No. 17-16-LC, § 2, 3-19-18)

DIVISION 2. - MOBILE FOOD VENDORS

Sec. 12-113. - Definitions.

Mobile food vendors. Mobile food vendors are defined as any vehicle mounted public food service establishment which is self-propelled or otherwise moveable from place to place, which vend food in a self-sufficient manner and includes self-contained utilities such as gas, water, electricity and liquid waste disposal.

Resident mobile food vendors. Resident mobile food vendors are defined as a mobile food vendors which own or operate an established food and beverage restaurant, "brick and mortar" business within the city.

Non-resident mobile food vendors. Non-resident mobile food vendors are defined as mobile food vendors of areas outside of the incorporated areas within the city and do not own or operate an established food and beverage restaurant "brick and mortar" business within the city.

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Sec. 12-114. - Permit required.

Mobile food vendors operating within the boundaries of city shall be required to obtain a permit to operate by submitting a mobile food vendors application form to the city department of planning and zoning and pay a one hundred dollar (\$100.00) permitting fee and must meet the requirements of this division and comply with the standards and guidelines set forth in the mobile food vendor application. The permit shall be valid for a period of one year from the date of issuance and shall not be transferable.

A sample copy of the mobile food vendor application which set forth the regulations for issuance of a mobile food vendor permit and mobile food vendor guidelines is attached hereto as exhibit "A". ^[6]

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Footnotes:

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Editor's note— *Exhibit "A" is not attached hereto, but is available for inspection at the city clerk's office.*

Sec. 12-115. - Permit eligibility/requirements.

To be eligible for a permit, maintain permit eligibility or obtain permit renewal the mobile food vendor must be licensed through the department of business and professional regulation, division of hotels and restaurants, or successor agency under Rule 61C-4.0161, FAC or successor rule or by the department of agriculture and consumer services, division of food safety or successor agency under Chapter 5K-4, FAC or successor and must comply with this division and the regulations set forth in the mobile food vendor application.

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Sec. 12-116. - Locations and restrictions.

- (a) Mobile food vendors may only operate on private property and must acquire advanced written and notarized permission from the property owner on each desired site or location and such written and notarized permission must be provided upon submission of the permit application on the property owner authorization form provided by the city.
- (b) Mobile food vendors shall be allowed throughout the city in any non-residential or non-public zoning district and shall not be allowed on any street(s), highway(s) and/or road(s), public right-of-way areas or on any public sidewalk areas unless approved by the city under special event exception or other circumstances.
- (c) Mobile food vendors shall be required to secure and maintain a commercial general liability policy (CGL) or a commercial business automobile liability policy covering mobile food vending operations with minimum policy limits of one million dollars (\$1,000,000.00) for personal injury and one million dollars (\$1,000,000.00) for property damage naming the city as an additional insured under the policy.
- (d) Business tax receipt requirements—All resident mobile food truck vendors shall comply with state and local business tax regulations and obtain a business tax receipt from the appropriate agency.

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Sec. 12-117. - Special event exception(s).

All resident and non-resident mobile food vendors may participate in any city or community sponsored special event(s), fundraiser(s), including but not limited to religious, charitable, patriotic or philanthropic events, or other public sponsored event(s) under the city permitting requirements and/or approval process for such events.

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Sec. 12-118. - Penalties and enforcement.

Any violations of this division shall constitute a civil violation and subject the violator to a civil penalty in an amount not to exceed five hundred dollars (\$500.00). Each day that the violation continues uncorrected shall be considered a separate violation and will subject the resident mobile food vendor to suspension or revocation of its permit.

The code enforcement officer and his/her designees are authorized to determine the existence of the violations and to assess the civil penalties established by this article by issuing a citation to the person determined to be in violation or by sending a letter to the vendor responsible for the violation. Any such notice or citation shall state the nature of the violation and the procedures available for review of the penalty imposed.

(Ord. No. [18-05-01](#), § 1, 5-8-18)

Mobile vending: The restriction of the selling of goods or the providing of personal services from mobile vendors within Okaloosa County; whether on private property, public property or rights-of-way. Mobile vending is also encompasses vehicle, daily, and seasonal vendors, as further defined below:

- (1) *Vehicle vendor* is an individual or group selling products from a self-contained truck, trailer, or self-propelled conveyance, independent with respect to water, sewer and power utilities, capable of moving or being moved, used for the preparation and/or sale of products.
- (2) *Daily vendors* is an individual or group which operate from a fixed location but vacate the location daily.
- (3) *Seasonal vendors* is an individual or group which operate from a fixed location, and do not vacate the premises completely on a daily basis, rather vacate during a portion of the year.

All other vendors of goods and services to the general public, whether mobile or not, which do not meet the definition of a mobile vending, shall be considered permanent business uses and shall fully comply with the requirements of the Okaloosa County Code, set forth herein.

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CHAPTER 12-3. - ZONING DISTRICTS
ARTICLE V. SPECIFIC USES

~~Secs. 12-3-95—12-3-104. Reserved.~~

Sec. 12-3-95. Food Truck Courts.

- (a) Purpose. The purpose of allowing food truck courts which provides parking pads for one or more mobile food trucks and may also include other site development features, such as parking and seating, is to allow for innovative development options within the commercial zoning district.
- (b) Permitted locations.
- a. Food truck courts shall be allowed as a permitted use in the C-1, C-2, C-2A, C-3, M-1, M-2, GRD, and WRD zoning districts, exclusive of the area defined by Ordinance 26-21.
 - b. Food truck courts shall be allowed as a conditional use within PC-1 and the area defined within Ordinance 26-21 and must comply with the conditional use requirements established within section 12-3-120(a)(3).
- (c) General requirements.
- (1) Site development requirements. The development of the site shall comply with the requirements of the zoning district and any applicable overlay district, with the exception of the following:
 - a. Food truck stalls and additional structures shall observe a minimum setbacks of ten (10) feet from any side or rear property line, notwithstanding any applicable landscape buffers or setbacks from a residential zoning district as outlined in Table 12-3.7.
 - b. Food truck stalls and additional structures shall be located at least ten (10) feet from any other space or structure.
 - c. Drive-thru services are prohibited.
 - d. Outdoor refuse & utilities, and storage areas shall not be allowed within the 25 feet of the front property line and shall be screened per Sec. 12-3-121.
 - (2) Number of food truck parking pads. A minimum of one stationary food truck pad shall be developed with each food truck court. The maximum number of mobile food truck pads shall be six (6).
 - (3) Lot coverage, landscaping, and buffers.
 - a. The maximum lot coverage for the mobile food truck pads, all structures, and defined outdoor dining areas shall be 50%.
 - b. Landscaping and buffer requirements shall be subject to the minimum provisions set forth in chapter 12-6. When off-street parking is located at a street frontage, a year-round landscape hedge or low fence or wall along the street edge of the parking lot must be used as a means of buffering and subject to visibility triangle requirements in section 12-3-58.
 - (4) Off-street parking. One off-street parking space shall be provided for the food truck court for each food truck pad plus on per 100 square feet of gross floor area, or fraction thereof, of all buildings on the site with the exception of those located within the Dense Business Area or the Urban Core CRA.
 - (5) Mobile food truck pad requirements. Each food truck space shall provide the following:
 - a. A connection to a water source.
 - b. A connection to a sewer system and a grease trap or a gray-water system with off-site

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disposal.

c. A solid surface pad measuring at least 10 feet in width and 20 feet in length.

(6) Restrooms. Permanent restrooms are required as part of the food truck court. This facility must be within the same parcel as the mobile food truck pad(s). The minimum requirement shall be 2 stalls each for male and female.

(7) Seating. Table seating, with a minimum of four seats per table, shall be required for every mobile food truck pad.

(8) Exterior modifications.

a. Architectural design and building elements. All buildings, structures, fences, walls, etc. shall follow design standards and guidelines in section 12-3-121(d) and shall strive to achieve visual harmony with the surrounding area. If located in a district subject to Architectural Review Board or Planning Board review, or located in the CRA Urban Design Overlay, the project shall be subject to the standards applicable to the relevant district.

b. Fencing and screening. Approved materials include wood, brick, stucco finished masonry, stone, or wrought iron, and combinations of these materials. Black powder-coated chain-link fences will be permitted if screened in their entirety by appropriate vegetation. Exposed concrete block and barbed wire are prohibited. All service areas (i.e. trash collection containers, compactors, etc.) shall be screened from street and adjacent buildings by a fence, wall, and/or vegetation.

c. Site lighting. Exterior lighting shall follow standards set forth in section 12-3-121(c)(9).

(9) Food truck requirements.

a. Each food truck must meet the requirements of the Florida Fire Prevention Code, NFPA 1, section 50.7 Mobile and Temporary Cooking Operations. Section 50.7.1.5 Separation. Mobile or temporary cooking operations shall be separated from building or structures, combustible materials, vehicles, and other cooking operations by a minimum of 10 ft. Section 50.7.1.7 Fire Department Access. Mobile or temporary cooking operations shall not block fire department access roads, fire lanes, fire hydrants, or other fire protection devices and equipment.

b. A copy of the Commissary Agreement should be maintained on the food truck or mobile food vending establishment.

c. The food truck owner should obtain a license from DBPR, then an inspection from the fire department before obtaining a City BTR.

d. Each food truck operating on the site is required to have a City BTR, business tax receipt, but is not required to obtain any other City permits or licenses.

e. A copy of the appropriate license(s) from the Florida department of Business and Professional Regulation (Division of Hotels and Restaurants) shall be maintained on the food truck or mobile food vending establishments at all times along with a copy of a valid City business tax receipt when the vehicle is in operation in the City, and shall be made available for inspection upon request by the City's law or code enforcement officers.

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f. If a gray-water system is to be used, a contract for off-site disposal must be made available upon request.

(10) Alcohol. If alcohol is to be sold on-site, the provisions within Chapter 7 shall apply.

(11) Signs. Signage shall comply with the standards for the respective zoning district.

(d) Review and approval process. All applications for food truck courts shall comply with development standards and guidelines established in section 12-3-121.

Secs. 12-3-96—12-3-104. Reserved.

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: July 13, 2023

BOARD/COMMITTEE: City Council Special Workshop

TYPE OF AGENDA ITEM: Council Discussion Item

OUTLINE NUMBER: C.

TO: City Council Special Workshop

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney
Steve O'Connor, Principal Planner

FROM: Rachel Hoag, Planner

DATE: 6/27/2023

SUBJECT: E-Bike Regulations

I. BACKGROUND: City Council has requested Staff to gather current regulations and guidelines concerning electric bikes, or e-bikes, within the City of Destin, as well as provide researched results of similar communities and their implementation standards regarding e-bikes. These findings should provide a broad understanding of how the City of Destin currently regulates e-bikes, as well as provide insight into other communities' regulations, and to help inform City Council as to whether or not to consider changing current policies or keep them as they are currently. As the City of Destin continues to grow and e-bikes become more popular, e-bike regulations will remain an important topic of discussion for safety and transportation or mobility alternatives within the City.

II. DISCUSSION: City of Destin

The City of Destin's Code of Ordinances and Land Development Code (LDC) does not currently define electric bikes, or e-bikes, specifically; however, the definition of motor scooter defined in Article 3 of the LDC encompasses e-bikes and other motorized three wheeled micromobility device in its definition.

Motor scooter or scooter - *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 and shall include a moped as defined in F.S. § 316.03(41) (2019), and any other two- or three-wheeled, self-propelled vehicle for which state law does not require proof of financial responsibility (see F.S. ch. 324, (2019)).*

LDC 8.11.00. – Prohibition and attrition of the rental of motor scooters states the act of providing, renting, or delivering a motor scooter, or solicitation of that good or service is prohibited within the city.

Given the current ordinance for motor scooter rental restrictions within the City of Destin, e-bikes currently fall within these regulations. However, it does not address personally owned and operated e-bikes. In 2021 Florida State Statutes updated laws regarding the definition and operation of e-bikes within the State, allowing local governments to adopt an ordinance that governs the operation of e-bikes.

Florida Statutes 316.003(23) defines an electric bicycle as, *A bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:*

1. *“Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.*
2. *“Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.*
3. *“Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.*

Florida Statutes 316.20655 and 316.2068 give an e-bike operator the same rights and privileges as a bicycle. Please note that 316.008 (7)(a) A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, electric bicycles, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

An e-bike does not need to be registered or insured, nor have a licensed operator. A person under the age of 16 may not operate an e-bike unless wearing a properly fitted helmet.

The following are examples of other Communities and Municipalities regulations:

City of Pensacola

The City of Pensacola regulates commercial operations of micromobility devices, defined below. They require tracking systems on commercially owned and rentable micromobility devices to enforce regulations and ensure safe management of the program.

Micromobility device shall have the meaning ascribed to it in F.S. § 316.003 (41), as amended. Micromobility devices are further defined as a vehicle 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. This term includes motorized scooters, electric bicycles, and bicycles as defined in F.S. § 316.003. This ordinance does not apply to personally owned motorized scooters, electric bicycles, and bicycles.

Like the City of Destin, the City of Pensacola does not regulate privately owned micromobility devices. Nonetheless, Pensacola established regulations concerning how individuals can operate the rentable micromobility devices. These regulations include but are not limited to:

1. Maximum speed
2. Authorized operation locations
 1. no ride/no stop zones
 2. no public sidewalk
3. No parking areas or “forced” parking areas
4. Maximum speed (15 mph)

For a complete review of this ordinance, please see *Attachment – Ordinance 33-22*.

City of Fort Walton Beach

The City of Fort Walton Beach regulates the commercial operations of electric bicycles and other micromobility devices, defined below. Micromobility devices may be operated anywhere bicycles are authorized to travel, including bike lanes and any path/trail intended for bicyclists. The City does, however, have restrictions on identified major roadways upon which bicyclists are not authorized to ride. It is also mandatory that all micromobility devices include an on-board GPS.

Dockless small vehicle system or system. System which provides bicycles, scooters, electric bicycles, electric scooters, or other micromobility devices for short-term rentals for point-to-point trips and which may be locked and unlocked without the requirement of a bicycle rack or other docking station.

Micromobility device. 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 twenty (20) miles per hour on level ground. Bicycles, scooters, electric bicycles, electric scooters, and other small, wheeled vehicles designed specifically for shared use utilizing GPS technology and deployed as part of a dockless small vehicle system.

Just as the above-mentioned city regulation examples, the City of Fort Walton does not regulate privately owned micromobility devices. However, Fort Walton Beach does have established policies that regulate rentable micromobility devices which include, but are not limited to:

1. Hours of operation
2. Parking zones (guidelines/restrictions)
3. Maximum speed (20 mph)

For a complete review of this ordinance, please see *Attachment – FWB COO 11.14*.

City of Panama City

Panama City categorizes e-bikes in the same designation as human-powered bikes, giving operators the same rules and regulations to abide by, as described in the definition above. Additionally, Panama City does have specific area designations in which bicycles are not authorized, such as park fishing areas, conservation parks, and trails intended for pedestrian use only. The City of Panama City identifies electric bikes as bicycles.

Bicycles shall mean every vehicle propelled solely by human power, and every 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 twenty (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 such a vehicle with a seat height of no more than twenty-five (25) inches from the ground when the seat is adjusted to its highest position, or a scooter or similar device.

City of Destin Public Works & Safety Committee Recommendation

During the May 9, 2023 Public Works/Public Safety Committee Meeting, a motion was approved in regards to e-bike regulations within the City of Destin. This motion recommends maintaining the ban on e-bike rentals, bans e-bike use in parks, details reckless use rules and enforcement, and allows the operation of e-bikes on sidewalks and multipurpose paths that are deemed safer than roadways. For the full description of the motion, please see *Attachment – PWPS Motion*.

ADA Compliance

It is important to note that City Staff does not recommend that any rules or regulations that are developed from this workshop conflict with any Federal or State regulations concerning ADA mobility or access.

Comprehensive Plan Consistency:

Policy 2-1.1.10: Prioritize Transportation Improvements

Policy 2-1.3.1: Reduce Automobile Mobility

Policy 2-1.3.5: Design Development to be Supportive of Multimodal Transportation and Reductions in Vehicle Miles Traveled (VMT)

Policy 2-1.3.11: Create Safe Pedestrian and Cycling Roadway Crossings

Policy 5-1.1.4: Reduce Vehicle Emissions Through Transportation and Land Use Planning

A. Link to Strategic Goals / Objectives: II. Enhanced Quality of Life and Safety for Families

V. Improve Mobility and Connectivity

VI. A Green and Sustainable Environment

B. Effect on Budget (EOB): N/A

C. Level of Service (LOS): Depending on the direction City Council chooses to go, it could potentially increase/decrease the use of e-bikes or other micromobility devices on either the sidewalk or the roadway. The impact to the level of service would depend on the number of users of the transportation network utilize micromobility devices.

D. Legislative Sponsor:

III. CONCLUSION: There are many factors to consider when it comes to the

development of new regulations for micromobility devices within the City of Destin. The ability to specifically regulate them on City streets and sidewalks can be focused on regulation for commercial rental or leasing to personal uses. Therefore, Staff has compiled three (3) options for City Council to consider when revisiting the e-bike regulations. They are as follows:

Option 1: The City can maintain current regulations, or “status quo” and continue not to regulate private use of e-bikes on City streets and sidewalks.

Option 2: The City can create a new Ordinance based on the Public Works and Public Safety Committee concerning:

- Location of operation - on or off sidewalks, city parks
- Speed limits (on sidewalks)
- Other safety policies – helmets, yield requirements, dismount/parking zones, no ride zone, etc.

Option 3: Adopt regulations from the examples of municipalities discussed earlier, such as:

- Prohibit operation of e-bikes on sidewalks
- Allow electric bicycles to have the same regulations as human powered bicycles

Although the City of Destin encompasses electric bicycle operations within **LDC 8.11.00.**, there are areas of concern not currently addressed that are specific to e-bike operations in which citizens are concerned. Staff requests guidance from City Council on what regulations they prefer Staff to investigate further.

STAFF RECOMMENDATION: Staff is seeking input and direction from the Council regarding how to proceed.

IV. RECOMMENDED MOTION:

Attachments:

1. 1 - Ordinance No. 20-18-LC
2. 2 - Ordinance No. 33-22 - COP
3. 3 - FWB COO 11.14.00
4. 4 - PWPS Motion

ORDINANCE NO. 20-18-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING ARTICLE 3 "DEFINITIONS" OF THE LAND DEVELOPMENT CODE; AMENDING ARTICLE 8 OF THE LAND DEVELOPMENT CODE TO PROHIBIT MOTORIZED SCOOTER RENTAL BUSINESSES, OFFICES, AND OTHER RELATED LAND USES WITHIN THE CITY OF DESTIN; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND RECITALS

WHEREAS, the City of Destin is a tourist destination frequented by tens of thousands at a time; and

WHEREAS, while drawn to the City by the beach, visitors look for other forms of amusement off the beach as well; and

WHEREAS, several decades ago rental scooters began operating in the City and provided an entertaining means of touring the City; and

WHEREAS, over the years the rental of scooters has proven itself to be a popular form of amusement; and

WHEREAS, as the popularity of rental scooters increased the behavior of scooter operators became noticeably dangerous as traffic violations were more common among rental scooter than other vehicles; and

WHEREAS, irresponsible driving behavior by scooter renters has become so common that it frequently affects visitors and residents who are all-to-often forced to modify their own behavior or routes of travel to compensate for this irresponsible behavior, or else fall victim to a motor vehicle accident involving a renter scooter; and

WHEREAS, because neither safety equipment nor insurance are required under state law for motor scooters, parties to a motor vehicle accident involving a motor scooter (especially a rented motor scooter) are at risk of greater damages than in a conventional motor vehicle accident as the scooter driver is entirely unprotected (physically and fiscally) from the effects of the collision and the other party is left without adequate compensation for the losses sustained; and

WHEREAS, the typical reckless and often illegal driving behavior of rental operators create an impracticable strain upon law enforcement resources and siphons those valuable resources from other important police work; and

WHEREAS, the City is fortunate to enjoy a robust and growing tourism and more recently local and regional retail economy which has resulted in the expansion of major roads and connectors and even more significant increases in the number of vehicles on those roads because the City is linear, being approximately 7 miles long but only one-mile-wide with only two parallel major thoroughfares, all of which combined has resulted in increased congestion on City streets; and

WHEREAS, the materially increased congestion and size of City roads and intersections of roads have made it increasingly dangerous for inexperienced operators of rented scooters to operate and, frequently play, in the streets; and

WHEREAS, additionally the increased congestion has created greater and greater incentives for the operators of rented scooters to take short cuts through parking lots, on pedestrian sidewalks, on the pier board-walk, and generally through private or quasi-public property where through traffic of any kind is inappropriate, and frequently when those areas are occupied by pedestrians; and

WHEREAS, the limits of the City's infrastructure capacity, resources to police dangerous, disrespectful and, frequently simply mindless, behavior of the rented scooter drivers, combined with the sheer volume of rented motor scooters on the street have materially and adversely impacted the tourists' experiences and the residents' quality of life; and

WHEREAS, the City of Panama City Beach completely prohibited scooter rentals within the City. After a Bay County Circuit Court upheld the City's ordinances, Classy Cycles appealed. Subsequently, the First District Court of Appeals upheld the ruling. A request for Supreme Court intervention was denied. Each court found that the City's home rule powers enabled it to regulate the public's safety and its right to restrict certain vehicles in congested areas; and

WHEREAS, despite the popularity of the rented-scooters and the benefit of this amusement to the tourism industry which is the lifeblood of the City, the Council regretfully finds that a prohibition is in the best interests of the City, is of great public need, and is the most reasonable measure available to the Council to protect the health, safety and welfare of the community and the reputation of the City as a safe and comfortable tourist destination and the benefit to the public outweighs the loss to the affected parties; an

WHEREAS, the City possesses home rule powers to legislate on any matter not

inconsistent with general law or special law, and is specifically authorized to create and implement a plan of zoning uses, and to amend the list of uses that are permitted or prohibited; and

WHEREAS, in order to deny access to the rented-scooter resource the City in the exercise of its police power is prohibiting the conduct of renting a scooter anywhere within the city; and

WHEREAS, the City Council finds and determines that prohibiting the rental of scooters within the City will eliminate the problems associated with the behavior of the operators of those scooters; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Land Development Code that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF ARTICLE VIII OF THE LAND DEVELOPMENT CODE.

Article III of the Land Development Code is hereby amended as follows:

Article III- DEFINITIONS

Motor Scooter or Scooter - 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 and shall include a moped as defined in FS 316.03(41) (2019), and any other two or three wheeled, self-propelled vehicle for

which state law does not require proof of financial responsibility (see Chapter 324, Florida Statutes (2019)).

Motor Scooter Rental or Scooter Rental - the provision, rental, hire, or delivery of a Motor Scooter for any valuable consideration or the solicitation of that service or good.

Article VIII of the Land Development Code is hereby amended as follows:

Article VIII- TRANSPORTATION

Sec. 8.11.00. Prohibition and attrition of the rental of motor scooters.

The act of providing, renting, or delivering a motor scooter, or the solicitation of that service or good, or the rental or hire of a motor scooter, within the City is prohibited.

SECTION 4. INCORPORATION INTO THE CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

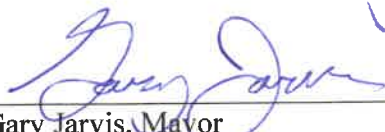
SECTION 6. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its

adoption by the City Council and signature by the Mayor.

ADOPTED THIS 21ST DAY OF DECEMBER
2020.

By:



Gary Jarvis, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has
been reviewed and approved by the City Land Use
Attorney, for the City of Destin, only.



Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: DECEMBER 7, 2020
Second Reading: DECEMBER 21, 2020

PROPOSED
ORDINANCE NO. 52-22

ORDINANCE NO. 33-22

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA AMENDING CHAPTER 7-9 OF THE CODE OF THE CITY OF PENSACOLA TO REGULATE A DOCKLESS SHARED MICROMOBILITY DEVICE PROGRAM; PROVIDING FOR INDEMNIFICATION AND INSURANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola ("City") is subject to the Florida Uniform Traffic Control Laws; 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, micromobility devices, and electric personal assistive mobility devices on sidewalks 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, Chapter 11-4 of the City Code of the City of Pensacola provides standards relating to the regulation of City rights-of-way; and

WHEREAS, the City strives to keep the City rights-of-ways compliant with the Americans with Disabilities Act (ADA), and other federal and state regulations, and is committed to keeping the City accessible for the mobility challenged; and

WHEREAS, dockless shared micromobility devices left unattended and parked or leaned on walls or otherwise obstructing access in a manner that creates a hazard to pedestrians and individuals needing access and maneuverability for ADA mobility devices; and

WHEREAS, the City has a significant interest in ensuring the public safety and order in promoting the free flow of pedestrian traffic on streets and sidewalks; and

WHEREAS, the City desired to study the impacts of dockless shared micromobility devices; and

WHEREAS, the City Council on September 12, 2019 authorized the City to

engage in a 12 month pilot program to permit, control and regulate the use of dockless shared micromobility devices on sidewalks and roadways within the City; and

WHEREAS, the City Council has reviewed the Pilot Program, and desires to implement a permanent program for the citizens of Pensacola; and

WHEREAS, the City's intent for instituting the Program is to create a transportation network that helps reduce motor vehicle parking demand and improves transportation options;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Chapter 7-9, providing for a Dockless Shared Micromobility Device Pilot Program is hereby amended to read as follows:

Sec. 7-9-1. - Establishment of dockless shared micromobility device pilot program.

The purpose of this chapter is to establish, permit and regulate a dockless shared micromobility device pilot program in the city. The provisions of this chapter shall apply to the dockless shared micromobility device pilot program and dockless shared micromobility devices. For the purpose of this chapter, the applicant, managing agent or vendor, and owner shall be jointly and severally liable for complying with the provisions of this chapter, the operating agreement and permit.

Sec. 7-9-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in F.S. ch. 316 apply to this chapter and are hereby incorporated by reference.

Dockless shared micromobility device (micromobility device) means a micromobility device made available for shared use or rent to individuals on a short-term basis for a price or fee.

Dockless shared micromobility device system means a system generally, in which dockless shared micromobility devices are made available for shared use or rent to individuals on a short-term basis for a price or fee.

Forced Parking Area means a bounded area that contains designated parking for micromobility devices in city-owned and approved locations. Shared micromobility devices may only be parked on private property with permission of

the property owner.

Furniture Zone means the section of the sidewalk between the curb and the through zone in which street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, tree pits, and parking are provided.

Geofencing means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

Micromobility device shall have the meaning ascribed to it in F.S. § 316.003, as amended. Micromobility devices are further defined as a vehicle 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. This term includes motorized scooters, electric bicycles, and bicycles as defined in F.S. § 316.003. This ordinance does not apply to personally owned motorized scooters, electric bicycles, and bicycles.

~~*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.~~

No park zones means a geofenced area that creates a virtual geographic boundary where micromobility devices are unable to end a ride.

No ride zones means a geofenced area that creates a virtual geographic boundary where micromobility device use is prohibited.

Pedestrian means people utilizing sidewalks, sidewalk area or rights-of-way on foot and shall include people using wheelchairs or other ADA-compliant devices.

Rebalancing means the process by which shared micromobility devices, or other devices, are redistributed to ensure their availability throughout a service area and to prevent excessive buildup of micromobility devices or other similar devices.

Relocate or relocating or removal means the process by which the city moves the micromobility device and either secures it at a designated location or places it at a proper distribution point.

Rights-of-way means land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way.

Service area means the geographical area within the city where the vendor is authorized to offer shared micromobility device service for its users/customers as defined by the pilot program operating agreement and permit.

Sidewalk means that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

~~Sidewalk area includes trail in the area of a sidewalk, as well as the sidewalk and may be a median strip or a strip of vegetation, grass or bushes or trees or street furniture or a combination of these between the curb line of the roadway and the adjacent property.~~

User means a person who uses a digital network in order to obtain a micromobility device from a vendor.

Vendor means any entity that owns, operates, redistributes, or rebalances micromobility devices, and deploys a shared micromobility device system within the city.

Sec. 7-9-3. - ~~Pilot p~~Program for shared micromobility devices on public rights-of-way; establishment; criteria.

- ~~(a) The city hereby establishes a 12-month shared micromobility device pilot program for the operation of shared micromobility devices on roadways sidewalks and sidewalk areas within the city limits.~~
- ~~(b) It is anticipated the pilot program will commence on January 1, 2020, or on such other date as directed by the city council ("commencement date") and will terminate 12 months after the commencement date.~~
- (c) ~~(a)~~ Shared micromobility devices shall not be operated in the city unless a vendor has entered into a fully executed operating license agreement and permit ("pilot program operating agreement and permit") with the city. The mayor is authorized to develop, and execute, the pilot program operating agreement and permit and any other documents related to the pilot program.
- (d) ~~(b)~~ If two or more shared micromobility devices from a vendor, without a valid pilot program operating agreement and permit with the city, are found at a particular location within the city, it will be presumed that they have been deployed by that vendor, and it will be presumed the vendor is in violation of this chapter and the shared micromobility devices are subject to impoundment.
- ~~(e) A vendor shall apply to participate in the pilot program. The mayor shall select up to two vendors to participate in the pilot~~

~~—program, unless otherwise directed by the city council.~~

- ~~(f) No more than a total of 500 micromobility devices, distributed equally among the vendors selected to participate in the pilot program, or as directed by the mayor, will be permitted to operate within the city during the pilot program. Micromobility devices that are impounded or removed by the city shall count towards the maximum permitted micromobility devices authorized within the city.~~
- ~~(g) Once selected as a pilot program participant, a vendor shall submit a one-time, nonrefundable permit fee of \$500.00, prior to entering into the pilot program operating agreement and permit, which shall be used to assist with offsetting costs to the city related to administration and enforcement of this chapter and the pilot program.~~
- ~~(h) In addition to the nonrefundable permit fee set forth herein, prior to entering into the pilot program operating agreement and permit, a vendor shall remit to the city a one-time, nonrefundable fee in the amount of \$100.00 per device deployed by the vendor.~~
- (i) (c) Prior to entering into a pilot program operating agreement and permit, a vendor shall, at its own expense, obtain and file with the city a performance bond in the amount of no less than \$10,000.00. The performance bond shall serve to guarantee proper performance under the requirements of this chapter and the pilot program operating agreement and permit; restore damage to the city's rights-of-way; and secure and enable city to recover all costs or fines permitted under this chapter if the vendor fails to comply with such costs or fines. The performance bond must name the city as obligee and be conditioned upon the full and faithful compliance by the vendor with all requirements, duties and obligations imposed by this chapter and the pilot program operating agreement and permit. The performance bond shall be in a form acceptable to the city and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the state. The city's right to recover under the performance bond shall be in addition to all other rights of the city, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the city may have. Any proceeds recovered under the performance bond may be used to reimburse the city for such additional expenses as may be incurred by the city as a result of the failure of the vendor to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and

costs of any action or proceeding and the cost to relocate any micromobility device and any unpaid violation fines.

- ~~(j) The pilot program operating agreement and permit will be effective for a 12-month period and will automatically expire at the end of the 12-month period, unless extended, or otherwise modified, by the city council. Upon expiration of the pilot program, vendors shall immediately cease operations and, within two business days of the expiration of the pilot program, vendors shall remove all micromobility devices from the city, unless otherwise directed by the mayor. Failure to remove all micromobility devices within the two business day timeframe, may result in the impoundment of the micromobility devices and the vendor will have to pay applicable fees to recover the micromobility devices from impound in accordance with this chapter.~~
- ~~(k) In the event the pilot program is extended, or otherwise modified by the city council, the pilot program operating agreement and permit may be extended consistent with such direction.~~
- ~~(l) Upon expiration of the pilot program, micromobility devices shall not be permitted to operate within the city until and unless the city council adopts an ordinance authorizing the same.~~

Sec. 7-9-4. - Operation of a dockless shared micromobility device system—Vendors' responsibilities and obligations; micromobility device specifications.

- (a) The vendor of a shared micromobility device system is responsible for maintenance of each shared micromobility device.
- (b) The micromobility device shall be restricted to a maximum speed of 15 miles per hour within the city.
- (c) Each micromobility device shall prominently display the vendor's company name, a unique identification number, and contact information, which may be satisfied by printing the company's uniform resource locator (URL) or providing a code to download company's mobile application.
- (d) Vendors must comply with all applicable local, state and federal regulations and laws.
- (e) Vendors must provide to the city an emergency preparedness plan that details where the micromobility devices will be located and the amount of time it will take to secure all micromobility devices once a tropical

storm or hurricane warning has been issued by the National Weather Service. The vendor must promptly secure all micromobility devices within 12 hours of an active tropical storm warning or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the city will notify the vendor when, and where, it is safe to redistribute the micromobility devices within the city.

- (f) Micromobility devices that are inoperable/damaged, improperly parked, blocking ADA accessibility or do not comply with this chapter must be removed by the vendor within one hour upon receipt of a complaint. An inoperable or damaged micromobility device is one that has non-functioning features or is missing components. A micromobility device that is not removed within this timeframe is subject to impoundment and any applicable impoundment fees, code enforcement fines, or penalties.
- (g) Vendors shall provide the city with data as required in the ~~pilot~~ program operating agreement and permit.
- (h) Vendors must provide details on how users can utilize the micromobility device without a smartphone.
- (i) Vendors must rebalance the micromobility devices daily based on the use within each service area as defined by the pilot program operating agreement and permit to prevent excessive buildup of units in certain locations.
- (j) The vendor's mobile application and website must inform users of how to safely and legally ride a micromobility device.
- (k) The vendor's mobile application must clearly direct users to customer support mechanisms, including, but not limited to, phone numbers or websites. The vendor must provide a staffed, toll-free customer service line which must provide support 24 hours per day, 365 days per year.
- (l) The vendor must provide a direct customer service or operations staff contact to city department staff.
- (m) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065(7), as may be amended or revised, which requires a reflective front white light visible from a distance of at least 500 feet and a reflective rear red light visible from a distance of at least 600 feet.
- (n) All micromobility devices shall be equipped with GPS, cell phone or a comparable technology for the purpose of tracking.

- (o) All micromobility devices must include a kickstand capable of keeping the unit upright when not in use.
- (p) The only signage allowed on a micromobility device is to identify the vendor. Third-party advertising is not allowed on any micromobility device.
- (q) The mayor, at his or her discretion, may create geofenced areas where the micromobility devices shall not be utilized or parked. The vendor must have the technology available to operate these requirements upon request and make public within the vendor application. Information on geofenced areas will be available through the Engineering Department and available on the City website. Within geofenced areas, devices shall be capable of the following:
- Reduce speed
 - Buffer speed
 - Incentivize and/or limit parking areas
 - Restrict riding and/or parking in predetermined areas
- (r) The mayor, at his or her discretion, may create a forced parking area which contains designated parking zones (i.e., parking bike corrals) in certain areas the micromobility devices shall be parked. Forced parking areas may be within the furniture zone or so long as they do not violate accessibility requirements.
- (s) No micromobility device shall be operational and available for use between the hours of 12:00 am and 5:00 am, Friday morning through Sunday morning.

Sec. 7-9-5. - Operation and parking of a micromobility device.

- (a) The riding and operating of micromobility devices upon a public sidewalk is prohibited except for the purposes of parking the device in an acceptable location and position. Sidewalks may or may not be geofenced as no ride zones depending on the location, technology capabilities, and safety considerations. Micromobility devices shall be allowed to operate on public roadways. The areas listed below shall be restricted:
- (1) Veterans Memorial Park as designated by signage;
 - (2) Where prohibited by official posting;
 - (3) Prohibited roadways identified on the Shared Micromobility Devices Franchise Area Map, which includes:
 - Cervantes Street

- North 9th Avenue
- Garden Street
- Barrancas Avenue; or

(4) As designated in the ~~pilot program~~ operating agreement and permit

(b) A user of a micromobility device has all the rights and duties applicable to the rider of a bicycle under F.S. § 316.2065, except the duties imposed by F.S. § 316.2065(2), (3)(b) and (3)(c), which by their nature do not apply to micromobility devices.

(c) Micromobility devices shall be restricted to a maximum speed of 15 miles per hour.

~~(d)~~ A user operating a micromobility device upon a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances. A user may operate a micromobility device to cross prohibited roadways at intersections and designated crossings.

(e) A user operating a micromobility device must comply with all applicable local, state and federal laws.

~~(f) Ridership of more than one person on any micromobility device shall be prohibited unless the device is specifically designed to carry more than one person.~~

~~(f) (g) Use of public sidewalks for parking micromobility devices shall not:~~

- (1) Adversely affect the streets or sidewalks.
- (2) Inhibit pedestrian movement.
- (3) Inhibit the ingress and egress of vehicles parked on- or off-street.
- (4) Create conditions which are a threat to public safety and security.
- (5) Prevent a minimum four-foot pedestrian clear path.
- (6) Impede access to existing docking stations, if applicable.
- (7) Impede loading zones, handicap accessible parking zones or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within 15 feet of a fire hydrant.
- (8) Violate Americans with Disabilities Act (ADA) accessibility requirements.

~~(g) (h) No Parking Zones may be created at the discretion of the Mayor to prohibit parking in certain areas within the service area. Micromobility Devices shall not~~

~~park on sidewalks designated as No Parking Zones as identified on the Shared Micromobility Devices Franchise Area Map.~~

Sec. 7-9-6. - Impoundment; removal or relocating by the city.

- (a) Any shared micromobility device that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with this chapter or are left unattended on public property, including ~~sidewalks, furniture zones, sidewalk areas,~~ rights-of-way and parks, may be impounded, removed, or relocated by the city. A shared rental micromobility device is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such device.
- (b) Any micromobility device that is displayed, offered, made available for rent in the city by a vendor without a ~~valid~~ pilot program operating agreement and permit with the city is subject to impoundment or removal by the city and will be subject to applicable impoundment fees or removal fines as specified in this chapter.
- (c) The city may, but is not obligated to, remove or relocate a micromobility device that is in violation of this chapter. A vendor shall pay a \$75.00 fee per device that is removed or relocated by the city.
- (d) Impoundment shall occur in accordance with F.S. § 713.78. The vendor shall be solely responsible for all expenses, towing fees and costs required by the towing company to retrieve any impounded micromobility device. The vendor of a micromobility device impounded under this chapter will be subject to all liens and terms described under F.S. § 713.78, in addition to payment of all applicable penalties, costs, fines or fees that are due in accordance with this chapter and applicable local, state and federal law.

Sec. 7-9-7. - Operation of a shared micromobility device program—Enforcement, fees, fines and penalties.

- (a) The city reserves the right to revoke any ~~pilot~~ program operating agreement and permit, if there is a violation of this chapter, the pilot program operating agreement and permit, public health, safety or general welfare, or for other good and sufficient cause as determined by the city in its sole discretion.
- (b) Violations of sections 7-9-1 through 7-9-9 shall be enforced as non-criminal violations of city ordinances.

(c) Violations of operating a shared micromobility device system without a valid fully executed ~~pilot program~~ operating agreement and permit, shall be fined \$250.00 per day for an initial offense, and \$500.00 per day for any repeat offenses within 30 days of the last offense by the same vendor. Each day of noncompliance shall be a separate offense.

(d) Violations of this chapter or of the ~~pilot program~~ operating agreement and permit shall be fined at ~~\$100.00 per device per day~~ for an initial offense, and ~~\$200.00 per device per day~~ for any repeat offenses ~~within 30 days of the last same offense by the same vendor~~. Each day of ~~non-compliance shall be a separate offense~~.

~~(e) The following fees, costs and fines shall apply to vendors:~~

Pilot program permit fee	\$500.00 --- nonrefundable
Performance bond	\$10,000.00 minimum
One time per unit fee	\$100.00 per unit --- nonrefundable ---
Removal or relocation by the city	\$75.00 per device
Operating without a valid operating agreement and permit fine	250.00 per day; \$500.00 per day for second offense
Permit violation fine	100.00 per device per day; \$200.00 per device per day for second offense

~~(f)~~ (e) At the discretion of the mayor, a vendor is subject to a fleet size reduction or ~~total~~ pilot program operating agreement and permit revocation should the following occur:

- (1) If the violations of the regulations set forth in this chapter are not addressed in a timely manner;
- (2) 15 unaddressed violations of the regulations set forth by this chapter within a 30-day period; or
- (3) Submission of inaccurate or fraudulent data.

~~(g)~~ (f) In the event of fines being assessed as specified herein or a pilot program operating agreement and permit revocation, the mayor or

his or her designee, shall provide written notice of the fines or revocation via certified mail or other method specified upon in the operating user agreement, informing the vendor of the violation fines or revocation.

Sec. 7-9-8. - Appeal rights.

- (a) Vendors who have been subject to the imposition of violation fines pursuant to section 13-3-2 ~~or a pilot program operating agreement~~ and permit revocation may appeal the imposition of violation fines or the revocation. Should a vendor seek an appeal from the imposition of violation fines or the ~~pilot~~ program operating agreement and permit revocation, the vendor shall furnish notice of such request for appeal to the city code parking management enforcement authority no later than ten business days from the date of receipt of the certified letter informing the vendor of the imposition of violation fines or revocation of ~~the pilot program operating agreement and permit~~.
- (b) Upon receipt of a notice of appeal, a hearing shall be scheduled and conducted by the special magistrate in accordance with the authority and hearing procedures set forth in section 13-2-6. The hearing shall be conducted at the next regular meeting date of the code enforcement authority or other meeting date of the code enforcement authority as agreed between the city and the vendor.
- (c) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.
- (d) The special magistrate shall render a final order within 30 calendar days after the hearing concludes, unless parties waive the time requirement. The final order shall contain written findings of fact, conclusions of law, recommendation to approve, approve with conditions or deny the decision subject to appeal. A copy of the order shall be provided to the parties by certified mail or, upon mutual agreement of the parties, by electrocommunication.
- (e) A vendor may challenge the final order by a certiorari appeal filed in accordance with state law with the circuit court no later than 30 days following rendition of the final decision or in any court having jurisdiction.

Sec. 7-9-9. - Indemnification and insurance.

- (a) As a condition of ~~the pilot program operating agreement and permit~~,

the vendor agrees to indemnify, hold harmless and defend the city, its representatives, employees, and elected and appointed officials, from and against all ADA accessibility and any and all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the ~~pilot~~ program operating agreement and permit, the use of right-of-way or city-owned property ~~for pilot~~ program operations or arising from any negligent act, omission or error of the vendor, owner, or managing agent, its agents or employees or from failure of the vendor, its agents or employees, or its Users of Micromobility Devices, to comply with each and every requirement of this chapter, ~~the pilot program operating agreement and permit~~ or with any other federal, state, or local traffic law or any combination of same.

- (b) Prior to commencing operation in ~~the~~ pilot program, the vendor shall provide and maintain such liability insurance, property damage insurance and other specified coverages in amounts and types as determined by the city and contained in the ~~pilot~~ program operating agreement and permit, necessary to protect the city its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily injury, including death, which may arise from any aspect ~~of the~~ pilot program or its operation.
- (c) A vendor shall include language in their user agreement that requires, to the fullest extent permitted by law, the user to fully release, indemnify and hold harmless the city.
- (d) In addition to the requirements set forth herein, the vendor shall provide any additional insurance coverages in the specified amounts and comply with any revised indemnification provision specified in ~~the~~ pilot program operating agreement and permit.
- (e) The vendor shall provide proof of all required insurance prior to receiving a fully executed pilot program operating agreement and permit.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or

applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: October 27, 2022

Approved: s/Ann Hill
President of City Council

Attest:

s/Ericka L. Burnett
City Clerk

11.14 - MOTORIZED SCOOTERS AND MICROMOBILITY DEVICES

11.14.01 - Definition.

Dockless small vehicle system or system. System which provides bicycles, scooters, electric bicycles, electric scooters, or other micromobility devices for short-term rentals for point-to-point trips and which may be locked and unlocked without the requirement of a bicycle rack or other docking station.

Micromobility device. 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 twenty (20) miles per hour on level ground. Bicycles, scooters, electric bicycles, electric scooters, and other small, wheeled vehicles designed specifically for shared use utilizing GPS technology and deployed as part of a dockless small vehicle system.

Operator. Means the business operating micromobility device rentals within the City.

User. Means a person who rents and uses a micromobility device from an operator.

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2037, § 2, 10-27-20; Ord. No. 2082, § 2, 10-12-21)

11.14.02. - Operation of vehicles in parks.

It shall be unlawful to stop, stand or park, drive or cause to be driven any micromobility device or small vehicle off the designated parking lots, roadways, and sidewalks of any city park.

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2037, § 2, 10-27-20)

11.14.03 - Reckless Speed.

It shall be unlawful for any person to drive or propel any micromobility device at a careless, indifferent or reckless speed through any park or playground or upon any right-of-way in the city.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.04 - Overtaking and passing of vehicles proceeding in the same direction.

The following rules shall govern the overtaking and passing of micromobility devices proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

- (1) The driver of a micromobility device overtaking another micromobility device proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken micromobility device.
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken micromobility device shall give to the right in favor of the overtaking micromobility device on audible signal and shall not increase the speed of their micromobility device until completely passed by the overtaking micromobility device.
- (3) The operator of a motor vehicle, when overtaking and passing a micromobility device proceeding in the same direction on the roadway, shall leave a safe distance between the motor vehicle and the micromobility device of not less than three (3') feet and shall maintain the clearance until safely past the overtaken micromobility device.

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2090, §3(Exh. A), 1-25-22)

11.14.05 - Application for Permits.

- (a) It shall be unlawful for any person or entity to operate a micromobility device, or dockless small vehicle system business without first having obtained City business tax receipt.
- (b) The operator must submit the following items for review with their business tax receipt application submittal:
 - (1) Images and description of micromobility device and mobile application;
 - (2) Business partner program that demonstrates the operator, prior to deployment, has established agreements with businesses or entities who want the micromobility devices to be available for accessing their business, either by employees who park remotely, customers, or others that need to access these properties;
 - (3) Size of fleet at launch, quantified by number of vehicles deployed;
 - (4) Service area at launch;

- (5) Plan for educating users on proper micromobility device parking;
 - (6) Plan for complying with this ordinance and its requirements;
 - (7) A certificate of insurance pursuant to Section 11.14.06; and
- (c) The City shall consider issuance of business tax receipts based upon the City population.
- (1) The maximum number of business tax receipts approved for a micromobility device, or dockless small vehicle system operator in the City shall not exceed one (1) for every ten thousand (10,000) residents, as certified in the most recent census or periodic demographic studies recognized by the City, including the Bureau of Economic and Business Research (BEBR) Florida Estimates of Population. For example:

Residents Indicated	Business Tax Receipts
0—10,000	1
10,001—20,000	2
20,001—30,000	3
30,001—40,000	4
40,001—50,000	5
50,001—60,000	6
60,001—70,000	7
70,001—80,000	8

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2082, § 2, 10-12-21)

11.14.06 - Safety Regulations.

- (a) To be eligible for a business tax receipt, the following standards must be met:
 - (1) All electric scooters used by operators issued a business tax receipt under this chapter shall meet the standards set forth, including a front light that emits white light and a rear red reflector, except an electric scooter need not have fully operable pedals nor wheels of twenty (20") inches or more in diameter. An electric scooter shall have a foot board for the user to stand upon and no seat. Each scooter shall have a top motor-powered speed of less than fifteen (15) miles per hour when operated by a rider weighing one hundred seventy (170) pounds. If it is determined that any battery or motor on a scooter is unsafe for public use, the City reserves the right to terminate the permit issued for the small vehicle.
 - (2) Other safety standards as they become enacted or adopted.
 - (3) Micromobility devices must have always-on front and back lights that are visible from a distance of at least three hundred (300') feet under normal atmospheric conditions at night. Front and rear lights must stay illuminated for at least ninety (90) seconds after the vehicle has stopped.
 - (4) All micromobility devices must have, and clearly display, a unique, permanent identification number that is provided to the city.
 - (5) All micromobility devices must be inspected, maintained, and/or replaced on a mutually agreed-upon schedule with the City.
 - (6) Operators must have the ability to remotely lock-down individual micromobility devices (e.g. when they are deemed/reported unsafe).
- (b) All operators permitted pursuant to this program shall provide a mechanism for users to notify the operator of any safety or maintenance issues with the micromobility devices.
- (c) All operators shall provide visible language that notifies the user:
 - (1) That a micromobility device shall not be operated in a way that violates federal, state, or local law.
 - (2) That a micromobility device may not be operating on sidewalks that are solely intended for pedestrians.
 - (3) That whenever operating a micromobility device upon a sidewalk that is not solely intended for pedestrians, the user shall yield to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
 - (4) That helmet use is encouraged while riding.

- (5) Of the 24-hour customer service phone number, providing that number prominently on the micromobility device, for users and the general public to report safety concerns, complaints or ask questions.
- (6) Of the micromobility device unique identifier.
- (d) All permitted operators shall have a minimum of one million dollars (\$1,000,000.00) in automobile insurance and two million dollars (\$2,000,000.00) in commercial general liability insurance issued by an insurance company qualified to do business in the state and naming the City of Fort Walton Beach as an additional insured. The operator's insurance shall be primary for any liability arising out of its operator or user's use of operator's small vehicle/micromobility device. Such policy shall expressly provide that it may not be canceled, except after thirty (30) days written notice to the City of Fort Walton Beach Growth Management Department. An operator shall notify the City of Fort Walton Beach Growth Management Department of any modification, amendment, cancellation or substitution of any insurance policy required under this section within fourteen (14) days of the date of the notice to the operator of such modification, amendment, cancellation or substitution. If the policy of insurance required by this subsection lapses for any reason the operator's permit shall become void.
- (e) Operators shall include in their agreements with users a term that users must agree to as a prerequisite to the use of the operator's micromobility devices that the user fully releases and waives all liability of the City for any injury or harm the user experiences arising from the user's use of the operator's micromobility device and that the user assumes all risks associated with operating the micromobility device in the City
- (f) Operators shall agree that the City is not responsible for educating users on how to ride or operate a micromobility device.
- (g) Operators shall inform and regularly educate all users regarding all laws and regulations applicable to riding, operating and parking a micromobility device and instruct users to comply with these laws and regulations.
- (h) All micromobility devices shall include on-board GPS to ensure an operator's ability to locate and retrieve them as needed.

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2082, § 2, 10-12-21)

11.14.07 - Use and Parking of Micromobility Devices.

- (a) Micromobility devices may be operated on any part of a street or highway where bicycles are authorized to travel, including a bicycle lane or other portion of a roadway designated for exclusive use by bicyclists, the shoulder or berm, and any path or trail intended for use by bicyclists, except those areas listed below:
 - (1)

Micromobility devices are prohibited from operating at all times along the following roadways: US 98 (Miracle Strip Parkway), SR 85 (Eglin Parkway), SR 145 (Perry Avenue), SR 189 (Beal Parkway), and SR 393 (Mary Esther Cutoff).

- (b) Hours of operation for micromobility mobility devices: Micromobility devices may only operate between the hours of 7:00 a.m.—10:00 p.m. daily.
- (c) Operators shall inform users on how and where to properly use and park a micromobility devices and on the area of the City in which micromobility devices may be operated. Operators shall provide a mechanism for the user to acknowledge these requirements each time a micromobility device is rented.
- (d) Any micromobility device parked in any one (1) location for more than two (2) consecutive days without moving may be removed as provided by this section.
- (e) Any micromobility device parked on private property without the permission of the owner or occupier of the property shall be subject to immediate removal. The owner or occupier of private property desiring the removal of a micromobility device from their property may call the operator of the micromobility device to have the small vehicle removed from the property. If the micromobility device is not removed from the property within two (2) hours, the owner or occupier of the private property may call the Fort Walton Beach Growth Management Department to initiate the removal of the micromobility device.
- (f) Any micromobility device shall be upright when parked.
- (g) Micromobility devices shall not be parked in such a manner as to impede the right-of-way or impede access to the right-of-way as defined at a minimum by current Public Rights-of-Way Accessibility Guidelines (PROWAG) standards, and consistent with the following:
 - (1) Operators shall inform users on how to park micromobility devices properly, following the requirements for parking outlined in this section.
 - (2) Restrictions to eligible micromobility devices parking zones on sidewalks:
 - a. Micromobility devices shall not be parked on blocks in such a way as to reduce clear passage below forty-eight (48) inches.
 - b. Micromobility devices shall not be parked in locations where micromobility devices parking is determined to be prohibited by the City.
 - c. Micromobility devices may not be parked within or obstruct:
 - 1. Parklets.

2. Parks except next to bike racks.
3. Transit Stops.
4. Public Bike Share stations.
5. Loading Zones.
6. Disabled Parking Zone.
7. Street furniture that requires pedestrian access (e.g. - benches, parking pay stations, bus shelters, etc.).
8. Curb ramps, crosswalks, or driveways.
9. Building entryways, including those entryways to pedestrian paths that lead to building entryways.

(h) All operators shall provide contact information for relocation requests on each micromobility devices.

(i) Whenever operating a micromobility devices upon any path or trail intended for use by bicyclists, the user shall yield to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(j) All operators shall comply with any restrictions developed by the City regarding where micromobility devices can be deployed, placed, parked, and operated.

(k) Only one (1) person shall be on a micromobility device, unless the vehicle is equipped with seating for additional users.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.08 - Removal of improperly parked Micromobility Devices.

Any micromobility device improperly parked or otherwise in violation of this section, may be removed by the City, its designee, or its contractors. The operator will be responsible for all fees.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.09 - Operations of Dockless Small Vehicle Share Systems.

(a) All operators shall have a staffed operations center within the boundaries of the city of Fort Walton Beach.

(b) All operators shall have a 24-hour customer service phone number for users and others to report safety concerns, complaints or ask questions. The phone number shall be visible on all of the operator's micromobility devices, signage and other equipment.

- (c) All operators shall provide the City with contact information, such as name, phone number, and email, of a Fort Walton Beach-based manager or operations staff available twenty-four (24) hours a day, seven (7) days a week. The Fort Walton Beach-based manager or operations staff shall be capable of rebalancing or relocating micromobility devices and be able to respond to City requests, emergencies, and other issues at any time.
- (d) Operators shall respond to requests for rebalancing, relocation, reports of incorrectly parked small vehicles, or reports of unsafe/inoperable vehicles by relocating, re-parking, or removing the micromobility devices, as appropriate. Any unsafe, in-need-of-repair micromobility devices shall be removed within two (2) hours, and it must be repaired before placed back onto the right-of-way or into revenue service.
- (e) Every micromobility device shall have a unique identifier, such as a unit number, that is visible to the user on the micromobility devices.
- (f) If the City or any City department or office incurs any costs as a result of addressing or abating any operator's violation of these requirements, or incurs any costs of repair or maintenance of public property, upon receiving written notice of the costs, the permitted operator shall reimburse the City for such costs within thirty (30) days.
- (g) The City reserves the right to terminate micromobility devices, dockless small vehicle system permits. If an operator's permit is terminated, operator shall decommission micromobility devices fleet within thirty (30) days unless a different time period is determined by the City of Fort Walton Beach.
- (h) The City may take any appropriate steps or assess any penalties or sanctions to compel operators to comply with this ordinance, any other City ordinance, or any other law. This shall include termination of an operator's permit.
- (i) The City shall establish, and all operators shall comply with, procedures and protocol in the event of extreme weather, emergencies, and special events.
- (j) The City has the power and is authorized to do all acts and things necessary or convenient to implement this ordinance, to promote and protect public safety, and to ensure the right-of-way is not impeded.
- (k) Operators found in violations of this section shall be fined for an initial offense, and for any repeat offenses within thirty (30) days of the last same offense by the same operator. Fine rates shall be included in the City's Comprehensive Fee Schedule.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.10 - Data Sharing.

Operators must be able to provide accurate monthly summaries to the City describing customer and staff incidents, injuries, system operation, system use, reported complaints, customer service responses, and system maintenance. Reports will be provided to the City in the format defined by the City.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.11 - Number of Small Vehicles allowed.

- (a) An operator's fleet is limited to seventy-five (75) micromobility devices for the first month of the approved business tax receipt.
- (b) After the first month, an operator may submit a request to increase its fleet size based on demonstration of utilization rate. Fees based on new fleet size apply. During a permitted month, an operator will be permitted to operate with less than but not more than the fleet size permitted for any given month.
- (c) Operators must demonstrate successfully meeting a minimum average utilization threshold of one (1) ride per day per vehicle for each type of dockless vehicle. City may require permitted operators to reduce their fleet size on a monthly basis if operator's provided data demonstrates its fleet is being used below the average utilization threshold.
- (d) Operators shall notify the City if they plan to change their fleet size two (2) weeks before deployment. This notice shall include the additional program administrative fee for the expanded fleet and documentation of their updated performance bond.

(Ord. No. 2016, § 2(Exh. A), 9-10-19; Ord. No. 2082, § 2, 10-12-21)

11.14.12 - Adoption of state laws relating to bicycles and electric bicycles.

Except as otherwise specified by this article or state law, the Florida requirements and laws applicable to bicycles and electric bicycles shall apply to micromobility devices.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.13 - Child Small Vehicle safety rules and regulations.

The following is prohibited:

- (1) For any person under sixteen (16) years of age to operate a micromobility device unless at all times when so engaged the person wears a protective bicycle helmet of good fit fastened securely upon the head with the straps of the helmet;
- (2) For any person under fourteen (14) years of age to operate a micromobility devices; and
- (3) For any parent or legal guardian of a person under fourteen (14) years of age to knowingly permit the person to operate a micromobility device in violation of subdivision (2).

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

11.14.14 - Health and Safety.

For any reason, such as, but not necessarily including, safety concerns or multiple violations of this article, the City Council may at any time suspend or terminate the operations of any or all micromobility devices, dockless small vehicle systems in order to maintain health and safety in the City. Should micromobility devices, dockless small vehicle systems be suspended or terminated, operators will not be entitled to the refund of any fee or expense.

(Ord. No. 2016, § 2(Exh. A), 9-10-19)

Kim/Lance, I thought I would provide some thoughts on where I and my PW/PS Committee are on e-bikes. Based on council direction, I have been researching e-bike regulation possibilities over the last month.

I purposely did not copy anyone else on this note for now.

At my May PW/PS meeting I had the following motion approved by a unanimous vote. This motion was designed to ban rental of e-bikes, allow for use on sidewalks/multipurpose paths (deemed safer than roadways), ban use in parks and provide the OCSO some reckless use rules for enforcement. We considered speed limits but based on OSCO comments and my own knowledge of radars, speed enforcement via radar is not practical. Most electronic bikes do have speedometers, so a speed limit could theoretically be posted, but enforcement would not be practical. Is it worth having if it cannot be enforced? I do not think so.

My PW/PS Meeting Motion

- E-Bike rentals within the city of Destin by commercial/private entities are **not authorized**.
- E-Bike personal ownership and uses are authorized under the **following conditions**:
 - E-Bikes are authorized on the wider 6-, 8-, & 10-foot multipurpose paths, this is the preferred use for over roadways for safety purposes.
 - May be operated on roadways or bike lanes on roadways as desired by the operator with the understanding of increased safety risks in these venues:
 - Will not be operated within city parks (grass fields and/or walking paths).
 - Use of E-Bikes must not be operated in a reckless manner. **Reckless is defined as:**
 - Must be operated without willful or wanton disregard for the safety of others.
 - Must be operated in such a manner that it is not to cause unreasonable risk or harm to a person or property of others on a city multipurpose path or roadways.
 - Must be operated in such a manner that reasonable and prudent under the conditions existing at the time having regard to the actual and potential hazards existing

I requested and received a copy of our Rental scooter ban (Ordinance 20-18-LC). My question. does the with or without seat or saddle already encompass an e-bike?

Motor Scooter or Scooter - Any vehicle or micro-mobility 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 and shall include a moped as defined in FS 316.03(41) (2019). and any other two or three wheeled, self-propelled vehicle for which state law does not require proof of financial responsibility (see Chapter 324, Florida Statutes(2019)).

Since I have researched the definitions (classifications) of e-bikes in FL Statute (below)

E-Bikes Defined: The state of Florida (FL) defines electric bicycles as a bicycle or a tricycle

equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts. Electric bikes are categorized into 3 categories:

- Class 1 is for bikes equipped with a motor that provides assistance only when the rider is pedaling, and it stops when the electric bicycle reaches the speed of 20 mph.
- Class 2 is for bikes equipped with a motor & throttle that can power up the bike even when the rider isn't pedaling, and it ceases to provide assistance when the electric bicycle reaches the speed of 20 mph.
- Class 3 applies to those bikes equipped with a motor that provides assistance only when the rider is pedaling, and it stops when the electric bicycle reaches the speed of 28 mph.

316.20655 Electric bicycle regulations.

(1) Except as otherwise provided in this section, an electric bicycle or an operator of an electric bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle, including s. [316.2065](#). An electric bicycle is a vehicle to the same extent as a bicycle. However, this section may not be construed to prevent a local government, through the exercise of its powers under s. [316.008](#), from adopting an ordinance governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction or to prevent a municipality, county, or agency of the state having jurisdiction over a bicycle path, multiuse path, or trail network from restricting or prohibiting the operation of an electric bicycle on a bicycle path, multiuse path, or trail network.

(2) An electric bicycle or an operator of an electric bicycle is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles.

(3) Beginning January 1, 2021, manufacturers and distributors of electric bicycles shall apply a label that is permanently affixed in a prominent location to each electric bicycle. The label must contain the classification number, top assisted speed, and motor wattage of the electric bicycle.

(4) A person may not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or engagement of an electric bicycle, unless the label indicating the classification number required in subsection (3) is replaced after such modification.

(5) An electric bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission under 16 C.F.R. part 1512.

(6) An electric bicycle must operate in a manner so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are

applied.

(7) An operator may ride an electric bicycle where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths.

History.—s. 8, ch. 2020-69.

In the last few days, I have talked to Capt. Jason Fulghum (OCSO), Troy Williams (Destin Code Compliance Director) and Lisa Firth (Recreation Director). We all seem to be in basic agreement. I have discussed my idea (motion above) with all and received no pushback.

Remaining Issues:

1. Have I hit the mark on what the council expects?
2. Do we add other generic or specific language to catch items like One-Wheels (electronic skateboard w/central positioned large wheel) or just do as I will suggest and leave all other items alone until specific issues arise?
3. Parks and Rec has already posted signs in new parks forbidding the use of bicycles, scooters, skateboards etc. in parks in Ord 117 (this does not sound like a proper Ord #, but what I took from the excerpt that Lisa provided). E-bikes are bicycles so in effect already banned from Parks. Would adding and specifically listing electronic versions provide clarity for enforcement?

Based on my research, conversations and current ordinances I recommend the following:

1. Update Ordinance 20-18-LC to include e-bikes with a proper statutorily correct definition based on the 3 classifications of e-bikes:
2. Add the PW/PS approved motion as rules for use (to include banning in parks) and provide the reckless use rules from the same motion.
3. Maybe consider some generic or specific wording to catch items like (One-Wheels and similar vehicles). Government always has difficulty keeping up with societal changes. Do we attempt to with the ordinance or just leave it alone until specific issues arise?

If this is not the direction we desire, I need some guidance to adjust my thought process.

Do I request a draft ordinance so my PW/PS Committee can recommend for adoption? Not sure the exact path forward.

Thanks, Jim Wood