

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2019 - 2359

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 18 BY ADDING A NEW SECTION 18-92, ENTITLED “MOTOR-ASSISTED SCOOTERS, BICYCLES AND OTHER SHARED MOBILITY SERVICES,” PROVIDING EXCEPTIONS TO THE ORDINANCE; MAKING CERTAIN LEGISLATIVE FINDINGS; PROHIBITING THE OPERATION OF SHARED MOBILITY SERVICES WITHIN THE CITY; PROHIBITING ANY PERSON OR OPERATOR TO PARK OR PLACE A BICYCLE EQUIPPED WITH GPS, ELECTRIC BICYCLE, MOTOR-ASSISTED SCOOTER OR OTHER SIMILAR PERSONAL TRANSPORTATION DEVICE ON A PUBLIC WAY, PUBLIC PROPERTY OR OTHER PUBLIC AREA OR IN A MANNER THAT IMPEDES ACCESS OR INGRESS TO, EGRESS FROM OR USE OF A PUBLIC WAY, PUBLIC PROPERTY OR OTHER PUBLIC AREA; PROVIDING FOR THE REMOVAL, IMPOUNDMENT, IMPOUNDMENT FEE, AND DISPOSITION OF IMPOUNDED BICYCLES EQUIPPED WITH GPS, ELECTRIC BICYCLES, MOTOR-ASSISTED SCOOTERS OR OTHER SIMILAR PERSONAL TRANSPORTATION DEVICES IN VIOLATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 311.001 of the Texas Transportation Code provides that the City of The Colony, Texas (hereinafter referred to as the “City”), “has exclusive control over and under the public highways, streets, and alleys of the municipality”; and

WHEREAS, Section 316.021 of the Texas Transportation Code provides that the City “may permit and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for a private purpose if the use does not: (1) interfere with the public use of the street or sidewalk; or (2) create a dangerous condition on the street or sidewalk”; and

WHEREAS, Section 551.352(b) of the Texas Transportation Code provides the authority for the City to prohibit the operation of a motor-assisted scooter on a street, highway, or sidewalk if the City Council determines that the prohibition is necessary in the interest of safety; and

WHEREAS, Section 51.001 of the Texas Local Government Code provides the authority for the City to adopt an ordinance, rule or police regulation that is for the good government, peace, or order of the City, and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council of the City of The Colony, Texas, has discussed and considered such regulations and has determined that it is in the interest of safety for the City to adopt the following regulations concerning motor-assisted scooters, bicycles and other shared mobility services.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THAT:

SECTION 1. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. The Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by amending Chapter 18, by adding a new section 18-92, entitled "Motor-assisted scooters, bicycles and other shared mobility services," which shall read as follows:

"Sec. 18-92. - Motor-assisted scooters, bicycles, and other shared mobility services.

(a) *Definitions.*

- (1) *Bicycle equipped with GPS* means a device that a person may ride and that is propelled by human power and has two (2) tandem wheels at least one of which is more than fourteen (14) inches in diameter, which has a global positioning system (GPS) to determine the geographic location of the bicycle.
- (2) *Electric bicycle* means a bicycle that is designed to be propelled by an electric motor, exclusively or in combination with the application of human power; cannot attain a speed of more than twenty (20) miles per hour without the application of human power; and does not exceed a weight of one hundred (100) pounds.
- (3) *Motor-assisted scooter* has the same meaning as defined in section 551.351(1) of the Texas Transportation Code, as amended.
- (4) *Operator* means a corporation, firm, joint venture, limited liability company, partnership, person or other organized entity that operates a shared mobility service, whether for profit or not for profit.
- (5) *Public way or public property* means real property owned, leased or controlled by a political subdivision of the state, a governmental entity or agency, or similar entity, or any property that is publicly owned or publicly maintained or dedicated to public use, including, but not limited to, a path, trail, walkway, sidewalk, alley, roadway, easement, street or highway, or a public park facility.
- (6) *Shared mobility service* means any service that displays, offers, or places for rent on a public way or public property one or more bicycles equipped with GPS,

electric bicycles, motor-assisted scooters or other similar personal transportation devices that may be locked and unlocked with or without a docking station.

(b) *Exception and findings.*

- (1) This section does not apply to a moped or motorcycle; a motorized mobility device, as defined in section 542.009 of the Texas Transportation Code, as amended; an electric personal assistive mobility device, as defined in section 551.201 of the Texas Transportation Code, as amended; or a neighborhood electric vehicle, as defined in section 551.301 of the Texas Transportation Code, as amended.
- (2) The City Council finds and determines that the prohibition on shared mobility services on any street, highway, or sidewalk within the City is necessary in the interest of safety.

(c) *Offenses and penalty.*

- (1) It shall be unlawful for any person or operator to operate a shared mobility service within the City.
- (2) It shall be unlawful for any person or operator to park or place a bicycle equipped with GPS, electric bicycle, motor-assisted scooter or other similar personal transportation device on a public way, public property or other public area or in a manner that impedes access or ingress to, egress from or use of a public way, public property or other public area.
- (3) The penalty for a violation of this section shall be a fine not to exceed the sum of \$500.00 for each offense.

(d) *Removal, impoundment, impoundment fee and disposition.*

- (1) The City may remove and impound any bicycle equipped with GPS, electric bicycle, motor-assisted scooter or other similar personal transportation device owned or controlled by a shared mobility services operator that is found in any public way, public property or other public area within City.
- (2) After impoundment, City shall send a notice of impoundment via email or U.S. mail to the owner of the impounded property, if known or clearly ascertainable from external markings. The owner of the impounded property shall satisfy any and all conditions or policies related to such impoundment prior to retrieval of the property.
- (3) The owner of the impounded property shall be subject to an impoundment fee of fifty dollars (\$50.00) per bicycle equipped with GPS, electric bicycle, motor-assisted scooter or other similar personal transportation device. The impoundment

fee shall be assessed against and collected from the owner of the impounded property as a condition of retrieval.

- (4) City may dispose of an impounded bicycle equipped with GPS, electric bicycle, motor-assisted scooter or other similar personal transportation device in a manner consistent with Texas law if the owner does not satisfy any and all conditions or policies related to such impoundment after thirty (30) calendar days from the date of its impoundment. City may determine the manner of disposal in its sole discretion, including public auction, sealed bids, donation or destruction."

SECTION 3. If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. All provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 6. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 16th day of April, 2019.

/s/Joe McCourry, Mayor

ATTEST:

/s/Tina Stewart, City Secretary

APPROVED AS TO FORM:

/s/Jeff Moore, City Attorney