

ORDINANCE 2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA, AMENDING CHAPTER 11, TRAFFIC & VEHICLES, OF THE CODE OF ORDINANCES TO INCLUDE NEW REGULATIONS ADDRESSING MOTORIZED SCOOTERS AND MICROMOBILITY DEVICES ; PROVIDING DEFINITIONS; CREATING STANDARDS FOR OPERATION; CREATING OTHER MISCELLANEOUS PROVISIONS; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WALTON BEACH, FLORIDA AS FOLLOWS:

Section 1. Authority and Intent

The authority for enactment of this ordinance is pursuant to the powers vested in the City by Section 166.021 (1) of the Florida Statutes, and the City Charter.

Section 316.2128 of the Florida Statutes allows for the operation of motorized scooters and micromobility devices on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction.

Section 2. Amendment of Chapter 11, Traffic & Vehicles

Chapter 11, Traffic & Vehicles, of the Fort Walton Beach Code of Ordinances shall be amended to include Section 11.14 Motorized Scooters & Micromobility Devices as provided in Exhibit A.

Section 3. Severability

In the event any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of City Council that such invalidity shall not affect any other provisions of the Ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are declared severable.

Section 4. Effective Date

This Ordinance shall take effect immediately upon approval upon second reading by City Council and the signature of the Mayor.

Adopted: September 10, 2019

Richard A. Ryneerson, Mayor

Attest:

Approved for form, legal sufficiency

Kim M. Barnes, City Clerk

Hayward Dykes, Jr., City Attorney

1.14 **MOTORIZED SCOOTERS & 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 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.

Pilot Period. Means the one-year period beginning on the effective date of this ordinance.

User. Means a person who rents and uses a Micromobility Device from an operator.

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.

11.14.3 - 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.

11.14.4 - 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 his 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.

11.14.5 - 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) All business tax receipts issued shall expire at the end of the Pilot Period unless the program is extended beyond the term of the Pilot Period through approval by City Council.

(d) 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:

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

11.14.6 - **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. All 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.

All permitted operators shall have a minimum of one million dollars (\$1,000,000) in automobile insurance and two million dollars (\$2,000,000) 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.

(d) 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

(e) Operators shall agree that the City is not responsible for educating users on how to ride or operate a micromobility device.

(f) 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.

(g) All micromobility devices shall include on-board GPS to ensure an operator's ability to locate and retrieve them as needed.

11.14.7 - 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 am – 10:00 pm 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 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:
 - i. Micromobility devices shall not be parked on blocks in such a way as to reduce clear passage below forty-eight (48) inches.
 - ii. Micromobility devices shall not be parked in locations where micromobility devices parking is determined to be prohibited by the City.
 - iii. 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 person shall be on a micromobility device, unless the vehicle is equipped with seating for additional users.

11.14.8 - 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.

11.14.9 - 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 24 hours a day, 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 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.

11.14.10 - Data Sharing.

(a) 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.

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 during the Pilot Period.

(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 two (2) rides per day per vehicle for each type of dockless vehicle and these utilization rates must be demonstrated after the first and each consecutive month thereafter during the Pilot period.

(d) 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.

(e) 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.

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.

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).

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.