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ORDINANCE NO. 51-049

AN ORDINANCE AMENDING SECTIONS 9.03.010 AND 9.03.400, AND CREATING SECTIONS 9.03.405, 11.04.083, 11.04.093, AND CHAPTER 11.50 OF THE CODE OF THE CITY OF WICHITA PERTAINING TO ELECTRIC-ASSISTED SCOOTERS, AND REPEALING THE ORIGINALS OF SECTIONS 9.03.010, AND 9.03.400.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 9.03.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Definitions.

The following words and phrases, whenever used in this Chapter, shall be defined as follows:

Amplified sound means sound projected and transmitted by electronic equipment, including amplifiers.

Amplified speech means speech projected and transmitted by electronic means.

Bicycle means every vehicle propelled by human power upon which any person may ride having two or more wheels, any of which is more than 14 inches in diameter, but does not include any mobility device as defined by the Americans with Disabilities Act.

Board means the Board of Park Commissioners of the City of Wichita, Kansas.

Buildings means those structures or any portion thereof under the management of the Department of Park and Recreation of the City of Wichita.

Camp means to set up, or to remain in or at a campsite, for the purpose of remaining overnight, or establishing or maintaining a temporary place to live.

Campsite means any place where:

1. Any bedding, sleeping bag, tarpaulin, cot, bed, hammock, cardboard, newspapers, or other sleeping matter is placed, established, set up, used or maintained; or
2. Any stove, fire or cooking utensils or non-city designated cooking facilities which are placed, established, set up, used or maintained; or
3. Any tent, hut, lean-to, shack, trailer camper, vehicle or any part thereof, or any other shelter or structure which is placed, established, set up, used or maintained.

Camp paraphernalia includes, but is not limited to: tarpaulins, cots, beds, sleeping bags, hammocks, cooking equipment, stoves, lanterns, tents, huts, lean-tos, shacks, trailer campers, vehicles or any part thereof, any other sleeping matter, or any other shelter or structure.

Chief of Police means the chief of police of the city or his or her designee.

City means the City of Wichita.

City Council means the City Council of the City of Wichita.

City Manager means the City Manager of the City of Wichita, or his or her designee.

Director means the Director of the City of Wichita Park and Recreation Department or his or her designee.

Dockless Electric-Assisted Scooter Sharing System means an electric-assisted scooter share program in which companies distribute electric-assisted scooters throughout a city to be rented per trip. These scooters can be locked at any lawful location and not at a set location. Scooters are tracked via GPS and can be located by users.

Electric-assisted scooter means a self-propelled vehicle which is part of a Dockless Electric-Assisted Scooter Sharing System that has at least two wheels in contact with the ground,

an electric motor, handlebars, a brake and a deck that is designed to be stood upon by the user when riding. Electric-assisted scooter does not include: (1) a vehicle that is powered by gasoline; or a motorized skateboard as defined by Title 11 of the Code of the City of Wichita.

Facilities or area means city-owned, board-owned or leased property, improved or unimproved parks and park amenities which are under the management of the Department of Park and Recreation of the City of Wichita.

Motorcycle means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground.

Motor-driven cycle means every motorcycle, including every motor scooter, Segway, four-wheeler or moped, and every bicycle with a motor attached.

Motor vehicle means every vehicle which is self-propelled.

Motorized wheelchair means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

Park or parking means the standing of a vehicle, whether occupied or not.

Park equipment means sporting equipment, bleachers, portable stages, landscaping equipment and other similar equipment utilized by the Department of Park and Recreation of the City of Wichita.

Park property means any real property owned or under the control of the city or the board of park commissioners that is designated for use as a park or recreational facility by the city council. For the purposes of this section, *under the control of* shall include any property right, including easements or other rights of use, regardless of nature, when such right is granted or designated, in whole or in part, for use as a park, recreational facility or for other recreational purposes.

Permit means a document that authorizes the use of parks, equipment or buildings as provided for and defined by this chapter.

Persons means individuals, groups, organizations, associations, partnerships, firms and corporations.

Public right-of-way means the entire width of the area from property line to property line including that area between the roadway and the abutting private property line.

Recreational vehicle means a vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motor. *Recreational vehicle* shall include converted buses and motor homes.

Skateboard means a device for riding upon, either for sport or transportation, which is propelled by human power, consisting of an oblong piece of rigid material mounted upon wheels or rollers, but excluding wagons, scooters, strollers, carts and toy vehicles.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except electric personal assistive mobility device or devices moved by human power or used exclusively upon stationary rails or tracks.”

SECTION 2. Section 9.03.400 of the Code of the City of Wichita is hereby amended to read as follows:

“Vehicles and parking.

It is unlawful for any person to operate or park vehicles, motorcycles or motor-driven cycles on park property except on designated roadways or within designated areas. Such vehicles shall not be operated on designated bicycle, hiking or walking paths.

The prohibitions of this section shall not be applicable to motorized wheelchairs or electric personal assistive mobility devices.”

SECTION 3. Section 9.03.405 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Operation of Electric-Assisted Scooters on Park Property.

- (a) The operation of electric-assisted scooters shall be permitted only on designated bicycle and multiuse paths and in designated areas.
- (b) Electric-assisted scooters shall not be operated on sidewalks or unpaved surfaces.
- (c) Electric-assisted scooters shall not be parked in a manner which impedes pedestrians, bicycles or motor vehicles.”

SECTION 4. Section 11.04.083 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Dockless Electric-Assisted Scooter Sharing System means an electric-assisted scooter share program in which companies distribute electric-assisted scooters throughout a city to be rented per trip. These scooters can be locked at any lawful location and not at a set location. Scooters are tracked via GPS and can be located by users.”

SECTION 5. Section 11.04.093 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Electric-assisted scooter.

Electric-assisted scooter means a self-propelled vehicle which is part of a Dockless Electric-Assisted Scooter Sharing System that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon by the user when riding. Electric-assisted scooter does not include: (1) a vehicle that is powered by gasoline; or a motorized skateboard as defined by this Title.”

SECTION 6. Chapter 11.50 is hereby created to read as follows:

“Electric-assisted scooters.

Section 11.50.005 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

Preamble:

WHEREAS, pursuant to Art. 12, Section 5 of the Kansas Constitution, the City of Wichita is granted Home Rule Authority to pass ordinances not in conflict with the Constitution and laws of the State of Kansas or the law of the United States; and

WHEREAS, the City Council finds that this ordinance is not inconsistent with the provisions of the Constitution and laws of the United States and the State Kansas; and

WHEREAS, the City Council anticipates a profusion of shared electric-assisted scooters being deployed within the City by companies as part of the Dockless Electric-Assisted Scooter Sharing Systems; and

WHEREAS, such profusion and congestion of scooters, particularly in the City’s Downtown areas, will produce unique safety and traffic concerns which are not present for scooters owned by private individuals; and

WHEREAS, currently there is no regulation or guidelines regarding the operation of such electric assisted scooters; and

WHEREAS, the City seeks to promote shared mobility in the short and long term to promote greater connectivity, access and quality of life and recognizes shared mobility is essential to improve air quality, reduce motor vehicle traffic and promote equitable and accessible systems of transportation; and

WHEREAS, the City Councils finds it is in the public's interest to establish policies and procedures for electric scooter sharing programs to improve mobility options while protecting health, safety and general welfare of individuals and the community at large.

SECTION 7. Section 11.50.010 of the Code of the City of Wichita is hereby created to read as follows:

Electric-assisted scooter operation

- (a) Except as set forth below, the operation of electric-assisted scooters shall be permitted upon a street, highway or roadway and on designated bicycle and multiuse paths and in designated areas.
- (b) It shall be unlawful for any person to operate an electric-assisted scooter on the sidewalk.
- (c) It shall be unlawful for any person to operate an electric-assisted scooter on a street with a posted speed limit of forty (40) miles per hour or higher unless there is a bike lane on such roadway.
- (d) It shall be unlawful for any person to engage in any activity that interferes with the safe operation of the electric-assisted scooter.
- (e) It shall be unlawful for any person to operate an electric assisted scooter in such a manner as to indicate a careless or heedless disregard for the rights or safety of others or in such a manner as to endanger or be likely to endanger any person or property.
- (e) Every person riding an electric-assisted scooter upon a street, highway or roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Title except as to special

ordinances so designated and except to those provisions of this code which by their nature can have no application.

- (f) Every person operating an electric-assisted scooter upon a street, highway or roadway at less than the normal speed of traffic shall ride as near to the right side of the street, highway or roadway as practicable except when:
 - (1) Preparing to make a left turn at an intersection or into a private drive or roadway;
 - (2) Reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow width lanes that make it unsafe to continue along the right-hand edge of the street, highway or roadway.

For the purposes of this section, “Narrow width lane” means a lane that is too narrow for a bicycle or stand up electric-assisted scooter and a vehicle to travel safely side-by-side within the lane.
- (g) Any person operating an electric-assisted scooter upon a one-way street, highway or roadway with two or more marked traffic lanes shall ride as near to the left side of the roadway as practicable.
- (h) Persons riding electric-assisted scooters upon a street, highway, or roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles or electric-assisted scooters.
- (i) No electric-assisted scooter shall be used to carry more persons at one time than the number for which it is designed or equipped.

- (j) It shall be unlawful for any person while riding an electric-assisted scooter on the streets, highways, bicycle or multiuse paths of the City, to hitch or otherwise attach him or herself onto other moving vehicles.
- (k) A person operating an electric-assisted scooter across a street, highway or a roadway or along a crosswalk shall yield the right of way to any pedestrian and shall give the audible signal before overtaking and passing such pedestrian.
- (l) Any person operating an electric-assisted scooter across a roadway or along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances.
- (m) It shall be unlawful for any person to operate an electric-assisted scooter upon the roadway, street, highway or bicycle or multiuse path between the hours of dusk or 9:00 P.M., whichever is earlier, and sunrise.
- (n) It shall be unlawful for any person to operate an electric-assisted scooter at a speed in excess of twenty (20) miles per hour.
- (o) Vehicle registration and driver's license shall not be required for operation of an electric-assisted scooter."

SECTION 8. SECTION 11.50.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Operation of Electric-assisted scooter while Under the Influence of Drugs or Alcohol.

- (a) No person shall ride or attempt to ride an electric-assisted scooter on any sidewalk, street, roadway, highway, or public path set aside for the exclusive use of pedestrian and bicycle traffic, including all public parks and

playgrounds or other property under the ownership, jurisdiction or control of the city, the board of park commissioners or any other agency created to provide a public service, while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug to a degree which renders such person a hazard.

- (b) Any person arrested for a violation of this section may request to have a chemical test made of the person's blood, breath, or urine for the purpose of determining the alcoholic or drug content of that person's blood, and, if so requested, the arresting officer shall have discretion as to the appropriate test to be performed.
- (c) Any person, who, within the corporate limits of the city, violates any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500.00, or by six months imprisonment, or by both such fine and imprisonment.”

SECTION 9. Section 11.50.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Prohibited Parking of Electric-Assisted Scooters

- (a) It is unlawful for any person to park or leave an electric-assisted scooter on public property where such electric-assisted scooter blocks pedestrian’s travel or presents a traffic hazard.
- (b) It is unlawful for any person to park or leave an electric-assisted scooter in the area adjacent to or within the following areas:
 - 1. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycles racks;

2. Loading zones;
 3. Disabled parking zones;
 4. Curb ramps;
 5. Driveways and driveway approaches;
 6. Motor Vehicle parking spaces;
 7. Motor vehicle driving lanes or bicycle lanes; and
 8. Entrances to private property or driveways.
- (c) It is unlawful for any person to park or leave an electric-assisted scooter in any manner or to impede or interfere with the access to or from any building.”

SECTION 10. Section 11.50.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Impoundment of Electric-Assisted Scooters.

Electric-assisted scooters may be impounded or taken to any other place of safety by the police department or another authorized city representative when:

- (a) The electric-assisted scooter is reported or determined to be stolen and is recovered;
or
- (b) The electric-assisted scooter is abandoned; or
- (c) The electric-assisted scooter is left on public property where that scooter blocks pedestrian travel or presents a traffic hazard.

An impounded electric-assisted scooter shall not be released by the City until all necessary impound fees have been paid and the rightful owner is found and shows proof of ownership.”

SECTION 11. Section 11.50.080 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Penalties

Except as otherwise provided, the Administrative Municipal Court Judge shall establish a schedule of fines to be imposed for violations of this Chapter.”

SECTION 12. Section 11.50.090 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Severability.

The provisions of this ordinance are severable and should any such provision be declared unconstitutional or unenforceable, such declaration shall not affect any of the remaining provisions hereof.”

SECTION 13. Sections 9.03.010 and 9.03.400 of the Code of the City of Wichita are hereby repealed.

SECTION 14. This Ordinance shall take effect following its adoption and publication in the official City newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 18th day of June, 2019.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer L. Magaña
City Attorney and Director of Law