Ordinance 2021-24

AN ORDINANCE OF THE CITY OF ST. PETE BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 74 – STREETS AND SIDEWALKS AND ADOPTING ARTICLE III – MICROMOBILITY; PROVIDING FOR SECTION 74-68 – DEFINITIONS; SECTION 74-69 – GENERAL PROVISIONS; SECTION 74-70 – MICROMOBILITY LICENSE AGREEMENT; SECTION 74-71 – REQUIREMENTS FOR MICROMOBILITY DEVICES FOR PUBLIC USE; SECTION 74-72 – PENALTIES; SECTION 74-73 – SECTION 74-80 – RESERVED; PROVIDING FOR CODIFICATION; CONFLICTS; SEVERABILITY; CORRECTION OF SCRIVENER’S ERROR; CONSTRUCTION; PUBLICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Pete Beach wishes to establish regulations for micromobility users and providers operating within the City to protect the general welfare, health, and safety of the public.

WHEREAS, the Code of Ordinances Chapter 74 – Streets and Sidewalks does not currently include any specific regulations related to micromobility.

WHEREAS, Section 316.2128, Florida Statutes, provides motorized scooters and micromobility devices all of the rights and duties applicable to the rider of a bicycle.

WHEREAS, Section 316.2128, Florida Statutes, allows for local governments to pass ordinances governing the operation of micromobility and motorized scooters on streets, highways, sidewalks, and sidewalk areas under local government’s jurisdiction.

WHEREAS, the City of St. Pete Beach wishes to establish Article III - Micromobility to improve the safety for micromobility users, protect pedestrians and cyclists, ensure vehicle access, regulate micromobility providers, and reduce the risk of micromobility vehicles becoming a nuisance within the City of St. Pete Beach.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, HEREBY ORDOINS:

SECTION 1. Recitals. The above recitals ("Whereas" clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The Code of Ordinances Chapter 74 is amended as follows:

ARTICLE III. – MICROMOBILITY

Sec. 74-68.- Definitions

The following terms will be defined for this Article:

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Words stricken through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.
Electric Bicycles are electric bicycles or tricycles equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts, as defined in F.S. 316.003, as amended.

Electric Personal Assistive Mobility Device is any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.

Micromobility Device means any motorized transportation device which is not capable of traveling at a speed greater than 20 miles per hour on level ground. This term includes motorized scooters, electric bicycles, and electric personal assistive mobility devices as defined by F.S. 316.003, as amended. Devices required by handicapped are exempt.

Micromobility Parking is approved parking for micromobility devices.

Micromobility Provider means any person or entity which makes available to the public any number of micromobility devices for use on the streets and sidewalks of the City by reservation through an online application, website, or software for point-to-point trips. This definition does not include an owner of a motorized scooter or electric bicycle which is solely used for private transportation by its owner.

Motorized Scooters are 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 as defined in F.S. 316.003, as amended.

Sec. 74-69.- General provisions

(a) All micromobility devices are subject to all the rules and regulations below:

(1) The riding of such devices shall be prohibited upon any sidewalk or on the beach within the City or any area as designated by the City where notice is posted. Operation of such devices whether privately owned or not is prohibited on sidewalks except for the purposes of parking the device in an acceptable location.

(2) Micromobility devices shall be allowed to operate on streets within designated bike lanes or shared lane markings if available, shared use paths designated by the City, or upon streets with a posted speed limit of 25 mph or less.

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(3) The City Manager, or designee, has the authority to further restrict the use of micromobility devices in cases where a roadway may be closed due to an event or to maintain public health, safety, or general welfare of the community.

(b) In addition to City Code, micromobility devices are subject to any and all state laws pertaining to micromobility devices, motorized scooters, or electric bicycles, as applicable, and as may be amended.

(c) No person under the age of 16 years old shall operate a micromobility device within the City. It is unlawful for the parent, legal guardian, or custodian of a minor child to knowingly permit the child to violate any provision of this article.

(d) Ridership of more than one person on any micromobility device or motorized scooter shall be prohibited. The ridership of more than one person on any electric bicycle shall be prohibited unless the electric bicycle is specifically designed to carry more than one person.

(e) All micromobility devices within the City shall be limited to a maximum speed of 15 mph, except electric bicycles shall be limited to a maximum speed of 20 mph.

(f) All micromobility devices regardless of ownership, shall not be parked in a manner that obstructs any ingress or egress from any building or parking area, or in a manner that prevents any sidewalk or walkway from maintaining at least five (5) feet of walkway clearance.

Sec. 74-70.- Micromobility License Agreement

(a) Any micromobility provider who wants to rent, provide at no cost, or otherwise make available to the public micromobility devices shall have a current micromobility license agreement with the City to operate its devices.

(b) License agreements with micromobility providers shall first come before the City Manager, or designee, prior to execution.

(c) The City Manager, or designee, reserves the right to limit the number of license agreements issued to maintain public health, safety, or general welfare of the community.

(d) The City Manager, or designee reserves the right to cancel any license agreement, if there is a violation of the article, violations involving public health, safety or general welfare, failure to maintain the required insurance or otherwise comply with this article, or for other good and sufficient cause as determined by the City Manager, or designee, at his or her sole discretion.

(e) Micromobility providers shall provide proof of insurance to the City of St. Pete Beach
at the following minimum limits:

(1) Commercial General Liability Insurance coverage with a limit of at least $5,000,000 per occurrence and with a $5,000,000 aggregate limit.

(2) Commercial Automobile Liability insurance coverage with a combined single limit of $1,000,000 covering all owned, hired, and non-owned vehicles.

(3) Workers’ Compensation insurance as required by Florida law and Employers’ Liability Insurance in an amount of at least $100,000 each accident, $100,000 per employee, and $500,000 for all diseases.

(4) All insurance policies, except Workers’ Compensation, shall name the City of St. Pete Beach as an additional insured. All insurance required shall be on a primary and noncontributory basis and shall waive subrogation rights of its insurance carriers in favor of the City of St. Pete Beach.

(5) Upon the cancellation or lapse of any policy of insurance as required by this section, the license issued pursuant to this section shall be immediately revoked unless, before the expiration date of the policy of insurance, another policy of insurance containing all the requirements of the original policy of insurance is obtained.

(6) Indemnification. As a condition of the license agreement pursuant to this article, the micromobility provider agrees to indemnify, hold harmless, and defend the City of St. Pete Beach, its representatives, employees, officials, and agents, from and against any and all liability and all manner of actions, causes of action, suits, class-action suits, claims, demands, damages, losses, judgments, and expenses of any kind, including reasonable attorney’s fees and costs, in law or in equity, associated with or arising out of the use of the right-of-way or city-owned property for program operations, or associated with or arising from any act, omission, or error of the operator, its owners, agents, contractors, or employees, or associated with or arising from any use, misuse, placement, or misplacement of any micromobility devices, motorized scooters, or electric bicycles, including but not limited to damage to property or bodily injury, including death, or from the failure of the operator, its owners, agents, contractors, or employees, to comply with applicable federal, state, or local traffic laws, including but not limited to any use, misuse, placement, or misplacement of any micromobility devices, motorized scooters, or electric bicycles resulting in alleged violations of the American With Disabilities Act (ADA).

(7) Any person or entity conducting business within the city, who rents or makes available to the public any number of micromobility devices for use within the city and does not meet the definition of a micromobility provider shall be required to enter into a micromobility renter agreement, acknowledging that
they will notify and inform their users of the general provision of Sec. 74-69, comply with safety requirements of Sec 74-71 (1) and (2) and indemnify the city pursuant Sec. 74-70 (6).

Sec. 74-71.- Requirements for Micromobility Devices for Public Use

(a) All electric bicycles utilized in a micromobility program shall conform with the standards set forth in Title 16, Code of Federal Regulations, Chapter II, Subchapter C, Part 1512 - Requirements for Bicycles, the safety standards outlined in ISO 43.150 - Cycles, subsection 4210, and F.S. § 316.2065, as amended.

(b) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065 (7), as amended, 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.

(c) All micromobility units utilized shall include easily accessible and identifiable language that clearly directs users to customer support mechanisms, including not limited to a customer service phone number, websites, and applications. Every micromobility device must have a unique device number and have the name of provider visible on the device.

(d) A micromobility provider shall only place or stage, or allow to be placed or staged, micromobility devices in an upright position within or upon designated micromobility parking stations. Micromobility parking may be located on public or private property. Micromobility parking stations located on private property must receive approval from the property owner. Micromobility parking within the city right of way shall be designated by the City Manager, or designee. All users of micromobility devices shall return the device to a designated parking station at the end of each trip. Penalties for violating this section are included in Sec. 74-72.

(e) Micromobility devices that are inoperable/damaged or do not comply with other subsections of this Code must be removed within two (2) hours upon receipt of the complaint between the hours of 7:00 a.m. and 8:00 p.m., seven days per week and within twelve (12) hours upon receipt of the complaint on holidays by the micromobility provider. An inoperable or damaged micromobility device is one that has non-functioning features (i.e., gear selectors, pedals, bell, lights, etc.) or is missing components (i.e., fenders, grips, chain guards, etc.) as applicable to that vehicle and/or device. Penalties for violating this section are included in Sec. 74-72 (3).

(f) Micromobility provider must detail a plan to relocate the micromobility devices to a safe, indoor facility within 24 hours in the result of a declared tropical weather event (tropical storm or hurricane watch or warning, whichever comes first). The plan must detail the amount of time it will take to remove all micromobility units from circulation once a storm watch or warning has been established. Penalties for violating this section are included in Sec. 74-72.
(g) The micromobility provider's smartphone application and website must inform users of how to safely and legally ride a micromobility device per this Code and as defined by F.S. § 316, as amended.

(h) Micromobility providers must provide the City of St. Pete Beach an accurate list of their micromobility devices fleet with the following including:

1. The number of micromobility devices that are currently in their fleet located in the City of St. Pete Beach;

2. The unique device numbers;

3. Type of micromobility device; and

4. A list of active parking spots for micromobility devices that will be updated if any parking spots are added or removed.

(i) If a micromobility provider makes changes to their micromobility device fleet, they are required to provide an updated list of the changes to the City.

(j) The City of St. Pete Beach holds the right to restrict the number of micromobility devices for the protection of the health, safety, and welfare of persons within the city.

(k) The City Manager, or designee, may request micromobility providers to provide to the city monthly data, which may consist of but not limited to:

1. Number of daily, weekly, and monthly riders;

2. Total number of miles traveled by users (daily, monthly, quarterly, annually) broken down by device type;

3. Average time each unit spends available (not in use);

4. Number of rides per user per day;

5. Number of rides per device type;

6. Duration of rides per rider per day; and

7. Monthly summary of micromobility device distribution and GPS-based natural movement in heat map format.

Sec. 74-72.- Penalties

(a) Unauthorized micromobility providers are prohibited from operating within the City of
St. Pete Beach. If a micromobility provider without a valid license agreement with the City is found deploying micromobility devices within the City, it will be presumed that the provider is in violation of this section. A violation of this section shall be considered a code enforcement violation and is punishable by a fine of $250 per day in violation. Repeat violations are punishable by a fine of $500 per day in violation.

(b) Users operating a motorized scooter, electric bicycles, electric personal assistive mobility device and micromobility device is found violating Sec. 74-69 is subject to a fine pursuant to Florida State Statutes, as amended.

(c) If a micromobility device that is inoperable/damaged, abandoned on the city rights-of-way, city park, or city public building, or does not comply with other subsections of this Code is not removed within the limit set forth in Section 74-71 (5) the device will be subject to impoundment. All seized devices will be stored on city property and shall be stored for a period of 30 days, after which the devices may be disposed of by the City of St. Pete Beach. A fee of $100 per unit seized will be charged to the provider to recover the seized devices.

(d) Micromobility providers who fail to comply or relocate devices as outlined in Section 74-71 (6) will be charged a fine of $1,000 per instance.

Sec. 74-73—74-80. - Reserved.

SECTION 3. Codification. This Ordinance shall be codified in the Code of Ordinance of the City of St. Pete Beach.

SECTION 4. Conflicts. All ordinances or parts of ordinances, in conflict herewith are hereby repealed to the extent of any conflict with the Ordinance.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance as they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 6. Scrivener’s Error. The City Attorney may correct scrivener’s errors found in this Ordinance by filing a corrected copy of this Ordinance with the City Clerk.

SECTION 7. Construction. This Ordinance is to be liberally construed to accomplish its objectives.

SECTION 8. Publication. This Ordinance shall be published in accordance with the requirements of law.

SECTION 9. Effective Date. This ordinance shall take effect immediately upon adoption.
FIRST READING: November 10, 2021
PUBLISHED: December 1, 2021
SECOND READING: December 14, 2021
PUBLIC HEARING: December 14, 2021

CITY COMMISSION, CITY OF ST. PETE BEACH, FLORIDA.

[Signature]
Alan Johnson, Mayor

I, Amber LaRowe, City Clerk of the City of St. Pete Beach, Florida, do hereby certify that the foregoing Ordinance was duly adopted in accordance with the provisions of applicable law this 20 day of December, 2021.

[Signature]
Amber LaRowe, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

[Signature]
Andrew Dickman, City Attorney

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LEGAL NOTICE

CITY OF ST. PETE BEACH
CITY COMMISSION
NOTICE OF PUBLIC HEARING

The City of St. Pete Beach City Commission will hear the final reading for the following Ordinance on December 14, 2021, at 6:00 P.M. or soon thereafter in the St. Pete Beach City Commission Chamber, 155 Corey Ave., St. Pete Beach, FL 33706:

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NOTE: The above-scheduled public hearing may be continued from time-to-time pending adjournment. Any written comments that are received on the subject matter will become part of the official record. Any person who decides to appeal any decision of the City Commission with respect to any matter considered at this hearing will need a record of the proceedings and, for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. American with Disabilities Act: Florida Statutes Chapter 286.26. Accessibility of public hearings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodation to participate in a hearing should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the hearing for assistance. A copy of this ordinance is on file in the Community Development Department and may be inspected by the public. Any interested parties may appear at the meeting and be heard with respect to the requested ordinance.

FOR MORE INFORMATION OR TO VIEW THE FILE ON THIS REQUEST, PLEASE CONTACT: City of St. Pete Beach, Community Development Department, 155 Corey Avenue, St. Pete Beach, Florida 33706 - (727) 363-9213.

12/01/2021
Tampa Bay Times
Published Daily

STATE OF FLORIDA
COUNTY OF Pinellas, Hillsborough, Pasco, Hernando Citrus

Before the undersigned authority personally appeared Jill Harrison who on oath says that he/she is Legal Advertising Representative of the Tampa Bay Times a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: ORD NO. 2021-24 was published in Tampa Bay Times: 12/1/21 in said newspaper in the issues of Tampa Bay Times/Legal B/Full Run.

Affiant further says the said Tampa Bay Times is a newspaper published in Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida each day and has been entered as a second class mail matter at the post office in said Pinellas, Hillsborough, Pasco, Hernando Citrus County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he/she neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Signature Affiant

Signature of Notary Public

Personally known X or produced identification

Type of identification produced

Notary Public State of Florida
David Kersey
My Commission GC 282146
Expires 12/05/2022

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12/01/2021