

ORDINANCE NO. 2021-36

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 82, ARTICLE 9 OF THE SAN MARCOS CITY CODE BY EXEMPTING MOTOR-ASSISTED SCOOTERS PROVIDED BY A COMMERCIAL SCOOTER COMPANY UNDER THE TERMS OF A LICENSE AGREEMENT APPROVED BY THE CITY COUNCIL FROM THE PROHIBITION AGAINST COMMERCIALLY OWNED SCOOTERS ON PUBLIC PROPERTY, STREETS AND SIDEWALKS IN THE CITY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; PROVIDING FOR PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

The City Council hereby finds and determines that the adoption of this ordinance is in the interest of the public health, welfare and safety.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The Recitals are incorporated into this ordinance by reference as findings of fact for all purposes.

SECTION 2. Chapter 82, Traffic and Vehicles, of the San Marcos City Code, Article 9, Motor-Assisted Scooters Owned or Operated by Private Scooter Companies, is amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by underlining.

ARTICLE 9. MOTOR-ASSISTED SCOOTERS OWNED OR OPERATED BY SCOOTER COMPANIES.

Sec. 82.295. Purpose.

This article is established to enhance public safety by restricting the widescale placement and use of motor-assisted scooters owned by scooter companies within certain public areas of the city and on city-owned property.

Sec. 82.296. Applicability.

This article does not apply to:

- (1) A moped or motorcycle;
- (2) A motor-assisted bicycle;

- (3) A motorized mobility device designed for transportation of persons with physical disabilities as defined under V.T.C.A., Transportation Code, § 552A.0101; ~~or~~
- (4) A motor-assisted scooter authorized under a pilot program approved by the city; ~~or~~
- (5) A motor-assisted scooter authorized under terms of a written license agreement with a scooter company approved by the city council.

Sec. 82.297. Definitions.

Impoundment or *impound* as used in this article means removal by the city of a motor-assisted scooter to a temporary storage location or designated impound facility.

Motor-assisted scooter means a self-propelled device with at least two wheels in contact with the ground during operation, a braking system capable of stopping the device under typical operating conditions; a gas or electric motor not exceeding 40 cubic centimeters; a deck designed to allow a person to stand or sit while operating the device; and the ability to be propelled by human power alone.

Scooter company means any person, business organization or entity that operates a scooter sharing business or service by which motor-assisted scooters are made available to the public for short-term use or rental.

Sec. 82.298. Offenses.

(a) *Placement on public property prohibited.* It is an offense for any scooter company, or any employee, contractor, agent or other representative acting on behalf of a scooter company, to abandon, place, or leave behind any motor-assisted scooter on any public property, public park (including natural areas and open spaces), public sidewalk, public way, public street, or public highway within the city, or on any city-owned property located outside the corporate limits of the city. A violation of this subsection is a misdemeanor offense punishable by a fine up to \$2,000.00.

(b) *Use prohibited.* It is an offense for any person to operate a motor-assisted scooter that is owned, controlled, or managed by, or on behalf of, a scooter company on any public property, public park (including natural areas and open spaces), public sidewalk, public way, public street, or public highway within the city, or on any city-owned property located outside the corporate limits of the city. A violation of this subsection is a misdemeanor offense punishable by a fine up to \$50.00.

(c) Each violation under this section constitutes a separate offense.

Sec. 82.299. Impoundment.

(a) The city may impound any motor-assisted scooter owned, controlled, or managed by, or on behalf of, a scooter company found unattended on any public property, public park (including natural areas and open spaces), public sidewalk, public way, public street, or highway within the city and on any city-owned property located outside the corporate limits of the city in violation of section 82.298(a).

(b) The city will attempt to provide notice of any impoundment to the scooter company, or agent of the scooter company, responsible for the motor-assisted scooter, as disclosed by the contact or other identifying information on the motor-assisted scooter. The notice may be attempted by telephone, electronic mail, U.S. mail, hand-delivery or publication, in the city's discretion. The notice shall outline the impoundment and redemption process, including the requirement to pay impoundment fees. If the scooter company responsible for the impounded motor-assisted scooter, or any employee, contractor, agent or other representative acting on behalf of the scooter company, contacts the city about an impounded motor-assisted scooter before notice of the impoundment is sent by the city, such contact shall be deemed notice of the impoundment. If the city is unable to readily identify the owner or other party responsible for the impounded motor-assisted scooter, then notice of the impoundment need not be provided.

(c) Each motor-assisted scooter impounded under this section shall be subject to an impoundment fee of \$50.00 per day impounded.

SECTION 3. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 4. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 5. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 6. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on May 4, 2021.

PASSED, APPROVED AND ADOPTED on second reading on May 18, 2021.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney