

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 82, TRAFFIC AND VEHICLES, OF THE SAN MARCOS CITY CODE, BY ADDING A NEW ARTICLE 9 THAT PROHIBITS MOTOR-ASSISTED SCOOTERS ON PUBLIC PROPERTY, STREETS AND SIDEWALKS; 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, is amended by adding a new Article 9, Motor-Assisted Scooters, as set forth below. Added text is indicated by underlining.

ARTICLE 9. MOTOR-ASSISTED SCOOTERS

Sec. 82.295. Purpose.

This article is established to enhance public safety by restricting the use of motor-assisted scooters within 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) or a motorized mobility device designed for transportation of persons with physical disabilities as defined under Section 552A.0101 of the Texas Transportation Code.

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.

Sec. 82.298. Offenses.

(a) It is an offense for any person to operate a 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.

(b) It is an offense for any person 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.

(c) **OPTION 1 AS DIRECTED BY CITY COUNCIL** A person who violates, causes, allows or permits a violation of this section commits a misdemeanor offense punishable by a fine not to exceed ~~\$500.00~~ **\$25.00**.

OR

(c) **OPTION 2** Any person, or entity that operates a scooter sharing business or service by which motor-assisted scooters are made available to the public for short-term rental, or any authorized representative thereof, that violates, causes, allows or permits a violation of this section commits a misdemeanor offense punishable by a fine not to exceed \$500.00. Any other person who violates, causes, allows or permits a violation of this section commits a misdemeanor offense punishable by a fine not to exceed \$25.00.

(d) Each violation of this section constitutes a separate offense.

Sec. 82.299. Impoundment.

(a) The city may impound any motor-assisted scooter 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.

(b) Prior to impoundment, and where no emergency conditions exist, or where traffic or public access is not unduly impeded, a warning shall be issued and placed upon any such unattended motor-assisted scooter. The warning shall state that, if the motor-assisted scooter is not removed within 24 hours, then impoundment shall occur.

(c) Not more than 72 hours after impoundment of any motor-assisted scooter, the city shall attempt to notify the owner of the motor-assisted scooter, as disclosed by readily identifiable owner contact information attached to the motor-assisted scooter. The notice shall be attempted by telephone, electronic mail, or U.S. mail. The notice shall outline the impoundment and redemption process. If a motor-assisted scooter is redeemed prior to the submission of notice, or if the city is unable to readily identify the owner, then notice need not be sent. Saturdays, Sundays and city holidays are to be excluded from the calculation of the 72-hour notice period.

(d) All motor-assisted scooters impounded under this section shall be subject to an impounded fee that is sufficient to offset the city's costs of enforcement and storage for each such motor-assisted scooter.

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 and publication in accordance with the City Charter, **provided that neither the penal provisions under Section 82.298, nor impoundment under Section 82.299 will be enforced by the City until [REDACTED], 2020. Before such date, only warnings may be issued and City staff shall conduct an extensive notification and educational program to inform the public about the importance and requirements of this ordinance.**

PASSED AND APPROVED on first reading on December 17, 2019.

PASSED, APPROVED AND ADOPTED on second reading on January 7, 2020.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney