

Ordinance No. 23-057

An ordinance amending the “Streets and Sidewalks” Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article V, Activities Prohibited, by the repeal of Section 5.11, Motor-Assisted Scooters; and the addition of Section 5.12, Motor-Assisted Scooters and Micromobility Devices; relative to the regulation of Motor-Assisted Scooters and Micromobility Devices; and through the amendment of Article XVI, Violations, by the amendment of Section 16.01, Violations, relative to penalties for violations of the Chapter; providing for a fine of up to \$500 for each offense in violation of the ordinance; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, publication, and an effective date

WHEREAS, the City of Arlington has exclusive control over the public highways, streets, and alleyways within the City of Arlington, pursuant to Texas Transportation Code § 311.001; and

WHEREAS, the City of Arlington has the authority to regulate traffic and parking of vehicles, including the parking of vehicles on private property, pursuant to Texas Transportation Code § 542.202 and Texas Local Government Code § 601.001; and

WHEREAS, the City of Arlington desires to regulate motor-assisted scooters and micromobility devices to promote the health, safety, and welfare of the citizens of Arlington; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the “Streets and Sidewalks” Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article V**, Activities Prohibited, by the repeal of **Section 5.11**, Motor-Assisted Scooters.

Further, **Article V**, is hereby amended by the **addition** of **Section 5.12**, Motor-Assisted Scooters and Micromobility Devices, so that said section shall be and read as follows:

Section 5.12 Motor-Assisted Scooters and Micromobility Devices

A. Definitions. The following words and terms, when used in this Section, shall have the meanings respectively ascribed to them in this Section.

Administrator shall mean such officers and employees of the City as may be designated by the City Manager to enforce and administer the provisions of this Section. The Administrator may promulgate rules necessary to enforce the provisions of this Section. This definition includes the Administrator's designees.

City shall mean the City of Arlington, Texas.

Micromobility Device or Device shall mean any form of personal mobility device that may be rented for a period of time and does not use physical, fixed device storage stations. The term includes the following types of personal mobility devices: bicycles, electric bicycles, and motor-assisted scooters.

Micromobility Device Fleet or Fleet shall mean all micromobility devices owned by a Micromobility Service Provider operating in the City.

Micromobility Device Sharing shall mean the renting of or making available for rent micromobility devices on a short-term basis in exchange for compensation.

Micromobility Service Provider or Provider shall mean a person, partnership, corporation, or any other business entity that provides micromobility devices for the purpose of micromobility device sharing.

Motor-Assisted Scooter or Scooter shall have the meaning assigned by Texas Transportation Code § 551.351, as it exists or may be amended, and includes 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 forty (40) cubic centimeters or less; 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. The term does not include a pocket bike or a minimotorbike.

- B. General Prohibition on Motor-Assisted Scooter and Micromobility Device Use. Except as provided by Subsection (C), a person may not operate a motor-assisted scooter or a device on any alley, street, highway, shoulder, improved shoulder, sidewalk, median, or public right-of-way of a street or highway.
- C. Motor-Assisted Scooter and Micromobility Device Operation Requirements. A person may only operate a motor-assisted scooter or device if the person complies with all requirements of this Subsection (C). In order to operate a motor-assisted scooter or device in compliance with this Subsection (C), a person must:
 - 1. Be at least sixteen (16) years of age;
 - 2. Operate the motor-assisted scooter or device only at the following locations within the designated Operational Area described by Subsection (F), in accordance with Texas Transportation Code § 551.352, as it exists or may be amended:

- a. streets and highways for which the posted speed limit is 35 miles per hour or less;
 - b. paths set aside for the exclusive operation of bicycles, such as dedicated bike lanes that are marked and striped; or
 - c. sidewalks;
3. Not exceed a speed of fifteen (15) miles per hour;
4. Not exceed the posted reduced speed in an area designated under Subsection (F) as a Slow Zone;
5. Not operate the motor-assisted scooter or device in an area designated under Subsection (F) as a No Ride Zone;
6. Wear a helmet if the person is under eighteen (18) years of age, though wearing a helmet is encouraged for persons eighteen (18) years of age or older;
7. Yield to pedestrians while operating the motor-assisted scooter or device;
8. Not carry any passengers upon the motor-assisted scooter or device;
9. Not use a portable wireless communication device, as defined by Texas Transportation Code § 545.425, as it exists or may be amended, while the motor-assisted scooter or device is in motion;
10. Not be intoxicated;
11. Obey all applicable state and local traffic laws; and
12. Not operate the motor-assisted scooter or device between the hours of 11:00 p.m. and 6:00 a.m.

D. Motor-Assisted Scooter and Micromobility Device Parking Requirements

1. General Parking Requirements. A person may only stop, stand, or park a motor-assisted scooter or device as provided by this Subsection (D), and may not stop, stand, or park a scooter or device at any other location.
2. Parking on Private Property.
 - a. A person may stop, stand, or park a motor-assisted scooter upon private property with the consent of the owner or the person in care, custody, or control of the property.
 - b. A person may stop, stand, or park a motor-assisted scooter or device that is part of a Provider's Fleet and is being used for Micromobility

Device Sharing upon private property if it is done so in compliance with and pursuant to an agreement with the private property owner.

3. Parking on City Property. A person may stop, stand, or park a motor-assisted scooter or device on a City parking lot or other property owned, leased, otherwise controlled by the City only with prior written approval of the City.
4. Specific Parking Restrictions. A person may not stop, stand, or park a motor-assisted scooter or device, including one that is part of a Provider's Fleet and that is being used for Micromobility Device Sharing:
 - a. at the corners of sidewalks or within five (5) feet of crosswalks or curb ramps or within the intersection visibility triangle as defined by Section 9.01(A), as it exists or may be amended;
 - b. in a manner that obstructs the minimum *Americans with Disabilities Act* clearance sidewalk width of thirty-six (36) inches;
 - c. within eight (8) feet of a building entrance;
 - d. in an area for which the City has prohibited parking;
 - e. for a period of longer than forty-eight (48) hours in a residential area; or
 - f. in any manner that blocks or obstructs:
 - (1) commercial loading zones;
 - (2) railroad tracks and crossings;
 - (3) passenger loading zones or valet parking service areas;
 - (4) disabled parking spaces or access aisles;
 - (5) fixtures along the sidewalk that require pedestrian access, including benches and parking pay stations;
 - (6) curb ramps;
 - (7) entryways;
 - (8) driveways; or
 - (9) pedestrian travel; or
 - g. on private property without the consent of the owner or the person in care, custody, or control of the property;

- h. on private property in a manner that is not in compliance with and pursuant to an agreement with the private property owner, relative to the parking of motor-assisted scooters or devices that are part of a Provider's Fleet and being used for Micromobility Device Sharing; or
 - i. on a City parking lot or other property owned, leased, or otherwise controlled by the City without prior written approval of the City.
- E. Equipment. All motor-assisted scooters and devices must meet the equipment requirements in the Texas Transportation Code Chapters 547 and 551, as they exist or may be amended, including those for lights and reflectors, and all other federal, state, and local requirements.
- F. Operational Area, Slow Zones, and No Ride Zones
 - 1. The Administrator shall develop a map of the designated Operational Area in which persons may operate motor-assisted scooters and devices in compliance with this Section.
 - 2. The Administrator may designate and develop a map of Slow Zones within the Operational Area. The Administrator shall designate a reduced speed within each Slow Zone. Persons may only operate motor-assisted scooters and devices within a Slow Zone at or below the designated reduced speed.
 - 3. The Administrator may designate and develop a map of No Ride Zones within the Operational Area. Persons may not operate motor-assisted scooters or devices within No Ride Zones.
 - 4. The Administrator may modify the Operational Area Map, Slow Zones Map, and No Ride Zones Map in order to promote the health, safety, and welfare of the general public. All maps developed under this Subsection (F) shall be available on the City's website or a printed copy may be made available upon request.
- G. Micromobility Device Sharing
 - 1. A person or Provider, including any employee or agent thereof, may not conduct or engage in Micromobility Device Sharing, unless they hold a license agreement with the City. A license agreement is non-transferable.
 - 2. A Provider, including any employee or agent thereof, has a duty to ensure that all devices in its Fleet are used and operated in compliance with this Section, including parking requirements.

H. Removal of Motor-Assisted Scooters and Devices

1. The Administrator may remove a motor-assisted scooter or a device to a designated storage location if it is broken or inoperable, or if it is stopped, left standing, or parked in violation of Subsection (D).
2. Upon removing and storing a motor-assisted scooter or device, the Administrator shall notify the owner, if known. If the owner is not known, the Administrator shall make reasonable efforts to identify and notify the owner.
3. The Administrator shall release a motor-assisted scooter or device, which was removed and stored under this Subsection (H), to its owner upon payment of the costs incurred in removing and storing the motor-assisted scooter or device.
4. Contesting Grounds for Removal and Storage. In order to contest the grounds for removal and storage of a motor-assisted scooter or device, the owner may submit a written request to the Administrator for administrative review within ten (10) calendar days after the Administrator provided notice to the owner or made reasonable efforts to identify and notify the owner under this Subsection (H). Upon receiving a written request for administrative review, the Administrator shall determine whether there was probable cause to remove and store the scooter or device under this Section. Within thirty (30) days, the Administrator shall notify the owner of the determination. If the Administrator determines that there was not probable cause for the removal and storage, the Administrator shall waive the removal and storage fees and release the scooter or device to the owner. If the Administrator determines that there was probable cause for the removal and storage, the Administrator shall release the scooter or device to the owner as provided by this Subsection (H) upon payment of the removal and storage fees.
5. Unclaimed Scooters and Devices. Any unclaimed motor-assisted scooters and devices, which were removed and stored under this Subsection (H), shall be subject to the retention and disposition requirements of Arlington Nuisance Chapter § 5.03 and other applicable provisions of Article V as well as Texas Property Code Chapter 72, as they exist or may be amended.
6. Removal by Peace Officers, Fire Department, and Law Enforcement.
 - a. A peace officer may remove motor-assisted scooters and devices from a highway or street as allowed by any applicable provision of state law, including but not limited to Texas Transportation Code § 545.305, as it exists or may be amended.
 - b. A fire department or law enforcement agency may remove motor-assisted scooters and devices from a roadway, right-of-way, or other area as allowed by any applicable provision of state law, including

but not limited to Texas Transportation Code § 545.3051, as it exists or may be amended.

7. Devices in a Provider's Fleet. Upon receiving notice from the Administrator that a device, which is part of a Provider's Fleet, is either broken, inoperable, or the subject of a violation of this Section, including a parking violation, the Provider must remove the device, or otherwise correct the violation within two (2) hours after receiving the notice. At any time, including after expiration of the two-hour period following notice, the Administrator may remove and store the device as provided by this Subsection (H). In addition to this Subsection (H), the removal, storage, and release of a device that is part of a Provider's Fleet shall also be governed by the terms of the license agreement between the Provider and the City.

Further, **Article XVI, Violations, Section 16.01, Violations**, shall be amended so that hereafter said section shall be and read as follows:

Section 16.01 Violations

Any person, corporation, association, or entity who violates any of the provisions of this Chapter commits an offense that is considered a class C misdemeanor and each day the violation continues shall be a separate offense. An offense under this Chapter is punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required.

2.

Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

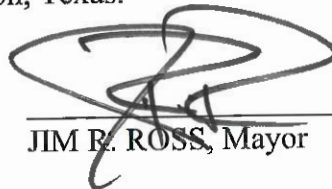
7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.


8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 5th day of September, 2023, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 26th day of September, 2023, by a vote of 7 ayes and 1 nays at a regular meeting of the City Council of the City of Arlington, Texas.


JIM R. ROSS, Mayor

ATTEST:


ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY 