

Ordinance No. 396-2020

By Council Member McCormack

AN EMERGENCY ORDINANCE

To amend Section 4 of Ordinance No. 464-2019, passed June 3, 2019, in order to repeal a sunset expiration of Sections 401.152, 401.153, 401.231, 473.10, Chapter 517, Shared Mobility Device and Bicycle Vendors, Sections 517.01 through 517.08, and amended Sections 473.01 through 473.03, 473.05, 473.07 through 473.09, 431.03, and 431.15, regulating the vendors and use of shared mobility devices; and amending Section 473.02 of the Codified Ordinances, Cleveland, Ohio 1976, as amended by Ordinance No. 464-19, passed June 3, 2019, regarding the speed limit while operating an e-scooter.

WHEREAS, Ordinance No. 464-2019, passed June 3, 2019, enacted new Sections 401.152, 401.153, 401.231, 473.10, and new Chapter 517, Shared Mobility Device and Bicycle Vendors, Sections 517.01 through 517.08, and amended Sections 473.01 through 473.03, 473.05, 473.07 through 473.09, 431.03, and 431.15 to regulate the vendors and use of shared mobility devices, and promote shared mobility as a way to increase connectivity and opportunity for mobility options; and

WHEREAS, Section 4 of Ordinance No. 464-2019 provides that its provisions will only be in effect for one year after its effective date, which would be June 5, 2020; and

WHEREAS, it is the intention of the Council that by amending Section 4 of Ordinance No. 464-2019 that this Council is permanently enacting its provisions until legislation to the contrary is authorized; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Section 4 of Ordinance No. 464-2019, passed June 3, 2019, is amended to read as follows:

Section 4. That the provisions of this ordinance shall take effect thirty days after the effective date of this ordinance. ~~The provisions of this ordinance shall be of no force and effect one year after the effective date of this ordinance unless reauthorized by Council. Consideration for reauthorization shall take place one month prior to reauthorization, and~~ The Director of Capital Projects shall provide the members of Council with a review of this legislation ~~at that time.~~ within one year after the effective date of this ordinance.

Section 2. That Section 473.02 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 464-2019, passed June 3, 2019, is amended to read as follows:

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Section 473.02 Operation of Bicycles, Motorcycles, Mobility Devices, and Snowmobiles

(a) For purposes of this section, "snowmobile" has the same meaning as given that term in RC 4519.01.

(b) (1) No person operating a bicycle, mobility device, or motorcycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle, mobility device, or motorcycle other than upon a separate firmly attached and regular seat thereon, and no person shall ride upon a bicycle, mobility device, or motorcycle other than upon such a firmly attached and regular seat.

(2) A person operating a mobility device without a permanent and regular seat attached thereto shall not ride other than standing upon the footboard.

(3) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(4) No person operating a bicycle or a mobility device shall carry any package, bundle, or article that prevents the driver from keeping at least one (1) hand upon the handlebars.

(5) No person operating an e-scooter should do so on any streets if the posted speed limit is over thirty-five (35) mph unless in a dedicated bike lane or shared use path.

(6) No person operating an e-scooter shall exceed a speed at greater than ~~twelve~~ fifteen (15) miles per hour.

(7) No bicycle, mobility device or motorcycle shall be used to carry more persons than the number for which it is designed and equipped. No motorcycle shall be operated on a street or highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

(c) (1) Except as provided in division (c)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in division (c)(2) of this section, no person who is under the age of eighteen (18) years, or who holds a motorcycle operator's endorsement or license bearing a "novice" designation that is currently in effect as provided in RC 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with rules adopted by the Director of Public Safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action.

(2) Division (c)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(3) A. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar of Motor Vehicles pursuant to RC 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.

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B. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to RC 4507.05 in any of the following circumstances:

1. At any time when lighted lights are required by RC 4513.03(A)(1);
2. While carrying a passenger;
3. On any limited access highway or heavily congested roadway.

(d) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(e) Except as otherwise provided in this division, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a minor misdemeanor. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) predicate motor vehicle or traffic offense, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a misdemeanor of the fourth degree. If, within one (1) year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a misdemeanor of the third degree.

Section 3. That existing Section 473.02 of the Codified Ordinances of Cleveland, Ohio 1976, as amended by Ordinance No. 464-19, passed June 3, 2019, is repealed.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

FOR: Council Member McCormack
/JHO
5-27-2020

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READ FIRST TIME on MAY 27, 2020

REPORTS

and referred to **DIRECTORS of Capital Projects, Public Works, Public Safety, City Planning Commission, Sustainability, Finance, Law; COMMITTEES on Municipal Services and Properties, Safety, Development Planning and Sustainability, Finance**

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

**REPORT
after second Reading**

PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
SAFETY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE
