

ORDINANCE NO. O2017.05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 7, TEMPE CITY CODE, RELATING TO BICYCLES, BY AMENDING THE TITLE OF CHAPTER 7, BY AMENDING SECTION 7-1, RELATING TO DEFINITIONS, BY AMENDING ARTICLE V, RELATING TO OPERATION, BY ADDING A NEW ARTICLE VI, RELATING TO LIGHT MOTORIZED VEHICLES, BY ADDING A NEW ARTICLE VII, RELATING TO ELECTRIC BICYCLES, AND BY RENUMBERING ARTICLE VII TO BE ARTICLE IX, RELATING TO PEDICABS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 7 of the Tempe City Code is hereby retitled to be “Chapter 7: BICYCLES AND LIGHT MOTORIZED VEHICLES”.

Section 2. That Chapter 7, Article I, Section 7-1 of the Tempe City Code is hereby amended to read:

Sec. 7-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Bicycle: A device propelled by human power which any person may ride, having two (2) tandem wheels or having three (3) wheels in contact with the ground.

Bicycle lane: Any portion of a roadway designated for bicycle use and defined by pavement markings, curbs, signs or other traffic-control devices.

Dealer: A retail distributor of new or secondhand bicycles.

ELECTRIC BICYCLE: A TWO- OR THREE-WHEELED VEHICLE WITH FULLY OPERABLE PEDALS AND AN ELECTRIC MOTOR OF NO MORE THAN 750 WATTS (1 H.P.), THE MAXIMUM SPEED OF WHICH ON A PAVED LEVEL SURFACE, WHEN POWERED SOLELY BY SUCH A MOTOR, IS 20 MPH.

ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE: A SELF-BALANCING, TWO NON-TANDEM, WHEELED DEVICE WITH AN ELECTRIC PROPULSION SYSTEM THAT LIMITS THE MAXIMUM SPEED OF THE DEVICE TO 15 MILES PER HOUR OR LESS AND THAT IS DESIGNED TO TRANSPORT ONLY ONE PERSON.

LIGHT MOTORIZED VEHICLE: ALL GAS OR ELECTRIC POWERED, TWO- OR THREE-WHEELED VEHICLES WITH A GROSS WEIGHT OF LESS THAN 120 POUNDS AND A MAXIMUM SPEED OF 35 MILES PER HOUR THAT ARE NOT AN ELECTRIC BICYCLE OR AN ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE.

Section 3. That Chapter 7, Article V of the Tempe City Code is hereby amended to read:

ARTICLE V. OPERATION

Sec. 7-51. Parking of bicycles OR LIGHT MOTORIZED VEHICLES.

No person shall park a bicycle, LIGHT MOTORIZED VEHICLE, ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE, OR ELECTRIC BICYCLE upon a bikeway, or upon the sidewalk, except in such manner as to afford the least obstruction to pedestrians and bicycles.

Sec. 7-52. Riding on sidewalks or bicycle lanes.

(a) The city traffic engineer is authorized to erect or place signs on any sidewalk or roadway, prohibiting the riding of bicycles, ELECTRIC BICYCLES OR LIGHT MOTORIZED VEHICLES thereon by any person; and when such signs are in place no person shall disobey same.

(b) Whenever any person is riding a bicycle, ELECTRIC BICYCLE OR LIGHT MOTORIZED VEHICLE upon a sidewalk, such person shall yield the right-of-way to any pedestrian OR ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE and should give audible signal before overtaking and passing such pedestrian OR ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE.

(c) No person shall ride or operate a bicycle, ELECTRIC BICYCLE OR LIGHT MOTORIZED VEHICLE in any direction except that permitted by vehicular traffic on the same side of the roadway where the sidewalk or bicycle lane exists; provided, that bicycles, ELECTRIC BICYCLES OR LIGHT MOTORIZED VEHICLES may proceed either way where signs or pavement markings on the sidewalk, bikeway or bicycle lane appear designating two-way traffic.

(d) Any person riding a bicycle, ELECTRIC BICYCLE OR LIGHT MOTORIZED VEHICLE on a bikeway, sidewalk or bicycle path that is about to enter or cross a roadway shall yield the right-of-way to all traffic on such roadway.

(E) IN ACCORDANCE WITH STATE LAW (A.R.S. SECTION 28-908), A PERSON OPERATING AN ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE HAS ALL OF THE RIGHTS AND DUTIES THAT ARE APPLICABLE TO PEDESTRIANS EXCEPT PROVISIONS THAT, BY THEIR NATURE, CAN HAVE NO APPLICATION. ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICES MAY BE OPERATED ON SIDEWALKS, SHARED PATHS, MULTI-USE PATHS, AND IN BICYCLE LANES. NO PERSON SHALL RIDE OR OPERATE AN ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICE IN BICYCLE LANES IN ANY DIRECTION EXCEPT THAT PERMITTED BY VEHICULAR TRAFFIC ON THE SAME SIDE OF THE ROADWAY.

(F) IT SHALL BE UNLAWFUL TO USE AN ELECTRIC PERSONAL MOBILITY ASSISTANCE DEVICE TO CARRY MORE PERSONS AT ONE TIME THAN THE NUMBER FOR WHICH IT IS DESIGNED AND EQUIPPED.

(G) AN ELECTRIC PERSONAL MOBILITY ASSISTANCE DEVICE THAT IS USED AT NIGHTTIME SHALL HAVE A LAMP ON THE FRONT THAT EMITS A WHITE LIGHT VISIBLE FROM A DISTANCE OF AT LEAST FIVE HUNDRED (500) FEET TO THE FRONT AND A RED REFLECTOR OR RED LAMP IN THE REAR OF A TYPE THAT IS VISIBLE FROM ALL DISTANCES FROM FIFTY (50) FEET TO THREE HUNDRED (300) FEET TO THE REAR.

Sec. 7-53. Driving vehicles across sidewalks.

No person shall drive a vehicle upon or across a sidewalk except to enter or leave the roadway and only after giving the right-of-way to all bicycles, ELECTRIC BICYCLES, LIGHT MOTORIZED VEHICLES, ELECTRIC PERSONAL ASSISTANCE MOBILITY DEVICES, or pedestrians lawfully upon the sidewalk.

Sec. 7-54. Bikeways—establishment and signs.

The city traffic engineer is authorized to erect or place signs upon any street in the city indicating the existence of a bikeway and otherwise regulating the operation and use of vehicles and bicycles with respect thereto, so long as the same are consistent with this chapter. When such signs are in place, no person shall disobey the same.

Sec. 7-55. LIGHT MOTORIZED VEHICLES AND ELECTRIC BICYCLES ~~Pedal bicycle with helper motors (mopeds).~~

(a)—Upon a roadway where motor vehicles are permitted, a person may drive A LIGHT MOTORIZED VEHICLE OR ELECTRIC BICYCLE ~~a moped~~ in any lane designated for use of bicycles.

(b)—~~Pedal bicycles with helper motors shall be prohibited on bicycle paths, trails and on sidewalks designated for use by nonmotorized pedal bicycles, except when propelled by human power with helper motor disengaged.~~

Section 4. That Chapter 7 of the Tempe City Code is hereby amended by adding a new Article VI. Light Motorized Vehicles to read:

ARTICLE VI. LIGHT MOTORIZED VEHICLES

SEC. 7-61. REGULATING LIGHT MOTORIZED VEHICLES: PURPOSE AND INTENT.

THE STATE OF ARIZONA HAS GRANTED MUNICIPALITIES EXPRESS AUTHORITY TO REGULATE OR PROHIBIT THE OPERATION OF LIGHT MOTORIZED VEHICLES. IT IS THE PURPOSE AND INTENT OF THIS ARTICLE TO PROVIDE FOR THE REGULATION OF LIGHT MOTORIZED VEHICLES AND TO PROTECT THE SAFETY OF PEDESTRIANS, BICYCLISTS, MOTOR VEHICLE DRIVERS AND OPERATORS OF LIGHT MOTORIZED VEHICLES. IT IS IN THE PUBLIC INTEREST TO REGULATE THE USE OF LIGHT MOTORIZED VEHICLES BY PROHIBITING THEIR USE ON PUBLIC SIDEWALKS WHEN THE HELPER MOTOR IS ENGAGED.

SEC. 7-62. APPLICABILITY OF TRAFFIC LAWS.

(A) IN THE CITY OF TEMPE, A PERSON RIDING A LIGHT MOTORIZED VEHICLE IS GRANTED ALL OF THE RIGHTS AND IS SUBJECT TO ALL OF THE DUTIES APPLICABLE TO A BICYCLE RIDER UNDER STATE AND LOCAL LAW. THE LIGHT MOTORIZED VEHICLE MUST OPERATE IN COMPLIANCE WITH ANY SPEED RESTRICTIONS.

(B) LIGHT MOTORIZED VEHICLES THAT ARE OPERATED AT SPEEDS IN EXCESS OF TWENTY (20) MILES PER HOUR ARE REGULATED BY STATE LAW. WHEN RIDING IN BICYCLE LANES OR IN TRAFFIC LANES, LIGHT MOTORIZED VEHICLES MUST COMPLY WITH STATE TRAFFIC REQUIREMENTS AND SPEED RESTRICTIONS.

SEC. 7-63. LIGHT MOTORIZED VEHICLES MUST YIELD RIGHT OF WAY.

A PERSON DRIVING A LIGHT MOTORIZED VEHICLE ON A CROSSWALK, MULTI-USE PATH OR SHARED PATH MUST YIELD THE RIGHT OF WAY TO ANY PEDESTRIAN OR HORSE AND SHALL SLOW TO FIVE (5) MILES PER HOUR AND COMMUNICATE WITH THE PEDESTRIAN OR RIDER BEFORE OVERTAKING OR PASSING ANY HORSE.

SEC. 7-64. PROHIBITED OPERATION.

(A) IT SHALL BE UNLAWFUL FOR A PERSON UNDER SIXTEEN (16) YEARS OF AGE TO OPERATE A LIGHT MOTORIZED VEHICLE.

(B) IT SHALL BE UNLAWFUL TO OPERATE A LIGHT MOTORIZED VEHICLE ON ANY PUBLIC SIDEWALK WHEN THE HELPER MOTOR IS ENGAGED. IF A BICYCLE LANE IS AVAILABLE, A LIGHT MOTORIZED VEHICLE WITH AN ENGAGED HELPER MOTOR MUST USE THE BICYCLE LANE OR THE ROADWAY.

(C) IT SHALL BE UNLAWFUL TO USE A LIGHT MOTORIZED VEHICLE TO CARRY MORE PERSONS AT ONE TIME THAN THE NUMBER FOR WHICH IT IS DESIGNED AND EQUIPPED.

(D) IT SHALL BE UNLAWFUL TO RIDE A LIGHT MOTORIZED VEHICLE WHERE SIGNS ARE POSTED PROHIBITING BICYCLING.

(E) WHEN TRAVELING IN A BICYCLE LANE OR STREET, A LIGHT MOTORIZED VEHICLE MAY NOT BE OPERATED AT SPEEDS IN EXCESS OF TWENTY EIGHT (28) MILES PER HOUR, OR THE POSTED SPEED LIMIT, WHICHEVER IS LOWER.

(F) WHEN TRAVELING ON A SHARED PATH OR MULTI-USE PATH, LIGHT MOTORIZED VEHICLES MAY NOT BE OPERATED AT SPEEDS IN EXCESS OF TWENTY (20) MILES PER HOUR.

SEC. 7-65. HELMET USE REQUIREMENT.

NO PERSON UNDER EIGHTEEN (18) YEARS OF AGE SHALL OPERATE A LIGHT MOTORIZED VEHICLE OR BE A PASSENGER ON A LIGHT MOTORIZED VEHICLE, RIDE IN A RESTRAINING SEAT ATTACHED TO A MOTORIZED BICYCLE OR TRICYCLE OR RIDE IN A TRAILER TOWED BY A LIGHT MOTORIZED VEHICLE, UNLESS THE PERSON IS WEARING A PROPERLY FITTED AND FASTENED BICYCLE HELMET WHICH MEETS THE CURRENT STANDARDS OF THE AMERICAN NATIONAL STANDARDS INSTITUTE FOR PROTECTIVE HEAD GEAR.

SEC. 7-66. NIGHTTIME USE REQUIREMENTS.

A LIGHT MOTORIZED VEHICLE THAT IS USED AT NIGHTTIME SHALL HAVE A LAMP ON THE FRONT THAT EMITS A WHITE LIGHT VISIBLE FROM A DISTANCE OF AT LEAST FIVE HUNDRED (500) FEET TO THE FRONT AND A RED REFLECTOR OR RED LAMP IN THE REAR OF A TYPE THAT IS VISIBLE FROM ALL DISTANCES FROM FIFTY (50) FEET TO THREE HUNDRED (300) FEET TO THE REAR.

SEC. 7-67. VIOLATION DECLARED A CIVIL TRAFFIC VIOLATION.

(A) VIOLATION OF THIS ARTICLE SHALL CONSTITUTE A CIVIL TRAFFIC VIOLATION PUNISHABLE BY A MANDATORY MINIMUM FINE OF ONE HUNDRED DOLLARS (\$100.00).

(B) ALL COMPLAINTS FOR VIOLATIONS OF THIS ARTICLE SHALL BE ISSUED AND ADJUDICATED IN ACCORDANCE WITH THE ARIZONA RULES OF PROCEDURE IN CIVIL TRAFFIC VIOLATION CASES AND APPLICABLE STATE AND LOCAL LAWS.

Section 5. That Chapter 7 of the Tempe City Code is hereby amended by adding a new Article VII. Electric Bicycles to read:

ARTICLE VII. ELECTRIC BICYCLES

SEC. 7-71. REGULATING ELECTRIC BICYCLES: PURPOSE AND INTENT.

PURSUANT TO A.R.S. § 28-2516(B), THE STATE OF ARIZONA HAS GRANTED MUNICIPALITIES EXPRESS AUTHORITY TO REGULATE OR PROHIBIT THE OPERATION OF BICYCLES THAT ARE EQUIPPED WITH ELECTRIC MOTORS. IT IS THE PURPOSE AND INTENT OF THIS ARTICLE TO PROVIDE FOR THE REGULATION OF ELECTRIC BICYCLES AND TO PROTECT THE SAFETY OF PEDESTRIANS, BICYCLISTS, MOTOR VEHICLE DRIVERS AND OPERATORS OF ELECTRIC BICYCLES. IT IS IN THE PUBLIC INTEREST TO REGULATE THE USE OF ELECTRIC BICYCLES BY PROHIBITING THEIR USE ON PUBLIC SIDEWALKS WHEN THE ELECTRIC MOTOR IS ENGAGED.

SEC. 7-72. APPLICABILITY OF TRAFFIC LAWS.

IN THE CITY OF TEMPE, A PERSON RIDING AN ELECTRIC BICYCLE IS GRANTED ALL OF THE RIGHTS AND IS SUBJECT TO ALL OF THE DUTIES APPLICABLE TO A BICYCLE RIDER UNDER STATE AND LOCAL LAW. AN ELECTRIC BICYCLE MUST ABIDE BY ALL SPEED RESTRICTIONS, INCLUDING SPEED LIMITATIONS ON SHARED PATHS OR MULTI-USE PATHS.

SEC. 7-73. ELECTRIC BICYCLES MUST YIELD RIGHT OF WAY.

A PERSON RIDING AN ELECTRIC BICYCLE ON A CROSSWALK, MULTI-USE PATH OR SHARED PATH MUST YIELD THE RIGHT OF WAY TO ANY PEDESTRIAN OR HORSE AND SHALL SLOW TO FIVE (5) MILES PER HOUR AND COMMUNICATE WITH THE PEDESTRIAN OR RIDER BEFORE OVERTAKING OR PASSING ANY HORSE.

SEC. 7-74. GENERAL RULES FOR ELECTRIC BICYCLES.

(A) AN ELECTRIC BICYCLE SHALL COMPLY WITH THE EQUIPMENT AND MANUFACTURING REQUIREMENTS FOR BICYCLES ADOPTED BY THE UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION (16 C.F.R. PART 1512).

(B) IT SHALL BE UNLAWFUL TO USE AN ELECTRIC BICYCLE TO CARRY MORE PERSONS AT ONE TIME THAN THE NUMBER FOR WHICH IT IS DESIGNED OR EQUIPPED.

(C) IT SHALL BE UNLAWFUL TO RIDE AN ELECTRIC BICYCLE WHERE SIGNS ARE POSTED PROHIBITING BICYCLING.

(D) IT SHALL BE UNLAWFUL TO OPERATE AN ELECTRIC BICYCLE ON ANY PUBLIC SIDEWALK WHEN THE ELECTRIC MOTOR IS ENGAGED.

(E) WHEN TRAVELING IN A BICYCLE LANE OR STREET, AN ELECTRIC BICYCLE MAY NOT BE OPERATED AT SPEEDS IN EXCESS OF TWENTY EIGHT (28) MILES PER HOUR, OR THE POSTED SPEED LIMIT, WHICHEVER IS LOWER.

(F) AN ELECTRIC BICYCLE MAY BE USED IN ALL PLACES WHERE BICYCLES ARE PERMITTED TO TRAVEL, INCLUDING SHARED PATHS AND MULTI-USE PATHS.

(G) AN ELECTRIC BICYCLE MUST ABIDE BY ALL SPEED RESTRICTIONS ON SHARED PATHS OR MULTI-USE PATHS. WHEN TRAVELING ON A SHARED PATH OR MULTI-USE PATH, AN ELECTRIC BICYCLE MAY NOT BE OPERATED AT SPEEDS IN EXCESS OF TWENTY (20) MILES PER HOUR.

(H) IT SHALL BE UNLAWFUL FOR A PERSON UNDER SIXTEEN (16) YEARS OF AGE TO OPERATE AN ELECTRIC BICYCLE. A PERSON UNDER THE AGE OF SIXTEEN (16) MAY RIDE AS A PASSENGER ON AN ELECTRIC BICYCLE THAT IS DESIGNED TO ACCOMMODATE PASSENGERS.

(I) ALL ELECTRIC BICYCLES MUST BE EQUIPPED WITH A SPEEDOMETER THAT DISPLAYS THE SPEED THE ELECTRIC BICYCLE IS TRAVELING IN MILES PER HOUR.

SEC. 7-75. HELMET USE REQUIREMENT.

NO PERSON UNDER EIGHTEEN (18) YEARS OF AGE SHALL OPERATE AN ELECTRIC BICYCLE OR BE A PASSENGER ON AN ELECTRIC BICYCLE UNLESS THE PERSON IS WEARING A PROPERLY FITTED AND FASTENED BICYCLE HELMET WHICH MEETS THE CURRENT STANDARDS OF THE AMERICAN NATIONAL STANDARDS INSTITUTE FOR PROTECTIVE HEAD GEAR.

SEC. 7-76. NIGHTTIME USE REQUIREMENTS.

AN ELECTRIC BICYCLE THAT IS USED AT NIGHTTIME SHALL HAVE A LAMP ON THE FRONT THAT EMITS A WHITE LIGHT VISIBLE FROM A DISTANCE OF AT LEAST FIVE HUNDRED (500) FEET TO THE FRONT AND A RED REFLECTOR IN THE REAR OF A TYPE THAT IS VISIBLE FROM ALL DISTANCES FROM FIFTY (50) FEET TO THREE HUNDRED (300) FEET TO THE REAR.

SEC. 7-77. VIOLATION DECLARED A CIVIL TRAFFIC VIOLATION.

(A) VIOLATION OF THIS ARTICLE SHALL CONSTITUTE A CIVIL TRAFFIC VIOLATION PUNISHABLE BY A MANDATORY MINIMUM FINE OF ONE HUNDRED DOLLARS (\$100.00).

(B) ALL COMPLAINTS FOR VIOLATIONS OF THIS ARTICLE SHALL BE ISSUED AND ADJUDICATED IN ACCORDANCE WITH THE ARIZONA RULES OF PROCEDURE IN CIVIL TRAFFIC VIOLATION CASES AND APPLICABLE STATE AND LOCAL LAWS.

Section 6. That Chapter 7 of the Tempe City Code is hereby amended by renumbering Article VII. Pedicabs to be Article IX. Pedicabs and to renumber the sections of Article IX. Pedicabs accordingly.

Section 7. Pursuant to Tempe City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA this ____ day of _____, 2017.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney