

CITY OF BINGEN

ORDINANCE NO. 05-03-511

AN ORDINANCE ADOPTING BINGEN MUNICIPAL CODE 10.30 MOTORIZED FOOT SCOOTERS AND OTHER WHEELED RECREATIONAL DEVICES

WHEREAS RCW 46.04.332 excludes a motorized foot scooter from the definition of motor-driven cycle; and

WHEREAS RCW 46.16.010 exempts motorized foot scooters from certain requirements, including the requirement of a vehicle license; and

WHEREAS RCW 46.20.500 states that no driver's license is required to operate a motorized foot scooter; and

WHEREAS RCW 46.61.710 states, among other things, that motorized foot scooters may have access to highways of the state but that local jurisdictions may regulate the use of motorized foot scooters on facilities and properties under their jurisdiction and control; and

WHEREAS the Bingen City Council has determined that there is a need for certainty among Bingen residents regarding when and where motorized foot scooters can be operated; and

WHEREAS the Bingen City Council finds that operation of motorized foot scooters and other wheeled recreational vehicles upon the City's streets and sidewalks increases risk of accidental injury to motor scooter and other wheeled recreational vehicle operators, other vehicular or pedestrian traffic, and/or damage to property; and

WHEREAS current state law does not establish minimum age or training requirements for operation of a motorized foot scooter and may not for other wheeled recreational vehicles, which lack of establishment may lead to risk of injury and/or property damage caused by untrained and/or youthful operators who lack sufficient judgment to safely operate such scooters or vehicles upon public streets; and

WHEREAS the Bingen City Council finds that continuous noise associated with gasoline-powered engines on motorized foot scooters and other wheeled recreational vehicles interferes with the peace, comfort and repose of City residents,

NOW, THEREFORE, the City Council of the City of Bingen do ordain as follows:

Section 1. Bingen Municipal Code 10.30 is adopted to read as follows:

10.30.010 – Definitions for the purpose of this ordinance

A. “Motorized Foot Scooter” means a device with no more than two 10-inch or small diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion.

B. “Wheeled Recreational Device” means any wheeled recreational object designed to propel the person using that object with an internal combustion or electric motor, whether it be stood or sat upon or ridden in, and that is not required to obtain and display a Washington State vehicle license (RCW 46.16). For purposes of this chapter, “wheeled recreational device” does not include motorcycles (RCW 46.04.330) motor driven cycles (RCW 46.4.332), mopeds (RCW 46.04.304), electric assisted bicycles (RCW 46.04.169), Electric Personal Mobility Devices (RCW 46.04.1695), power wheelchairs (RCW 46.04.415) or neighborhood electric vehicle (RCW 46.61.688 (1)(c)).

C. “City Street” means every highway, as such is defined in RCW 47.04.010, located within the city limits of the City of Bingen and includes the full right of way, whether or not paved or maintained for vehicular use.

D. “City Property” includes but is not limited to all City rights-of-way and includes any proprietary or other real property which the city owns or in which it has a possessory interest.

E. “Rules of the Road” means all rules applicable to vehicle or pedestrian traffic as set forth in RCW 46.61 and ordinances of the City of Bingen.

F. “Helmet” means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chinstrap type retention system, with a label required by the Federal Consumer Products Safety Commission as adopted by the Code of Federal Regulations 16CFR1203.

G. “Highway” means every way, lane, road, street, boulevard, and every way or place in the City of Bingen open as a matter of right to public vehicular traffic.

H. The regulations of this chapter shall not apply to any vehicle used by a disabled individual satisfying the requirements of RCW 46.16.381 (1).

10.30.020 Operation of Motorized Foot Scooters

A. It is unlawful for any person to operate a motorized foot scooter or other wheeled recreational device:

1. On any City street unless such person is sixteen years of age or older;
2. With a passenger in addition to the operator;
3. On any City street with a maximum speed limit above 25 miles per hour, unless the device is operated within a designated bicycle lane;
4. On any city property that is not a City street;
5. In any park;
6. Upon any bicycle path or trail that is not a designated bicycle lane, or upon any equestrian, hiking or recreational trail;
7. Upon any sidewalk, except as may be necessary to enter or leave adjacent property; or

8. On any private or public property posted with notice prohibiting use by motorized foot scooters or wheeled recreational devices.

B. Any person operating a motorized foot scooter or other wheeled recreational device shall obey all the rules of the road, as well as the instructions of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

C. No motorized foot scooter or other wheeled recreational device shall be ridden or operated in a negligent or unsafe manner but shall be operated with reasonable regard for the safety of the operator and other persons. For purposes of this section:

1. To operate in a negligent or unsafe manner means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

2. Operation of motorized foot scooter or other wheeled recreational device in excess of 15 miles per hour shall be prima facie evidence of operation in a negligent manner.

D. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any provision of this Chapter.

10.30.040 Helmets required – nighttime operation prohibited.

A. Any person operating a motorized foot scooter or other wheeled recreational device upon any city street shall wear a helmet and shall have the neck or chinstrap of the helmet fastened securely while the device is in motion.

B. Motorized foot scooters and other wheeled recreational devices may not be operated at any time from sunset to sunrise.

10.30.050 Noise restrictions – mufflers.

A. It is unlawful to sell or operate a motorized foot scooter or wheeled recreational device that is powered by an internal combustion engine that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

10.30.060 Violation – penalty.

A. Any person violating the provisions of this Chapter shall be deemed to have committed an infraction.

1. The penalty for the first such infraction shall be \$50.00.

2. The penalty for the second such infraction within a 60 day period shall be \$150.00.

3. The penalty for the third such infraction within a 60 day period shall be \$350.00.

B. In the event of a third violation within any 60 day period, the Bingen Municipal Court may order the motorized foot scooter or wheeled recreational device to be seized by the Bingen Police Department and held for a period not to exceed 60 days, to be released to the owner thereof only upon evidence of ownership, satisfactory to the court, of the motorized foot scooter or wheeled recreational device and upon payment of the fine and an additional \$50.00 administrative fee to the City of Bingen. Any unclaimed motorized foot scooters or wheeled recreation devices may be disposed of in accordance with state law.

Section 2. General duty. It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. It is the specific intent of this ordinance that no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the city or any of its officers or employees. Nothing contained in this ordinance is intended or shall be construed to create or form the basis of any liability on the part of the city, or its

officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this ordinance by its officers, employees or agents.

Section 3. Savings.

The enactment of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or before the City or in any way modify any obligation, right or liability, civil or criminal, which may exist by virtue of any of the ordinances herein amended.

Section 4. Severability.

If any action, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 4. This Ordinance shall take effect and be in force five (5) days after its publication according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BINGEN, at a regular meeting thereof and approved by the Mayor this 15th day of February, 2005.

ATTEST:

Mayor Brian Prigel

Jan Brending, City Clerk

Approved as to form only:

Anthony H. Connors
City Attorney