

Ordinance No. _____
An Ordinance relating to Motorized Foot Scooters
and other Wheeled Recreational Devices,
Adding a New Chapter to the Everett Traffic Code,
Title 46 of the Everett Municipal Code

Whereas, Engrossed Senate Bill 5450, which was passed by the State Legislature in 2003, allows use of motorized foot scooters on public roadways but allows for local regulation; and

Whereas, the Everett City Council has determined that there is a need for clarity among Everett residents regarding when and where motorized foot scooters can be operated; and

Whereas, the Everett City Council deems it appropriate to establish a uniform policy for motorized foot scooters and other wheeled recreational devices that are not regulated by the State; and

Whereas, the Everett City Council finds that unregulated 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 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, which creates significant risk of injury and/or property damage caused by untrained operators and/or youthful operators who lack sufficient judgment to safely operate a motorized vehicle upon public streets; and

Whereas, the Everett City Council finds that continuous noise associated with gasoline-powered engines on motorized foot scooters interferes with peace, comfort and repose of City residents; and

Whereas, the Everett City Council finds a compelling governmental interest in imposing a discretionary penalty for minor children, in order to encourage parental intervention and responsibility for the violations of the children under 16 years of age; and

Whereas, the Everett City Council finds that impoundment of a device being operated by a child under 16 is more likely to prevent repeat offenses by the child than the imposition of monetary penalties;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

The provisions of this chapter shall apply to motorized foot scooters and to all other wheeled recreational devices that are not otherwise regulated by State law.

Section 2: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

Definitions - Exemption.

A. "Motorized Foot Scooter" means a device with no more than two 10-inch or smaller 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 46.04.332), mopeds (RCW 46.04.304), electric assisted bicycles (RCW 46.04.169) Electric Personal Mobility Devices (RCW 46.04.1695), or power wheelchairs (RCW 46.04.415).

C. "City Street" means every public highway, as defined in Chapter 46.04, or part thereof, located within the city limits of the City of Everett.

D. "City Property" includes all City right-of-way, as defined in the City of Everett Zoning Code.

E. "Rules of the road" means all rules applicable to vehicle or pedestrian traffic as set forth in state statute, rule or regulation.

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. The regulations of this chapter shall not apply to any vehicle used by a disabled person as defined by RCW 46.16.381.

Section 3: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

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 posted private or public property.
- 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 manner means the operation of a motorized foot scooter or other wheeled recreational device in such a manner as to endanger or be likely to endanger any person or property.
 2. Operation of a motorized foot scooter in excess of 15 miles per hour shall be prima facie evidence of operation in a negligent manner.

Section 4: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

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.

Section 5: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

Noise restrictions - Mufflers.

- A. No motorized foot scooter or other wheeled recreational device shall be operated in a manner that creates continuous sound associated with a gasoline-powered engine so as to unreasonably disturb or interfere with the peace and comfort of owners or occupants of real property. Nothing in this section shall limit enforcement of the City’s Noise Ordinance, Chapter 20.08 of the Everett Municipal Code.
- B. It is unlawful to sell or operate a motorized foot scooter 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.

Section 6: Title 46 of the Everett Municipal Code is amended by the addition of the following section:

Violation – Penalty.

- A. Any person violating the provisions of this Chapter shall be deemed to have committed a traffic infraction.
- B. In lieu of the penalty described above, any Everett Police Officer may utilize the following penalty provision for a person under 16 years of age found operating a motorized foot scooter or other wheeled recreational device on city property:
 - 1. The officer may take custody of the device. If the officer does not impound the device, he or she may release it only to an adult.
 - 2. The officer must provide the violator with a written notice setting forth the procedure for reclaiming the device.
 - 3. The procedure for reclaiming the device shall be promulgated by the Chief of Police.
 - 4. Only the parent or legal guardian of a violator or an adult owner can reclaim a motorized foot scooter or other wheeled recreational device impounded pursuant to this section.
 - 5. A \$50.00 fee for costs of impound and administrative processing shall be paid to the City Clerk prior to the release of any property impounded under this alternative penalty.
 - 6. Any unclaimed devices may be disposed of in accordance with state law.
- C. 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.

Section 7: 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 nor 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 8: 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 9: Severability.

If any section, 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 10: Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, The correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

RAY STEPHANSON, MAYOR

ATTEST:

City Clerk

Passed: _____

Valid: _____

Effective: _____

Published: _____