

ORDINANCE NO. 2004-09

AN ORDINANCE ADDING CHAPTER 10.20 TO THE WALLA WALLA MUNICIPAL CODE RELATING TO MOTORIZED FOOT SCOOTERS AND RELATED MATTERS

WHEREAS, the City of Walla Walla passed Municipal Ordinance A-2405 on May 13, 1970 which classified the City of Walla Walla as a nonchartered code city under Title 35A of the Revised Code Washington (RCW); and

WHEREAS, Article 11, section 11, of the Washington State Constitution provides that the City of Walla Walla “may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws;”

WHEREAS, section 35A.11.020 of the Revised Code of Washington provides in pertinent part that “[t]he legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised ... in regard to the ... regulation [and] use ... of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property....;” and

WHEREAS, Walla Walla has “all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate and are not in conflict with the provisions specifically applicable to code cities” pursuant to section 35A.21.160 of the Revised Code of Washington; and

WHEREAS, the State of Washington defines a motor vehicle in section 46.04.320 of the Revised Code of Washington as “every vehicle which is self-propelled....” and section 46.37.390 of the Revised Code of Washington states in pertinent part that “[e]very motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway;” and

WHEREAS, the Washington Legislature passed 2003 Wash. Laws, regular session, Ch. 353, regulating motorized foot scooters, which is codified at section 46.20.500 of the Revised Code of Washington, and provides in pertinent part:

No driver’s license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol; and

WHEREAS, section 46.08.010 of the Revised Code of Washington states:

The provisions of this title relating to the certificate of ownership, certificate of license registration, vehicle license, vehicle license plates and vehicle operator's license shall be exclusive and no political subdivision of the state of Washington

shall require or issue any licenses or certificates for the same or a similar purpose except as provided in RCW 82.80.020, nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein; and

WHEREAS, the 2003 Wash. Laws, regular session, Ch. 353 does not prohibit locally adopted age restrictions and such restrictions are consistent with, supplement, and do not conflict with such law; and

WHEREAS, 2003 Wash. Laws, regular session, Ch. 353, regulating motorized foot scooters, further provides in pertinent part that “motorized foot scooters may have access to highways of the state to the same extent as bicycles.... [M]otorized foot scooters may be operated on a multipurpose trail or bicycle lane, but local jurisdictions may restrict or otherwise limit the access of ... motorized foot scooters;” and

WHEREAS, sections 46.61.750 through 46.61.991 of the Revised Code of Washington regulates the rules of the road for the operation of bicycles in the State of Washington; and

WHEREAS, subsection 46.61.760(2) of the Revised Code of Washington denies bicycles access to highways when they are used to carry more persons at one time than the number for which they are designed and equipped; and

WHEREAS, subsection 46.61.780(1) of the Revised Code of Washington of the Revised Code of Washington denies bicycles access to highways during hours of darkness unless certain minimum lighting and reflection requirements are met; and

WHEREAS, subsection 46.61.780(2) of the Revised Code of Washington denies bicycles access to highways unless they are equipped with an adequate brake; and

WHEREAS, section 46.61.775 of the Revised Code of Washington prohibits access to highways to bicyclists carrying packages, bundles or articles which prevent them from keeping at least one hand on the handlebars; and

WHEREAS, section 35.75.010 of the Revised Code of Washington conditions bicycle access to highways in cities and towns upon local regulations which are thereby authorized:

Every city and town may by ordinance regulate ... the riding of bicycles and other similar vehicles upon or along the streets, alleys, highways, or other public grounds within its limits and may construct and maintain bicycle paths or roadways within or outside of and beyond its limits leading to or from the city or town. The city or town may provide by ordinance for reasonable fines and penalties for violation of the ordinance; and

WHEREAS, section 46.08.030 of the Revised Code of Washington provides:

The provisions of this title relating to the operation of vehicles shall be applicable

and uniform upon all persons operating vehicles upon the public highways of this state, except as otherwise specifically provided; and

WHEREAS, section 46.08.020 of the Revised Code of Washington provides:

The provisions of this title relating to vehicles shall be applicable and uniform throughout this state and in all incorporated cities and towns and all political subdivisions therein and no local authority shall enact or enforce any law, ordinance, rule or regulation in conflict with the provisions of this title except and unless expressly authorized by law to do so and any laws, ordinances, rules or regulations in conflict with the provisions of this title are hereby declared to be invalid and of no effect. Local authorities may, however, adopt additional vehicle and traffic regulations which are not in conflict with the provisions of this title.

WHEREAS, section 46.04.540 of the Revised Code of Washington distinguishes sidewalks from highways, and section 35.21.220 of the Revised Code of Washington authorizes cities to “regulate the use of sidewalks within their limits...;” and

WHEREAS, the United States Product Safety Commission issued release #01-222 on August 22, 2001 regarding the increase in injuries arising from motorized scooter use and the Walla Walla City Council considered such release; and

WHEREAS, accidents have recently been reported in the State of Washington involving operators of motorized scooters under the age of sixteen years, and the Walla Walla City Council has considered such reports; and

WHEREAS, the states of California and Oregon have both found it advisable to restrict the usage of motorized scooters to persons sixteen years of age and older, and the Walla Walla City Council has considered Chapter 722 of the 1999 California session laws and Chapter 749 of the 2001 Oregon session laws; and

WHEREAS, the Walla Walla City Council has considered adoption of this ordinance during a regularly and duly called public meeting of said Council, has given careful review and consideration to said ordinance, and finds said ordinance to be in the best interests of the City of Walla Walla,

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

Section 1: The Walla Walla City Council finds that there has been a dramatic rise in the number of injuries associated with the use of motorized foot scooters, and that the operation of motorized foot scooters in the City of Walla Walla affects the health, safety, and welfare of its citizens.

The Walla Walla City Council further finds that motorized foot scooters present a greater risk of injury to persons and damage to property than bicycles. Motorized foot

scooters are more susceptible to upset by roadway obstruction, because they have smaller wheels than bicycles. Lost control is more likely on a motorized foot scooters than a bicycle, because such scooters are motorized and have a shorter wheelbase. Operators of motorized foot scooters are more likely to lose their balance than bicycle riders, because they operate their vehicles from a standing or sitting position rather than astride. Due to their size, motorized foot scooters are less visible to other motorists than bicycles.

The Walla Walla City Council further finds that motorized foot scooters present an unacceptable risk of injury or death to persons under the age of sixteen years. Such persons do not possess sufficient training or experience to operate motor vehicles, and such persons lack physical and cognitive maturity to safely operate motor vehicles.

Section 2: Chapter 10.20 is hereby added to the Walla Walla Municipal Code as follows:

**Chapter 10.20
MOTORIZED FOOT SCOOTERS**

10.20.010 Application. This chapter shall apply to the operation and riding of motorized foot scooters in, or, or upon, public ways or public property.

10.20.020 Definitions.

A. "Bicycle" means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is sixteen inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter.

B. "Guardian" means a parent, legal guardian, an adult with custody, or a temporary guardian who maintains responsibility, whether voluntary or otherwise, for the safety and welfare of a person under the age of eighteen (18) years.

C. "Motorized foot scooter" means a device with no more than two ten-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.

For purposes of this chapter, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

10.20.030 Rules of the Road.

Except as otherwise provided by this chapter, every person operating a motorized foot scooter shall be granted all the rights and shall be subject to all of the duties applicable to bicycle riders.

10.20.040 Safe operation.

- A. No motorized foot scooter shall be operated faster than is reasonable and proper, and every motorized foot scooter shall be operated with reasonable regard for the safety of the operator and of other persons and property.
- B. No motorized foot scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.
- C. No person shall operate or ride upon a motorized foot scooter during hours of darkness as defined in section 46.37.020 of the Revised Code of Washington unless the motorized foot scooter is equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a reflector on the rear of a type approved by the state patrol.
- D. No person shall operate or ride upon a motorized foot scooter unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
- E. No person operating a motorized foot scooter shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handlebars.

10.20.050 Limitations.

- A. No person under the age of sixteen (16) years shall operate a motorized foot scooter.
- B. No person shall operate a motorized foot scooter in, on, or upon a sidewalk.
- C. No person shall operate a motorized foot scooter in on, or upon a multipurpose trail upon which motorized vehicles are prohibited.
- D. No person shall operate a motorized foot scooter in, on, or upon a Walla Walla city park.
- E. No guardian shall knowingly permit a person to operate or ride upon a motorized foot scooter in violation of this chapter.

10.20.060 Mufflers-prevention of noise. Every motorize scooter vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motorized foot scooter in the City of Walla Walla.

10.20.100 Violations. It is an infraction for any person or guardian to do any act forbidden or fail to perform any act required by this chapter. Anyone found to have committed a traffic infraction shall be assessed a monetary penalty not to exceed two hundred fifty dollars (\$250.00) for each violation; provided, however, that the monetary penalty imposed upon a juvenile under the age of sixteen years may not exceed one hundred dollars (\$100.00) for each violation.

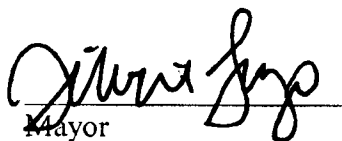
Section 3: The index to any chapter of the Walla Walla Municipal Code in which

sections are added or removed or in which section titles are changed herein shall also be amended to reflect the such section amendments.

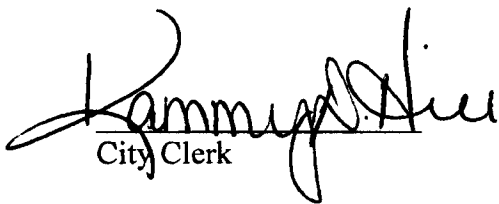
Section 4: If any section, portion, part, sentence, clause, phrase, or term hereof shall be determined to be invalid or unenforceable, it shall be deemed severable from the remainder hereof.

Section 5: This ordinance shall become effective on August 1, 2004, after passage and publication summary hereof approved by the Walla Walla City Attorney.

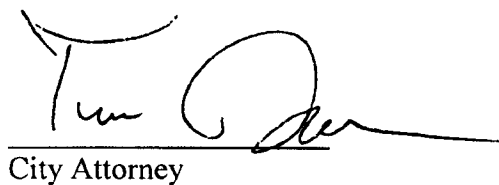
PASSED by the City Council of the City of Walla Walla, Washington, this 23rd day of June, 2004.


Mayor

Attest:


City Clerk

Approved as to form


City Attorney