

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 71 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC REGULATIONS", TO PROHIBIT THE OPERATION OF MOTOR SCOOTERS; AMENDING CHAPTER 127 ENTITLED "OTHER BUSINESSES", TO PROHIBIT THE SALE, RENTAL OR LEASING OF MOTORIZED SCOOTERS AND GO-PEDS; PROVIDING FOR SEVERABILITY AND A REPEALER PROVISION.

WHEREAS, currently under state law, motorized scooters are not permitted to operate legally on public roads; and

WHEREAS, Section 316.640, Florida Statutes, provides in part that "municipalities shall enforce state traffic laws on all municipal streets and highways wherever the public has the right to travel by motor vehicle"; and

WHEREAS, Section 316.008(7)(a), Florida Statutes, expressly gives a local government the authority to enact an ordinance to control or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas, which includes restricting such vehicles or devices to a maximum speed of 15 miles per hour in such areas; and

WHEREAS, Section 316.995, Florida Statutes, expressly states that "except as provided in Sections 316.008 or 316.212(2), a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway"; and

WHEREAS, Section 316.003(44), Florida Statutes, defines a motorized scooter as "any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground"; and

WHEREAS, Section 71.25 of the City's Code of Ordinances, entitled "SAFETY HELMET OR HEADGEAR REQUIRED", sets forth provisions for the use and operation of motor scooters and other vehicles; and

Coding: Underscored text are additions to existing text; words ~~stricken-through~~ are deletions from existing text; any text that is both underscored and stricken through represents text that was newly presented on first reading but that is being deleted on second reading; and shaded text represents changes between first and second readings.

WHEREAS, Section 71.26 of the City's Code of Ordinances, entitled "OPERATOR'S PERMIT REQUIRED", provides regulations concerning the use and operation of motor scooters within the City; and

WHEREAS, Section 127.300 of the City's Code of Ordinances, entitled "RETAIL BUSINESSES", provides certain requirements for businesses that loan, rent or sell, among other motor vehicles, motorized scooters and go-peds within the City; and

WHEREAS, the City Commission, cognizant of the growing number of serious, often life threatening accidents involving the use of motor scooters and go-peds in the South Florida area as well as nationwide, and finding that the use of such vehicles constitutes a threat to the life, safety and welfare of the citizens of the City of Hollywood, desires to prohibit the use of such motor scooters, motorized scooters and go-peds within the City, and further desires to prohibit the sale, lease or rental of motor scooters, motorized scooters and go-peds.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Ordinance.

Section 2: That Chapter 71 of the Hollywood Code of Ordinances is hereby amended as follows¹:

CHAPTER 71: TRAFFIC REGULATIONS

* * *

§ 71.24 DEFINITIONS.

Definitions. For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GO-PED. A two-wheeled scooter with a gasoline powered engine, operating in a standing position which has no seat and no pedals and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

MOTORIZED SCOOTER OR MOTOR SCOOTER. Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

PORT EVERGLADES JURISDICTIONAL AREA. The Port Everglades Jurisdictional Area is defined in the Interlocal Agreement Pursuant to Chapter 163, Florida Statutes, Between: City of Hollywood, Florida, City of Fort Lauderdale, Florida, City of Dania, Florida, and Broward County, Florida, dated May 6, 1994.

§ 71.25 ~~SAFETY HELMET OR HEADGEAR REQUIRED~~ RESERVED.

~~(A) It shall be unlawful for any person to operate or occupy as a passenger any motorcycle, motor scooter or motor bike, upon any public street, alley or other thoroughfare within the city limits unless such person is wearing a type of safety helmet or headgear, securely fastened upon his head and which is made to specifications drawn and devised by, or approved by the American National Standards Institute, the United States Department of Transportation, the United States Consumer Product Safety Commission, United States Department of Defense, or any other entity which can provide equally effective equipment specifications.~~

~~(B) It shall be unlawful for any person to rent, lease or lend any motorcycle, motor scooter or motor bike to any other person without first ascertaining that such person or passenger is equipped with a safety helmet or headgear made to specifications drawn and devised by or approved by the American National Standards Institute, the United States Department of Transportation, the United States Consumer Product Safety Commission, the United States Department of Defense, or any other entity which can provide equally effective equipment specifications. If such person is not so equipped, he shall provide same.~~

* * *

§ 71.26 OPERATOR'S PERMIT REQUIRED.

* * *

(C) It shall be unlawful for any person to rent, lease or lend any motorcycle, ~~motor scooter~~ or motor bike to any other person without first ascertaining that such person has in his possession a valid motorcycle operator's license or a valid Florida operator's license issued prior to October 1, 1984, which has not yet expired.

* * *

§ 71.27 MOTOR SCOOTERS, MOTORIZED SCOOTERS AND GO-PEDS PROHIBITED.

It shall be unlawful for any person to use or operate any motor scooter, motorized scooter, ~~moped~~ or go-ped on any City street, roadway, sidewalk, or on any other private property where the public has the right to travel by motor vehicle within the City. This prohibition shall include those City-owned streets, roadways and sidewalks lying within the Port Everglades Jurisdictional Area.

Section 3: That Chapter 127 of the Hollywood Code of Ordinances is hereby amended as follows:

CHAPTER 127: OTHER BUSINESSES

§ 127.300 RETAIL BUSINESSES.

(A) *Definitions.* For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GO-KART. An amusement ride vehicle controlled or driven by patrons specifically designed for and run on a fixed private course.

GO-PED. A two-wheeled scooter with a gasoline powered engine, operating in a standing position which has no seat and no pedals and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

MOTORIZED SCOOTER OR MOTOR SCOOTER. Any vehicle ~~propelled by electric or gas,~~ not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

PORT EVERGLADES JURISDICTIONAL AREA. The Port Everglades Jurisdictional Area is defined in the Interlocal Agreement Pursuant to Chapter 163, Florida Statutes, Between: City of Hollywood, Florida, City of Fort Lauderdale, Florida, City of Dania, Florida, and Broward County, Florida, dated May 6, 1994.

(B) Any retail business that loans, rents or sells go-peds, motorized scooters or go-karts, shall notify, in writing, persons buying or renting such vehicles of the state laws pertaining to the operation and ownership of such vehicles and the applicable state law penalties for violating any of the applicable state laws. As a condition precedent to the sale or rental, the retail business customer shall sign a form acknowledging that the retail business customer has read the form and will comply with the special conditions relating to the sale, loan or rental of a go-ped, motorized scooter or go-karts. The forms shall be accessible at all times for inspection by any representative of the Hollywood Police Department.

(C) Any retail business that loans, rents or sells go-peds, motorized scooters, or go-karts shall post a sign visible to all customers/patrons setting forth that the purchase or rental requires the user of the go-ped, motorized scooter, or go-kart, to comply with F.S. Chapters 316 and/or 320.

(D) It shall be unlawful for any retail business to loan, lease, rent or sell any motor scooter, motorized scooter or go-ped for use on any City street, roadway, sidewalk, or on any other private property that the public has the right to travel by motor vehicle within the City. This prohibition shall include those City-owned streets, roadways and sidewalks lying within the Port Everglades Jurisdictional Area.

AN ORDINANCE AMENDING CHAPTER 71 OF THE CODE OF ORDINANCES, ENTITLED "TRAFFIC REGULATIONS", TO PROHIBIT THE OPERATION OF MOTOR SCOOTERS; AMENDING CHAPTER 127 ENTITLED "OTHER BUSINESSES", TO PROHIBIT THE SALE, RENTAL OR LEASING OF MOTORIZED SCOOTERS AND GO-PEDS; PROVIDING FOR SEVERABILITY AND A REPEALER PROVISION.

Section 4: That it is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this Ordinance may be renumbered to accomplish such intention.

Section 5: That if any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 6: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict are repealed to the extent of such conflict.

Section 7: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

Advertised on _____, 2019.

PASSED on first reading this _____ day of _____, 2019.

PASSED AND ADOPTED on second reading this _____ day of _____, 2019.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida, only.

DOUGLAS R. GONZALES, CITY ATTORNEY