

ORDINANCE 3195-21

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 98 OF THE WINTER PARK CODE PROHIBITING MICROMOBILITY DEVICES AND THE OBSTRUCTION OF STREETS, RIGHT-OF-WAYS AND SIDEWALKS BY, AND REGULATING THE USE OF, BICYCLES, ELECTRIC BICYCLES, MICROMOBILITY DEVICES AND MOTORIZED SCOOTERS WITHIN THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park (the "City") recognizes that the passage of HB 453 and HB 971 have expanded the rights of electric bicycle, motorized scooter and micromobility device operators within the state and expanded the areas where electric bicycle, micromobility device and motorized scooter operators may operate these devices under Section 316.2128 and Section 316.20655, Florida Statutes; and

WHEREAS, Section 316.2128, Florida Statutes provides operators of motorized scooters and micromobility devices with the same rights and duties of the operator of a bicycle; and

WHEREAS, Section 316.20655, Florida Statutes provides operators of electric bicycles the same rights and duties as the operator of a bicycle; and

WHEREAS, operation of electric bicycles, micromobility devices and motorized scooters is not compatible with the uses and activities within the Central Business District, the Hannibal Square Neighborhood Commercial District and the Orange Avenue District as defined by Article I, Chapter 58 of the Comprehensive Plan due to high volumes of pedestrian and vehicle traffic; and

WHEREAS, electric bicycles, micromobility devices, motorized scooters and bicycles parked improperly create dangerous conditions for pedestrians, particularly the disabled residents of the City; and

WHEREAS, Section 316.2128, Florida Statutes expressly reserves local authority and jurisdiction to regulate micromobility devices and motorized scooters to the extent authorized by Section 316.008, Florida Statutes; and

WHEREAS, Section 316.20655 Florida Statutes expressly reserves local authority and jurisdiction to regulate electric bicycles within certain areas to the extent authorized by Section 316.008, Florida Statutes; and

WHEREAS, the City recognizes that Section 316.008(1)(a), Florida Statutes authorizes municipalities to regulate or prohibit “stopping, standing, or parking,” that Section 316.008(1)(h), Florida Statutes authorizes municipalities to regulate bicycles, that Section 316.008(1)(n), Florida Statutes authorizes municipalities to prohibit or regulate the use of “heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic”; and

WHEREAS, the City recognizes that Section 316.008(7)(a), Florida Statutes authorizes municipalities to “permit, control, or regulate” vehicles operating on sidewalks including micromobility devices, bicycles, and motorized scooters; and

WHEREAS, the City recognizes the First District Court of Appeals recently upheld a total prohibition on motorized scooter rentals within the City of Panama City Beach in *Classy Cycles, Inc. v. Pan. City Beach*, 2019 Fla. App. LEXIS 16995; and

WHEREAS, the City finds a comprehensive regulatory scheme is necessary to mitigate the risks and dangers posed by electric bicycles, motorized scooters and micromobility devices within the City; and

NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK:

SECTION 1: Recitals. The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings and legislative intent of the City Commission of the City of Winter Park

SECTION 2: Amendment. That Chapter 98 “Traffic and Vehicles” of the City of Winter Park Code of Ordinances is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; provisions not shown are not being amended):

Chapter 98. Traffic and Vehicles.

Article I. – In General

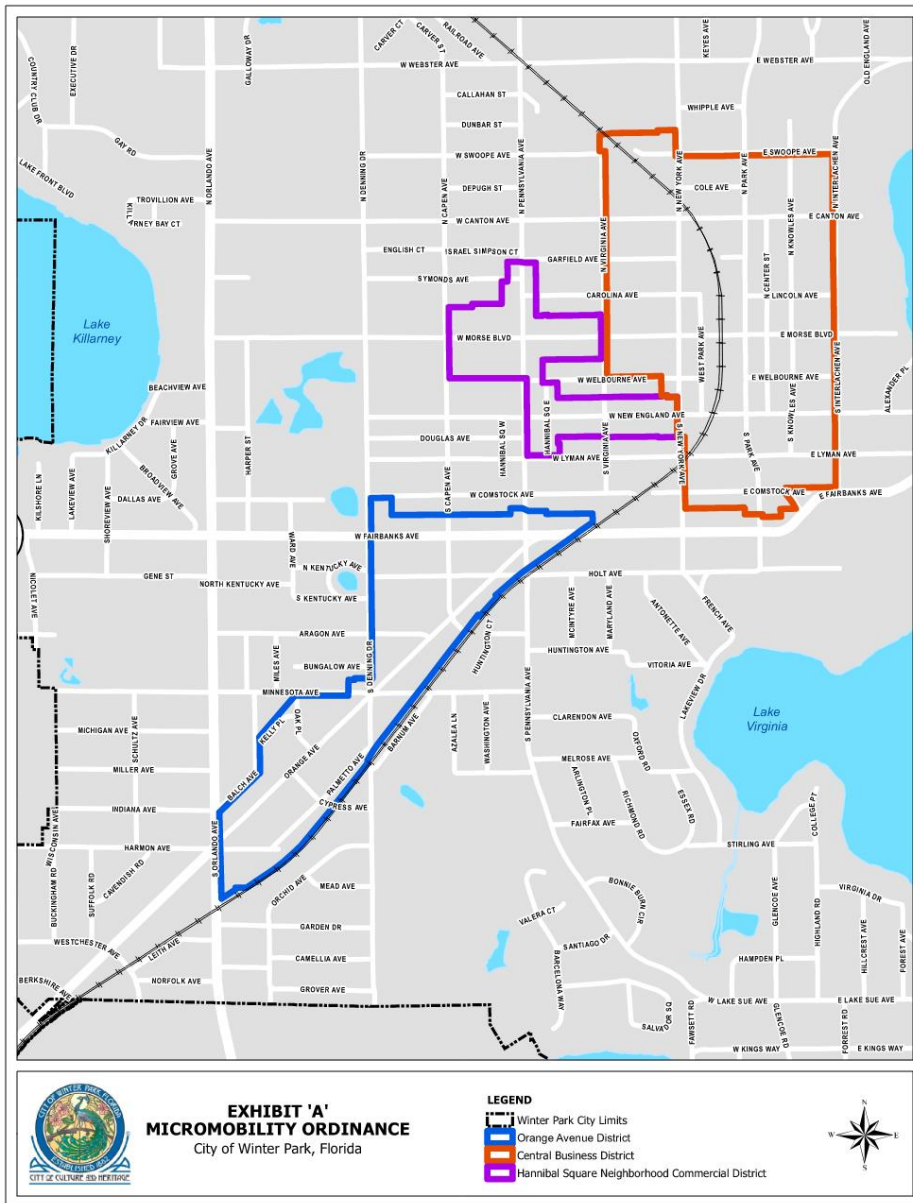
Sec. 98-2. – Definitions.

The following words and phrases, when used in this chapter, shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except when the context otherwise requires. Whenever any words and phrases used in this chapter are not defined in this section but are defined in the state laws regulating the

operation of vehicles, any such definition in state law shall be deemed to apply to such words and phrases used in this chapter, except when the context otherwise requires.

Bicycle means every vehicle propelled solely by human power having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include an electric bicycle, motorized scooter or similar device.

Central Business District shall have the same meaning as defined within the maps of the Central Business District adopted in the definitions section of the Comprehensive Plan of the City, article I, chapter 58 and is generally that part of the city bordered by Webster Avenue on the north, Interlachen Avenue on the east, Fairbanks Avenue on the south and New York Avenue on the west.

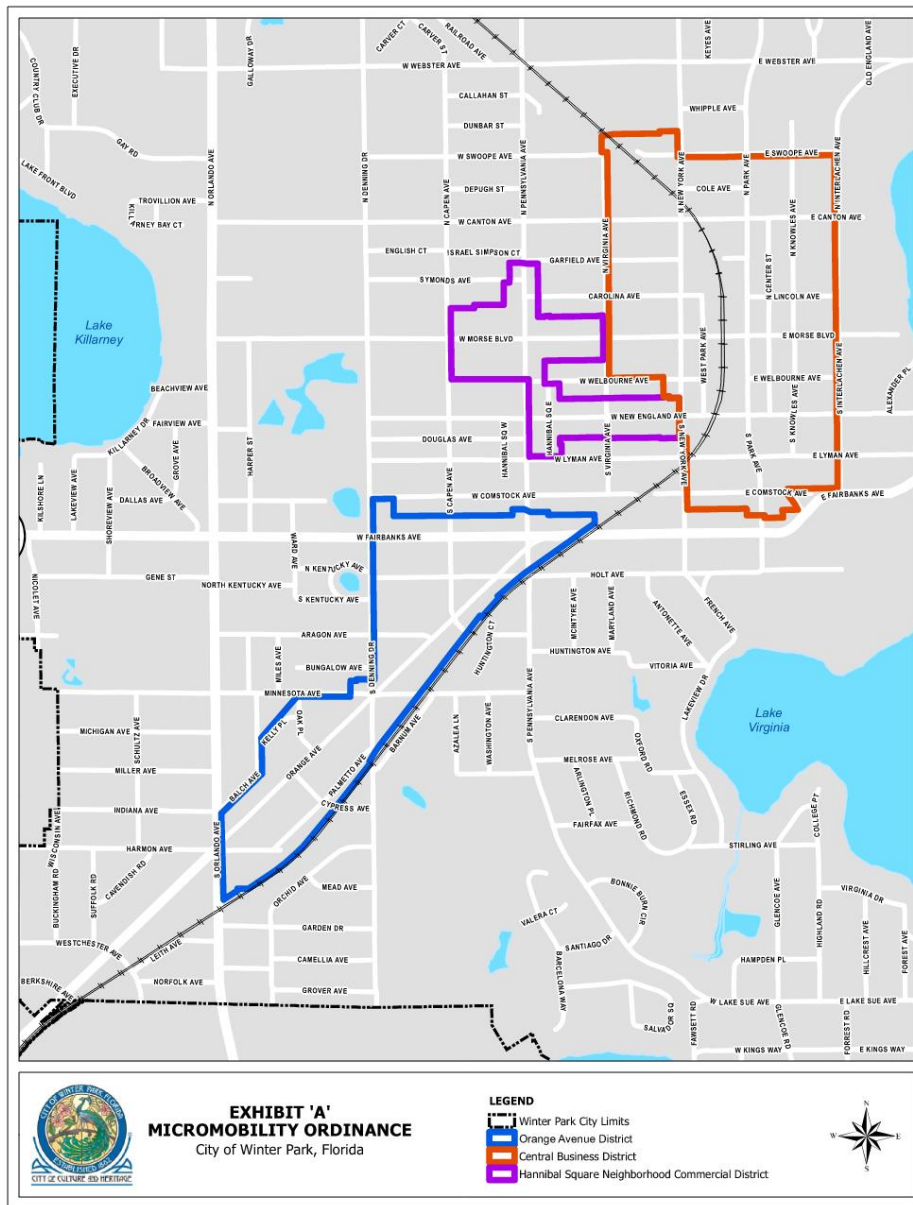


Commercial vehicle means every vehicle designed, maintained or used primarily for the transportation of property and which displays lettering thereon advertising the owner of the vehicle.

Electric Bicycle means any bicycle or tricycle equipped with fully operable pedals, a seat or saddle for use of the rider, and an electric motor of less than 750 watts. This definition includes all classes of Electric Bicycle under Section 316.003(22), Florida Statutes (2020).

Freight curb loading zone means a space adjacent to a curb for the exclusive use of commercial vehicles during the loading or unloading of freight.

Hannibal Square Neighborhood Commercial District shall have the same meaning as defined within the maps of the Hannibal Square Neighborhood Commercial District adopted in the definitions section of the Comprehensive Plan of the City, article I, chapter 58 and is generally that part of the city fronting on New England Avenue, Hannibal Square, Morse Boulevard and Pennsylvania Avenue.

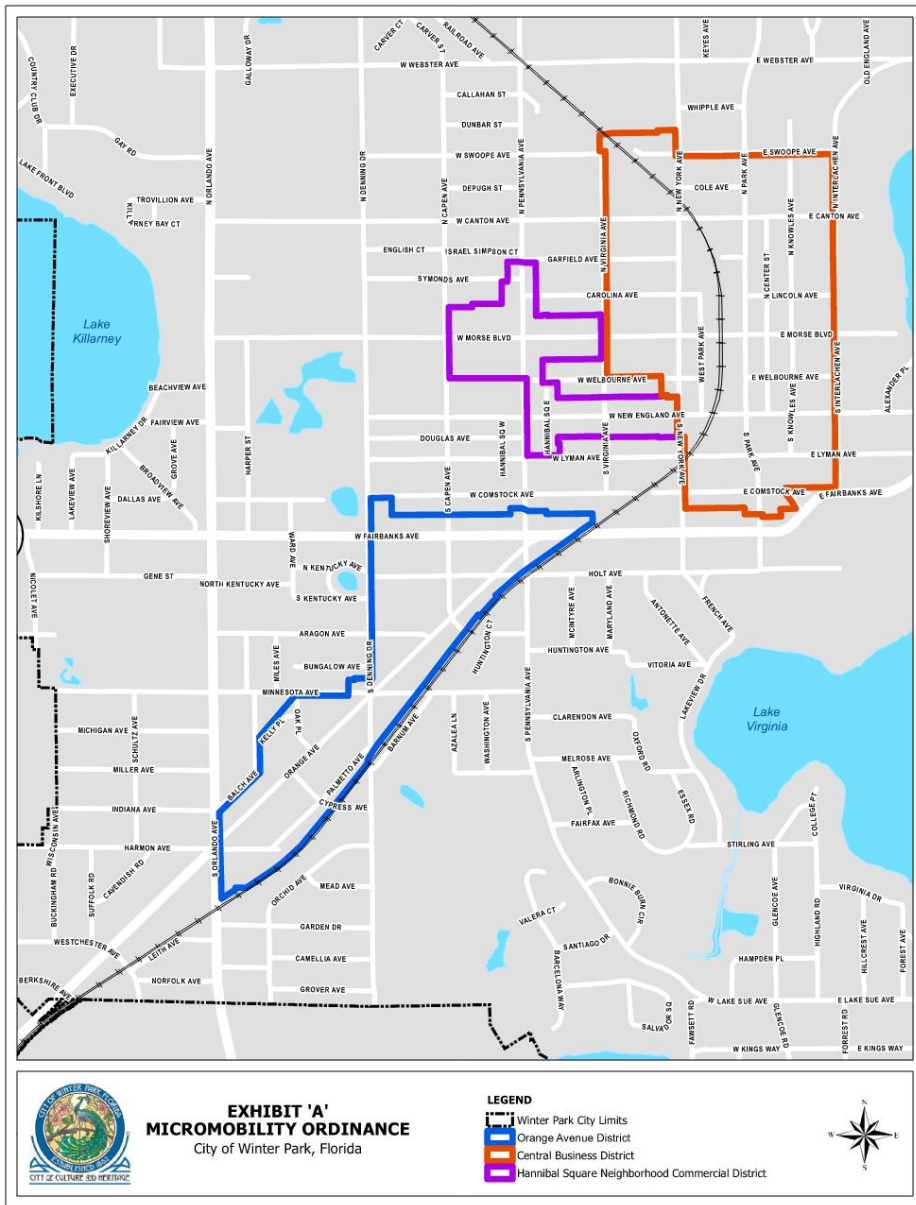


Motorized scooter means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the

vehicle at a speed greater than 20 miles per hour on level ground as defined by Fla. Stat. § 316.003(45).

Micromobility device means any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground as defined by Fla. Stat. § 316.003(38). This term includes motorized scooters and bicycles as defined by Fla. Stat. § 316.003.

Orange Avenue District shall consist of the frontages along Orange Avenue between Orlando Avenue and Fairbanks Avenue as well as the frontages along Fairbanks Avenue between Denning Drive and the SunRail crossing east of Pennsylvania Avenue.



Parkway means that portion of a street not designated or intended for the use of pedestrians and located between the curb and the adjacent property lines or between the edge of pavement and the adjacent property lines where there is no curb or between the established vehicular traveled way and the adjacent property lines on unpaved streets.

Passenger curb loading zone means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Right-of-way means property owned or controlled by the City or other governmental entity over which the public has a right of passage, including, without

limitation, the streets, parkways, paths, alleys, sidewalks, and driveways constructed thereon.

Sidewalk means that portion of a right-of-way between the curbline, or the lateral line, of a roadway and the adjacent property lines, that is improved for intended use by pedestrians or by bicycles in areas designated for bicycle use.

Stage or Staging means the parking and/or placing of electric bicycles, micromobility devices or motorized scooters on a right-of-way, within a public park or on other public property for the purpose of advertising or displaying such micromobility devices to the general public for use or rental.

Traffic division means the traffic division of the police department or, if a traffic division is not established, the term shall be deemed to refer to the police department.

Sec. 98-6. – Bicycle, electric bicycle and motorized scooter riding.

- (a) Official bike paths may be used in lieu of city streets where available and so long as their use will not endanger the safety of pedestrians.
- (b) It shall be unlawful for any person to ride a bicycle, electric bicycle or motorized scooter upon any sidewalk within the Central Business District central-business district of the city, Hannibal Square Neighborhood Commercial District or Orange Avenue District. without limitation or exception.
- (c) It shall be unlawful to operate any bicycles, electric bicycles or motorized scooters upon any sidewalk adjacent to or within any sidewalk cafe as defined by Chapter 90, Article VI.

Sec. 98-7. – Bicycles, micromobility devices, electric bicycles and motorized scooters obstructing streets or sidewalks.

No bicycle, electric bicycle, micromobility device or motorized scooter shall be parked, staged, abandoned or otherwise left upon any street, right-of-way or sidewalk in such a manner as to obstruct traffic, either of vehicles or pedestrians, or to obstruct any stopping or parking space.

Sec. 98-8 – Micromobility devices.

- (a) Prohibition. It shall be unlawful to operate any micromobility device upon the roadways, sidewalks, bicycle paths or rights-of-way of the City unless expressly permitted by Section 98-6. See definition of micromobility devices in Section 98-2.

Sec. 98-9. – Electric Bicycles.

- (a) Electric bicycles must comply with all regulations under Florida law and this Code applicable to bicycles.

Sec. 98-10. – Micromobility device and motorized scooter staging.

It shall be unlawful to stage electric bicycles, micromobility devices and motorized scooters within the limits of the City.

Sec. 98-11. – Violations.

The City is authorized to establish civil penalties for violations of this Chapter pursuant to the "Schedule of City of Winter Park Service and User Fees and Charges" adopted by the City Commission from time to time, and persons or entities in violation of this Chapter or any part thereof shall be subject to such prescribed penalties. In addition, the City shall have the right to enforce this Chapter or any portion thereof through any remedies available at law and in equity, including, without limitation, injunctive relief.

Sec. 98-812. - Electric vehicle charging station spaces.

Secs. 98-9 98-13 – 98-30. – Reserved.

SECTION 3. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION 4: SEVERABILITY. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

SECTION 5: CODIFICATION. Section 2 of this Ordinance shall be codified and made a part of the City of Winter Park Code or Ordinances, and the sections of this Ordinance and Article I may be renumbered or re-lettered to accomplish this intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

SECTION 6: EFFECTIVE DATE. This Ordinance shall become effective immediately following approval by the City Commission at its second reading.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this ____ day of _____, 2021.

Mayor Steve Leary

ATTEST:

Rene Cranis, City Clerk