

**ORDINANCE NO. O-2019-60**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, TO PROHIBIT SHARED ACTIVE TRANSPORTATION SYSTEMS FROM OPERATING ON THE PUBLIC STREETS AND SIDEWALKS, PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety and welfare; and

**WHEREAS**, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

**WHEREAS**, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Texas Local Government Code Sec. 51.072 (a) states that a home-rule municipality has full power of self-government; and

**WHEREAS**, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or good order of the municipality; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

**WHEREAS**, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

**WHEREAS**, Section 1 of the Tyler City Charter provides that the City may license and regulate persons, corporations, and associations engaged in any business, occupation or trade; and

**WHEREAS**, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets and alleys of the municipality; and

**WHEREAS**, Texas Transportation Code Section 311.004 provides that a home-rule municipality's City Council has the power to regulate the use of streets, alleys, sidewalks and other public ways, including the power to prevent and remove encroachments, regulate crosswalks, curbs, and gutters, and regulate traffic on streets, sidewalks and other public spaces.

**WHEREAS**, a Shared Active Transportation System company has requested it be allowed a thirty-day pilot program to bring electric scooters to the downtown DBAC District; and

**WHEREAS**, Tyler's current downtown street and sidewalk infrastructure cannot support the safe operation of shared active transportation systems motorized vehicles like electric bikes and electric scooters with regard to both users and others using the City's sidewalks and/or streets; and

**WHEREAS**, The City Council wants to ensure that if and when a shared active transportation system is allowed to operate in Tyler, that citizens are able to operate such vehicles in an environment where safety of the users has been considered and infrastructure, either existing or future, can adequately support the use of electric scooters and bikes; and

**WHEREAS**, The City is aware that without regulations in place, operators can bring electric scooters and other motorized alternative vehicles without notice to the City to any location within the City; and

**WHEREAS**, As the proliferation of electric scooters and bikes continue, cities with regulations in place before the electric scooters and bikes are available for public use are much better able to control related issues affecting the public's health, welfare and safety; and

**WHEREAS**, Cities which have not had regulations in place prior to the arrival of electric scooters and bikes have suffered the chaos of electric scooters tossed into waterways, into trees, impeding pedestrian walkways, cluttering intersections at crosswalks, blocking entrances to places of business and loading zones, and other myriad problems that can be better managed by developing both regulations and identifying infrastructure that is best suited for such uses; and

**WHEREAS**, It is the intent of the City to consider all alternative transportation modes in future planning efforts both in the DBAC and City-wide, and to ensure citizens and visitors that if and when such service is allowed to operate in Tyler, that public health, safety and welfare concerns have been studied and fully considered prior to allowing such a service to operate; and

**WHEREAS**, Tyler's City Code Unified Development Code at Sec. 10-270 provides that the City ensure that in certain circumstances transportation impacts of proposed developments are identified, evaluated and mitigated as necessary and to assess the effects that development will have on traffic conditions, transit users, pedestrians, bicyclists, and neighborhood livability; and

**WHEREAS**, Similar efforts are planned to address how alternative transportation options may be safely integrated into Tyler's future; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That Tyler City Code, Chapter 17, "Streets and Traffic," Art. II, Sec. 17-32 be amended as follows:

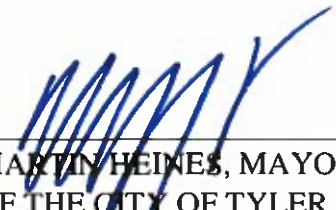
**Sec. 17-32. Applicability of traffic regulations; must be obeyed.**

- a. The regulation of vehicular and pedestrian traffic on all public roadways and sidewalks shall be controlled and regulated in accordance with this chapter.
- b. All traffic-control devices, including all parking, stop, speed and directional signs, and any other kind of a traffic control sign, shall be obeyed as provided in this Chapter.

- c. Every person propelling any pushcart or riding a bicycle or an animal upon a roadway or sidewalk, and every person driving an animal shall be subject to the provisions of this Chapter applicable to the operation of any vehicle except those provisions of this Chapter with reference to the equipment of vehicles and except where the provisions which by their very nature can have no application.
- d. Shared Active Transportation Service providers are hereby prohibited from operating on public roadways and sidewalks within the City of Tyler. This prohibition does not include the operation of shared active transportation vehicles on area college and university campuses and/or within private developments seeking agreements directly with alternative transportation providers.
- e. In any prosecution for violation of this chapter, the authorized installation of a traffic control device or signal shall be presumed. (Ord. 0-98-43, 5/27/98) (Ord. O-2019-60, 7/24/19).

**PART 2:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 3:** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, or later. The effective date of this Ordinance shall be July 29, 2019.


  
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MARTIN HEINES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

  
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CASSANDRA BRAGER, CITY CLERK



  
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DEBORAH G. PULLUM,  
CITY ATTORNEY