ORDINANCE 26-09

AN ORDINANCE OF THE CITY OF WAVERLY, NEBRASKA, AMENDING TITLE VII, CHAPTER 71 OF THE WAVERLY MUNICIPAL CODE TO PROVIDE FOR THE DEFINITION OF MOTORCYCLE, GO CART, MINIBIKE AND BICYCLE AND REGULATION OF SAME; REGULATION OF ELECTRIC BICYCLES, ELECTRIC SCOOTERS, AND ELECTRIC MOTORCYCLES; TO PROVIDE FOR THE REPEAL OF ANY ORDINANCE IN CONFLICT HEREWITH AND TO PROVIDE FOR THE EFFECTIVE DATE THEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAVERLY, NEBRASKA, AS FOLLOWS:

SECTION 1. That Section 71.70 contained within Chapter 71 of the Waverly Municipal Code be amended to read as follows:

BICYCLES, MOTORCYCLES, MINIBIKES, ELECTRIC BICYCLES (E-BIKES), ELECTRIC SCOOTERS (E-SCOOTERS), AND ELECTRIC MOTORCYCLES, ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES

§ 71.70 MOTORCYCLES, MINIBIKES, AND BICYCLES~~; PROHIBITED ON SIDEWALKS~~.

(A) For purposes of this section:

1. "Motorcycle" shall mean every motor vehicle having a seat or saddle for the use of the operator and designed to travel on not more than ~~three~~ 3 wheels in contact with the ground, but excluding a bicycle, minibike Class I, II, or III electric bicycle, electric scooter, or electric motorcycle.

2. "Minibike" shall mean a ~~two~~2-wheel motor vehicle that has a total wheel and tire diameter of less than ~~fourteen~~ 14 inches, an engine-rated capacity of less than ~~forty-five~~45 cubic centimeters displacement, an engine power output of less than ~~three~~ 3 horsepower, an engine-rated capacity of less than 2,238~~two thousand two hundred thirty-eight~~ watts, or was primarily designed by the manufacturer for off-the-road use only. Minibike shall not include an electric personal assistive mobility device.

3. "Bicycle" shall mean a device propelled solely by human power, upon which any person may ride, and having 2~~two~~ or 3~~three~~ wheels, at least ~~one~~ 1 of which is more than ~~fourteen~~ 14 inches in diameter.

(B) It shall be unlawful for any person or persons to ride a ~~motorcycle, minibike, or~~ bicycle on public sidewalks within the City unless accompanying a minor; Provided, that children ~~under the age of twelve (~~12~~)~~ years of age and under may ride a bicycle on the public sidewalks.

(C) Motorcycles~~, minibikes~~ and bicycles operated on any street within the City shall be subject to all traffic laws pertaining to motorized vehicles. *(Amended by Ord. 02-02, 2/4/02)* Penalty, see §10.99

~~(C)~~(D) It shall be unlawful for any person to ride, use or operate a bicycle from ~~one~~30 minutes ~~half hour~~ after sunset ~~and~~to 30 minutes~~one half hour~~ before sunrise without a headlight, visible under normal conditions, from the front thereof for not less than 500~~five hundred~~ feet indicating the approach or presence of the device, and a red reflector on the rear which shall be visible on a clear night from all distances between 100~~one hundred~~ feet and 600~~six hundred~~ feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

SECTION 2. That Section 71.71 contained within Chapter 71 of the Waverly Municipal Code be amended to read as follows, and all sections following newly enacted Section 71.71 are hereby renumbered sequentially as necessary. Such renumbering is administrative only and shall not affect the validity, meaning, operation, or continued effectiveness of any provision so renumbered.

§ 71.71 ELECTRIC BICYCLES (E-BIKES), ELECTRIC SCOOTERS (E-SCOOTERS), AND ELECTRIC MOTORCYCLES

(A) For purposes of this section:

(1) "Class I Electric Bicycle" means a device with (a) ~~two~~2, ~~three~~3, or ~~four~~ 4 wheels, (b) a seat for the rider, (c) pedal assist only, (d) an electric motor not exceeding 750 watts, and (e) a maximum speed of 20 miles per hour.

(2) "Class II Electric Bicycle" with (a) ~~two~~2, ~~three~~3, or ~~four~~ 4 wheels, (b) a seat for the rider, (c) pedal assist and capable of providing power whether or not the rider is pedaling, (d) an electric motor not exceeding 750 watts, (e) a maximum design speed of 20 miles per hour, and (f) does not provide power if the electric bicycle is traveling at a speed of more than 20 miles per hour.

(3) "Class III Electric Bicycle" means a device with (a) ~~two~~2, ~~three~~3, or ~~four~~ 4 wheels, (b) a seat for the rider, (c) pedal assist and only provides power when the rider is pedaling, (d) an electric motor not exceeding 750 watts, and (e) a maximum speed of 28 miles per hour, and (f) does not provide power if the electric bicycle is traveling at a speed of more than 28 miles per hour.

(4) "Electric Scooter" means a stand-up device with (a) ~~two~~ 2 wheels, (b) handlebars, (c) a floorboard designed to transport ~~one~~ 1 rider, (d) a maximum speed of 15 miles per hour, powered by (e) a rechargeable electric motor less than 750 watts, and propelled with (f) a combination of human power or electric motor.

(5) "Electric Motorcycle" means a device with (a) ~~two~~ 2 or ~~three~~ 3 wheels, (b) propelled with a throttle only, and (c) an electric motor less than 750 watts.

(a) A device containing an electric motor that exceeds 750 watts will be defined as a motorcycle, mini-bike or off-road vehicle.

(B) A Class I, II, or III electric bicycle, electric scooter, or electric motorcycle may be operated on sidewalks, sidewalk spaces, shared-use paths, and streets within the

corporate limits of the City only if the operator and the device comply with the provisions of this Section.

(1) It shall be lawful for any person ~~under the age of twelve~~12 years of age and under to ride, use or operate any Class I~~,~~ or II~~, or III~~ electric bicycle~~,~~ or electric scooter~~, or electric motorcycle~~ on any sidewalk, sidewalk space, or shared-use path within the City unless posted otherwise.

(2) Any person who rides, uses, or operates a Class I, II, or III electric bicycle~~,~~ or electric scooter~~, or electric motorcycle~~ upon a sidewalk, sidewalk space, shared-use path, or street shall do so at their own risk.

(3) Any person who rides, uses, or operates a Class I, II, or III electric bicycle~~,~~ electric scooter~~, or electric motorcycle~~ upon a sidewalk, sidewalk space, or shared-use path:

(a) Shall yield to the right-of-way to any and all pedestrians;

(b) Shall safely dismount and proceed on foot when approaching or encountering pedestrians; and

(c) Shall reduce speed when approaching crosswalks, driveways, or other crossings.

(4) Any person who rides, uses, or operates a Class I, II, or ~~I, II or~~ III electric bicycle~~, electric scooter,~~ or electric scooter~~motorcycle~~ upon a sidewalk, sidewalk space, shared-use path, or street and is 12 ~~under the age of sixteen~~~~twenty-one~~ years of age and under, shall wear a protective helmet of the type and design manufactured for use by operators of such electric bicycle~~,~~ or electric scooter ~~or electric motorcycle~~ and such helmet must be secured properly on the user's head with a chin strap while the electric bicycle~~,~~ or electric scooter ~~or electric motorcycle~~ is in motion.

~~(5) Any person who rides, uses, or operates a Class I, II or III electric bicycle, electric scooter, or electric motorcycle upon a sidewalk, sidewalk space, shared-use path, or street and is under fourteen years of age, shall have successfully completed a City-approved safety training course and have documentation demonstrating such successful completion on such person at all times will riding, using or operating a Class I, II or III electric bicycle, electric scooter, or electric motorcycle.~~

~~(6)~~(5) The operator of a Class I, II, or III electric bicycle, electric scooter, or electric motorcycle emerging from an alley, driveway, or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on the roadway.

~~(7)~~(6) Any person who rides, uses, or operates a Class I, II, or III electric bicycle, electric scooter, or electric motorcycle upon a street:

(a) Shall observe all traffic rules and regulations applicable thereto, and shall turn only at intersections, clearly signal for all turns by utilizing hand signals, ride at the right-hand side of the street or highway, pass to the left when passing overtaken vehicle and individuals that are slower moving, and shall pass vehicles to the right when meeting;

(b) Shall obey the instruction of official traffic control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a law enforcement officer; and

(c) Shall proceed single file as to not impede others when ~~three~~ 3 or more devices ride in a group.

(C) It shall be unlawful for any person to ride, use or operate a Class I, II, or III electric bicycle, electric scooter, or electric motorcycle:

(1) In a careless manner or without due caution in a manner as to endanger any person or property;

(2) In a negligent manner; and

(3) In such a manner as to endanger or interfere with the lawful traffic or use of the streets.

(D) It shall be unlawful for any person to ride, use or operate a Class I, II, or III electric bicycle, electric scooter, or electric motorcycle with a passenger.

(E) It shall be unlawful for any person to ride, use or operate a Class I, II, or III electric bicycle, electric scooter, or electric motorcycle and attach such or themselves to any vehicle upon a street; and no person shall hitch to or cling upon any vehicle which is in motion with or without the consent of the driver.

(F) It shall be unlawful for any person to ride, use or operate a class I, II, or III electric bicycle, electric scooter, or electric motorcycle from ~~one half hour~~30 minutes after sunset ~~and~~ to 30~~one~~ minutes ~~half hour~~ before sunrise without a headlight, visible under normal conditions, from the front thereof for not less than 500~~five hundred~~ feet indicating the approach or presence of the device, and a red reflector on the rear which shall be visible on a clear night from all distances between 100~~one hundred~~ feet and 600~~six hundred~~ feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(G) It shall be unlawful for any person to ride, use, or operate any Class I, II, and III electric bicycle, electric scooter, or electric motorcycle:

~~(1) On any public street with a posted speed limit of over 25 miles per hour;~~

~~(2)~~(1) In those areas within any public park that are posted to state that the operation of such in that area is prohibited; and

~~(3)~~(2) On any public trail system~~; and~~.

~~(4) On any state or federal highway, except for the purpose of crossing such highway as directed in subsection (H) below.~~

(H) The crossing of a controlled-access highway with more than 2~~two~~ marked traffic lanes by a Class I, II, and III electric bicycle, electric scooter, or electric motorcycle shall be permitted only if:

(1) The crossing is made at an angle of approximately 90~~ninety~~ degrees to the direction of the highway and at a place where no obstruction prevents a safe and quick crossing;

(2) The device is brought to a complete stop before crossing the shoulder or roadway of the highway;

(3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(4) In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road, as applicable.

(I) Penalties for the violation of this section are as follows:

~~(1) First Offense:~~

~~a. Any parent or guardian who knowingly allows or permits his or her minor child, or any adult who knowingly permits or allows~~

~~any minor child, to use, operate, drive or race a Class I, II or III electric bicycle, electric scooter, or electric motorcycle in any manner prohibited by the provisions of this Section shall be subject to a written warning.~~

~~b. Any person who shall violate or refuse to comply with the enforcement of any of the provisions in this chapter, set forth at full length herein or incorporated by reference, shall be subject to a written warning.~~

~~(2)~~(1) ~~Second or Subsequent Offenses.~~

a. Any parent or guardian who knowingly allows or permits his or her minor child, or any adult who knowingly permits or allows any minor child, to use, operate, drive or race a Class I, II or III electric bicycle, electric scooter, or electric motorcycle in any manner prohibited by the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500.00 for each offense.

b. Any person who shall violate or refuse to comply with the enforcement of any of the provisions in this Section, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500.00 for each offense.

c. Any person convicted of a second or subsequent of any provisions shall surrender their electric bicycle, electric scooter, or electric motorcycle to the City for a period of no less than ~~thirty (~~30~~)~~ days. The device(s) will be returned to the owner after the 30~~thirty~~-day period if all applicable fines are paid.

SECTION 3. All ordinances and parts of ordinances passed and approved prior to the passage and approval of this ordinance and in conflict therewith are hereby repealed.

SECTION 4. This ordinance shall be in full force and take effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this _____ day of _____, 2026.

CITY of WAVERLY
LANCASTER COUNTY, NEBRASKA

By: _____
Abbey L. Pascoe
Mayor

ATTEST:

_____ (SEAL)

Megan K. Frye
City Clerk/Human Resources Assistant