CITY OF SANIBEL

ORDINANCE NO. 19-011

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, CHAPTER 66-TRAFFIC, ARTICLE V – BICYCLES AND MOPEDS; AMENDING SECTION 66-165, DRIVING ON A BICYCLE PATH; AMENDING SECTION 66-169, CERTAIN BICYCLES AND MOPEDS PROHIBITED; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, among the laws enacted by the Florida Legislature in 2019 and passed into law by the Governor is Chapter 2019-109, Laws of Florida, which, among other things, defines the term "micromobility device", revises the definition of "motorized scooter", and provides the operator of a motorized scooter or micromobility device all the general rights and duties applicable to the rider or a bicycle; and

WHEREAS, Section 316.003(38), Florida Statutes (2019), defines the term "micromobility device" as "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. This term includes motorized scooters and bicycles as defined in this chapter"; and

WHEREAS, Section 316.003(45), Florida Statutes (2019), defines the term "motorized scooter" as "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"; and

WHEREAS, the City of Sanibel's shared use path constitutes both a "bicycle path" and also a "sidewalk" under Section 316.003, Florida Statutes; and

WHEREAS, Section 316.1995(1), Florida Statutes (2019), expressly provides that "except as provided in s. 316.008, s. 316.212(8), or s. 316.2128, 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 316.008(7)(a), Florida Statutes (2019), expressly provides 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; and

WHEREAS, Section 316.2128, Florida Statutes (2019), provides that local government may, through the exercise of its powers under Section 316.008, Florida Statues, adopt an ordinance governing the operation of micromobility devices and motorized scooters on sidewalks and sidewalk areas under the local government's jurisdiction; and

WHEREAS, Chapter 66 of the Sanibel Code of Ordinances, entitled "Traffic", contains various regulations relating to operation of bicycles, motorized scooters, motor-driven cycles and mopeds; and

WHEREAS, the City Council, cognizant of the increased traffic on the City of Sanibel's shared use path, as well as the growing number of serious accidents involving the use of certain micromobility devices, motorized scooters and other motorized vehicles in Florida, and finding the use of such certain vehicles on the shared use path constitutes a threat to life, safety and welfare of the citizens of Sanibel, desires to prohibit the use of micromobility devices, motorized scooters, and certain other vehicles not powered exclusively by human power upon any sidewalk, bicycle path or shared use path within the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sanibel, Florida:

SECTION 1. Sanibel Code of Ordinance Chapter 66 – TRAFFIC, ARTICLE V – BICYCLES AND MOPEDS, is hereby amended with ~~strikethrough~~ language indicating deletions and <u>underlined</u> language indicating additions as follows:

ARTICLE V. – BICYCLES<u>, MICROMOBILITY DEVICES, MOTORIZED SCOOTERS,</u> AND MOPEDS

Sec. 66-165 – Driving on a bicycle path.

(a) Except as provided in subsection (b) of this section <u>or elsewhere in the Sanibel Code of Ordinances</u>, no operator shall drive a motor vehicle<u>, micromobility device, motorized scooter,</u> ~~or~~ moped<u>, or other vehicle other than exclusively by human power</u> upon a bicycle path<u>, sidewalk, shared use path,</u> or other portion of a roadway set aside for the exclusive use of bicycles, or bicycles and pedestrians, except for crossing incident to appropriate access to adjacent property.

(b) This prohibition does not apply to the following:

(1) ~~a~~ A public officer or employee in the performance of duty,;

(2) ~~to a~~ A person operating a motorized wheelchair or other ~~device which is designed and being used for transportation of a person with a disability~~ similar power-driven mobility device operated by "a person disabled for mobility purposes" as defined in subsection 66-244(b)(2); or

(3) A person age 18 or older operating a C*lass 1 electric assisted bicycle*, which, for the purposes of this Article, means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.

Sec. 66-169 – Certain bicycles, micromobility devices, motorized scooters, and mopeds prohibited.

(a) No person shall operate upon any street or bike path of the city any bicycle or moped which is designed and equipped so that the normal position of the operator thereof is supine or that the normal position of the operator is such that there is no clear, horizontal line of sight over the handlebars and all other parts of the bicycle or moped. For purposes of this section, "supine" means situated so that the torso of the operator is at an angle of greater than 25 degrees from vertical.

(b) No bicycle or other human-powered vehicle which exceeds 36 inches total width shall be operated upon any public street or road within the city.

(c) No bicycle or other human-powered vehicle which exceeds 36 inches total width shall be rented, or offered for rental, by any person for operation upon any public bicycle path or any public street or road within the city.

(d) With respect to the prohibitions set forth in subsections (b) and (c) above, a partial, limited exception is hereby established for the period of time set forth in this section. As a result of the past and on-going rental of surrey-type, four-wheeled bicycles exceeding 36 inches total width by two bike rental businesses, Billy's Rentals located at 1470 Periwinkle Way and Finnimore's Bike Rentals located at 2353 Periwinkle Way, these two bike rental businesses shall not be prohibited from the rental of such surrey-type bicycles for the period of time set forth below under the following restrictions and conditions:

(1) Each business shall be limited to a maximum of eight surrey-type bicycles in total, i.e., no more than eight surrey-type bicycles may be maintained on the business rental site and/or offered for rent by each business.

(2) No surrey-type bicycle, or any part or portion thereof, shall exceed 47 inches in total width.

(3) "Surrey-type bicycle" shall mean any four-wheeled, multi-person, bicycle operated through human power by pedals and a chain or belt and which exceeds 36 inches in total width but is less than or equal to 47 inches in total width.

(4) The exception set forth in this subsection shall extend for 15 years (until January 4, 2031) and shall expire at that time and both such businesses shall comply with such City of Sanibel codes and ordinances in effect at that time regarding the width of bicycles or other human-powered vehicles.

(5) This exception shall be applicable to only the specific business locations and businesses described above in this subsection; provided, however, the exception shall be applicable in the event such existing business(es) relocate(s) to a new business location with the City of Sanibel.

(e) No micromobility device or motorized scooter shall be rented or offered to rent upon any sidewalk, bicycle path or shared use path or other portion of a roadway set aside for the exclusive use of bicycles, or bicycles and pedestrians.

SECTION 2. Codification. This ordinance shall be deemed an amendment to the Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment. The City Clerk is hereby authorized and directed to instruct as part of the codification that all section numbers amended by this Ordinance are updated and corrected throughout the Code of Ordinances in the event such section numbers are referenced.

SECTION 3. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 5. Effective Date. This ordinance shall be effective immediately upon adoption.

DULY PASSED AND ORDAINED by the Council of the City of Sanibel, Florida, this 03 day of December, 2019.

First Reading: November 5, 2019
Publication Notice: November 22, 2019
Second Reading: December 03, 2019

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: _____ 11/6/19
John D. Agnew, City Attorney Date

Vote of Council Members:

Ruane	yea
Denham	yea
Johnson	yea
Maughan	yea
Smith	yea

Date Filed with City Clerk: December 03, 2019