

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING
AMENDING AND REENACTING ARTICLE 374 OF THE CODIFIED
ORDINANCES OF THE CITY OF WHEELING, ENTITLED
MOTORIZED SCOOTER, TO PROVIDE FOR AN ADDITIONAL
EXCEPTION IN SECTION 374.03

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. The Council of the City of Wheeling does hereby amend and readopt Article 374, entitled Motorized Scooter, of the Codified Ordinances of the City of Wheeling to create an additional exception such Article is amended as follows:

ARTICLE 374

Motorized Scooter

374.01 Definitions.

374.02 Prohibition of operation and use of motorized scooters.

374.03 Exceptions.

374.04 Exemptions.

374.05 Authorizing or permitting a minor to violate any provision of this article.

374.06 Penalties.

374.07 Liability.

374.08 Severability.

374.01 DEFINITIONS.

Except as otherwise provided in this chapter, the following words and phrases shall have the meanings set forth below:

(a) "Minor" means any person under the age of eighteen.

(b) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails and includes, for purposes of this article, the laws cited herein are to apply to all such motorized scooters or motorized vehicles commonly referred to as "pocket bikes" or "mini-motos".

(c) “Motorized scooter” means any non-balancing, tandem two-wheeled device, or three or four wheeled, self-balancing device, that has handle bars, is designed to be stood upon or ridden by the operator and is powered by a motor having a maximum piston displacement of less than 50 cubic centimeters or an electric drive motor that is capable of a maximum speed of not more than 25 miles per hour on a flat surface. “Motorized Scooter” does not include a “motorcycle” as defined by W. Va. Code 17C-1-5a, a “motor-driven cycle” as defined by W. Va. Code 17C-1-5, an “electric personal assistive mobility device” or “EPAMD” as defined by W. Va. Code 17C-1-66, or a wheelchair as defined within.

(d) “Wheelchair”, a motorized or non-motorized wheeled device having a seat or saddle and designed for and used by a person with disabilities.

(Ord. 13029. Passed 4-19-05.)

374.02 PROHIBITION OF OPERATION AND USE OF MOTORIZED SCOOTERS.

The riding, operation, or other use of motorized scooters or vehicles for transportation or recreational purposes, within or upon the streets, alleys, sidewalks, parking lots, and other realty owned, leased or controlled property by the City of Wheeling or any of its boards, authorities or commissions is prohibited.

(Ord. 13029. Passed 4-19-05.)

374.03 EXCEPTIONS.

(a) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate or otherwise use a motorized scooter or vehicle upon a designed parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such motorized scooter riding or operation occurs in conjunction with said parade.

(b) Wheelchairs or a motorized device used by a person with a disability are exempt from the provisions of this article but are subject to the same rules and regulations pertaining to reckless operation, control, course and speed as applied to bicycles and skateboards in Section 373.10(a) and (b) and are subject to the same penalties as provided in said article for violations involving a motorized wheelchair or device designed to aid the handicapped.

(c) However, should the City undertake a “Stand-Up Electric Scooter Program” wherein such scooters will only be active within operating zones tailored and based upon city design then such operation of electric scooters which are subject to the program are not prohibited by this section. Although permitted such scooters are prohibited on sidewalks, parking lots, and areas that are not within the programs operating zones(s). Persons using the scooters must comply with all rules and regulations concerning the program regulations for operating parking, etc. of such scooters including but not limited to participants complying with the pertinent municipal traffic laws and regulations applicable to the operation of bicycles and are subject to the same penalties.

374.04 EXEMPTIONS.

The federal government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein when any such motorized scooter is used for government purposes.

(Ord. 13029. Passed 4-19-05.)

374.05 AUTHORIZING OR PERMITTING A MINOR TO VIOLATE ANY PROVISION OF THIS ARTICLE.

No person shall authorize or knowingly permit a minor to violate any provision within this section. Any such violation or knowingly permitting any such minor to violate the provisions of this section shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this section as well as any other sections of the Codified Ordinances of the City of Wheeling that may apply. The citing of any person pursuant to this paragraph shall not be reason to prohibit the police officer from also citing the driver of said motorized scooter.

(Ord. 13029. Passed 4-19-05.)

374.06 PENALTIES.

(a) Any person who violates Section 374.05 of this article shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the City of Wheeling or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Wheeling is hereby authorized and empowered to issue a citation and to charge any such person who commits such violation. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(b) Any person who violates Section 374.02 of this article shall constitute the commission of a misdemeanor criminal offense and any officer of the Police Department of the City of Wheeling or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of Wheeling is hereby authorized and empowered to issue a citation and to charge any such person who commits such violation. Any person convicted of a first offense established hereunder shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or subsequent offense established hereunder shall be fined not less than two hundred fifty dollars (\$250.00).

(c) Whoever violates any provision of this article may be punished as provided above and by the impounding of the motorized scooter or vehicle for a period of not to exceed thirty days for a first offense. In cases of persons charged with a second offense, the motorized scooter shall be confiscated until such time as a plea is made or conviction has occurred in Municipal Court. Thereafter, the motorized scooter or vehicle may be sold at public auction if a) not claimed after

impoundment; b) the person charged with the violations enters a plea of guilty of a second offense or if found guilty of a second offense in the Municipal Court.

(Ord. 13029. Passed 4-19-05.)

374.07 LIABILITY.

Nothing contained within this article is intended, nor shall be construed, so as to create or form the basis for any civil or administrative liability whatsoever on the part of the City of Wheeling or any of its officers, officials, employees or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the City of Wheeling related, in any manner, to the enforcement or non-enforcement of this article by the City's officers, officials, employees or agents.

(Ord. 13029. Passed 4-19-05.)

374.08 SEVERABILITY.

The provisions of this article are severable and in the event that any provision or part hereof shall be held invalid for any reason by any court exercising competent jurisdiction, then such invalidity shall not be deemed to affect or impair any of the other provisions of this section not specifically held to be invalid. It is hereby declared to be the intent of the City of Wheeling that this article would have been adopted if any such invalid provision or part hereof had not been included herein.