

COUNCIL COMMUNICATION

Meeting Date: July 27, 2010	1 st Reading _____ 2 nd Reading <u> X </u>	Legal Review:	Work Plan #	Agenda Location: Action Items	Agenda Item: 10A
Subject: AN ORDINANCE AMENDING SECTIONS 38-641, 38-643, 38-645 AND 38-646 OF THE THORNTON CITY CODE CONCERNING THE REGULATION OF MOTORIZED BICYCLES, NEIGHBORHOOD ELECTRIC VEHICLES, AND MOTOR VEHICLES.					
Prepared by: Gary Jacobson		Approved by: Jack Ethredge		Ordinance previously introduced by: <u>Fox</u>	
Reviewed by: Margaret Emerich		Presented by: Jim Nursey Police Chief			

KEY CONSIDERATIONS:

- This ordinance amends various definitions that regulate the types of vehicles that can be operated within the City.
- The state law recently changed the definitions of motorized bicycles, neighborhood electric vehicles, and added a new term for various types of bicycles as electrical assisted bicycles, and made other clarifying amendments to the definitions of motorcycle, vehicle and motor vehicle.
- The City’s regulations use substantially the same definitions for regulation of vehicles as under state law and therefore this ordinance is necessary to conform the City’s definitions to state law.

BUDGET/STAFF IMPLICATIONS:

- None.

RECOMMENDATION:

Staff recommends approval of the ordinance to conform with applicable State laws.

HISTORY: (includes previous City Council action)

- The City authorized neighborhood electric vehicles by Ordinance No. 2008-173, on October 28, 2008, and motorized bicycles by Ordinance No. 2003-156 on October 28, 2003, to be operated within the City.

INTRODUCED BY: Fox

AN ORDINANCE AMENDING SECTIONS 38-641, 38-643, 38-645 AND 38-646 OF THE THORNTON CITY CODE CONCERNING THE REGULATION OF MOTORIZED BICYCLES, NEIGHBORHOOD ELECTRIC VEHICLES, AND MOTOR VEHICLES.

WHEREAS, state law has been amended to redefine Motorcycle, Vehicle, and Motor vehicle and to enact new definitions for electrical assisted bicycles, low-power scooters and low-speed electric vehicles; and

WHEREAS, the City has adopted Ordinances regulating these types of vehicles using substantially the same definitions as contained in state laws; and

WHEREAS, pursuant to C.R.S. 42-4-111 local governments may enact regulations for the newly defined electrical assisted bicycles, low-power scooters and low-speed electric vehicles; and

WHEREAS, these amendments are necessary to adopt new state statutory definitions, to be consistent with state laws, and to promote the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Section 38-641 of the Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows.

Sec. 38-641. Definitions.

The following words, terms and phrases, when used in this division , shall have the meanings ascribed to them in this section and shall also be applicable to the provisions of Section 38-521 and 38-523, except where the context clearly indicates a different meaning or term should be applied:

Adult means a person 18 years of age or older.

Area means the geographical boundaries within which an operating motorcycle or operating motor-driven cycle can be heard.

Electrical assisted bicycle means a vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an electric motor not exceeding seven hundred and fifty watts of power, and a top motor-powered speed of twenty miles per hour and shall comply with the following:

a. All applicable equipment requirements of Article 4, Part 2, of Title 42, and bicycle operational requirements of C.R.S. 42-4-1412; and

b. Shall not be operated on any bike path or pedestrian path while the electric motor is engaged.

Low-power scooter means a self-propelled vehicle designed primarily for use on the roadways with not more than three wheels in contact with the ground, no manual clutch, and either of the following:

a. A cylinder capacity not exceeding fifty cubic centimeters if powered by internal combustion; or

b. A wattage not exceeding four thousand four hundred seventy-six if powered by electricity.

Low-speed electric vehicle means a vehicle that:

a. Is self-propelled utilizing electricity as its primary propulsion method;

b. Has at least three wheels in contact with the ground;

c. Does not use handlebars to steer; and

d. Exhibits the manufacturer's compliance with applicable federal regulations for such vehicles or displays a seventeen-character vehicle identification number as approved by such federal regulations.

Minor means a person 17 years of age or younger.

Motorcycle means ~~every a~~ motor vehicle that uses handlebars to steer and that is designed to travel on not more than three wheels in contact with the ground, except that the term does not include a any such vehicle as may be included within the term "farm tractor," and except an motorized bicycle~~electrical assisted bicycle or low-power scooter~~ as defined herein.

~~*Motor-driven cycle* means every motorcycle, including every motor scooter with a motor which produces not to exceed six brake horsepower and every bicycle with motor attached, but not trail bikes, minibikes, go-carts, golf carts, and similar vehicles which are not designed for or approved by the State of Colorado for use on the public roads or highways and not motorized bicycles as defined herein.~~

~~*Motorized bicycle* means a vehicle having two or three wheels, a cylinder capacity not exceeding 50 C.C., and an automatic transmission which produces a maximum design speed of not more than 30 miles per hour on a flat surface.~~

~~*Motor vehicle or vehicle* means any self-propelled vehicle which that is designed primarily for travel on the public highways and which that is generally and commonly used to transport persons and property over the public highways, or a low-speed electric vehicle, but this except that the term does not include ~~motorized bicycles~~low-power scooters except, as otherwise regulated herein, ~~as defined herein,~~ wheelchairs as~~

~~defined herein~~, or vehicles moved solely by human power. Provided, however, for the purposes of this division and the offense described in Section 1401, Reckless Driving, for farm tractors operated on streets and highways, "motor vehicles" includes a farm tractor ~~which that~~ is not otherwise classified as a motor vehicle.

~~Neighborhood electric vehicle means a self-propelled, electrically-powered motor vehicle that:~~

- ~~a) Meets the equipment standards set forth in Part 2 of Article 4 of Title 42, C.R.S.; and~~
- ~~b) Has a speed attainable in one mile that does not exceed 25 miles per hour.~~

Operator means every person who drives or is in actual physical control of a motor vehicle or who is exercising control of or steering a vehicle being towed by a motor vehicle.

Permit means a letter on official stationery of the City, which sets out the authorization to use specific property for the operation of certain motor vehicles and recreational vehicles within the City.

Racing of motor means sudden acceleration or deceleration of a motor of a motorcycle or motor-driven cycle.

Recreational vehicle means a self-propelled, wheeled or tracked vehicle primarily designed to be operated for recreational purposes on land or on land and water, other than roads or highways. This definition shall include but is not limited to motorcycles ~~designed as, motorbikes, motor scooters, motor bicycles,~~ trail bikes, or dirt bikes, and vehicles commonly referred to as minibikes, pocket bikes, tote-goats, ~~dune buggies,~~ go-carts, kamikaze boards, go-peds, stand-up scooters, snowmobiles and any type of all terrain vehicles.

Snowmobile means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

Street or Highway means the entire width between the boundary lines of every way, including alleys publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic, or the entire width of every way declared to be a public highway by state law.

Stunting means operating a vehicle in a manner causing it to weave or suddenly change course or the loss of body contact with the seat by a driver or passenger and which is not for the purpose of safe operation of such vehicle.

Touring means any repetitious driving in the same area which causes a disturbance or which would call attention to an operator of a motorcycle or motor-driven cycle.

Vehicle means a device that is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. Vehicle includes without limitation, a bicycle, electrical assisted bicycle, but does not include a wheelchair, recreational vehicle, farm tractor, or implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved exclusively over stationary rails or tracks or designed to move primarily through the air.

Wheelchair means a motorized or nonmotorized wheeled device designed for use by a person with a physical disability.

2. Section 38-643 of the Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows.

Sec. 38-643. Vehicle-Motorcycle regulations.

- (a) No motorcycle ~~or motor-driven cycle~~ shall be operated in any manner so as to cause a disturbance in any area of the City. Touring, stunting, or racing of motors is prohibited in any hospital or nursing home area and in residential areas.
- (b) No operator of a motorcycle ~~or motor-driven cycle~~ shall engage in maneuvers, stunting or other operations dangerous to the operator or a passenger or to the person or property of others.
- (c) It shall be unlawful for any person to use or operate any motorcycle within the City without the consent of the owner.

3. Section 38-645 of the Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows.

Sec. 38-645. Operation of motor vehicles and recreational vehicles generally.

- (a) It shall be unlawful for any person to operate any licensed or unlicensed motor vehicle or recreational vehicle, whether registered or unregistered, on any public or private property, located within the City, except as provided in this division. This section shall not apply to:
 - (1) Motor vehicles or ~~recreational~~ vehicles operated on ~~public streets, roads, or highways, or alleys.~~
 - (2) Motor vehicles or ~~recreational~~ vehicles operated on public paved driveways, public parking lots or parking on areas adjacent to organized sporting events, fairs and other such City-sponsored ~~and/or~~ school-sponsored functions.
 - (3) Property posted by the owner after receiving a permit for the specific use as a recreational vehicle storage area.

- (4) Motor vehicles, vehicles, or recreational vehicles operated on private property, by the owner of such private property, or persons operating such vehicles, with the permission of the owner of such private property or upon invitation of the owner of such private property when such private property is open to the public.
 - (5) Persons performing law enforcement functions or emergency services.
 - (6) Property posted by the City as a recreational vehicle area and then only under such restrictions as posted and under such regulations as may be promulgated by resolution of the City Council.
- (b) It shall be unlawful for any person to operate an unlicensed motor vehicle, ~~unlicensed~~ recreational vehicle, or unlicensed ~~neighborhood low-speed~~ electric motor vehicle on any ~~public street, road, or~~ highway, ~~alley~~ or public parking lot or privately owned parking lot open to the public, within the City, without authorization by the City.
 - (c) It shall be unlawful for any parent or any adult to authorize, assist, permit or encourage any minor to operate a motor vehicle, vehicle, or recreational vehicle in violation of the provisions of Subsections (a) and (b) of this section.
 - (d) ~~Motorized bicycles~~ Low-power scooter, as defined in Section 38-641, may be operated on ~~public streets, roads, or~~ highways within the City ~~alleys~~ and where bicycle lanes are provided, only in such bicycle lanes. ~~Motorized bicycles~~ Low-power scooters shall not be operated on any interstate system existing within the City or any limited access roadway of the state highway system, or any sidewalk, public trail or designated public walkway. In addition, the following restriction shall apply to the operation of ~~motorized vehicles~~ low-power scooters within the City:
 - (1) ~~Motorized bicycles~~ Low-power scooters can only be operated in conformance with subparagraph (d) herein if the ~~motorized bicycle~~ low-power scooter is registered with the Department of Revenue, Motor Vehicle Division, and such valid registration is evidenced by a number decal securely affixed to the low-power scooter ~~motorized bicycle frame~~ in a conspicuous location as provided by law.
 - (2) The operator of ~~any motorized bicycle~~ low-power scooter shall possess a valid driver's license or minor driver's license.
 - (3) It shall be unlawful to operate a ~~motorized bicycle~~ low-power scooter when:
 - a. A person is not seated upon or astride a permanent and regularly attached seat thereto.
 - b. A person is carrying more than one person at a time on such

~~motorized bicycle~~low-power scooter or is exceeding the number of riders designated by the manufacturer for the specific ~~motorized bicycle~~low-power scooter.

- c. A person is attached to or holding onto any other type of vehicle upon a public roadway.
- d. A person is riding more than two abreast of another person riding a ~~motorized bicycle~~low-power scooter, ~~except on lanes that are specifically designated as bicycle lanes.~~
- e. Every person operating a ~~motorized bicycle~~low-power scooter upon a ~~street~~roadway shall ride as close to the right side of the ~~street~~roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- f. A minor shall not operate or carry a passenger who is a minor on a low-power scooter unless the operator and the passenger are wearing protective helmets in accordance with state law.
- fg. A person does not have a valid registration as required by Subsection (d)(1) or a valid driver's license as required by Subsection (d)(2) herein.

- (4) ~~Motorized bicycles~~Low-power scooters operating on the public street or highway shall be granted all the rights and shall be subject to all the duties and penalties applicable to drivers of ~~motorized vehicles~~low-power scooters prescribed ~~in the Model Traffic Code, as adopted in Section 38-521 and as amended in Section 38-523 of the Thornton City Code by Part 2 of Article 4 of Title 42, C.R.S.,~~ except as to those provisions which, by their very nature, can have no application to a ~~motorized bicycle~~low-power scooter.
- (5) ~~Operators of motorized bicycles~~Low-powered scooters shall not be operated on any street within the City at a speed in excess of 40 miles per hour. ~~also comply with the applicable special rules set forth in C.R.S. § 42-4-220, as amended from time to time.~~

4. Section 38-646 of the Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken, to read as follows.

Sec. 38-646. **Operation of ~~neighborhood low-speed~~ electric vehicles.**

- (a) Persons who are licensed to drive a motor vehicle by the State of Colorado, or who are exempted by the State's driver's license requirement by the laws of the State of Colorado may operate a ~~neighborhood low-speed~~ electric vehicle upon the streets within the City: provided however, it shall be unlawful to operate such low-speed electric vehicles in violation of the following: pursuant to the regulations

~~contained herein.~~

- (1) ~~Neighborhood-Low-speed~~ electric vehicles shall be registered and licensed as required by the State of Colorado.
 - (2) ~~Neighborhood-Low-speed~~ electric vehicles operating on the streets of the City shall be subject to all the duties and penalties applicable to operators of motor vehicles prescribed in the Model Traffic Code, as adopted in the City Code.
 - (3) ~~Neighborhood-Low-speed~~ electric vehicles may operate on all streets within the City with a posted speed limit of no more than 35 miles per hour. However, ~~neighborhood-low-speed~~ electric vehicles ~~shall be allowed to may be operated to directly~~ cross at intersections where streets have posted speed limits in excess of 35 miles per hour and shall be subject to all requirements applicable to pedestrians while crossing such intersections.
- (b) It shall be unlawful for any person or persons to operate a ~~neighborhood-low-speed~~ electric vehicle under any of the following conditions:
- (1) On any limited access highways or any interstate system existing within the City.
 - (2) On streets with a posted speed limit in excess of 35 miles per hour, except as provided in Subsection (a)(3) above.
 - ~~(3) While carrying a greater number of persons or a greater load than specified by the manufacturer of the neighborhood electric vehicle being operated.~~
 - (4) On any sidewalk, public trail or designated public walkway within the City.
 - ~~(5) Neighborhood electric vehicles shall not carry a greater number of persons or carry a greater load than specified by the manufacturer. The driver and all passengers must be seated in seats substantially similar to those placed in the vehicle by the manufacturer.~~

5. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

7. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty,

forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

8. This ordinance shall take effect on final reading.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on July 13, 2010.

PASSED AND ADOPTED on second and final reading on _____, 2010.

CITY OF THORNTON, COLORADO

Erik Hansen, Mayor

ATTEST:

Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on July 22, 2010, and after second and final reading on _____, 2010.