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NOV 16 2015

ORDINANCE NO. 4671

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, ADDING SECTION 12-6, RELATING TO PEDESTRIAN REGULATIONS, TO THE CHANDLER CITY CODE; AND AMENDING SECTION 1-8.5, RELATING TO GENERAL PENALTY; CONTINUING VIOLATIONS, OF THE CHANDLER CITY CODE

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, that Section 1-8.5, Chapter 1 of the Chandler City Code be amended and further that Section12-6, Chapter 12 of the Chandler City Code be added to read as follows:

1-8. - General penalty; continuing violations.

1-8.1. "Violation of this Code" means any of the following:

A. Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

B. Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

C. Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

1-8.2. "Violation of this Code" does not include the failure of a City Officer or City Employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

1-8.3. Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be guilty of a Class 1 misdemeanor. A Class 1 misdemeanor is punishable by a fine not exceeding two thousand five hundred dollars ($2,500.00), by imprisonment for a term not exceeding six (6) months, by probation for a term not exceeding three (3) years, or by any combination thereof. A Class 2 misdemeanor is punishable by a fine not exceeding seven hundred fifty dollars ($750.00), by imprisonment for a term not exceeding four (4) months, by probation for a term not exceeding two (2) years, or by any combination thereof. A Class 3 misdemeanor is punishable by a fine not exceeding five hundred dollars ($500.00), by imprisonment for a term not exceeding thirty (30) days, by probation for a term not exceeding one (1) year, or by any combination thereof. Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

1-8.4. The sentence to pay a fine, imposed on an enterprise convicted of a Class 1 misdemeanor shall be an amount not more than twenty thousand dollars ($20,000.00), on an enterprise convicted of a class 2 misdemeanor shall be an amount not more than ten thousand dollars ($10,000.00), and on an enterprise convicted of a Class 3 misdemeanor shall be an amount not more than two thousand dollars ($2,000.00).

1-8.5. Except as otherwise specifically noted in Chapters 12 and 13, all violations of Chapters 12 and 13 of this Code are civil traffic violations punishable as provided in A.R.S. tit. 28, ch 5.

1-8.6. The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

1-8.7.

A. Civil infractions. Except as otherwise provided by law or ordinance, a violation of Chapters 28, 30, 31, 44, 45 and 58 shall be a civil infraction which will be charged, filed and prosecuted in accordance with Chapter 26 of this Code.

B. Habitual offender. Any person who commits a violation of any one of the above listed Chapters after previously having been found responsible for committing two (2) or more civil infractions of the same Chapter within any thirty-six-month period, whether by admission, by payment of the fine, by default, or by judgment after hearing, shall be guilty of a criminal misdemeanor punishable as set forth in Subsection 1-8.3 of this Code. The Chandler City Prosecutor is authorized to file a criminal misdemeanor complaint in the Chandler Municipal Court against such habitual offenders who violate this Section. For purposes of calculating the thirty-six-month period under this paragraph, the dates of the commission of the offenses are the determining factor.

1-8.8. Violations of this Code that are continuous with respect to time are a public nuisance and may be abated through the civil infractions enforcement and abatement procedures in Chapter 26 of this Code or by injunctive or other equitable relief. The imposition of civil or criminal penalties does not prevent enforcement and abatement nor injunctive relief.

1-8.9. Enforcement of City Code. The City Manager/Designee is hereby authorized and directed to enforce all the provisions of the City Code. Such enforcement shall be in accordance with the following:

A. By criminal complaint (either by citation issued by a Police Officer pursuant to A.R.S § 13-3903 or by a long form criminal complaint filed in the Chandler Municipal Court pursuant to Rule 2.3 Arizona Rules of Criminal Procedure);

B. By civil action in the Superior Court seeking an injunction and order for abatement;

C. By the procedures for civil infraction citations set forth in Chapter 26 of this Code;

D. By the abatement procedures authorized in A.R.S. 9-499 and established in Chapter 26 of this Code; or

E. By any other enforcement remedies provided by State law, including but not limited to the provisions relating to slum properties.

Chapter 12 - TRAFFIC RULES INCLUDING MOTORIZED PLAY VEHICLES

12-1. - Definitions.

Vehicle, for the purposes of this chapter, shall be construed to embrace any means of transportation made use of in any way whatsoever for such transportation, including, but not limited to, automobiles, motorcycles, motor scooters, bicycles, trailers, wagons and carts.

Alleys are defined as any right-of-way for vehicular traffic in the City where the dedicated right-of-way is twenty-four (24) feet or less.

Motorized play vehicle means a coaster, scooter, any other alternatively fueled device (excluding battery operated toy carts designed for children under the age of eight (8) years to ride in or on) or other motorized vehicle that is self-propelled by a motor or engine and which is not otherwise defined in A.R.S. Title 28, as a "motor vehicle," "motor-driven cycle" or "motorized wheelchair."

Motorized skateboard means a self-propelled device which has a motor or engine, a deck on which a person may ride by standing upright only and has at least two (2) wheels in contact with the ground and which is not otherwise defined in A.R.S. Title 28, as amended, as a "motor vehicle," "motor-driven cycle" or "motorized wheelchair."

Stored vehicle means a vehicle left on any street, highway, road or other public thoroughfare for more than forty-eight (48) consecutive hours without being moved at least three hundred (300) feet.

12-2. - Safety.

12-2.1. Speed in alleys. No person shall operate a motor vehicle through a public alley or any part thereof, within the City limits, at a speed greater than fifteen (15) miles per hour.

12-2.2. Boarding, alighting from vehicles in motion. No person shall board or alight from any vehicle while such vehicle is in motion.

12-2.3. Riding upon portions of vehicles not intended for passengers. No person shall ride upon any portion of a vehicle not designed or intended, or reasonably suited for the safe use of passengers.

12-2.4. Reserved.

12-3. - Vehicles on private property.

12-3.1. Written permission required. No person shall operate or drive any motor vehicle, motorcycle, minibike, dune buggy, motor scooter, or other form of transportation propelled by an internal-combustion engine, upon the private property of another or upon public property which is not held open to the public for vehicle use, without the written permission of the owner thereof or the person entitled to immediate possession thereof, or the authorized agent of either. The property owner, lessee or invitee may operate such vehicles if the use is incidental to the enjoyment of the property rights and does not violate any other applicable laws. Whenever any such person is stopped by a Police Officer of the City for violations of this section, the person shall, upon request of the Police Officer, display written permission.

12-3.2. Display grant of permission. No person shall park or leave any motor vehicle, motorcycle, minibike, trail bike, dune buggy, motor scooter, motor home, travel trailer, camper, boat or other form of recreational vehicle or form of transportation upon the private property of another without displaying in public view the written permission of the property owner or the person entitled to immediate possession thereof or the authorized agent of either.

12-4. - Parking.

12-4.1. Presumption in reference to illegal parking. In any hearing in which a violation of any law or regulation governing the standing or parking of a vehicle is alleged, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during such violation occurred.

12-4.2. Parking in alleys prohibited; exceptions. No person shall park any motor vehicle or trailer in any alley within the City limits, except as follows:

A. For the purpose of loading or unloading merchandise or passengers, provided that at no time shall such motor vehicle or trailer be so parked as to completely obstruct or block normal passage of traffic in or through the alley.

B. For the purpose of repair service, when necessary to load or unload tools or parts for such service.

Any motor vehicle or trailer stopped or parked in any alley and left unattended for a period of time to exceed ten (10) minutes shall be deemed to be in violation.

12-4.3. Storing vehicles. No person shall store a vehicle upon any street, highway, road, other public thoroughfare or any other public property except for vehicles owned by the city that are parked on public property.

A. When a law enforcement officer or duly authorized agent has reason to believe that a vehicle has been stored in violation of this section, a written notice shall be placed upon the vehicle in a conspicuous place. The notice shall state that if the vehicle is not moved within forty-eight (48) hours from the date and time recorded by the law enforcement officer or duly authorized agent at the time the notice was issued, it will be a violation of this section.

B. If the vehicle is not moved from its location within forty-eight (48) hours from the date and time the notice was issued by the law enforcement officer or duly authorized agent, it may be removed from its location by the law enforcement officer.

C. Whenever a vehicle has been removed pursuant to this section, the law enforcement officer shall give or cause to be given to the registered owner of the vehicle, if known, written notice of the fact of removal, the reasons therefore and the place to which the vehicle has been removed.

D. If the law enforcement officer is unable to ascertain the name of the registered owner or give the notice required in subsection c., the law enforcement officer shall send a written notice of removal to the motor vehicle department. The notice shall contain a description of the vehicle, the date, time and place from which removed, the reasons for removal and the name of the place to which the vehicle has been removed.

12-4.4. Parking not to impede traffic. No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the public roadway for free movement of vehicular traffic.

12-4.5. Parking for display or working on vehicle. No person shall park a vehicle upon any public roadway for the principal purpose of displaying such vehicle for sale, displaying advertising, displaying commercial exhibits, washing, greasing or repairing such vehicle, except repairs necessitated by emergency.

12-4.6. Parking oversized vehicles, trucks or trailers on residential streets prohibited. No person shall stand or park any vehicle with a gross vehicle weight in excess of fourteen thousand five hundred (14,500) pounds, nor any vehicle modified or altered to add a crane, racks, frames or other structures to customize for a business purpose, nor any trailer or semi-trailer designed or intended to be drawn behind a motor vehicle and used or designed for a business purpose, on any vacant or unimproved lot, street, alley, or other public right-of-way in or within two hundred (200) feet of a residential zone for a period of time longer than two (2) hours, except such vehicles may be parked for a longer period of time only when such parking is necessarily required while actually loading, unloading, delivering or making a service call at a residence. No person shall park a recreational vehicle, bus, boat, utility trailer, portable camping trailer, off road-highway vehicle or hauler on a residential street, except a person may park such vehicle for the purpose of loading and unloading and not for more than forty-eight (48) hours. Under no circumstances shall A person be allowed to inhabit any of the prescribed vehicles while parked on the street.

12-4.7. Parking space for physically disabled persons; prohibition.

A. Except as provided in subsection B, a person shall not stop, stand or park a motor vehicle or otherwise occupy any specially designated and marked parking space provided pursuant to A.R.S. 28-882 unless the motor vehicle is transporting a person who has been issued a valid placard or international symbol of access special plates and either:

1. The motor vehicle displays the valid permanently disabled or temporarily disabled removable windshield placard.

2. The motor vehicle displays international symbol of access license plates that are currently registered to the vehicle.

B. A person who is chauffeuring a person with a physical disability without a placard or international symbol of access special plates may park momentarily in a parking space provided pursuant to A.R.S. 28-882 for the purpose of loading or unloading the person with a physical disability, and a complaint shall not be issued to the driver for the momentary parking.

12-5. - Motorized play vehicles and motorized skateboards.

12-5.1. Applicability of traffic laws.

A. All traffic laws shall apply to persons riding motorized play vehicles and motorized skateboards. Every person operating a motorized play vehicle or motorized skateboard upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this State declaring rules of the road applicable to the vehicles, or by the traffic regulations in this chapter and except as to those provisions which by their nature can have no application.

B. This section shall not be construed to require the licensing or registration of motorized play vehicles or motorized skateboards, the licensing of motorized play vehicle or motorized skateboard operators, or the carrying of insurance covering accidents involving motorized play vehicles or motorized skateboards.

C. It is unlawful for any person operating a motorized play vehicle or motorized skateboard not to obey the instructions of official traffic-control signals, signs and other traffic direction devices that are applicable to vehicles, unless otherwise directed by a Police Officer.

12-5.2. Responsibility of parents, guardians, and custodians. No parent, guardian, or custodian of a child, shall authorize or knowingly permit any child to violate this chapter.

12-5.3. Prohibited areas of operation. No person shall operate a motorized play vehicle or motorized skateboard:

A. On any sidewalk, except for use in crossing such sidewalk by the most direct route to gain access to any public or private road or driveway.

B. In any City parking structure or City park, except for use on public roadways within the park, or designated hike/bike trails.

C. On any public property that has been posted or designated by the owner of such property as an area prohibiting the use of "skateboards."

D. On any public roadway consisting of a total of four (4) or more marked traffic lanes, or having an established speed limit of greater than thirty-five (35) miles per hour.

E. On any private property of another, or any public property which is not held open to the public for vehicle use, without the written permission of the owner, the person entitled to immediate possession of the property, or the authorized agent of either.

12-5.4. General operating restrictions.

A. No child under the age of thirteen (13) shall operate a motorized play vehicle or motorized skateboard.

B. No person shall operate a motorized play vehicle or motorized skateboard in excess of the speed that is reasonable and prudent under existing circumstances, or the lawfully posted limit, whichever is the least.

C. The operator of a motorized play vehicle or motorized skateboard, approaching a sidewalk, bicycle path, bicycle lane, or multi-use path in order to cross such, shall yield the right-of-way to all other users.

D. No operator of a motorized play vehicle or motorized skateboard shall allow passengers when the motorized play vehicle or motorized skateboard is in motion.

E. No person operating or riding upon a motorized play vehicle or motorized skateboard shall attach themselves or the motorized play vehicle or motorized skateboard in any manner to any other vehicle.

F. No person shall operate a motorized play vehicle or motorized skateboard while carrying any package, bundle or article which prevents the operator from keeping both hands on the steering mechanism at all times.

G. No person, other than the owner, shall operate a motorized play vehicle or motorized skateboard without the written permission of the owner.

H. No person shall operate a motorized play vehicle or motorized skateboard that has been structurally altered from the original manufacturer's design. This section applies to alterations to the exhaust system of such vehicles, except for alterations to make the exhaust system more quiet than the original manufacturer's design.

I. No person shall operate a motorized play vehicle or motorized skateboard in a cross walk.

K. No person shall operate a motorized play vehicle or motorized skateboard while towing or pulling another person, or object.

12-5.5. Operating restrictions on roadway.

A. A person operating a motorized play vehicle or motorized skateboard on a roadway at less than the normal speed of traffic, at the time and place and under the then existing conditions, shall ride as close as practicable to the right-hand curb or edge of the roadway, except under the following conditions and when the movement can be made in safety:

1. If overtaking and passing a bicycle or vehicle proceeding in the same direction.

2. If preparing for a left turn at an intersection or into a private roadway or driveway.

3. If reasonably necessary to avoid hazardous conditions ahead in the roadway.

4. If the lane in which the person is operating the motorized play vehicle or motorized skateboard is too narrow for a motorized play vehicle or motorized skateboard and a bicycle or another vehicle to travel safely side by side within the lane.

B. No operator of a motorized play vehicle or motorized skateboard shall transport extra fuel in a separate container or alter the fuel reservoir from the original manufacturer's design. This includes the prohibition of physically attaching fuel packs or containers to the operator's person.

C. Persons operating motorized play vehicles or motorized skateboards on the roadway shall not ride more than two (2) abreast.

D. Motorized play vehicles or motorized skateboards may only be operated between the hours of 8:00 a.m. and 8:00 p.m.

12-5.6. Required safety equipment.

A. No person shall operate a motorized play vehicle or motorized skateboard without a head lamp emitting a beam and a red rear reflector anytime from one-half (½) of an hour prior to sunset and one-half (½) of an hour after sunrise, or any other time when there is not sufficient light to render clearly identifiable objects, persons, or vehicles on the roadway.

1. A head lamp shall emit a white light and be visible from the front at a distance no less than five hundred (500) feet.

2. A rear red reflector shall be visible when illuminated by a vehicle head lamp from a distance of not less than three hundred (300) feet.

3. A rear red lamp visible from a distance of five hundred (500) feet to the rear may be used in addition to the rear red reflector.

B. No person shall operate a motorized play vehicle or motorized skateboard unless it is equipped with a brake which enables the operator to make a braked wheel(s) skid on pavement.

C. Any operator of a motorized play vehicle or motorized skateboard under the age of eighteen (18) years being operated on a roadway shall at all times wear a full-face protective helmet on his or her head in an appropriate and safely secured manner. The helmet should be DOT approved and designated "full-face protection" by the manufacturer.

D. No person shall operate a motorized play vehicle or motorized skateboard without wearing footwear. The foot wear must have a sole and completely cover the feet and toes.

E. The operator of a motorized play vehicle or motorized skateboard shall wear at all times, eye protection.

12-5.7 Duties of sellers of motorized play vehicles and motorized skateboards.

A. Any person who sells a new motorized play vehicle or a new motorized skateboard in the City of Chandler, shall display, at the place of sale, Chandler City Code Sections 12-5, 30-4 and 30-5.

B. Any person who sells a new motorized play vehicle or a new motorized skateboard in the City of Chandler by mail-order shipment to an address in the City of Chandler or a city adjacent to the City of Chandler, shall include a copy of Chandler City Code Sections 12-5, 30-4 and 30-5 in the shipment.

C. Any person who sells a new motorized play vehicle or a new motorized skateboard in the City of Chandler shall provide to the buyer written notice that motor vehicle insurance policies and some homeowners' insurance policies will not cover liability claims involving these types of vehicles. This notice shall be in addition to any warnings or notices provided by the manufacturer.

12-6. Pedestrian Regulations.

12-6.1. Crossing or stopping on the roadway. Except in a crosswalk, no pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb. A pedestrian shall not cross a roadway prohibited by appropriate signs, markings, devices, or by law.

12-6.2. No pedestrian may stop or remain in the portion of the roadway designed for vehicular use or in a painted or raised traffic island or median not designated for use by pedestrian except to wait to cross the roadway at the next pedestrian signal or, in the absence of a pedestrian signal, when traffic has cleared or yielded.

12-6.3. Penalties.

A. The first violation of this section is a civil traffic offense.
B. Any person who commits a violation of Chapter 12 after previously having been found responsible for committing one (1) or more civil infractions or guilty of one or more criminal misdemeanors of the same offense within any twenty-four (24) month period, whether by admission, by payment of the fine, by default, or by judgment after hearing /trial, shall be guilty of a Class One misdemeanor punishable as set forth in Section 1-8 of this Code. Either a police officer or the Chandler City Prosecutor is authorized to file a criminal misdemeanor citation or complaint in the Chandler Municipal Court against such habitual offenders. For purposes of calculating the twenty-four (24) month period under this paragraph, the dates of the commission of the offenses are the determining factor.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this _____ day of _____, 2015.

ATTEST:

_____ _____

CITY CLERK MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2015.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4671 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2015, and that a quorum was present thereat.

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY RHR