

ORDINANCE NO. 1310

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING ARTICLE VI OF CHAPTER 22 OF THE CODE OF ORDINANCES RELATING TO MOTORCYCLE RENTALS; REQUIRING ADDITIONAL DISTINCTIVE INDICIA ON RENTED MOTOR SCOOTERS; PROHIBITING CUSTOMERS LEAVING THE RENTAL BUSINESS ON A MOTOR SCOOTER IF NOT WEARING A DISTINCTIVE VEST; REQUIRING ALL CUSTOMERS RENTING A MOTOR SCOOTER TO READ AND SIGN A SAFETY BROCHURE, SPECIFYING THE MINIMUM CONTENT OF THE BROCHURE AND AUTHORIZING THE CHIEF OF POLICE TO SUMMARIZE APPLICABLE MOTORCYCLE LAWS IN THE BROCHURE; PROHIBITING THE OPERATION OF A MOTOR SCOOTER RENTED WITHIN THE CITY UNLESS THE VEHICLE MEETS THE REQUIREMENTS OF THE LAW AND ALL OCCUPANTS ARE WEARING THE DISTINCTIVE VEST AND EACH OCCUPANT HAS THEIR PERSONALLY SIGNED BROCHURE IN THEIR POSSESSION; ESTABLISHING PROGRESSIVE CIVIL PENALTIES APPLICABLE TO OFFENCES BY THE RENTAL BUSINESS AND THE CUSTOMER AND APPEALABLE TO THE COUNTY COURT; REPEALING INSURANCE REQUIREMENTS; DEFINING MOTOR SCOOTER; DELETING THE REQUIREMENT THAT UNDER EIGHTEEN OPERATOR AND PASSENGER OF A RENTED SCOOTER WEAR A HELMET AT ALL TIMES; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

BE IT HEREBY ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY

BEACH, FLORIDA:

SECTION 1. From and after the effective date of this ordinance, ARTICLE VI of Chapter 22 of the Panama City Beach Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text underlined):

ARTICLE VI. ~~MOTORCYCLE, MOTOR SCOOTER AND MOPED~~ VEHICLE RENTALS

Sec. 22-100. Prohibited acts.

(a) It shall be unlawful for any person to rent, lease or hire within the City a motorcycle, motor scooter ~~moped~~ or any other two- or three-wheeled, self-propelled vehicle, or solicit the same within the City, unless each of the following is requirements is met:

- (1) There is ~~promptly present on the same premises and~~ available for delivery with each such vehicle available for rental if requested by the customer; protective headgear

and eye-protective devices of a type approved by the Department of Highway Safety and Motor Vehicles, and there is present on the same premises and a vest described in this section for each scooter available for rental, and.

(2) Protective headgear and an eye-protective device approved by the Department of Highway Safety and Motor Vehicles are furnished without charge if requested by the customer. ~~and physically attached to such vehicle, and the customer is required by contract to wear such protective headgear, and.~~

(3) Reserved.

(4) For each motor scooter rented on or after June 8, 2014, all occupants are outfitted with a florescent green highway safety vest meeting at a minimum Class 2 ANSI 107-2010 or equivalent revised standards, upon the back of which the word "RENTAL" is applied in black, block letters four inches (4") high, and the occupants are not allowed to leave the rental business on the vehicle unless wearing the vest in a normal fashion.

(5) All persons who will operate the vehicle hold and have in their possession a valid driver's license authorizing operation of the vehicle upon the public streets of Florida and the name and address of all operators and the number and state of issuance of all licenses shall be made a part of the contract pursuant to which possession of the vehicle is transferred.

(6) Reserved.

(7) All operators listed on the rental agreement for each motor scooter shall be required to read, print their name, sign and date a brochure in form and substance approved by the Chief of Police outlining the laws applicable to the operation of motorcycles in Florida (a "Safety Brochure"). The Safety Brochure shall also explain (i) that that the City understands that the rental about to commence is more of an amusement ride than transportation, (ii) that flags and vests are required to maximize the visibility of the amusement vehicles for the occupants' safety and the protection of property, and (iii) that the police are particularly sensitive to reckless and unlawful operation of the amusement vehicles because they have seen frequent injuries and damages caused by them. A subsequent rental on a following day shall require a new Safety Brochure.

(8) There is prominently affixed to such vehicle a current registration decal supplied by the City.

(9) For each motor scooter rented on or after September 1, 2014, there is prominently affixed to the rear fender or portion behind the saddle of each such motor scooter a flexible, fiberglass, vertical rod not less than thirty inches (30") long at the top of which is displayed a triangular flag approximately fifty (50) square inches in size and in a color or pattern determined by the Chief of Police or his or her designee.

(10) Reserved

(11)~~(3)~~ There is conspicuously posted at all entrances to such business premises and above wherever rental forms are signed, on a sign in size and form (including font) not less than forty-eight (48) inches in height and forty-eight (48) inches in width, as approved by the Chief of Police displaying the schedule of maximum deposits allowed and including substantially ~~the following notices:~~

~~"CITY ORDINANCE PERMITS SECURITY DEPOSIT OF ONLY CASH OR CREDIT CARD OF \$100.00 OR LESS PER BIKE.~~

CITY ORDINANCE REQUIRES DELIVERY OF A WRITTEN ITEMIZATION OF PARTS AND LABOR CHARGED AGAINST A SECURITY DEPOSIT AND A CLEAR PHOTOGRAPH OF ANY DAMAGE CLAIMED.

CITY ORDINANCE PROHIBITS YOUR DEPOSIT BEING USED FOR ANOTHER PERSON UNLESS YOU CONSENT BY SEPARATE WRITTEN INSTRUMENT.

IN ORDER TO RENT A MOTORCYCLE, YOU MUST HOLD A VALID DRIVER'S LICENSE WHICH WOULD PERMIT YOU TO OPERATE A MOTORCYCLE IN YOUR HOME STATE.

IT IS ILLEGAL FOR ANYONE NOT LISTED AS AN OPERATOR ON THE RENTAL AGREEMENT TO OPERATE THE MOTORCYCLE OR SCOOTER.

TO RENT A MOTOR SCOOTER YOU MUST READ, SIGN AND HAVE IN YOUR POSSESSION WHILE DRIVING IN THE CITY A "SAFETY BROCHURE" AND WEAR A VEST WHICH THIS BUSINESS WILL GIVE TO YOU.

OPERATING A MOTOR SCOOTER WITHOUT THE BROCHURE OR WITHOUT WEARING THE VEST, OR VIOLATING ANY FLORIDA TRAFFIC LAWS, WILL SUBJECT YOU TO A CIVIL PENALTY OF BETWEEN \$100 AND \$500 DOLLARS, OR MORE.

Said notice shall have a white background with black Roman lettering in substantially the form on file and available for inspection in the office of the City Clerk, ~~and~~.

(b) It shall be unlawful for any person to rent, lease or hire within the City a motorcycle, motor scooter or any other two- or three-wheeled, self-propelled vehicle, or solicit the same within the City, to a person who is under the influence of alcoholic beverages or any controlled substance. A person is under the influence of alcoholic beverages or any controlled substance when affected to the extent that the person's normal faculties are impaired.

(c) It shall be unlawful for any person to operate on the public streets of the city a motor scooter which is rented, leased or hired within the City, unless each of the following requirements is met:

(1) There is prominently affixed to the rear fender or portion behind the saddle of the vehicle a flexible, fiberglass, vertical rod not less than thirty inches (30") long at the top of which is displayed a triangular flag approximately fifty (50) square inches in size and in a color or pattern determined by the Chief of Police or his or her designee.

(2) All occupants of the vehicle are outfitted with a florescent green highway safety vest upon the back of which the word "RENTAL" is applied in black, block letters four inches (4") high.

(3) The person operating the vehicle is listed as an operator in the rental agreement under which the vehicle is being operated and a copy of that rental agreement is secured in the vehicle or in the possession of the operator.

(4) The operator of the vehicle has in his or her possession a Safety Brochure dated and signed by him or her that same day.

(5) The vehicle bears a current inspection sticker issued and affixed by the police department pursuant to this Article.

~~(4) The customer holds a valid driver's license which would permit the customer to operate in the state issuing such license the vehicle being rented, and~~

~~(5) There is prominently affixed to such vehicle a current registration decal supplied by the City.~~

~~(6) There is prominently affixed to the rear fender of each such vehicle meeting the description contained in § 316.211(3) F.S. a yellow cross (+) three (3) inches high and three (3) inches wide, as may be more particularly specified by the Chief of Police.~~

(d) It shall be unlawful for any person to operate on the public streets of the city a motor scooter which is rented, leased or hired within the City if there is on or in the vehicle an alcoholic beverage in a container not sealed with the manufacturer's original seal.

(e) As used in this Article, the term motor scooter, or scooter, shall mean a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or is rated not in excess of 2 brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground, and shall include a moped as defined in FS 316.03 (77) (2013).

Sec. 22-101. Reserved. ~~Protective headgear required; penalty and enforcement.~~

~~(a) It shall be unlawful for any person sixteen (16) or seventeen (17) years of age to operate or ride upon a rented motor scooter unless he or she is properly wearing protective headgear securely fastened upon his or her head which complies with standards established by the Department of Highway Safety and Motor Vehicles. As used in this Section, the term "rented motor scooter" shall mean a two or three wheeled, self propelled vehicle, regardless of motor displacement or brake horsepower, which vehicle is rented, leased or hired within Bay County, Florida, for a period of sixteen (16) hours or less.~~

~~(b) Each violation of this section shall constitute a civil infraction punishable by a civil penalty in the maximum amount of five hundred dollars (\$500.00). A person who does not contest the civil citation for violation of this section shall be subject to a civil penalty in the amount of thirty two dollars (\$32.00). The penalty for uncontested civil citations may be paid directly to the City Clerk.~~

~~(c) This section shall be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated this section. The City finds that violation of this section presents a serious threat to the public health, safety and welfare. All sworn police officers of the City shall be considered code enforcement officers for the purpose of enforcing this section. A citation issued under this section may be contested in the county court for Bay County Florida. The civil citation shall contain the matters specified in § 161.21 Florida Statutes (1994) in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided in § 162.21(6) Florida Statutes (1994).~~

Sec. 22-102. Itemization of damage claims.

No person or business renting, leasing or hiring within the City a motorcycle, motor scooter, moped or any other two- or three-wheeled, self-propelled vehicle, shall make any charge for damage to such vehicle without first delivering to the customer a written, itemized statement of such charge, separately stating each replacement part and its cost, all labor costs, and any other charge made, and one or more color photographs clearly depicting the damaged parts. No additional charge may be made for such statement and photographs.

Sec. 22-103. Threat of arrest.

No person or business renting, leasing or hiring within the City a motorcycle, motor scooter, moped or any other two- or three-wheeled, self-propelled vehicle, shall threaten a customer with arrest or criminal prosecution for refusal to pay a damage claim or any other charge.

Sec. 22-104. Limitations on deposits; cross-collateralization prohibited; exceptions.

- (a) No person or business renting, leasing or hiring (hereafter "renting" or "rental") within the City a self-propelled vehicle intended to be operated upon a public street shall accept anything of value as security or collateral for the full performance of the rental agreement therefor (hereafter in this section a "deposit"), other than (i) cash, or (ii) a credit card invoice upon which a maximum amount is clearly written, in either case not exceeding the amount per vehicle set forth in subsection (d).
- (b) Any value transferred to such person or business by agreement or otherwise in association with such rental shall be conclusively deemed to be a deposit within the meaning of the forgoing prohibition whenever that value is contemplated by the customer to be returned, or not retained by such person or business, under any conceivable circumstance. Nothing herein shall prohibit such person or business from collecting a non-refundable, voluntary fee to limit a customer's liability in the event of damage or loss to the rented vehicle, such a fee not being a deposit. However, any value held to secure satisfaction of the customer's liability so limited is a deposit within the meaning of the forgoing prohibition.
- (c) No person or business renting, leasing or hiring within the City a self-propelled vehicle intended to be operated upon a public street shall permit or require the cash or credit card deposit given by one or more persons, individually or jointly, with respect to one or more vehicles to be applied in excess of the amount per vehicle set forth in subsection (d).
- (d) Maximum deposits permitted:

TABLE INSET:

Vehicle Type	Deposit Cap
Moped (2 or 3 wheel, less than 50cc)	\$150.00
Electric Car or Dune Buggy (3 or 4 wheel)	\$300.00
Motorcycle (50cc or greater)	\$500.00
All other vehicles	\$500.00

Sec. 22-105. Registration and inspection.

- (a) Each ~~business renting, leasing or hiring within the City a~~ motorcycle, motor scooter, moped or any other two- or three-wheeled, self-propelled vehicle, rented, leased or hired within the City a shall be inspected and registered annually with the Chief of Police at the offices of the Police Department at such times as shall be specified by the Chief. The annual application for registration shall include:
- (1) The name, residence and mailing address of the owner, and
 - (2) The name, location and mailing address of the rental, etc. business, and
 - (3) A description of each type of vehicle to be rented by the business, including make, model and manufacturer, engine displacement, maximum break horsepower, maximum seat height from ground, and whether equipped with pedals to permit propulsion by human power, and
 - (4) The approximate number of vehicles of each type to be rented by the business, subject to a continuing obligation to promptly advise the Chief of Police of any material change in such number, and
 - (5) A description of each type of protective headgear and eye protective device to be used, including manufacturer, make model and serial number, if any, and the approximate number of each type, and
 - (6) Evidence satisfactory to the City of the trust deposit or bond required by law.
- (b) Each application shall be accompanied by a registration fee in the amount of fifty dollars (\$50.00), plus one dollar (\$1.00) for each decal furnished, to defray the cost of enforcing the regulations contained in this Article.
- (c) Each registration shall expire on December 31 next following issuance, regardless of the date of issuance.
- (d) Each vehicle to be rented pursuant to this Article shall be inspected by the Chief of Police or his designee to confirm that the throttle, brakes, lights, blinkers and horn are in apparent working order, that the vehicle has a current tag and does not appear to leak fuel.
- (e) If all conditions in the application and inspection are met, the Chief of Police or his designee shall supply and place upon each vehicle to be rented a decal, in form and content specified by the Chief of Police or his designee, to identify the vehicle as a rental vehicle associated with the business renting the vehicle.

Sec. 22-106. Enforcement and Penalties.

- (a) The City finds that a violation of any section of this Article, except Section 22-105, presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature.
- (b) Each violation of this Article shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation of this Article: \$100.

Second violation of this Article: \$200.

Third and all subsequent violations of this Article: \$500.

Unless otherwise specified, a person who does not contest the civil citation for violation of this Article shall be subject to a civil penalty in the following amount :

First violation of this Article: \$50.

Second violation of this Article: \$100.

Third and all subsequent violations of this Article: \$250.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

(c) This Article may be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated any section of this Article. All sworn police officers of the City shall be considered code enforcement officers for the purpose of enforcing every section of this Article. A citation issued under any section of this Article may be contested in the county court for Bay County, Florida. The civil citation shall contain the matters specified in § 162.21 Florida Statutes (2013), or subsequent, superseding legislation, in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided in §§ 162.21(6), 775.082 & 775.083, Florida Statutes or subsequent, superseding legislation. In addition to the penalties specified in this Article, a person voluntarily paying a civil citation or convicted of a civil citation shall be required to bear all costs and fees imposed by the County Court or the office of the Clerk.

(d) The penalties provided here are cumulative to any other civil or criminal penalties available for violation of this the Panama City Beach Code of Ordinances or state law.

SECTION 2. From and after the effective date of this ordinance, ARTICLE III of

Chapter 22 of the Panama City Beach Code of Ordinances is deleted.

ARTICLE III. Reserved.

~~ARTICLE III. MOTORCYCLES, MINIBIKES, GO-CARTS, DUNE BUGGIES AND
MINIDUNE BUGGIES~~

~~Sec. 22-31. Renting--License required of lessee.~~

~~No person shall rent, lease, let or lend, with or without monetary consideration, any minibike, motorcycle, go-cart, dune buggy, minidune buggy, motor driven cycle or similar vehicle to any person not holding and having in his possession a valid driver's license or operator's license. The number and state of issuance of any such license shall be made a part of the contract pursuant to which possession of the cycle is transferred.~~

~~(Code 1973, § 25-17)~~

~~Sec. 22-32. Same--Liability insurance required of lessor.~~

~~The owner of any such minibike, motorcycle, go cart, dune buggy, minidune buggy, motor driven cycle or similar vehicle shall, prior to the renting, leasing, letting or lending thereof, provide and maintain public liability insurance insuring the operation thereof by any person in amounts of five hundred thousand dollars (\$500,000.00) for personal injury, single limit per occurrence, ten thousand dollars (\$10,000.00) for property damage, single limit, per occurrence and five hundred thousand dollars (\$500,000.00) against general public liability, single limit per occurrence.~~

~~(Code 1973, § 25-18)~~

~~**Sec. 22-33. Enclosures for operation of particular vehicles required.**~~

~~(a) — The operation of vehicles described in section 22-31 upon unenclosed tracks or areas used by them being dangerous to persons on adjacent property and to the people of this city, no such vehicles shall be operated at any place within the city, other than such vehicles complying with all requirements of state law for road operation when operated upon public roadways, unless such place or track shall first be enclosed by a substantial wall or fence not less than four (4) feet high, of sufficiently stout construction so that the same cannot be penetrated by any of said vehicles; provided, however, that exemption may be made from the fencing requirements of this section upon application to the city through its general building inspection, wherein the applicant shall show that on account of extensive open area, location of water or a waterway or other feature of the terrain, the fencing is not necessary to protect persons and property on adjacent lands or premises. Upon any such showing, a certificate of exemption shall be issued by the city without charge.~~

~~(b) — The approval of the general building inspector shall be obtained before constructing a fence or wall as prescribed in subsection (a). Appeal from the decision of the inspector regarding the sufficiency of the proposed construction or entitlement to exemption may be made to the city council at its next regular meeting; the decision of the council being conclusive as to the sufficiency of the proposed construction.~~

~~(Code 1973, § 25-20)~~

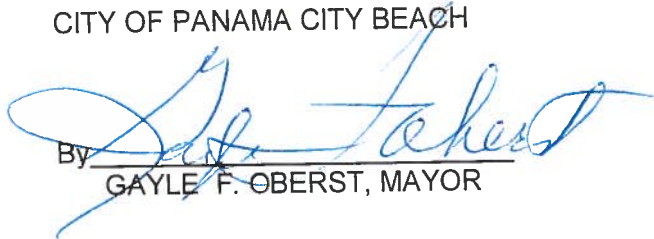
SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 8th day of May, 2014.

CITY OF PANAMA CITY BEACH



By _____
GAYLE F. OBERST, MAYOR

ATTEST:



HOLLY J. WHITE, CITY CLERK

EXAMINED AND APPROVED by me this 8th day of May, 2014.



MAYOR

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