

CITY OF OJAI

ORDINANCE NO. 902

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OJAI, CALIFORNIA ADDING CHAPTER 4-27 OF
TITLE 4 OF THE OJAI MUNICIPAL CODE PROHIBITING
THE USE OF SHARED ON-DEMAND MOTORIZED
SCOOTERS**

WHEREAS, the City of Ojai (the “City”), pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws that promote the public health, safety and general welfare of its residents; and

WHEREAS, cities throughout California have experienced a proliferation of shared on-demand motorized scooters parked and operated in public spaces and in the public right-of-way; and

WHEREAS, the rapid increase of use, and offering for use, of motorized, so-called “dockless” scooters has given rise to significant safety concerns from customers illegally riding the scooters on sidewalks, riding scooters without helmets and other safety precautions, and leaving the scooters throughout the public right-of-way, creating tripping hazards, making sidewalks inaccessible to residents with disabilities and other persons with mobility challenges, and impeding the safe flow of pedestrian and vehicle traffic; and

WHEREAS, California Vehicle Code section 21225 allows cities to regulate the parking and regulation of motorized scooters; and

WHEREAS, the City Council desires to protect the public health, safety, general welfare, and quiet enjoyment of public areas and the public right-of-way in the City by the adoption of this ordinance providing for restrictions on the use, operation and offering of shared on-demand motorized scooters in those spaces.

THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Code Addition. Ojai Municipal Code Chapter 4-27 is added to read in its entirety as follows.

Chapter 4-27 Shared On-Demand Motorized Scooters

Section 4-27.01. Purpose.

The purpose of this chapter is to declare that unless specifically permitted by this Code, shared on-demand motorized scooters are prohibited from being placed in the public right-of-way or on public property, operated in the public right-of-way or on public property, or offered for use anywhere in the City, so as to allow for adequate pedestrian traffic flow and to promote public safety. This chapter is intended to be a proper exercise of the City of Ojai's police power, to operate only upon persons and entities acting within the City's boundaries, and not to regulate inter-city or interstate commerce. It shall be construed in accordance with this purpose and intent.

Section 4-27.02. Definitions.

“Abandon” means leaving an item unattended for any length of time.

“Public area” means any outdoor area that is open to the public for public use, whether owned or operated by the City or a private party.

“Public right-of-way” means any public alley, parkway, public transportation path, roadway, sidewalk, plaza, or street that is owned, granted by easement, operated, or controlled by the City, state, or any other governmental agency.

“Scooter” means any wheeled device that has handlebars and a floorboard designed to be stood upon when riding.

“Shared on-demand motorized scooter” means any wheeled scooter that is designed to either be powered by an electric motor or other power source, or to be powered by human propulsion, that is accessed via an on-demand electronic or other portal, whether through a smart-phone, access code, I.D. card, or similar method, and is operated by a private entity that owns, manages, maintains and insures the devices for shared use by its customers or members, which are available to its customer or members in unstaffed, self-service locations.

Section 4-27.03. Prohibited conduct.

It is unlawful to

- (a) Display, place, offer, or make available for rent or use any shared on-demand motorized scooter within the City of Ojai.
- (b) Park, leave standing, leave lying, abandon, or otherwise place a shared on-demand motorized scooter in a public area, public right-of-way, public park, or on public property anywhere within the City in a manner that:
 - (1) Obstructs travel upon or blocks access to a public right-of-way;
 - (2) Poses an immediate public safety hazard; or

- (3) Is otherwise not expressly permitted by applicable laws or administrative regulations.
- (c) Operate a shared on-demand motorized scooter in a sidewalk, public right-of-way, public area, public park, or on public property anywhere within the City.
- (d) Operate a shared on-demand motorized scooter on any bicycle path, trail, public park, or bikeway anywhere within the City.
- (e) Provide or offer for rent or use a shared on-demand motorized scooter anywhere within the City.

Section 4-27.04. Impoundment of devices.

- (a) A shared on-demand motorized scooter that is placed, displayed, offered, or made available for rent or use, or abandoned, in a public area, public right-of-way, public park, public property, or other public location in violation of this Chapter shall be subject to immediate impoundment by the City.
- (b) Peace officers, traffic control officers, parking enforcement officers, code enforcement officers, those other City officials designated by the City Manager, and any party contracted by the City to impound shared on-demand motorized scooters are authorized to impound any shared on-demand motorized scooter placed, displayed, offered, or made available for rent or use, or abandoned, in a public area, public right-of-way, public park, public property, or other public location in violation of this Chapter.
- (c) The City Council may adopt impound fees by resolution, which shall reflect the City's enforcement, investigation, storage and impound costs.
- (d) No person shall retrieve any impounded shared on-demand motorized scooter from the City except upon demonstration of proper proof of ownership of the device and payment of applicable impound fees.

Section 4-27.05. Enforcement.

- (a) Peace officers, traffic control officers, parking enforcement officers, code enforcement officers, and other persons designated by the City Manager shall enforce this chapter and may publish written regulations in the manner required by law for the publication of ordinances and may take any and all other actions rational and necessary to enforce this chapter.
- (b) Any person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of a misdemeanor punishable pursuant to sections 1-2.02 and 1-2.03 of this Code. Each separate shared on-demand motorized scooter maintained or abandoned in violation of this chapter constitutes a separate violation.
- (c) In addition to any other remedies available by law and under this Code, a violation of this chapter is subject to the administrative enforcement provisions of Chapter 1-2.03 of this Code. Each separate shared on-demand motorized scooter maintained or abandoned in violation of this chapter and each separate day or portion thereof wherein the violation continues constitutes a separate and distinct violation.

- (d) The remedies specified in this chapter shall be cumulative and the City may resort to any other remedy available at law or in equity and resort to any one remedy shall not cause an election precluding the use of any other remedy with respect to a violation.
- (e) The city attorney may seek injunctive, legal, or other equitable relief to enforce this chapter.


SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 4. Environmental Determination. The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this amendment to the Municipal Code is exempt from California Environmental Quality Act (CEQA). The City Council has considered all of the evidence in the record, including the staff reports, the testimony received on the matter by the City Council, and hereby determines that the text amendments will not have a significant effect on the environment. This Ordinance will not impact existing modes of transportation, as the use of shared on-demand motorized scooters is already substantially restricted under State law. Further, shared on-demand motorized scooters are not widely used within the City. A prohibition on use will not change existing behavior and will thus not have a significant effect on the environment. Any potential future environmental impact is highly speculative. This Ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061 (b)(3) of the California Code of Regulations.

SECTION 5. Certification. The City Clerk shall cause this Ordinance to be published as required by applicable law, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.


SECTION 6. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

CITY OF OJAI, CALIFORNIA


By  _____
John F. Johnston, Mayor

10-2-19
Date signed

ATTEST:

 _____
Gail Davis, Deputy City Clerk


APPROVED AS TO FORM:

 _____
Matthew T. Summers, City Attorney

CITY OF OJAI)
COUNTY OF VENTURA)
STATE OF CALIFORNIA)

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on September 10, 2019 and adopted at a regular meeting held on September 10, 2019 by the following vote:

AYES: Blatz, Francina, Haney, Johnston, Weirick
NOES: None
ABSTAIN: None
ABSENT: None



Gail Davis
Deputy City Clerk for the City of Ojai