

ORDINANCE NO. 2020-35

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE
CHAPTER 77**

WHEREAS, the City Council Parks, Trails and Recreation Committee and Planning Department Staff have recommended that Brevard City Code of Ordinance, Chapter 77, be amended to add Article III, Electric Bicycles and Multiuse Path, to regulate the use of e-bikes on the City of Brevard's multiuse path; and,

WHEREAS, the City Council of the City of Brevard finds that the proposed amendment is generally consistent with the City of Brevard Comprehensive Plan; and,

WHEREAS, a legislative public hearing was conducted on Monday, December 7, 2020, by Brevard City Council, and, after hearing all persons wishing to comment, and upon review and consideration of the proposed amendments, it is the desire of the City Council of the City of Brevard that Brevard City Code of Ordinance be amended as outlined below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

SECTION 01. Brevard City Code of Ordinance, Chapter 77, is hereby amended to add Article III, as depicted in Exhibit A, which is attached hereto and incorporated herein by reference.

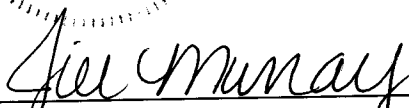
SECTION 02. As to any conflict between this Ordinance and any parts of existing ordinances, the provisions of this Ordinance shall control.

SECTION 03. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

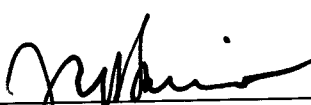
SECTION 04. This Ordinance shall be in full force and in effect from and after the date of its adoption and approval.

Adopted and approved upon first reading this the 7th day of December, 2020.






Jill Murray, CMC
City Clerk



Jimmy Harris
Mayor

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney

ARTICLE III – ELECTRIC BICYCLES AND MULTIUSE PATH

Sec. 77-47.- Scope.

- (a) This article regulates the use of electric assisted bicycles (e-bikes) on the City of Brevard's multiuse path, which is hereby established as a means for pedestrian and bicycle travel. This article is in keeping with the City of Brevard's efforts to ensure safe and responsible use of the City's recreational parks and multiuse trail system.
- (b) Sworn law enforcement officers shall enforce the safety regulations in this article as a part of their day-to-day duties. Nothing in the provision of this article shall prevent a sworn law enforcement officer from exercising judgment and issuing warnings to offenders as deemed appropriate.

Sec. 77-48.- Definitions of terms.

E-bikes class I and III. Electric assisted bicycles, with no throttle and no self-propulsion, which are not categorized as a motor vehicle as defined in this chapter.

E-bikes class II. Throttle assisted bicycles, characterized by self-propulsion, which are considered motor vehicles as defined in this chapter.

Grossly reckless. A reckless activity that is inherently dangerous and results in injury or presents a high risk of grave injury to self or others with disregard for self-preservation or the preservation of the safety of others. Operation of an e-bike while under the influence of alcohol or drugs is hereby declared to be grossly reckless. Any operation of an e-bike with the intent of doing harm to any person or property is hereby declared to be grossly reckless.

Negligence. Any breach of the duty of due care, resulting in or reasonably likely to result in proximate harm to persons or property. Violating a posted speed limit is hereby declared to be negligence in every instance, but may also be grossly reckless when circumstances so warrant.

Motor or motorized vehicle. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Motorized travel. All modes of travel or transport upon a motorized vehicle as defined in this chapter over land or water by self-propulsion.

Sec. 77-49.- Regulations: Negligence.

For violations of the following regulations or any other type of activity deemed "negligence" as defined in this article, the violator shall be required to pay a civil penalty of \$100.00.

- (a) The maximum speed for any mode of travel, pedestrian or bicyclist, on the City of Brevard's multiuse path is 15 mph.
- (b) Any unsafe behavior or activity on the greenway or multiuse path based on high speed of travel or the manner in which a bicyclist, pedestrian, or other user operates their equipment, showing disregard for personal safety or the safety of others, is unlawful.

- (c) No motor vehicle or motorized travel, as defined in this article, is allowed on the City's multiuse path. For the purpose of making reasonable accommodations for handicap accessibility, motorized travel by wheelchair is allowed when such person is medically dependent on a wheelchair for transportation.
- (d) Class II e-bikes are not allowed on the City's multiuse path.
- (e) No e-bikes (class I, II, or III), motor vehicles or motorized travel is allowed on the Bracken Preserve trails.
- (f) Standards bicycle helmets are required and the age minimum for e-bike use is 16 years.

Sec. 77-50.- Regulations: Grossly Reckless.

- (a) For violations of an ordinance in this article deemed "grossly reckless" as defined in this article, the violator shall be subject to criminal and civil penalties as set forth in Brevard City Code, chapter 1, "General Provisions," section 1-8, "General penalty; other remedies;" and may be subject to other criminal and civil penalties as set forth in the North Carolina General Statutes.