



TOWN OF JACKSON TOWN COUNCIL AGENDA DOCUMENTATION

PREPARATION DATE: April 11, 2018
MEETING DATE: April 16, 2018

SUBMITTING DEPARTMENT: Legal
DEPARTMENT DIRECTOR: Audrey Cohen-Davis
PRESENTER: Lea Colasuonno

SUBJECT: Electric Bicycle and Pathway Regulation Ordinances

STATEMENT/PURPOSE

The purpose of this item is to discuss two ordinances:

1. A new ordinance allowing and regulating electric bicycles (“e-bikes”) on Town of Jackson on-street bike lanes and Pathways; and
2. A new ordinance setting forth Pathway and Pathway user regulations.

BACKGROUND/ALTERNATIVES

Given the prevalence of electric bicycles in the Town, their availability at local bike shops, and, in general, their increasing use throughout Teton County for both transportation and recreation, the Pathways Director Brian Schilling presented Council various options for regulating e-bikes in the Town. When the JIM considered the item, a motion was made and passed directing staff to prepare ordinances to allow e-bikes on Town of Jackson pathways and bike lanes.

The Legal Department, the Police Department, and the Pathways Coordinator have diligently worked to develop ordinances in accordance with Council direction and have crafted new provisions within Title 10 and Title 12 of the Code to achieve Council’s policy goals.

Title 10:

This Title of the Jackson Municipal Code is the Traffic and Vehicle section, which currently includes pedal bicycles, making it the appropriate location to add regulations for e-bikes. Staff drafted a new chapter within the Title that includes:

- A definition of an e-bike and a division of classes;
- A permitting system to enable the Town to enforce the rules regarding the limited classes of e-bike allowed in the Town;
- A restatement of the current rules for bicycles that apply specifically to e-bikes; and
- A set of prohibitions on modifying or tampering with any e-bike to affect its class, falsifying permit documentation, and/or transfer permits between e-bikes.

Title 12:

Title 12 deals with Streets and Other Public Places, making it the appropriate location to add a section for the Pathways in the Town. This new chapter in Title 12 includes:

- Setting forth what types of devices can and cannot be used on the Pathways and prohibitions constructing any obstacles, jumps, etc. on or along the Pathway;
- Setting forth user rules for traveling on the right-hand side and overtaking other users; and
- Requiring the user employing the higher-speed mode of travel to avoid slower mode-of-travel users.

ALIGNMENT WITH COUNCIL'S STRATEGIC INTENT

This item aligns with Council's goal to timely, efficiently, and safely deliver quality services and facilities in a fiscally responsible and coordinated manner; to move residents and visitors safely, efficiently, and economically within our community and throughout the region using alternative transportation; to keep Town as Heart by implementing growth management policies and keep the Town as a center of the regional community; and to be responsible stewards of natural resources by encouraging pathway use by the public.

ATTACHMENTS

- Ordinance E
- Ordinance F

FISCAL IMPACT

This item will have various fiscal impacts.

The Cost of Permitting: By implementing a permitting system, the Town will purchase permits to affix to e-bikes. Furthermore, this will require coordination with the local bike shops to assess the class of e-bike being permitted.

The Cost of Ordinance Passage: The fiscal impact of passage of an ordinance varies between \$250.00 and \$700.00, depending on the length of the ordinance. Ordinances appear in the paper the Wednesday following Council's action on third reading. Should Council make material changes to the ordinance on third reading, the ordinance needs to be re-advertised in its final form.

The Cost of Enforcement: If Council enacts the Pathway rules in conjunction with passage of the e-bike ordinance (as recommended) police services on the pathways would need to be available and, potentially, increased.

STAFF IMPACT

The staff impact of this item has been significant. The Police Chief, Pathways Coordinator, and the Assistant Town Attorney met regularly and worked collaboratively over email and the phone to hash out a variety of enforcement issues, understand the intended and unintended consequences of changes to law and policy on the Town pathways and on-street bike lanes, developed a permitting system for e-bikes, considered how to work with and utilize local bike shops regarding the selling, registering, and permitting of e-bikes. The Assistant Town Attorney spent substantial time evaluating state law, local law and LDRs, and crafted ordinances throughout the Code for e-bikes.

LEGAL REVIEW

Complete.

RECOMMENDATION

Staff recommends enacting the ordinances.

SUGGESTED MOTIONS

If Council seeks to enact only the e-bike ordinance:

- ✓ I move to approve Ordinance F on first reading to second reading.

If Council seeks to enact only the Pathways ordinance:

- ✓ I move to approve Ordinance E on first reading to second reading.

If Council seeks to enact both the e-bike and the Pathway ordinance:

- ✓ I move to approve Ordinance E and Ordinance F on first reading to second reading.
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ORDINANCE E

AN ORDINANCE ADDING CHAPTER 12.32 TO THE MUNICIPAL CODE OF THE TOWN OF JACKSON REGULATING USE OF AND ON THE PATHWAYS IN THE TOWN OF JACKSON, AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JACKSON, WYOMING, IN REGULAR SESSION DULY ASSEMBLED THAT:

SECTION I.

There is hereby added Chapter 12.32 of Title 12 Pathways of the Municipal Code of the Town of Jackson as follows:

**Chapter 12.32
PATHWAYS**

Sections:

- 12.32.010 General Regulations**
- 12.32.020 Pathway Use Regulations**
- 12.32.030 Minors**
- 12.32.040 Penalty**

12.32.010 General Regulations

It shall be unlawful for any person within or on the Pathways in the Town of Jackson to:

- A. Ride, operate or use any device other than Bicycles, Electric Bicycles (as defined in this Code), pedestrian travel, cross country skis, or horses.
- B. Place or utilize additional obstacles or other material (including but not limited to ramps or jumps) that are not expressly authorized by the Jackson/Teton County Pathways Coordinator.
- C. Fail to obey any rule or regulation posted on or at the entrance to the Pathway at the direction of the Town Council, his or her designee, or the Jackson/Teton County Pathways Coordinator.

12.32.020 Pathway Use Regulations

- A. Pathway users proceeding in opposite directions shall pass each other to the right and each user shall give to the other at least one-half (1/2) of the main-traveled portion of the Pathway as nearly as possible.

- B. All Pathway users shall travel upon the right half of the Pathway, except as follows:
 - i. When overtaking and passing another Pathway user proceeding in the same direction; or
 - ii. When a stationary obstruction or hazard exists making it necessary to operate left of the center of the Pathway, but any user doing so shall yield the right-of-way to all users traveling in the proper direction upon the unobstructed portion of the Pathway within such distance as to constitute an immediate hazard.
- C. Overtaking:
 - i. The overtaking user has the duty to do so with safety and caution.
 - ii. The user overtaking another user proceeding in the same direction shall pass to the left thereof at a safe distance and shall not return to the right side of the pathway until safely clear of the overtaken user.
 - iii. No Pathway user shall overtake another user proceeding in the same direction by utilizing the left side of the center of the Pathway unless the left side is clearly visible and free of oncoming users for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with any user approaching from the opposite direction. In every event the overtaking user must return to the right side of the Pathway as soon as practicable.
 - iv. Every Pathway user overtaking another shall announce their presence before overtaking such that the user being overtaken can hear the announcement and have sufficient time to acknowledge and prepare for the overtaking user.
 - v. If a group of more than one Pathway user is overtaking one or more Pathway users, said overtaking shall be done in a single-file line.
- D. The Pathway user employing the higher-speed mode of travel has the duty to avoid slower mode-of-travel users.

12.32.030 Minors

All minors riding, operating or using the devices authorized in Sec. 12.32.010 within or on the Pathways in the Town of Jackson must:

- A. If using an Electric Bicycle, follow the provisions of the laws of the state applicable to drivers of motor-driven cycles, as set forth in Wyo. Stat. Ann. § 31-5-101 *et seq.* as amended, and all provisions of the ordinances of the Town.

12.32.040 Penalty.

A violation of any provision of this Chapter is an infraction punishable as provided by Section 1.12.010 of this Code.

SECTION II.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III.

If any section, subsection, 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 as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

SECTION IV.

This Ordinance shall become effective after its passage, approval and publication.

PASSED 1ST READING THE ____ DAY OF _____, 2018.

PASSED 2ND READING THE ____ DAY OF _____, 2018.

PASSED AND APPROVED THE ____ DAY OF _____, 2018.

TOWN OF JACKSON

BY: _____
Pete Muldoon, Mayor

ATTEST:

BY: _____
Sandy P. Birdyshaw, Town Clerk

ATTESTATION OF TOWN CLERK

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

I hereby certify that the foregoing Ordinance No. _____ was duly published in the Jackson Hole News and Guide, a newspaper of general circulation published in the Town of Jackson, Wyoming, on the ____ day of _____, 2018.

I further certify that the foregoing Ordinance was duly recorded on page _____ of Book _____ of Ordinances of the Town of Jackson, Wyoming.

Sandy P. Birdyshaw
Town Clerk

ORDINANCE F

AN ORDINANCE ADDING CHAPTER 10.13 TO THE MUNICIPAL CODE OF THE TOWN OF JACKSON PROVIDING FOR THE USE AND REGULATION OF ELECTRIC BICYCLES ON THE STREETS AND PATHWAYS OF THE TOWN OF JACKSON, AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JACKSON, WYOMING, IN REGULAR SESSION DULY ASSEMBLED THAT:

SECTION I.

There is hereby added Chapter 10.13 of Title 10 Vehicles and Traffic of the Municipal Code of the Town of Jackson as follows:

**Chapter 10.13
ELECTRIC BICYCLES**

Sections:

- 10.13.010** **Definitions.**
- 10.13.020** **Laws Applicable; Prohibited Acts.**
- 10.13.030** **Classes of Electric Bicycles Permitted and Prohibited; Where Permitted and Prohibited.**
- 10.13.040** **Label and Permit Required; Tampering Prohibited.**
- 10.13.050** **Right of Way to an Electric Bicycle on Left or Right Turn.**
- 10.13.060** **Overtaking an Electric Bicycle**
- 10.13.070** **Riding with two (2) or more persons on Electric Bicycle**
- 10.13.080** **Towing**
- 10.13.090** **Riding on Sidewalks**
- 10.13.100** **Position on Roadway**
- 10.13.110** **Riding Two Abreast**
- 10.13.120** **Racing**
- 10.13.130** **Prohibitions**
- 10.13.140** **Penalty**

10.13.010 Definitions.

For the purposes of this Chapter, the following definitions apply:

- A. “Electric Bicycle” means a bicycle or tricycle equipped with fully operable pedals and an electric motor of less than seven hundred and fifty (750) watts.
- B. “Class 1 Electric Bicycle” or “Low Speed Pedal Assisted Electric Bicycle” means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of twenty (20) miles per hour.
- C. “Class 2 Electric Bicycle” or “Low Speed Throttle Assisted Electric Bicycle” means a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of twenty (20) miles per hour.
- D. “Class 3 Electric Bicycle” or “Speed Pedal Assisted Electric Bicycle” means a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of twenty-eight (28) miles per hour.
- E. “Electric Vehicle” means any two or more wheeled device with electric power that does not meet one of the definitions above and is not a Pedestrian Vehicle as defined in Wyo. Stat. Ann. § 31-5-102, as amended.

10.13.020 Classes of Electric Bicycles Permitted and Prohibited; Where Permitted and Prohibited.

- A. Class 1 Electric Bicycles, Class 2 Electric Bicycles and Class 3 Electric Bicycles are permitted on Town of Jackson public streets, bike lanes, pathways, and alleys.
- B. All Electric Vehicles are prohibited on all Town of Jackson pathways, bike lanes, skateparks or other bicycle facilities including natural surface trails. Emergency response vehicles, maintenance vehicles, and Pedestrian Vehicles for the exclusive use of persons with a physical disability as those terms are defined in Wyo. Stat. Ann. § 31-5-102, as amended, are exempt from this prohibition.
- C. The use of Electric Bicycles outside Town of Jackson city limits is regulated separately by the Federal Government, Wyoming Department of Transportation and the Teton County Board of County Commissioners, and this ordinance has no applicability to roads and pathways under those respective jurisdictions.

10.13.030 Laws Applicable; Prohibited Acts.

- A. All Electric Bicycles operated within the Town of Jackson shall comply with the manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. part 1512).

- B. Every person riding or operating an Electric Bicycle on any street, alley or public place in the Town shall be subject to all provisions of the laws of the state applicable to drivers of motor-driven cycles, as set forth in Wyo. Stat. Ann. § 31-5-101 *et seq.* as amended, and all provisions of the ordinances of the Town.
- C. The parent of any child, the guardian of any ward, or a person assuming responsibility for a child or ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Chapter.

10.13.040 Inspection and Permit Required.

- A. Every Electric Bicycle within thirty (30) days of purchase, whether purchased new or used, must be presented at the Jackson Police Department for:
 - i. Inspection: All Electric Bicycles shall be presented to an authorized inspection agent within the Town with a certified form completed and attested to by a bike technician employed as such at a Teton County bike shop stating the classification, top assisted speed, and motor wattage of the Electric Bicycle.
 - ii. Permitting: All Electric Bicycles must get a permit permanently affixed by the Jackson Police Department stating the classification number, top assisted speed, and motor wattage of the Electric Bicycle.
- B. Every person riding or operating an Electric Bicycle on any street, alley or public place in the Town must carry a document showing the purchase date until the Electric Bicycle is permitted in accordance with provision A of this subsection.
- C. Every Electric Bicycle must have a valid permit affixed to it in a conspicuous location within thirty (30) days of purchase, whether used or new.

10.13.050 Right of Way to an Electric Bicycle on Left or Right Turn.

- A. The driver of a vehicle within an intersection or entering any alley or driveway intending to turn to the left or right so close thereto so as to constitute an immediate hazard, shall yield the right of way to an Electric Bicycle approaching on a parallel Shared Use Pathway or bicycle pathway.

10.13.060 Overtaking an Electric Bicycle.

- A. The operator of a vehicle overtaking an Electric Bicycle proceeding in the same direction shall leave a safe distance, but not less than three (3) feet, when passing the Electric Bicycle and shall maintain a safe distance until safely clear of the overtaken bicycle.

10.13.070 Riding with two (2) or more persons on Electric Bicycle.

- A. No person shall operate or ride any Electric Bicycle upon the streets, pathways, alleys or public highways in the Town with two (2) or more persons upon the same Electric Bicycle, provided, however, that this restriction shall not apply to:
- i. Tandem or Cargo Electric Bicycles equipped for two (2) or more riders;
 - ii. A baby or child seat attached to the Electric Bicycle, provided that the seat is equipped with a harness to hold the baby or child securely in the seat and that protection is provided against the baby or child's feet hitting the spokes of the wheel; and
 - iii. A child attached to an adult Electric Bicycle operator in a backpack or sling.

10.13.080 Towing.

- A. No Electric Bicycle shall pull any skier, sled, or other combination vehicle by rope, or flexible coupling. All sleds, trailers, or other combination vehicle shall be safely and securely affixed to the Electric Bicycle by direct coupling, solid tongue, or triangular shaped tow-bar not to exceed forty (40) inches in length, being securely affixed to two (2) points on the sled, trailer, or other combination vehicle.

10.13.090 Riding on Sidewalks.

- A. No person shall operate or ride an Electric Bicycle upon any sidewalk within the Town of Jackson.

10.13.100 Position on Roadway.

- A. Every person riding or operating an Electric Bicycle upon any street, roadway, alley or public place at less than the normal speed of traffic shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:
- i. When overtaking and passing another Electric Bicycle, bicycle or vehicle proceeding in the same direction.
 - ii. When preparing for a left turn at an intersection or into a private road or driveway.
 - iii. When reasonably necessary to avoid obstructions and hazards.
 - iv. When riding in the right-turn only lane.
- B. Every person riding or operating an Electric Bicycle upon a one-way street or roadway with two (2) or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

10.13.110 Riding Two Abreast.

- A. Electric Bicyclists are permitted to ride two (2) abreast within the same lane. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic, and when being overtaken by other vehicles using the same lane shall ride single file.

10.13.120 Racing.

- A. It is unlawful for any person or persons to run, engage, or cause to run or to be engaged in any Electric Bicycle race on any street, alley, or public place within the corporate limits of the Town without apply for and obtaining a permit from the Town.

10.13.130 Prohibitions.

- A. A device shall no longer be considered a Class 1, Class 2 or Class 3 Electric Bicycle if the wattage, the speedometer, or any other mechanical element of the Electric Bicycle that affects its classification is modified or tampered with after manufacture and it shall be unlawful to use such a device on Town of Jackson public streets, bike lanes, pathways, or alleys.
- B. Obtaining a permit required by this Chapter by fraud, deceit or misrepresentation is unlawful.
- C. Tampering with or falsifying the certified form provided by a bike technician in accordance with this Chapter so as to falsify any information therein or to forge such a document is unlawful.
- D. Tampering so as to falsify any information in the permit affixed on an Electric Bicycle by the Town or to forge such is unlawful.
- E. Town of Jackson Electric Bicycle permits are non-transferable, and it is unlawful to transfer permit(s) from one Electric Bicycle to another.

10.13.140 Penalty

- A. Any person or persons found guilty of violating any of the provisions of this Chapter shall be fined and punished in accordance with Sec. 1.12.010 of this Code, to which may be added costs.

SECTION II.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III.

If any section, subsection, 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 as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the ordinance.

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ATTEST:

BY: _____
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ATTESTATION OF TOWN CLERK

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