

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

2005 JUN 15 PM 2:28

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Police Department  
DATE: June 28, 2005

RE: **A Report and Proposed Ordinance Adding Chapter 10.17 to the Oakland Municipal Code Requiring Retailers of Motorized Scooters and Motorized "Pocket Bikes" to Advise Consumers of the State and Local Laws Regulating the Operation of Said Motor Vehicles in the City of Oakland**

---

**SUMMARY**

The Police Department, school district, and elected officials have tried to find solutions to the problem of unsafe, illegal, and noisy operation of motorized scooters and "pocket bikes." These efforts have included stakeholder identification, community meetings, outreach, education, and enforcement. Absent specific legal requirements, the businesses that sell these vehicles have been reluctant to cooperate. This ordinance will require retailers of motorized scooters and "pocket bikes" to inform all potential buyers of the pertinent laws regulating their operation.

**FISCAL IMPACT**

Enactment of the proposed ordinance may result in a reduction in number of sales (and subsequent sales tax revenue) of motorized scooters, motorized pocket bikes, and after-market products by retailers.

**BACKGROUND**

The City of Oakland has been plagued with the unsafe, illegal, and noisy operation of motorized scooters and pocket bikes for several years. The Police Department was instrumental in drafting state legislation to require operators of motorized scooters to be licensed and prevent motorized pocket bikes from being defined as a motorized scooter. The legislation, authored by Assembly Woman Wilma Chan as AB 1878, was signed into law by Governor Arnold Schwarzenegger on September 24, 2004. The new law has been somewhat effective in mitigating the problems associated with these motor vehicles. However, retailers in the City continue to sell the vehicles to ill-informed consumers who frequently purchase the vehicles as "toys" or as a means of transportation for people who do not have a license or a clear understanding of the "rules of the road."

For the past three years, the City of Oakland has developed strategies to address the problems associated with motorized scooters and pocket bikes, most of which center around the noisy,

Item: \_\_\_\_\_  
Public Safety Comte.  
June 28, 2005

unsafe, and illegal operation of the vehicles. Furthermore, the scooters have become a popular means of conveyance for criminals involved in drug sales and street robberies.

As the popularity of the scooters has increased, so have the injuries associated with their unsafe and illegal operation. In 2001, the Consumer Product Safety Commission reported a 200% increase in injuries associated with scooters. Two years ago, a 33-year-old Oakland man was killed while improperly operating a scooter. On February 7, 2004, a 12-year-old Vallejo boy died after he lost control of his scooter and collided with a truck.

The noise associated with the operation of gas powered motorized scooters now afflicts once quiet neighborhoods. Most of the noise is associated with modifications made to increase scooter performance and speed. This engine noise has been the subject of numerous calls to the Police Department emergency dispatch center, a major focus of discussion at NCPC meetings, and the topic of several irate e-mails sent to the Police Department and City officials.

### **KEY ISSUES AND IMPACTS**

Existing California Vehicle Code (CVC) law defines motorized pocket bikes and scooters in Sections 405, 406, and 407.5 of the CVC. It is illegal to operate motorized pocket bikes on city streets/sidewalks and the operation of a motorized scooter requires a valid driver's license or learner's permit. There are several other laws that regulate the operation of the vehicles, some of which vary from the laws that regulate the operation of cars and other motor vehicles. The CVC also gives local authorities the right to pass, by ordinance, additional regulations regarding motorized scooter and pocket bikes as long as said regulations are not in conflict with the CVC. The complete list of regulations and their contents are included as Attachment A and have been formatted in such a manner as to constitute the English language version of the Pocket Bike and Motorized Scooter notifications mandated in the proposed ordinance.

### **PROGRAM DESCRIPTION**

Frequently, buyers of motorized scooters and pocket bikes have said that they purchased the vehicle as a "toy" or as an alternative means of transportation for unlicensed individuals. When stopped, they express dismay and disappointment at not being properly advised by the retailer of the laws regulating the use of the vehicles. These citizen testimonials are often provided to law enforcement officers at the scene of a collision, an enforcement stop, or when the vehicle is impounded.

The California Vehicle Code only requires retailers to advise consumers that insurance policies may not provide coverage for use of the vehicles. The addition of Chapter 10.17 to the Oakland Municipal Code (OMC) will help Oakland consumers gain a better understanding of the vehicle they are purchasing, as well as the limitations placed on it by the law. City streets and sidewalks will be safer as a result of these legislative steps to help people clearly understand the laws governing the vehicle they intend to purchase and the operation of their new vehicle.

Item: \_\_\_\_\_  
Public Safety Comte.  
June 28, 2005

## **SUSTAINABLE OPPORTUNITIES**

**Economic** - There are no economic opportunities identified in this report.

**Environmental** - The original legislative intent in allowing the use of motorized scooters on state roads was to relieve severe traffic congestion and air pollution problems. While these intentions are still applicable, the 1999 law stopped short of providing adequate controls to limit the noise pollution created by some of the vehicles. This legislation will provide some measure of noise relief.

**Social Equity** - The City has received letters from residents complaining that the noise and illegal operation of motorized scooters has resulted in decisions not to improve their existing property and to consider moving out of Oakland. Enactment and enforcement of this legislation will serve to reinforce neighborhood confidence in the City to protect property values and improve the quality of life in their communities.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

There are no disability or senior citizen access issues contained in this report.

## **RECOMMENDATION**

Accept this report and adopt the ordinance to add Chapter 10.17 to the Oakland Municipal Code.

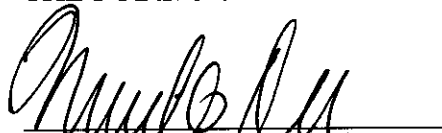
Respectfully submitted,



Wayne G. Tucker  
Chief of Police

Prepared by: David Kozicki, Lieutenant of Police  
Special Operations Division, Traffic Section  
Bureau of Field Operations

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
Office of the City Administrator

Item: \_\_\_\_\_  
Public Safety Comte.  
June 28, 2005

**Per Chapter 10.17 of the Oakland Municipal Code, the following information from the California Vehicle Code is provided:**

**California Vehicle Code Section 405 -**

A "motor-driven cycle" is any motorcycle with a motor that displaces less than 150 cubic centimeters. A motor-driven cycle does not include a motorized bicycle, as defined in Section 406.

**California Vehicle Code Section 406 -**

- (a) A "motorized bicycle" or "moped" is any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor which produces less than 2 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground.
- (b) A "motorized bicycle" is also a device that has fully operative pedals for propulsion by human power and has an electric motor that meets all of the following requirements:
  - (1) Has a power output of not more than 1,000 watts.
  - (2) Is incapable of propelling the device at a speed of more than 20 miles per hour on ground level.
  - (3) Is incapable of further increasing the speed of the device when human power is used to propel the motorized bicycle faster than 20 miles per hour.
  - (4) Every manufacturer of motorized bicycles, as defined in this subdivision, shall provide a disclosure to buyers that advises buyers that their existing insurance policies may not provide coverage for these bicycles and that they should contact their insurance company or insurance agent to determine if coverage is provided.
- (c) The disclosure required under paragraph (4) of subdivision (b) shall meet both of the following requirements:
  - (1) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.
  - (2) The disclosure shall include the following language in capital letters:

**"YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS BICYCLE. TO DETERMINE IF COVERAGE IS PROVIDED YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."**

**California Vehicle Code Section 407.5.**

- (a) A "motorized scooter" is any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor. This device may also have a driver seat that does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion. For purposes of this section, an electric personal assistive mobility device, as defined in Section 313, a motorcycle, as defined in Section 400, a motor-driven cycle, as defined in Section 405, or a motorized bicycle or moped, as defined in Section 406, is not a motorized scooter.
- (b) A device meeting the definition in subdivision (a) that is powered by a source other than electrical power is also a motorized scooter.
- (c) (1) A manufacturer of motorized scooters shall provide a disclosure to buyers that advises buyers that the buyers' existing insurance policies may not provide coverage for these scooters and that the buyers should contact their insurance company or insurance agent to determine if coverage is provided.  
(2) The disclosure required under paragraph (1) shall meet both of the following requirements:
  - (A) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.
  - (B) The disclosure shall include the following language in capital letters:

**"YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS SCOOTER. TO DETERMINE IF COVERAGE IS PROVIDED, YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."**

- (d) (1) A manufacturer of motorized scooters shall provide a disclosure to a buyer that advises the buyer that the buyer may not modify or alter the exhaust system to cause that system to amplify or create an excessive noise, or to fail to meet applicable emission requirements.  
(2) The disclosure required under paragraph (1) shall meet both of the following requirements:
  - (A) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.
  - (B) The disclosure shall include the following language in capital letters:

**"YOU MAY NOT MODIFY OR ALTER THE EXHAUST SYSTEM OF THIS SCOOTER TO CAUSE IT TO AMPLIFY OR CREATE EXCESSIVE NOISE PER VEHICLE CODE SECTION 21226, OR TO FAIL TO MEET APPLICABLE EMISSION REQUIREMENTS PER VEHICLE CODE SECTION 27156."**

- (e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

**California Vehicle Code Section 4000(a) -**

- (a) (1) No person shall drive, move, or leave standing upon a highway, or in an off street public parking facility, any motor vehicle, trailer, semi-trailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an off street public parking facility without being registered or paying registration fees.
- (2) For purposes of this subdivision, "off street public parking facility" means either of the following:
  - (A) Any publicly owned parking facility.
  - (B) Any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers.
- (3) This subdivision does not apply to any motor vehicle stored in a privately owned off street parking facility by, or with the express permission of, the owner of the privately owned off street parking facility.
- (b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.
- (c) Subdivisions (a) and (b) do not apply to off-highway motor vehicles operated pursuant to Sections 38025 and 38026.5.
- (d) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.
- (e) Subdivision (a) does not apply to a vehicle that is towed by a tow truck on the order of a sheriff, marshal, or other official acting pursuant to a court order or on the order of a peace officer acting pursuant to this code.
- (f) Subdivision (a) applies to a vehicle that is towed from a highway or offstreet parking facility under the direction of a highway service organization when that organization is providing emergency roadside assistance to that vehicle. However, the operator of a tow truck providing that assistance to that vehicle is not responsible for the violation of subdivision (a) with respect to that vehicle. The owner of an unregistered vehicle that is disabled and located on private property, shall obtain a permit from the department pursuant to Section 4003 prior to having the vehicle towed on the highway.
- (g) For purposes of this section, possession of a California driver's license by the registered owner of a vehicle shall give rise to a rebuttable presumption that the owner is a resident of California.

**California Vehicle Code Section 12500(a) -**

- (a) A person may not drive a motor vehicle upon a highway, unless the person then holds a valid driver's license issued under this code, except those persons who are expressly exempted under this code.

**California Vehicle Code Section 16028(a) -**

- (a) Upon the demand of a peace officer pursuant to subdivision (b) or upon the demand of a peace officer or traffic collision investigator pursuant to subdivision (c), every person who drives a motor vehicle upon a highway shall provide evidence of financial responsibility for the vehicle that is in effect at the time the demand is made. However, a peace officer shall not stop a vehicle for the sole purpose of determining whether the vehicle is being driven in violation of this subdivision.

**California Vehicle Code Section 21209(a) -**

- (a) No person shall drive a motor vehicle in a bicycle lane established on a roadway pursuant to Section 21207 except as follows:
  - (1) To park where parking is permitted.
  - (2) To enter or leave the roadway.
  - (3) To prepare for a turn within a distance of 200 feet from the intersection.

**California Vehicle Code Section 21221 -**

Every person operating a motorized scooter upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Division 17 (commencing with Section 40000.1), and Division 18 (commencing with Section 42000), except those provisions which, by their very nature, can have no application.

**California Vehicle Code Section 21223 -**

- (a) Every motorized scooter operated upon any highway during darkness shall be equipped with the following:
  - (1) Except as provided in subdivision (b), a lamp emitting a white light which, while the motorized scooter is in motion, illuminates the highway in front of the operator and is visible from a distance of 300 feet in front and from the sides of the motorized scooter.

- (2) Except as provided in subdivision (c), a red reflector on the rear that is visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.
- (3) A white or yellow reflector on each side visible from the front and rear of the motorized scooter from a distance of 200 feet.
- (b) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the motorized scooter, may be used in lieu of the lamp required by paragraph (1) of subdivision (a).
- (c) A red reflector, or reflectorized material meeting the requirements of Section 25500, attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of the reflector required by paragraph (2) of subdivision (a).

**California Vehicle Code Section 21228 -**

Any person operating a motorized scooter upon a highway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or right edge of the roadway, except under the following situations:

- (a) When overtaking and passing another vehicle proceeding in the same direction.
- (b) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).
- (c) (1) When reasonably necessary to avoid conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes, which make it unsafe to continue along the right-hand curb or right edge of the roadway, subject to Section 21656.  
(2) For the purposes of paragraph (1), a "substandard width lane" is a lane that is too narrow for a motorized scooter and another vehicle to travel safely side by side within the lane.
- (d) Any person operating a motorized scooter upon a highway that carries traffic in one direction only and has two or more marked traffic lanes may operate the motorized scooter as near the left-hand curb or left edge of that roadway as practicable.

However, when preparing for a right turn, the operator shall stop and dismount as close as practicable to the left-hand curb or left edge of the highway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).



**California Vehicle Code Section 21229 -**

- (a) Whenever a class II bicycle lane has been established on a roadway, any person operating a motorized scooter upon the roadway shall ride within the bicycle lane, except that the person may move out of the lane under any of the following situations:
  - (1) When overtaking and passing another vehicle or pedestrian within the lane or when about to enter the lane if the overtaking and passing cannot be done safely within the lane.
  - (2) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).
  - (3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.
  - (4) When approaching a place where a right turn is authorized.
- (b) No person operating a motorized scooter shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in Chapter 6 (commencing with Section 22100) in the event that any vehicle may be affected by the movement.

**California Vehicle Code Section 21230 -**

Notwithstanding any other provision of law, a motorized scooter may be operated on a bicycle path or trail or bikeway, unless the local authority or the governing body of a local agency having jurisdiction over that path, trail, or bikeway prohibits that operation by ordinance.

**California Vehicle Code Section 21235 -**

The operator of a motorized scooter shall not do any of the following:

- (a) Operate a motorized scooter unless it is equipped with a brake that will enable the operator to make a braked wheel skid on dry, level, clean pavement.
- (b) Operate a motorized scooter on a highway with a speed limit in excess of 25 miles per hour unless the motorized scooter is operated within a class II bicycle lane.
- (c) Operate a motorized scooter without wearing a properly fitted and fastened bicycle helmet that meets the standards described in Section 21212.
- (d) Operate a motorized scooter without a valid driver's license or instruction permit.
- (e) Operate a motorized scooter with any passengers in addition to the operator.
- (f) Operate a motorized scooter carrying any package, bundle, or article that prevents the operator from keeping at least one hand upon the handlebars.
- (g) Operate a motorized scooter upon a sidewalk, except as may be necessary to enter or leave adjacent property.

- (h) Operate a motorized scooter on the highway with the handlebars raised so that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.
- (i) Leave a motorized scooter lying on its side on any sidewalk, or park a motorized scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.
- (j) Attach the motorized scooter or himself or herself while on the roadway, by any means, to any other vehicle on the roadway.

**California Vehicle Code Section 21663 -**

Except as expressly permitted pursuant to this code, including Sections 21100.4 and 21114.5, no person shall operate or move a motor vehicle upon a sidewalk except as may be necessary to enter or leave adjacent property.

**California Vehicle Code Section 24002 -**

- (a) It is unlawful to operate any vehicle or combination of vehicles which is in an unsafe condition, or which is not safely loaded, and which presents an immediate safety hazard.
- (b) It is unlawful to operate any vehicle or combination of vehicles which is not equipped as provided in this code.

**California Vehicle Code Section 24400 -**

- (a) During darkness, every motor vehicle other than a motorcycle, shall be equipped with at least two lighted headlamps, with at least one on each side of the front of the vehicle, and, except as to vehicles registered prior to January 1, 1930, they shall be located directly above or in advance of the front axle of the vehicle. The headlamps and every light source in any headlamp unit shall be located at a height of not more than 54 inches nor less than 22 inches.
- (b) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

**California Vehicle Code Section 24600 -**

During darkness every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall be equipped with lighted tail lamps mounted on the rear as follows:

- (a) Every vehicle shall be equipped with one or more tail lamps.

**California Vehicle Code Section 24603 -**

Every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stop lamps mounted on the rear as follows:

- (a) Every such vehicle shall be equipped with one or more stop lamps

**California Vehicle Code Section 27465 -**

- (a) No dealer or person holding a retail seller's permit shall sell, offer for sale, expose for sale, or install on a vehicle axle for use on a highway, a pneumatic tire when the tire has less than the tread depth specified in subdivision (b). This subdivision does not apply to any person who installs on a vehicle, as part of an emergency service rendered to a disabled vehicle upon a highway, a spare tire with which the disabled vehicle was equipped.
- (b) No person shall use on a highway a pneumatic tire on a vehicle axle when the tire has less than the following tread depth, except when temporarily installed on a disabled vehicle as specified in subdivision (a):
  - (1) One thirty-second ( $1/32$ ) of an inch tread depth in any two adjacent grooves at any location of the tire, except as provided in paragraphs (2) and (3).
  - (2) Four thirty-second ( $4/32$ ) of an inch tread depth at all points in all major grooves on a tire on the steering axle of any motor vehicle specified in Section 34500, and two thirty-second ( $2/32$ ) of an inch tread depth at all points in all major grooves on all other tires on the axles of these vehicles.
  - (3) Six thirty-second ( $6/32$ ) of an inch tread depth at all points in all major grooves on snow tires used in lieu of tire traction devices in posted tire traction device control areas.
- (c) The measurement of tread depth shall not be made where tie bars, humps, or fillets are located.
- (d) The requirements of this section shall not apply to implements of husbandry.
- (e) The department, if it determines that such action is appropriate and in keeping with reasonable safety requirements, may adopt regulations establishing more stringent tread depth requirements than those specified in this section for those vehicles defined in Sections 322 and 545, and may adopt regulations establishing tread depth requirements different from those specified in this section for those vehicles listed in Section 34500.

**California Vehicle Code Section 27803 -**

- (a) A driver and any passenger shall wear a safety helmet meeting requirements established pursuant to Section 27802 when riding on a motorcycle, motor-driven cycle, or motorized bicycle.
- (b) It is unlawful to operate a motorcycle, motor-driven cycle, or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

- (c) It is unlawful to ride as a passenger on a motorcycle, motor-driven cycles, or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).
- (d) This section applies to persons who are riding on motorcycles, motor-driven cycles, or motorized bicycles operated on the highways.
- (e) For the purposes of this section, "wear a safety helmet" or "wearing a safety helmet" means having a safety helmet meeting the requirements of Section 27802 on the person's head that is fastened with the helmet straps and that is of a size that fits the wearing person's head securely without excessive lateral or vertical movement.
- (f) This section does not apply to a person operating, or riding as a passenger in, a *fully enclosed three-wheeled motor vehicle that is not less than seven feet in length and not less than four feet in width, and has an unladen weight of 900 pounds or more*, if the vehicle meets or exceeds all of the requirements of this code, the Federal Motor Vehicle Safety Standards, and the rules and regulations adopted by the United States Department of Transportation and the National Highway Traffic Safety Administration.
- (g) In enacting this section, it is the intent of the Legislature to ensure that all persons are provided with an additional safety benefit while operating or riding a motorcycle, motor-driven cycle, or motorized bicycle.

I, the undersigned, do hereby acknowledge receipt of the rules and regulations governing the operation of the subject vehicle purchased this date:

\_\_\_\_\_  
Signature of person purchasing subject vehicle

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed name of person purchasing subject vehicle

\_\_\_\_\_  
Signature of retail seller

\_\_\_\_\_  
Date

# OAKLAND CITY COUNCIL

*[Signature]*  
OFFICE OF THE City Attorney

ORDINANCE No. \_\_\_\_\_

C.M.S.

2005 JUN 15 PM 2:28

## ORDINANCE ADDING CHAPTER 10.17 TO THE OAKLAND MUNICIPAL CODE REQUIRING SELLERS OF MOTORIZED SCOOTERS AND MOTORIZED "POCKET BIKES" TO ADVISE CONSUMERS OF STATE AND LOCAL LAWS REGULATING THE OPERATION OF THE DEVICES WITHIN THE CITY OF OAKLAND

**WHEREAS**, the noisy, unsafe, and illegal operation of motorized scooters in the City of Oakland has increased significantly since the vehicles were first introduced in 1999; and

**WHEREAS**, in 2001 the Consumer Product Safety Commission reported a 200% increase in injuries associated with motorized scooters; and

**WHEREAS**, the California Vehicle Code (CVC) defines a pocket bike as "any mini-motorcycle or other two-wheeled device as defined in Section 405 (gas powered)" and Section 406 (electric powered) "and a motorized scooter as any two-wheeled device as defined in Section 407.5;" and

**WHEREAS**, the California Vehicle Code (CVC) permits the City of Oakland to establish additional regulations regarding the operation of motorized scooters and motorized pocket bikes; and

**WHEREAS**, the best efforts of the City to educate the public and business community of their responsibilities regarding the safe and legal operation of and modification to motorized scooters/pocket bikes have not yielded significant improvements in their operation; and

**WHEREAS**, despite Police Department efforts to enforce existing laws related to the safe and legal operation of motorized scooters/pocket bikes the problem continues to be an issue in Oakland neighborhoods; and

**WHEREAS**, the City believes it is important that consumers of motorized scooters and motorized pocket bikes be made aware of the established laws regulating the safe and legal operation of these motor vehicles; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.**

**Chapter 10.17 is hereby added to the Oakland Municipal Code as follows:**

**10.17.010 Definitions.**

As used in this chapter, the following definitions shall apply:

- A. **RETAIL OWNER.** Any person conducting, carrying on or managing any business consisting of selling at retail, among other items, any motorized pocket bike or motorized scooter, whether new or used.
- B. **BUYER.** Any person buying, purchasing, or receiving any motorized pocket bike or motorized scooter, whether new or used.
- C. **POCKET BIKE.** Any mini-motorcycle or other two-wheeled device as defined in Section 405 (gas powered) and Section 406 (electric powered) of the California Vehicle Code.
- D. **MOTORIZED SCOOTER.** Any two-wheeled device as defined in section 407.5 of the California Vehicle Code.

**10.17.020 Regulations Governing Pocket Bikes and Motorized Scooters.**

- A. In general, motorized scooters may only drive on city streets where the posted speed limit is 25 MPH, in the Class II bike lane where one is provided, and only when the driver has a valid driver’s license or instruction permit.
- B. Retail owners shall provide to each buyer upon sale of a motorized pocket bike or motorized scooter as defined in this Chapter a copy of this Chapter, along with a copy of the following sections of the California Vehicle Code:

1. California Vehicle Code § 405	Motor-driven Cycle
2. California Vehicle Code § 406	Motorized Bicycle or Moped
2. California Vehicle Code § 407.5	Motorized Scooter
3. California Vehicle Code § 4000(a)	Unregistered Vehicle
4. California Vehicle Code § 12500(a)	Unlicensed Driver
5. California Vehicle Code § 16028(a)	No Proof of Insurance

6. California Vehicle Code § 21209(a)	Motor Vehicle in Bike Lane
7. California Vehicle Code § 21221	Applicability of Provisions
8. California Vehicle Code § 21223	Visibility
9. California Vehicle Code § 21228	Rules of the Road
10. California Vehicle Code § 21229	Bicycle Lanes
11. California Vehicle Code § 21230	Bicycle Paths, Trails, or Bikeways
12. California Vehicle Code § 21235	Operation Restrictions
13. California Vehicle Code § 21663	Driving on a Sidewalk
14. California Vehicle Code § 24002	Vehicle Not Property Equipped
15. California Vehicle Code § 24400	Headlight Required
16. California Vehicle Code § 24600a)	Tail Lamps - One Required
17. California Vehicle Code § 24603(a)	Stop Lamp Required
18. California Vehicle Code § 27465(B)	Bald Tires
19. California Vehicle Code § 27803	DOT Approved Helmet Not Worn

- C. Retailers shall provide the above information printed in not less than 12-point Times Roman font that contains no other information other than the above enumerated sections and their text from the California Vehicle Code. Translated versions of the information shall also be made available in Spanish and Cantonese. All information shall be translated and printed at the retailer's expense.
- D. All information provided by the retail owner shall include a signed acknowledgment by the retail owner and the buyer that such information has been received. The retail owner must retain such acknowledgments for a period of thirty-six (36) months.
- E. The City of Oakland shall have a right to inspect, during normal business hours, copies of the acknowledgements required in section D.

**10.17.030 Violations as infraction.**

Any person or business violating any provision of this Chapter is guilty of an infraction and may be punished as set forth in Chapter 1.28 of this code.

**SECTION 2.**

If any section, paragraph, sentence, clause, phrase, or word in this ordinance is ruled unconstitutional or unenforceable by any court with proper jurisdiction to make said order, that order shall have no effect on the remaining provisions of this ordinance. The City Council hereby finds that it would have enacted this ordinance without said section, paragraph, sentence, clause, phrase, or word.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
Council of the City of Oakland, California



RUC

## **NOTICE & DIGEST**

### **ORDINANCE ADDING CHAPTER 10.17 TO THE OAKLAND MUNICIPAL CODE REQUIRING RETAILERS OF MOTORIZED SCOOTERS AND MOTORIZED "POCKET BIKES" TO ADVISE CONSUMERS OF THE STATE AND LOCAL LAWS REGULATING THE OPERATION OF SAID MOTOR VEHICLES IN THE CITY OF OAKLAND**

This ordinance adds Chapter 10.17 to the Oakland Municipal Code. This ordinance will require Oakland retail sellers of motorized scooters and motorized "pocket bike" provide the purchaser of such vehicles with a copy of this ordinance and a copy of the various rules and regulations contained in the California Vehicle Code governing operation of the subject vehicles, with a signed acknowledgement of receipt. This ordinance will require the retail seller to maintain a copy of the signed receipt for a period of at least thirty-six (36) months and permit the City to inspect said copies during normal business hours.