

**CITY OF MOAB, UTAH  
ORDINANCE NO. 2021-09**

**TEXT AMENDMENTS TO MOAB MUNICIPAL CODE §12.20.005  
(MODIFYING THE DEFINITION OF MOTORIZED VEHICLE AND ADDING A  
DEFINITION FOR E-BIKES) AND TO MOAB MUNICIPAL CODE §12.20.060  
(ALLOWING CLASS 1 E-BIKES ON CITY PATH SYSTEMS AND SETTING A 15  
MPH SPEED LIMIT ON MILL CREEK PARKWAY)**

**WHEREAS**, Moab Municipal Code §12.20.005 defines “Motorized vehicle” as “any motorized vehicle capable of, or designed for, travel on or immediately over land, water, paved pathways or other natural terrain. This includes motor assisted bicycles (electric, gas or diesel);”

**WHEREAS**, Moab Municipal Code §12.20.005 defines “Public park” as “city-owned parks, public squares, ball diamonds, soccer fields, path systems and other recreation areas, but not designated smoking areas specified by the City;”

**WHEREAS**, Moab Municipal Code §12.20.060 prohibits motorized vehicles in public parks and specifically states: “Motorized vehicles, as defined in this chapter, shall be prohibited in all public parks, unless the motorized vehicles are involved in a car show approved by council;”

**WHEREAS**, the above combined Municipal Code sections currently create a prohibition on electric bicycles (“e-bikes”) on pathways within City limits;

**WHEREAS**, an e-bike is a bicycle with a small electric motor that provides power to help move the bicycle;

**WHEREAS**, the United States Department of the Interior, National Park Service defines e-bikes as follows:

“E-bike” means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts that meets the requirements of one of the following three classes:

A. “Class 1 electric bicycle” shall mean an electric 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 20 miles per hour.

B. "Class 2 electric bicycle" shall mean an electric 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 20 miles per hour.

C. "Class 3 electric bicycle" shall mean an electric 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 28 miles per hour. (36 Code of Federal Regulations ("CFR"), Chapter I, Part 1, §1.4.)

**WHEREAS**, this definition is consistent with the definition of "electric assisted bicycle" in Utah Code Annotated §41-6a-102 (17);

**WHEREAS**, e-bikes have an electric motor yet are operable in a similar manner to traditional bicycles and in many cases appear indistinguishable from them. (Secretary of the Interior Bernhardt's Secretary's Order 3376, "Increasing Recreational Opportunities through the use of Electric Bikes," August 29, 2019.);

**WHEREAS**, state law (Utah Code Annotated §41-6a-102) excludes e-bikes from the definition of "motor vehicle" and defines "motor vehicle" as follows:

- (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (b) "Motor vehicle" does not include:
  - (i) vehicles moved solely by human power;
  - (ii) motorized wheelchairs;
  - (iii) an electric personal assistive mobility device;
  - (iv) an electric assisted bicycle;
  - (v) a motor assisted scooter . . .;

**WHEREAS**, Moab Municipal Code §10.04.010 adopts state law as the City's traffic code unless otherwise specified and specifically states that: "All of Chapter 41, Title 31, and all of Chapters 1, 2, 6, 7, 8, 21, 22, and 24 of Title 41, Utah Code Annotated, as amended by the 1983 Utah State Legislature, particularly by Senate Bill 7 and House Bills 142, 143 and 146, together with all amendments and additions that may hereafter be made, are enacted approved and adopted as a part of this section to form the traffic code for this municipality, except as hereinafter specified, and by this reference are made a part of this chapter to the same extent and effect as though such code were copied herein in full. Three copies of the laws adopted by reference shall be filed for use and examination in the office of the City Recorder. (Ord. 83-03 § 2, 1983: prior code § 14-1);"

**WHEREAS**, the foregoing Moab Municipal Code and state law definitions of "motor vehicle" are in conflict with regard to e-bikes;

**WHEREAS**, the Americans with Disabilities Act ("ADA") is a Federal civil rights law that prohibits discrimination against people with disabilities. Under this law, people with disabilities are entitled to all of the rights, privileges, advantages, and opportunities that others have when participating in civic activities. (U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *Americans with Disabilities Act ADA Update: A Primer for State and Local Governments.*)

**WHEREAS**, the ADA requires that municipalities allow power-driven mobility devices on municipal facilities unless the municipality can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted. The ADA at 28 CFR §35.137 "Mobility devices" states:

(1) Use of other power-driven mobility devices. A public entity shall make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the public entity can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to §35.130(h).

(2) Assessment factors. In determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification under paragraph (b)(1) of this section, a public entity shall consider—

(i) The type, size, weight, dimensions, and speed of the device;

(ii) The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);

(iii) The facility's design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);

(iv) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and

(v) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

**WHEREAS**, the term “other power-driven mobility devices” is used in the ADA regulations to refer to any mobility device powered by batteries, fuel, or other engines, whether or not they are designed primarily for use by individuals with mobility disabilities for the purpose of locomotion. (U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *Americans with Disabilities Act ADA Update: A Primer for State and Local Governments.*)

**WHEREAS**, public entities must allow individuals with disabilities who use these devices into all areas where the public is allowed to go, unless the entity can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular class of devices or how individuals will operate them. (U.S. Department of Justice, Civil Rights Division, Disability Rights Section,

*Americans with Disabilities Act ADA Update: A Primer for State and Local Governments.*)

**WHEREAS**, more than 55 million Americans (18% of the population) have disabilities and participate in a variety of programs, services, and activities provided by local governments. This includes many people who became disabled while serving in the military. By the year 2030, approximately 71.5 million baby boomers will be over age 65 and will need services and surroundings that meet their age-related physical needs. (U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *Americans with Disabilities Act ADA Update: A Primer for State and Local Governments.*)

**WHEREAS**, e-bikes allow persons with physical disabilities to enjoy bicycling as a recreational activity and as a means of mobility and transportation;

**WHEREAS**, the City of Moab desires to decrease traffic congestion by encouraging active transportation;

**WHEREAS**, active transportation is any self-propelled, or human-powered mode of transportation, such as walking or bicycling;

**WHEREAS**, physical inactivity is a major contributor to the steady rise in rates of obesity, diabetes, heart disease, stroke, and other chronic health conditions in the United States. (Centers for Disease Control and Prevention, "Healthy Places.");

**WHEREAS**, e-bikes make bicycle travel easier and more efficient because they allow bicyclists to travel farther with less effort. E-bikes can expand the option of bicycling to more people by providing a new option for those who want to ride a bicycle but might not otherwise do so because of physical fitness, age, or convenience, especially at high altitude or in hilly or strenuous terrain. Also, when used as an alternative to gasoline or diesel-powered modes of transportation, e-bikes can reduce greenhouse gas emissions and fossil fuel consumption, improve air quality, and support active modes of transportation. Similar to traditional bicycles, e-bikes can decrease traffic congestion, reduce the demand for vehicle parking spaces, and increase the number and visibility of cyclists on the road. (Department of the Interior, National Park Service, RIN 1024-AE61, General Provisions; Electric Bicycles, Final Rule effective December 2, 2020.)

**WHEREAS**, the Federal Highway Administration, in the Bicycle Transportation and Pedestrian Walkways provisions of Section 217 of Title 23, as amended by TEA-21, describes how Federal-aid funds may be used for bicycle and pedestrian projects and has clarified the permissibility of motorized wheelchair use on trails and pedestrian walkways that otherwise prohibit motorized use and also clarifies the permitted use of electric bicycles on these facilities where State or local regulations permit.

**NOW, THEREFORE BE IT ORDAINED** by the Moab City Council that that the following text amendments be made to the Moab Municipal Code:

1. In Moab Municipal Code §12.20.005, for the definition of “Motorized vehicle” delete the sentence at the end of the paragraph which states:  
  
“This includes motor assisted bicycles (electric, gas or diesel).”
2. In Moab Municipal Code §12.20.005, for the definition of “Motorized vehicle” insert a sentence at the end of the paragraph which states:  
  
“Motorized vehicle” does not include: (i) vehicles moved solely by human power; (ii) motorized wheelchairs; (iii) an electric personal assistive mobility device; (iv) an electric assisted bicycle or cycle; (v) a motor assisted scooter.
3. In Moab Municipal Code §12.20.005, insert the following definition:  
  
“E-bike” means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts that meets the requirements of one of the following three classes:
  - A. “Class 1 electric bicycle” shall mean an electric 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 20 miles per hour.
  - B. “Class 2 electric bicycle” shall mean an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle,

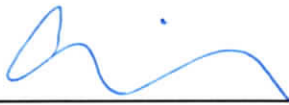
and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

C. "Class 3 electric bicycle" shall mean an electric 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 28 miles per hour.

4. In Moab Municipal Code §12.20.060:
  - a. Add paragraph C to state: "Class 1 electric bicycles (e-bikes) are allowed on City path systems. Class 2 and 3 e-bikes are not allowed on City path systems."
  - b. Add paragraph D to state: "All users of the Mill Creek Parkway City path are limited to a speed of 15 miles per hour (MPH.)"

This Ordinance shall take effect upon passage.

**PASSED** by the City Council in a public meeting on JUNE 8, 2021  
by the following vote:



Emily Niehaus, Mayor

**ATTEST:**



Sommar Johnson, Clerk/Recorder