

AN ORDINANCE OF THE CITY OF HERNANDO, MISSISSIPPI TO INCLUDE WITHIN THE CODE OF ORDINANCES OF THE CITY OF HERNANDO, BY PROVIDING FOR A HELMET ORDINANCE, A SEVERABILITY CLAUSE AND PROVIDING FOR THE IMPOSITION OF PENALTIES AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF HERNANDO, MISSISSIPPI:

That the existing Ordinances of the City of Hernando, Mississippi be subject to the adoption of this ordinance entitled “Helmet Ordinance”, which reads as follows:

HELMET ORDINANCE

The City of Hernando does hereby ordain as follows:

Section 1. Purpose and Policy.

A. This ordinance is enacted as an exercise of the authority of the City of Hernando to protect and preserve the public health, safety, and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is the express purpose of this ordinance to provide for and to promote the health, safety, and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this ordinance.

C. It is the specific intent of this ordinance to place the obligation of complying with its requirements upon any person included within its scope, and not provision of, or term used in, this ordinance is intended to impose any duty whatsoever upon the City of Hernando or any of its officers or employees for whom the implementation or enforcement of this ordinance shall be discretionary and not mandatory.

D. Nothing contained in this ordinance is intended to be, nor shall be construed to create or to form the basis for, a liability on the part of the City of Hernando or its officers, employees, or agents, for any injury or damage resulting from the failure of any person subject to this ordinance to comply with this ordinance, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this ordinance on the part of the City of Hernando by its officers, employees or agents.

Section 2. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated, unless the context clearly requires otherwise:

“Approved helmet” means a head covering designed for safety that shall meet or exceed the requirements safety of standards adopted by the U.S. Consumer Product safety Commission (CPSC) 15 USCS 6004, or such subsequent nationally recognized standard for helmet performance as the city may adopt. The helmet must be equipped with either a neck or chinstrap that shall be fastened securely while the wheeled-vehicle is in motion.

“Bicycle” means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is eleven inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter. Within this ordinance, the term “bicycle” shall include any attached trailers, side cars, and/or other device being towed by a bicycle.

“Electric-assisted bicycle” means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor.

“Electric personal assistive mobility device” (EPAMD) means any device meeting the design characteristics as defined in SMC section 16.04.168.

“Guardian” means a parent, legal guardian, adult with custody, or temporary guardian, who maintains responsibility, whether voluntary or otherwise, for the safety and welfare of a person under the age of sixteen years.

“In-line skates, roller skate, and skate shoes” means every device which is attached to the rider much like a pair of shoes or boots and which has two or more wheels attached inline or next to each other beneath, and footwear which has internal or external wheels incorporated as a part the footwear, which wheels are incorporated either inline or next to each other on the bottom of the footwear.

“Motorized Foot Scooter” means a device with no more than two ten-inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. For purposes of this section, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

“Public area” means public roadways, sidewalk, bicycle paths, parks, or any right-of-way, publicly owned facility, or publicly-owned property within the City.

“Scooter” means every device with a platform having two or more of wheels beneath it and a balancing handpost or steering device, which the rider balances on top of, and which is propelled solely by human power.

“Skateboard” means every device with a platform having two or more sets of wheels beneath it, which the rider balances on top of, and which is either propelled solely by human power, or propelled by an attached or auxiliary electric or gasoline motor.

Section 3. Helmet Required.

A. Any person from the ages of 1-16, riding or otherwise any bicycle, electric assisted bicycle, electric personal assistive mobility device, in-line skates, roller skate(s), skate shoe(s), motorized foot scooter, scooter or skateboard, including any passenger thereon and/or person being towed thereby, on any public area in the City shall wear an approved helmet, and shall have either the neck or chin strap of the helmet fastened securely while the device is in motion.

B. No person shall transport another person on or tow another person on a device listed in *Section 2. Definitions*, upon any public area in the jurisdiction of the City, unless the passenger is wearing an approved helmet.

C. A guardian is responsible for requiring that a child between the ages of one and sixteen years who is under the guardian’s care wears an approved helmet, the neck or chin strap of which is fastened securely, while upon a device listed in *Section 2. Definitions*, in motion, or riding as a passenger on a device listed in *Section 2. Definitions*, in any public area in the City.

D. It is an affirmative defense to a violation of this section that the guardian responsible for a child between the ages of one and sixteen did require the child to wear an approved helmet at all time that the child was in guardian’s presence.

E. It is an affirmative defense to a violation of this section for a person wearing an unapproved helmet that the helmet was furnished in conjunction with his or her rental, lease, or use of a device listed in *Section 2. Definitions*, by a person or organization engaged in the business of renting, leasing, or loaning such devices, and that the helmet was fastened securely while riding.

F. Provisions of this ordinance shall not apply to any wheeled devices such as, but not limited to, electronic scooters or wheel chairs that are designed and utilized for medically related reason.

Section 4. Special Events, Including But Not limited To Races, Exhibitions, Demonstrations, Parades and Events-Helmet Required.

A. Any person or organization managing a race, an organized event involving bicycling, a bicycle tour, or devices listed in *Section 2. Definitions*, in which will take place in whole or in part in any public area in the City, shall require that all participants between the ages of one and sixteen, riding on or in tow wear approved helmets, and such persona and organizations shall reject participants in this age category who fail to comply with the provisions of this ordinance.

B. The person or organization managing any such event, race, or tour shall include the requirement to wear approved helmets in any promotional brochures and on registration materials.

C. It is an affirmative defense to a violation of this section for a person or organization managing an event, race, or tour that all participants were wearing approved helmets at the start of the event, race, or tour and were instructed to discontinue their participation by a person responsible for management of the event, race, or tour at any point where the participant failed to comply with the requirement of wearing an approved helmet.

Section 5. Rent, Lease Or Loan Of a Bicycle, Electric-Assisted Bicycle, Electric Personal Assistive Mobility Device, Skateboard, Roller Skate, Skate Shoes, Motorized Foot Scooter or Scooter - Helmet Required.

A. Any person engaging in the business of renting, leasing, or loaning (e.g., “test ride”) any of the devices listed in *Section 2. Definitions*, for use in any public area in the City shall supply the person(s) between the ages of one and sixteen renting, leasing, or using any of the devices with approved helmet(s), along with the devices unless the riders and passengers possess approved helmets of their own, and offer proof thereof, for use with the device and further shall notify such persons of the requirements of this ordinance to wear a helmet meeting the safety standards described in this ordinance.

B. The rental, lease, or loan documents (contract, agreement, brochure, or receipt) shall advise the person renting, leasing, or using any of the devices listed in *Section 2. Definitions*, of the helmet requirements of this ordinance.

Section 6. Helmet Sales - Safety Standards.

A. No person shall sell or offer for sale a helmet that does not meet or exceed the safety standards described in *Section 2. Definitions*.

B. It is an affirmative defense to a violation of this section that the sale or offer for sale was an isolated sale of used merchandise made by an individual who was not engaged in the business of selling or repairing recreational equipment, such as a seller at a garage or rummage sale.

Section 7. Penalties - Civil Infraction.

A. A guardian may be cited for a violation of this ordinance for each child between the ages of one and sixteen years of age riding on or in tow of a device listed in not wearing an approved helmet. Any person violating this ordinance shall have committed a civil infraction and shall be liable for monetary penalties as set forth in this section.

B. The court may waive, reduce, or suspend the civil penalty and clear the civil infraction as a warning for a guardian and/or person between the age of one and sixteen who provides proof that he or she has acquired an approved helmet at the time of appearance in court.

C. Each rental and each event under subsection A of this section shall be a separate violation.

Section 8. Enforcement.

- A. The City of Hernando police department shall be responsible for enforcement of the provisions of this ordinance.
- B. For the purpose of this ordinance, law enforcement officers may at their discretion:
 - 1. Enter, during business hours, the premises of a business selling, repairing, leasing, loaning or renting bicycles or selling sporting or recreation equipment, to determine compliance with this ordinance.
 - 2. Post outside the premises of a business that offers for sale, rent, lease, loan or other public purpose a list of helmets that do not meet the safety standards of this ordinance, so that the public is informed; and
 - 3. Stop a participant in a race, or organized event involving any of the devices listed in Section 2. Definitions, or a tour that takes place in a public area, when there is a violation of the requirements of this ordinance.

Section 9. Information and Education.

- A. Information about the need for helmets, safe helmet use, traffic safety education and helmet safety programs are available at the City of Hernando police department and the Hernando Parks & Recreation Department.
- B. The City encourages any person engaging in the business of selling bicycles or any of the devices listed in Section 2. Definitions, to include information on helmet safety and the helmet requirements of this ordinance with each bicycle or devices sold.
- C. The City encourages any person engaging in the business of selling helmets to include information on safe helmet usage with each helmet sold.

Section 10. Penalties

- A. That the first violation of the Ordinance shall result in a written warning.
- B. The second violation shall result in a citation with a fine not to exceed twenty-five dollars (\$25.00) plus court costs.
- C. That any subsequent violation shall result in a citation with a fine not to exceed one hundred

dollars (\$100.00) plus court costs.

Section 11. Jurisdiction

This ordinance shall be subject to all other governmental jurisdictions rules and regulations and laws regarding the use of helmets.

Section 12. Repealer and Severability Provision

That all provisions of the ordinances of the City of Hernando in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other provisions of the ordinances of the City of Hernando not in conflict with the provisions of this ordinance shall remain in full force and effect.

That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 13: Effective Date

This ordinance shall be in full force and effect on the 30th day after passage. The City Clerk shall cause the ordinance to be published in a local newspaper with a general circulation.

The foregoing ordinance was proposed in a motion by Alderman _____, seconded by Alderman _____, requesting that the reading be waived and after discussion, the matter was brought to a vote and which vote is recorded as follows:

	<u>YEA</u>	<u>NAY</u>
Alderman Bryant	_____	_____
Alderman Higdon	_____	_____
Alderman Hobbs	_____	_____
Alderman Lauderdale	_____	_____
Alderman Manning	_____	_____
Alderman Miller	_____	_____
Alderman Tipton	_____	_____

Whereupon, the motion having received a majority of affirmative votes, the Mayor declared that the Ordinance had been passed and adopted on this the _____ day of _____, 2010.

CITY OF HERNANDO

BY: CHIP JOHNSON
TITLE: MAYOR

ATTESTED TO:

BY: JANNETT RILEY
TITLE: CITY CLERK

DATE: _____