

ORDINANCE 1393 - AMENDED

AN ORDINANCE AMENDING TITLE 4 OF THE EUREKA SPRINGS MUNICIPAL CODE PROVIDING FOR MOPED FRANCHISE, EFFECTIVE JANUARY 1, 1991

WHEREAS, the unrestricted use of mopeds, three-wheeled vehicles and other similar vehicles on the streets of the City of Eureka Springs has creates hazards and causes inconveniences to the residents of Eureka Springs and its visitors alike; and

WHEREAS, pursuant to A.C.A. 27-49-106, the City of Eureka Springs has the right, with respect to streets and highways under its jurisdiction, and within the reasonable exercise of its police power, to either regulate or prohibit the traffic from and use of mopeds, three-wheeled vehicles, and other similar vehicles.

WHEREAS, the intent of this ordinance is to regulate the use of these types of vehicles to insure the safety and general welfare of its citizens while, at the same time, providing a recreational outlet for visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS:

Section 1: That Title 4 of the Eureka Springs Municipal Code is hereby amended, effective January 1, 1991 by adding a new chapter to be number 4.52, which said chapter shall read as follows:

CHAPTER 4.52 - MOPED FRANCHISE

SECTIONS:	4.52.01	Grant of Authority
	4.52.02	Definition
	4.52.03	Duration of Franchise
	4.52.04	Compliance Required
	4.52.05	Application and Fee
	4.52.06	Hearing
	4.52.07	Rules of Operation
	4.52.08	Areas of Operation
	4.52.09	Penalty
	4.52.10	Franchise Tax
	4.52.11	Revocation

4.52.01 Grant of Authority. No person shall engage in or carry on the business of renting mopeds, three-wheeled vehicles or other similar vehicles to be used over or upon the streets and public ways of the city without first procuring, from the City Council, a franchise authorizing such business and operation. Transfer of Franchise leaves subsequent owners, likewise, responsible to perform as per agreements herein set forth subject to default for failure and subsequent cancellation of Franchise agreement upon cause.

4.52.02 Definitions.

a. "Moped, three-wheeled vehicle or other similar vehicle" shall mean any vehicle with 2 or more wheels, an automatic transmission, and a motor which does not displace in excess of fifty (50) centimeters.

b. "Streets and public ways" means all streets and highways under the jurisdiction of the City of Eureka Springs.

c. "Person" means person, partnership or corporation.

4.52.03 Duration of Franchise. The rights, privileges and authority hereby granted to each applicant shall exist and continue for a period of seven (7) years unless revoked by the City Council, provided the City and Franchisee review agreements each February.

4.52.04 Compliance Required. The Franchisee shall, at all times during the exercise of this franchise, be subject to all lawful exercise of the police power by the City. Further, any Franchisee shall be bound to such reasonable regulations as the City or State may hereafter provide; and provided further that upon a proposed adoption for changes to the Moped Franchise, public notice be given and public hearing set with notice of such Public Hearing made to each Franchisee. Failure to comply with any or all terms of this ordinance may result in the revocation of the franchise.

4.52.05 Application and Fee. Before any person shall engage in or carry on the business of renting mopeds, three wheeled vehicles or other similar vehicles, such person shall pay an application fee of fifty (\$50.00) dollars and file with the City Clerk an application that sets forth the following information, to wit:

a. Trade name of person; if partnership, the names of all partners; if corporation, the names of all stockholders.

b. Site plan of proposed operations with separate plan for each separate location.

c. A statement that the person will comply with all rules of operation as set out in this ordinance and with all regulations that the City may hereafter provide.

d. A statement that the person will post safety regulations in a conspicuous place on the property.

e. Number of rental units anticipated to be available for rent.

f. A statement of how the application will impact the City.

g. Designate persons to receive notice from the City.

4.52.06 Renewal. Notice of Franchise renewal shall be made public one year in advance of expiration date. Current Franchisee must make request to renew six (6) months ahead of expiration of Franchise date. City Council will set public hearing for consideration of Franchise Renewal or new Franchisee.

4.52.07 Rules of Operation.

a. Hours of operation of vehicles shall be limited to daylight hours only.

b. All persons operating a vehicle must have a valid current driver's license or learner's permit.

c. No vehicle shall be rented to persons under the age of sixteen (16) years unless approved in writing by that person's parent or guardian.

d. The Franchisee shall provide DOT approved safety helmets free of cost to all renters upon request.

e. No person shall allow the carrying of passengers on vehicles which are designed by manufacturers to be ridden by one person only.

f. All persons renting vehicles must certify in writing that they are experienced cyclists familiar with the operation of hand brakes.

g. All vehicle operators will be subject to the "rules of the road" and applicable traffic regulations:

(1) There shall be no excessive honking of horns.

(2) The following exhibition driving is prohibited: wheelies, donuts, power-slides and weaving in traffic.

4.52.08 Penalty. Any person or vehicle operator who violates any provision of this chapter shall, upon conviction, be fined Ten (\$10.00) Dollars for the first violation and Twenty-five (\$25.00) Dollars for each repetition of such violation.

4.52.09 Areas of Operation. Vehicles can be operated on all streets and highways except the following: streets that have been designated and marked as unsafe for such vehicles, and all unpaved roadways.

4.52.10 Franchise Tax. For the privilege of using the streets and highways of the City of Eureka Springs and help defray the costs of monitoring of this ordinance, grantees shall pay monthly a sum equal to five (5%) percent of the said grantee's gross revenues derived from renting vehicles that month. The sum is due and payable on the 20th day of each month for the preceding month. Forms will be provided by the City Clerk. The above charges as set forth shall be in place of and in lieu of any and all occupation taxes, privilege taxes and license fees, of whatever kind or nature (except general ad valorem taxes) now in effect.

4.52.11 Revocation. The City shall have the right to rescind or revoke the rights herein granted upon any substantial violation by the grantee of any of the obligations and requirements contained herein after written notice by the City to grantee and continuation of such violation, failure or default.

a. Such written notice to the grantee shall specify precisely the manner in which the grantee is in violation, failure or default with respect to the franchise.

b. The notice given by the City shall give the grantee a specified, reasonable amount of time within which to correct the violations, failure or default, but in no event shall the time period be less than thirty (30) days from the date of receipt of the notice to the grantee.

Section 2. That Schedule 83 of Chapter 4.16.03 of the Eureka Springs Municipal Code is amended to read as follows:

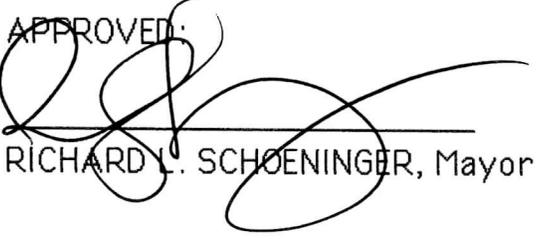
83. Scooter, moped and bicycle sales and service and
bicycle rental \$50.00

Section 3. All Ordinances and Resolutions and parts thereof, in conflict herewith, are hereby repealed to the extent of such conflict.

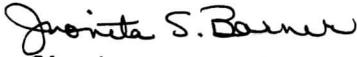
Section 4. If any part of the Ordinance is held to be unenforceable for any reason by a court of competent jurisdiction, such holding shall not affect the remaining parts of this Ordinance, which shall remain in full force and effect.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS ON THIS THE 24th DAY OF JULY, 1990.

APPROVED:


RICHARD L. SCHOENINGER, Mayor

ATTEST:


Joanta S. Bauer
Clerk