

Moped. – A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface.

(N.C. Gen. Stat. § 20-4.01(27)(d1))

(Incorporating the definition found in G.S. 105-164.3(22))

Vehicle. - Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application

(N.C. Gen. Stat. § 20-4.01(49))(emphasis added)

3. Current Regulation of Mopeds and Bicycles in the City.

City Code Section 19-57 regulates driving on sidewalks. That section states, in pertinent part:

(b) No person shall drive any motor vehicle upon a sidewalk or sidewalk area except upon a permanent or temporary driveway.

(Section 19-57(b))(emphasis added).

Per the definition of motor vehicle, this prohibition does not apply to mopeds or bicycles. Thus, currently mopeds and bicycles are not prohibited from driving on a sidewalk.

Section 19-137 regulates parking on sidewalks. That section states, in pertinent part:

(a) It shall be unlawful for the driver of a vehicle to stop, stand or park such vehicle in any of the following places

(7) On any sidewalk;

....

(Section 19-137)(emphasis added).

This Section prohibits all “vehicles” from parking on a sidewalk, which by definition, includes mopeds and bicycles. Thus, although mopeds and bicycles may drive on a sidewalk, they are prohibited from parking on a sidewalk.

4. Staff's Current Practice and Concerns.

The City's current practice is to allow bicycles to drive and park on sidewalks. In fact, the City currently has bicycle racks on City sidewalks. This practice is in conflict with Code Section 19-137, which prohibits bicycles from parking on a sidewalk. Additionally, APD and Transportation Staff would like to prohibit mopeds from driving and parking on sidewalks, due, in part, to safety concerns for pedestrians and issues with sidewalk congestion. Pursuant to Code Section 19-57(b), however, mopeds currently are not prohibited from driving on sidewalks.

Staff has also expressed the need to prohibit mopeds from driving or parking in other open public areas, including publicly maintained park or plaza areas, such as the area in front of French Broad Chocolate Lounge. Additionally, staff would like to prohibit individuals from attaching mopeds and bicycles to various sidewalk features, and to prohibit mopeds from attaching to bicycle racks.

5. Proposed Amendments to Section 19-57 and Section 19-137.

For the reasons above, and following extensive discussion with City Staff, we would recommend the following proposed amendments:

1. Amend Section 19-57(b) as follows:
 - a. Include mopeds. With this amendment, bicycles will be allowed to drive on sidewalks, but mopeds will not.
 - b. Prohibit motor vehicles and mopeds from driving on sidewalks and publicly maintained park or plaza areas.
2. Amend Section 19-137(a)(7) to prohibit any vehicle from parking on sidewalks and publically maintained park or plaza areas, except for bicycles parked in bicycle racks, bicycle corrals or other areas designated by the City for bicycle parking.
3. Amended Section 19-137 to add a subsection (c) to prohibit vehicles from attaching to any public sidewalk features or fixtures, except for bicycles attached to bicycle racks, bicycle corrals or other areas designated by the City for bicycle parking.

A redline copy of the ordinances is attached hereto as Exhibit A.

Pros:

- Amends City Code to reflect current policy and practices.
- Increases public safety by prohibiting mopeds on sidewalks.
- Encourages use of City designated bicycle parking areas to help with parking issues.
- Prohibits vehicles from attaching to miscellaneous public sidewalk features or fixtures.

Cons: None noted.

Recommendation: Adoption of the ordinance amending Section 19-57 and Section 19-137

Attachments:

(1) Proposed Ordinances

Sec. 19-57. - Driving through safety zone or on sidewalks.

- (a) The driver of a vehicle shall not at any time drive through or over a safety zone.
- (b) No person shall drive any motor vehicle or moped upon a sidewalk or sidewalk area, or any publicly maintained park or plaza area, except upon a permanent or temporary driveway.

Sec. 19-137. - Parking in front of private driveway, fire hydrant, fire station, intersection of curblines or fire lane.

(a) It shall be unlawful for the driver of a vehicle to stop, stand or park such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or with the direction of a police officer or traffic signal:

- (1) Within an intersection;
- (2) On a crosswalk;
- (3) Between a safety zone and the adjacent curb, or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless otherwise indicated by signs or marks;
- (4) Within 25 feet of the driveway or entrance to any fire station;
- (5) Within 15 feet of any fire hydrant;
- (6) In front of any private driveway;
- (7) On any sidewalk or any publicly maintained park or plaza area, except for bicycles parked in bicycle racks, bicycle corrals or other areas designated by the City for bicycle parking;
- (8) On any curb;
- (9) On any median strip;
- (10) On any landscaped or planted area within the right-of-way of any street, highway or roadway;
- (11) Alongside of or opposite any street excavation or obstruction, when such stopping or parking shall obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge of a street, highway or roadway, except in such instances as double parking may be allowed by the regulations of this chapter;
- (13) At any place where official traffic signs have been erected prohibiting standing or parking.

(b) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any public vehicular area, street, highway or roadway in any area designated as a

fire lane. This subsection includes designated fire lanes in shopping center or mall parking lots and all other public vehicular areas. However, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in a shopping center or mall parking lot as long as the vehicle is not left unattended. The prima facie rule of evidence created by G.S. 20-162.1 is applicable to prosecutions for violation of this section. The owner of a vehicle parked in violation of this subsection shall be deemed to have appointed any state, county or municipal law enforcement officer as his agent for the purpose of arranging for the transportation and safe storage of such vehicle. No law enforcement officer removing such a vehicle shall be held criminally or civilly liable in any way for any acts or omissions arising out of or caused by carrying out or enforcing any provisions of this subsection, unless the conduct of the officer amounts to wanton misconduct or intentional wrongdoing.

(c) It shall be unlawful to attach any vehicle to any public sidewalk feature or fixture, including but not limited to, the following: parking meters; street furniture; utility poles or posts; or street signs. Despite the foregoing, bicycles may utilize bicycle racks or bicycles corrals, but other vehicles may not.