

STAFF REPORT

TO: Mayor and City Council Members DATE: July 24, 2012
FROM: Kelly Whitlock, Assistant City Attorney
VIA: Gary Jackson, City Manager
Bob Oast, Assistant City Attorney
SUBJECT: Skateboarding Ordinance

Summary Statement: Consideration of an ordinance amending the current skateboard ordinance to permit skateboarding on designated City-maintained roadways and crosswalks in the downtown Central Business District (CBD).

Review:

The City's current skateboard ordinance prohibits skateboarding upon any roadway, except while crossing a street on a crosswalk. This prohibition applies throughout the City, regardless of the district in which the roadway is located. The current ordinance also prohibits skateboarding upon any sidewalk in a business district. This particular prohibition applies in business districts only; skateboarding is allowed on sidewalks in all other districts. The language contained in the City's skateboarding ordinance has remained unchanged since the City's Code of Ordinances was codified in 1965.

At the April 24, 2012 City Council meeting, Council requested staff to draft an ordinance to allow the use of skateboards for transportation, using the four wheels down model on roadways, crosswalks and bike lanes (where available) within the CBD for Council consideration. Council also requested information about cities nationwide that permit skateboarding in their downtown areas and whether that permission expanded to streets outside the downtown area. City staff identified the following cities which allow skateboarding in some form:

Benchmark National Cities:

- Portland, Oregon: Allows skateboarding on sidewalks and roadways except for certain streets and sidewalks in the downtown area with the following restrictions: 1) persons under the age of 16 must wear protective headgear; 2) operator must be equipped with lighting equipment between hours of sunset and sunrise and 3) operators are granted all rights and responsibilities applicable to bicyclists
- Grand Haven, MI: Allows skateboarding on roadways unless used in an intentional, reckless, careless or negligent manner which causes or could cause any injury to the rider, to any other person, or cause damage to any property; no skateboarding on the boardwalk or on sidewalks along Washington Avenue (within the CBD) from May to Labor Day

- Oxford Village, MI: allows skateboarding in downtown area and other roads but operators are prohibited from obstructing any street, sidewalk, parking area, public place/building or any other place or building by impeding the passage of vehicles, traffic or pedestrian
- Columbia, MO: prohibits skateboarding on sidewalks in downtown area; allows skateboarding on all streets in downtown areas (CBD) unless the use is prohibited; operators granted all rights and duties applicable to bicyclists including duty to obey all traffic control devices and signs and subject to the following conditions: 1) stay to the far right of the road 2) operate the device with the flow of traffic; 3) operate the device in careful and prudent manner; 4) wear reflective clothing and 5) be equipped with a front facing lamp and rear facing red reflector at night
- Tacoma, WA: allows skateboarding on roadways and sidewalks; helmet required
- Lake Havasu, AZ: allows skateboarding on public roadways with less than four lanes or with speed limits less than 35 mph; on sidewalks outside the CBD and on public property where allowed, subject to the following conditions: 1) abide by all traffic control signals and devices; 2) operate at close proximity to the curb or outer portion of the roadway; 3) signal turns; 4) yield to pedestrians; 5) persons under age of 16 must wear protective helmets and 6) safety gear must be worn from dusk to dawn.
- NCSU Raleigh, NC: Skateboarding is allowed on campus; grinding (i.e. frictional contact between any part of the skateboard and a ledge, plant, or bench) and reckless operation prohibited

Highways (synonymous with streets) are defined by state law as property or right-of-way lines that are open to the use of the public as a matter of right for the purposes of vehicular traffic. Vehicles are defined by state law as every device in which any person may be transported upon a highway, excepting devices moved by human power; provided bicycles are deemed vehicles. Accordingly, the North Carolina Department of Transportation (NCDOT) takes the position that skateboarding is not allowed along state-maintained highways and streets as skateboards are not considered vehicles by state law.

Furthermore, pursuant to N.C.G.S. §160A-296(a), cities have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority is vested in the Board of Transportation. Therefore, the City does not have the authority to regulate the use of skateboards on state-maintained streets. The City's CBD contains the following state-maintained streets:

- SR 3548 (Clingman Avenue) from Hilliard Avenue to Patton Avenue
- SR 3602 (Haywood Street) from Patton Avenue to I-240 Eastbound on-ramp
- I-240 Westbound and Eastbound on/off ramps located west of Clingman Avenue
- US 25 (Southside Avenue) from Coxe Avenue to SR 3214 (Biltmore Avenue)
- SR 3214 (Biltmore Avenue) from Short Coxe Avenue to US 25 (Southside Avenue)

- US 25 (Biltmore Avenue) from US 25 (Southside Avenue) to Patton Avenue
- US 25 (Broadway) from Patton Avenue to Woodfin Street
- SR 3284 (South Charlotte Street) from US 25 (Southside Avenue) to US 70-74A (College Street)
- US 70-74A (Charlotte Street) from SR 3284 (South Charlotte Street) to Woodfin Place
- US 70-74A (College Street) from SR 3284 (South Charlotte Street) to the Beaucatcher Tunnel
- NC 694 (Town Mountain Road) from US 70-74A (College Street) to College Place

Transportation staff also reviewed and identified several streets in the CBD that have high vehicular and pedestrian traffic, on-street parking, bus routes, narrow widths, and street conditions that may contribute to safety concerns of pedestrians and skateboarders. In order to avoid off-limit state-maintained streets and to minimize safety concerns along those identified streets in the CBD, staff recommends allowing skateboarding on the following designated City-maintained streets which would form a skateboarding transportation network within the CBD:

- South Lexington Avenue and North Lexington Avenue from US 25 (Southside Avenue) to I-240
- Coxe Avenue from US 25 (Southside Avenue) to Patton Avenue
- Asheland Avenue from Hilliard Avenue to Patton Avenue
- South French Broad Avenue and North French Broad Avenue from Hilliard Avenue to Haywood Street
- South Market Street from US 25 (Biltmore Avenue) to South Pack Square
- Church Street from South Lexington Avenue to Hilliard Avenue
- South Spruce Street and North Spruce Street from Eagle Street to Walnut Street
- Flint Street from Hiawassee Street to Haywood Street
- Rankin Avenue from Walnut Street to Hiawassee Street
- Walnut Street from Rankin Avenue to North Spruce Street
- Hiawassee Street from Flint Street to Rankin Avenue
- Haywood Street from North French Broad Avenue to Flint Street
- Eagle Street from South Market Street to South Spruce Street
- Hilliard Avenue from SR 3548 (Clingman Avenue) to US 25 (Biltmore Avenue)
- College Street from North Spruce Street to US 70-74A (College Street)

If the subject action is approved, the Transportation Department and the Asheville Police Department would work closely together to come up with a suitable method to physically designate the allowable streets which could include signs and/or pavement markings.

Consistency with Plans:

This action complies with the City Council Strategic Plan in the focus area of “Multi-modal Transportation” by expanding multi-modal opportunities for citizens throughout downtown but conflicts with the focus area of “safe” due to the increased traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.

Pros:

- Expanded multi-modal opportunities for citizens throughout downtown.
- High vehicular and pedestrian traffic, on-street parking, narrow widths and street conditions considered in designation of certain City-maintained streets in order to minimize safety concerns

Cons:

- Traffic safety dangers to the skateboard operator, pedestrians, and motor vehicles.
- Topography of designated City-maintained streets contribute to traffic safety dangers
- Potential conflict with bicyclists in designated bike lanes

Fiscal Impact: The signs and/or pavement markings that would be needed to identify the designated streets that can be used by skateboarding would be the only fiscal impact and is currently estimated to be about \$1,000.00. This money is included in the current Transportation Department’s operating budget.

Recommendation: If Council approves of the proposed changes, adoption of the ordinance is recommended.

Attachments:
(1) Proposed ordinance
(2) Maps

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE PERTAINING TO SKATEBOARDS ON ROADWAYS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Section 19-6 of Article I of Chapter 19 of the Code of Ordinances of the City of Asheville shall be amended as follows:

“Sec. 19-6 Use of skateboards, roller skates, coasters or toy vehicles on roadways.

- (a) **Roller skates, coasters or toy vehicles:** No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway or crosswalk in the City.
- (b) **Skateboards:** No person upon a skateboard shall go upon any roadway or crosswalk located outside the downtown Central Business District. A person upon a skateboard is permitted to go upon any designated City-maintained roadway and crosswalk in the Central Business District, subject to the following provisions:
- (1) Operators shall wear an American National Standard Institute approved helmets while operating;
 - (2) Operators shall obey all traffic laws and shall keep to the right of the lane of travel, using bike lanes where available;
 - (3) Operators shall yield the right-of-way to pedestrians;
 - (4) Operators shall have all wheels of a skateboard in contact with the ground at all times while operating; and
 - (5) Operators shall not operate a skateboard after sunset or before sunrise.

Section 2. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 4. All ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 5. The provisions of this ordinance shall be in full force and effect upon adoption.

Read, approved and adopted this the _____ day of June, 2012.

City Clerk

Mayor

Approved as to form:

City Attorney

