

ORDINANCE NO. 3644

**AN ORDINANCE AMENDING THE NEW CASTLE MUNICIPAL TRAFFIC CODE  
BY ADDING CHAPTER 76 TO TITLE VII OF THE  
NEW CASTLE MUNICIPAL CODE**

WHEREAS, I.C. 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs; and,

WHEREAS, I.C. 36-1-3-6(b)(1) prescribes that any such exercise of power shall be authorized through passage of an ordinance passed by the legislative body; and,

WHEREAS, I.C. 36-8-2-2 provides that municipalities may establish, maintain, and operate a police and law enforcement system to preserve public peace and order and may provide facilities and equipment for that system; and,

WHEREAS, I.C. 36-9-2-7 provides that municipalities may regulate the use of public ways; and,

WHEREAS, I.C. 9-21-1-2 provides that municipalities as a local authority may adopt by ordinance additional traffic regulations with respect to highways under the authority's jurisdiction, provided that an ordinance adopted under this subsection may not conflict with or duplicate a statute; and,

WHEREAS, I.C. 9-21-1-3 further provides that municipalities as a local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with I.C. 9-21-1-2, and within the reasonable exercise of the police power, may regulate traffic by means of police officers or traffic control signals, and regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee, and adopt other traffic regulations specifically authorized by I.C. 9-21 et seq., and regulate or prohibit the operation of low speed vehicles on highways; and,

WHEREAS, I.C. 36-8-2-4 A unit may regulate conduct, or use of possession of property, that might endanger the public health, safety, or welfare; and,

WHEREAS, the City of New Castle is a municipal government which may pass and codify ordinances for the operation of the government, all pursuant to I.C. 36-1-4 and I.C. 36-1-5; and,

WHEREAS, the use of scooters, mopeds, and pocket bikes often pose a significant safety risk to motorists, passengers, and pedestrians within the City of New Castle; and,

WHEREAS, the registration and use of scooter, mopeds, and pocket bikes is not presently regulated by the State of Indiana; and,

WHEREAS, it is determined that it is in the best interest of the public safety and welfare to regulate mopeds and pocket bikes within

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL of the City of New Castle, that:

**Section 1:** Title VII Chapter 76 of the City of New Castle Code of Ordinances is hereby created and adopted to read as follows:

CHAPTER 76: MOPEDS AND POCKET BIKES

Chapter 76:

- 76.01 Definitions
- 76.02 Effect of Chapter
- 76.03 Application of State Traffic Laws and Obedience to Traffic Devices
- 76.04 Alteration Restrictions
- 76.05 Operation, Passengers, Safety, and Parking
- 76.06 Moped Registration and Inspection
- 76.07 Equipment and Proper Identification
- 76.08 Rental Agencies
- 76.09 Pocket Bikes
- 76.10-76.96 Reserved
- 76.97 Unconstitutionality Clause
- 76.98 Penalty
- 76.99 Authority to prepare forms

Sec 76.01 DEFINITIONS

(a) MOPED: A moped shall mean any two (2) or three (3) wheeled vehicle that is propelled by an internal combustion engine or a battery powered motor, or by both, and, if powered by an internal combustion engine, has the following:

1. An engine rating of not more than two (2) horsepower and a cylinder capacity not exceeding forty-nine cubic centimeters (49cc);
2. An automatic transmission; and
3. A maximum design speed of no more than twenty-five (25) miles per hour on a flat surface.

The term "scooter" shall be interchangeable with the term "moped." Specifically excluded from the definition of MOPED are the following:

1. Any two (2) or three (3) wheeled vehicle exceeding the above specifications and deemed to be a motorcycle required to be registered with and by the state bureau of motor vehicles.
2. An electric personal assistive mobility device, presently defined in Indiana Code 9-13-2-49.3.
3. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required to be registered by the Department of Natural Resources under Indiana Code 14-16-1 or any other applicable state law.

(b) POCKET BIKE: A pocket bike, also referred to a pocket rocket, shall mean any wheeled device ridden by a person or used as transportation, powered or assisted by any on-board



1. Any two (2) or three (3) wheeled vehicle deemed to be a motorcycle to be registered with and by a state bureau of motor vehicles.
  2. An electric personal assistive mobility device presently defined in Indiana Code 9-13-2-49.3.
  3. An off-road vehicle, otherwise known as all-terrain vehicle (ATV), presently defined in Indiana Code 14-8-2-185, and required by the Department of Natural Resources under Indiana Code 14-16-1.
- (c) ROADWAY: A roadway shall mean any highway, road, public way, street, or alley and shall include any street designated as a parkway, boulevard, place, avenue, or other similar designation, all of which are within the City of New Castle corporate limits.
- (d) HELMET: Protective headgear meeting the minimum standards set by the Indiana Bureau of Motor Vehicles or a helmet that meets the standards set by the United States Department of Transportation under 49CFR 571.218 in effect January 1, 1979.
- (e) PROOF OF FINANCIAL RESPONSIBILITY: Means proof of ability to respond in damages for each motor vehicle registered by a person for liability that arises out of the ownership, maintenance, or use of the motor vehicle in the following amounts:
1. Twenty-five thousand dollars (\$25,000) because of bodily injury to or death of any one (1) person.
  2. Subject to the limit in subdivision (1), fifty thousand dollars (\$50,000) because of bodily injury to death of two (2) or more persons in any one (1) accident.
  3. Ten thousand dollars (\$10,000) because of injury to or destruction of property in any one (1) accident.
- (f) Terms used in this Chapter not specifically defined shall have the meanings as set forth in the Uniform Act regulating traffic on highways, Indiana Code, §9-13, et seq.

#### Sec. 76.02 EFFECT OF CHAPTER

- (a) It is a violation for any person to do any act forbidden or fail to perform any act required in this Chapter. This Chapter shall apply to any person who operate mopeds or pocket bikes within the City of New Castle corporate limits. An operator who resides outside the corporate limits of the City of New Castle in Henry County, or who resides in a county that borders Henry County, who operates his or her moped in the City of New Castle under a valid registration, as required by the operator's jurisdiction of residence, shall not be required to have his or her moped registered with the City of New Castle, provided valid

the exclusive use of mopeds within the City of New Castle subject to those exceptions or prohibitions stated herein.

Sec. 76:03 APPLICATION OF STATE TRAFFIC LAWS AND OBEDIENCE TO TRAFFIC DEVICES

- (a) Every person riding a moped on a roadway in the City of New Castle shall be subject to all of the duties applicable to the operator of a vehicle by the laws of this state declaring sections of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, in addition to special regulations in this Chapter and except as to those provisions of laws and ordinances, which by their nature can have no application. Any person disobeying the traffic control devices or signs, or violating Indiana Code while operating a moped shall receive a citation for an infraction.
- (b) A moped may not be operated:
  - 1. By a person less than fifteen (15) years of age;
  - 2. By a person who has not obtained a state-issued identification card, learner's permit, operator's license, chauffeur's license or a public passenger chauffeur's license;
  - 3. On an interstate highway or a sidewalk; or
  - 4. At a speed greater than twenty-five (25) miles per hour.
- (c) A police officer having probable cause to believe a person has violated subsection (b)(1) or subsection (b)(2) above may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this Section, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped bicycle within 45 days of its seizure.

**State Law Reference: I.C. § 921-11-12**

Sec. 76.04 ALTERATION RESTRICTIONS

- (a) The owner, if 18 years or older, or the parent or guardian of a minor, who is the owner of a moped shall not alter or allow the alteration of the OEM exhaust system, which permits loud exhaust.
- (b) An owner, if 18 years or older, or the parent or guardian of a minor, who owns a moped with an engine that has been manufactured, converted, modified, or altered to the degree that the moped qualifies as a motorcycle under Indiana Code (where the engine rating exceeds more than two (2) horsepower, the cylinder capacity exceeds more than forty-nine cubic centimeters (49cc), or the maximum design speed exceeds twenty-five (25) miles per hour on a flat surface) shall be required to:
  - 1. properly register, license , and insure said vehicle



- (a) Every person operating a moped on a roadway and any passenger on a moped being driven on a roadway must wear a helmet while the moped engine is running.
- (b) Every person operating a moped on a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (c) Persons operating mopeds on a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of mopeds.
- (d) No moped shall be operated on a sidewalk or a railroad right-of-way.
- (e) No moped shall be operated on another's private property, unless the expressed written consent has been obtained from the owner of the real estate or unless written notice has been posted on the private real estate.
- (f) No person shall operate a moped in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons. (See Title IX Chapter 100 of the City of New Castle Code of Ordinances)
- (g) A person operating a moped shall not ride other than astride a permanent and regular seat attached thereto. A passenger on a moped shall not ride other than astride a permanent and regular seat attached thereto. All persons operating or riding as a passenger must be able to keep his or her feet firmly on the foot boards or foot pegs while sitting comfortably on the seat or saddle.
- (h) No moped shall be used to carry more persons at one time than the number for which it is designed and equipped, as designed with an additional set of foot boards or foot pegs.
- (i) No moped shall be used to carry a child under the age of fifteen (15) years unless the operator is the legal guardian or has written permission of the legal guardian. No passenger shall be permitted to ride in front of the operator. A police officer having probable cause to believe a person has violated this sub-section may immediately impound the moped as evidence. If no action has been filed in court to enforce the violation of this Section, or if therein proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the moped within 45 days of its seizure.
- (j) No person shall operate a moped at a speed that is greater than reasonable and prudent under the conditions then existing. In no case shall a person operate a moped at a speed greater than 25 mph. In the event the speed of a

- (l) No person shall propel or operate a moped in any unsafe manner, including, but not limited to weaving or swerving over the road, cutting through traffic, changing lanes excessively, following other vehicles too closely, accelerating excessively or dangerously, or jumping curbs or speed-bumps.
- (m) All wheels of all mopeds must be on the surface being ridden upon at all times such moped is in operation.
- (n) No person operating a moped shall carry any package, bundle, or article which prevents the rider from keeping all hands on the handlebars.
- (o) No person shall park a moped on a street other than on the roadway against the curb or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

See.76.06 MOPED REGISTRATION AND INSPECTION

- (a) The owner, if 18 years or older, or the parent or guardian of a minor who is the owner, of a moped, who resides within the City, shall have the moped registered with the Police Department within ninety (90) days of the effective date of this ordinance or within 30 days after its acquisition if a change of ownership occurs.
- (b) These provisions shall apply any time there is a change of ownership, including those instances when the moped has been registered to the previous owner.
- (c) Registration shall include the imprinting, stamping, or otherwise placing of a registration number on each moped and the keeping of appropriate records by the Police Department as to identification of the mopeds and their ownership. An initial registration fee of \$35.00 per moped shall be charged when the new owner registers each moped, and thereafter an annual fee of \$15.00 per moped per year shall be charged to the owner for registration and inspection.
- (d) A New Castle Police Officer shall inspect each moped before registering it and shall refuse to register any moped which is determined by the officer to be in unsafe mechanical condition due to:
  - 1. inoperative brakes;
  - 2. inoperative headlights or taillights;
  - 3. tires with the wear marks exposed;
  - 4. non-intact or missing body panels or panels that are improperly secured;
  - 5. missing or damaged kickstands;
  - 6. unsecured or improperly secured seats or saddles; or
  - 7. which is determined by the officer to be a moped that has been altered to the degree that it qualifies as a motorcycle that is required by state law to be



#### See. 76.07 EQUIPMENT AND PROPER IDENTIFICATION

- (a) Every moped, when in use after dusk, shall be equipped with a front lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 500 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (b) A person less than eighteen (18) years of age who operates a moped or rides a moped as a passenger, on a street or highway shall wear protective headgear, and just also wear protective glasses, goggles, or a transparent face shield, as set forth in Indiana Code 9-21-1113.
- (c) An adult operating a moped shall carry the identification required pursuant to the above Section 81.03 and Indiana Code 9-21-11-12 when operating the moped, and shall, when detained by a police officer, produce said identification to the police officer.
- (d) A person operating a moped that has not yet been registered pursuant to Section 76.06 above shall carry either the moped registration paperwork or the dated sales receipt during the initial 30 days of ownership, and shall, when detained by a police officer, produce said paperwork and/or sales receipt to the police officer.

#### See. 76.08 RENTAL AGENCIES

- (a) A rental agency shall not rent or offer any moped for rent unless the moped is equipped with the lamps and other equipment required in this Chapter.
- (b) A rental agency shall not rent or offer any moped for rent to anyone under the age of fifteen (15) years of age.
- (c) A rental agency shall not rent or offer any moped for rent to any minor between the ages of fifteen (15) and eighteen (18) years of age unless:
  - 1. the minor has identification required pursuant to the above Section 81.03 and Indiana Code 9-21-11-12; and
  - 2. the minor's parent or guardian signs the rental agreement.

#### Sec. 76.09 POCKET BIKES

- (a) The use of pocket bikes is prohibited on any and all roadways, streets, alleys, sidewalks, and public ways within the City of New Castle.
- (b) In addition to the above prohibition on the use of pocket bikes as set forth in subsection 76.09(a) above, any person

pocket bike as evidence. If no action has been filed in court to enforce the violation of subsection (a) above, or if there is proof that the fine has been paid, or unless proof is provided that no violation has occurred, the Police Department shall allow the owner to retrieve the pocket bike within 45 days of its seizure.

Secs.76.10-76.96. Reserved.

Sec. 76.97 UNCONSTITUTIONALITY CLAUSE

Should any Section, paragraph, sentence, clause or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said Chapter shall not be affected thereby.

Sec.76.98 PENALTY

- (a) Any violation of state law shall result in the issuance of a state citation.
- (b) Any person violating the registration provision under Section 76.06 shall be fined \$50.00.
- (c) The parent or guardian of any person violating the underage operation provision under Section 76.03(b) shall be fined \$30.00 and the moped shall be impounded in accordance with Section 76.03(c).
- (d) Any person violating the pocket bike prohibition of Section 76.09 shall be fined \$100.00 and the pocket bike shall be impounded in accordance with Section 81.09. Any person's second, and each subsequent, violation of Section 76.09 shall result in a fine of \$125.00 and the pocket bike shall be impounded in accordance with Section 76.09.
- (e) Any person using a moped and found to be in violation of transporting or carrying a child below the age of 15 years, in violation of 76.06(g), shall be fined \$100.00 and the moped shall be impounded in accordance with Section 76.03(c). Any person's second, and each subsequent, violation of Section 76.05(g) shall result in a fine of \$125.00 and the moped shall be impounded in accordance with Section 76.03. The parent or guardian of a minor passenger below the age of 15 years discovered to be in violation of Section 76.05(g) shall be fined \$100.00. The parent or guardian of a minor passenger below the age of 15 years discovered to have violated Section 76.05(g) shall be fined \$125.00 for the minor passenger's second and each subsequent offense.
- (f) It shall be the duty of the police officer of the City to issue tickets for violations of this Chapter. The tickets shall include the name of the owner or operator if 18 years or older, or the parent or guardian of a minor who is the owner, operator, or passenger of a moped, his or her address, the Section number of this Chapter which was violated or the violation number shown on the reverse side



**REPEALER:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SEVERABILITY:** Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

**EFFECTIVE DATE:** This Ordinance shall become effective immediately upon passage and publication as provided for by law.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
Greg York, Presiding  
Officer, Common Council, City  
of New Castle, Indiana

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ATTEST:

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Clerk-Treasurer

APPROVED BY ME THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
Greg York, Mayor of the City  
Of New Castle, Indiana