

City of Detroit
OFFICE OF THE CITY CLERK

Janice M. Winfrey
City Clerk

Andre P. Gilbert II
Deputy City Clerk

January 24, 2024

Mr. Conrad Mallett, Corporation Counsel, Law Department
Mr. Timothy Slusser, Chief Mobility Innovation Officer, Office of Mobility Innovation

RE: PROPOSED ORDINANCE TO AMEND CERTAIN SECTIONS OF CHAPTER 47 OF THE 2019 DETROIT CITY CODE, *TRANSPORTATION FOR HIRE, ARTICLE X, ELECTRIC PERSONAL MOBILITY DEVICES*

The Public Health and Safety Standing Committee has scheduled a **PUBLIC HEARING** relative to the above captioned matter for **MONDAY, JANUARY 29, 2024 AT 10:30 A.M.**

Pursuant to the Michigan Open Meetings Act as amended, which authorizes the continued use of hybrid electronic meetings to provide virtual public participation in accordance with the requirements of MCL 15.263a(2), and in consideration of the ongoing and continuing pandemic, the Detroit City Council will be meeting **in person** in the **City Council Committee of the Whole Room, 13th Floor, Coleman A. Young Municipal Center** for the Planning and Economic Development Standing Committee and will provide opportunity for virtual attendance..

Virtual public attendance is strongly encouraged as the meeting room will be subject to space limitations, pursuant to public health guidelines. For the safety of attendees and participants, the public is strongly encouraged to participate by means of one of the methods listed below:

The Standing Committee may be viewed in the following manner.

1. Watch via television
 - Comcast: Channel 10
 - ATT: From Channel 99, click Detroit, then Channel 10
2. Watch online by using <https://detroitmi.gov/government/city-council> and clicking on Channel 10.
3. To attend by phone only, call one of these numbers:
+1-929-436-2866, +1-312-626-6799, +1-669-900-6833, +1-253-215-8782, +1-301-715 8592, or +1-346-248-7799 Enter Meeting ID: 330332554##
4. To attend online: <https://cityofdetroit.zoom.us/j/330332554>

Public Comment:

To participate at the time of Public Comment, please raise your hand within the zoom application.

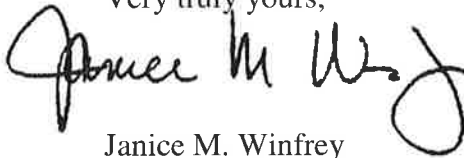
1. Telephone participants: Raise your hand by pressing *9
2. Web participants: Raise your hand by clicking raise hand in the application or pressing
 - a. Windows computer = [ALT] + [Y]
 - b. Apple computers = [OPTION] + [Y]

To be consistent with how Public Comment has been handled for in-person meetings:

- You will be called on in the order in which your hand is raised
- All time limits set by the meeting Chair will still be enforced
- Any hands raised after the Chair ends submission of public comments, will not be able to speak at the meeting

All interested persons are invited to be present and be heard as to their views. Persons making oral presentations are encouraged to submit written copies to the City Clerk's Office CityClerkHelpDesk@detroitmi.gov via e-mail, for the record.

Very truly yours,



Janice M. Winfrey
City Clerk

JMW/da

cc: Mr. Malik Washington, City Council Liaison, Mayor's Office
Ms. Tonja Long, Chief Administrative Corporation Counsel, Las Department

FOR PUBLICATION IN THE LEGAL NEWS ON WEDNESDAY, JANUARY 24, 2024

NOTICE OF PUBLIC HEARING

*Proposed Ordinance to amend certain sections of Chapter 47 of the 2019 Detroit City Code,
Transportation for Hire, Article X, Electric Personal Mobility Devices*

Notice is hereby given that the Detroit City Council Planning and Economic Development Standing Committee has scheduled a **PUBLIC HEARING** on **THURSDAY, JANUARY 29, 2024 AT 10:30 A.M.**

Pursuant to the Michigan Open Meetings Act as amended, which authorizes the continued use of hybrid electronic meetings to provide virtual public participation in accordance with the requirements of MCL 15.263a (2), and in consideration of the ongoing and continuing pandemic, the Detroit City Council will be meeting **in person** in the **City Council Committee of the Whole Room, 13th Floor, Coleman A. Young Municipal Center** for the Planning and Economic Development Standing Committee.

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All interested persons are invited to be present and be heard as to their views. Persons making oral presentations are encouraged to submit written copies to the City Clerk's Office CityClerkHelpDesk@detroitmi.gov via e-mail, for the record.



LAW DEPARTMENT

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226-3437

Phone 313•224•4550
Fax 313•224•5505
www.detroitmi.gov

October 27, 2023

Detroit City Council
1340 Coleman A. Young Municipal Center
Detroit, Michigan 48226

Re: Ordinance to amend certain sections of Chapter 47 of the 2019 Detroit City Code, *Transportation for Hire*, Article X, *Electric Personal Mobility Devices*.

Honorable City Council:

The Office of Mobility Innovation (“OMI”) has requested that the Law Department prepare the enclosed ordinance to amend Chapter 47 of the 2019 Detroit City Code, *Transportation for Hire*, by amending certain sections within Article X, *Electric Personal Mobility Devices*.

OMI, in coordination with the Department of Public Works, are currently preparing to accept the first round of applications for the City’s shared mobility permitting program, regulate the operation of electric scooters, among other types of micromobility devices, in Detroit. This ordinance would adjust the timing and duration of the City’s inaugural shared mobility permits, as well as expand and clarify the insurance and indemnity requirements for permit holders, so as to further minimize the City’s risk of potential liability arising from the operation of scooters and other Micromobility devices in Detroit’s streets and public spaces.

The Law Department is available to answer any questions that you may have regarding this proposed ordinance.

Respectfully submitted,

Daniel Arking

Daniel Arking
Senior Assistant Corporation Counsel

cc: Malik Washington, City Council Liaison
Tim Slusser, OMI
Sherelle Streeter, OMI

Enclosure

SUMMARY

This ordinance amends Chapter 47 of the 2019 Detroit City Code, *Transportation for Hire*, by amending Article X, *Electric Personal Mobility Devices*, Division 2, *Shared Mobility Permits*, Section 47-10-14, *Issuance of permits*, and Division 3, *Responsibilities of Owners of Shared Fleets and Operators of Electric Personal Mobility Devices*, Section 47-10-39, *Insurance requirements*, and Section 47-10-40, *Indemnity*, to revise the timing when shared mobility permits must be issued, as well as to clarify and expand the scope of permit recipients' insurance and indemnification requirements.

1 **BY COUNCIL MEMBER _____ :**

2 **AN ORDINANCE** to amend Chapter 47 of the 2019 Detroit City Code,
3 *Transportation for Hire*, by amending Article X, *Electric Personal Mobility Devices*, Division 2,
4 *Shared Mobility Permits*, Section 47-10-14, *Issuance of permits*, and Division 3, *Responsibilities*
5 *of Owners of Shared Fleets and Operators of Electric Personal Mobility Devices*, Section 47-10-
6 39, *Insurance requirements*, and Section 47-10-40, *Indemnity*, to revise the timing when shared
7 mobility permits must be issued, as well as to clarify and expand the scope of permit recipients'
8 insurance and indemnification requirements.

9 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF**
10 **DETROIT THAT:**

11 **Section 1.** Chapter 47 of the 2019 Detroit City Code, *Transportation for Hire*, be amended
12 by amending Article X, Division 2, Section 47-10-14 and Division 3, Section 47-10-39 and Section
13 47-10-40 as follows:

14 **CHAPTER 47. TRANSPORTATION FOR HIRE**

15 **ARTICLE X. ELECTRIC PERSONAL MOBILITY DEVICES**

16 **DIVISION 2. SHARED MOBILITY PERMITS**

17 **Sec. 47-10-14. Issuance of permits.**

18 (a) The Department shall issue shared mobility permits in accordance with the
19 provisions of this section.

20 (b) Not later than the first December ~~+~~ 31 following the effective date of the ordinance
21 establishing this article, and again not later than December ~~+~~ 31 of each ~~even-numbered~~ second
22 year thereafter, the Department shall promulgate parameters, including associated minimum
23 requirements, for the evaluation of shared mobility applications in accordance with Section 47-10-

1 15 of this Code and set the dates when it will commence and conclude acceptance of shared
2 mobility permit applications. The Department shall accept of shared mobility permit applications
3 for a continuous period of not less than 60 days and not more than 90 days.

4 (c) The Department shall notice the opportunity to submit applications for shared
5 mobility permits, such notice including all applicable parameters and associated minimum
6 requirements, and accept shared mobility permit applications for the period specified pursuant to
7 Subsection (b) of this section.

8 (d) ~~Not more than 30 days following~~ Upon conclusion of the application acceptance
9 period, the Department shall complete all of the following activities:

10 (1) ~~Review Within 30 days, review~~ and rank all complete and timely applications based
11 on the parameters promulgated under Subsection (b) of this section. The
12 Department may separately rank applications related to different types of electric
13 personal mobility devices.

14 (2) Upon approval by resolution of the Detroit City Council of its ranking of
15 applications, issue permits to the top-ranked applicants, in order of their relative
16 ranking, subject to applicable terms and conditions.

17 (3) Assign the same effective date and expiration date to each permit issued under this
18 subsection.

19 (e) If any owner to which a shared mobility permit has been issued pursuant to
20 Subsection (d)(2) is terminated prior to the stated expiration date of such permit, the Department
21 may reassign such permit to another owner in accordance with the following:

22 (1) The Department shall notice the opportunity to submit applications for
23 reassignment of the terminated permit, including the terms and conditions of such

1 permit, and accept shared mobility permit applications for a period of not more than
2 90 days.

3 (2) Review and rank all complete and timely applications based on the parameters
4 promulgated under Subsection (b) of this section, as such parameters are applicable.

5 (3) Upon approval by resolution of the Detroit City Council of its ranking of
6 applications, reassign the permit to the top-ranked applicant.

7 (4) The terms and conditions of any permit being reassigned pursuant to this
8 Subsection (e), including but not limited to its expiration date, must not be revised
9 in the course of its reassignment.

10 **DIVISION 3. RESPONSIBILITIES OF OWNERS OF SHARED FLEETS AND**
11 **OPERATORS OF ELECTRIC PERSONAL MOBILITY DEVICES**

12 **Sec. 47-10-39. Insurance requirements.**

13 (a) ~~Each owner of a shared fleet shall, prior to the issuance of a shared mobility permit,~~
14 ~~file certificates of insurance, signed by a duly authorized officer of a company authorized to write~~
15 ~~insurance in Michigan, to the effect that one or more policies of insurance have been issued to the~~
16 ~~owner, that all such policies are in full force and effect, and that the premiums have been paid as~~
17 ~~required thereon~~ Each Owner shall procure and maintain for the duration of its shared mobility
18 permit insurance against claims for injuries to persons or damages to property that may arise from
19 or in connection with the performance of the work hereunder by the Owner, its agents,
20 representatives, employees or subcontractors.

21 (b) ~~Such policies of insurance shall be of the following types, each in amount not less~~
22 ~~than the corresponding minimum coverage requirements:~~ The minimum scope and limits of such
23 insurance coverage shall be at least as broad as follows. If the Owner maintains broader coverage

1 or higher limits than the minimums shown below, the City of Detroit requires and shall be entitled
 2 to the broader coverage or higher limits maintained by the Owner. Any available insurance
 3 proceeds in excess of the specified minimum limits of insurance and coverage shall be available
 4 to the City of Detroit.

Insurance Type:	Minimum Coverage Requirement:
Workers' Compensation	Michigan Statutory minimum
Employer's Liability	\$500,000.00 minimum each disease \$500,000.00 minimum each person \$500,000.00 minimum each accident
Errors and Omissions	\$1,000,000.00 each occurrence \$1,000,000.00 in aggregate
Commercial General Liability (broad form comprehensive)	\$5,000,000.00 each occurrence, <u>including products and completed operations, property damage, bodily injury and personal and advertising injury.</u> \$5,000,000.00 No limit in aggregate
Automobile Liability (covering all owned, hired and non-owned vehicles with personal and property protection insurance, including residual liability insurance under Michigan no fault insurance law).	\$1,000,000.00 combined single limit for bodily injury and property damage

5
 6 ~~(e) The owner's commercial general liability, automobile liability, and errors and~~
 7 ~~omissions policies of insurance must name the "City of Detroit" as an additional insured party.~~

8 ~~(d) The policies of insurance must contain a provision for a continuing liability~~
 9 ~~thereunder to the full amount thereof, notwithstanding any recovery thereon, and that until the~~
 10 ~~policy is revoked, as provided in Subsection (e) of this section, the insurance company shall not~~
 11 ~~be relieved from liability on account of nonpayment of premium, failure of the owner to renew the~~
 12 ~~City business license at the end of the term, or any act or omission of the named insured.~~

13 ~~(e) Any insurance company whose policy has been so filed pursuant to this section~~
 14 ~~shall file a notice with the Department of its intention to terminate and cancel such policy and give~~
 15 ~~notice thereof to the named policy holder, whereupon after ten days from filing, the owner shall~~

1 ~~cease to deploy its shared fleet within the City, and its shared mobility permit will be automatically~~
2 ~~suspended and liability on such policy shall cease and terminate, provided, that the liability of the~~
3 ~~insurance company therefor for any act or omission of the licensee or owners occurring prior to~~
4 ~~the effective date of cancellation shall not be discharged or impaired.~~

5 (c) The above-referenced insurance policies must contain, or be endorsed to contain,
6 the following provisions, as applicable:

7 (1) Additional Insured: The City of Detroit, its officers, officials, employees and
8 volunteers must be covered as additional insureds on the commercial general
9 liability, automobile liability, and errors and omissions policies.

10 (2) Primary Coverage: For any claim against any insurance policy required herein, the
11 Owner's insurance shall be primary coverage as least as broad as Insurance
12 Services Office Form CG 20 01 04 13 as respects the City of Detroit, its officers,
13 officials, employees and volunteers. Any insurance or self-insurance maintained by
14 the City of Detroit, its officers, officials, employees or volunteers shall be in excess
15 of the Owner's insurance and shall not contribute to it.

16 (3) Notice of Cancellation: Each insurance policy required herein must state that
17 coverage shall not be cancelled except after notice has been given to the City of
18 Detroit.

19 (4) Waiver of Subrogation: Owner must grant to the City of Detroit a waiver of any
20 right of subrogation which any insurer of said Owner may acquire against the City
21 of Detroit by virtue of payment of any loss. Owner agrees to obtain any
22 endorsement that may be necessary to affect this waiver of subrogation, but this
23 provision applies regardless of whether or not the City of Detroit has received a

1 waiver of subrogation endorsement from the insurer. The Workers' Compensation
2 policy shall be endorsed with a waiver of subrogation in favor of the City of Detroit
3 for all work performed by the Owner, its employees, agents and subcontractors.

4 (d) Acceptability of Insurers: Insurance must be placed with insurers authorized to
5 conduct business in Michigan with a current A.M. Best rating of no less than A:VII, unless
6 otherwise acceptable to the City of Detroit.

7 (e) Verification of Coverage: Owner shall furnish the City of Detroit with original
8 certificates and amendatory endorsements or copies of the applicable policy language effecting
9 coverage. All certificates and endorsements must be received and approved by the City of Detroit
10 before the permit is issued. However, failure to obtain required documents prior to the permit
11 issuance shall not waive the Owner's obligation to provide them. The City of Detroit may require
12 complete certified copies of all required insurance policies, including the endorsements required
13 herein, at any time.

14 (f) Failure to Maintain Insurance Coverage: If Owner, for any reason, fails to maintain
15 the insurance coverages required by this section, the City of Detroit may immediately terminate
16 the Owner's shared mobility permit.

17 **Sec. 47-10-40. Indemnity.**

18 (a) Each Owner of a shared fleet shall indemnify, defend, and hold harmless, and shall
19 include in its terms of service applicable to all operators of any electric personal mobility device
20 within its shared fleet the requirement that such operators shall indemnify and hold harmless, the
21 City against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges,
22 losses and expenses, including, without limitation, fees and expenses for attorneys, expert
23 witnesses and other consultants, that may be imposed upon, incurred by, or asserted against the

1 City or its departments, officers, employees, or agents by reason of any of the following occurring
2 during the term of its shared mobility permit with respect to the owner or its associates:

3 (1) Any negligent or tortious act, error, or omission attributable in whole or in part to
4 the owner or its associates or the operator of an electric personal mobility device
5 owned by the owner or its associates; and

6 (2) Any failure by the owner or its associates to comply with the provisions of this
7 article; and

8 (3) Any injury to the person or property of an employee of the City where such injury
9 arises out of the activities of the owner or its associates, or by the activities of an
10 operator of an electric personal mobility device owned by the owner or its
11 associates.

12 (b) Each Owner of a shared fleet shall further defend, indemnify, and hold harmless
13 the City, its officers, elected or appointed officials, employees, agents, and volunteers from and
14 against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands, and
15 defense costs ("Claim(s")), including, without limitation, actual, direct, out-of-pocket costs and
16 expenses, and amounts paid in compromise, settlement, or judgment, and reasonable legal fees
17 arising from litigation of every nature or liability of any kind or nature including civil, criminal,
18 administrative or investigative, arising out of, in connection with, or which are in any way related
19 to, Owner's operations under a permit issued pursuant to this article, the business conduct and
20 operations of the Owner or any of its associates, any violation of any laws by the Owner or any of
21 its associates, or any bodily injury including death or damage to property arising out of or in
22 connection with any use, misuse, placement or misplacement of any of the Owner's electronic
23 personal mobility devices or its associated equipment, except such Claim which was caused by the

1 willful misconduct or gross negligence of the City. This indemnity includes, but is not limited to,
2 personal injuries sustained by an Operator arising from defects or unsafe conditions in City's
3 streets, sidewalks or other public areas, unless caused by the sole willful misconduct of the City.
4 Owner will conduct all defenses at its sole cost and expense, and City shall reasonably approve
5 selection of the counsel to represent City as proposed by Owner. This indemnity shall apply to all
6 claims and liability regardless of whether any insurance policies of the Owner, its affiliates or any
7 other parties are applicable thereto. The policy limits of any insurance of Owner, its affiliates or
8 other parties are not a limitation upon the obligation of Owner, including without limitation, the
9 amount of indemnification to be provided by Owner.

10 (c) The provisions of this section shall survive the expiration or termination of any
11 permit issued pursuant to this article.

12 (d) For purposes of this section, the term "associates" includes the Owner's parent
13 corporation and subsidiaries, as well as any of their officers, managers, employees, agents,
14 contractors, and volunteers, ~~or~~ as well as affiliates of the owner, its parent corporation, or its
15 subsidiaries.

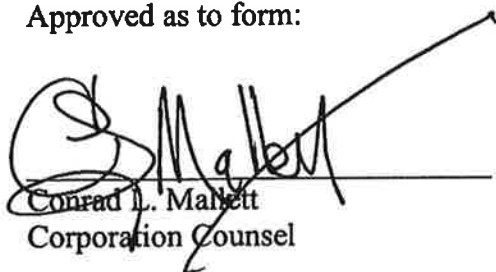
16 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health,
17 safety, and welfare of the People of the City of Detroit.

18 **Section 3.** All ordinances or parts of ordinances that conflict with this ordinance are
19 repealed.

20 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City Council
21 Members serving, it shall be given immediate effect and become effective upon publication in
22 accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed
23 by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective

- 1 on the thirtieth (30) day after enactment, or on the first business day thereafter, in accordance with
- 2 Section 4-118 of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel