

ORDINANCE NO. 01-19 (Second ~~First~~-Amended)

AN ORDINANCE REGULATING PERSONAL ELECTRIC OR MOTOR POWERED VEHICLES AND OTHER NON-MOTORIZED TRANSPORTATION DEVICES

WHEREAS, the City of West Lafayette has a duty to conserve and promote the health, safety, peace, and good order of the community; and

WHEREAS, the City of West Lafayette also has a duty to ensure that sidewalks and other public rights-of-way are accessible to all, including those with disabilities; and

WHEREAS, a large quantity of Personal Electric or Motor Powered Vehicles (“EMPV”) (as defined herein) were introduced to the City in 2018 through a Mobility System (as defined herein); and

WHEREAS, the experience of the newly introduced EMPVs in the City has demonstrated that the regulations contained herein are necessary in order for the City of West Lafayette to conserve and promote the health, safety, peace, and good order of the community; and

WHEREAS, the amount of the permit fee established herein is reasonably related to the heavy administrative costs of enforcing these regulations.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE that:

SECTION ONE: A new chapter is to be added to the 1994 West Lafayette City Code to be designated as Chapter 39 – Mobility Systems. If the 1994 West Lafayette City Code has been recodified by the time this ordinance is to be incorporated into a unified code of the city, the Clerk of the City may make or cause to be made formal, non-substantive changes to this ordinance insofar as necessary to incorporate this ordinance into the then-existing city code, such as arranging the material into appropriate organizational units and assigning or reassigning appropriate numbers to chapters, articles, divisions, subdivisions and sections.

SECTION TWO: Chapter 39, Section 39.01 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.01. Definitions.

The following word, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Officer means the mayor or the mayor's designee, who will enforce and administer this ordinance and promulgate regulations subject to approval by the Board of Public Works and Safety.

City means the City of West Lafayette.

Electric or Motor Powered Vehicle (EMPV) means any type of wheeled vehicle that under state law is not required to be registered with the Indiana Bureau of Motor Vehicles and that utilizes battery or motor power to fully fly, or partially, propel its User, including, but not limited to, the following devices:

~~(1) an electric bicycle, which is any bicycle equipped with a motor that provides assistance when the rider is pedaling;~~

~~(2)~~(1) a scooter, which is a conveyance or device with one (1) or more wheels in contact with the ground with a floorboard for the user to stand upon when using it; and

~~(3)~~(2) any other similar device as determined by the Administrative Officer.

Notwithstanding the foregoing, an EMPV does not include a device used to aid a person with a disability, including, but not limited to, durable medical equipment for mobility, including a motorized wheelchair.

Enterprise means a person or entity that owns or operates a Mobility System.

Fleet Manager means the person responsible for the daily operations of a Mobility System.

Mobility System means a service that allows for short-term rental of a Small Vehicle.

Permit means the authorization from the City to the Enterprise, which authorizes the operation of a Mobility System for compensation in the City.

Public right-of-way means any publicly travelled way or any public easement.

Shared-use Path means any paved pathway in the public right-of-way which is at least eight feet wide.

Small Vehicle means any non-motorized transportation device or EMPV, except for a device that is required under state law to be registered with the Indiana Bureau of Motor Vehicles or a device that is used to aid a person with a disability.

Sidewalk means any paved walkway less than eight feet wide.

User means a person who rides or operates a Small Vehicle.

SECTION THREE: Chapter 39, Section 39.02 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.02. Mobility System Enterprise Permit Requirements.

(a) Effective _____, upon passage and due publication, it shall be unlawful for a person to operate, or cause to be operated, a Mobility System in the public right-of-way in the City, unless the Enterprise first obtains a permit or City contract from the Administrative Officer and registers each Small Vehicle as provided in this chapter.

(b) The fee for a Permit and the registration fee for each Small Vehicle shall be in an amount established by the City. These permit and registration fees shall not apply to an Enterprise with which the City has executed an agreement prior to the effective date of this Ordinance or to an Enterprise that has received an investment of public funds, by grant or otherwise, from the City.

(c) A Permit issued under this section shall expire one year after its issuance. Applications for subsequent years shall be submitted at least 30 days prior to the expiration of a Permit.

(d) Applications for a Permit under this chapter shall be made on forms provided by the Administrative Officer and shall be signed by an officer or employee of the Enterprise with authority to legally bind the applicant, who shall verify under oath that the information contained in the application is true and accurate.

(e) The applicant shall provide the following information with their application:

- (1) the maximum number of Small Vehicles proposed to be used in the Mobility System;
- (2) a description of all Small Vehicles that will be used in the Mobility System, including the model, manufacturer, and color of each Small Vehicle;
- (3) color photographs depicting the Small Vehicle(s) to be used in the Mobility System;
- (4) a GPS- or GIS-based map, depicting the proposed service area of the Mobility System;
- (5) a 24-hour customer service telephone number (for voice and text), and email address (both of which must be displayed on each Small Vehicle to be used in a Mobility System);
- (6) the rules and regulations for the Mobility System's Users;
- (7) a signed indemnification agreement in the form as approved by the Administrative Officer;
- (8) proof of public liability coverage;
- (9) a maintenance plan;

- (10) a staffing plan;
- (11) options for low income users;
- (12) detailed plan for reporting issues with the system; and
- (13) any other information deemed necessary by the Administrative Officer.

(f) If in the operation of a Mobility System the Enterprise modifies any of the information required under subsection (e) of this section, the Enterprise shall inform the Administrative Officer of each modification within five (5) business days of such modification.

(g) The Enterprise shall ~~commit to~~conduct quarterly events each year, focused on user safety. The Enterprise shall notify the City at least one week in advance of any scheduled events.

SECTION FOUR: Chapter 39, Section 39.03 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.03. Issuance, renewal, suspension and revocation of a Permit.

(a) The Administrative Officer shall refuse to issue or renew a Permit if the applicant does or has done any of the following at any time:

- (1) fails to meet the requirements in the permit application, including failing to meet any requirements established by the Administrative Officer;
- (2) intentionally or knowingly makes a false statement in an application for a Permit;
- (3) violates any provision of this chapter twice within a 12-month period or has had the Permit revoked within two (2) years of the date of application;
- (4) fails to remove illegally parked Small Vehicles in a timely manner, as determined by the Administrative Officer; ~~pursuant to Sec.39.08(a);~~
- (5) fails to regulate Users of its Small Vehicles to ensure the Users comply with this chapter;
- (6) displays an inability to deliver on operational requirements; or
- (7) violates laws or ordinances of the City or of other municipalities related to the subject of this chapter.

(b) If the Administrative Officer determines that a Permit should be denied, the Administrative Officer shall notify the applicant or Enterprise in writing that the application is

denied and include in the notice the specific reason or reasons for denial and a statement informing the applicant or Enterprise of the right to, and the process for, appeal of the decision.

(c) The Administrative Officer shall revoke a Permit if the Administrative Officer determines that the Enterprise has:

- (1) made false statements as to a material matter in the application concerning the Permit;
- (2) failed to maintain the insurance required under this chapter;
- (3) operated Small Vehicles in excess of the number authorized in the Permit;
- (4) failed to pay a fee required by this chapter;
- (5) failed to remove illegally parked Small Vehicles in a timely manner, as determined by the Administrative Officer;
- (6) failed to regulate Users who have failed to follow regulations; or
- (7) failed to deliver on operational requirements.

(d) After revocation of a Permit, an Enterprise is not eligible to apply for another Permit for a period of twelve (12) months.

(e) Any Enterprise or applicant whose application for a Permit is denied by the Administrative Officer, or an Enterprise whose permit has been revoked or suspended by the Administrative Officer, may file an appeal with the Board of Public Works and Safety, who will hear the appeal pursuant to their regulations. Any appeal shall be filed no more than thirty (30) days from the denial, revocation or suspension.

SECTION FIVE: Chapter 39, Section 39.04 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.04. Small Vehicle operating regulations.

(a) The Administrative Officer may by regulation impose appropriate conditions on the operation of Mobility Systems in order to further the purposes of this chapter, including, but not limited to, the following:

- (1) limits on the locations in which a Mobility System may operate;
- (2) limits on the locations where Small Vehicles may be stored or parked when not in use;
- ~~(2)~~(3) limits on the hours that a Small Vehicle in a Mobility System may operate;

~~(3)~~(4) limits on the number of Small Vehicles permitted in the Mobility System;

~~(4)~~(5) standards for the use and maintenance of Small Vehicles; and

~~(5)~~(6) any other regulations necessary to further the purposes of this chapter.

(b) The Enterprise shall employ a Fleet Manager, who shall maintain a consistent and regular physical presence in Tippecanoe County.

(c) Notwithstanding any other section of the City Code, a person using an EMPV shall operate it in the same manner as directed by state law and local ordinance for bicycles, unless otherwise posted, subject to regulation by the Administrative Officer. Small Vehicles cannot be operated on sidewalks nor shared-use paths where marked as prohibited. This ordinance shall not be read to modify the use of bicycles currently in effect nor change the rules of the road applicable to bicycles.

(d) A Small Vehicle in a Mobility System shall be maintained continuously in a reasonably clean and working condition.

(e) A User shall comply with all safety standards as prescribed by the Administrative Officer.

(f) Each Small Vehicle used in a Mobility System shall have a unique identification number that is visible to the User and nearby pedestrians that identifies both the Enterprise and the particular Small Vehicle.

~~(g)~~ An Enterprise shall maintain a website and a telephone service with a live person or persons who are available 24 hours a day. Each Small Vehicle used in a Mobility System shall have a posted notice, which shall be in compliance with Americans with Disabilities Act requirements, advising Users of the Enterprise's 24-hour telephone number, website, email address, and any mobile application information.

~~(g)~~(h) All complaints made to the Enterprise shall contemporaneously be relayed to the Administrative Officer via email including all relevant information as determined by the Administrative Officer.

~~(h)~~(i) Each ~~Small Vehicle~~EMPV shall be equipped with a bell, horn, or other audible signaling device.

~~(i)~~(j) The speed of an EMPV ~~Small Vehicle~~ shall be limited to 15 mph.

~~(j)~~(k) Each ~~Small Vehicle~~EMPV shall be equipped with the following if operated after sunset or before sunrise:

- (1) a lamp on the front, exhibiting a white light visible from a distance of at least five hundred (500) feet to the front; and

(2) a lamp on the rear, exhibiting a red light visible from a distance of at least five hundred (500) feet to the rear.

~~(k)~~(l) There shall be only one person on an EMPV ~~Small Vehicle~~ at any time.

~~(j)~~(m) A User may not ride an EMPV ~~Small Vehicle~~ while controlling an animal, either by hand or on a leash.

~~(m)~~(n) A User may not push, pull, tow or haul any other items while riding an EMPV ~~Small Vehicle~~. Items worn by a user are allowable.

~~(n)~~(o) An Enterprise may not permit any person under the age of 16 years to use a Small Vehicle in a Mobility System.

~~(o)~~(p) The Enterprise shall require a User to individually agree to each of the following conditions before the Enterprise may allow the User to access the Enterprise's Mobility System, and annually thereafter:

- (1) the User shall follow all traffic laws, such as not operating on sidewalks;
- (2) the User shall yield to pedestrians;
- (3) the User shall follow proper parking procedures; and
- (4) the User is encouraged to wear a helmet.

~~(p)~~(q) Each Small Vehicle used in a Mobility System shall have clearly visible advisements in substantially the following form:

- (1) sidewalk riding is prohibited;
- (2) the User shall yield to pedestrians;
- (3) the User may not operate the Small Vehicle while intoxicated; and
- (4) the User shall park in designated areas.

~~(q)~~(r) An Enterprise may not advertise for a third party on any equipment related to its Mobility System or on its Small Vehicles. If a violation of this subsection pertains to a particular Small Vehicle, the City may remove or caused to be removed the offending Small Vehicle from the public right-of-way and have the Small Vehicle impounded at the cost of the Enterprise.

~~(r)~~(s) An Enterprise shall provide Users with a mechanism to report a crash through the Enterprise's mobile application or posted phone number.

~~(s)~~(t) An Enterprise shall be jointly and severally liable for all violations of this chapter, including any violation of this chapter relating to its agents, subcontractors and employees.

SECTION SIX: Chapter 39, Section 39.05 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.05. Small Vehicle indemnification and insurance requirements.

(a) An Enterprise issued a permit under this chapter shall, as a condition of the issuance and continued validity of the permit to operate a Mobility System, indemnify, hold harmless and defend, by counsel of the City's choosing, the City and its respective officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission, or violation of any provision of this Code or other law by an Enterprise or any of its officers, agents, employees and users arising from the operation, maintenance, or use of the Mobility System and the Enterprise's Small Vehicles as well as the collection, use, misuse, or security measures related to any data obtained from or about users of the Mobility System. Such indemnity shall include attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by any insurance coverage required by this chapter or otherwise carried by the Enterprise. ~~This indemnification requirement shall be memorialized in an agreement~~ An indemnity agreement provided by the Administrative Officer shall be signed by an authorized representative of the Enterprise who is an officer or employee of the Enterprise with authority to legally bind the Enterprise, and the Enterprise shall be required to post an indemnity bond in favor of the City. Such agreement and indemnity bond shall be in a form approved by the corporation counsel. The indemnity described above shall also be applicable in all respects to any property owner who has a Small Vehicle located on the property owner's premises with or without permission.

(b) An Enterprise issued a permit under this chapter shall, as a condition of the issuance and continued validity of the permit to operate a Mobility System, purchase and maintain a policy of commercial general liability insurance that will protect it and the City from claims for damages because of bodily injury and personal injury, including death, and claims of damages to property which may arise out of or result from the operation, maintenance, or use of the Mobility System and the Enterprise's Small Vehicles.

(c) The commercial general liability insurance required under this section shall be not less than:

- (1) each occurrence limit of \$1,000,000.00;
- (2) \$100,000.00 for damage to rented premises;
- (3) \$5,000.00 for medical expenses;
- (4) \$500,000.00 for personal and advertising injury;
- (5) \$1,000,000.00 products/completed operations;

- (6) \$1,000,000.00 auto liability;
- (7) \$2,000,000.00 general aggregate limit; and
- (8) \$5,000,000.00 excess/umbrella liability.

Certificates of insurance naming the City as an additional insured showing such coverage then in force, but not less than the above amounts, shall be submitted by the Enterprise with its application for a permit under this chapter. Such certificates shall contain a provision that the policies and coverage afforded thereunder will not be canceled until at least thirty (30) days after written notice to the Administrative Officer.

(d) The Enterprise shall maintain worker’s compensation insurance coverage for its employees at the statutory limit, including employer’s liability coverage with limits not less than the following:

Bodily Injury by Accident	\$100,000 Each Accident
Bodily Injury by Disease	\$500,000 Policy Limit
Bodily Injury by Disease	\$100,000 Each Employee

(e) The insurance policies required under this section shall include a waiver of subrogation endorsement in favor of the City.

(f) The failure to maintain the bond or insurance policies required under this section throughout the entire term of a permit shall constitute a violation of this Code and shall be considered an emergency for purposes of emergency suspension.

(g) The Enterprise shall provide the City with certificates of insurance that verify the insurance policies required under this section.

SECTION SEVEN: Chapter 39, Section 39.06 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.06. Small Vehicle parking.

- (a) A Small Vehicle when not in use shall be parked in an upright manner only in areas designated and marked by the Administrative Officer. Areas shall be designated in collaboration with the office of the City Engineer so that devices are not parked in such a way that the parking blocks accessibility pursuant to the Americans with Disabilities Act of 1990.
- (b) Parking of a Small Vehicle ~~can only be done with~~requires consent of the property owner. Upon request of the property owner, the City may remove or cause to be removed, without notice to Enterprise, a Small Vehicle that is illegally parked on the property or that poses a public health or safety hazard. For each Small Vehicle removed by the City, the Enterprise shall pay the city a removal fee in an amount established by the City.

SECTION EIGHT: Chapter 39, Section 39.07 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.07. Small Vehicle data sharing.

(a) To inform transportation planning efforts and support safe, equitable and effective management of the Mobility System throughout the City, Enterprises shall provide anonymized data, including, but not limited to:

- (1) User origin and destination data; and
- (2) the total number of users and trips.

The Administrative Officer shall determine the scope, format, frequency and manner of data to be collected and transmitted to the City.

(b) Enterprises shall keep records of maintenance, operations, and reported collisions of its Small Vehicles. The Administrative Officer shall determine the frequency and method of reporting this information.

(c) All crash data shall be reported by the Enterprise to the Administrative Officer within 24 hours of being reported by the User. The Enterprise and all of its employee and contractors are required to provide information requested by law enforcement and otherwise cooperate with law enforcement during any investigation. A violation of this subsection shall result in the immediate revocation of the Enterprise's Permit.

(d) Enterprises shall cooperate with the City in the collection and analysis of aggregate data concerning its operations. The Enterprise shall provide a monthly report to the Administrative Officer that contains the following:

- (1) the maximum number of Small Vehicles in use by Users at any time in the previous month;
- (2) the total number of Users in the previous month;
- (3) the total number of Small Vehicles in service for the previous month;
- (4) the average number of rides per Small Vehicle per day;
- (5) a comprehensive list ~~the total number~~ of crashes reported in the previous month, including locations and times;
- (6) maintenance records and data;
- (7) anonymized aggregate data in the form of heat maps showing routes, trends, origins, and destinations, including trips into the City from other jurisdictions;

- (8) anonymized trip data that include the origin and destination, trip duration distance and data and time of the trip;
- (9) ~~User~~-reported issues and complaints from Users and the general public;
- (10) Anonymized banned User information;
- (11) a summary of any educational events conducted by the Enterprise; and
- (12) the number of local employees and contractors that maintain a consistent and regular presence in Tippecanoe County.

(e) Enterprises shall provide other reports at the Administrative Officer’s request.

(f) The Administrative Officer shall have access to an Enterprise’s data that accurately depict the location of all Small Vehicles in Tippecanoe County at any one time. Such data that are required to be disclosed under this subsection shall be real-time or semi-real-time Small Vehicle location data via a publicly accessible API.

SECTION NINE: Chapter 39, Section 39.08 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.08. Small Vehicle enforcement and removal.

(a) The Administrative Officer may prohibit the use of any Small Vehicle in the area surrounding any special event and the area affected by any public safety emergency. The Administrative Officer will inform the Fleet Manager of any special event prohibitions at least one week in advance, when possible.

(b) The Administrative Officer may direct days on which the Enterprise shall cease operations due to safety concerns, including, but not limited to, weather, actual or anticipated, sporting events, special events, regularly scheduled events, or public safety emergencies.

~~(c)~~ City may remove or cause to be removed, without notice to Enterprise, a Small Vehicle that is illegally parked or that poses a public health or safety hazard. For each Small Vehicle removed by the City, the Enterprise shall pay the city a removal fee in an amount established by the City. If the Enterprise commits a violation of this section more than two (2) times in a twelve-month period, the Administrative Officer may revoke the Enterprise’s permit.

~~(e)~~(d) Enterprise must remove or cause to be removed, improperly parked Small Vehicles in accordance with this chapter. Relocation requests must be fulfilled by the Enterprise within a period established by the Administrative Officer.

SECTION TEN: Chapter 39, Section 39.09 is added to the West Lafayette City Code as a new section, effective upon adoption of this ordinance:

Sec. 39.09. Permit fees and fines.

(a) Unless otherwise agreed in writing with the city, an Enterprise is subject to the following fees associated with this chapter:

Description	Section	Fee
Mobility System Enterprise Permit	§ 39.02	\$15,000.00 annually and \$1.00 per day per Small Vehicle operating within the permit's Mobility System
Small Vehicle removal fee	§ 39.08	\$100.00 plus \$10.00 per day storage

(b) A violation of this chapter is designated for enforcement through the violation bureau and is subject to a fine in the following amount:

Description	Section	Fine
Illegally parked Small Vehicle	§ 39.06	\$25.00
Any other violation of this chapter		\$100.00

(c) If a violation of this chapter pertains to a particular Small Vehicle, the City may remove or caused to be removed the particular Small Vehicle.

SECTION ELEVEN: If any section, sentence, clause, word or other provision of this article, or any ordinance amendatory thereof or supplemental thereto, shall be held invalid or preempted by state law, such fact shall not affect the validity of any other section, sentence, clause, word or other provision herein, which may be severable therefrom and be valid and capable of reasonable effect and application without such invalid portions, and to this end all such portions of this chapter are declared severable and shall be so construed whenever possible to do so.

INTRODUCED ON FIRST READING ON THE _____ DAY OF _____, 2019.

MOTION TO ADOPT MADE BY COUNCILOR _____, AND SECONDED BY COUNCILOR _____.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE _____ DAY OF _____, 2019, HAVING BEEN PASSED BY A VOTE OF ____ IN FAVOR AND ____ OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Bunder				
DeBoer				
Dietrich				

	AYE	NAY	ABSENT	ABSTAIN
Jones				
Keen				
Leverenz				
Sanders				
Thomas				
Wang				

Peter Bunder, Presiding Officer

Attest:

Sana G. Booker, Clerk

PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA
ON THE _____ DAY OF _____, 2019.

Sana G. Booker, Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE _____ DAY OF
_____, 2019.

John R. Dennis, Mayor

Attest:

Sana G. Booker, Clerk