

ORDINANCE NO. 2020-06
AN ORDINANCE REGULATING
PERSONAL ELECTRIC OR MOTOR POWERED VEHICLES

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

WHEREAS, the City of 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, in 2019 Personal Electric or Motor Powered Vehicles ("EMPV") (as defined herein) were introduced into the City through a Pilot Program while the City reviewed and adopted regulations concerning EMPV(s); and

WHEREAS, the Pilot Program was successful and the City now desires to adopt formal regulations concerning EMPV(s) and the regulations contained herein are necessary in order for the City of Lafayette to conserve and promote the health, safety, peace, and good order of the community; and

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

SECTION ONE: Chapter 7.14 – Mobility Systems is added to the Lafayette City Code as a new section, effective upon adoption of this ordinance:

Section 7.14.100 - 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 Bike and Pedestrian Coordinator or other mayor's designee, who will enforce and administer this ordinance.

City means the City of 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, or partially, propel its User, including, but not limited to, the following devices:

- 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
- 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 an EMPV.

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.

Sidewalk means any paved walkway less than eight feet wide.

User means a person who rides or operates an EMPV.

Section 7.14.110. Mobility System Enterprise Permit Requirements.

- A. 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 from the Administrative Officer and registers each EMPV as provided in this chapter.
- B. The fee for a Permit shall be One Thousand Dollars (\$1,000.00)
- C. The registration fee for each EMPV shall be \$1.00 per day per EMPV placed in the City by an Enterprise.
- D. 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.
- E. 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.
- F. The applicant shall provide the following information with their application:
 - (1) the maximum number of EMPVs proposed to be used in the Mobility System;
 - (2) a description of all EMPV(s) that will be used in the Mobility System, including the model, manufacturer, and color of each EMPV;
 - (3) color photographs depicting the EMPV(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 EMPV 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.

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

Section 7.14.120 - 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;
 - (4) fails to remove illegally parked EMPV in a timely manner, as determined by the Administrative Officer;
 - (5) fails to regulate Users of its EMPV 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 EMPVs 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 EMPVs 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. Any appeal shall be filed no more than thirty (30) days from the denial, revocation or suspension.

Section 7.14.130 EMPV 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 EMPV may be stored or parked when not in use;
- (3) limits on the hours that an EMPV in a Mobility System may operate;
- (4) limits on the number of EMPV(s) permitted in the Mobility System;
- (5) standards for the use and maintenance of EMPV; and
- (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. EMPV(s) cannot be operated on 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. An EMPV in a Mobility System shall be maintained continuously in a reasonably clean and working condition.
- E. Each EMPV 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 EMPV.
- F. An Enterprise shall maintain a website and a telephone service with a live person or persons who are available 24 hours a day. Each EMPV 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. Each EMPV shall be equipped with a bell, horn, or other audible signaling device.
- H. The speed of an EMPV shall be limited to 15 mph.
- I. Each EMPV shall be equipped with the following if operated after sunset or before sunrise:
 - (1) 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.
- J. There shall be only one person on an EMPV at any time.
- K. A User may not ride an EMPV while controlling an animal, either by hand or on a leash.
- L. A User may not push, pull, tow or haul any other items while riding an EMPV. Items worn by a user are allowable.
- M. An Enterprise may not permit any person under the age of 16 years to use an EMPV in a Mobility System.
- N. 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.

O. Each EMPV 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 EMPV while intoxicated; and
- (4) the User shall park in designated areas.

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

Section 7.14.140. EMPV 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 chapter 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 EMPV(s) 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. 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. The indemnity described above shall also be applicable in all respects to any property owner who has an EMPV 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 EMPV.

- C. The Enterprise shall maintain the following insurance coverages:
 - (1) General Liability (including automobile) with a per occurrence limited of \$1,000,000; \$2,000,000 general aggregate and \$5,000,000 excess/umbrella liability.
 - (2) Worker's Compensation insurance at the statutory limit. each occurrence limit of \$1,000,000.00;
- D. 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.
- 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 Chapter and shall be considered an emergency for purposes of emergency suspension.

Section 7.14.150 – EMPV Parking

- A. An EMPV when not in use shall be parked in an upright manner. In the Central Business District, or other areas where EMPV parking has been designated, an EMPV may only be parked in areas designated and marked. 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 access mobility pursuant to the Americans with Disabilities Act of 1990.
- B. Parking of an EMPV on private property requires consent of the property owner.

Section 7.14.160 EMPV data sharing.

- A. 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 EMPV 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 EMPV(s) in service for the previous month;
 - (4) the average number of rides per EMPV per day;
 - (5) a comprehensive list 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) 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.

- B. Enterprises shall provide other reports at the Administrative Officer's request.
- C. The Administrative Officer shall have access to an Enterprise's data that accurately depict the location of all EMPV 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 EMPV location data via a publicly accessible API.

Section 7.14.170 Small Vehicle enforcement and removal.

- A. The Administrative Officer may prohibit the use of any EMPV 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, an EMPV that is illegally parked or that poses a public health or safety hazard. For each EMPV removed by the City, the Enterprise shall pay the city a removal fee of One Hundred Dollars (\$100.00).
- D. Enterprise must remove or cause to be removed, improperly parked EMPV(s) in accordance with this chapter. Relocation requests must be fulfilled by the Enterprise within a period established by the Administrative Officer

Section 7.14.990 Penalties.

Whoever violates any provision of this chapter for which no penalty is provided, shall be fined not more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed on each day that a violation occurs or continues.

Section Two. This Ordinance shall be in full force and effect from passage, approval of the

Mayor and publication as may be required by law.

ADOPTED AND PASSED BY THE COMMON COUNCIL of the City of Lafayette, Indiana this _____ day of _____, 2020.

Nancy Nargi, President

ATTEST:

Cindy Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, for his approval and signature this _____ day of _____, 2020.

Cindy Murray, City Clerk

This Ordinance approved and signed by me on this _____ day of _____, 2020.

Tony Roswarski, Mayor

ATTEST:

Cindy Murray, City Clerk

Sponsored by: Ed Chosnek, City Attorney