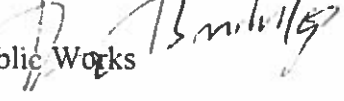


**MEMORANDUM OF INTERPRETATION
(REVISED)**

FROM: Ron Brundidge, Director
Detroit Department of Public Works 

PUBLICATION DATE: July 18, 2018

LAST REVISED: October 24, 2018

SUBJECT: Compliance by Users and Operators of Dockless Electric-Assisted Scooters with Selected Provisions of the Detroit City Code

Dockless electric-assisted scooters (“Scooters”) are a new type of mobility service provided by private emerging mobility companies (“EMCs”) that initially launched in Santa Monica, California in September 2017 and have quickly spread to many cities across the country. Multiple EMCs have aggressively deployed Scooters in new markets, often without any input or guidance from local municipal authorities. The arrival of large numbers of Scooters has created significant upheaval as well as shifts in travel behavior nationwide. Public agencies have struggled to get out ahead of venture capital-funded disruptive technologies for which existing regulations are either inapplicable, inadequate, or inappropriate. This has led to significant tensions between cities and EMCs.¹ In response, many municipalities have reacted by either 1) banning EMCs entirely and removing all Scooters, or (2) allowing EMC’s to operate without the benefit of any regulations or guidance to protect public safety.

Anticipating the arrival of EMCs and Scooters in Detroit, the City’s Department of Public Works (“DPW”), in consultation with the City Council’s Legislative Policy Division, among other departments, developed guidelines for how Scooters could be deployed without obstructing the public right of way or creating a public nuisance. These guidelines were developed based on a review of current best practices from other US cities, as well as an understanding of the use of streets, sidewalks, and other public spaces in Detroit, and the mobility options available to Detroit residents and visitors. These guidelines were published in the initial version of this memorandum, dated July 18, 2018.

Subsequent to the issuance of these guidelines, two EMCs have launched in Detroit – Bird, on July 27, and Lime, on August 28. The introduction of Scooters in Detroit has proven to be very successful and has demonstrated a clear demand for additional Scooters and for those Scooters to

¹ For example, Jamie McGee and Nate Rau, “Bird Scooters Company Receives Cease and Desist Letter After Two Days in Nashville” THE TENNESSEAN (May 9, 2018); Amber Wang “San Francisco Overrun by e-Scooters – The Story So Far,” GEARBRAIN.COM (July 13, 2018); Erica Irish, “Lime Pulls Scooters Out of Indy After City Cease- and Desist Order,” INDIANA BUSINESS JOURNAL (July 9, 2018).

serve more neighborhoods across the City. The guidelines are being revised and reissued in this memorandum order to respond to that demand.

This memorandum sets forth the current interpretation of DPW of certain existing provisions of the 1984 Detroit City Code (“Code”), as amended, as applied to Scooters. It only applies only to the right-of-way under the jurisdiction of the City of Detroit; it does not reflect any interpretation from the State of Michigan or Wayne County.

I. CITY CODE PROVISIONS SUBJECT TO INTERPRETATION:

Provisions of the Detroit City Code subject to this interpretation include:

- **Sec. 38-5-1.** Disorderly conduct.
- **Sec. 50-2-1.** Prohibited generally; violations and penalties; presumptions concerning identity of violator; enforcement; exceptions.
- **Sec. 50-2-6.** Notice to remove obstructions; environmental protection and maintenance department authorized to remove obstructions.
- **Sec. 50-2-7.** Disposition of removed property.

II. DOCKLESS ELECTRIC-ASSISTED SCOOTERS

A Scooter is a co-linear two-wheeled single-passenger vehicle that is equipped with a flat platform between the wheels upon which the passenger stands and a fixed waist-high handlebar above the front wheel, which the passenger uses for steering and balancing purposes. Scooters are equipped with a battery and electric motor, by which a Scooter can achieve speeds on flat surfaces in excess of 15 miles per hour.

In many cities, fleets of Scooters have been deployed in significant numbers by EMCs. A typical Scooter EMC operates by dispersing Scooters throughout an urban center and surrounding neighborhoods and making them available to its registered members for short-term rental through a mobile app-based platform. Through this platform, registered members can identify the location of nearby Scooters, claim the Scooter for rental, unlock the Scooter’s wheels, and pay for its use. Because Scooters do not need to be returned to a permanent docking station when not in use, a member can “park” a Scooter in any location upon conclusion of its use. Once parked, the Scooter remains in that location until it is claimed for use by another member. At the end of each day, the EMC collects all of its Scooters to be recharged overnight and dispersed the following morning.

The proliferation of Scooter fleets in numerous US cities has been met with enthusiasm by EMC members, but has also created new difficulties in managing use of public streets, alleys, sidewalks, and other public spaces. In some situations, inappropriate use of Scooters can create a public nuisance or other hazard to public safety. In other situations, Scooters may be inappropriately parked so as to obstruct the flow of pedestrian and vehicular traffic within streets, alleys, sidewalks, and other public spaces.

III. GUIDELINES

The following guidelines set forth DPW's current understanding of how Scooters can be operated so as to avoid causing an impermissible public nuisance or obstruction of public streets, sidewalks and other public spaces, in violation of the above-referenced City Code provisions.

A. Avoidance of Public Nuisance

Under Section 38-5-1 of the Code, "any person who shall make or assist in making any noise, disturbance, or improper diversion or any rout or riot, by which the peace and good order of the neighborhood is disturbed . . . shall be guilty of a misdemeanor." It is possible that the use of a Scooter could create such disturbance or diversion. For example, the use of a Scooter could cause an impermissible disturbance or diversion if: (1) the Scooter is damaged, defective, or otherwise not in good working order, (2) the Scooter is operated so as to pose a risk to the health, safety, and welfare of other individuals or vehicles, or (3) the Scooter is operated so as to create an unacceptable disturbance to the public peace.

Scooters can avoid violation of Section 38-5-1 by adhering to the following standards:

1. The Scooter is constructed to be durable and safe for outdoor public shared use in compliance with all federal, state, and city safety standards, including such standards promulgated by the U.S. Consumer Product Safety Commission, the State of Michigan, and the City of Detroit.
2. The Scooter is kept in clean condition, free of defect, and in good working order at all times while in operation. If the Scooter is damaged or defective in any way, it is removed from operation until all impacted parts and equipment are repaired or replaced.
3. To facilitate its proper tracking and management, the Scooter is assigned a unique identification number and features the following information, all of which is permanently affixed to and prominently displayed on its exterior:
 - a. Scooter EMC's logo or other branding;
 - b. Scooter EMC's contact information, including the telephone number, email, and website address for its public support service; and
 - c. The Scooter's unique identification number.
4. The Scooter's electric motor is limited to a power-assisted maximum speed of not more than fifteen (15) miles per hour.
5. The Scooter is equipped with front and rear lights that are visible from a distance of at least 500 feet under normal atmospheric conditions at night and that stay illuminated for at least ninety (90) seconds after the Scooter has stopped.
6. The Scooter is equipped with a global positioning system (GPS) receiver that is connected to the Scooter EMC's mobile platform and that pings the EMC not less than once every ninety (90) seconds while the Scooter is in use.
7. The Scooter is capable of remote lock-down by its EMC.

8. The Scooter is used primarily in bike lanes, where such lanes are present, or in the rightmost lane of a roadway, and on sidewalks only when doing so presents a low risk of disturbance to pedestrians. When used in bike lanes or roadways, the Scooter is used in general accordance with traffic regulations applicable to motor vehicles and bicycles occupying the same space. When used on sidewalks, the Scooter is operated at appropriate speeds and in a manner so as to give the right of way to pedestrian traffic.
9. The Scooter is not used within any defined area that the City has identified, by means of posting reasonable public signage at points of ingress around its perimeter, as off-limits to Scooters.
10. The Scooter is subject to regularly scheduled maintenance checks on not less than a monthly basis that cover, at a minimum, the following:
 - a. Front and rear tires are inflated to recommended pressure levels and are free of damage or wear;
 - b. Front and rear wheels are in alignment and spokes, hubs, and axles are tightened and free of damage or wear;
 - c. Front and rear fenders are clean and free of damage or wear;
 - d. Front and rear brakes are functional and brake levers are tightened and free of damage or wear;
 - e. Handlebar and headset bearings are tightened, handlebar turns through full range of motion, and handlebar covers are free of damage or wear;
 - f. All attachments to the handlebar, such as a front basket, bell, and bungee cords, are tightly affixed to the handlebar and free of damage or wear;
 - g. Front and rear lights are functional, illuminate to specified brightness, and free of damage;
 - h. Reflectors are clean and free of damage or wear;
 - i. Platform is stable, structurally sound, and free of damage or wear;
 - j. Kickstand is functional and free of damage;
 - k. Scooter is subject to test ride to confirm full functionality of all parts and equipment; and
 - l. All exterior surfaces are clean.

B. Avoidance of Obstruction of Public Streets, Sidewalks, and Other Public Places

Under Section 50-2-1 of the Code, “no person shall ~~obstruct~~ or encumber any public wharf, street, alley or any public place with animals, boxes, signs, barrels, posts, fences, buildings, dirt, stones, bricks, rubbish or with any other material or thing whatsoever, except as otherwise provided in this Code”. A Scooter constitutes a “material or thing” and is therefore subject to this provision. Because Scooters can be parked virtually anywhere, they pose a significant risk of impermissibly obstructing public streets, sidewalks, alleys, and other public places.

For example, a parked Scooter could create an impermissible obstruction if (1) it is parked in the travel lane of a roadway or bike lane so as to impede the normal flow of vehicular or bicycle traffic, (2) it is parked in a portion of the sidewalk or other public space so as to impede the normal flow of pedestrian traffic. (3) it is parked in any location that impairs ingress into or

egress from a building, subsurface vault, or other structure, such as a bus shelter, bench, or other street furniture, (4) it is parked so as to block access to any outdoor elements in the public space, such as fire hydrants, parking meters, signage, or other parked vehicles, or (5) it is parked in a manner that could damage landscaping or other natural vegetation.

Scooters can avoid violation of Section 50-2-1 by adhering to the following standards:

1. The Scooter is parked in accordance with the following standards:
 - a. The Scooter is parked on the sidewalk, fully contained within the “furniture zone” of the sidewalk corridor;
 - b. The Scooter is parked upright and is not positioned against or fastened in any way to any street furniture, public art, bicycle racks, light poles, traffic signals, utility poles, fences, fire hydrants, mail boxes, or street trees; and
 - c. The Scooter is parked so as to provide not less than six (6) feet of clearance across with width of the sidewalk to allow for unobstructed pedestrian flow along the sidewalk.
2. The Scooter is NOT parked in any prohibited area, which at a minimum includes any of the following:
 - a. Any vehicular travel lane, including bicycle lanes, alleys, traffic islands, medians, and traffic circles;
 - b. Any sidewalk in which the pedestrian zone is less than six (6) feet wide;
 - c. Any block without a paved sidewalk;
 - d. Area within the corner curb sight radius area of any sidewalk;
 - e. Area within the corner of two intersecting sidewalk corridors, as determined by the adjacent property lines extended;
 - f. Area within six (6) feet of any crosswalk;
 - g. Area within six (6) feet of a bicycle rack;
 - h. Area within six (6) feet of a fire hydrant;
 - i. Area within six (6) feet of a grating, manhole cover, or vault access lid;
 - j. Area within six (6) feet of a drinking fountain;
 - k. Area within six (6) feet of any public art;
 - l. Area within six (6) feet of a driveway or curb cut;
 - m. Area within six (6) feet of any portion of an ADA Ramp;
 - n. Area within six (6) feet of a marked disabled parking space;
 - o. Area within six (6) feet of a marked loading or taxi zone;
 - p. Area within six (6) feet of a sidewalk café or other outdoor dining area;
 - q. Area within six (6) feet of a municipal parking pay station;
 - r. Area within six (6) feet of any street furniture, including benches, bus shelters, transit information signs, news racks, permanent bike share docks, etc., with the exception of existing bicycle racks;
 - s. Area within ten (10) feet of a point of ingress or egress from a building or structure;

- t. Area within a bus stop, defined as the thirty (30) foot distance measured from the bus stop sign in the direction counter to traffic flow, passenger waiting area, or bus layover and staging zone;
 - u. Area occupied by landscaping, including but not limited to lawn, flowers, shrubs and trees, or area in which the Scooter could cause damage to such landscaping;
 - v. Area in which the Scooter could damage or interfere with the use of pipes, vault areas, telephone or electrical cables/wires or other utility facilities;
 - w. Areas subject to repaving or other construction activities;
 - x. Area in which the Scooter obstructs access to parked vehicles;
 - y. Area in which the Scooter obscures any traffic, regulatory, or informational sign;
 - z. Private property, unless permission is granted by the owner of the property
3. Because a group of parked Scooters could create an impermissible obstruction, even where each Scooter in the group is parked in accordance with the above specifications, the Scooter is not parked in a group of more than ten (10) Scooters, and any two (2) group of Scooters are separated by at least twenty (20) feet.
 4. To avoid obstructions arising from the general overcrowding of the City's streets, alleys, sidewalks, and other public places, the EMC deploys not more than 400 Scooters citywide at any given time.
 5. To avoid obstructions created by the abundance of Scooters within the City's densest areas of pedestrian and vehicular traffic, the Scooters in the EMCs fleet are relocated by upon the conclusion of daily operations, such that not less than 25% of the number of Scooters in the EMC's fleet are located outside of the Grand Boulevard Area, which consists of the portion of the City bounded by East Grand Boulevard, West Grand Boulevard, and the Detroit River.

C. Additional Measures to Facilitate Compliance

In addition to the standards set forth above, EMCs that operate Scooter fleets can adopt certain measures to facilitate compliance with the Code. Such measures could include:

1. Operation of a public telephone and online support service that is available at all times twenty-four (24) hours per day, seven (7) days per week, through which the EMC is able to accept and respond to questions, comments, complaints, and other inquiries, including notifications that a Scooter is defective, damaged, improperly operated, or improperly parked, from both members and non-members via telephone, email, and online form or other similar means.
2. Development and implementation of a member education program to provide members with information about the safe operation of a Scooter, including topics such as:
 - a. Technical specifications of the Scooters;
 - b. Best practices for safe use and operation of the Scooters;
 - c. Requirements, restrictions, and prohibitions contained in federal, state, or local law applicable to Scooters, such as age limitations, helmet and other safety requirements, and operating restrictions; and
 - d. Specifications contained in this memorandum.

3. Distribution of interactive safety messaging, such as text messaging or push notifications through the EMC's mobile platform, to members on a regular basis.
4. Because the City has jurisdiction to regulate and manage traffic flows through its streets, sidewalks, alleys, and other public places, ongoing data sharing and other collaboration with the City can enable EMCs to better ensure Code compliance. Such collaboration could assist the City in accommodating Scooters in its traffic management efforts, which could further reduce the risk that Scooters will pose a public nuisance or obstruction. Collaboration around the following types of data and metrics could most directly meet such ends:
 - a. Scooter utilization rates;
 - b. Membership volumes;
 - c. Trip volumes, by day of week and time of day;
 - d. Trip origins, destinations, distances, and routes;
 - e. Parking compliance rates;
 - f. Scooter theft and vandalism;
 - g. Scooter maintenance reports;
 - h. Complaints;
 - i. Accident/crash information; and
 - j. Real-time Scooter locations and availability, based on the General Bike Share Feed Specification (GBFS).
 - k. Daily numbers of Scooters deployed outside the Grand Boulevard Area

Such data and metrics, among other information that may be conducive to facilitate Code compliance, could be shared via an application program interface (API), periodic reporting, periodic meetings or conference calls, or some other means that is of mutual convenience to the City and the EMC.

D. Enforcement Measures in Response to Instances of Noncompliance

A violation of Section 38-5-1 of the Code constitutes a misdemeanor, which under Section 1-1-9 of the Code is punishable by "a fine of not more than five hundred dollars (\$500.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the court, for each such offense." Any Scooter user who is determined to be in violation of Section 38-5-1 may be subject to such penalty on an individual basis. If the City identifies large numbers or particular patterns of such violations associated with the Scooters of any single EMC, the City may consider the EMC itself to be in violation of Section 38-5-1, based on its systemic failure to prevent its members from engaging in disorderly conduct.

A violation of Section 50-2-1 of the Code also constitutes a misdemeanor and is similarly punishable by a fine of up to \$500.00 or imprisonment not to exceed ninety (90) days. Additionally, under Section 50-2-6, the City is authorized to remove an obstruction upon 24-hour notice to the owner of the obstructing item. Upon removal, the City is authorized under Section 50-2-7 to store removed obstructions for thirty (30) days, at which time the City can consider the item to be abandoned and dispose of it accordingly. Any Scooter user who is determined to be in violation of Section 50-2-1 may be subject to a misdemeanor penalty on an individual basis. If

the City identifies a Scooter as creating an obstruction but cannot identify the individual who caused such obstruction, it may, without notice to the EMC, relocate the Scooter to a nearby publicly accessible location as a purely remedial measure to eliminate the obstruction without assessing any penalty. The City may alternatively remove the Scooter upon 24-hour notice to the EMC and store it in accordance with Sections 50-2-6 and 50-2-7. If the City identifies large numbers or particular patterns of such violations associated with the Scooters of any single EMC, the City may consider that EMC itself to be in violation of Section 50-2-1, based on its systemic failure to prevent its members from impermissibly creating public obstructions, and may, upon the requisite 24-hour notice, remove the EMC's entire fleet of Scooters and store them in accordance with Sections 50-2-6 and 50-2-7.

IV. DISCLAIMER

The interpretation contained in this memorandum is provided solely for informational purposes to benefit the common understanding of other City departments, Scooter owners, operators, and users, and the general public on this issue. This interpretation is based on the information presented herein and DPW makes no representation as to the accuracy, quality, content, completeness, or suitability for any purpose of such information. This interpretation does not create new law or carry the force and effect of law and should not be construed or relied upon as legal advice. This memorandum reflects DPW's current interpretation of the issue and does not represent the position of any other department or agency of the City of Detroit. This interpretation is subject to change at any time and without notice as DPW's understanding of and experience with Scooters and EMCs continues to develop.