

ORDINANCE 7-C-22

Synopsis: This ordinance, if adopted, would amend the City of Huntington, Indiana's Code of Ordinances to include a new Chapter 75.5 E-Scooters, regulating the use and operation of E-Scooters within the City of Huntington.

AN ORDINANCE REGULATING THE COMMERCIAL DEPLOYMENT AND OPERATION OF E-SCOOTERS

WHEREAS, the City of Huntington, Indiana ("City") finds that the use of motorized scooters in the City while desirable, presents Council with the task of regulating their use while protecting the health, safety, and welfare of the City's residents and visitors; and

WHEREAS, the City finds that it is in the best interest of the health, safety, and welfare of residents and visitors of the City to regulate the use of motorized scooters within the City.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Huntington, Indiana, in meeting duly assembled and upon information deemed by it to be sufficient, the Code of Ordinances of the City of Huntington is hereby amended by the inclusion of the following new Chapter 75.5: E-Scooters as follows:

Chapter 75.50: E-Scooters

Section 75.51: Definitions.

For purposes of this chapter, the following definitions shall apply:

"BPW&S" means the City's Board of Public Works and Safety.

"Company" means a person or entity that provides, or otherwise makes available to the public, E-Scooters to be used by the public on a temporary basis for payment.

"Deploy" means all E-Scooters, including those impounded or towed, that are made available by a licensed Company for public use.

"Downtown District" means that geographical area of the City bounded by Warren and Cherry Streets to the East and West and by Park Drive and State Street to the North and South.

"E-Scooter" has the meaning defined by Indiana Code 9-13-2-49.3 as an Electronic Personal Assistive Device except that said definition does not include motorized vehicles for use by just one person in a sitting position that are used by persons whose mobility has been impaired, either temporarily or permanently, by an injury, disease, or condition.

"HPD" means the Huntington Police Department.

Section 75.52: Applicability.

A. The regulations under this chapter apply to the use and operation of E-Scooters within the City, including use by an individual of a privately-owned E-Scooter deployed by a Company under this chapter.

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B. To the extent they are not inconsistent with any provisions provided for herein, E-Scooter shall abide by the provisions of the Huntington City Code.

Section 75.53: Obedience to traffic-control signals.

Any person operating an E-Scooter on a roadway shall obey the instructions of official traffic control signals, signs, and other control devices, as well as traffic law, applicable to vehicles, unless otherwise directed by a law enforcement officer. Any person operating an E-Scooter shall yield to other traffic and pedestrians.

Section 75.54: Riding on roadways, bicycle paths, and sidewalks.

- (A) No person shall operate an E-Scooter on any of the following:
 - (1) Interstate Highways
 - (2) Highways
 - (3) Expressways
- (B) E-Scooters may be operated on City sidewalks and trails under the following conditions:
 - (1) Sidewalks: E-Scooter operators must:
 - a) obey all traffic laws
 - b) yield to all pedestrians
 - c) slowdown in congested areas
 - d) slow down to 3-4 miles per hour in the Downtown District
 - e) provide contact information in the event of an accident
 - (2) Trails: E-Scooter operators must:
 - a) obey all traffic laws
 - b) yield to all pedestrians
 - c) slowdown in congested areas
 - d) provide contact information in the event of an accident
- (C) Any person operating an E-Scooter on a public roadway not otherwise listed in subparagraph (A) above must obey all traffic laws.

Section 75.55: Rules and Regulations.

- (A) Administrative Rules and Regulations.
 - (1) BPW&S may adopt administrative rules and regulations to implement the provision of this chapter.
 - (2) No person or Company shall violate BPW&S' administrative rules and regulations. Any violation of the same shall constitute a violation of this chapter and shall subject the person or Company to penalties established in this chapter.
- (B) License.
 - (1) In order for a Company to deploy an E-Scooter in the City, the Company must obtain a license from the office of the Clerk-Treasurer, hereinafter the "Administrator." Licenses expire annually and must be renewed prior to expiration.
 - (2) The Company shall pay License fees not to exceed \$300. The City may amend the license fees at any time which amended fee shall take effect on the next occurring April 1.

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(3) Each Company is required to maintain liability insurance in amounts not less than \$500,000.00 per incident and \$1,000,000.00 aggregate. A copy of the Company's Certificate of Insurance must be provided to the Administrator as a prerequisite to obtaining a license. The certificate of insurance shall name the City as an additional insured party and shall not be cancellable without thirty (30) days' prior written notice to the City. The City may amend the ordinance to require higher limits of liability at any time without prior notice to the Company, and in considering whether to amend the provisions with regard to the limits of liability, the City may request financial information from the Company to determine an appropriate limit of liability. In no event shall the City require the Company to provide a limit of liability higher than that required by any other entity to whom the City has issued or is considering issuing a permit under this ordinance.

(4) As a condition of its license, Company shall indemnify, defend, and hold harmless the City against any and all liability, actions, or claims resulting from the deployment, use, and operation of any of its E-Scooters.

(5) As a condition of its license, each Company shall require user to sign or check a box within its mobile application, prior to use of the E-Scooter, which indicates that the user releases the City and its officials, officers, employees, representatives, and agents from any and all claims related to the deployment, use or operation of an E-Scooter.

(6) The issuance of a license to a company does not create and shall not be construed to create a joint venture, employment relationship, or independent contractor relationship between a Company and the City.

(7) The City Administrator may revoke a Company's license for a good cause, which includes, but is not limited to the following:

- a. Failure to pay fines imposed within thirty (30) days' of notice,
- b. Violation of a condition of the license,
- c. Violation of any statute or Ordinance governing E-Scooter.

(8) Safety, conditions, and appearance; equipment.

(a) An E-Scooter shall always be maintained in a reasonably clean and working condition.

(b) All E-Scooters must meet all safety requirements as prescribed by the City.

(c) Every E-Scooter shall have a unique ID number that is visible to the user and nearby pedestrians that clearly identifies both the Company and the specific E-Scooter.

(d) Every E-Scooter shall have posted on it a notice to the user of the 24-hour telephone contact phone number and e-mail or website address of the Company.

(e) Every E-Scooter shall be equipped with a bell, horn, or other lawful sound signaling device.

(f) Every E-Scooter shall be equipped with the following if able to operate after sunset and before sunrise:

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- (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 front; and

(C) E-Scooter Restrictions.

- (1) Each Company shall only deploy E-Scooters that comply with the restrictions established in this Section (C).
- (2) BPW&S may establish the number of E-Scooters permitted for deployment from time-to-time.
- (3) E-Scooters may only be deployed in areas approved by the City.
- (4) All E-Scooters deployed by a Company shall comply with the American National Standards Institute (ANSI), ASRM International, and Consumer Product Safety Commission standards, if applicable, as well as any additional standards required by BPW&S.
- (5) A Company shall retrieve and remove all E-Scooters that are inoperable or unsafe and shall immediately remotely lock down the device upon notice of such condition from any person, business, or the City.
- (6) No person shall operate an E-Scooter in excess of seventeen (17) miles per hour within the City. Each Company shall ensure that its E-Scooters are not capable of exceeding a speed of seventeen (17) miles per hour.
- (7) Each Company shall provide on its mobile application notice of the City's local regulations governing E-Scooters and the full text of said regulations.
- (8) A Company shall remove its E-Scooters from all or any part of the public right-of-way when instructed by the City due to public safety concerns, including, but not limited to inclement weather, special events, or emergencies.

(D) Rider Restrictions.

- (1) No person shall operate an E-Scooter unless that person is at least sixteen (16) years of age and has a valid form of identification showing their age.
- (2) No more than one individual may operate or ride on an E-Scooter at a time.
- (3) No person shall operate an E-Scooter while intoxicated, by alcohol or a controlled substance, in violation of Indiana Code § 9-30-5.
- (4) No person shall operate an E-Scooter while controlling an animal, whether by hand, leash or alternate medium.

Section 75.56: Parking.

(A) This section applies to all E-Scooters, whether or not owned by a Company or a private individual.

(B) E-Scooter parking is permitted on sidewalks subject to the following limitations:

- (1) E-Scooters shall be parked in an upright position by use of a kickstand and shall not be placed so as to lean on any structure or building.
- (2) E-Scooters shall be parked abutting the street curbside and parallel to the street.
- (3) E-Scooters shall be parked to leave a clear, straight path at least forty-eight (48) inches wide measured from the widest part of the scooter and not including the width of any curb.
- (4) Under no circumstances shall an E-Scooter be parked in a way that obstructs any of the following:

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- a. A parking space, including any parking access aisle,
 - b. Any loading zone,
 - c. Any Curb Ramp,
 - d. Any public transportation infrastructure, including, but not limited to, bus shelters, bus stop signs, or passenger waiting areas,
 - e. Any driveway,
 - f. Any entrance to or exit from a building,
 - g. Any fire hydrant, emergency call box, or other emergency facility,
 - h. Any parking meter,
 - i. Any pole or utility box,
 - j. Any street furniture or news rack,
 - k. Any commercial window display or,
 - l. Any crosswalk entry or exit, or access to a crosswalk button.
- (5) Under no circumstances shall any E-Scooter be parked in violation of the Americans with Disabilities Act (ADA), nor shall any E-Scooter be parked in a way which impedes accessibility to any parking zones or parking spaces designated for persons with disabilities.
- (6) No person shall park an E-Scooter in any street or alleyway.
- (7) BPW&S may grant a Company permission to park its E-Scooters in a designated area upon property controlled exclusively by the City.
- (8) The Company shall remove or re-park every E-Scooter that is parked in violation of this section within two (2) hours of receiving notice of a violation from any person, business, or the City.
- (9) Except where parked in a location specifically approved by the City, E-Scooters shall not be parked on private property, without the consent of the property owner.
- (C) Subject to this section, E-Scooters shall not be parked in the public right-of-way without the City's consent.
- (D) Impounding and Towing.
- (1) HPD officers may remove and impound E-Scooters parked in violation of this section. Company shall pay all fees and penalties of impoundment, towing, and storage as established by BPW&S.
 - (2) The City will provide to a Company of an impounded scooter and the Company shall pay the fine and collect the impounded scooter within seven (7) days of receipt of notice; provided that a Company's failure to do so within the required time shall entitle the City to charge additional fines as established by BPW&S. Failure by a Company to collect an impounded E-Scooter within sixty (60) days of receipt of notice allows the City to dispose of the impounded E-Scooter in any way and to collect the cost of disposal from the Company.

Section 75.57: Reporting Requirements and Data Sharing.

(A) Each year, or whenever the previously provided information changes, a licensed company shall make available to the Administrator the following information:

- (1) the maximum number of E-Scooters proposed to be used in the City;
- (2) a description of the E-Scooters to be used in the City;
- (3) color photographs depicting the E-Scooters to be used in the City;

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- (4) a GPS map depicting the service area;
 - (5) 24-hour customer service telephone number, and email or website;
 - (6) rules and regulations for the Company's Scooter Users;
 - (7) proof of Liability Insurance;
 - (8) maintenance plan;
 - (9) staffing plan;
 - (10) any other information deemed necessary by the Administrative Officer.
- (B) Each month, a licensed Company shall make available to the Administrator the following anonymized data:
- (1) E-Scooter use rates;
 - (2) Trip volume;
 - (3) Average number of E-Scooters in use per week;
 - (4) Number of E-Scooters removed each day;
 - (5) Average number per week of parked E-Scooters deployed in the City;
 - (6) Information regarding theft and vandalism of E-Scooters;
 - (7) Maintenance records for E-Scooters deployed in the City;
 - (8) Records of accidents or crashes involving E-Scooters; and
 - (9) Any other information that may be required by HPD
- (C) A Company shall communicate clearly to users whether the Company will share, collect, or sell any of the user's data with a party other than the City or any of its agencies or the Company, the Company shall provide users with an "opt in" option to the sharing, collecting, or selling of such user data.

Section 75.59: Enforcement and Penalty.

Any person or entity violating any provision of this chapter shall be penalized pursuant to the provisions of Section 36.04 of the City Code, as it now exists or is subsequently amended or superseded.

BE IT FURTHER ORDAINED that Section 36.04 Code Violations, is hereby amended by including the following penalty amounts:

		PENALTY		
CODE REFERENCE	VIOLATION	1 ST VIOLATION	2 ND VIOLATION	ADDITIONAL VIOLATIONS
Chapter 75.5	E-Scooters	\$25	\$50	\$100

BE IT FINALLY ORDAINED, that this Ordinance shall be effective upon its adoption and publication all in accordance with Indiana law.

[Signature Block Next Page]

A motion to consider for Final Adoption on the same day of introduction was [NOT OFFERED or NOT SUSTAINED or SUSTAINED] by a vote of 4 in favor and 3 opposed. *Suspend rules Didn't pass*

Duly adopted on First Reading this 10 day of May, 2022, by a vote of 4 in favor and 3 opposed. *Funk, Johnson, Pike* *Blomeke, Chapman, Felton, Marshall*

Duly adopted on Final Reading this 24 day of May, 2022, by a vote of 4 in favor and 2 opposed. *Funk, Pike Johnson absent*
CITY OF HUNTINGTON, INDIANA by its COMMON COUNCIL

Voting In Favor:

Joe Blomeke
Charles Chapman

PJ Felton

Dave Funk
Todd Johnson
Seth Marshall
Paul Pike

Joe Blomeke

Charles Chapman
(President)

PJ Felton

Dave Funk

Todd Johnson

Seth Marshall

Paul Pike

Voting Opposed:

Dave Funk

ABSENT

Paul Pike

Attest:

Christi McElhaney
Christi A. McElhaney
City Clerk-Treasurer

Presented by me to the Mayor for approval or veto, this 24 day of May, 2022.

Christi McElhaney
Christi A. McElhaney
City Clerk-Treasurer

This ordinance having been adopted by the Common Council and presented to me is [APPROVED or VETOED], this 24 day of May, 2022.

Richard Stick
Richard Stick
Mayor of the City of Huntington, Indiana