

Board of Public Works

Staff Report

Project/Event:	Shared-Use Motorized Scooter Operator License Application
Petitioner/Representative:	Economic and Sustainable Development
Staff Representatives:	Michael Rouker, City Attorney Adam Wason, Director Public Works Alex Crowley, Director Economic and Sustainable Development
Date:	September 17, 2019

Report:

In September, 2018 Bird and Lime scooter companies began operating shared-use scooter rental businesses in Bloomington. In November, the City entered into interim operating agreements with the two companies pending the development and enactment of long-term scooter legislation. Effective September 1, 2019 the City enacted the anticipated legislation, which governs both shared-use motorized scooters and the companies, such as Bird and Lime, that serve as Operators. This legislation requires Operators to obtain a license from the Board of Public Works. The form and requirements of this license application are now before the Board for approval.

Key provisions of the application:

- Operators to provide descriptions of the scooters deployed and services provided, including pricing, service area, and safety compliance
- Outline of legal requirements under the Bloomington Municipal Code, including:
 - Safety and maintenance requirements
 - Rider information to be placed on the scooters and made available online and on the user app
 - Impoundment and penalty provisions
- Agreement that the City may, on notice, temporarily restrict service areas for special events (Attachment A)
- Operators must provide certain ridership data with the City
- Minimum insurance requirements and risk transfer
- There is no cap on the number of scooters that may be deployed under the license; however, staff may require a reduction in deployment in cases of noncompliance or failure to meet a threshold rate of average rides per day per scooter
- Licensing fees that the Operators will pay to the City
 - Annual fee: Ten thousand dollars (\$10,000) per year
 - Monthly fee: Fifteen cents (\$0.15) per ride, per month

However, the monthly fee may be reduced to ten cents (\$0.10) per ride, per month if the Operator agrees to simultaneously deploy shared-use bicycles in a ratio of one bicycle to every five scooters (Attachment B)

- Attachment B sets forth terms of the Shared Use Bicycle Agreement:
 - 1:5 bicycle to scooter deployment ratio
 - Bicycles and their rentals are subject to Bloomington Municipal Ordinance requirements on bicycle rental and parking
 - No license fee or per-ride fee is assessed for shared-use bicycles under this Agreement.

Bloomington Municipal Code §15.58.040(d) requires that an application for a shared-use motorized scooter license be made on a form provided by the Board of Public Works, which is why this License Application is before the Board for approval. Staff anticipates bringing completed applications to the Board for approval at its October 1, 2019 meeting.

Staff recommends approval of the Shared-Use Motorized Scooter Operator License Application

Recommend Approval

Denial by:

Michael Rouker

Board of Public Works
Staff Report

Shared-Use Motorized Scooter Operator License Application

**City of Bloomington Board of Public Works
% Economic & Sustainable Development Department
401 N. Morton St., Suite 150
Bloomington, IN 47404
(812) 349-3418**

1. Application and License Information

This is an application for a Shared-Use Motorized Scooter Operator business license per Chapter 15.58 (Motorized Scooters and Shared-Use Motorized Scooters) of the Bloomington Municipal Code. It is unlawful to operate as a shared-used motorized scooter operator without first obtaining a license from the Board of Public Works. Any person who intends to operate a shared-use motorized scooter company, renew an existing shared-use motorized scooter company license, or expand its existing service in the city must file this form with the City. This license is good for one year from the date it is issued, subject to the provisions of BMC 15.58.150.

Return this completed application to esd@bloomington.in.gov or to the City Hall, 401 N. Morton Street Suite 150, Bloomington, IN 47404. Direct any question regarding this application to Economic & Sustainable Development at (812) 349-3418.

2. Applicant Information

Name of Company	
Address of Company	
City, State, Zip	
Phone Number	
Website	
Email	
Social Media Website	

3. Company Information (complete duplicate fields only if different from above)

Name of Company:	
Address of Company:	
City, State, Zip:	
Phone Number:	

Website:	
Email	
Social Media Website	
Addresses/Handles:	
Company is a(n):	<input type="checkbox"/> LLC <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Other

4. Company Incorporation Information (For Corporations and LLCs Only)

Date of Incorporation or Organization:	
State of Incorporation or Organization:	
(If not Indiana) Date qualified to transact business in the State of Indiana:	
Employer Identification Number	

5. Prior licenses

Have you had a similar license, either from the City of Bloomington or a different municipality, revoked?

Yes No

If Yes, provide details:

6. Descriptions, Pricing, and Service

- A. Please provide the following information with regard to every type of scooter you may deploy within the City of Bloomington.

Scooter Make	Scooter Model	Color

B. Indicate a schedule of rates and charges you will charge to users (if necessary, attach additional documents):

C. Describe the safety inspection program you will use to ensure the safety of all deployed scooters (if necessary, attach additional documents):

D. Describe your local staffing and operational plan, including information regarding local staffing and any contractor you will utilize to perform services related to your scooters (if necessary, attach additional documents):

E. Attach a GPS or GIS-based map depicting the proposed service area of your scooters.

F. Attach color photographs depicting each type of scooter that will be deployed. Please include one or more photographs that clearly depict the notices required to be displayed on each scooter per BMC 15.58.090.

7. Required Public Outreach and Communications

A. Identify your company's 24-hour customer service number through which users and members of the public may contact you company:

B. Provide the URL to a link or other method of access to a Bloomington-specific page on your website as required by BMC 15.58.120(c):

C. Provide details of the helmet distribution plan described in BMC 15.58.120(e):

D. Attach an outline and proposed schedule for the week-long safety campaigns required by BMC 15.58.120(d). At a minimum, the outline shall include the following:

- Dates and hours of each safety campaign to be held during the term of this license;
- Proposed staffing levels for each campaign;
- A copy of, or the written/pictorial content of, all materials and informational signage to be used in the campaign;
- The planned method of dissemination for campaign information and materials.

8. Insurance

Attach proof of insurance in the form of an insurance certificate naming the City of Bloomington as an additional insured and indicating that the company's insurance is primary. The insurance certificate must show proof of the following minimum insurance limits:

Commercial General Liability: \$1,000,000 per occurrence, \$2,000,000 in the aggregate
Automobile Liability: \$1,000,000 combined single limit
Umbrella/Excess Liability: \$5,000,000

The Umbrella/Excess Liability policy shall apply to both the Commercial General Liability and Automobile Liability policies. All policies shall be endorsed to indicate that the City shall receive thirty days prior written notice of policy cancellation or non-renewal of coverage.

9. Indemnification

By signing and submitting this application, the undersigned, in consideration for the issuance of a license by the City of Bloomington Board of Public Works, agrees to the following:

- A. The undersigned is a duly authorized representative of the applicant shared-use motorized scooter Operator.
- B. The undersigned, in exchange for the issuance of a license by the City of Bloomington Board of Public Works, agrees to release, hold harmless and forever indemnify the City of Bloomington and any and all City employees, officers, and agents from any claim or claims which may arise out of any incident connected with or in any way related to his/her issuance of a license by the City of Bloomington or his/her operation of a business which is licensed by the City of Bloomington. This includes claims for personal injury, death, property damage, and/or any other type of harm or injury.

- C. The undersigned shall, and hereby does indemnify, defend, and hold harmless the City of Bloomington and any and all City employees, officers, and agents from and against any and all actions, costs, claims, suites, losses, expenses or damages, including but not limited to attorneys' fees and court costs, arising out of the undersigned's operation of a business which has been licensed by the City of Bloomington.
- D. The undersigned understands this release binds him/herself, the applicant shared-use motorized scooter Operator, and all heirs, executors, partners, co-owners, administrators, successors and assigns of each.
- E. The undersigned acknowledges that he/she has read this section and understands all of its terms. The undersigned consents to the terms of this release voluntarily and with full knowledge of its significance.

10. List of Legal Requirements (Chapter 15.58 of the Bloomington Municipal Code)

The following requirements apply to all companies ("Operators") deploying scooters within the City of Bloomington. Failure to comply with the following requirements shall subject the company to fines and may result in revocation of the company's license to operate in the City.

- A. All scooters shall have their speed governed so that they are capable of traveling no faster than 15 miles per hour on a flat, dry surface.
- B. All scooters shall be assigned a unique identification number that is visible to users and to nearby pedestrians.
- C. All scooters must be equipped with a bell, horn, or other lawful signalling device.
- D. All scooters shall be equipped with lights and brakes in accordance with Bloomington Municipal Code § 15.58.090(f) and as required by state law.
- E. All scooters shall be capable of being remotely locked down by the Operator and shall be maintained in a reasonably clean and proper working condition.
- F. The following items must be displayed on each scooter:
 - a. The required 24-hour phone number stated in this application;
 - b. The Operator's website;
 - c. Mobile application information for the Operator;
 - d. That users are encouraged to wear helmets, are required to obey all traffic laws, are required to yield to pedestrians, and are required to follow proper parking procedures.
- G. All Operators must educate users on legal scooter parking and legal scooter use (1) on their Bloomington-specific website, (2) within their mobile application, and (3) as part of their mandatory, semi-annual outreach programs.
- H. All Operators shall mandate that users take a photograph of their scooter at the conclusion of each ride.

- I. Operators must provide a price discount of at least fifty percent (50%) to members of the public who can demonstrate participation in any local, state, or federally-administered assistance program.
- J. Any scooter that poses a hazard to public health and safety may be immediately removed and impounded by the City. The City may dispose of any scooter that has been impounded and stored by the City for a period of 180 or more days. Removal, impoundment, storage and disposal of a shared-use motorized scooter shall be a Class E Traffic Violation, subject to penalties set forth in BMC 15.64.010(e).
- K. Operators shall provide the City with Application Programming Interface (API) access to real-time information on their entire Bloomington fleet that comports with the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) standards, or any broadly adopted similar standards that are developed subsequently.

11. License Fees and Deployment Allowances

- A. The applicant shall submit a payment of \$10,000 in the form of a check along with this application. The check shall be deposited upon approval of this application by the Board of Public Works.
- B. In addition, the Shared-Use Motorized Scooter Operator shall be responsible for paying a fee per ride taken on any scooter the Operator has deployed in the City. The City shall invoice the Operator for the total per-ride fee owed on a quarterly basis. The Operator shall remit payment to the City within thirty (30) days of receipt of said invoice.

The amount of the fee shall be fifteen cents (\$0.15) per ride taken. However, the Operator may execute the attached Shared Use Bicycle Agreement and receive a reduced fee of ten cents (\$0.10) per ride.

- C. The initial number of scooters allowed to be deployed under this license is not limited; however, the Board of Public Works, through its designee, the Department of Economic and Sustainable Development, reserves the right, at its discretion, to set and/or lower the number of deployed scooters allowed under this license if the following average rides per day per scooter thresholds are not met in any given calendar month:
 - a. In the months of April through October: 4 rides per day per scooter;
 - b. In the months of November through March: 2 rides per day per scooter.

If the City determines that the threshold has not been met in any month, it will give the Operator notice and opportunity to make internal adjustments to fleet deployment. If the average ride figures remain below the threshold for the first two weeks of the subsequent month, the City may order a reduction in the number of scooters allowed under this license.

Furthermore, in the event that repeated parking violations result in an excessive number of impoundments of the Operator's scooters by the City in any calendar month, the City may order a reduction in the number of scooters allowed under this license. The determination of what constitutes an excessive number of impoundments is made at the sole discretion of the City.

The Operator may petition the City for a review of the number of allowed scooters after 30 days have elapsed from the date of an order of reduction.

12. Summary of Required Attachments

- A. A GPS or GIS-based map depicting the proposed service area of your scooters.
- B. Color photographs depicting each type of scooter that will be deployed. Please include one or more photographs that clearly depict the notices required to be displayed on each scooter per BMC 15.58.090.
- C. An outline and proposed schedule for the week-long safety campaigns required by BMC 15.58.120(d). At a minimum, the outline shall include the following:
 - Dates and hours of each safety campaign to be held during the term of this license;
 - Proposed staffing levels for each campaign;
 - A copy of, or the written/pictorial content of, all materials and informational signage to be used in the campaign;
 - The planned method of dissemination for campaign information and materials.
- D. An insurance certificate that is compliant with Section 8 of this Application.
- E. A check made out to the City of Bloomington in the amount of ten thousand dollars (\$10,000).

By signing below, the undersigned certifies that he/she is authorized to execute this application on behalf of the shared-use motorized scooter Operator herein identified, that the information contained herein is true and accurate, and that he/she intends to be bound by the terms and conditions of this application.

Printed Name

Title

Signature

Date

Name of Company

ATTACHMENT A - SPECIAL EVENT AGREEMENT

The undersigned, in consideration for the issuance of a license by the City of Bloomington Board of Public Works, agrees to the following:

The City of Bloomington may, at its sole discretion, designate special event areas in which scooters are temporarily prohibited from being located or operated. The City shall provide the Operator three days' notice of such designation, including a description of the area and the dates/times of the prohibition.

The undersigned shall comply with all such designations. Failure to comply will constitute a violation of BMC 15.58 and shall be subject to penalties as outlined in BMC 15.58.040(g).

By his/her signature below, the undersigned agrees to the provisions of this Agreement.

Printed Name

Title

Signature

Date

ATTACHMENT B - SHARED USE BICYCLE AGREEMENT

In consideration for a reduction in the amount of the scooter fee per ride taken, the undersigned agrees to the following:

1. The Operator will provide shared use bicycles for public rental within the proposed scooter service area described in Section 6(E) of the Shared-Use Motorized Scooter Operator License Application. At all times, the Operator will deploy a minimum of one bicycle for every five deployed scooters.

2. The Operator shall comply with state law, state regulations, and the requirements of Bloomington Municipal Code § 15.56.070 regarding bicycle rentals, including:

(a) No person may rent a bicycle to another person unless the bicycle is equipped as required by state law.

(b) Any person or business renting or offering a bicycle for rent in this city shall indemnify any person renting such bicycle for fines incurred due to any noncompliance with state equipment requirements. Failure to indemnify renter for any fines incurred is a Class B Traffic Violation subject to the penalty listed in Bloomington Municipal Code § 15.64.010(b).

3. Shared-use bicycles shall be subject to bicycle parking provisions of Bloomington Municipal Code § 15.56.090:

No person shall park a bicycle:

- (1) In a manner as to hinder or obstruct pedestrian traffic or to damage public property in any manner; or
- (2) In any space designed and intended for use by motor vehicles unless such area shall be specifically allocated to bicycle parking by placement of a bicycle rack.

Bicycles parked in violation of this provision shall be subject to impoundment and penalties as set forth in Bloomington Municipal Code § 15.56.090(c) and Bloomington Municipal Code § 15.64.010(d).

4. All notices and information required by Section 10(F) of the Shared-Use Motorized Scooter Operation License Application shall be displayed on every bicycle deployed pursuant to this Agreement.

5. This Attachment is subject to all terms and conditions set forth in the Shared-Use Motorized Scooter Operator License Application, and the term of the Shared Use Bicycle Agreement shall run concurrently with any license issued pursuant to that Application.

6. Bicycles deployed under this Agreement are considered part of the Operator's entire Bloomington fleet, and are subject to the reporting requirements codified at Bloomington Municipal Code § 15.58.110 and any additional data reporting required by the Shared-Use Motorized Scooter Operator License Application.

7. No additional license fee is required for this Shared-Use Bicycle Agreement, and no per ride fee shall be assessed against the Operator.

By his/her signature below, the undersigned agrees to the provisions of this Agreement.

Printed Name

Title

Signature

Date