

Ordinance 0017-22 – Commercial Electric Scooter Ordinance

An ordinance to create Chapter 22, Article XXXV, Sections 22-1277 through 22-1287, and amend Chapter 2, Article III, Division 8, Section 2-263(e) of the Municipal Code of the City of Racine, Wisconsin.

The Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 22, Article XXXV, Sections 22-1277 through 22-1287 of the Municipal Code of the City of Racine, Wisconsin, is created as follows:

Article XXXV. – COMMERCIAL ELECTRIC SCOOTERS.

Section 22-1277. – Definitions.

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

Electric scooter has the meaning given in Wis. Stat. § 340.01(15ps).

Commercial electric scooter means an electric scooter that is used for commercial purposes.

Commercial electric scooter business license means a license issued by the city clerk to operate a commercial electric scooter business in the city pursuant to the rules of this article.

Commercial electric scooter business owner or *owner* means any person, entity, or other enterprise that owns a commercial electric scooter business or manages the operation of a commercial electric scooter business for profit or not for profit.

State Law reference– Words and phrases defined, Vehicles – General Provisions, Wis. Stat. § 340.01.

Section 22-1278. – License required; term.

- a) License required. No person may engage in or permit the operation of a commercial electric scooter business without first obtaining a commercial electric scooter business license from the city clerk as required under this article.
- b) Term. Licenses issued under this article shall expire on December 31 of each year, unless sooner suspended or revoked.
- c) Transfer prohibited. No license issued under this article may be transferable.

Section 22-1279. – Commercial electric scooter business license.

- a) Application. Applicants for a commercial electric scooter business license shall submit a sworn application on a form provided by the city clerk and pay the fee as determined by the budget as set forth in the fee schedule and established by the common council.
- b) Plan of operation. As part of the application, each applicant shall submit and file with the city clerk a plan of operation to include:
 1. zone of operation;
 2. hours of operation;
 3. number of devices to be operated in licensee's fleet, which shall not exceed 150 devices, or which shall not exceed 200 devices for an additional fee as determined by the budget and as set forth in the fee schedule and established by the common council for each device above 150 devices, along with the unique serial number of each device;
 4. age restriction;
 5. plan to accommodate 24-hour customer service to report safety concerns, complaints, and/or to ask questions;
 6. plan to respond to safety or maintenance issues;
 7. plan to respond to improperly parked devices daily and to devices that have been continuously parked in one location for more than 72 hours;
 8. plan to charge devices;
 9. plan to provide the city with fleet and ride activity data for all trips starting or ending within the zone of operation on any device within the licensee's fleet;
 10. plan to provide service to operators without access to a smart-phone and/or without ownership of a debit or credit card;
 11. detailed list of priority zones where the licensee has made arrangements with the property owner to relocate, re-park, or rebalance devices, along with written permission from each property owner where such priority zones will be located;
 12. copy of all notices and regulations provided by licensee to each operator prior to device activation; and
 13. other such information as the city clerk may require.

Any and all amendments require approval of the public safety and licensing committee.

- c) Background check. The city clerk shall forward the application to the police department for an investigation of all individuals and entities listed on the application, including a background check. The police department shall notify the public safety and licensing committee of the results of such investigation. Applicants who have an arrest or conviction record, the circumstances of which substantially relate to the licensed activity, are deemed disqualified subject to Wis. Stat. §§ 111.321, 111.322, and 111.335.
- d) Hearing and referral process. The public safety and licensing committee shall afford the applicant an opportunity to present arguments in favor of the granting of the commercial electric scooter business license. The committee may recommend approval of any application for a commercial electric scooter business license, provided it meets all of the requirements set forth in this article, and may place reasonable conditions upon approval. If the public

safety and licensing committee recommends the grant of a commercial electric scooter business license, then the item shall thereafter be referred to the common council for its final decision. The common council, by a majority vote of the members present, may affirm, reverse, or modify the decision of the committee.

- e) Denial. The recommendation for denial of a commercial electric scooter business license by the public safety and licensing committee is final. Denial of a commercial electric scooter business license by the common council is final. Upon denial, the city clerk shall provide written notice to the applicant stating reasons for the denial.
- f) Issuance of license. Upon approval of such application by the common council, proof of payment of the required license fee, and satisfaction of all relevant inspections and requirements under this article, the city clerk shall issue to the applicant a commercial electric scooter business license. Such license shall state the date of issuance, the date of expiration, the name of the licensee, and any conditions of the license.

State Law reference– Prohibited bases of discrimination, Wis. Stat. § 111.321; Discriminatory actions prohibited, Wis. Stat. § 111.322; Arrest or conviction record; exceptions and special cases, Wis. Stat. § 111.335.

Section 22-1280. – Renewal Process.

- a) Renewal application. An application for renewal of a license under this article must be filed with the city clerk no later than October 15 each year, along with the renewal fee as determined by the budget as set forth in the fee schedule and established by the common council.
- b) Denial. A renewal application may be denied, provided there is cause for nonrenewal of a license under section 22-1284(b) of this Code. Upon motion by the public safety and licensing committee to deny a renewal application, the city clerk shall send written notice to the applicant stating reasons for the denial.
- c) Due process hearing. An applicant who has been denied renewal under subsection (b) of this section may request a due process hearing pursuant to section 22-1284 of this Code by submitting a written request to the city clerk within ten days of the date of notice of denial.

Section 22-1281. – Vehicle equipment.

- a) Certification. Before a commercial electric scooter may be initially operated within the city, the applicant shall certify that each commercial electric scooter is in sound mechanical working condition and that it meets the requirements set forth below.
 - 1. Tires. Tires shall be of a size appropriate for the device with no mismatched tires per the design of the device. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.

2. Operational horn. Each commercial electric scooter shall be equipped with a fully operational horn or bell. There shall be no siren or compression whistle.
 3. Brake. Each commercial electric scooter shall be equipped with a brake in good working condition, adequate to control the movement of and to stop the device whenever necessary.
 4. Lamps and reflectors. Each commercial electric scooter shall have a lamp emitting white light visible from a distance of at least 500 feet to the front of the device. Each commercial electric scooter shall also have either a red reflector that has a diameter of at least 2 inches of surface area or a red reflector that is a strip of reflective tape that has at least 2 square inches of surface area on the rear so mounted and maintained as to be visible from all distances from 50 to 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a steady or flashing red light visible from a distance of 500 feet to the rear may be used in lieu of the red reflector.
 5. Contact information. Each commercial electric scooter shall have a legible company customer service telephone number placed or posted on it.
- b) Condition. All commercial electric scooters shall be kept clean; free of damage, rust, stains, or other signs of deterioration; and maintained in a good state of repair at all times, pursuant to section 22-1281(a).

Section 22-1282. – Insurance required; indemnification.

- a) Insurance. The commercial electric scooter business shall, at its sole expense, maintain in effect at all times, commercial general liability insurance, automobile liability insurance, workers compensation insurance, and employers liability insurance coverage. As evidence of such, the commercial electric scooter business shall furnish to the city to be reviewed by the city attorney a certificate of each such insurance coverage, each of which shall name the City of Racine, its elected and appointed officials, officers, employees, authorized representatives, or volunteers, and each of them, as additional insureds, and each with not less than the following limits:
1. Commercial general liability: \$1,000,000 per occurrence (\$2,000,000 aggregate) for bodily injury, personal injury, and property damage;
 2. Automobile liability: \$1,000,000 per occurrence for bodily injury and property damage that covers all vehicles to be used in relationship to the activities for which a license may be granted;
 3. Worker's compensation: as required by statute; and
 4. Employers liability: \$100,000 each accident, \$500,000 disease policy limit, and \$100,000 disease (each employee).

Each policy, as applicable, shall identify each commercial electric scooter covered by the policy. Whenever such policy or coverage is cancelled, not renewed, or materially changed, the licensee shall notify the city by certified mail.

- b) Indemnification. The commercial electric scooter business shall indemnify, defend, and hold harmless the City of Racine, its elected and appointed officials, officers, employees, authorized representatives, or volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities,

interest, attorneys' fees, costs, and expenses of whatsoever kind of nature and in any manner directly or indirectly caused, occasioned, or contributed to, in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the commercial electric scooter business or of anyone acting under the commercial electric scooter business's direction or control or on its behalf caused by, resulting from, in connection with, or incident to the activities for which a license may be granted. Such duty to indemnify, defend, and hold harmless shall not apply to the extent caused by the negligence or willful misconduct of the City of Racine.

- c) Suspension. Failure to comply with the requirements of this section shall result in the immediate suspension of the owner's rights and privileges to operate a commercial electric scooter business within the city.

Section 22-1283. – Restrictions pursuant to plan of operation.

Plan of operation. Licensees must adhere to the plan of operation as approved by the common council. Deviation from the approved plan of operation constitutes grounds for suspension or revocation.

Section 22-1284. – Nonrenewal, revocation, or suspension of license.

- a) Due process hearing. Any license under this article may be suspended or revoked for cause after notice to the licensee and a hearing in front of the due process board. In cases of nonrenewal, the licensee may request a due process hearing pursuant to section 22-1280(c) of this Code. Nothing in this section prohibits the immediate and temporary suspension of a commercial electric scooter business license for failing to meet the insurance requirements under section 22-1282 of this code.
- b) Grounds. Licenses under this article may be suspended, revoked, or denied renewal for any of the following causes:
 1. The person does not possess the qualifications to hold the license under this article.
 2. The person violated any provision of this article.
 3. The person failed to operate the commercial electric scooter business in accordance with the plan of operation as approved by the common council, or failed to operate according to the conditions of the license.
 4. The commercial electric scooter business is operated in such a manner that it constitutes a disorderly premises or public nuisance.
 5. Any other factors that reasonably relate to public health, safety, and welfare.
- c) Complaint. Disciplinary proceedings may be initiated by the office of the city attorney, with or without a referral from the public safety and licensing committee, provided there is cause to suspend, revoke, or deny renewal of a license under this article. The city attorney shall file a complaint with the city clerk setting forth allegations against the licensee as grounds for suspension, revocation, or nonrenewal.

- d) Summons and service. When a complaint has been filed with the city clerk or a hearing has been requested pursuant to section 22-1280(c), the city clerk shall issue a summons demanding that the licensee appear before the due process board to show cause as to why the license should not be revoked, suspended, or denied renewal. Such summons shall be served upon the licensee, along with a copy of the complaint or notice of denial.
- e) Hearing by the due process board. The board shall convene at the date and time designated in the summons for purposes of taking evidence and making findings of fact and conclusions of law. At every stage of the proceeding, the licensee may be represented by counsel at his or her expense, present and examine witnesses under oath, and have prepared at the licensee's expense a transcript of the hearing. At the conclusion of the evidentiary hearing and upon deliberation, the board shall make specific findings of fact and conclusions of law, and forward one or more of the following recommendations to the common council:
 - 1. No action should be taken due to the insufficiency of the evidence.
 - 2. The license should be suspended for not less than 10 days nor more than the remainder of the calendar year.
 - 3. The license should be revoked or denied renewal.
 - 4. The licensee should be placed on probation and the board shall set forth the conditions thereof.
- f) Failure to appear. If the licensee fails to appear before the board at the date and time designated in the summons, the allegations in the complaint or notice of denial shall be taken as true, and if the board finds the allegations sufficient, the board shall recommend to the common council that the license be revoked or not renewed.
- g) Common council action. The common council, after considering the report and recommendations of the board, along with any written arguments submitted by the licensee, may affirm, reverse, or modify the recommendations of the board. The city clerk shall give notice of each suspension, revocation, or nonrenewal to the licensee within ten days of the disciplinary action.

Cross reference– Due Process Board, § 2-261 et seq.

Section 22-1285. – Restrictions upon denial or revocation of license.

- a) Whenever an application for a commercial electric scooter business license is denied, revoked, or denied renewal, no other license issued under this article may be granted to such persons or entity within 12 months of the date of such revocation or denial.
- b) When a person or entity surrenders a license issued under this article in lieu of pending suspension, revocation, or nonrenewal proceedings, no other license issued under this article may be granted to such persons or entity within 12 months of the date of such surrender and no refund of the fee paid therefor shall be made.

Section 22-1286. – Feedback report.

Feedback report. The city clerk shall generate and provide a report to the common council no later than October 1 depicting feedback received related to commercial electric scooters and licensees, if any.

Section 22-1287. – Penalties.

- a) Any person violating this article shall, upon conviction for a first offense, forfeit not less than \$100.00. Each and every day in which any such violation continues shall constitute a separate offense.
- b) Any person violating this article shall, upon conviction for a second or subsequent offense within one year, forfeit not less than \$200.00. Each and every day in which any such violation continues shall constitute a separate offense.

Cross reference– Continuing violation, § 1-18.

Part 2: Chapter 2, Article III, Division 8, Section 2-263(e) of the Municipal Code of the City of Racine, Wisconsin, is amended by inserting the word “nonrenewal,” before the phrase “suspension and/or revocation”.

Part 3: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: Each initial application and renewal application is subject to a fee, as is each device above 150 devices (not to exceed 200 devices), all fees of which are as determined by the budget as set forth in the fee schedule and established by the common council

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor’s signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor’s objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.