



Legislation Text

File #: 19-0331, **Version:** 1

Ordinance To Amend And Re-Enact Chapter 38 Of The City Code Of The City Of Hampton, Virginia Entitled "Vehicles for Hire," By Amending Article I To Adopt New Requirements for Shared Mobility Devices, Including Motorized Skateboards And Scooters, Bicycles and Electric Power-Assisted Bicycles For Hire

Background Statement:

During its 2019 legislative session, the Virginia General Assembly provided new State code authority for local governments to regulate motorized skateboards and scooters, bicycles, and electric power-assisted bicycles (collectively, "Shared Mobility Devices") offered for hire within local jurisdictions. Shared Mobility Devices are typically powered by electric motors, owned by a company and rented to individuals, and are dockless (i.e., may be parked anywhere that is permitted). Over the last few years, Shared Mobility Devices have been deployed in many large and mid-sized cities throughout the country. House Bill 2752 (2019) amended several sections of the Code of Virginia, including to provide a new definition of "motorized skateboard or scooter," regulate the operation and parking of Shared Mobility Devices, and to allow localities to adopt licensing ordinances for these devices. Section 46.2-1315 of the Code of Virginia provides that, on or after January 1, 2020, in the absence of any licensing ordinance, regulation, or other action, a person may offer Shared Mobility Devices for hire within a locality.

Accordingly, City staff briefed the City Council at its work session on October 9, 2019 regarding its options for addressing Shared Mobility Devices. If adopted, this amendment to the City Code would create a process through which companies that desire to offer Shared Mobility Devices within the City must first apply for a license. If a license application is received, the City Council may then direct the City Manager to (1) begin a competitive bidding process, such as a request for proposals (RFP), in order to ascertain whether other companies are also interested in offering Shared Mobility Devices within the City, (2) establish a pilot program, or (3) negotiate a franchise agreement for use of public rights-of-way with the individual applicant. This licensing requirement will only apply to individuals or entities seeking to offer Shared Mobility Devices for hire within the City. It will not apply to individuals operating scooters, bicycles, and other devices that they personally own within the City if they are not offering them for hire.

Recommendations:

Staff Recommendation:
Adopt the ordinance.

BE IT ORDAINED by the Council of the City of Hampton, Virginia that Article I of Chapter 38 of the City Code of the City of Hampton, Virginia, be amended and re-enacted as follows:

CHAPTER 38 - VEHICLES FOR HIRE

ARTICLE I. SHARED MOBILITY DEVICES

Sec. 38-1 - Purpose.

The purpose of this article is to establish regulations and licensing requirements governing the offering of (i) bicycle or electric power-assisted bicycles and (ii) motorized skateboard or scooters (collectively, “shared mobility devices”) for hire within the City of Hampton.

Regulations regarding the operation of shared mobility devices by riders shall be governed by Chapter 6 of the Hampton City Code, as amended.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-2 - Definitions.

All definitions of words and phrases contained in Section 46.2-100 et seq. of the Code of Virginia, as amended, shall apply to such words and phrases, when used in this article, unless clearly indicated to the contrary.

City Manager shall mean the Hampton city manager or her authorized designee(s).

Shared Mobility Devices shall mean motorized skateboards or scooters, bicycles, or electric power-assisted bicycles as defined by Section 46.2-100 of the Code of Virginia, as amended.

Shared Mobility Device License shall mean a license to offer for hire motorized skateboards or scooters, bicycles, or electric power-assisted bicycles as defined by Section 46.2-100 of the Code of Virginia, as amended, issued by the City of Hampton.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-3 - Shared Mobility Device License Required; Prerequisites to Issuance.

- (a) It shall be unlawful for any person to offer shared mobility devices for hire without first obtaining a shared mobility device license from the city manager. For purposes of this article, offering shared mobility devices for hire shall mean offering a ride for hire that originates within the City of Hampton.
- (b) A shared mobility device license shall not be issued unless the applicant has first obtained approval, in the form of a franchise or other similar agreement, from the city council to use public rights-of-way for this purpose pursuant to Article III of Chapter 34 of the Hampton City Code, as amended. Such franchise or other encroachment agreement may include such terms as the city council deems necessary and appropriate, including but not limited to those pertaining to the regulation and/or limitation of the number, operation, maintenance, specifications, and parking of shared mobility devices; geographic area limitations; sidewalk operation limitations; speed limits; helmet use; compliance with the federal Americans with Disabilities Act, as amended; insurance; indemnification; community outreach and communication; records and data sharing; reporting; fees; and rider/user regulations and agreements.
- (c) Nothing herein shall be construed to require the city council to grant a franchise or other similar agreement to any person or to otherwise limit the discretion of the city council with regard to terms of any shared mobility device agreement or shared mobility device license condition.
- (d) Compliance with this article is a separate and additional legal requirement for shared mobility devices and issuance of a shared mobility device license shall not be construed to authorize the offering for hire of shared mobility devices in a manner that does not conform to other applicable federal, state, and local law.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-4 - Shared Mobility Device License Requirements and Conditions.

Shared mobility device licenses issued pursuant to this article shall be subject to the following general conditions. In addition, in granting a shared mobility device license, the city manager may impose conditions, requirements, and restrictions as are necessary to reasonably protect the public

health, safety, and welfare.

- (a) Shared mobility device licensees shall be compliant with all applicable federal, state, and local laws, including but not limited to Hampton City Code Chapter 18.1, as amended, pertaining to business licenses, if applicable, Code of Virginia § 2.2-4311.2, as amended, pertaining to authorization to transact business in the Commonwealth of Virginia, and the provisions of this article.
- (b) Shared mobility device licenses shall not be assignable without the prior written consent of the city manager.
- (c) Shared mobility device licensees shall be compliant with the applicable franchise or other similar agreement for use of public rights-of-way. Expiration or termination of such franchise or other similar agreement shall be cause for immediate revocation of the shared mobility device license.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-5 - Application and Review Process for Shared Mobility Device Licenses.

- (a) The city manager is authorized and directed to develop an application process for shared mobility device licenses, which shall be kept on file in the office of city manager. No shared mobility device license shall be approved until a complete application and fee is received. In order to carry out the purposes of this article, the city manager may require the applicant to provide information in addition to that provided in the application. A fee of \$100 shall accompany all applications for shared mobility device licenses.
- (b) After receipt and review of the complete application materials, the city manager shall forward the application materials to the city council. Upon receipt, the city council may: (i) direct the city manager to solicit additional proposals through a competitive bidding process, and/or (ii) direct the city manager to implement a pilot program for shared mobility devices prior to acting on an application. If a pilot program or competitive bidding process is employed, the city manager may defer action upon or deny the license application. If neither a pilot program nor competitive bidding process is employed, the applicant shall be apprised of such fact and shall then submit an application for a franchise or similar agreement for use of shared mobility devices within public rights-of-way.
- (c) If the city council approves a franchise or similar agreement for use of shared mobility devices

within public rights-of-way, the city manager may: (1) approve the shared mobility device license with or without additional conditions if it meets the standards for approval set forth in this article; or (2) deny the shared mobility device license if it does not meet the standards for approval set forth in this article. Upon denial of a shared mobility device license application, the applicant shall be apprised of the reasons for denial in writing and shall be entitled to appeal the decision as set forth in Section 38-7, as amended.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-6 - Term of Shared Mobility Device License; Extensions.

(a) The term of any shared mobility device license shall run concurrently with the term of the applicable franchise or other similar agreement for use of public rights-of-way.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-7 - Suspension and Termination of Shared Mobility Device Licenses; Appeal.

(a) A shared mobility device license may be suspended or revoked by the city manager upon the following conditions:

- (1) Continuing violation of this article after reasonable notice to comply has been provided to licensee.
- (2) Continuing violation of the terms and conditions of the shared mobility device license after reasonable notice to comply has been provided to licensee.
- (3) Expiration or termination of the franchise or other similar agreement for use of shared mobility devices within public rights-of-way granted to licensee.
- (4) False or misleading statements made by the licensee or applicant in its application materials or other communications with the City of Hampton.
- (5) A determination that the licensee is not operating the authorized shared mobility devices in such a manner as to serve the public health, safety, or welfare.

- (6) Continuing violation of any federal, state, or local law after reasonable notice to comply has been provided to licensee.
- (b) In the case of revocation, a licensee may not apply for a shared mobility device license until one (1) year has elapsed from the date of the revocation.
- (c) An aggrieved applicant or licensee may appeal in writing the suspension, revocation, refusal to renew, or denial of a shared mobility device license within 30 days of the date notice was sent of such fact by the city manager. Within 30 days of receipt of an appeal, the city manager shall schedule a hearing before a panel consisting of the city manager, the chief of police, and the director of community development or their designees. The city manager shall provide the appellant reasonable notice of the hearing date. The decision on appeal shall be final and unappealable.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100.

Hampton City Charter - § 2.02

Sec. 38-8 - Enforcement of Article; Penalties.

- (a) The city manager shall have the authority to enforce all provisions of this article.
- (b) Any person violating any provision of this article shall be guilty of a misdemeanor. Each day a violation continues shall constitute a separate offense. In addition to any penalties imposed for each violation, a court of competent jurisdiction shall order the person responsible for the violation to correct the violation, and each day's default in such correction shall constitute a violation of and a separate offense under this article.
- (c) In addition to any criminal penalties imposed, a court may enjoin the continuing violation of this article by proceedings for an injunction brought in any court of competent jurisdiction.

State Law Reference - Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2015, 15.2-2100, 15.2-1429, and 15.2-1432.

Hampton City Charter - § 2.02

Sec. 38-9-38-15. - Reserved.

.....

