

ORDINANCE NO.: 2015-068

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina,
Chapter 24, Vehicles for Hire to add Article VI, Moped Rentals

BE IT ORDAINED by the Mayor and Council this 1st day of September, 2015, that the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 24, Vehicles for Hire is amended to add Article VI, Moped Rentals to read as follows:

ARTICLE VI. MOPED RENTALS

Sec. 24-313. Findings.

- (a) The primary purpose of the public streets is the use by vehicular, bicycle and pedestrian traffic.
- (b) Offering mopeds for rent on the public streets within defined areas promotes the public interest by providing the public with alternative means of transportation within the city, reducing automobile traffic congestion and parking congestion.
- (c) Reasonable regulation of moped rentals is necessary to protect the public health, safety and welfare.
- (d) The regulations contained in this division do not prohibit free speech but merely regulate activities that are commercial in nature.
- (e) The granting of franchises for the use of public streets and the making of charges therefor are authorized by S.C. Code 1976, § 5-7-30, and are subject to such conditions as the city council may impose to protect the public interest, welfare and convenience.

Sec. 24-314. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Moped means a motorized cycle that meets the definition of a moped under state law.

Moped rental means typical practices associated with, and the act of offering mopeds through an unmanned, automated process for short-term rental to the general public by the hour, day, or week, but not to include long-term rental or lease of longer than one (1) week.

Moped rental station means the location within the city right-of-way from which mopeds shall be offered for rental through an unmanned, automated process and for which the rental company is seeking or has obtained a franchise.

Public right-of-way means any area dedicated for public use as a public street, pedestrian way, or other thoroughfare, including but not limited to streets, roadways, parkways, alleys, sidewalks, and pedestrian ways.

Rental company means any person or enterprise engaged in the renting, or offering for rent, of mopeds on the public streets.

Sec. 24-315. Permitted rental mopeds.

No moped shall be offered for rent by a rental company except the mopeds approved for the specific location of the franchise. All mopeds offered for rent under this Division must meet the specifications for a moped under state law, be equipped as required by state law, and must be properly labeled under state law.

Sec. 24-316. Franchise and license required; franchise fee; transfer of franchise.

(a) It shall be unlawful to rent, or offer to rent, a moped within the city right-of-way without first obtaining a franchise and business license therefor.

(b) A nonexclusive franchise for not more than one (1) year may be granted for the operation of each rental location specified by resolution of city council. Notice of availability and nature of franchises shall be given by conspicuously posting at least one (1) notice at the proposed location. At least one (1) such notice shall be visible from each public thoroughfare that is within one hundred (100) feet of the proposed location. Such notice shall be posted ten (10) days prior to the public hearing.

(c) An annual franchise fee of three hundred and sixty and no/100 dollars (\$360) per moped per location shall be paid in quarterly installments in advance. If the quarterly installment is not paid in full by the tenth (10th) day of the following quarter, the franchise shall be immediately revoked. One business license for each franchisee shall be required at the applicable rate pursuant to Article II of this chapter.

(d) A franchise may not be transferred in any manner. Sale of a majority of stock in a corporate franchisee by stockholders listed on the franchise application or sale of a majority interest in a partnership as listed on the franchise application shall be deemed a transfer of the franchise which is prohibited.

Sec. 24-317. Application to business license division for franchise.

The application to the business license division for a moped rental franchise shall include the following information:

- (1) The name, home and business address of the applicant, and the name and address of the owner, if other than the applicant, of the moped(s) to be used in the operation of the moped rental business.
- (2) The proposed location of the moped rental station for which a franchise is sought.
- (3) A description, including all specifications and equipment provided to the renter, and photograph or drawing of the moped proposed to be used.
- (4) The names, addresses and percentage of stock owned by shareholders in a corporate applicant, and the percentage interest of each partner in a partnership applicant.
- (5) A certificate of public liability insurance with a limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
 - (a) The city shall be named as an additional insured under the public liability insurance policy.
 - (b) Any deductibles must be declared and approved by the city.
 - (c) The insurance policies shall be endorsed to state that coverage shall not be changed or cancelled except after 30 days prior written notice by certified mail has been given to the city of such change or cancellation.
 - (d) Prior to the issuance of a franchise, and at all times while the permit is in effect, the applicant shall maintain on file with the director of parking services a certificate of insurance showing evidence of the required coverage limits and naming the city as additional insured.
 - (e) If the insurance policies issued to the rental company are cancelled for any reason, the franchise is automatically suspended. To reinstate the permit, the rental company shall provide new certificates of insurance to the city.
- (6) Proof of insurance for each moped as may be required by state law.
- (7) Such other information as the applicant may choose or as may be requested by the city council to demonstrate that the applicant has the financial ability to perform the conditions of a franchise.

Sec. 24-318. Issuance of franchise.

- (a) The franchise required by section 24-317 shall be granted by ordinance in accordance with section 2-81, after notice and a public hearing on the issuance of the franchise. Any franchise granted pursuant to this division shall be subject to modification by ordinance at any time deemed necessary by the city council for protection of public interests. Any franchise shall be granted as a privilege and not as a matter of right. Moped rental at any location may be temporarily suspended or relocated by the city manager upon reasonable notice when private or public construction or activities of the city make it unsafe or impractical to allow moped rental.
- (b) In determining the acceptability of an application, the city council may consider any factors presented in the application, at a public hearing, or in any staff report or investigation of matters related to the past record and ability of the applicant to perform conditions of this division and the franchise agreement in a manner that serves the public interests.
- (c) Not later than thirty (30) days after the filing of a completed application for a rental company's franchise, the applicant shall be notified by the city manager of the date of the public hearing on the issuance or denial of the franchise.

Sec. 24-319. Operating requirements.

- (a) The rental company shall only accept mopeds at, and return mopeds to, the approved rental station locations for which it has a franchise. Dimensions of drop-off and return locations and appropriate marking and signage of rental stations shall be determined by the director of parking services. The rental company shall reimburse the city for any and all costs of marking the pavement designating the franchise area.
- (b) The rental company shall post in a conspicuous location at the rental station the location number assigned to it by the City. The location number and franchise shall be on file and available for inspection in the office of the Business License Division.
- (c) The rental company shall provide to each renter a safety helmet appropriate for the use on a moped.
- (d) The rental company shall offer to rent only those mopeds that are in all respects in good operating condition and fully equipped as required by state and federal law.

- (e) The rental company shall not authorize the renter of a moped to permit another person to operate the moped, unless the person is also listed as a renter and has complied with the provisions of this division.
- (f) The rental company shall be responsible for paying all citations, fees and fines, including any towing costs and associated storage fees, incurred by its rental mopeds. The city shall send to the rental company every week a list of citations, fees and/or fines incurred by its rental mopeds. The rental company shall pay all such citations, fees and fines within seven (7) days after receipt of the list of citations, fees and fines incurred by its rental mopeds.

Sec. 24-320. Evidence of compliance with fire regulations.

A certificate of inspection or compliance as required by applicable fire code shall be provided to the parking services director prior to commencement of operations under the franchise.

Sec. 24-321. Prohibited conduct.

A rental company shall not:

- (1) Operate on any street or sidewalk where such operations are otherwise prohibited or not expressly authorized.
- (2) Use on-street parking spaces or sidewalks or obstruct any pedestrian walkways for moped rental or storage.
- (3) Park any moped upon private property without written authorization by the property owner or an authorized agent of the property owner.
- (4) Park more mopeds at a particular moped rental station than is allowed under the franchise.
- (5) Allow any items relating to the operation of the rental station to be placed anywhere other than in the franchised area.
- (6) Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his business.
- (7) Solicit or conduct business with persons in motor vehicles.
- (8) Sell or rent anything other than that for which a franchise has been granted.
- (9) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.
- (10) Conduct rental services without the insurance coverage specified in section 24-317.
- (11) Allow the stand or any other item relating to the operation of the rental business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.

Sec. 24-322. Advertising.

No advertising shall be permitted on any moped or at any moped rental station except to identify the name and contact information of the franchise holder, except as permitted by section 12-18.

Sec. 24-323. Renewal of franchise.

All franchises granted under this division are valid for the entire franchise period unless revoked or suspended prior to expiration. An application to renew a franchise shall be made not later than 60 days before the expiration of the current franchise.

Sec. 24-324. Denial, suspension or revocation of franchise.

Any franchise granted under this division may be denied, suspended or revoked by the city council for any of the following reasons:

- (1) Fraud or misrepresentation contained in the application for a franchise.
- (2) Fraud or misrepresentation made in the course of carrying on the business of vending.
- (3) Conduct of the franchised business in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.
- (4) Conduct which is contrary to the provisions of this division or the franchise.
- (5) Failure to use the franchise fully in accordance with its terms within 90 days after notice of the grant of franchise, or within 15 days after notice of non-use, during the term of the franchise.
- (6) Failure to qualify for a business license or determination that any condition in section 11-44 or 11-45 exists.
- (7) A determination that the applicant is not able or qualified, by reason of background, medical limitations, financial condition or conditions related to the rental business, to render acceptable service to the public pursuant to this division.
- (8) A determination that a more qualified applicant for the same location will accept a franchise.

(9) A determination that no franchise should be granted to any applicant and that a location should be removed from the approved franchise list.

(10) Failure of franchisee to pay in full the quarterly franchise fee installment by the tenth (10th) day of the following quarter.

Sec. 24-325. Indemnification.

The franchisee agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent, or groundless), the city, its officers and employees, from any and all liability, loss, suits, claims, damages, costs, judgments, and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of:

- (1) Any act or omission of its employees;
- (2) The operations of the franchisee;
- (3) Any condition of property used in the operation of the franchise; or
- (4) Any acts, errors, or omissions of the franchisee.

Sec. 24-326. Conformance with applicable laws.

Nothing in this division authorizes or is intended to authorize the parking and/or operation of a moped in a manner contrary to applicable laws of the State of South Carolina and parking and traffic regulations of the city.


Requested by:

Assistant City Manager Gentry _____



Mayor

Approved by:




City Manager

Approved as to form:



City Attorney

ATTEST:


City Clerk

Public Hearing: 8/18/2015

Introduced: 8/18/2015

Final Reading: 9/1/2015