

New York City Department of Transportation

Notice of Adoption

NOTICE OF ADOPTION relating to an amendment of DOT’s Traffic Rules prohibiting the operation of any moped share system in New York City without DOT’s prior written authorization, and more specifically establishing a permit process for moped share systems.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter that DOT hereby amends and adds Section 4-19 of Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published in the City Record on September 28, 2021 and a public hearing was held on October 28, 2021. DOT received written or verbal comments from the public and made the following revisions:

- Clarified Section 4-19(e)(1)(iv) by describing what the agency considers to be a “demonstrated unsafe record”;
- Clarified Section 4-19(e)(2) by providing that DOT can decline to issue a moped share system permit if a permit application or a condition listed is incomplete or insufficient;
- Clarified Section 4-19(e)(3)(iii)(B) by describing what DOT expects with respect to user monetary penalties; and
- Revised Section 4 of the rules to afford to existing moped share operators an additional 15 days to submit their applications for a moped share system permit.

Statement of Basis and Purpose of Adopted Rule

The Commissioner of the New York City Department of Transportation (“DOT”) is authorized to issue rules regarding parking and traffic operations in the City pursuant to Section 2903(a) of the New York City Charter.

Under the New York State Vehicle and Traffic Law, mopeds are considered “limited use motorcycles” that must be registered with the New York State Department of Motor Vehicles. Shared moped services have recently gained popularity as a mode of transportation. The growth in popularity of shared moped services has also created a number of safety concerns for New Yorkers. To address these issues, in June 2021, Local Law 67 of 2021 was enacted prohibiting the operation of a moped share system without DOT approval, and requiring providers to adhere to rules promulgated by DOT regarding operations, safety, and data sharing.

The amendments to the DOT Traffic Rules are as follows:

- Addition of a new Section 4-19 to Chapter 4 of Title 34 describing the permitting process for moped share systems.
- Addition of a new subdivision (n) to Section 4-07 prohibiting the operation of all mopeds on the Brooklyn Bridge, Manhattan, Williamsburg, and Ed Koch Queensboro Bridges; or on any limited access highway; or on any bicycle lane or path.

- Amendment of Section 3-01 to add penalties associated with this rule.

New material is underlined.

Section 1. Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new Section 4-19 to read as follows:

§ 4-19 Permit for Moped Share Systems.

(a) Definitions. For the purposes of this section, the following terms have the following meanings:

Moped. The term “moped” means any limited use motorcycle as defined in section 121-b of the Vehicle and Traffic Law.

Moped share system. The term “moped share system” means a network of self-service and publicly available class B or class C limited use motorcycles that are registered in accordance with the New York State Vehicle and Traffic Law, and any related infrastructure, in which a trip begins and/or ends on any public highway in the City of New York. All mopeds in such a share system must be electric powered.

(b) Permit required. Any operator of a moped share system must first obtain a permit from the Department for the use of or operation on any public highway (as defined in section 4-01 of these rules). This permit establishes the operator as a qualified moped share system operator and it also specifies the particular mopeds in the qualified operator’s fleet that it is authorized to operate under this share system. Such permit constitutes the moped share system permit authorized by the Department. However, such permit will expire, by operation of law, if the Department exercises its option, pursuant to subdivision h of section 19-176.3 of the Administrative Code, to establish a moped share system through a procurement and contracting process.

(c) Permit term, renewal, and fees. Each moped share system permit will be issued for a term of six (6) months and may be renewed. Each permit applicant must pay a permit fee of \$1,050 . If the moped share system permit is renewed, the permit holder must pay to the Department a moped share system permit renewal fee of \$4,100 every six (6) months.

(d) Application. An application for a moped share system permit must be submitted on a form prescribed by the Department which will include, but not be limited to, the following information:

(1) Legal name of the operator; its “Doing Business As” (DBA) certificate; certified copy of the Certificate of Incorporation and proof of registration with the New York State Department of State; company address; contact name; contact telephone number; contact e-mail address;

- (2) Proof that all mopeds intended for use in the moped share system are registered with the New York State Department of Motor Vehicles and have a maximum speed of thirty miles per hour;
- (3) Proof of automobile insurance for all mopeds intended for use in the moped share system;
- (4) Make, model, length, weight, and battery range of all mopeds intended for use in the moped share system;
- (5) Operating plan including proposed fleet size, rate structure, parking policies, and service area;
- (6) Safety plan;
- (7) Vehicle maintenance and inspection plan;
- (8) Rider accountability and compliance plan;
- (9) Community outreach plan;
- (10) Equity plan;
- (11) User terms and conditions; and
- (12) Any other information as specified in the application.

(e) Review of applications for and issuance of moped share system permits.

(1) The Department may decline to issue a moped share system permit to an applicant that:

- i. Is in arrears to the City of New York for an amount totaling more than one thousand dollars; or
- ii. Does not provide proof of insurance; or
- iii. Uses mopeds that are not owned or leased by the moped share system operator or rents mopeds to customers utilizing an application that is not owned by, or leased for the exclusive use of, the moped share system operator; or
- iv. Has a demonstrated an unsafe record in the City of New York or any other city where it operates a moped share system, including but not limited to a record of inadequate user safety requirements or vehicle maintenance practices;
or
- v. Does not adhere to the conditions of any previously issued permit.

(2) If the Department declines to issue such a permit because the application or any of the conditions described in paragraph (3) of this subdivision are incomplete or insufficient, the applicant will have fifteen days from receipt of the denial to appeal the determination to the Commissioner. The Department will make a final determination on the appeal within thirty days.

(3) Conditions of moped share system permit. The permit holder must:

- i. Provide to the Department an operating plan outlining moped share system's service area, fee structure, parking policies, moped model specifications, and fleet size.
- ii. Provide to the Department a safety plan outlining user safety and operating training, user helmet compliance measures, and other safety measures, which may include but not be limited to:

- A. providing to users the option of in-person safety and operating training classes;
 - B. providing to users in-app safety and operating training;
 - C. submitting to the Department for review and approval its safety curricula and related materials; and
 - D. instituting a probationary period for new users with additional riding restrictions, unless the user takes an in-person safety and operating training class.
- iii. Provide to the Department a user accountability and compliance plan outlining user monitoring measures which may include but not be limited to:
- A. a community reporting tool enabling members of the public to report violations of traffic rules by users of the moped share system through the system's mobile application, website and e-mail;
 - B. a user sanctioning policy that does not include user monetary penalties for safety violations; however, the permit holder may recoup municipal parking fines from the user (although ultimately the permit holder is responsible for any monies due to the City) or use monetary penalties for violations of non-safety provisions of its user agreements; and
 - C. account sharing prevention measures.
- iv. Provide to the Department a maintenance and inspection plan outlining the applicant's moped inspection, preventative maintenance, and repair program.
- v. Provide to the Department a community outreach plan that will guide the permit holder's engagement of stakeholders within the proposed area of operation.
- vi. Provide to the Department an equity plan outlining measures to provide access to the moped share system to low- and moderate-income residents.
- vii. Ensure that all mopeds in the permit holder's fleet are equipped with a helmet, including a helmet for any passengers (if applicable).
- viii. Include no binding arbitration clause and no waiver of class action rights relating to personal injury claims in its customer terms of service, liability waiver, or any equivalent user agreement.
- ix. Protect the data of users, including but not limited to not sharing or selling of personal data with third parties, and providing data privacy when accessing any moped share system application.
- x. Operate only during the hours of operation approved by the Department;
- xi. Operate only within area(s) approved by the Department.
- xii. Operate only a Department-approved number of mopeds in the moped share system.
- xiii. Not operate in areas where mopeds are proscribed by law from being operated. This includes parks, bridges or any limited access highways where such usage is prohibited by the Department by rule.
- xiv. Indemnify the City against legal liabilities associated with the use, operation, and occupancy of the public highway in its operations.
- xv. Track all crashes involving its moped share system.

- xvi. Notify the Department of any crashes involving property damage and injuries and issues which could affect public safety, including but not limited to reports of criminal activity involving the moped share system, and incidents involving responses from the Police and Fire Departments.
- xvii. Provide the Department with a thirty-day notice if a permit holder decides to discontinue its operations.
- xviii. Clearly display the permit holder's name or logo and contact information prominently on each of its mopeds; however, no other logo or any kind of advertisement shall be allowed.
- xix. Promptly notify the Department of any changes to the information provided in its application.
- xx. Share and regularly report to the Department the data specified in subdivision (g) of this section.
- xxi. Provide a performance bond to cover all costs and expenses that may be incurred by the City as a result of the authorized activity for which the permit is issued or for the purpose of otherwise safeguarding the interests of the City. The bond must be in the form prescribed by the Department. Such performance bond described above must cover all permitted activities described herein.
- xxii. Comply with any terms and conditions of the permit issued by the Department, including but not limited to levels of service.
- xxiii. Comply with all applicable laws, rules and regulations related to the operation of the moped share system.

(f) Suspension, revocation, refusal to renew share system permits.

- (1) The Department may suspend or revoke a moped share system permit, refuse to renew such a permit, or reduce the authorized fleet size of the moped share system for failure to comply with any of the terms and conditions of the share system permit, these rules, or other applicable law or rule.
- (2) Prior to suspending or revoking a moped share system permit, the permit holder will be provided with an opportunity to be heard. The Department will serve the moped share system permit holder with a notice specifying the nature of the violation prior to conducting the suspension or revocation hearing.
- (3) Prior to refusing to renew such a permit or ordering a reduction in the authorized fleet size of a moped share system, the permit holder will be provided with an opportunity to be heard upon request.
- (4) In the event that the Department revokes a moped share system permit, the permit holder must remove all of its mopeds within 24 hours of revocation.
- (5) In the event that the Department refuses to renew a moped share system permit or reduces the authorized fleet size of the moped share system, the permit holder must remove its mopeds or the required number of mopeds, as applicable, within five business days of notification.
- (6) The Department may immediately suspend or revoke a moped share system permit if the Department believes such continued authorization would constitute a direct and substantial threat to public health or safety, pending a suspension or revocation hearing. However, the department must schedule such hearing no later than 15 business days

from the date of such immediate suspension or revocation and notify the moped share system permit holder of the hearing date 5 business days in advance.

(7) The Department's decision regarding suspension or revocation will be the Department's final determination.

(g) Data sharing requirements.

(1) Each permit holder must provide to the Department datasets that may include but not be limited to the following:

- i. Vehicle data;
- ii. Trip summary data;
- iii. Trip telematics data;
- iv. Membership and user data;
- v. Crash and injury data;
- vi. Rebalancing actions data;
- vii. Vehicle/battery recharging/swapping data;
- viii. Safety and training data;
- ix. Vehicle maintenance and repair data;
- x. User compliance data;
- xi. Company Enforcement Actions data;
- xii. Community reporting data;
- xiii. Customer service data;
- xiv. Vehicle and battery vandalism/damage/theft data;
- xv. Any other dataset included in the terms and conditions of the permit or requested by the Department.

(2) Data specified in paragraph (1) of this subdivision must be transmitted to the Department in real time, through a live application programming interface (API) such as those described in the Mobility Data Specification v1.0.0 or later, or comparable platforms. Other data is expected on at minimum a weekly basis. Crash and safety data should be relayed earlier, whenever possible.

(3) Each permit holder must provide a public-facing Generalized Bikeshare Feed Specification (GBFS) API endpoint. An additional private GBFS endpoint will be provided for use by the Department, which does not rotate vehicle IDs, but rather employs static ones consistent with data described in paragraph (1) of this subdivision.

(4) Each permit holder must conduct an annual user survey in a form prescribed by the Department.

§2. Section 4-07 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new subdivision (n) to read as follows:

(n) Mopeds restricted. No moped as defined in section 4-19(a) of these rules is permitted to operate on the Brooklyn Bridge, Manhattan Bridge, Williamsburg Bridge, and Ed Koch Queensboro Bridge, or on any limited access highway, or on any bicycle lane or path.

§3. Section 3-01 of Chapter 3 of Title 34 of the Rules of the City of New York is amended by adding new entries, in alphanumeric order, to read as follows:

<u>Section</u>	<u>Description</u>	<u>Penalty (\$)</u>	<u>Default (\$)</u>
<u>Admin. Code 19-176.3</u>	<u>Operation of a moped share system without authorization from the department</u>	<u>25,000</u>	<u>25,000</u>
<u>34 RCNY 4-19(d)(6)</u>	<u>Failure to provide or comply with a safety plan</u>	<u>5,000</u>	<u>15,000</u>
<u>34 RCNY 4-19(d)(7)</u>	<u>Failure to provide or comply with a vehicle maintenance and inspection plan</u>	<u>5,000</u>	<u>15,000</u>
<u>34 RCNY 4-19(d)(8)</u>	<u>Failure to provide or comply with a rider accountability and compliance plan</u>	<u>5,000</u>	<u>15,000</u>
<u>34 RCNY 4-19(d)(9)</u>	<u>Failure to provide or comply with a community outreach plan</u>	<u>5,000</u>	<u>15,000</u>
<u>34 RCNY 4-19(d)(10)</u>	<u>Failure to provide or comply with an equity plan</u>	<u>5,000</u>	<u>15,000</u>
<u>34 RCNY 4-19(e)(3)</u>	<u>Failure to comply with the terms of a moped share system permit</u>	<u>5,000</u>	<u>15,000</u>
<u>Admin. Code 19-176.3; 34 RCNY 4-19</u>	<u>Any other violation of Administrative Code 19-176.3 or section 4-19 of these rules</u>	<u>500</u>	<u>1,000</u>

§4. Applications for a moped share system permit by any existing moped share operator must be submitted to the Department within 75 days from the effective date of this rule.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find and represent to the Mayor that there is a substantial need for the implementation, immediately upon its final publication in the City Record, of the New York City Department of Transportation (“DOT”) rule that prohibits the operation of any moped share system in New York City without DOT’s prior written authorization, and establishes a permit process for moped share systems.

Shared moped services have recently gained popularity as a mode of transportation. The growth of shared moped services has also created a number of safety concerns for New Yorkers. In 2020, there were four fatal crashes involving e-moped share vehicles, resulting in the deaths of three riders and an elderly pedestrian. Therefore, in June 2021, Local Law 67 of 2021 was enacted prohibiting the operation of a moped share system without DOT approval, and requiring providers to adhere to rules promulgated by DOT regarding operations, safety, and data sharing.

There is a substantial need for the earlier implementation of these rules because of the continued safety concerns raised by e-moped share services. On June 18, 2021, a rider of a shared e-moped sustained a severe head injury in a crash in Upper Manhattan, and on September 19, 2021 another rider was killed in a crash in Midtown. Moreover, the e-moped sharing business sector is growing: a new service provider entered the market in the spring of 2021 and more may follow. It is therefore critically important that this rule take effect as soon as possible so that the City can require stricter safety measures for these moped systems that are operating on public roadways.

Therefore, I find pursuant to section 1043(f)(1)(c) of the New York City Charter that there is a substantial need for its earlier implementation.

_____/s/_____
Henry B. Gutman, Commissioner
New York City Department of Transportation

APPROVED:

/s/
Bill de Blasio
Mayor