

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Department of Transportation (“DOT”) is proposing an amendment to 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.

When and where is the hearing? DOT will hold a public hearing on the proposed rule online. The public hearing will take place on Thursday, October 28, 2021 at 2pm.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser’s address bar.

Join Zoom Meeting

<https://zoom.us/j/92363833889?pwd=WnNpVXM1QndXTWdNNXN1QzNtNXFTUT09>

Meeting ID: 923 6383 3889

Passcode: 129032

One tap mobile

+19292056099, 92363833889# US (New York)

+16465189805, 92363833889# US (New York)

Dial by your location

+1 929 205 6099 US (New York)

+1 646 518 9805 US (New York)

Meeting ID: 923 6383 3889

Find your local number: <https://zoom.us/u/abwtGOFBAb>

- Then follow the prompts.
- If you have low bandwidth or inconsistent Internet connection, we suggest you use the phone option below for the hearing.

Join via phone only:

- To join the meeting only by phone, use the following information to connect:
- Phone: 1-929-205-6099
- Meeting ID: 923 6383 3889
- Password: 129032

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.

- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Will Carry, 9th Floor, New York City Department of Transportation, 55 Water Street, New York, NY 10041.
- **Fax.** You can fax comments at 212-839-9685.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing rules@dot.nyc.gov or calling 212-839-6500 by Wednesday, October 27, 2021 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, the deadline for written comments is at 5pm on Thursday, October 28, 2021.

What if I need assistance to participate in the Hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing other than the one(s) indicated above. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov or calling 212-839-6500 by Thursday, October 21, 2021.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online and copies of all written comments concerning the proposed rule will be available through the DOT Freedom of Information Law (FOIL) Office, 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043 and 2903(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This rule was not included in DOT's regulatory agenda as it was not anticipated when the agenda was published.

Where can I find the Department of Transportation rules? DOT's rules are in Title 34 of the Rules of the City of New York.

What laws govern the rulemaking process? DOT must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed 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. 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.

This proposed rule will establish a permit process for moped share systems pursuant to such local law. Specifically, the amendments to the DOT Traffic Rules would:

- Add a new Section 4-19 to Chapter 4 of Title 34 describing the permitting process for moped share systems.
- Add 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.
- Amend Section 3-01 to add penalties associated with this rule.

New material is underlined.

[Deleted material is in brackets.]

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, these are the meanings of the following terms:

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 shall constitute the moped share system permit authorized by the Department. However, such permit shall 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) Moped share system permit fees. In order to operate a moped share system, an operator must pay to the Department a moped share system permit fee of \$1,050 every six (6) months. Subject to paragraph (vi) below, if the moped share system permit is renewed, a 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 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 unsafe record in the City of New York or any other city where it operates a moped share system; or**
 - v. Does not adhere to the conditions of any previously issued permit.**
- (2) If the Department declines to issue such a permit because of any of the conditions described in paragraph (3) of subdivision (e) of this section or if the application is incomplete, 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 are not 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 are not 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; 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 to 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 (h) 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 shall be in the form prescribed by the Department. Such performance bond described above shall 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) Term and renewal of permits. Each moped share system permit will be issued for a term of six (6) months and may be renewed. The moped share system permit renewal process may include but will not be limited to a review of the utilization data and maintenance of the mopeds in the qualified operator's fleet.

(g) Suspension and revocation of share system permits.

- (1)** The Department may suspend or revoke a moped share system 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 or reducing the authorized fleet size of the moped share system, the permit holder will be provided with an opportunity to be heard within five business days.
- (3)** 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.
- (4)** In the event that the Department reduces the authorized fleet size of the moped share system, the permit holder must remove the required number of mopeds within five business days of notification.

(h) Data sharing requirements.

(1) Each permit holder must provide to the Department, datasets that may include but are not 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 (A) of this subdivision.

(4) Each permit holder shall 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 shall 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 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 60 days from the effective date of this rule.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Permitting of Moped Share Companies

REFERENCE NUMBER: DOT-60

RULEMAKING AGENCY: Department of Transportation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public safety.

/s/ Francisco X. Navarro
Mayor's Office of Operations

September 20, 2021
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Permitting of Moped Share Companies

REFERENCE NUMBER: 2021 RG 048

RULEMAKING AGENCY: Department of Transportation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: September 20, 2021