

**PLAINFIELD TOWN COUNCIL
ORDINANCE NO. 23-2021**

**AN ORDINANCE CREATING A NEW SUBSECTION IN CHAPTER 93 OF TITLE IX
OF THE PLAINFIELD MUNICIPAL CODE OF ORDINANCES**

WHEREAS, the Town of Plainfield (the "Town") is a political subdivision existing under the provisions of Indiana Code § 36-4-1, *et. seq.*; and

WHEREAS, the Plainfield Town Council (the "Council") is the governing body of the Town; and

WHEREAS, the Town Council is charged with ensuring the health, safety, peace and welfare of the citizens of the Town; and

WHEREAS, the primary purpose of public streets, sidewalks, right-of-ways, alleys and parks is the use by vehicular and pedestrian traffic; and

WHEREAS, the use of electric bicycles and scooters are becoming more common in metropolitan areas; and

WHEREAS, in order to protect the unique character of the Town, the Town finds it necessary to regulate the use of such electric bicycles and scooters on public property inside of the Town's jurisdictional limits; and

WHEREAS, in an effort to defray the costs of regulating the use of electric scooters on public property, reasonable fees are being imposed;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PLAINFIELD, INDIANA, THAT THE PLAINFIELD MUNICIPAL CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

Section 1. Title IX of the Plainfield Code of Ordinances is hereby amended by the addition of a new subsection under Chapter 93, to read as follows:

SHARED MOBILITY DEVICES

93.60 Definitions. The following terms shall have the following meanings:

Public right-of-way shall mean the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, trails, or public sidewalk in which the Town has an interest, including other dedicated rights-of-way for travel purposes and utility easements.

Shared Mobility Device means, but is not limited to, any of the following devices used in a Share Mobility System:

1. An electric bicycle shall mean any bicycle equipped with a motor that propels the bicycle and provides assistance to a rider.
2. Scooter, which means a conveyance or device with two (2) or more wheels in contact with the ground with a floorboard for the User to stand upon when using it, and may be propelled by a motor that reaches no more than 20 mph.
3. Any other similar device approved by the License Administrator.
4. Shared Mobility Device does not include any other type of motor vehicle or non-electric bicycle.
5. Notwithstanding the foregoing, a Shared Mobility Device shall not include a device used to aid a person with a disability, including but not limited to a motorized wheel chair.

Operator means a person or entity that owns and/or operates a Shared Mobility System.

Shared Mobility System or System means a system which provides a Shared Mobility Device for short-term rentals and which may be locked or unlocked for use with or without being located on a rack or docking system.

User means a person who rents and uses, or allows another person to use a Shared Mobility Device from an Operator. A User must be at least eighteen (18) years of age.

Licensed Administrator shall be the Town's Director of Transportation or his/her designee.

93.61 License required; fee.

(a) It shall be unlawful for a person to operate, or cause to be operated a Shared Mobility System in the public right-of-way in the Town, unless the Operator first obtains a license from the License Administrator and registers each Shared Mobility Device as provided herein.

(b) The fee for a Shared Mobility System license and the registration fee for each Shared Mobility Device are as follows:

License or Permit	Maximum Allowed Fee
Shared Mobility System in the public right-of-way	\$10,000 annually and \$1/per day/per Shared Mobility Device operating within a licensee's Shared Mobility System

These license and registration fees shall not apply to an Operator that has received an investment of public funds, by grant or otherwise from the Town.

(c) A license issued under this section shall expire one year after the issuance of the license. To continue operating a Shared Mobility System, an Operator shall apply for a new license at least thirty (30) days prior to the expiration of its license. The license and registration fees established by this section shall apply to an application for a new license and renewal.

(d) Upon receipt of a completed license application, the execution of an Indemnification Agreement and the filing of a bond and insurance certificate under Section 93.64, the License Administrator shall either issue or deny a Shared Mobility Operator license. In making this determination, the License Administrator may consider, among other factors, the extent to which the applicant's operations or the use of the applicant's Shared Mobility Devices have complied with current law.

93.62 License application; information

(a) Applications for a license under this Section shall be made on forms provided by the Town, and shall be signed by an authorized representative of the applicant who is an officer or employee of the applicant with authority to legally bind the applicant, who shall verify under oath that the information contained in the application is true and accurate.

(b) The applicant shall provide the following information:

- (1) The number of Shared Mobility Devices that will be used in the Shared Mobility System;
- (2) A description of all Shared Mobility Devices that will be used in the Shared Mobility System, including the model, manufacturer, and color of each Shared Mobility Device;
- (3) Color photographs depicting the Shared Mobility Devices to be used in the Shared Mobility System;
- (4) A schedule of rates and charges that the applicant will charge to use a Shared Mobility Device;
- (5) A GPS or GIS based map depicting the proposed service area of the Shared Mobility System;
- (6) A 24-hour customer service telephone number;
- (7) The rules and regulations for the Shared Mobility System Operators' Users;
- (8) A signed indemnification agreement as required by Section 93.64;
- (9) Proof of public liability coverage as required by section x;
- (10) Any other information deemed necessary by the License Administrator.

(c) Any changes to the information required under subsection (b) shall be submitted to the License Administrator within fifteen (15) days of such change.

93.63 Restrictions on operation imposed by regulation.

The License Administrator may by regulation impose appropriate conditions on the operation of Shared Mobility Systems in order to further the purposes of this Section, including but not limited to, the following:

- (a) Limits on the locations in which a Shared Mobility System may operate;
- (b) Prescribe the locations where Shared Mobility Devices may be stored or parked when not in use;
- (c) Limits on the number of Shared Mobility Devices permitted in the Shared Mobility System;
- (d) Standards for the use and maintenance of Shared Mobility Devices;
- (e) Any other regulations necessary to further the purposes of this Section.

93.64 Indemnification, insurance.

(a) Any Shared Mobility Device Operator issued a license under this Section shall, as a condition of the issuance and continued validity of the license to operate a Shared Mobility System, indemnify, hold harmless and defend, by counsel of the Town's choosing, the Town of Plainfield and their respective officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission, or violation of any provision of this Code or other law by an Operator or any of its officers, agents, employees and Users arising from the operation, maintenance, or use of the Shared Mobility System and the Operator's Shared Mobility Devices. Such indemnity shall include attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by any insurance coverage required herein or otherwise carried by the Operator. This indemnification requirement shall be memorialized in an agreement signed by an authorized representative of the Operator who is an officer or employee of the Operator with authority to legally bind the Operator, and the Operator shall be required to post an indemnity bond in favor of the Town. Such agreement and indemnity bond shall be in a form approved by the Town Attorney.

(b) Any Shared Mobility Device Operator issued a license under this Section shall, as a condition of the issuance and continued validity of the license to operate a Shared Mobility System, purchase and maintain a policy of commercial general liability insurance that will protect it and the Town from claims for damages because of bodily injury and personal injury, including death, and claims of damages to property which may arise out of or result from the operation, maintenance or use of the Shared Mobility System and the Operator's Shared Mobility Devices.

The commercial general liability insurance required under this section shall be not less than: (1) each occurrence limit of \$1,000,000.00; (2) \$100,000.00 for damage to rented premises; (3) \$5,000.00 for medical expenses; (4) \$500,000.00 for personal injury; (5) \$1,000,000.00 products/completed operations; (6) \$1,000,000.00 auto liability; (7) \$2,000,000.00 general aggregate limit; and (8) \$5,000,000.00 excess/umbrella liability. Certificates of insurance naming the Town as an additional insured showing such coverage then in force, but not less than the above amounts, shall be submitted by the Operator with its application for a license under this Section. Such certificates shall contain a provision that the policies and coverage afforded thereunder will not be canceled until at least thirty (30) days after written notice to the License Administrator.

(c) The failure to maintain the bond or insurance policies required under this section through the entire term of a license shall constitute a violation of this ordinance.

(d) This section shall not apply to an Operator that has received an investment of public funds, by grant or otherwise, from the Town.

93.65 Safety, condition and appearance; equipment.

(a) A Shared Mobility Device shall always be maintained in a reasonably clean and working condition.

(b) All Shared Mobility Operators must meet all safety standards as prescribed by the License Administrator.

(c) Every Shared Mobility Device shall have a unique ID number that is visible to the User and nearby pedestrians that clearly identifies both the Shared Mobility System Operator and the specific Shared Mobility Device.

(d) Every Shared Mobility Device shall have posted on it a notice to the User of the 24-hour telephone number with live Operator, website, and mobile application information of the Shared Mobility Operator.

(e) Every Shared Mobility Device shall be equipped with a bell, horn or other lawful sound signaling device.

(f) Every Shared Mobility Device shall be equipped with the following, if able to operate after sunset and before sunrise:

- (1) a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front; and
- (2) a lamp on the rear exhibiting a red light visible from a distance of at least 500 feet to the rear.

(g) There shall be only one person on a Shared Mobility Device at any time.

(h) Users may not ride a Shared Mobility Device while controlling an animal, either by hand or on a leash.

(i) Every Shared Mobility Device shall have posted on it language clearly visible to Users that:

- (1) Users are encouraged to wear helmets;
- (2) Users shall follow all traffic laws;
- (3) Users shall yield to pedestrians in the public right-of-way;
- (4) Users must follow proper parking procedures; and
- (5) Users must confirm, during the sign up stage and on stand-alone pages, their agreement to comply with User requirements.

(j) Unless approved by the License Administrator, it shall be unlawful for any Shared Mobility Operator to advertise for a third party on any equipment related to its Shared Mobility System or on its Shared Mobility Devices. Any violation not corrected within 24 hours of notice shall be in violation, and if the violation is on a Shared Mobility Device, the Device may be removed from the public right-of-way and impounded by the Town at the cost of the Operator. The penalty for violation of this section and for removing and impounding a Shared Mobility Device shall be set forth in Section 93.99.

(k) A Shared Mobility System Operator shall be jointly and severally liable for all violations of this chapter, including the violation of any traffic laws and parking restrictions, relating to a User's use of a Shared Mobility Device.

93.66 Enforcement, Removal from the public right-of-way; penalties

(a) During the hours of 6:00a.m. through 9:00p.m., any Shared Mobility Device that is unsafe to operate or is inoperable shall be removed from the public right-of-way by the Shared Mobility Operator within two (2) hours of notice made to the Shared Mobility Operator. During the hours of 9:01p.m. through 5:59a.m., an inoperable Shared Mobility Device or a Shared Mobility Device that is not safe to operate shall be removed from the public right-of-way by the Shared Mobility Operator within six (6) hours of notice made to the Shared Mobility Operator. Notice may be given to the Shared Mobility System Operator by any person through the 24-hour phone number, website, email or mobile application.

(b) The License Administrator reserves the right to prohibit the use of any Shared Mobility Device in the area surrounding any special event and the area affected by any public safety emergency.

(c) Shared Mobility Devices that are not removed pursuant to 93.66(a) or 93.65(j), or any Shared Mobility Device that is not parked in accordance with section 93.67 may have a penalty assessed to the Shared Mobility Operator pursuant to 93.99 of this Code.

(d) Any Shared Mobility Device that poses a hazard to the public health and safety may be removed by the Town at the cost of the Shared Mobility Operator. The penalty for the removal of a Shared Mobility Device shall be provided in section 93.99 of the Code.

93.67 Parking

A Shared Mobility Device that is not in use:

(a) Shall be parked in such a way that leaves at least four (4) feet of unobstructed passage in the public right-of-way, which shall be documented by a suitable photograph taken by the User upon conclusion of the ride if there is no permanent docked station for the Shared Mobility Device;

(b) May be parked in the grassplot, the grassy section of public right-of-way between the sidewalk and street, but may not be parked in any landscaped areas in the public right-of-way between the sidewalk, street or buildings;

- (c) Shall be parked at a bicycle race or docketing station, if available;
- (d) Shall be parked in an upright manner;
- (e) Shall not be parked in a way to obstruct:
 - (1) Any transit infrastructure or public right-of-way, where parking blocks accessibility pursuant to the Americans with Disabilities Act of 1990, bikeshare stations, or bus operations including but not limited to bus stops and signs, shelters, bus rapid transit stations, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
 - (2) Any loading zone;
 - (3) Any accessible parking zones or spaces for people with disabilities;
 - (4) Any street furniture that require pedestrian access;
 - (5) Any curb ramp;
 - (6) Any entrance or exit from any building (must be at least ten feet from any entrance or exit);
 - (7) Any driveway; and
 - (8) Any raingarden and/or drainage facilities.

(f) Shall not be parked in any street or alleyway, unless approved by the License Administrator, or on any private property without the permission of the property owner and compliance with applicable zoning code.

Pursuant to section 93.63, the License Administrator may by regulation limit the locations at which a Shared Mobility System may operate or cause Shared Mobility Devices to be stored or parked.

93.68 Data Sharing

(a) To inform and support safe, equitable and effective management of the Shared Mobility Device System throughout the Town and inform transportation planning efforts, all Shared Mobility Operators shall provide anonymized data, including but not limited to: (1) origin and destination data; (2) the number of shared mobility Users and trips. The License Administrator shall determine the scope, format, frequency and manner of data to be collected and transmitted to the Town.

(b) All Shared Mobility Operators shall keep records of maintenance, operations, and reported collisions of its Shared Mobility Devices. The License Administrator shall determine the frequency and method of reporting this information.

93.69 License application date.

From and after the effective date of this ordinance, it shall be unlawful to operate a Shared Mobility System without first obtaining a license as provided in this Section.

93.70 Severability

If any section, sentence, clause, word or other provision of this Chapter, or any ordinance amendatory thereof or supplemental thereto, shall be held invalid, such fact shall not affect the validity of any other section, sentence, clause, word or other provision herein, which may be severable therefrom and be valid and capable of reasonable effect and application without such invalid portions, and to this end all such portions of this Chapter are declared severable and shall be so construed whenever possible to do so.

Section 2. Section 93.99 of the Plainfield Code of Ordinances regarding penalties is hereby amended by the addition of the following code subsections:

(F) Shared Mobility Devices. Any Operator who violates Chapter 71 and/or Section 93.66 shall be fined \$100.00, plus \$10.00 per day. Any User who violates Chapter 70 and/or Section 93.67 shall be fined \$25.00. A separate offense shall be deemed committed for each day a violation occurs or continues to occur.

Section 3. This ordinance shall be in effect from and after its passage by the Council and compliance with Indiana Code § 36-3-4-14.

{SIGNATURES ON FOLLOWING PAGE}

PASSED AND ADOPTED by the Town Council of the Town of Plainfield,
Indiana this 11th day of october, 2021.

TOWN COUNCIL, TOWN OF PLAINFIELD
HENDRICKS COUNTY, INDIANA

DocuSigned by:

Robin G. Brandgard

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Robin G. Brandgard, President

DocuSigned by:

Bill Kirchoff

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Bill Kirchoff, Vice President

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Kent McPhail

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Lance Angle

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Dan Bridget

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Dan Bridget

ATTEST:

DocuSigned by:

Mark J. Todisco

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Mark Todisco, Clerk-Treasurer

Town of Plainfield, Indiana