

1 ORDINANCE TO REVISE THE REGULATIONS OF MOTORIZED SCOOTERS
2 AND ELECTRIC ASSISTED BICYCLES AND THE OPERATION OF SHARED ACTIVE
3 TRANSPORTATION SYSTEMS
4

5 WHEREAS, the city desires to revise the City Code allowing the use of portions of right-
6 of-way and city real property by motorized scooters and electric assisted bicycles and by
7 privately owned shared active transportation systems; to promote the integrity of the city’s
8 transportation system; to maintain the rights-of-way clear of unnecessary obstructions; and to
9 protect the health, safety, and welfare of the citizens of the city.

10
11 NOW THEREFORE THE CITY COUNCIL OF THE CITY OF DURHAM ORDAINS:
12
13

14 **SECTION 1.** Divisions 1 and 2 of Article V of Chapter 66 (TRAFFIC AND PARKING) of the
15 City Code are revised as follows:
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17 **DIVISION 1. - GENERALLY**

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19 Secs. 66-301 –66-305. Reserved
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21 **DIVISION 2. – BICYCLES AND MOTORIZED SCOOTERS**
22

23 Sec. 66-306. - Adoption of definitions in general statutes.
24

25 The definitions of the following words set out in N.C.G.S. 20-4.01, as amended from
26 time to time, are adopted as part of this article: electric assisted bicycle and vehicle.
27

28 Sec. 66-307. - Definitions.
29

30 The following words, terms and phrases, when used in this division, have the meanings
31 ascribed to them in this section, except where the context clearly indicates a different meaning:
32

33 *Bicycle* means a non-motorized vehicle with two or three wheels tandem, a steering
34 handle, one or two saddle seats, and pedals by which the vehicle is propelled.
35

36 *Bike lane* means that section of vehicular travel on a roadway set aside for use by
37 bicycles, electric assisted bicycles and motorized scooters and designated with either signage or
38 roadway painting or both.
39

40 *Motorized scooter* means a vehicle that is steered by a steering handle, designed to be
41 stood upon by the operator while the vehicle is in operation, and powered by a motor capable of
42 propelling the vehicle at a speed no greater than 20 miles per hour on a level surface; and whose
43 wheels have diameters of ten inches or less.
44

45 *Motorized vehicle* means any vehicle that can be self-propelled, including electric
46 assisted bicycles and motorized scooters. Motorized vehicle does not include a device which is

47 designed for and intended to be used as a means of transportation for a person with a mobility
48 impairment, or who uses the device for mobility enhancement, is suitable for use inside and
49 outside a building, including on sidewalks, and is not capable of being propelled greater than 15
50 miles per hour on a level surface.

51

52 *Roadway* means that portion of the public right-of-way improved, designed, or ordinarily
53 used for vehicular travel, exclusive of any shoulder.

54

55 *Shared-use path* means a pathway for bicycles and pedestrians either paralleling a
56 roadway and located within the right-of-way shared with the roadway but excluding any bike
57 lane, or located within a public easement or right-of-way not associated with a roadway, and
58 designated by signage as a public path.

59

60 Sec. 66-308. - Applicability.

61

62 For the purposes of this Code, bicycles, electric assisted bicycles, and motorized scooters
63 are deemed vehicles; and every rider of such vehicles upon a highway is subject to the provisions
64 of this Code and of North Carolina General Statutes applicable to the driver of a vehicle except
65 those which by their nature can have no application.

66

67 Sec. 66-309. – Equipment and Safety requirements.

68

69 (a) Bicycles, electric assisted bicycles and motorized scooters shall comply with the
70 applicable vehicle equipment and safety requirements of Chapter 20 of the North
71 Carolina General Statutes.

72

73 (b) Anyone riding upon a bicycle, electric assisted bicycle, or motorized scooter shall
74 not attach the vehicle or himself or herself to any other moving vehicle upon any
75 roadway.

76

77 (c) When using shared-use paths, a person riding a bicycle shall yield the right-of-way
78 to pedestrians.

79

80 Sec. 66-310. - Traffic regulations and parking.

81

82 (a) Any person operating a bicycle, electric assisted bicycle or motorized scooter on a
83 public right-of-way shall obey the instructions of official traffic signals, signs, and
84 other control devices applicable to the driver of a motorized vehicle, except those
85 which by their nature can have no application to a bicycle, electric assisted bicycle
86 or motorized scooter.

87

88 (b) Right-of-way at intersections shall be determined by North Carolina General
89 Statutes whenever applicable. Bicycles, electric assisted bicycles and motorized
90 scooters using bike lanes have the right-of-way over vehicles making turning
91 movements from parallel lanes of a roadway.

92

- 93 (c) Bicycles, electric assisted bicycles and motorized scooters may be walked subject to
94 all provisions of law applicable to pedestrians.
95
- 96 (d) The operator of a bicycle, electric assisted bicycle or a motorized scooter emerging
97 from an alley, driveway, or building shall, upon approaching a sidewalk, yield
98 right-of-way to all pedestrians in close proximity on such sidewalk, and upon
99 entering a roadway shall yield right-of-way to all approaching motorized vehicles
100 whose movement would be affected thereby.
101
- 102 (e) Whenever a lane of traffic on any roadway is indicated by pavement marking or by
103 a sign as being assigned as a bike lane, it is unlawful for the driver of a motorized
104 vehicle, except electric assisted bicycles or motorized scooters, to occupy such lane
105 for moving or parking, except that a driver may cross such lane to make a lawful
106 turning movement, yielding the right-of-way to riders of bicycles, electric assisted
107 bicycles or motorized scooters occupying such lane.
108
- 109 (f) It is prohibited for an operator of a bicycle, electric assisted bicycle or a motorized
110 scooter to park his or her vehicle in the following locations:
111
- 112 (1) Directly on a pedestrian sidewalk unless there is an unobstructed pedestrian
113 corridor remaining of at least 4-feet, or the vehicle is parked inside a
114 designated, marked motorized scooter or bicycle parking area;
115
- 116 (2) In a manner that blocks American with Disabilities Act (ADA)
117 accommodations, including curb ramps, braille signs, railings and signal push
118 buttons;
119
- 120 (3) In front of, or blocking transit areas, including bus stops, shelters, passenger
121 waiting areas, and bus layover and staging zones, except within areas
122 approved by the City or public transit authority; or
123
- 124 (4) In front of, or blocking street furniture, loading zones, entryways, driveways,
125 alleys, fire hydrants, or crosswalks; or city bicycle racks, as to motorized
126 scooters only.
127

128 Sec. 66-311. - Duty of parents or guardians.
129

130 The parent of any minor child and the guardian of any minor ward shall not authorize or
131 knowingly permit any minor child or ward to violate any provisions of this division.
132

133 Sec. 66-312. - Motorized vehicles and shared-use paths.
134

- 135 (a) No person shall drive any motorized vehicle upon any shared-use path except at
136 public street intersections or to enter a driveway. No person shall drive across a
137 shared-use path as permitted by this section except after yielding right-of-way to all
138 bicycles and pedestrians on the path.

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(b) This section shall not apply to law enforcement officers or city maintenance staff while in discharge of their official duties.

Sec. 66-313. - Enforcement.

If any person violates an ordinance of the city regulating the operation of a bicycle, electric assisted bicycle or motorized scooter, he or she shall be responsible for an infraction and shall be required to pay a penalty of no more than \$50.00.

Sec. 66-314. - Reserved.

SECTION 2. Article VII of Chapter 50 (PUBLIC TRANSPORTATION AND AVIATION) of the City Code is revised as follows:

ARTICLE VII. - SHARED ACTIVE TRANSPORTATION SYSTEMS

Sec. 50-461. - Adoption of definitions in general statutes.

The definitions of the following words set out in N.C.G.S. 20-4.01, as amended from time to time, are adopted as part of this article: electric assisted bicycle and vehicle.

Sec. 50-462. - Definitions.

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

Bicycle means a non-motorized vehicle with two or three wheels in tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Customer means a person that rents or operates a shared device from a shared active transportation system permittee.

Device operating area means the right-of-way where operation of a shared device is authorized by City Code and a specific permit.

Department means the city's transportation department.

Director means the director of the city's transportation department, or the director's designee.

Motorized scooter means a vehicle that is steered by a steering handle, designed to be stood upon by the operator while the vehicle is in operation, and powered by a motor capable of

184 propelling the vehicle at a speed no greater than 20 miles per hour on a level surface; and whose
185 wheels have diameters of ten inches or less.

186

187 *Operate* means, when used in direct reference to a shared device, to use the shared device
188 for transportation. Operate includes to park a shared device.

189

190 *Permit* means a permit issued by the department pursuant to this article for a permittee to
191 conduct a shared active transportation system.

192

193 *Permittee* is any person that conducts a shared active transportation system.

194

195 *Rebalance* means to move shared devices from one location to another, generally for the
196 purpose of avoiding having too many devices in one location or fulfilling another requirement of
197 the permit or this Article.

198

199 *Right-of-way* means the area in the city in which the public, the city, or the state owns a
200 property interest and which includes areas open for use by the public for vehicle or pedestrian
201 travel. Right-of-way includes the following, if they satisfy the foregoing definition: public street,
202 highway, bridge, alley, bike lane, sidewalk, pedestrian way, trail, path, median, gutter, or
203 shoulder.

204

205 *Roadway* means that portion of the public right-of-way improved, designed, or ordinarily
used for vehicular travel, exclusive of any shoulder.

206

207 *Shared active transportation system (SATS)* means a business that provides one or more
208 shared devices for rentals where, by design of the permittee, the shared devices are intended to
209 be parked in a device operating area, but not connected to a dedicated docking station, when not
210 rented by a customer.

211

212 *Shared device* means bicycle, electric assisted bicycle, or motorized scooter rented by a
213 permittee to customers through a SATS.

214

215 *Shared-use path* means a pathway for bicycles and pedestrians either paralleling a
216 roadway and located within the right-of-way shared with the roadway but excluding any bike
217 lane, or located within a public easement or right-of-way not associated with a roadway, and
218 designated by signage as a public path.

219

220 Sec. 50-463. - Authorization.

221

222 Unlawful to operate SATS without authorization. It is unlawful for any person to conduct
223 a shared active transportation system within the city except pursuant to this article.

224

225 Sec. 50-464. - Permits required; issuance; authority of director; nature of permits.

226

227 (a) No person may conduct a SATS in the city who does not hold a valid permit. A
228 permit will be issued if the department finds that the application meets the
229 requirements of this article for issuance of the permit, including payment of

230 applicable fees, which shall be set from time to time by city council. Permits will be
231 effective for a period of one year and are renewable subject to the same standards of
232 review as for the initial permit.

233
234 (b) The director is authorized to limit the total citywide number of shared devices,
235 including the mix of shared devices, within device operating areas and to write
236 terms and conditions in individual permits as appropriate to effectuate this article,
237 including adjusting the mix of shared devices and fleet size of a permittee in order
238 to (1) maintain the integrity of the city's entire transportation system; (2) keep
239 rights-of-way free and clear of unnecessary obstructions; and (3) protect the health,
240 safety, and welfare of the citizens of the city.

241
242 (c) A permit does not grant exclusive rights to operate a shared active transportation
243 system in device operating areas.

244
245 (d) Each permittee shall comply with its permit.

246
247 Sec. 50-465. – Shared device equipment and requirements.

248
249 (a) Permittees shall provide, on every shared device, contact information of the
250 permittee including the website and phone number.

251
252 (b) All shared devices must be equipped with technology, such as GPS, that allows the
253 shared device to be located and tracked by the permittee at all times.

254
255 (c) Permittees shall see that every shared device prominently displays a unique and
256 easily read serial number or other identifier.

257
258 Sec. 50-466. - Operation of SATS.

259
260 (a) A permit is valid for conducting a SATS within device operating areas only, and
261 with the consent of the owner or lawful occupant on other real property. It is
262 unlawful to operate a shared device on any real property outside device operating
263 areas without consent of the property's owner or lawful occupant. Each permittee
264 shall have at all times the ability to discover when its shared devices are operated
265 outside device operating areas and to communicate electronically that information
266 to customers who have operated a shared device outside device operating areas.
267 Permittees shall communicate to customers when, at the end of operating a trip, that
268 the shared device has been operated outside device operating areas.

269
270 (b) Permittees shall not restrict the operation of shared devices to only certain
271 geographical areas of the city unless approved by the city.

272
273 (c) Permittees shall not discriminate against low and moderate income persons in
274 connection with permitted activities and conducting its SATS in the city. Permittees
275 must deploy and maintain a sufficient number of shared devices to satisfy customer

276 demand within census tracts of low and moderate income areas of the city as
277 defined in the permit.

278
279 (d) Each permittee shall implement programs to reduce barriers to low-income persons
280 to rent its shared devices by providing diverse payment options, including options
281 for persons with neither a smart phone nor a credit card to rent its shared device.
282 These options shall be made accessible to low-income persons at multiple locations
283 within the permittee's area of operation.

284
285 Sec. 50-467. - Permittee communication with customers.

286
287 (a) Permittees shall include substantially the following information for prospective
288 customers on the permittee's mobile app and web site, and also displayed on the
289 shared device for which the information is applicable:

- 290
291 (1) Persons operating bicycles and electric assisted bicycles are encouraged to
292 wear helmets.
293
294 (2) Persons operating motorized scooters must be at least 16 years old and wear a
295 helmet.
296
297 (3) NC law requires persons operating the device to follow applicable traffic laws.
298
299 (4) City ordinance prohibits operating the device on sidewalks except for parking
300 the vehicle.
301
302 (5) Operating electric assisted bicycles and motorized scooters is prohibited on
303 shared-use paths.

304
305 (b) Permittees shall adopt and implement programs to educate customers on how to
306 safely operate shared devices, including knowledge of laws applicable to operating
307 a shared device in the city.

308
309 (c) Permittees shall communicate to prospective customers sufficient information on
310 charges that may be made, including rates and dollar amounts of fees, including
311 rental charges, minimum charges, maximum charges, charges for additional time,
312 and charges for overage periods. If charges may be based on time or distance,
313 information on the rate per minute, hour, mile, or other applicable time period or
314 distance shall also be provided. Permittees shall communicate to customers diverse
315 payment options and alternatives that neither require a smart phone nor a credit card
316 to rent its shared device.

317
318 (d) Permittees shall have a 24-hour phone number and support email address for
319 customers to report safety concerns and complaints, and to ask questions.
320

- 321 (e) Permittee shall communicate to its customers how and where to park a shared
322 device in a manner required by this article, including the prohibited parking
323 locations listed under City Code section 66-310 (f).
324
- 325 (f) All communications required by this article to be made by a permittee to
326 prospective customers and customers shall be in clear, plain English and displayed
327 in a sufficiently prominent way that the communication is obvious.
328

329 Sec. 50-468. - Insurance, indemnification, security, and liability.
330

- 331 (a) At all times when conducting a SATS, a permittee shall maintain insurance in effect
332 and provide proof of such insurance, both as required by the department.
333
- 334 (b) Every permittee shall defend and indemnify the city from and against all claims and
335 liabilities that arise from the acts and omissions of the permittee and its customers
336 in device operating areas, to the extent the acts and omissions relate to the operation
337 of shared devices.
338
- 339 (c) Permittees shall provide the city with a performance bond, or other security
340 acceptable to the director, in an amount determined by the director to be sufficient
341 to cover the obligations of the permittee under the permit. The form of the bond is
342 subject to approval by the department after it consults the city attorney, and shall be
343 executed by one or more surety companies legally authorized to do business in the
344 State of North Carolina. The bond shall guarantee the performance of all the
345 obligations of the permittee under its permit. If the amount of the bond is set
346 according to the number of deployed shared devices, when a permittee intends to
347 increase the number of deployed devices, the permittee shall submit a revised
348 performance bond, or other security acceptable to the director, before the additional
349 shared devices may be deployed.
350
- 351 (d) Each permittee shall be responsible for the costs of repair to public property
352 damaged by its customers' use of its shared devices.
353

354 Sec. 50-469. - Parking, placement, rebalancing, and removing of shared devices.
355

- 356 (a) Shared devices shall not be parked in a way that may impede the regular flow of
357 vehicular and pedestrian travel in device operating areas or otherwise cause a
358 violation of the City Code, including this article. The permittee shall remove or re-
359 park every one of its shared devices that is parked in violation of the permit or the
360 City Code in accordance with the following:
361
- 362 (1) During the time period of 6:00 a.m. to 6:00 p.m. on weekdays, not including
363 legal holidays, the permittee shall remove or re-park within two hours of
364 receiving notice from any person or by the department via mobile or other
365 web application, email, or phone number.
366

- 367 (2) During all other times, the permittee shall remove or re-park within 12 hours
368 of receiving notice from any person or by the department via mobile or other
369 web application, email or phone number.
370
- 371 (b) At any time the city may make it unlawful to park shared devices in specific
372 locations or portions of device operating areas or public property by action of the
373 city council or as provided in division 2 (powers and duties of city manager) of
374 article II of chapter 66 (traffic and parking) of the City Code.
375
- 376 (c) Permittees shall remove every bicycle and electric assisted bicycle before it is
377 parked in the same location for more than seven consecutive days.
378
- 379 (d) Permittees shall remove every motorized scooter before it is parked in the same
380 location for more than 72 consecutive hours.
381
- 382 (e) Permittees shall not deploy a shared device that is inoperable or unsafe to operate.
383 Permittees shall remove from device operating areas within 24 hours of notice any
384 inoperable shared device, any shared device that is not safe to operate, or any
385 shared device unavailable to rent by the permittee.
386
- 387 (f) Each permittee shall remove and secure its entire fleet of shared devices from
388 device operating areas for all time periods for which the National Weather Service
389 or its successor agency forecasts (i) sustained winds of 40 mph or higher for one
390 hour or more, or (ii) wind gusts of 58 mph or higher for any duration in the city.
391
- 392 (g) Each permittee shall compensate the city for the costs incurred by the city in
393 removing and storing its shared devices that have been improperly parked or
394 rebalanced, including under the circumstances where a permittee fails to remove its
395 shared devices in violation of its permit or in case its permit is terminated or
396 otherwise not in effect.
397
- 398 (h) Permittees shall provide the department with contact information so that it can order
399 rebalancing. The city has the right to determine specific locations for rebalancing
400 shared devices, as well as times when the shared devices must be removed from
401 device operating areas.
402
- 403 (i) If the city relocates or removes a permittee's shared devices because of a violation
404 of a permit or this article, the permittee shall pay a fee in an amount set from time to
405 time by city council.
406

407 Sec. 50-470. - Reporting.

- 408
- 409 (a) Each permittee shall provide the city, or to such other persons that the city may
410 specify, with data regarding customers and shared device trips, in the format and
411 timeline specified by the director. The data shall include real-time availability data
412 for all devices, archival trip data for all devices including the frequency and

413 location of shared device trips during the permit period, including identification of
414 the shared device by type. This data will be used to support safe, equitable, and
415 effective management of the shared active transportation system throughout the
416 city. The permittee shall communicate to prospective customers that this data will
417 be collected and shared with the city.
418

419 (b) Each permittee shall compile, for all of its shared devices deployed in the city,
420 records of collisions or accidents reported to the permittee, the police, or the NC
421 Department of Motor Vehicles, and records of maintenance and repair. Records
422 shall be shared with the city when and in the manner required by the permit.
423

424 Sec. 50-471. - Revocation or non-renewal of permit; review of decisions.
425

426 (a) Revocation or non-renewal; grounds and procedure for revocation or non-renewal.
427 The director may, (i) at any time, revoke any permit issued to a permittee or (ii)
428 refuse to renew a permit issued to a permittee under this article and require that
429 permittee remove its entire fleet of shared devices from city designated areas, if the
430 director finds:
431

- 432 (1) Fraud, misrepresentation, or a knowingly false statement with respect to a
433 material fact in the permit application or permit renewal application;
434
- 435 (2) The permittee or the permittee's agent or employee violated this article or the
436 terms of the permit;
437
- 438 (3) The permittee's customers operate the shared devices in such a manner as to
439 create unsafe traffic conditions, cause a breach of the peace or public
440 nuisance, violate any applicable law, or interfere with the rights of property
441 owners abutting the right-of-way, and such operation is done to such an extent
442 that the health, safety, and welfare of the citizens or their property is at
443 substantial risk if the permit is allowed to continue in effect;
444

445 Except in case of emergency or impracticality, before revoking the permit or
446 denying renewal of a permit, the director shall give reasonable notice to the
447 permittee and an opportunity to be heard. A permit may be revoked or permit
448 renewal denied pursuant to this section even if the person making the findings
449 pursuant to this section had made a contrary finding before the permit was issued or
450 renewed, regardless of whether the facts upon which the finding is made had
451 changed.
452

453 (b) Notice.
454

- 455 (1) The director shall cause a written notice of the revocation or denial of renewal
456 to be served on the permittee by first-class mail, email or other electronic
457 means, or fax, to the address or number shown on the permit application, or
458 by any method allowed by law for service of a summons in a civil action. The

459 person serving the notice may be any person who is 18 years or older,
460 including the director.

461
462 (2) If the director finds that time before a proposed hearing is insufficient to allow
463 service in accordance with subsection (1), the director may, as an alternative
464 to the means listed in subsection (1), notify the permittee by telephone of the
465 grounds for revocation or denial of renewal and of the right to appeal,
466 provided a written notice is also sent in accordance with subsection (1) on or
467 before the next day that is not a holiday.

468
469 (3) The notice described in subsection (1) shall set forth a brief statement of the
470 grounds for revocation or denial of renewal and of the right to appeal.

471
472 (4) The director shall see that a written record is made to show: compliance with
473 this section (b).

474
475 (c) Retention of fees; waiting period. If the city revokes a permit, the city shall retain
476 the fee, if any, paid for the permit. In the case of a denial of a permit renewal, the
477 city shall either not accept the renewal fee or return the renewal fee to the permittee.
478 The person whose permit is revoked or renewal denied for grounds stated in
479 subsection (a)(1), (a)(2), or (a)(3), regardless of whether additional grounds existed,
480 shall not be issued a permit under the same section of this article for the remainder
481 of the time for which the revoked permit had been issued or, in the case of a denial
482 of a permit renewal, for the term of the renewal period. The director shall use
483 reasonable judgment in deciding whether two applicants are the same so that, for
484 example, technical changes in the applicant, or where the applicant one year is a
485 corporation and the next year it is an affiliate or subsidiary of the same corporation,
486 may be disregarded.

487
488 (d) Review of decisions. If the director denies the issuance of a permit, revokes a
489 permit, denies renewal of a permit, issues a permit with terms deemed unacceptable
490 to the permittee, or makes any other decision pursuant to this article with respect to
491 a permit, the applicant or permittee may have that decision reviewed by filing a
492 written request in the office of the director within ten days of the date of the notice
493 of decision. The director or a person designated by the city manager for this purpose
494 who is neither the person who made the decision complained of nor that person's
495 subordinate, shall be named as the hearing officer to conduct a hearing in order to
496 review the decision. The director shall cause a written notice of the time and place
497 of the hearing to be given or sent to the person seeking review. The failure of the
498 hearing officer to set a hearing within 15 days of the filing of the written request for
499 review, or to deliver a decision within ten days after the hearing, or within any
500 shortened periods set by the director, shall be deemed a denial of the relief sought
501 and affirmance of the action for which review was sought. The permittee and the
502 director may appear in person or through counsel and may present evidence,
503 provided, however, that the hearing officer shall have the authority to conduct the
504 hearing in the manner and for the period of time that he or she deems appropriate to

505 make a decision. The hearing officer may affirm, deny, or modify the decision
506 complained of, and the hearing officer's decision shall be final. Failure to request a
507 review within the time and in the manner provided for in this subsection shall
508 constitute a waiver of the right of review. The permit may be used during the
509 review process only if the director determines that its use would not constitute a
510 substantial threat that the grounds described in subsection (a)(2) or (a)(3) will occur,
511 re-occur, or continue during the review process.
512

513 (e) Certiorari. A decision by the hearing officer is subject to review by the Durham
514 County Superior Court by proceedings in the nature of certiorari. The petition for
515 review shall be filed with the clerk of Superior Court within the earlier of 30 days
516 after the denial and affirmance are deemed to occur pursuant to subsection (d), or
517 within 30 days after the decision is delivered to the applicant. Delivery is made by
518 hand-delivery of the decision to the applicant, or by first-class or certified mail to
519 the address provided on the application. Delivery by mail is complete when placed
520 in the custody of the U.S. Postal Service.
521

522 Sec. 50-472. - Penalties for violations.
523

524 (a) Assessment of civil penalties. The director shall assess civil penalties for violation
525 of this article, including the terms of a permit. The director shall give the offender
526 written notice of the nature of the violation and the amount of the civil penalty. The
527 notice shall be served by any method allowed by law for service of a summons in a
528 civil action, provided that the person delivering the notice may be any person who
529 is 18 years or older, including the director. The civil penalty shall be \$200.00 per
530 violation plus the costs incurred by the city resulting from the violation, including
531 costs of removing shared devices from the right-of-way.
532

533 (b) Review of assessment of civil penalties. Any person who has been assessed a civil
534 penalty under this article may have that assessment reviewed by filing a written
535 request in the office of the director within ten days of the date of service of the
536 notice of the civil penalty. A person designated by the city manager for this purpose
537 who is neither the person who assessed the civil penalty nor that person's
538 subordinate shall be named as the hearing officer to conduct a hearing in order to
539 review the assessment. The director shall cause a written notice of the time and
540 place of the hearing to be given or sent to the person seeking review. The person
541 assessed the penalty and the director may appear in person or through counsel and
542 may present evidence, provided, however, that the hearing officer shall have the
543 authority to conduct the hearing in the manner and for the period of time that he or
544 she deems appropriate to make a decision. The hearing officer may affirm, deny, or
545 modify the decision complained of, and the hearing officer's decision shall be final.
546 Failure to request review within the time and in the manner provided for in this
547 subsection constitutes a waiver of the right of review.
548

549 (c) Collection of civil penalties. If the offender does not pay the civil penalty within ten
550 days after having been served with the notice of the civil penalty, the director may

551 collect the civil penalties by causing to be commenced civil actions in the nature of
552 debt. The director may compromise such claims, before or after commencement of
553 the civil action, if the director finds there is a reasonable probability that the city
554 will be unable to collect the entire amount of the claim, that the amount offered in
555 compromise of the claim reasonably reflects either the amount of money available
556 from the offender or the amount the city is likely to recover in the civil action,
557 taking into account the resources required to pursue the civil action, and that the
558 facts and circumstances of the events giving rise to the claim, taken as a whole,
559 indicate that the amount offered in compromise is fair and reasonable. Using the
560 foregoing standards, in an appropriate case, the director may abandon a claim.

561
562 (d) Criminal remedies. Except for provisions, if any, of this article that regulate the
563 operation of shared devices, each violation of this article, including the terms of a
564 permit, is a misdemeanor punishable by a maximum fine of \$500.00.

565
566 (e) Available remedies. This article and the provisions of permits issued under this
567 article may be enforced by an appropriate equitable remedy, including abatement
568 orders and mandatory or prohibitory injunctions, issuing from a court of competent
569 jurisdiction. The general court of justice shall have jurisdiction to issue such orders
570 as may be appropriate, and it shall not be a defense to the application of the city for
571 equitable relief that there is an adequate remedy at law. In applying City Code
572 section 1-9(e), the city council intends that revocation of a permit be deemed to be a
573 remedy among other authorized remedies.

574
575
576 **SECTION 3.** This ordinance is effective upon adoption by the city council.