



# City of Cincinnati

801 Plum Street  
Cincinnati, OH 45202

## Agenda - Final-revised

### Major Projects & Smart Government

*Chairperson Greg Landsman  
Councilmember Chris Seelbach  
Councilmember David Mann  
Councilmember Wendell Young  
Councilmember Jan-Michele Kearney*

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Tuesday, December 7, 2021

2:00 PM

Council Chambers, Room 300

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## PRESENTATIONS

### Complete Streets

**Nathan Alley, Sierra Club**

### AGENDA

1. [202103108](#) **ORDINANCE** submitted by Paula Boggs Muething, City Manager, on 11/17/2021, **MODIFYING** Section 401-81, "Charges to Political Subdivisions," of Chapter 401, "Water Works," of the Cincinnati Municipal Code to clarify the months during which the Summer rate and Winter Rate for charges to political subdivisions are applicable.  
  
**Sponsors:** City Manager  
**Attachments:** [Transmittal](#)  
[Ordinance](#)
2. [202103131](#) **REPORT**, dated 12/1/2021, submitted by Paula Boggs Muething, City Manager, regarding CUF parking proposal recommendations. (SEE DOC. #202000809)  
  
**Sponsors:** City Manager  
**Attachments:** [Report - CUF Parking Proposal Recommendations](#)
3. [202103132](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 12/1/2021, **MODIFYING** the salary range schedule for the classification of City Planning Director by amending existing Section 490, Division 5, of Chapter 307 of the Cincinnati Municipal Code in order to establish a new salary range schedule for said classification.  
  
**Sponsors:** City Manager  
**Attachments:** [Transmittal](#)  
[Ordinance](#)  
[Exhibit A](#)

4. [202102322](#) **ORDINANCE (EMERGENCY)** submitted by Paula Boggs Muething, City Manager, on 6/23/2021, **MODIFYING** the provisions of Title VII, "Business Regulations" of the Cincinnati Municipal Code by **ORDAINING** new Chapter 811, "e-Scooter Rental Franchises," and **AMENDING** Section 1501-9, "Class D Civil Offenses," of Title XV, "Code Compliance and Hearings," of the Cincinnati Municipal Code to establish e-scooter rental franchises for the rental of e-scooters in the City of Cincinnati.

**Attachments:** [Transmittal](#)  
[Ordinance](#)

ADJOURNMENT

November 17, 2021

To: Mayor and Members of City Council 202103108  
From: Paula Boggs Muething, City Manager  
Subject: Ordinance to Amend CMC 401-81

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Attached is an Ordinance captioned:

**MODIFYING** Section 401-81, "Charges to Political Subdivisions," of Chapter 401, "Water Works," of the Cincinnati Municipal Code to clarify the months during which the Summer rate and Winter Rate for charges to political subdivisions are applicable.

Greater Cincinnati Water Works (GCWW) maintains standby water connections with a number of local governments that have their own water systems allowing these jurisdictions to purchase water from GCWW at the rates provided in Cincinnati Municipal Code (CMC) Section 401-81 when there is an emergency or when they are servicing their system. This ordinance clarifies the months during which the Summer rate and Winter rate applies for these local government water purchases.

The Administration recommends passage of this Ordinance.

cc: Cathy B. Bailey, Executive Director/Greater Cincinnati Water Works <sup>CBB</sup> <sub>LSA</sub>

# City of Cincinnati

AEY  
AWG

## An Ordinance No. \_\_\_\_\_

- 2021

**MODIFYING** Section 401-81, “Charges to Political Subdivisions,” of Chapter 401, “Water Works,” of the Cincinnati Municipal Code to clarify the months during which the Summer rate and Winter rate for charges to political subdivisions are applicable.

WHEREAS, City Council approved Ordinance No. 248-2021 on June 23, 2021 to amend Section 401-81, “Charges to Political Subdivisions,” of the Cincinnati Municipal Code (“CMC”), which establishes the rates charged to local governments for emergency or other occasional use of water from the Greater Cincinnati Water Works System; and

WHEREAS, the language of CMC Section 401-81 as amended by Ordinance No. 248-2021 provides a Summer rate and a Winter rate but does not indicate which months are defined as “Summer” months and “Winter” months; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 401-81, “Charges to Political Subdivisions,” of Chapter 401, “Water Works,” of the Cincinnati Municipal Code is hereby amended to read as follows:

### **Sec. 401-81. - Charges to Political Subdivisions.**

The water commodity charge rates per hundred cubic feet for water used by political subdivisions, other than those whose contracts with the City of Cincinnati specify rates, shall be as follows:

	2021	2022	2023	2024	2025	2026
Winter	3.15	3.27	3.45	3.64	3.84	4.06
Summer	3.75	3.89	4.11	4.33	4.58	4.83

The charges to political subdivisions in the above table shall be effective from January 1 through December 31 of each of the above listed years. The Winter rate shall apply during the months of January-April and November-December of the listed year. The Summer rate shall apply during the months of May-October of the listed year.

There shall be no service charges for water used under this section.

Section 2. That the proper City officials are authorized to carry out the terms of Sections 1 through 2 herein.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
New language underscored. Deleted language indicated by strikethrough.

December 1, 2021

To: Mayor and Members of City Council  
From: Paula Boggs Muething, City Manager  
Subject: CUF Parking Proposal Recommendations

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**202103131**

**REFERENCE DOCUMENT #202000809**

On June 24, 2020, the Major Projects and Smart Government Committee referred the following for review and report:

MOTION, submitted by Councilmember Landsman, WE MOVE that the City Administration review the recommended neighborhood parking proposal as presented by CUF community leaders in May of 2020 and provide a plan to fully fund and implement the following recommendations by December of 2020: Encourage better utilization of existing off-street parking in the Calhoun/McMillan Business District: - Public garages: expand availability of monthly passes, provide better signage and wayfinding, evaluate pricing and adjust accordingly, and assist with marketing garages to the groups that previously used on-street unmetered parking such as UC commuters and employees of businesses. Discourage free long-term parking in the currently unmetered on-street spaces in the residential areas to the south and west of UC: - Provide signage and enforcement for street sweeping, therefore requiring cars to be moved at least monthly or else they are progressively warned, then ticketed, then ultimately towed should they not comply. Work with UC to promote medium term parking (ex: satellite lots) in less congested areas to move commuter cars off of residential streets. Promote and fund non-single occupancy vehicle transportation options to UC students and faculty, and provide easier options for long, medium and short distance commuters: - Encourage and assist in providing infrastructure for bikes, scooters, and ride share programs such as Uber and Lyft. - Assist in advancing an Uptown circulator shuttle in cooperation with SORTA and UC. - Create One Way Streets with Bike Lanes: Flora, Victor, Stratford, Chickasaw, Rohs, Wheeler, Moerlein, & Ohio. WE MOVE that after these changes above have fully implemented (December of 2020), the City Administration, working alongside neighborhood leaders, will then assess the need for a residential parking permit program. Assuming there is still a need for greater intervention, the neighborhood leaders and City Administration will then provide a plan to fully fund and implement a residential parking permit program unique to the CUF community by June of 2021 (end of FY21).

The following summarizes the City Administration's response to the subject neighborhood parking proposal. Overall, the proposal's recommendations cover a wide array of proposed



solutions to the parking issues in CUF - some that are controlled by the City Administration and others that are not. This report states actions within control of the City that the City Administration has taken, will take, or recommends Council to take in order to implement solutions to identified issues.

### **Increase use of off-street parking in the Calhoun/McMillan Business District**

The primary tool that the City Administration controls to encourage increased use of off-street parking facilities is control over on-street metered parking - including setting prices and hours. The City Administration recommends pursuing a pilot program for dynamic pricing of on-street meter rates to increase rates during set times and set other parameters to accomplish community objectives. The City's Parking Division will work with the community and other stakeholders to establish the timing and parameters for this pilot program.

The neighborhood proposal contains several suggestions to meet this goal that are outside the control of the City Administration but could be carried out by the third parties who own or control the off-street parking facilities in the area. The City Administration will be supportive of any operators who pursue these suggestions. The recommendation above is focused on independent action available to the City Administration.

### **Street Sweeping**

Based on feedback received from the community, in early 2021 the Department of Public Services (DPS) began street sweeping along routes on Fairview Avenue and Riddle Road. This street sweeping occurs twice per month on designated days. In April 2021, after a two-month warning period, enforcement and ticketing began on these streets during the designated street sweeping times. In October 2021, the community requested additional services for the following locations:

- Ohio Avenue - From the upper set of steps to Calhoun Street
- Stratford Avenue - South of McMillan Street
- McMicken Street - From the Brighton Bridge to its northern terminus
- Straight Street - From Halstead Street to Clifton Avenue
- Marshall Avenue - From Central Avenue to its northern terminus

At this time, DPS has expanded street sweeping services to these requested locations for twice a month sweeping. However, due to resource constraints, signage has not been manufactured and installed to instigate the prohibition of parking on the street during street sweeping. An estimated \$50,000 appropriation is required from Council to cover the costs of manufacture and installation of this signage, which would increase the efficacy of the street sweeping.

### **Commuters Utilizing Residential Parking**

The primary available policy tool for protecting residential parking is to institute a residential parking program (RPP). Generally, the standard steps for establishing an RPP program are as follows:

1. A recognized community group submits to the Department of Transportation and Engineering (DOTe) a written request for the establishment of an RPP area. The request includes suggested borders for the proposed RPP area and the desired hours and days of enforcement.
2. The neighborhood group then circulates a petition with the proposed RPP information.
3. The neighborhood group submits the signed petition to DOTe for review.
4. To establish an RPP area, DOTe requires at least 60% of the households within the borders of the RPP area be in favor of the proposal.
5. DOTe validates the petition.
6. DOTe conducts two parking studies to determine if a minimum of 75% of the legal parking spaces are occupied.
7. The final step for implementation is the formal passage of an ordinance by City Council, including appropriation of sufficient funding to cover the \$15,000- \$35,000 in signage costs associated with instituting the RPP.

Under established RPP regulations, each household is only permitted to purchase two annual residential permits and one annual visitor permit (valid for two weeks from the date of purchase). While the number of annual visitors permits per household is capped per year, there are no caps on the overall number of temporary visitors passes that can be distributed within the neighborhood. It should be noted that residents who are tenants and residents who are owners may have opposing views on instituting an RPP, as was observed with the RPP established in CUF on Bellevue Avenue.

The next step for implementation of an RPP is for CUF Neighborhood Association, Inc. to submit a formal written request to DOTe with the proposed boundaries and desired hours and days of enforcement.

### **Promote Less Single Occupancy Vehicle Trips and More Options for Commuters**

The City continues to work on increasing bicycle infrastructure in CUF, including identifying funding for a permanent protected bike lane along Clifton Avenue. The City Administration will continue to collaborate with the community, University of Cincinnati (UC), and the Mayor and Council on this initiative.

To promote additional and efficient rideshare trips and to alleviate congestion that can occur from rideshare vehicles stopped in the roadway, DOTe will move forward with an assessment of possible locations for establishing a rideshare drop-off/pick-up zone in the McMillan Avenue/Calhoun Avenue corridor.

DOTe will also commence assessment of the identified one-way street conversions. This process begins with noticing of owners of properties on those streets and soliciting feedback on approval or disapproval of the changes. If there is sufficient response and support, then ultimately Council approval is needed for the change and an appropriation for costs to complete the change. Depending upon the number of streets converted and the type of lanes and/or safety amenities installed, cost could range from \$40,000- \$80,000.

Southwest Ohio Regional Transit Authority (SORTA) and UC are the public entities that would run and operate an Uptown Circulator bus. If these organizations recommend and seek to implement such a route or other bus transportation initiatives in CUF, then the City Administration will be supportive.



December 1, 2021

**To:** Mayor and Members of City Council

**From:** Paula Boggs Muething, City Manager

**202103132**

**Subject: Emergency Ordinance: Modifying the Salary Range for the Classification of City Planning Director**

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Attached is an Emergency Ordinance captioned:

**MODIFYING** the salary range schedule for the classification of City Planning Director by amending existing Section 490, Division 5, of Chapter 307 of the Cincinnati Municipal Code in order to establish a new salary range schedule for said classification.

Classification	Minimum (Annual)	Maximum (Annual)
City Planning Director	\$ 113,147.15	<del>\$ 157,331.07</del>
	\$ 113,147.15	\$170,643.29

The Human Resources Director has approved to modify the salary schedule for the employment classification of City Planning Director. The Department of Human Resources has done due diligence and conducted appropriate internal comparisons to ensure that the new salary range is consistent with the scope of services and the level of responsibility of the position of Director, with factors considered throughout the evaluation process including liability, scope of responsibility, judgment and independent action, accountability, and supervisory responsibility. The creation of the classification is necessary to fit the needs of the City, and consistent with the organizational changes described herein.

The Administration recommends passage of this Emergency Ordinance.

Attachment

cc: Edward G. Ramsey, Interim Human Resources Director

EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_

- 2021

**MODIFYING** the salary range schedule for the classification of City Planning Director by amending existing Section 490, Division 5, of Chapter 307 of the Cincinnati Municipal Code in order to establish a new salary range schedule for said classification.

WHEREAS, the City of Cincinnati Human Resources Department is recommending a modification to the current salary range for the classification of City Planning Director to narrow the salary gap of said classification with the external market and to align it more closely with comparable positions within the internal market; and

WHEREAS, the Department of Human Resources has performed due diligence and conducted appropriate internal comparisons to ensure that the new salary range is consistent with the scope of services and the level of responsibility of the position of City Planning Director, considering factors including liability, scope of responsibility, judgment and independent action, accountability, and supervisory responsibility throughout the evaluation process; and

WHEREAS, it has been determined that adoption of the new salary range is based upon market analysis, and is consistent with the organizational changes described herein and internal cost-of-living adjustment comparisons as approved by City Council; and

WHEREAS, it is further recommended that future cost-of-living adjustments for the position of City Planning Director be aligned with salary adjustments for the non-represented employee groups as approved by City Council; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 490 of Division 5, Chapter 307 of the Cincinnati Municipal Code is hereby amended as shown below:

Classification	Minimum Annually	Maximum Annually
City Planning Director	113,147.15	157,331.07 170,643.29

Section 2. That existing Section 490, Division 5, Chapter 307 of the Cincinnati Municipal Code is hereby repealed.

Section 3. That the proper City officials are thereby authorized to do all things necessary to carry out the provisions of Sections 1 and 2 herein.

Section 4. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to adjust the salary range of the said classification to ensure competitive retention and recruitment.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk



**To:** Edward G. Ramsey, Interim Human Resources Director

**CC:** Billy Weber, Assistant City Manager, Andrew Dudas, Budget Director

**From:** Latisha Hazell, Human Resources Deputy Director

**Date:** 11/5/2021

**Subject:** City Planning Director Market Study

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This is a class specification evaluation and salary validation for the position of City Planning Director in the Department of City Planning and Engagement. A report has been compiled that analyzes the required knowledge, skills, and abilities, as well as the education and salary requirements for the classification.

### **Part I: Methodology**

In completing this report an internal market study of comparable classifications within the City of Cincinnati was completed. The classifications considered for purposes of this review include Buildings and Inspections Director, Director of Performance and Data Analytics, Enterprise Technology Solutions Director, and Finance Director. The classifications selected are all agencies that are similar in scope of responsibility and services delivered to the City of Cincinnati. A market study of comparable localities across Ohio was also completed. The jurisdictions considered for purposes of this review include Toledo, Columbus, Cleveland, and Akron.

### **Part II: Market Analysis Summary**

- The position titles varied across the reviewed jurisdictions to reflect the specific department in which the incumbent works; however, "Planning Director" was the most common across almost all reviewed jurisdictions.
- The salary range for the position across the surveyed jurisdictions ranged from a minimum annual salary of \$49,920 to a maximum salary of \$229,049.60. These ranges are reflective of the variation in the cost-of-living index, and the scope of work within the department.

- The minimum educational requirements were consistent across all jurisdictions; specifically, each reviewed jurisdiction required at least a bachelor's degree and an average of 8 years of experience.

### Job Title and Salary

	Classification Title	Salary Range	
Akron	Director of Planning and Urban Development	NA	\$149,323.20
Cleveland	Planning Director	\$49,920.00	\$205,920.00
Columbus	Building and Zoning Services Director	\$137,404.80	\$229,049.60
Toledo	Director Planning Commission	\$83,493.28	\$137,246.72
		\$90,272.69	\$180,484.00

	Classification Title	Salary Range	
City of Cincinnati	Buildings and Inspections Director	\$135,688.62	\$170,643.29
City of Cincinnati	Director of Performance and Data Analytics	\$113,147.15	\$170,643.29
City of Cincinnati	Enterprise Technology Solutions Director	\$113,147.15	\$170,643.29
City of Cincinnati	Finance Director	\$113,147.15	\$170,643.29
		\$118,782.52	\$170,643.29

Based on the data collected, the average of the combined internal and external market is:

- **Minimum Salary is:** \$102,527.61
- **Maximum Salary is:** \$175,563.65

### **Part III: City Comparison**

The City of Cincinnati currently has a City Planning Director classification that exists within the City Planning Department. Based upon other classifications within the City and the scope of work, this position is comparable to other Director classifications across the City's structure. Incumbents within this classification generally plan, direct, manage, and oversee all activities and operations of the applicable department and report directly to the City Manager. Recently the department acquired the responsibilities and administration of the City Zoning Program and Enforcement. The City's Director classification series has similar requirements and duties as detailed in the classification specifications of the City Planning Director of the City, as well as the reviewed jurisdictions.

The education and experience requirements of the City Planning Director classification specification are similar to those outlined in the classification specifications of the reviewed jurisdictions.

Currently, the salary range for the City Planning Director classification is \$113,147.15-\$157,331.07 and falls within the Division 5 salary schedule.

### **Part IV: Key Consideration**

- It is important to note that the salary range is approximately \$13,312 lower than the average maximum of the salaries of similar director classifications within the City of Cincinnati.
- It is important to note that the salary range is approximately \$18,233 lower than the average maximum of the salaries of the reviewed jurisdictions.

### **Part V: Recommendations**

Based on the information detailed above:

The recommended salary range based upon a review of comparable positions with similar scopes of responsibility and across the reviewed jurisdictions is determined to be \$113,147.15 to \$170,643.29. This proposed range maintains the current bottom step and aligns the higher end of the salary range with director positions within the City of Cincinnati, like the Buildings and Inspections Director classification. While it may still be below the average maximum of the reviewed jurisdictions, increasing the salaries so that it aligns with classifications like the Buildings and Inspections Director classification helps to narrow the gap significantly.

The proposed salary is in alignment with the current industry standards, falls within the 50<sup>th</sup> percentile job market salary, and with current City practices.

Date: June 23, 2021

To: Mayor and Members of City Council

From: Paula Boggs Muething, City Manager

**202102322**

Subject: EMERGENCY ORDINANCE – E-SCOOTERS FRANCHISE REGULATIONS

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Attached is an emergency ordinance captioned as follows:

MODIFYING the provisions of Title VII, “Business Regulations” of the Cincinnati Municipal Code by ORDAINING new Chapter 811, “e-Scooter Rental Franchises,” and AMENDING Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code to establish e-scooter rental franchises for the rental of e-scooters in the City of Cincinnati.

The City Administration is working to enhance and codify the use of publicly shared electronic scooters, (e-scooters), in the City of Cincinnati. The recent passage of Ohio House Bill 295 and the subsequent update to Ohio Revised Code Section 4511 allows for e-scooters to operate and park within the City’s right-of-way subject to City regulations and prohibitions.

The reason for the emergency is to create the requisite governance in a timely manner to ensure the safe operation of low-speed micro-mobility devices and e-scooters that are presently operating within the City. The ordinance will establish provisions for awarding e-scooter rental franchises, set franchise fee requirements, and codify management and operations for this new transit sharing system.

cc: John S. Brazina, Director, Transportation and Engineering



EMERGENCY

City of Cincinnati

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AWB

An Ordinance No. \_\_\_\_\_ - 2021

**MODIFYING** the provisions of Title VII, “Business Regulations” of the Cincinnati Municipal Code by **ORDAINING** new Chapter 811, “e-Scooter Rental Franchises,” and **AMENDING** Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code to establish e-scooter rental franchises for the rental of e-scooters in the City of Cincinnati.

WHEREAS, the City established a pilot program for shared active transportation in the City, which included agreements with Bird and Lime allowing for the operation of low-speed micromobility devices, otherwise known as electronic scooters or e-scooters (“e-scooters”); and

WHEREAS, the City issued a request for proposals for consideration of a permanent program for the rental of e-scooters in the City, and the Administration reviewed proposals and is in the process of finalizing agreements with those vendors who will be most advantageous to the City; and

WHEREAS, the Ohio General Assembly recently passed House Bill 295, codified in Ohio Revised Code Chapter 4511, allowing for e-scooters to operate and park in the City’s right-of-way subject to regulations and prohibitions established by the City; and

WHEREAS, the City has a significant interest in protecting the safety and welfare of the pedestrian public and preventing City streets and rights of way from being flooded by e-scooters or rented without proper safeguards to account for the public health, safety, and welfare; and

WHEREAS, the establishment of a e-scooter rental franchise program will encourage e-scooter rental companies to regulate their own riders and operators and further provide resources for the repair and maintenance of the City’s roads and rights-of-way where such e-scooters operate; and

WHEREAS, by providing for a limited number of franchises, the City intends to prevent the cluttering of City streets, sidewalks, and other rights-of-way by e-scooter rental companies and provide an effective means to regulate and oversee the regulations of e-scooter rentals; and

WHEREAS, the City Council accordingly wishes to establish regulations for e-scooter scooter rental companies that operate within the City of Cincinnati in order to provide for the safety, security, and welfare of the public and the City’s infrastructure assets; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Title VII, “Business Regulations,” of the Cincinnati Municipal Code is hereby modified by enacting new Chapter 811, “e-Scooter Rental Franchises,” to read as follows:

**CHAPTER 811. e-SCOOTER RENTAL FRANCHISES.**

**Sec. 811-01. – Applicability.**

- (a) e-Scooter shall have the same meaning as defined in Cincinnati Municipal Code Section 501-1-E3, “e-Scooter.”
- (b) This chapter applies to any person engaged in the business of providing e-scooter rental or sharing services to the public within the city.
- (c) The requirements of this chapter shall supplement the provisions of Title V, “Traffic Code,” of the Cincinnati Municipal Code.
- (d) No person shall engage in the business of e-scooter rental or sharing services to the public within the city unless that person has obtained a franchise from the city to engage in such a business.
- (e) No person shall obtain a franchise from the city until that person has complied with the following:
  - (1) Submitted a timely and complete application for a franchise or timely and complete response to a request for proposals conducted by the city;
  - (2) Paid the application fee established by the city manager, if applicable;
  - (3) Posted a bond and obtained the insurance required by Sec. 811-07; and
  - (4) Executed a franchise agreement with the city for the provision of e-scooter rental or sharing services.

**Sec. 811-03. - General Provisions.**

- (a) It is unlawful for any person to commence or engage in the business of providing e-scooter rental or sharing services within the city without first obtaining a franchise and entering into a franchise agreement with the city.
- (b) Each franchisee shall comply with all laws of the city of Cincinnati, the state of Ohio, and the federal government. Each franchisee shall obtain and maintain all applicable licenses and permits required by federal, state, and local laws, rules, regulations, and orders of regulatory bodies.

- (c) Each franchisee shall comply with all rules and regulations established by the city manager or his or her designee for the safe and effective administration, operation, and enforcement of the e-scooter rental and sharing services pursuant to Sec. 811-09.
- (d) A franchisee shall not be relieved of the obligation to comply with all requirements of this chapter and the franchise agreement by failure of the city to enforce compliance with such requirements.
- (e) The city reserves its right to grant franchises and similar rights to more than one (1) person.
- (f) Each franchisee shall identify and mark each of its e-scooters located within the city with the franchisee's name so that they are easily identifiable.
- (g) A franchisee providing e-scooter rental or sharing services is not and shall not be deemed to be an agent or employee of the city. A franchisee shall be solely responsible for any losses or damages of any kind arising from its performance or nonperformance under its franchise. A franchisee shall indemnify, defend, and hold the city harmless against any and all claims and suits brought against the city resulting from the franchisee's performance or nonperformance under the franchise agreement.
- (h) The execution of the franchise agreement and the issuance of a franchise, and the renewal thereof, is at the sole discretion of the city manager and shall not be construed as creating any vested rights in the franchisee. Each franchise is revocable in accordance with the terms of this chapter and the terms of the franchise agreement.
- (i) A franchise may not be assigned or transferred to another person.
- (j) A franchise authorizes a franchisee to provide e-scooter rental or sharing services within the city.
- (k) All of the franchisee's equipment, including e-scooters and other vehicles used in connection with e-scooter rental or sharing services, shall be subject at all times to inspection by the city, and the city manager or his or her designee may require the cleaning, repair, replacement, or retirement of any equipment, including e-scooters and other vehicles used in connection with e-scooter or sharing services.

**Sec. 811-05. – Award of e-Scooter Franchisees.**

- (a) Any person wishing to obtain a franchise to engage in the business of providing e-scooter rental or sharing services within the city shall submit an application to the city manager in compliance with the process established for awarding franchises.

- (b) Where appropriate, the city manager may choose to conduct a request for services pursuant to Cincinnati Municipal Code Section 321-1-R6 to solicit qualified franchisees in lieu of an application process.
- (c) An applicant for a franchise shall provide the city with satisfactory evidence demonstrating that:
- (1) The applicant has the experience, personnel, equipment, and other resources to provide e-scooter rental or sharing services in the city and the management of such; and
  - (2) The applicant has the capacity and willingness to comply with all local, state, and federal laws, and all rules and regulations of the city for the rental, sharing, and operation of rental e-scooters.
- (d) Applicants for a new franchise and applicants for the renewal of an existing franchise shall provide information requested by the city manager and other relevant information. The application and supporting materials shall be submitted under oath. At a minimum, the application shall include the following information:
- (1) The name and mailing address of the applicant; contact information for the applicant's designated representative; the name of the person to be granted the franchise; if the applicant is a corporation, the names of the corporation's principal officers; the names of the local operating managers who will be responsible for the rental or sharing services for the applicant, together with the business address and telephone number of each manager;
  - (2) If the applicant is a corporation, proof that the corporation is in good standing in the state of Ohio and, if the applicant is not an Ohio corporation, proof that the applicant is authorized to do business in the State of Ohio. If the applicant is operating under a fictitious name, the applicant shall be required to submit information that such fictitious name is registered and held by the applicant;
  - (3) A statement of whether the applicant operates or has operated an e-scooter rental or sharing business in Ohio or any other state or territory. If the applicant has provided or is providing e-scooter rental or sharing services, the applicant shall describe all cases where and when it provided such services (but not more than ten (10) communities), and whether any of the applicant's permits, approvals, or licenses to provide such services have ever been revoked or suspended within the last five (5) years;
  - (4) A complete record of all felony convictions, and all misdemeanor convictions within the last five (5) years, involving the applicant's e-scooter rental and sharing services. If the applicant is not an individual, the applicant also shall provide the complete record of such convictions for any person who is an officer, majority shareholder, or partner in the applicant, and any person having a controlling interest in the applicant;

- (5) A complete record of all civil penalties and liquidated damages in excess of five thousand dollars (\$5,000.00) assessed against the applicant by local, state, and federal governmental entities within the last five (5) years involving the e-scooter rentals or sharing services;
  - (6) The types of e-scooters or other vehicles which the applicant has in its inventory and their capabilities, including any e-scooters that are adapted to expand access for people with physical limitations;
  - (7) A list of the e-scooters, vehicles, equipment, and containers that will be used by the applicant to provide e-scooter rental or sharing services. At a minimum, the list shall identify the make, model, and year of each e-scooter or vehicle. The city manager may inspect any of the e-scooters, vehicles, equipment, and containers identified by the applicant and thereby determine whether the applicant possesses the e-scooters, vehicles, equipment, and containers that are capable of providing safe and efficient e-scooter rental and sharing services in compliance with this chapter; and
  - (8) A chart identifying the maximum rates that the applicant charges customers for various types of e-scooter rental or sharing services.
- (e) When applicable, each applicant shall submit a nonrefundable application fee to the city in the amount established by the city manager. The application fee is due and payable when the application is submitted. This fee shall not apply to responses to a request for services.
  - (f) New applications must be submitted to the city manager at least sixty (60) days before the applicant wishes to begin providing e-scooter rental or sharing services. Renewal applications must be submitted to the city manager at least thirty (30) days before the applicant's existing franchise expires.
  - (g) A franchise for e-scooter rental or sharing services may be granted to a person when the city manager concludes that the applicant has satisfied the requirements in this chapter. This includes successfully responding to the request for services or completing the application and the city rating the person's proposal or application as most advantageous.
  - (h) The city manager retains the sole discretion to approve or deny an application. Among others, an application for a franchise for e-scooter rental or sharing services may be denied for the following reasons:
    - (1) The applicant has not submitted a complete application with all of the required supporting documents or paid the application fee;
    - (2) The applicant has submitted false or materially misleading statements in the application;
    - (3) The applicant or a partner, director, or officer of the applicant has been convicted of a felony within the past five (5) years, or has been convicted of a misdemeanor within the past three (3) years, involving provision of scooter rental or sharing services;

- (4) The applicant has failed to satisfy one or more of the requirements of this chapter or the Cincinnati Municipal Code;
- (5) Any reason that would justify the suspension or revocation of a franchise, as described in Sec. 811-11; and
- (6) The addition of further franchises would exceed either the total number of allowable e-scooters in the city or the number of franchises determined by the city manager to be needed by the city.

**Sec. 811-07. - Requirement to Execute a Franchise Agreement with the City; Payment of Franchise Fees.**

- (a) Each applicant awarded a franchise for e-scooter rental or sharing services shall execute a franchise agreement, including all required attachments, in the form prescribed by the city manager or his or her designee.
- (b) In connection with the execution of a franchise agreement, each franchisee shall submit the required franchise fees and documentation to the city, including but not limited to the following:
  - (1) An annual fee of two thousand five hundred dollars (\$2,500) for the administrative costs of oversight of the franchise, which fee shall be due and payable on the commencement date of the franchise and on each anniversary of the commencement date during the term of the franchise agreement.
  - (2) Monthly franchise fees as compensation for the rights and benefits granted by the franchise, including but not limited to the right to operate an e-scooter rental or sharing business in the city. The franchise fee shall be equal to twenty-five cents (\$0.25) per trip or activation of an e-scooter (which shall equal the total number of trips or activations of an e-scooter within a calendar month multiplied by \$0.25) for each e-scooter maintained by the franchisee within the city. A trip shall mean anytime a person activates or uses the e-scooter and pays a fee for such use. The franchisee shall submit its monthly franchise fee payments to the city no later than five business days after the end of each month.
  - (3) A statement of the franchisee's total number of trips in the city that accompanies each monthly franchisee fee payment, which statement shall be submitted on a form prescribed by the city manager or his or her designee. The statement shall include the number of e-scooters deployed or available in the city and the amount of trips and fees per day for each e-scooter. Statements and remittances shall be accepted as timely if postmarked within five days after the end of the month; if the fifth day falls upon a Saturday, Sunday, or federal or state holiday, statements and remittances shall be accepted as timely if postmarked on the next business day. Payments not received by the due date shall be assessed (1) an administrative fee to reimburse the city for the reasonable administrative costs associated with collecting such monies; and (2) interest for each day of delinquency at the rate of eighteen (18) percent per annum or the maximum allowed by law, whichever is less, for each day of delinquency, until

the total unpaid amount due and owing is paid in full. The administrative fee shall be equal to six (6) percent of the amount owed by the franchisee to the city or fifteen dollars (\$15.00), whichever is greater.

- (4) An annual report concerning the franchisee's total trips for the year. This annual report shall be examined by an independent reviewer, who shall confirm that the franchisee's computations concerning trips and franchise fees were performed in accordance with the requirements of this chapter. The report of the reviewer shall state that its examination of the franchisee's records was performed in accordance with professional standards. Each franchisee shall notify the city of the date its fiscal year ends. Each franchisee shall file the auditor's report with the city within one hundred twenty (120) days after the end of the franchisee's fiscal year. Franchisee shall be solely responsible for retaining the independent auditor and paying for his or her services.
- (5) A certificate evidencing insurance coverage for the following types of insurance coverage and specified limits of coverage is in effect for the same term as the franchise agreement, and naming the city as an additional insured (except with regard to the workers compensation and employers liability insurances), issued by an insurance company licensed to do business in the state of Ohio, acceptable to the city, and as required and set forth in greater specificity in the franchise agreement:
  - (a) Comprehensive general liability insurance with a limit of a one million dollar (\$1,000,000) per occurrence and a two million dollar (\$2,000,000) general aggregate. This policy must include the following coverages: premises and operations liability, independent contractors, products and completed operations, personal injury, contractual liability, and fire damage;
  - (b) Automotive liability insurance coverage providing a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. This policy must include the following coverages: bodily injury and property damage including premises and operations;
  - (c) Workers compensation insurance shall be provided for all of franchisee's employees as required under Ohio law; and
  - (d) Employer's liability insurance providing a single limit of not less than one million dollars (\$1,000,000), bodily injury by each accident, and providing a single limit of not less than one million dollars (\$1,000,000), bodily injury disease per each employee, and providing a single limit of not less than one million dollars (\$1,000,000) bodily injury by disease policy limit.
- (6) A bond in the amount of twenty percent (20%) of the franchisee's gross revenues for the quarter immediately preceding the execution date of the franchise agreement. For franchisees who did not hold a franchise in the quarter immediately preceding the execution date of the franchise agreement, the bond shall be in the amount of fifty thousand dollars (\$50,000). The bond shall conform with the requirements of CMC Chapter 304.



- (a) All amounts paid by the franchisee shall be subject to confirmation and re-computation by the city. An acceptance of payment shall not be construed as an accord that the amount paid is the correct amount, nor shall acceptance of payment be construed as a release of any claim the city may have for further or additional sums payable.
- (b) Billing methods that have the effect of reducing or avoiding the payment of franchise fees are prohibited and will be cause for termination of the franchise. Any person who uses false, misleading, or fraudulent billing methods for the purpose of reducing or avoiding the payment of franchise fees may be subject to the penalties provided by this chapter.
- (c) Payment of the franchise fee shall not exempt the franchisee from the payment of any other fee, tax, or charge on the business, occupation, property, or income of the franchisee that may be imposed by the city, the county, the state, or the federal government.
- (d) The franchisee shall notify the city in writing by registered or certified mail thirty (30) days in advance of any cancellation, intent not to renew, or any other changes in the insurance coverage required by this section. Upon the cancellation or lapse of any policy of insurance required by this chapter or the franchise agreement, the franchisee's license to operate as a franchisee in the city under its franchise agreement shall be deemed to be immediately revoked unless, before the expiration date of the policy of insurance, another policy of insurance containing all the requirements of the original policy of insurance is obtained and a new certificate is provided to the city.
- (e) The bond required by this section shall be used to insure the franchisee's performance under this chapter and the franchise agreement. Among other things, the bond shall be used to ensure the franchisee's payment of franchise fees and other sums that are due and owing to the city. The bond shall also be used to indemnify the city from any damages that may be suffered by the city in any manner as a result of the city's award of a franchise to the applicant, including but not limited to damages resulting from the franchisee's performance or nonperformance of the conditions and requirements of the franchise agreement, the franchisee's use of the city's streets, the failure of the franchisee to conform with applicable laws, and any negligent, reckless or intentional wrongful act or omission of the franchisee or the franchisee's employees, agents, officers, or representatives. The bond shall be kept in full force at all times during the term of the franchise. The bond shall be released by the city within one year following the expiration or termination of the franchise agreement.
- (f) A franchisee's failure to remit fees and documentation required by this chapter shall be grounds for the suspension or revocation of the franchise.
- (g) The city may seek judicial relief to recover all fees, costs, and interest due and owing by a franchisee. The franchisee shall pay the city's court costs, reasonable attorney fees, accounting and auditing costs, and other collection costs incurred by the city as a result of franchisee's failure to remit the fees and documentation required by this chapter and the franchise agreement.

**Sec. 811-09. – Rules and Regulations for Franchisee Operations.**

- (a) The city manager or his or her designee is authorized to establish rules and regulations for the safe and effective administration, operation, and enforcement of the e-scooter rental and sharing services program. The regulations may include but are not limited to the following categories:
- (1) Required notices and information to be provided to e-scooter renters and users;
  - (2) Required management and enforcement tools so the city and franchisees may effectively control, monitor, and manage rented e-scooters;
  - (3) Required maintenance obligations and abatement obligations regarding retrieval of e-scooters which are determined by the city to be in disrepair, in need of service, or located outside of permissible areas of operation;
  - (4) Identification requirements to ensure rented e-scooters are identifiable and ensure the payment of fees and costs associated with such rentals;
  - (5) Restrictions on parking in the city right-of-way;
  - (6) Environmental concerns and regulations based on the weather;
  - (7) Rider education and public health concerns regarding safety;
  - (8) Restrictions on fleet size or the number of shared or rentable e-scooters owned or operated by a franchisee;
  - (9) Allowances for accessibility e-scooters or similar devices which are intended to allow those persons with physical limitations access to similar rentable devices;
  - (10) Curfew restrictions and boundaries for permanent and temporary restricted areas of operation; and
  - (11) All regulations necessary for the safe and effective management and control of e-scooters in the city's streets, paths, roads, rights-of-way, and other public grounds.
- (b) The rules and regulations established pursuant to this section shall promote the safe and orderly operation of e-scooters within the city, and shall promote the safety and welfare of pedestrians, residents, businesses, city staff, and right-of-way users. All e-scooter rental franchises shall agree to abide by such rules and regulations.
- (c) Each franchisee shall prepare, keep, and maintain current, accurate records demonstrating its compliance with the requirements of this chapter and the franchise agreement.

- (d) The city shall have the right to inspect and review a franchisee's records concerning its franchise. The city shall provide fifteen (15) days advance written notice of any such inspection. The city also may copy and audit the franchisee's records, at the city's expense. The records shall be readily accessible for review by the city.

**Sec. 811-11. - Suspension or Revocation of Franchise.**

- (a) The city manager may suspend or revoke a franchise and the corresponding franchise agreement if the city manager concludes that:
- (1) The franchise was issued due to a mistake of law or fact;
  - (2) The franchise was issued based upon a false statement or misrepresentation by the franchisee;
  - (3) The franchisee has violated an applicable provision of the Cincinnati Municipal Code, state law, or federal law;
  - (4) A necessary permit, approval, or license of the franchisee has become invalid;
  - (5) The franchisee is no longer engaged in providing e-scooter rental or sharing services in the city;
  - (6) The services and other activities authorized under the franchise are not being performed in accordance with the requirements of this chapter, the franchise agreement, or the application for a franchise;
  - (7) Timely and full payment of the franchise fee has not been accomplished by the franchisee in compliance with this chapter;
  - (8) The franchisee or one (1) of its principals has been convicted under a local, state, or federal law for a crime involving scooter rental or sharing services;
  - (9) The franchisee failed to provide, pay for, and maintain the coverage in accordance with the requirements of this chapter;
  - (10) The franchisee violated a requirement of this chapter or the franchise agreement;
  - (11) The franchisee failed to comply with a lawful order of the city manager or his or her designee; or
  - (12) The franchisee's actions or inactions demonstrate that the franchisee is not competent or fit to provide services to the public.

- (b) Before the city manager suspends or revokes a franchise, the city manager or his or her designee shall provide notice to the franchisee and an opportunity to be heard in the manner set forth in Sec. 811-13.
- (c) A franchise that has been suspended or revoked under this chapter shall not be reinstated or reissued unless, at a minimum, the franchisee has complied with all of the requirements of this chapter, submitted a complete application, paid the application fee, executed a franchise agreement, and been approved by the city manager.
- (d) The revocation of a franchise shall automatically terminate the corresponding franchise agreement.

**Sec. 811-13. - Right to Appeal the Denial, Suspension, or Revocation of a Franchise.**

- (a) Prior to the denial of an application or the suspension or revocation of a franchise, the applicant or franchisee shall be given reasonable notice of the city manager’s proposed action and shall be given an opportunity to present evidence to the city manager or his or her designee explaining why the franchise should not be denied, suspended, or revoked. The city manager shall consider any evidence presented by the applicant or franchisee that the city manager determines is relevant to the appeal before the city manager issues a final decision. Notice of the city's proposed action, and notice of the city’s final decision, shall be served upon the applicant or franchisee by certified mail.
- (b) The applicant or franchisee may appeal the city’s final decision by filing a notice of appeal with the office of administrative hearings pursuant to Chapter 1501 of the Cincinnati Municipal Code within fifteen (15) days after written notice of the city manager’s decision is issued. An appeal to the office of administrative hearings shall not act as a stay of the city manager’s decision to suspend or revoke a franchise.

**Sec. 811-15. - Penalties.**

A violation of any section of this chapter shall constitute a Class D civil offense.

Section 2. That Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby amended as follows:

**Sec. 1501-9. - Class D Civil Offenses.**

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for

the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E
(8)	Chapter 1107	Elevator and Conveyer Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspection Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
(18)	§ 874-07(a)	Failure to Register Residential Rental Property	Class D

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks - 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-25(c)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D
(13)	§ 1125-17(1)	Failure to Register a Vacant Building	Class E
(14)	§ 1601-57	Enforcement of Emergency Orders	Class D
(15)	§ 1601-59	Enforcement of Health Orders	Class D
(16)	<u>Chapter 811</u>	<u>e-Scooter Rental Franchises</u>	<u>Class D</u>

Section 3. That existing Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby repealed.

Section 4. That the City Manager and the proper City officials are authorized to take all necessary and proper actions to carry out the provisions of this ordinance, including by updating applicable rules and regulations and policies and procedures in accordance with the modifications to the Cincinnati Municipal Code provided for herein.

Section 5. That, notwithstanding the provisions of new Chapter 811, “e-Scooter Rental Franchises” concerning the manner in which the City Manager is authorized to solicit and award franchises, the City Manager is authorized to negotiate, finalize, and execute franchise agreements with those e-scooter rental companies whose responses to Request for Proposals (RFP729ENGSCOOTERS) the City has determined to be most advantageous to the City, provided that the franchise agreements are consistent with the provisions of new Chapter 811, “e-Scooter Rental Franchises.”

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to establish franchise regulations for e-scooter scooter rental companies who operate within the City of Cincinnati as such devices and companies are presently operating within the city, in order to immediately provide for the safety and welfare of pedestrians, residents, businesses, city staff, and right-of-way users.

Passed: \_\_\_\_\_, 2021

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

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Additions indicated by underline; Deletions indicated by strikethrough.