City of Omaha
Jean Stothert, Mayor

Office of the Mayor
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May 14, 2019

Dear President Gray and members of the Omaha City Council,

I have signed the resolution to authorize the beginning of the pilot to test the use of Shared Scooters. However, I have remaining concerns specifically about Lime and geofencing before we even get started.

The geofencing information provided to you at the May 7 City Council meeting is inconsistent with information the City previously received and the conditions of the pilot. Geofencing to stop the rider from entering prohibited zones is required in our bid documents and is clearly stated in the contract. Last week, Lime's representative testified the company is not prepared to offer that technology yet in Omaha.

Lime now indicates it will be able to implement the "no-ride zones" by June 14, prior to the beginning of the College World Series. I am disappointed in the mixed messages from Lime and I hope there are no other surprises as we begin the pilot.

I am also concerned that the agreement Lime requires users to read and sign will not be read or understood by riders. The 20,000 word document explains the safety and use requirements and responsibilities of the rider, including age requirements, past traffic violations that would prohibit some people from riding, and personal liability. I question how many riders will take the time to review this information.

I have asked City Prosecutor Matt Kuhse to review several enforcement questions and he has provided a written response which I have attached.

Spin has not provided a start date yet, but we will hold Spin to the same requirements.

I recommended a six-month Shared Scooter pilot to evaluate participating companies, identify concerns about public use and safety and gather public input before we consider a long-term agreement. I hope the unexpected questions with Lime are quickly resolved.

Sincerely,

Jean Stothert

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Matthew M. Kuhse
City Prosecutor

MEMORANDUM

DATE: MAY 13, 2019
TO: MAYOR JEAN STOTHERT
TODD SCHMADERER, CHIEF OF POLICE
FROM: MATTHEW M. KUHSE, CITY PROSECUTOR
SUBJECT: ELECTRIC SCOOTERS

Following a conversation with the Mayor on Friday, May 10, 2019, I researched the issue of enforcing the Nebraska rules of the road on electric scooters. I informed the Mayor and the Omaha Police Department (OPD) of my position that the rules of the road apply to these scooters. After my research over the weekend, I am now confident in that decision.

There is no definition of an electric scooter in Omaha's ordinances or in Nebraska statutes. Therefore, my analysis focused on a hybrid of definitions dealing with motor vehicles, bicycles and low speed vehicles. As I have indicated, Nebraska law contains many definitions of "motor vehicle" and my focus was on Neb. Rev. Stat. § 60-638 because that is the definition that applies to the rules of the road.

This statute defines a motor vehicle as "every self-propelled land vehicle, not operated upon rails, except bicycles, mopeds, self-propelled chairs used by persons who are disabled, and electric personal assistive mobility devices." This definition prohibits this office from pursuing a DUI charge against someone operating an electric scooter, since these scooters are more like a bicycle, motorized wheelchair or electric personal mobility device.

Given that an electric scooter is a propelled vehicle, it is my opinion that it falls under the rules of the road and within the limitations on low speed vehicles found under Neb. Rev. Stat. § 60-6,380. For example, a scooter must obey traffic control devices, it cannot be on the sidewalk, yield to oncoming traffic and signal its turns.

I do not believe that a driver's license is required, by law, to operate an electric scooter, nor do I believe that they are required to have car insurance.

This opinion only applies to the criminal and traffic law enforcement on these electric scooters. I do not have a position on matters related to the terms of the contract.

Matthew M. Kuhse
City Prosecutor

MMK:pjc

c: PAUL KRATZ, CITY ATTORNEY
SCOTT GRAY, DEPUTY CHIEF OF POLICE
MARTY BILEK, MAYOR'S CHIEF OF STAFF