

## Kuether-Steele, Molly

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**From:** Owczarski, Jim  
**Sent:** Thursday, July 12, 2018 8:42 AM  
**To:** Kuether-Steele, Molly  
**Subject:** FW: BIRD Motorized Scooters

You'll need this e-mail.

Everything else is from Adam Stephens.

Jim

Jim Owczarski, CMC  
City Clerk  
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@mkeclerk

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**From:** Stephens, Adam  
**Sent:** Wednesday, June 27, 2018 4:43 PM  
**To:** Korban, Ghassan; Dettmer, Karen; Rusch Walton, Sandra  
**Cc:** Langley, Grant; St. Junior, Tyrone; Owczarski, Jim; Rowe, Diana; Raden, Chad  
**Subject:** BIRD Motorized Scooters

Commissioner:

I write in response to your inquiry as to the legality of the "BIRD Electric Vehicle Sharing" platform and smartphone app (see, <https://www.bird.co> (last visited 06/27/2018)). It appears from the BIRD website, an in person inspection of one of the vehicles and a phone interview of a company representative that 100 of these two tandem wheeled electric powered scooters were placed around downtown Milwaukee for the first time this morning. Upon information and belief, a few days before June 19, 2018, a New York company identified as License Logics contacted the City Clerk's License Division inquiring whether the City licensed the rental of electric scooters. This representative was informed there was no such licensing requirement but that scooters may not be legally operated on roadways or sidewalks. To my knowledge, BIRD did not subsequently inquire as to any traffic regulations with the City of Milwaukee prior to this morning's roll out.

BIRD's Motorized Scooters may NOT be lawfully operated on any public street or sidewalk in the City of Milwaukee. Whether defined as a vehicle (Wis. Stat. Sec. 340.01(35)), motor vehicle (Wis. Stat. Sec. 340.01(35)) or a play vehicle (Wis. Stat. Sec. 340.01(43m)), under no circumstances may motorized scooters operate on a public street because they are not designed for on-street use. See, City Attorney's Opinion dated April 7, 2004 and Wisconsin Department of Transportation Correspondence Memorandum dated May 31, 2005. If motorized scooters were designed for on-street use, they would be subject to federal safety standards and manufacturer certifications. Further, regulations pertaining to operation of motor vehicles apply equally on sidewalks and streets as both are part of the public highway right-of-way. BIRD's website and notice placard on the scooter informs operators that they must not use the vehicle on a sidewalk and should use the vehicle on the roadway or bicycle lane. See, <https://www.bird.co/blog/bird-launches-safety-campaign-in-santa-monica> (Last visited 06/27/2018) "Ride in bike lanes. Please ride on the street close to the right curb and don't ride on sidewalks." This statement is thus encouraging the violation of Wisconsin vehicle and traffic law.

Consequently, any operator of a BIRD motor scooter on a city street or sidewalk is subject to a \$98.80 citation for Operating an Unregistered Motor Vehicle upon a Highway contrary to Wis. Stat. Sec. 341.04(1). Based on circumstances, there may be other traffic law violations committed by the operator (such as OWI).

Given the extremely short turnaround (a few hours), I would appreciate an opportunity to draft a formal City Attorney opinion regarding this matter. I write this informal opinion due to the emergent nature of this situation and the distinct likelihood these vehicles are currently being operated by Summerfest visitors or other individuals on city streets after consuming alcoholic beverages and/or engaging in risky driving on what they perceive as a simple toy.

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