

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 83.0301 AND 83.0302; BY RETITLING AND AMENDING SECTIONS 83.0303, 83.0304, 83.0305, 83.0306, AND 83.0307; BY AMENDING SECTIONS 83.0308, 83.0309, 83.0310, AND 83.0311; BY ADDING NEW SECTION 83.0312; AND BY RENUMBERING, RETITLING, AND AMENDING SECTION 83.0312 TO 83.0313 AND SECTION 83.0313 TO 83.0314, ALL RELATING TO THE OPERATION OF SHARED MOBILITY DEVICE SERVICE PROVIDERS.

WHEREAS, in February 2018, several Shared Mobility Device companies (providers) began operations in San Diego; and

WHEREAS, Shared Mobility Devices (SMD) are dockless bikes and scooters that may be rented via a mobile device application and may be left wherever the rider ends their trip; and

WHEREAS, the proliferation of the SMDs proved not only their popularity, but also the need for a regulatory framework addressing issues with staging, parking, speeding, liability, and unsafe ridership behavior; and

WHEREAS, on May 17, 2019, the City Council adopted the Shared Mobility Device Ordinance San Diego Ordinance O-21070 (June 16, 2019), to permit, manage, and enforce rules for SMDs in the public right of way; and

WHEREAS, seven providers applied for and received operating permits, allowing a total of 22,300 SMDs to operate in the City between July 1, 2019 and January 31, 2020; and

WHEREAS, on January 30, 2020, the City Council adopted San Diego Ordinance O-21170 (Feb. 2, 2020) that amended the Shared Mobility Device Ordinance and effectively banned the operation of SMDs on City boardwalks; and

WHEREAS, since Ordinance O-21070 went into effect, the City has been analyzing ridership data, collecting resident and provider concerns, enhancing operations based on internal feedback from impacted City Departments, and enforcing violations against both riders and providers; and

WHEREAS, City staff has reviewed the SMD program and recommends amendments to strengthen and better manage the SMD program; and

WHEREAS, the proposed amendments to Ordinances O-21070 and O-21170 are based on the feedback of both internal and external stakeholders and are designed as actionable steps to further mitigate the ongoing concerns of provider accountability, public health and safety, underage usage, and City operational efficiency; and

WHEREAS, to continue improving SMD regulations, the City Council wishes to eliminate the City's permit process and replace it with a competitive bidding and contracting process; add an incremental fine structure for staging and geofencing violations; prohibit SMD providers from renting devices to the public from 12:00 a.m. – 2:30 a.m.; and add enforcement measures to ensure provider compliance with the San Diego Municipal Code and contract obligations.

WHEREAS, the City will continue to evaluate the data received from providers, as well as external and internal stakeholder concerns, to ensure the most effective regulatory scheme;
NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 8, Article 3, Division 3, of the San Diego Municipal Code is amended by amending sections 83.0301 and 83.0302; by retitling and amending sections 83.0304, 83.0305, 83.0306, and 83.0307; by amending sections 83.0308, 83.0309, 83.0310, and

83.0311; by adding new sections 83.0312 and 83.0313; and by renumbering and retitling old section 83.0312 to 83.0313 and renumbering and retitling old section 83.0313 to 83.0314, to read as follows:

§ 83.0301 Purpose and Intent

The City Council enacts this Division to establish a process for allowing *providers* to rent *shared mobility devices* for public use in the City of San Diego.

The City Council finds that authorizing City streets for this purpose furthers its goal of encouraging alternative methods of transportation while protecting public health and safety and maintaining accessibility under local, state and federal laws, including, but not limited to, the Americans with Disabilities Act.

§ 83.0302 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply to this Division:

Corral means an area designated for staging or parking *shared mobility devices* that is created either by a virtual geographic boundary, or by physical striping, marking or signage.

Electric bicycle [No change in text.]

Fleet means all *shared mobility devices* in the City owned by a specific *provider*.

Fleet Management means field responsibilities by the *providers* that include *fleet* deployment, sanitization, rebalancing and general care of the *shared mobility devices*.

Geofencing means the creation of a virtual geographic boundary, defined by Global Positioning System (GPS), radio-frequency identification (RFID), or other technology, that enables a *provider* to regulate speed, issue notifications, and take other actions, when a *shared mobility device* in its *fleet* enters or leaves an area.

Motorized scooter through *Motorized bicycle* [No change in text.]

Shared mobility device means an electrically motorized board as defined in Section 313.5 of the *Vehicle Code*, motorized scooter as defined in Section 407.5 of the *Vehicle Code*, electric bicycle as defined in Section 312.5 of the *Vehicle Code*, bicycle as defined in Section 231 of the *Vehicle Code*, motorized bicycle as defined in Section 406 of the *Vehicle Code*, or other similar personal transportation device, except as provided in subdivision (b) of Section 415 of the *Vehicle Code*, that is made available to the public by a *shared mobility service provider* for shared use and transportation in exchange for financial compensation via a digital application or other electronic or digital platform.

Shared mobility device provider or provider means a person or entity that offers, makes available, or provides a *shared mobility device* in exchange for financial compensation or membership via a digital application or other electronic or digital platform.

§ 83.0303 Other Laws Applicable to Providers

Providers are subject to all applicable laws, rules, and regulations, including those in the San Diego Municipal Code and the *Vehicle Code*, pertaining to the operation and safety standards of the *shared mobility devices* in their *fleet*.

§ 83.0304 Contract Required

It is unlawful for any *person* to own or operate a *shared mobility device* business without a written contract with the City to do so.

§ 83.0305 Provider Requirements

- (a) The City may contract with *providers* to operate *shared mobility devices* within the City in exchange for payment of fees and costs as determined in the contract. The City reserves the right to adjust the number of *shared mobility devices* deployed in the City by a *provider* when state or local regulation dictate or the City's needs and demands are determined for specific devices (e.g. cargo bikes, adaptive scooters, etc.).
- (b) A *provider* shall:
 - (1) provide to the City the *provider's* name and business address, and the name of the natural person or natural persons who will serve as a local point of contact for the *provider* for retrieval of any *shared mobility device* as required by this Division;
 - (2) identify in writing the quantity and type of all *shared mobility devices* in the *provider's fleet*;
 - (3) provide to the City proof of a valid Business Tax Certificate issued in accordance with Chapter 3, Article 1 of this Code;
 - (4) provide to the City proof of insurance naming the City of San Diego as an additional insured in the form and amounts established by the City Manager and consistent with California Civil Code section 2505(b);

- (5) ensure that the *shared mobility devices* in the *provider's fleet* comply with applicable federal and state laws with respect to their design and operation and that the *shared mobility devices* are maintained in good working order consistent with industry standards;
- (6) label each electric scooter or *motorized scooter* in the *provider's fleet* with a statement that is clearly visible and in at least 40-point font that reads "Riding and parking on sidewalks is prohibited. One person allowed per device."
- (7) label each electric scooter or *motorized scooter* in the *provider's fleet* to state any minimum age requirements adopted by the *provider*, and to display a device identification number on both sides of the device's stem that is four to six digits in length in at least 88-point font.
- (8) ensure that the *provider's* user interface provides accurate information about *Vehicle Code* requirements, including state licensing requirements, applicable to the operation of a *shared mobility device* and that the *provider* will not accept the license of a person under the *provider's* adopted age requirements as valid identification to operate a *shared mobility device*;

- (9) employ a user interface that requires users to upload a valid driver's license at least every three months to demonstrate compliance with applicable state laws as well as the *provider's* adopted age requirements for operating a *shared mobility device*;
- (10) employ a user interface that prevents the simultaneous operation of more than one *shared mobility device* per valid user identification;
- (11) establish an application program interface or other automated mechanism that allows the *provider* to share and integrate its data as required in this Division;
- (12) collect data during their operations within the City for all *shared mobility devices* in the *provider's fleet*, as required by this Division and as further described in the contract documents prepared by the City Manager;
- (13) submit a performance bond or similar security, acceptable to the City Manager, based on the number of *shared mobility devices* in the *provider's fleet* and guaranteeing that the *provider* will remove all its *shared mobility devices* from the City if the *provider's* contract is terminated or expires, in an amount that the City Manager determines is sufficient to cover the cost for the City to collect and dispose of the *provider's fleet*;

- (14) share specified data as described in the contract with the City, the San Diego Association of Governments, and any third-party contractor of the City through an application program interface or similar technology;
 - (15) indemnify, defend, and hold the City harmless from claims and damages arising out of or related to the *provider's* activities under the contract or the operation of its business in the City;
 - (16) notify users on its user platform and website of the information required by section 83.0305(b)(6);
 - (17) utilize in-application enforcement measures to identify negative *shared mobility device* user behavior patterns and hold users accountable for such behavior through a system of fines and termination of user privileges; and
 - (18) submit any other information required by the City Manager, as permitted by law.
- (c) The City Manager may make other rules and regulations reasonably necessary to implement this Division.

§ 83.0306 Terms and Issuance of Contracts

- (a) The contract shall obligate *providers* to:
 - (1) identify the types of *shared mobility devices* the *provider* is authorized to deploy;
 - (2) identify the quantity of each type of *shared mobility device* permitted in the *provider's fleet*.

§ 83.0307 Provider Fees

Providers selected to enter into a contract with the City must pay an Annual Operator Fee in full to the City at the time of execution of the contract. If a contract allows for additional yearly terms, then the Annual Operator Fee must be paid in full 30 days prior to the start of the next additional yearly term.

Additionally, the City will invoice *providers* for a daily Device Fee, for each *shared mobility device* deployed, as well as a per device Climate Equity Fee. The City will invoice *providers* for these fees monthly and *providers* must pay these fees within 30 days of issuance of the invoice.

§ 83.0308 Geofencing Speed and Operating Restrictions

- (a) Through *geofencing* or similar technology, a *provider* shall reduce the speed of any *motorized scooters* and *motorized bicycles* in the *provider's fleet* to eight miles per hour or less at the following locations:
 - (1) through (3) [No change in text.]
- (b) Through *geofencing* or similar technology, a *provider* shall prevent any *motorized scooters* and *motorized bicycles* in the *provider's fleet* from being locked, parked, or ending a ride, and shall reduce the speed of its *motorized scooters* and *motorized bicycles* to eight miles per hour on the public right-of-way within the Petco Ballpark Zone, as defined in Chapter 8, Article 3, Division 1 of this Code.
- (c) To effectuate the ban on the operation of *motorized transportation devices* on the City's boardwalks and baywalks pursuant to section 84.18, a *provider* shall, through *geofencing* or similar technology, prevent any

motorized scooters and *motorized bicycles* in the *provider's fleet* from being locked, parked, or ending a ride, and shall reduce the speed of any *motorized scooters* and *motorized bicycles* in its *fleet* to a maximum of three miles per hour at the following locations:

(1) through (5) [No change in text.]

(6) on the public walkway on the east side of Mission Bay Park from De Anza Road southward to the South Shores Boat Launch and Park;

(7) [No change in text.]

(8) on the public walkway on the westerly and northerly side of Ellen Browning Scripps Park, from Ocean Street to Coast Boulevard; and

(9) the pedestrian area adjacent to the Children's Pool in La Jolla, known as the Children's Pool Plaza.

(d) Through *geofencing* or similar technology, a *provider* shall prevent any *motorized scooters* and *motorized bicycles* in the *provider's fleet* from being operated, locked, parked, or ending a ride on a City sidewalk, except for shared use bikes or e-bikes that can lock to existing City bike racks. *Providers* shall reduce the speed of any *motorized scooters* and *motorized bicycles* in its *fleet* to three miles per hour on all City sidewalks, once such technology is commercially available and has been demonstrated by a

provider that it can be implemented safely and effectively across its entire *fleet*. This speed reduction is intended to effectuate the prohibition of operating *shared mobility devices* on the sidewalks.

- (e) The City Manager may adopt additional locations subject to *geofencing* or similar technology consistent with section 83.0308(a), section 83.0308(b), or section 83.0308(c).
- (f) The City Manager may require *providers* to temporarily lock down and prevent the operation of *shared mobility devices* in a specific area using *geofencing* or similar technology during an emergency situation or within the perimeter of a permitted *Special Event*, as defined in Chapter 2, Article 2, Division 40 of this Code, when necessary to maintain public health and safety.
- (g) When a rider operates a *shared mobility device* in the *provider's fleet* within a location subject to *geofencing*, the *provider* shall notify the rider of the reduced speed limit and any other applicable conditions of this section.
- (h) In instances where a *geofencing* zone overlays a Class IV protected bike lane or a Class II bike lane as defined in Section 890.4 of the California Street and Highways Code, the City Manager may exempt the protected bike lane from *geofencing* speed restrictions.
- (i) *Providers* shall prevent *shared mobility devices* from being reserved or otherwise activated for rider use between the hours of 12:00 a.m. and 2:30 a.m.

§ 83.0309 Data Sharing

- (a) *Providers* shall provide anonymized trip and device status data in the most current released version of the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) formats through an Application Program Interface (API) made available to the City Manager, the San Diego Association of Governments, and the authorized third-party data aggregator contractor of the City.
- (b) *Providers* shall provide anonymized historical trip data via MDS format using the provider API. *Providers* shall provide real-time device or historical device status only via GBFS API or MDS using the provider API.
- (c) *Providers* shall anonymize all data shared with the City, the San Diego Association of Governments, or any authorized third-party contractor of the City.
- (d) *Providers* shall comply with all applicable federal, state, and local data privacy laws.

§ 83.0310 Staging of Shared Mobility Devices

- (a) *Shared mobility devices* shall not be parked, staged, offered, or made available for rent by a *provider*:
 - (1) [No change in text.]
 - (2) in quantities greater than four *shared mobility devices*, per *provider*, per on-street *corral*;

- (3) outside of a *corral*, except for shared use bikes or e-bikes that can lock to existing City bike racks;
 - (4) on City sidewalks;
 - (5) in Disabled Persons Parking Zones;
 - (6) within six feet in any direction of any sign marking a designated bus stop or trolley stop or within six feet in any direction of any transit shelter, bench, or information kiosk associated with the bus stop or trolley stop, within a bus stop pad, or where any *shared mobility device* deployment may impact a bus stopping, on-boarding, or off-boarding;
 - (7) within the locations identified in Section 83.0308(c);
 - (8) in a manner that blocks the flow of storm water to a drain or damages landscaping.
- (b) Every *provider* is subject to all applicable parking provisions of the *Vehicle Code* and the San Diego Municipal Code.
- (c) *Providers* that park, stage, offer or make available for rent *shared mobility devices* shall place their *shared mobility devices* in such a way that maintains a clear and continuous 48-inch wide pedestrian path of travel. The clear path of travel must not be impeded by any part of a *shared mobility device*, including any handle bars, wheels, and kickstand. *Providers* shall ensure that their placement of *shared mobility devices* complies with all federal, state and local laws related to disability access, including but not limited to the Americans with Disabilities Act.

§ 83.0311 Retrieval and Impoundment of Shared Mobility Devices

- (a) Within one hour of notice from the City, a *provider* shall retrieve its *shared mobility device* that is in any of the following conditions:
- (1) inoperable or not safe to operate and parked on a City street, sidewalk, or other City property;
 - (2) parked, displayed, offered, or made available for rent in violation of this Division or the *Vehicle Code*; or
 - (3) parked on a City street, sidewalk, or other City property in a manner that prevents a reasonable person from safely renting or operating the *shared mobility device*.
- (b) Only the City and its authorized agents may impound a *shared mobility device* located on City right-of-way. In such circumstances, the City or its authorized agent may impound a *shared mobility device* that is:
- (1) not retrieved within one hour of notice to the *provider* pursuant to section 83.0311(a); or
 - (2) in a condition or parked in manner that, in the City's opinion, poses an *imminent life safety hazard*, meaning any condition which creates a present, extreme, and immediate danger to life, property, health or public safety, as defined in Chapter 1 of this Code. *Shared mobility devices* that are blocking an accessible path of travel or ramp, vehicular travel lane, or transit travel lane in the City right-of-way may be an *imminent life safety hazard*. Impound

of a *shared mobility device* that poses an *imminent life safety hazard* may be immediate and notice shall not be required.

- (3) non-operational and is left in the City right-of-way for more than 24 hours.
- (c) *Providers* shall bear the cost of the City's enforcement, investigation, storage, and impound through fees charged on any impounded *shared mobility device*, in accordance with a fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.
- (d) *Providers* are required to retrieve any *shared mobility device* impounded by the City or its authorized agent within 10 days of the impound. No *provider* may retrieve an impounded *shared mobility device* without first demonstrating proof of ownership and payment of the applicable impound fees. Acceptable forms of proof of ownership are:
 - (1) Written authorization on the *provider's* letterhead signed by an authorized representative of the *provider*, which allows release of the *shared mobility device* to the named agent or employee bearing the authorization; or
 - (2) A bill of sale that includes the *shared mobility device's* serial number or other information specific to that *shared mobility device*.

§ 83.0312 Unauthorized Impounding of Shared Mobility Devices

- (a) It is unlawful for any person or business who is not a member of law enforcement, a City employee, or a City-contracted enforcement agent to impound a *shared mobility device* that is parked, standing, or otherwise placed in the public right-of-way or on City-owned property.
- (b) Any impounding of shared mobility devices from private property is governed by the Vehicle Code.

§ 83.0313 Penalties and Violations

In addition to the remedies provided in Chapter 1 of this Code, the City Manager may, in accordance with a fee schedule established by resolution of the City Council and filed in the Office of the City Clerk, assess monetary penalties against any *provider* who, after receiving notice from the City, violates sections 83.0308 or 83.0310.

§ 83.0314 Removal of Fleet Upon Contract Termination or Expiration

Within ten business days of the termination or expiration of a *provider's* contract, the *provider* shall remove its *fleet* from operation within the City and shall retrieve any *shared mobility devices* impounded by the City. If the *provider* fails to remove or retrieve any of its *shared mobility devices*, the City may remove and dispose of the *shared mobility devices* at the *provider's* cost.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Cassandra E. Mouglin
Deputy City Attorney

CEM:cc:cm
March 29, 2022
Or.Dept: Sustainability & Mobility
Doc. No. 2957340

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor