

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: May 21, 2019
TO: Honorable Mayor and Councilmembers
FROM: City Attorney
SUBJECT: Shared Mobility Devices Ordinance – Item 54: City Council Meeting May 14, 2019

This memorandum follows Item 54, the second reading of the Shared Mobility Devices ordinance (Ordinance), which was heard at the Council meeting on May 14, 2019. At this meeting, Councilmember Bry commented on the options our Office had provided with respect to amending the Ordinance to address issues on the public walkways in Mission Beach, Mission Bay, and La Jolla Shores (Boardwalks). Since Council discussed revisiting this Ordinance to consider amendments, we wanted to memorialize our advice to Councilmember Bry. We discussed two options for amending the Ordinance to address scooter use on the Boardwalks:

1. Change the Geofencing Requirements and Speed Limit to 3mph: If the Council wants to change the geofencing in the Boardwalks to 3mph, this must be coupled with changing the Boardwalks' speed limit to 3mph in Chapter 6 of the Municipal Code. To be legally defensible, City staff should conduct traffic or congestion analysis to support the new speed limit. The analysis would help support a rational basis for the change in the likely event of a challenge. We do not recommend changing the geofencing requirement without changing the speed limit because it may confuse the public and trigger an equal protection challenge (e.g., because rented scooters would be treated differently from privately-owned scooters).
2. Prohibit the Use of Motorized Devices on the Boardwalks (with the exception of mobility devices for disabled individuals): This is defensible under equal protection principles because all motorized wheeled devices would be treated the same. An amendment could be modeled after the ordinance that was presented to the Council last year. The City of Santa Monica took a similar approach for its Pier area.

Either of these options could be brought forward at any time if the Council so desires.

MARA W. ELLIOTT, CITY ATTORNEY

By /s/ Heather M. Ferbert
Heather M. Ferbert
Deputy City Attorney

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MS-2019-16
Doc. No.: 2011491.docx