Item 54 5/14/2019
(O-2019-120)
REV. COPY

ORDINANCE NUMBER O-21070 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 17 2019

AN ORDINANCE AMENDING CHAPTER 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 3 AND BY ADDING NEW DIVISION 3, TITLED "SHARED MOBILITY DEVICES," SECTIONS 83.0301, 83.0302, 83.0303, 83.0304, 83.0305, 83.0306, 83.0307, 83.0308, 83.0309, 83.0310, 83.0311, 83.0312, AND 83.0313, RELATING TO PERMITTING AND THE OPERATION OF SHARED MOBILITY DEVICE RENTAL COMPANIES.

WHEREAS, the City of San Diego's public rights-of-way are designed to accommodate a multimodal transportation system and are heavily utilized by residents and visitors; and

WHEREAS, several businesses have made electric bicycles, motorized bicycles, and motorized scooters (shared mobility devices) readily available for public use in the City through technology-based platforms; and

WHEREAS, due to their rapidly expanding availability, there has been a significant increase in the use of shared mobility devices operating on City rights-of-way and other City-owned property; and

WHEREAS, while the City desires to provide mobility options consistent with the City's Climate Action Plan and provide transportation alternatives to reduce vehicle use in the City, the proliferation of shared mobility devices creates public safety concerns due to improper usage, staging, and parking of devices, and excessive speeds in high pedestrian traffic areas; and

WHEREAS, the City has identified three pedestrian paths, Martin Luther King Jr. Promenade, the North and South Embarcadero pedestrian walk, and the pedestrian area on West Date Street known as the Piazza della Famiglia, where operation of shared mobility devices creates a significant safety hazard to pedestrians; and

WHEREAS, to protect the health and safety of pedestrians using those paths, the City desires to require shared mobility device rental companies to use geofencing technology to cause their devices to take the following actions: (i) notify the rider that the shared mobility device has entered a geofenced area; (ii) reduce the speed of the shared mobility device to three miles per hour; and (iii) prevent the device from locking; and

WHEREAS, the City has identified several other paths used by pedestrians, bicyclists, and riders of other devices, and desires to address congestion on these paths by requiring shared mobility device rental companies to use geofencing technology in a similar fashion to reduce speed to eight miles per hour; and

WHEREAS, California Vehicle Code section 21225 permits the City to regulate the registration of motorized scooters, and the parking and operation of motorized scooters on pedestrian and bicycle facilities and City streets and highways, if such regulations are not in conflict with the California Vehicle Code; and

WHEREAS, California Vehicle Code section 21207.5 allows the City to prohibit the operation of electric bicycles on bicycle paths or trails, equestrian trails, or hiking and recreational trails; and

WHEREAS, the City desires to create a shared mobility device permit program that will address safety by reducing sidewalk impediments, by educating users about proper riding and parking rules, and by creating a legal and enforceable framework for regulating shared mobility devices in the City's rights-of-way and on City-owned property; and

WHEREAS, the City further desires to charge fees to recover the cost of administering these permits and to charge a fee for the use of City-owned property by each shared mobility device put into operation by these companies; and

WHEREAS, the proposed regulations of shared mobility device rental companies may be enforced by provisions in Chapter 1 of the San Diego Municipal Code; NOW, THEREFORE,

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

Section 1. That Chapter 8 of the San Diego Municipal Code is amended by amending the title of Article 3, to read as follows:

Chapter 8

Article 3: Alternative Transportation

Section 2. That Chapter 8, Article 3 is amended by adding new Division 3, titled "Shared Mobility Devices," sections 83.0301, 83.0302, 83.0303, 83.0304, 83.0305, 83.0306, 83.0307, 83.0308, 83.0309, 83.0310, 83.0311, 83.0312 and 83.0313, to read as follows:

Chapter 8

Article 3: Alternative Transportation

Division 3: Shared Mobility Devices

§ 83.0301 Purpose and Intent

The City Council finds that *shared mobility devices* are a popular form of transportation and that *operators* are using technology-based platforms to rent *shared mobility devices* for public use in the City of San Diego. This Division is enacted to establish a process for permitting the *operators* to achieve the City's goals of encouraging alternative methods of transportation while protecting public health and safety.

§ 83.0302 Definitions

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

Electric bicycle has the same meaning as in *Vehicle Code* section 312.5.

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

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

Motorized scooter has the same meaning as in *Vehicle Code* section 407.5.

Motorized bicycle has the same meaning as in *Vehicle Code* section 406.

Operator means a *person* who manages, owns, or operates a *shared mobility device* business.

Permit means a permit issued to an *operator* under this Division.

Shared mobility device means any *motorized scooter*, *electric bicycle*, or *motorized bicycle* by which a natural person can be propelled or moved, that is displayed, offered, or made available for rent to the public.

§ 83.0303 Other Laws Applicable to Operators

Operators 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 Permit Required

It is unlawful for any *person* to own or operate a *shared mobility device* business without a *permit* unless otherwise authorized by the City.

§ 83.0305 Application for Permit

(a) The City Manager shall issue *permits* in January and July of each year. The City Manager will not accept *permit* applications during any other month.

(b) An *operator* shall submit a *permit* application containing, at a minimum, the following:

(1) the *operator'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 *operator* for retrieval of any *shared mobility device* as required by this Division;

(2) the number and type of all *shared mobility devices* in the *operator's fleet;*

(3) proof of a valid Business Tax Certificate issued in accordance with Chapter 3, Article 1 of this Code;

(4) proof of insurance naming the City of San Diego as an additional insured in the form and amounts established by the City Manager;

(5) certification that the *shared mobility devices* in the *operator'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) proof that the *shared mobility devices* in the *operator's fleet* are labeled in accordance with section 83.0306 and as required in the *permit*;

(7) proof that the *operator'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 *operator* will not accept the license of a person under the *operator's* adopted age requirements as valid identification to operate a *shared mobility device;*

(8) proof that the *operator* has established an application program interface or other automated mechanism that allows the *operator* to share and integrate its data as required in this Division;

(9) data collected by the *operator* during the calendar month immediately prior to the *operator's* application for all *shared mobility devices* in the *operator's fleet,* as required by this Division and as further described in the application documents prepared by the City Manager;

(10) a performance bond or similar security, acceptable to the City Manager, based on the number of *shared mobility devices* in the *operator's fleet* and guaranteeing that the *operator* will remove all its *shared mobility devices* from the City if the *operator's permit* 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 *operator's fleet*; and

(11) any other information required by the City Manager, as permitted by law.

(c) With its *permit* application, an *operator* may request a temporary increase in *fleet* size for up to 10 days each calendar year as specified in the *permit*, by adding *shared mobility devices* that total not more than 20 percent of the *operator's* permitted *fleet*. The *operator* shall pay an additional non-refundable fee for each additional *shared mobility device* temporarily added to its *fleet*, in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(d) The City Manager may make other rules and regulations reasonably necessary to implement this Division.

§ 83.0306 Terms and Issuance of Permits

(a) Each *permit* shall contain the following:

(1) the types of *shared mobility devices* the *operator* is authorized to deploy;

(2) the number of each type of *shared mobility device* permitted in the *operator's fleet*, including any temporary increase in the *fleet* permitted in accordance with section 83.0305(c);

(3) locations identified in this Division and any additional locations identified by the City Manager where an *operator* shall reduce the speed of the *operator's shared mobility devices* through *geofencing* or similar technology;

(4) locations identified in this Division and any additional locations identified by the City Manager where an *operator* shall use *geofencing* or similar technology to prevent any *shared mobility device* from being locked or parked or ending a ride;

(5) the *operator's* agreement to share specified data 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;

(6) the *operator's* agreement to indemnify, defend, and hold the City harmless from claims and damages arising out of or related to the *operator's* activities under the *permit* or the operation of its business in the City; and

(7) specifications on the labelling of each *electric scooter* or *motorized scooter* in the *operator's fleet*, including labelling on each *electric scooter* and *motorized scooter* that is clearly visible and in at least 40-point font, stating "Riding on Sidewalks is Prohibited" and any minimum age requirements adopted by the *operator*.

(b) The City Manager shall issue a *permit* upon the *operator's* payment of fees required in this Division and the City Manager's determination that the *operator's permit* application is complete, accurate, and in compliance with this Division.

(c) *Permits* shall be effective upon signature by the *operator*. *Permits* shall expire on the first occurring July 31st following the January date of issuance or the first occurring January 31st following the July date of issuance and are not transferable.

(d) The City Manager may adopt a process to renew *permits* for *operators* who are in compliance with this Division and the terms of their current *permit*. Renewal *permits* shall be subject to additional terms and

conditions consistent with this Division, including any increase in adopted *permit* fees.

§ 83.0307 Permit Fees

(a) *Operators* shall bear the cost of reviewing and processing applications for *permits* and of *permit* administration and enforcement. All *permit* applications shall be accompanied by a non-refundable application fee in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk, which will cover the cost of processing the *permit* application and administration and enforcement of the *permit*.

(b) *Operators* shall include a non-refundable fee for each *shared mobility device* in the *operator's fleet* for use of City property (hereafter, per-device fee), in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(1) If the *operator* adopts a program, acceptable to the City Manager, to provide increased ridership opportunities to low income individuals, the City Manager will charge a reduced per-device fee in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk. Acceptable programs include discounts, equitable distribution, or methods to unlock *shared mobility devices* without a credit card or handheld mobile device.

(2) To qualify for the reduced per-device fee, the *operator* shall provide evidence of its program to the City Manager with its *permit* application.

§ 83.0308 Geofencing Speed and Operating Restrictions

(a) Through *geofencing* or similar technology, an *operator* shall reduce the speed of any *motorized scooters* and *motorized bicycles* in the *operator's fleet* to eight miles per hour or less at the following locations:

(1) on the public walkways within Balboa Park;

(2) on the public walkways within Liberty Station NTC Park; and

(3) on the public walkways within Spanish Landing Park and Trail.

(b) Through *geofencing* or similar technology, an *operator* shall prevent any *motorized scooters* and *motorized bicycles* in the *operator'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 at the following locations:

(1) on the public walkway on Ocean Front Walk in Mission Beach, beginning at the South Mission Beach Jetty northward to the terminus of the public walkway at Ocean Boulevard at Law Street in Pacific Beach;

(2) on the public walkway on the west side of Mission Bay Park from San Diego Place (adjacent to the South Mission Beach Jetty) to Corona Oriente Road (terminus of Crown Point Park), known as Bayside Walk;

(3) 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;

(4) on the boardwalk from Avenida De La Playa (adjacent to La Jolla Shores) north to the terminus of La Jolla Shores Park at its northeast corner; and

(5) on the public right-of-way within the Petco Ballpark Zone, as defined in Chapter 8, Article 3, Division 1 of this Code.

(c) Through *geofencing* or similar technology, an *operator* shall prevent any *motorized scooters* and *motorized bicycles* in the *operator'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 three miles per hour at the following locations:

(1) *Martin Luther King Promenade*, as defined in Chapter 8, Article 3, Division 1 of this Code;

(2) North and South Embarcadero pedestrian walk; and

(3) The pedestrian area on West Date Street east of India Street and west of Columbia Street, known as the Piazza della Famiglia.

(d) 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).

(e) The City Manager may require *operators*, through *geofencing* or similar technology, to temporarily lock down and prevent the operation of *shared mobility devices* in a specific area 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.

(f) When a rider operates a *shared mobility device* in the *operator's fleet* within a location subject to *geofencing*, the *operator* shall notify the rider of the reduced speed limit and any other applicable conditions of this section.

§ 83.0309 Data Sharing

(a) *Operators* shall provide anonymized data in the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) formats to the City Manager, the San Diego Association of Governments, and any authorized third-party contractor of the City through an application program interface made available to the City.

(b) The City Manager may adopt additional data sharing requirements that provide the City, the San Diego Association of Governments, and any authorized third-party contractor of the City with real-time and collected *shared mobility device* data available through the *operator's* application program interface. The City Manager may require *operators* to distribute surveys to their users.

(c) Operators shall anonymize all data shared with the City, the San Diego Association of Governments, or any authorized third-party contractor of the City.

(d) *Operators* shall comply with applicable federal, state, and local data privacy laws to protect the privacy of any personal information they receive.

§ 83.0310 Staging of Shared Mobility Devices

(a) *Shared mobility devices* shall not be parked, displayed, offered, or made available for rent:

(1) in violation of this Division or the *Vehicle Code*;

(2) within 40 feet of another *shared mobility device* on a City sidewalk or other City property located in the beach impact area in the Parking Impact Overlay Zone as defined in Chapter 13, Article 2, Division 8 of this Code, except in groups of up to four where the *shared mobility devices* are spaced no more than one foot apart. This section 83.0310(a)(2) does not prohibit *shared mobility devices* from being placed in any location designated by the City for *shared mobility devices*;

(3) on a City sidewalk located in the Downtown Community Plan area as defined in Chapter 15, Article 6, Division 3 of this Code. This section 83.0310(a)(3) does not prohibit *shared mobility devices* from being placed in any location designated by the City for *shared mobility devices*;

(4) on City sidewalks or other City property on the block adjacent to a location designated by the City for *shared mobility devices*;

(5) in Disabled Persons Parking Zones;

(6) within 500 feet of a hospital;

(7) within 500 feet of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education. "School" for purposes of this Division does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college, or university; or

(8) 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.

(b) Every *operator* is subject to all applicable parking provisions of the *Vehicle Code* and the San Diego Municipal Code.

§ 83.0311 Retrieval and Impoundment of Shared Mobility Devices

(a) Within three hours of notice from the City, an *operator* 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) The City may impound a *shared mobility device* that is:

(1) not retrieved within three hours of notice to the *operator*; or

(2) in a condition or parked in manner that poses an *imminent life safety hazard,* as defined in Chapter 1 of this Code. Impound may be immediate and no notice is required.

(c) *Operators* 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 the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(d) No *operator* may retrieve an impounded *shared mobility device* without first demonstrating proof of ownership and payment of the applicable impound fees.

§ 83.0312 Revocation of Permit

In addition to the remedies provided in Chapter 1 of this Code, the City Manager may revoke an *operator's permit* if the *operator* violates any provision of this Division or the terms of the *permit*. If the City revokes an *operator's permit*, the *operator* shall wait at least six months from the date the *permit* was revoked before applying for a *permit* pursuant to section 83.0305.

§ 83.0313 Removal of Fleet Upon Permit Termination or Expiration

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

Section 3. That this Ordinance shall take effect and be in force on June 1, 2019, if at least thirty days have passed from the date of its final passage, or on the thirtieth day from and after its final passage, whichever is later.

Section 4. That operators of any shared mobility device rental company shall have until July 1, 2019, to either cease conducting business in the City or comply with Chapter 8, Article 3, Division 3.

Section 5. 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.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Heather M. Ferbert
Deputy City Attorney

HMF:nja
12/19/18
04/22/19 Cor. Copy
04/24/19 Rev. Copy
Or. Dept: Office of the Mayor
Doc. No.: 1904135_5

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 14 2019.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 5·17·19
(date)

_____
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

_____
KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 3 AND BY ADDING NEW DIVISION 3, TITLED "SHARED MOBILITY DEVICES," SECTIONS 83.0301, 83.0302, 83.0303, 83.0304, 83.0305, 83.0306, 83.0307, 83.0308, 83.0309, 83.0310, 83.0311, 83.0312, AND 83.0313, RELATING TO PERMITTING AND THE OPERATION OF SHARED MOBILITY DEVICE RENTAL COMPANIES.

Chapter 8

Article 3: ~~Pedicabs, Pedestrians and Bicycles~~ Alternative Transportation

Division 3: Shared Mobility Devices

§ 83.0301 Purpose and Intent

The City Council finds that *shared mobility devices* are a popular form of transportation and that *operators* are using technology-based platforms to rent *shared mobility devices* for public use in the City of San Diego. This Division is enacted to establish a process for permitting the *operators* to achieve the City's goals of encouraging alternative methods of transportation while protecting public health and safety.

§ 83.0302 Definitions

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

Electric bicycle has the same meaning as in *Vehicle Code* section 312.5.

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

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

Motorized scooter has the same meaning as in *Vehicle Code* section 407.5.

Motorized bicycle has the same meaning as in *Vehicle Code* section 406.

Operator means a *person* who manages, owns, or operates a *shared mobility device* business.

Permit means a permit issued to an *operator* under this Division.

Shared mobility device means any *motorized scooter, electric bicycle*, or *motorized bicycle* by which a natural person can be propelled or moved, that is displayed, offered, or made available for rent to the public.

§ 83.0303 Other Laws Applicable to Operators

Operators 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 Permit Required

It is unlawful for any *person* to own or operate a *shared mobility device* business without a *permit* unless otherwise authorized by the City.

§ 83.0305 Application for Permit

(a) The City Manager shall issue *permits* in January and July of each year. The City Manager will not accept *permit* applications during any other month.

(b) An *operator* shall submit a *permit* application containing, at a minimum, the following:

(1) the *operator'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 *operator* for retrieval of any *shared mobility device* as required by this Division;

(2) the number and type of all *shared mobility devices* in the *operator's fleet;*

(3) proof of a valid Business Tax Certificate issued in accordance with Chapter 3, Article 1 of this Code;

(4) proof of insurance naming the City of San Diego as an additional insured in the form and amounts established by the City Manager;

(5) certification that the *shared mobility devices* in the *operator'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) proof that the *shared mobility devices* in the *operator's fleet* are labeled in accordance with section 83.0306 and as required in the *permit*;

(7) proof that the *operator'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 *operator* will not accept the license of a person under the *operator's* adopted age requirements as valid identification to operate a *shared mobility device;*

(8) proof that the *operator* has established an application program interface or other automated mechanism that allows the *operator* to share and integrate its data as required in this Division;

(9) data collected by the *operator* during the calendar month immediately prior to the *operator's* application for all *shared mobility devices* in the *operator's fleet,* as required by this Division and as further described in the application documents prepared by the City Manager;

(10) a performance bond or similar security, acceptable to the City Manager, based on the number of *shared mobility devices* in the *operator's fleet* and guaranteeing that the *operator* will remove all its *shared mobility devices* from the City if the *operator's permit* 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 *operator's fleet*; and

(11) any other information required by the City Manager, as permitted by law.

(c) With its *permit* application, an *operator* may request a temporary increase in *fleet* size for up to 10 days each calendar year as specified in the *permit*, by adding *shared mobility devices* that total not more than 20 percent of the *operator's* permitted *fleet*. The *operator* shall pay an additional non-refundable fee for each additional *shared mobility device* temporarily added to its *fleet*, in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(d) The City Manager may make other rules and regulations reasonably necessary to implement this Division.

§ 83.0306 Terms and Issuance of Permits

(a) Each *permit* shall contain the following:

(1) the types of *shared mobility devices* the *operator* is authorized to deploy;

(2) the number of each type of *shared mobility device* permitted in the *operator's fleet*, including any temporary increase in the *fleet* permitted in accordance with section 83.0305(c);

(3) locations identified in this Division and any additional locations identified by the City Manager where an *operator* shall reduce the

speed of the *operator's shared mobility devices* through *geofencing* or similar technology;

(4) locations identified in this Division and any additional locations identified by the City Manager where an *operator* shall use *geofencing* or similar technology to prevent any *shared mobility device* from being locked or parked or ending a ride;

(5) the *operator's* agreement to share specified data 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;

(6) the *operator's* agreement to indemnify, defend, and hold the City harmless from claims and damages arising out of or related to the *operator's* activities under the *permit* or the operation of its business in the City; and

(7) specifications on the labelling of each *electric scooter* or *motorized scooter* in the *operator's fleet*, including labelling on each *electric scooter* and *motorized scooter* that is clearly visible and in at least 40-point font, stating "Riding on Sidewalks is Prohibited" and any minimum age requirements adopted by the *operator*.

(b) The City Manager shall issue a *permit* upon the *operator's* payment of fees required in this Division and the City Manager's determination that the *operator's permit* application is complete, accurate, and in compliance with this Division.

(c) *Permits* shall be effective upon signature by the *operator. Permits* shall expire on the first occurring July 31st following the January date of issuance or the first occurring January 31st following the July date of issuance and are not transferable.

(d) The City Manager may adopt a process to renew *permits* for *operators* who are in compliance with this Division and the terms of their current *permit*. Renewal *permits* shall be subject to additional terms and conditions consistent with this Division, including any increase in adopted *permit* fees.

§ 83.0307 Permit Fees

(a) *Operators* shall bear the cost of reviewing and processing applications for *permits* and of *permit* administration and enforcement. All *permit* applications shall be accompanied by a non-refundable application fee in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk, which will cover the cost of processing the *permit* application and administration and enforcement of the *permit*.

(b) *Operators* shall include a non-refundable fee for each *shared mobility device* in the *operator's fleet* for use of City property (hereafter, per-device fee), in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(1) If the *operator* adopts a program, acceptable to the City Manager, to provide increased ridership opportunities to low income

individuals, the City Manager will charge a reduced per-device fee in accordance with the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk. Acceptable programs include discounts, equitable distribution, or methods to unlock *shared mobility devices* without a credit card or handheld mobile device.

(2) To qualify for the reduced per-device fee, the *operator* shall provide evidence of its program to the City Manager with its *permit* application.

§ 83.0308 Geofencing Speed and Operating Restrictions

(a) Through *geofencing* or similar technology, an *operator* shall reduce the speed of any *motorized scooters* and *motorized bicycles* in the *operator's fleet* to eight miles per hour or less at the following locations:

(1) on the public walkways within Balboa Park;

(2) on the public walkways within Liberty Station NTC Park; and

(3) on the public walkways within Spanish Landing Park and Trail.

(b) Through *geofencing* or similar technology, an *operator* shall prevent any *motorized scooters* and *motorized bicycles* in the *operator'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 at the following locations:

(1) on the public walkway on Ocean Front Walk in Mission Beach, beginning at the South Mission Beach Jetty northward to the

terminus of the public walkway at Ocean Boulevard at Law Street in Pacific Beach;

(2) on the public walkway on the west side of Mission Bay Park from San Diego Place (adjacent to the South Mission Beach Jetty) to Corona Oriente Road (terminus of Crown Point Park), known as Bayside Walk;

(3) 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;

(4) on the boardwalk from Avenida De La Playa (adjacent to La Jolla Shores) north to the terminus of La Jolla Shores Park at its northeast corner; and

(5) on the public right-of-way within the Petco Ballpark Zone, as defined in Chapter 8, Article 3, Division 1 of this Code.

(c) Through *geofencing* or similar technology, an *operator* shall prevent any *motorized scooters* and *motorized bicycles* in the *operator'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 three miles per hour at the following locations:

(1) *Martin Luther King Promenade*, as defined in Chapter 8, Article 3, Division 1 of this Code;

(2) North and South Embarcadero pedestrian walk; and

(3) The pedestrian area on West Date Street east of India Street and west of Columbia Street, known as the Piazza della Famiglia.

(d) 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).

(e) The City Manager may require *operators*, through *geofencing* or similar technology, to temporarily lock down and prevent the operation of *shared mobility devices* in a specific area 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.

(f) When a rider operates a *shared mobility device* in the *operator's fleet* within a location subject to *geofencing*, the *operator* shall notify the rider of the reduced speed limit and any other applicable conditions of this section.

§ 83.0309 Data Sharing

(a) *Operators* shall provide anonymized data in the General Bikeshare Feed Specification (GBFS) and Mobility Data Specification (MDS) formats to the City Manager, the San Diego Association of Governments, and any authorized third-party contractor of the City through an application program interface made available to the City.

(b) The City Manager may adopt additional data sharing requirements that provide the City, the San Diego Association of Governments, and any

authorized third-party contractor of the City with real-time and collected *shared mobility device* data available through the *operator's* application program interface. The City Manager may require *operators* to distribute surveys to their users.

(c) Operators shall anonymize all data shared with the City, the San Diego Association of Governments, or any authorized third-party contractor of the City.

(d) *Operators* shall comply with applicable federal, state, and local data privacy laws to protect the privacy of any personal information they receive.

§ 83.0310 Staging of Shared Mobility Devices

(a) *Shared mobility devices* shall not be parked, displayed, offered, or made available for rent:

(1) in violation of this Division or the *Vehicle Code*;

(2) within 40 feet of another *shared mobility device* on a City sidewalk or other City property located in the beach impact area in the Parking Impact Overlay Zone as defined in Chapter 13, Article 2, Division 8 of this Code, except in groups of up to four where the *shared mobility devices* are spaced no more than one foot apart. This section 83.0310(a)(2) does not prohibit *shared mobility devices* from being placed in any location designated by the City for *shared mobility devices*;

(3) on a City sidewalk located in the Downtown Community Plan area as defined in Chapter 15, Article 6, Division 3 of this Code. This section 83.0310(a)(3) does not prohibit *shared mobility devices* from being placed in any location designated by the City for *shared mobility devices*;

(4) on City sidewalks or other City property on the block adjacent to a location designated by the City for *shared mobility devices*;

(5) in Disabled Persons Parking Zones;

(6) within 500 feet of a hospital;

(7) within 500 feet of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education. "School" for purposes of this Division does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college, or university; or

(8) 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.

(b) Every *operator* is subject to all applicable parking provisions of the *Vehicle Code* and the San Diego Municipal Code.

§ 83.0311 Retrieval and Impoundment of Shared Mobility Devices

(a) Within three hours of notice from the City, an *operator* 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) The City may impound a *shared mobility device* that is:

(1) not retrieved within three hours of notice to the *operator*; or

(2) in a condition or parked in manner that poses an *imminent life safety hazard,* as defined in Chapter 1 of this Code. Impound may be immediate and no notice is required.

(c) *Operators* 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 the fee schedule established by resolution of the City Council and filed in the Office of the City Clerk.

(d) No *operator* may retrieve an impounded *shared mobility device* without first demonstrating proof of ownership and payment of the applicable impound fees.

§ 83.0312 Revocation of Permit

In addition to the remedies provided in Chapter 1 of this Code, the City Manager may revoke an *operator's permit* if the *operator* violates any provision of this Division or the terms of the *permit*. If the City revokes an *operator's permit*, the *operator* shall wait at least six months from the date the *permit* was revoked before applying for a *permit* pursuant to section 83.0305.

§ 83.0313 Removal of Fleet Upon Permit Termination or Expiration

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

HMF:nja
12/19/18
04/22/19 Cor. Copy
04/24/19 Rev. Copy
Or. Dept: Office of the Mayor
Doc. No.: 1896369_5

Passed by the Council of The City of San Diego on MAY 14 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	☑	☐	☐	☐
Jennifer Campbell	☑	☐	☐	☐
Chris Ward	☑	☐	☐	☐
Monica Montgomery	☑	☐	☐	☐
Mark Kersey	☑	☐	☐	☐
Chris Cate	☑	☐	☐	☐
Scott Sherman	☑	☐	☐	☐
Vivian Moreno	☑	☐	☐	☐
Georgette Gómez	☑	☐	☐	☐

Date of final passage MAY 17 2019.

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on APR 23 2019, and on MAY 17 2019.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O-21070