

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, ADDING ARTICLE 34 TO CHAPTER 9,
AMENDING SECTION 14-305 AND ADDING SECTION
14-312 OF THE FRESNO MUNICIPAL CODE, RELATING
TO SHARED MOBILITY DEVICES

WHEREAS, there is a need for affordable, environmentally friendly forms of transportation in the City of Fresno; and

WHEREAS, shared mobility devices have been successful in other cities, but challenges exist; and

WHEREAS, the City of Fresno desires to provide for the regulation, permitting, and franchising of shared mobility devices.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 34 is added to Chapter 9 of the Fresno Municipal Code to read:

SECTION 9-3401. TITLE. This Article shall be known as the "Shared Mobility Device Ordinance."

SECTION 9-3402. PURPOSE. Consistent with the City's goals of enhancing mobility and access, easing traffic congestion, and promoting sustainability, this Article creates a program to facilitate the use of shared mobility devices while ensuring the protection of public health and safety, including the safety of the public traveling by foot, bicycle, or vehicle on public sidewalks, streets, and other public right-of-way.

1 of 11

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



Ordinance No.

SECTION 9-3403. DEFINITIONS.

- (a) "Code" shall mean Fresno Municipal Code.
- (b) "Electric Bicycle" has the same meaning as in California Vehicle Code 312.5.
- (c) "Fleet" shall mean all Shared Mobility Devices owned a by specific operator.
- (d) "Geofencing" shall mean the creation of a virtual geographic boundary, defined by the Global Positioning System (GPS), radio-frequency identification (RFID), or other technology that enables the operator to regulate speed, issue notifications, and take other actions when a Shared Mobility Device in its fleet enters or leaves a defined area.
- (e) "Motorized Scooter" has the same meaning as in California Vehicle Code 407.5(a)(b).
- (f) "Operator" shall mean any person or business entity granted a permit and franchise by the City to operate Shared Mobility Devices.
- (g) "Public Area" shall mean any outdoor area that is open to the public for public use, whether owned or operated by the City or a private party.
- (h) "Public Right-of-Way" shall mean any public alley, parkway, public transportation path, roadway, sidewalk, or street that is owned, granted by easement, operated, or controlled by the City.
- (i) "Shared Mobility Device" shall mean any bicycle, tricycle, motorized scooter, hoverboard, skateboard, pedal car, or other similar device, whether powered or non-powered, that is displayed, offered, or

placed for rent in any public area or public right-of-way. A shared mobility device does not include automobiles registered by the California Department of Motor Vehicles, nor assistive mobility devices used by persons with disabilities.

(j) "Users" means a person who rents and uses a shared mobility device from an operator.

SECTION 9-3404. GRANTING OF PERMITS AND FRANCHISES. Any person, firm, or corporation desiring to make available for rent within the City of Fresno any shared mobility device shall first obtain a permit and franchise therefor.

SECTION 9-3405. APPLICATION FOR PERMIT AND FRANCHISE.

(a) Any person or entity seeking to obtain a shared mobility device operator permit and franchise shall submit a written permit application, signed under penalty of perjury, using the form designated by the City Manager for that purpose.

(b) The permit and franchise agreement shall establish permit and franchise fees, which shall:

(1) Defray the City's costs in administering and enforcing the provisions of this Article; and

(2) Reflect charges associated with use of public property pursuant to this Article.

(c) The City Manager may specify the information that must be provided in connection with an application and the form in which the

information is to be provided. The application shall contain, at a minimum, the following:

(1) The name and business address of each person or entity that: (i) has more than a ten percent equity, participation, or revenue interest in the applicant; or (ii) is a trustee, director, partner, or officer of that entity or of another entity that owns or controls the applicant, excepting persons serving in those capacities as volunteers, without compensation, for organizations exempt from income taxes under Section 501(c)(3), (4), or (6) of the Internal Revenue Code;

(2) The name and business address of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity;

(3) Information sufficient to show that the applicant is financially, technically, and legally qualified to operate and maintain a shared mobility device system;

(4) A description of the proposed plan of operation, including, at a minimum, a detailed description of:

(i) A summary of the applicant's current operations in similar jurisdictions, including confirming the

applicant has a permit to operate where required for such jurisdictions,

(ii) The applicant's proposed operations in the City including the maximum number of shared mobility devices anticipated, the plan for deployment of shared mobility devices within the City, the plan for shared mobility device maintenance, levels of staff for operations and administration, and the plan for customer service,

(iii) The applicant's regulatory compliance program,

(iv) The applicant's history of, intent to, and ability to comply with, State and local law,

(v) The applicant's plans to implement safety programs, including, for example, a program by which the applicant will receive information about and notify users of inappropriate use,

(vi) The applicant's plans to educate users of shared mobility devices about applicable California Vehicle Code provisions, local laws, and other applicable laws, regulations, and guidelines,

(vii) The applicant's plans to comply with applicable Federal, State, and local data privacy laws and otherwise to protect the privacy of personal information provided by users,

(viii) Plans for sharing of anonymized trip data with the City through an application program interface (API), General Bikeshare Feed Specifications (GBFS), Mobility Data Specifications (MDS), or similar technology,

(viv) Proof of insurance naming the City of Fresno as an additional insured in for and amounts established by the City Manager,

(x) Any other requirements set forth by the City Manager.

(d) A completed shared mobility device permit and franchise agreement shall include, at a minimum, the following:

(1) The types of shared mobility devices the operator is authorized to deploy,

(2) The maximum number of each type of shared mobility devices permitted in the operator's fleet,

(3) Locations identified where an operator shall use geofencing or similar technology to reduce the speed of the operator's shared mobility devices,

(4) Locations identified where an operator shall use geofencing or similar technology to prevent users from ending a ride, including, without limitation, Fashion Fair Mall and the California State University, Fresno campus, without express written permission from the property owner to the operator.

(5) Specific labelling of each shared mobility device in letters at least 1" tall that reads "RIDING ON SIDEWALKS IS PROHIBITED BY STATE LAW."

(6) The non-refundable shared mobility device franchise fee.

(7) Provision for the shared mobility device operator to accept cash payment for ride credits.

(8) Provision to create a discount program for qualified low income individuals.

(e) The City Manager shall issue a permit and franchise agreement upon the operator's payment of fees required and the City Manager's determination the operator's permit application is complete.

(f) Permits shall be effective upon signature by the operator and valid for six months.

(g) The City Manager shall adopt a process to renew permit and franchise agreements.

SECTION 9-3406. IMPOUNDMENT OF DEVICES.

(a) A shared mobility device displayed, offered, or made available for rent, or left, in the public right-of-way or a public area in violation of this Article or Chapter 14, Article 3, shall be subject to impoundment by the City.

(b) A shared mobility device displayed, offered, or made available for rent absent a permit and franchise is subject to immediate removal.

(c) Within two hours of notice from the City, an operator shall retrieve its shared mobility device that has been marked as inoperable or parked in violation of this code, California Vehicle Code, or the permit and franchise agreement.

(d) If a shared mobility device is materially blocking the public right-of-way or ADA path of travel, the device may be removed immediately by City staff.

SECTION 9-3407. ENFORCEMENT. Any person who violates any provision of this Article or Chapter 14, Article 3, shall be guilty of an infraction.

SECTION 9-3408. EXIGENCY. The City Manager may require operators, through geofencing or similar technology to temporarily disable shared mobility devices in a specific area during an emergency or within the perimeter of a permitted special event as defined in Article 24 of this code.

SECTION 9-3409. REVOCATION OF PERMIT. The City Manager may revoke an operator's permit if the operator materially violates any provision of this code or the terms of their permit and franchise agreement. If the City revokes an operator's permit, the operator may be required to wait at least six months from the date the permit was revoked before applying for a new permit.

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

SECTION 9-3410. PILOT PROGRAM. The City Manager shall conduct a pilot program of a duration not to exceed six months or June 30, 2020, whichever is lesser. During the pilot program, only one permit and franchise shall be issued. At the end of the Pilot Program, this Article is hereby repealed.

SECTION 2. Section 14-305 of the Fresno Municipal Code is amended to read:

SECTION 14-305. TRAFFIC REGULATIONS APPLY TO PERSONS RIDING BICYCLES [SHARED MOBILITY DEVICES] OR ANIMALS. Every person riding a bicycle [a shared mobility device as defined in Section 9-3403] or riding or driving an animal upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Chapter, except those provisions which by their very nature can have no application.

SECTION 3. Section 14-312 is added to the Fresno Municipal Code to read:

SECTION 14-312. PARKING AND USE OF SHARED MOBILITY DEVICES.

(a) Operators shall inform users how and where to properly use and park a shared mobility device.

(b) A shared mobility device parked in violation of this Article, or the permit and franchise agreement authorizing its use in the City, may be removed by the City and taken to a facility designated by the City for storage at the expense of the operator if the operator has not retrieved its shared mobility device that has been marked as inoperable or parked in violation of this code or California Vehicle Code within two hours of receiving notice from the City.

(c) shared mobility device users shall comply with all applicable provisions of the California Vehicle Code, including without limitation the prohibition on riding a shared mobility device on any sidewalk.

SECTION 4. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2018.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor's veto language:

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Laurie Avedisian-Favini Date
Assistant City Attorney

PL50507