

RECOMMENDED BY: THE MAYOR AND THE  
TRANSPORTATION COMMITTEE

SUBMITTED BY: THE CITY ATTORNEY

**ORDINANCE NO. 20-24**

**AN ORDINANCE**

**TO AMEND ARTICLE A OF TITLE 10, CHAPTER 20, OF THE GENERAL CODE OF THE CITY OF BIRMINGHAM, 1980; AND TO ADD TITLE 12, CHAPTER 22, OF THE GENERAL CODE OF THE CITY OF BIRMINGHAM, 1980, FOR THE PURPOSE OF REGULATING AND PERMITTING SHARED MICROMOBILITY DEVICE SYSTEMS IN THE CITY**

**WHEREAS**, the Council of the City of Birmingham has the authority under state law and the General Code of the City to regulate commerce and commercial equipment that use the public way; and

**WHEREAS**, the Council of the City of Birmingham has the authority under state law and the General Code of the City to regulate the operation of vehicles on the public way, including streets, highways, sidewalks, and other thoroughfares; and

**WHEREAS**, Section 32-19-2, Code of Alabama, 1975 as added by Act No. 2019-437 states that, “Every person riding a shared micromobility device shall be granted all of rights and shall be subject to the duties applicable to the rider of a bicycle in this title, except as to the specific provisions in this title which by their nature have no application; and

**WHEREAS**, the City of Birmingham encourages the use of bicycles and shared micromobility devices as forms transportation upon the public roadways of the City; and

**WHEREAS**, a Shared Micromobility Device System is defined in §32-1-1.1(65), Code of Alabama, 1975 as amended by Act No. 2019-437, as a system that provides shared micromobility devices to Users for short-term rentals, whether or not the system requires docking stations or other similar fixed infrastructure to receive or return the shared micromobility device; and

**WHEREAS**, a Shared Micromobility Device is defined in §32-1-1.1(64), Code of Alabama, 1975 as amended by Act No. 2019-437, as a type of transportation device that includes a bicycle, tricycle, scooter, hoverboard, skateboard, pedal car, or similar device, except a device used as an electrical personal assistive mobility device by a person with disabilities, used in a shared Micromobility Device System; and

**WHEREAS**, a bicycle is defined §32-1-1.1(4), Code of Alabama, 1975, as a device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 14 inches in diameter; and

**WHEREAS**, the operation of bicycles upon public roadways and highways, is regulated by state law including the provisions of Article 12 and Article 13 of Title 32, Chapter 5A of the Code of Alabama, 1975; and

**WHEREAS**, bicycles are defined as vehicles pursuant to §32-1-1.1(86), Code of Alabama, 1975; and

**WHEREAS**, the operation of bicycles upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway is prohibited by §32-5A-52, Code of Alabama, 1975; and

**WHEREAS**, Shared Micromobility Device Systems are emerging transportation options for city residents and visitors within the City; and

**WHEREAS**, it is necessary to ensure that bicycles and Shared Micromobility Devices, are operated in a manner that is safe for all riders, pedestrians, and drivers; and

**WHEREAS**, the measures set forth in this ordinance are intended to regulate Shared Micromobility Device Systems and their use throughout the City;

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BIRMINGHAM, ALABAMA, AS FOLLOWS:**

**SECTION 1.** That Title 10, “Motor Vehicles and Traffic”, Chapter 20, “Bicycles”, Article A, “General Provisions”, of the General Code of the City of Birmingham, 1980, is hereby amended to read as follows:

## **Chapter 20. BICYCLES AND SHARED MICROMOBILITY DEVICES**

### **ARTICLE A. – GENERAL PROVISIONS**

#### **Sec. 10-20-1. Applicability.**

The provisions of this chapter shall apply whenever a bicycle or shared micromobility device is operated upon any highway or upon any path set aside for the use of bicycles or shared micromobility devices subject to those exceptions stated herein.

#### **Sec. 10-20-2. Duty of parents and guardians.**

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

### **Sec. 10-20-3. Obedience to traffic control devices.**

(a) Any person operating a bicycle or a shared micromobility device shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer or other person authorized by law to direct traffic.

(b) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle or a shared micromobility device shall disobey the direction of any such sign, except where that person dismounts from the bicycle or a shared micromobility device to make any such turn, in which event that person shall then obey the regulations applicable to pedestrians.

(c) Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by Alabama traffic laws, as provided in §32-5A-260, Code of Alabama 1975, as may be amended, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application.

(d) Every person riding a shared micromobility device shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a bicycle by Alabama traffic laws, except as to specific provisions in §32-19-2, Code of Alabama, 1975, as may be amended, and except when such laws by their nature can have no application.

### **Sec. 10-20-4. Riding on sidewalks.**

No person shall ride a bicycle or a shared micromobility device upon a sidewalk except for members of the city police department and members of any public assistance organization which may be authorized in writing to do so by the chief of police of the city while performing police or public assistance duties.

### **Sec. 10-20-5. Speed.**

No person shall operate a bicycle or a shared micromobility device at a speed greater than the posted speed limit, or at a speed greater than what is reasonable and prudent under the conditions then existing.

### **Sec. 10-20-6. Emerging from alley or driveway.**

The operator of a bicycle or a shared micromobility device emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

### **Sec. 10-20-7. Parking.**

No person shall park a bicycle or a shared micromobility device upon a street other than upon the roadway against the curb or upon the sidewalk in a rack or corral to support the bicycle or a shared micromobility device, or against a building or at the curb, in a manner as to afford the least obstruction to pedestrian traffic.

**Sec. 10-20-8. Other operating restrictions.**

(a) No person operating a bicycle or a shared micromobility device shall carry any package, bundle, or article that prevents the driver from keeping at least one (1) hand upon the handlebars.

(b) No person operating a bicycle or shared micromobility device shall carry more persons at one (1) time than the number for which it is designed and equipped.

**Sec. 10-20-9. Interpretation.**

References in this Chapter to any statute, code section or ordinance shall be deemed to refer to such statute, code section or ordinance as currently in effect or as amended from time to time and to any rules or regulations promulgated thereunder.

**SECTION 2.** That Title 12, Chapter 22 of the General Code of the City of Birmingham, 1980, is hereby added to provide as follows:

**CHAPTER 22. –SHARED MICROMOBILITY DEVICE SYSTEMS**

**Sec. 12-22-1. - Purpose.**

The purpose of this Chapter is to:

Establish the permitting process, and regulate the operation of, Shared Micromobility Systems in the City of Birmingham, Alabama in accordance with §32-19-2, Code of Alabama 1975, as created by Act No. 2019-437.

**Sec. 12-22-2. - Applicability.**

The provisions of this Chapter shall apply to Shared Micromobility Device Systems. For the purpose of this Chapter, an applicant, a managing agent or System Operator, and/or owner of a Shared Micromobility Device System shall be jointly and severally liable for complying with the provisions of this Chapter and this ordinance, any other applicable ordinance and the System Permit granted for the operation of the Shared Micromobility Device System.

**Sec. 12-22-3. Definitions.**

For the purpose of this Chapter, the following words shall have the meanings indicated:

*Bicycle* shall have the meaning ascribed by §32-1-1.1, Code of Alabama 1975.

*Corral* means Shared Micromobility Device parking facilities that can accommodate a group of Shared Micromobility Devices. A Corral is typically installed on-street in lieu of a single vehicle parking space.

*Customer* or *User* means the individual who rents or uses a Shared Micromobility Device provided by a System Operator.

*Director* means the director of the City of Birmingham Department of Transportation, or any successor department.

*Electric Bicycle*, also known as electric-assist or e-bike, means a bicycle equipped with a battery and an electric motor that is activated by pedaling and deactivates when not in use.

*Geofencing* means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

*Rack* means a stationary fixture designed for securely attaching bicycles or shared micromobility devices when they are not in use.

*Rebalancing* means the process by which Shared Micromobility Devices are redistributed to ensure availability throughout a Service Area and to prevent excessive buildup of Shared Micromobility Devices at locations throughout the City by moving Shared Micromobility Devices from an area of low demand to an area of high demand.

*Service Area* means the geographical area within the City of Birmingham, as defined by the System Permit, where the Shared Micromobility Device System is authorized to offer service for its Users/Customers.

*Shared Micromobility Device* shall have the meaning ascribed by §32-1-1.1, Code of Alabama 1975.

*Shared Micromobility Device System* shall have the meaning ascribed by §32-1-1.1, Code of Alabama 1975.

*System Operator* means any entity that owns, operates, redistributes, or rebalances Shared Micromobility Devices and services a Shared Micromobility Device System.

*System Permit* means a franchise granted by the City to a System Operator in order to operate a Shared Micromobility Device System in the public rights-of-way or on permitted public property.

#### **Sec. 12-22-4. Shared Micromobility Device System Permitting.**

- (1) *Unlawful to operate without authorization:* It shall be unlawful for a System Operator to provide or operate a Shared Micromobility Device System within the City without first obtaining a System Permit which has been authorized as provided in this Chapter, and any required business license.
- (2) *Authorization:* A System Operator shall apply for a System Permit between April 1 and June 30 of any year by submitting to the City a verified application to provide a Shared Micromobility Device System in the city limits and describing the proposed Service Area. The applicant must be the person who will own, control, or operate the proposed Shared Micromobility Device System. The application, the form of which shall be approved by the Director, must be accompanied by proof that a \$500 application fee has been paid to the finance department and include these items:
- a. The form of business of the applicant and, if applicable, a copy of the documents establishing the business and the name and address of each person with an ownership interest in the business;
  - b. each address of the fixed facilities to be used by the business in the operation and the address of the applicant's corporate headquarters;
  - c. images and description of the Shared Micromobility Devices and mobile application;
  - d. size of fleet at launch, and any planned fleet expansions during the System Permit period;
  - e. Service Area at launch, including any planned expansions during the System Permit period;
  - f. a written plan for educating Users on proper Shared Micromobility Device operation and parking;
  - g. a written plan for providing equitable access in neighborhoods and to communities and Users that are underserved by mobility and transportation options, as described in Section 12-22-6(d) of this Chapter;
  - h. a routine maintenance plan schedule and Shared Micromobility Device charging plan for the electric batteries;
  - i. the applicant's proposed pricing structure;
  - j. the applicant's proposed rebalancing plan;
  - k. a statement that neither the applicant, nor any entity affiliated with the applicant, including but not limited to parent companies or subsidiaries, has been subject to the

revocation or termination of any permit, franchise, agreement or any other authorization to operate a micromobility or bike-share system in any other municipality or county in the United States within two (2) years prior to the date of application or, if so, an explanation of the circumstances of such revocation or termination;

- l. a statement that neither the applicant nor any entity affiliated with the applicant, including but not limited to parent companies or subsidiaries, within two (2) years prior to the date of application, has participated in any deployment or transportation launches of micromobility or bike-share systems without proper authorization of the appropriate governing authority or, if so, an explanation of the circumstances thereof;
- m. a statement that the applicant has never terminated or cancelled a permit, franchise, agreement or any other authorization to operate a micromobility or bike-share system prior to the expiration thereof;
- n. a statement that the applicant has at least 3 years of experience operating micromobility or bike-share systems including fleet sizes of at least 250 devices in a United States municipality or county;
- o. any other plans, documentation or information specified in this Chapter;
- p. the verified signature of the applicant;
- q. any other information deemed necessary by the Director.

Any changes to the information provided in the System Permit application must be reported to the Director, in the manner prescribed by the Director, within 10 days following the change. Any change in ownership must be reported to the Department of Finance Tax and License Division within 10 days following the change. Material changes in ownership and/or operations may require additional approvals, including a new application.

- (3) Granting of an initial System Permit shall be subject to the approval of the City Council by passage of an ordinance.
- (4) All ordinances or notices of the substance of an ordinance granting a franchise shall be published at the expense of the System Operator to whom the franchise is granted.
- (5) An initial System Permit shall be valid from the date of issuance through the following June 30. Thereafter, a System Permit will be effective for a period of one (1) year, from July 1 through June 30 of the following year. System Operators may request up to two (2) consecutive annual administrative renewals of the System Permit by the Director by submitting a renewal application to the Director or his/her designee with a nonrefundable permit renewal fee of \$500 at least thirty (30) calendar days before the expiration date



of the System Permit. The renewal application shall be on a form prescribed by the Director. System Operators are not entitled to and have no automatic right to renewal of their System Permit, and must comply with any and all ordinances, regulations or policies that are duly and lawfully adopted by the City of Birmingham after a System Permit is approved.

- (6) Following two (2) consecutive annual administrative System Permit renewals by the Director as provided in subsection (5) above, a System Operator shall be required to re-apply for and obtain approval of a System Permit in accordance with the requirements of subsections (2) through (4) above for an initial System Permit.
- (7) System Operator will pay an annual program administrative fee of \$20 per Shared Micromobility Device to the City to cover costs associated with management and oversight of the System Operator. Payment is required upon approval of a System Permit and prior to any Shared Micromobility Devices being made available for use within the City pursuant to an initial System Permit and at the time of a renewal application for each year thereafter. In the event that the City increases the number of Shared Micromobility Devices the System Operator is authorized to operate within the City, the System Operator will provide payment for the fleet increase prior to making additional Shared Micromobility Devices available for use within the City.
- (8) A System Operator shall provide the City at least fourteen (14) days' prior written notice before ceasing operations.
- (9) System Operators must, at a minimum, comply with the requirements of Section 12-22-6 of this Chapter.

#### **Sec. 12-22-5. Suspension or Revocation of System Permit.**

- (a) Suspension.
  - (1) The Director may suspend a System Permit for up to 90 days if he or she determines that the System Operator failed to comply with a request to remove a Shared Micromobility Device or a request to rebalance Shared Micromobility Devices issued by the City, within the time specified in the Director's request. Written notice of suspension shall be made by the Director to the System Operator.
  - (2) Suspension of a System Permit does not affect the expiration date of the System Permit.
  - (3) An appeal to the City Council from a suspension of more than ten (10) days may be made by filing a letter with the City Clerk requesting a public hearing within three (3) days of receiving the suspension order. The hearing shall be set for the next Council meeting following receipt of the appeal letter.



(b) Revocation.

The City Council shall revoke a System Permit, after due notice and a hearing, if the Council determines that the System Operator has:

- (1) made a false statement as to a material matter in the application concerning the System Permit;
- (2) failed to maintain the insurance required by this Chapter;
- (3) failed to maintain the performance bond or irrevocable letter of credit required by this Chapter;
- (4) operated Shared Micromobility Devices that were not authorized by the System Permit;
- (5) failed to pay a fee required by this Chapter.
- (6) violated any of the requirements of this Chapter or any of the rules and regulations as established or approved by the City Council;
- (7) operated the Shared Micromobility Device System in such a manner as to be detrimental to the public health, safety or welfare or so as to constitute a nuisance;
- (8) persisted in permitting System Operator's Shared Micromobility Devices to be operated in violation of any law or any section of this Chapter, after notice of, and failure to correct, such illegal operation;
- (9) allowed any of System Operator's equipment to become damaged, deteriorated or unclean to the extent that they are unsatisfactory for public use; or
- (10) failed to comply with applicable federal, state or local laws, ordinances or regulations.

(c) Fleet Reduction.

A System Operator is subject to a fleet size reduction or total permit revocation, after notice to the System Operator and a public hearing conducted by the City Council, should the following occur:

- (1) if violations of the regulations set forth in this Chapter are not addressed in a timely manner; or
- (2) 10 unaddressed violations of the regulations set forth by this Chapter within a 30-

day period; or

- (3) knowingly submitting inaccurate data with no corrective action by the System Operator.
- (d) In the event of a reduction or revocation, the City Clerk shall provide written notice of the reduction or revocation via US mail, informing the System Operator of the reduction or System Permit revocation.
- (e) After revocation of a System Permit, a System Operator may not be eligible for another System Permit for a period of at least six (6) months, but not to exceed two (2) years, depending on the severity of the violation resulting in the revocation.
- (f) Any person whose application for a System Permit, or renewal of a System Permit, is denied, or whose System Permit has been revoked or whose fleet has been reduced, may file an appeal as permitted by law.

#### **Sec. 12-22-6. Shared Micromobility Device System Requirements.**

##### **(a) General Regulations Pertaining to Shared Micromobility Devices:**

- (1) All bicycles utilized in a Shared Micromobility Device System shall conform with the standards set forth in Title 16, Code of Federal Regulations, Chapter II, Subchapter C, Part 1512 - Requirements for Bicycles, the safety standards outlined in ISO 43.150 - Cycles, subsection 4210, and Alabama law, including but not limited to §32-5A-265, Code of Alabama 1975.
- (2) All Electric Bicycles utilized in a Shared Micromobility Device System shall conform to the standards and equipment requirements set forth in the Code of Alabama for Bicycles and Electric Bicycles, Consumer Product Safety Commission (CPSC) Public Law 107-319 (low speed electric bicycles) and with this ordinance or any other applicable city ordinance.
- (3) All Scooters utilized in a Shared Micromobility Device System shall conform with the standards set forth in Code of Alabama, including but not limited to §32-1-1.1(60), Code of Alabama 1975 as amended by Act No. 2019-437, Consumer Product Safety Commission (CPSC) Public Law 107-319 (low speed electric bicycles) and with this ordinance or any other applicable city ordinance.
- (4) The Director is authorized to adopt safety standards to address other types of Shared Micromobility Devices, including but not limited to non-electric types of powered Shared Micromobility Devices, if he or she chooses to allow them.
- (5) Unless otherwise authorized, System Operators shall not allow a Shared

Micromobility Device to be operated in areas outside of the City of Birmingham public right-of-way.

- (6) All Shared Micromobility Devices utilized shall comply with the lighting standards set forth in the Code of Alabama, and shall be equipped with reflectors, lights, and reflective markings. Shared Micromobility Devices shall be equipped with a brake, a horn or bell or other such signaling device by which to audibly warn pedestrians, and, for those units that operate at nighttime, a front light that emits white light and a red light and reflector at the rear of the unit.
- (7) All Shared Micromobility Devices utilized shall include easily accessible and identifiable language that clearly directs Users to customer support mechanisms, including but not limited to a customer service phone number, websites, and applications.
- (8) Scooters and Electric Bicycles must have a top electric motor-powered speed of not more than twenty (20) miles per hour on a paved level surface.
- (9) Shared Micromobility Devices are to be operated at a User's own risk or the risk of the System Operator, and no representation is being made by the City as to the condition of any street.
- (10) All Shared Micromobility Devices utilized shall include a marking legible and clearly visible to the public indicating that the vehicle is a Shared Micromobility Device and identifying the System Operator that was granted the System Permit.
- (11) All Shared Micromobility Devices utilized shall have displayed thereon an easily accessible and legible unique identification number. The contact information of the System Operator shall also be displayed on the Shared Micromobility Device and easily accessible.
- (12) All Shared Micromobility Devices utilized shall be equipped with GPS or a comparable technology that can report the location of a unit at any time for the purposes of use, recovery, repair, data collection, and incident investigation.
- (13) Shared Micromobility Devices shall employ tamper-resistant security hardware.
- (14) A Shared Micromobility Device shall not display third-party advertising.
- (15) Shared Micromobility Devices must be high quality and sturdily built to withstand the effects of weather and constant use for five years.
- (16) Shared Micromobility Devices must be well maintained and in good riding condition.

- (17) All Shared Micromobility Devices utilized must include a kickstand or mechanism capable of keeping the Shared Micromobility Devices upright when not in use.
- (18) System Operators must include release language, consistent with the language below, in its Shared Micromobility Device System's User sign-up process, and each User registered in the Shared Micromobility Device System must affirmatively sign or check a box within the application notating consent to the release:
- “For and in consideration of rental and use of the Shared Micromobility Device, rider, for himself or herself and on behalf of rider's heirs, executors, administrators and assigns, forever releases and relinquishes and discharges the City of Birmingham and its elected and appointed officials, officers, employees, agents, contractors, and volunteers (collectively, the “City”) from any and all claims, demands, disputes, losses, liabilities, debts, liens, charges, penalties, proceedings, causes of action and damages including for personal injury, wrongful death, property damage.”
- (19) If the City incurs any costs addressing or abating any violations of this section, or incurs any costs of repair or maintenance of public property, the System Operator shall reimburse the City for the costs within 30 days of receiving written notice from the City.
- (20) A System Operator shall not adversely affect the property of any third parties during the use of city property or the public right-of-way.
- (21) A System Operator shall educate Customers regarding the law applicable to riding, operating, and parking a Shared Micromobility Device. A System Operator's mobile application, website and written materials made available for public consumption, must provide information notifying the User that:
- (a) Users of a Shared Micromobility Device must comply with the Rules of the Road applicable to Bicycles and other vehicles;
  - (b) Shared Micromobility Devices must be parked legally and properly;
  - (c) Users of a Shared Micromobility Device must yield to pedestrians on sidewalks and designated paths;
  - (d) Use of helmets is strongly encouraged; and
  - (e) Shared Micromobility Devices may not be ridden on sidewalks.
- (22) System Operators must acknowledge and agree that the City is not responsible for educating Users regarding applicable laws. Neither shall the City be responsible for

educating Users on how or where to ride or operate a Shared Micromobility Device.

(b) Parking and Right-of-Way

- (1) Use of public sidewalks for parking Shared Micromobility Devices shall comply with state laws and city parking ordinances and must not:
  - i) Adversely affect traffic upon the streets or sidewalks;
  - ii) Inhibit pedestrian movement;
  - iii) Inhibit the ingress and egress of vehicles parked on- or off-street;
  - iv) Create conditions which are a threat to public safety and security;
  - v) Obstruct any pedestrian pathway. Shared Micromobility Devices shall be parked in a manner as to afford the least obstruction to pedestrian traffic and shall in no event cause a pedestrian pathway to have less than four (4) feet of the pathway clear for pedestrian traffic.
- (2) Shared Micromobility Devices shall not be parked in a way that impedes access to other transportation systems, bus stops or stands, parking spaces or lots, Racks, Corrals, other Shared Micromobility Device Systems or to any other business.
- (3) Shared Micromobility Devices shall not be parked in the following restricted areas:

In the area within or immediately adjacent to:

1. Americans with Disabilities Act (ADA) accommodations including curb ramps, braille signs, railings and signal push buttons;
2. Sidewalk cafes or street patios;
3. Transit zones, including bus stops, shelters, passenger waiting areas, and bus layover and staging zones, except at existing bicycle racks;
4. On-street parking spots;
5. Loading zones;
6. Disabled parking zones or other facilities specifically designated for accessibility by persons with disabilities;
7. Street furniture that requires parking access (e.g., benches, pay stations);
8. Parklets;
9. Business or residential entryways;
10. Driveways;
11. Crosswalks;
12. In any travel lanes, bicycle lanes, crosswalks;
13. Within 15 feet of fire hydrants, drinking fountains, machines or

equipment that requires pedestrian access, public art and any fixed regulatory or informational sign.

- (4) Shared Micromobility Devices shall not be parked in a manner that in any way violates Americans with Disabilities Act (ADA) accessibility requirements.
- (5) Shared Micromobility Devices shall always be parked upright.
- (6) Geofenced Areas may be defined by the System Permit, or the City may create Geofenced Areas where Shared Micromobility Devices either shall not be parked or must be parked. A System Operator must have the technology available to operate these requirements upon request.
- (7) The City may create designated parking zones in certain areas and install Racks or Corrals in such parking zones where Shared Micromobility Devices shall be parked. Before the end of each calendar day, a System Operator shall remove any of its Shared Micromobility Devices not parked a designated parking zone.
- (8) Upon issuance of a System Permit, System Operator shall pay to the City an annual fee of \$100 for each such Rack or Corral installed by the City.
- (9) Shared Micromobility Devices parked so as to obstruct vehicular or pedestrian traffic may be ticketed and/or removed by a law enforcement officer or other duly authorized City personnel and impounded or disposed of as abandoned property or unclaimed and surplus property. The System Operator must pay the City a fee of up to \$50 to obtain the return of each Shared Micromobility Device impounded. The City may charge any unpaid impoundment fees against the System Operator's performance bond provided in accordance with Section 12-22-8.
- (10) Shared Micromobility Devices that remain in one location, other than designated micromobility parking zones, for more than 72 consecutive hours without moving, may be ticketed and/or removed by a law enforcement officer or other duly authorized City personnel and impounded or disposed of as abandoned property or Unclaimed and Surplus Property. The System Operator must pay the City a fee of up to \$50 to obtain the return of each Shared Micromobility Device impounded. The City may charge any unpaid impoundment fees against the System Operator's performance bond provided in accordance with Section 12-22-8
- (11) Bicycles, Electric Bicycles and Scooters utilized by a System Operator must have the capability of being locked from use when not in use.

(c) Maintenance, Operations, and Fleet Size

- (1) A System Operator shall not allow a Shared Micromobility Device to be rented by a

Minor as defined by Section 26-1-1, Code of Alabama 1975. No person shall allow a Minor less than nineteen (19) years of age to operate a Shared Micromobility Device, provided, however, that a 18-year old Minor may operate a Shared Micromobility Device rented by a parent or legal guardian only after such parent or guardian has named the Minor and provided written permission for use by the Minor to the System Operator at the time of the short term rental.

- (2) System Operators must comply with Section 32-5A-284, Code of Alabama 1975.
- (3) Shared Micromobility Devices must only be available to Customers at rates that are clearly and understandably communicated to the Customer prior to use. Any changes in pricing structure shall be provided to Users and to the City in writing at least 14 business days before the changes go into effect.
- (4) System Operators must provide details on how Users can utilize the service without a smartphone.
- (5) System Operators participating in the Shared Micromobility Device System must rebalance Shared Micromobility Devices daily based on use within the designated Service Area as defined by the System Permit.
- (6) Shared Micromobility Devices that are inoperable/damaged or do not comply with other subsections of this code must be removed by the System Operator within 1.5 hours upon receipt of the complaint between the hours of 7:00 AM and 7:00 PM, 7 days per week and within 3 hours upon receipt of the complaint at all other times. An inoperable or damaged Shared Micromobility Device is one that has non-functioning features (i.e., gear selectors, pedals, bell, lights, etc.) or is missing components (i.e., fenders, grips, chain guards, etc.) as applicable to that vehicle. A System Operator whose Shared Micromobility Device is inoperable or damaged or that has non-functioning features, and which is relocated or impounded is subject to all fines and costs set forth in Section 12-22-6(b)(9) and (10) of this Chapter or as otherwise provided by law. A Shared Micromobility Device removed from the right-of-way in accordance with this subsection must be repaired before it is returned to revenue service.
- (7) The System Operator shall be capable of remotely disabling the use of a unit should it be reported or found to have a safety, maintenance or other hazardous condition. Shared Micromobility Devices that are reported as unsafe or non-functional shall be immediately deactivated for rental and removed from operations until sufficiently repaired.
- (8) The Mayor or any law enforcement officer or other duly authorized City personnel, at his or her discretion and without notice, may remove Shared Micromobility Devices from the streets or rights-of-way if an emergency arises. In such instances, the City



will attempt to notify the System Operator as soon as reasonably practicable thereafter.

- (9) System Operators must detail a plan to relocate the Shared Micromobility Devices to a safe, indoor facility within 24 hours in the result of a declared weather event. The plan must detail the amount of time it will take to remove all Shared Micromobility Devices from circulation once a storm warning has been established.
- (10) System Operators must cooperate with the Mayor's Office, Department of Transportation, the Department of Public Works, Police Department and any other relevant entity to ensure public safety during special events, construction, or emergency conditions. Cooperation to ensure public safety may include removing Shared Micromobility Devices from a specific area, prohibiting riding and/or parking in certain areas, or establishing reduced speed zones. System Operators may be invited to participate in special event planning and must be prepared to submit temporary operation plans to the City for special events, as requested.
- (11) The City may have removed and stored, any Shared Micromobility Device that is left parked at the same Rack or Corral location for seven or more consecutive days, if the City has sent the System Operator a notification to rebalance the Shared Micromobility Devices.
  - (a) The System Operator is responsible for removal and storage costs.
  - (b) Any Shared Micromobility Device that remains unclaimed with the City for 60 days is subject to sale or disposition as unclaimed and surplus property.
- (12) The System Operator's phone application must clearly direct Users to customer support mechanisms, including but not limited to phone numbers or websites.
- (13) The System Operator must provide a staffed, toll-free Customer Service line which must provide support 24 hours per day, 365 days per year. The Customer Service Center must be capable of accepting calls/re-routed information from the City's 311 service or its equivalent.
- (14) The System Operator must provide a direct and local customer service or operations staff contact to the City.
- (15) A System Operator's initial fleet must be a minimum of 100 Shared Micromobility Devices. System Operator's initial fleet may not exceed more than 500 Shared Micromobility Devices. System Operators may request an increase to their initial Shared Micromobility Device Mobility fleet size following 90 days after initial agreement, each request shall include a rationale and analysis to justify the additional fleet size. Authorization of additional Shared Micromobility Devices is at the

discretion of the Mayor or the City Council to the extent provided in the System Permit. The City will review average daily trips for each device, determined by monthly usage. The City may require a portion of the units to be relocated or removed if average usage is determined to be too low.

- (16) The City desires that System Operators provide a variety of Shared Mobility Devices to accommodate a range of Users and serve a variety of transportation needs. Accordingly, a System Operator's fleet of Shared Micromobility Devices must maintain a ratio of one (1) Bicycle or Electric Bicycle for every two (2) Scooters operated under one (1) brand and available to users under one (1) mobile application. The Director is authorized to adopt additional fleet composition requirements to address other types of Shared Micromobility Devices added to a System Operator's fleet.
- (17) System Operators shall ensure that on a regular basis, but no less than monthly, and weekly for heavily used devices, that all Shared Micromobility Devices are inspected, maintained, and replaced as necessary by properly trained, insured staff or contractors. System Operator must identify and provide address for a location within the City limits which serves as the operations and charging facility. System Operator must provide a routine maintenance schedule and Shared Micromobility Device charging plan for the electric batteries as part of the System Permit. Shared Micromobility Devices shall be inspected when removed from routine service, to ensure that all of its components are present and functioning properly.
- (18) System Operators deploying electric-assist units shall have a program to ensure proper recycling of batteries and disposal of these batteries under Universal Waste Battery disposal standards under Title 40 of the Code of Federal Regulations 28 (CFR) in part 273.
- (19) The City Council, at its discretion, reserves the right to cap the total number of Shared Micromobility Devices permitted to operate within City limits.
- (20) Shared Micromobility Devices, except bicycles, shall not be enabled for public use between the hours of 11:00 PM to 6:00 AM. The City, at its discretion, may adjust the hours of operation based on local conditions. A System Operator must have the ability to implement any modifications to hours of operation within 48 hours of written or emailed notice.

(d) Equity

- (1) System Operators must provide service in all Service Areas as identified by the System Permit. This includes rebalancing Shared Micromobility Devices as needed in order to maintain a reasonable level of convenience in renting a Shared Micromobility Device.

- (2) System Operator shall submit with its application to the City plans for allowing use by Customers without a bank account or credit card.
- (3) System Operator shall submit with its application to the City plans for allowing access to Shared Micromobility Devices by Customers with disabilities.
- (4) System Operators shall have a plan to provide equitable access in neighborhoods and to communities and users that are underserved by mobility and transportation options.
- (5) Permitted System Operators are encouraged to:
  - i. Provide pricing options that address the needs of low-income residents; and
  - ii. Provide discount programs to low income individuals.

(e) Data Sharing

- (1) All permitted System Operators shall provide the City of Birmingham with the following data on a monthly basis in PDF and Excel format or through a real time cloud-based data dashboard:
  - i) Anonymized aggregated data showing the number of Shared Micromobility Devices in circulation;
  - ii) Number of daily, weekly, and monthly riders;
  - iii) Total number of miles traveled by Users (daily, monthly, quarterly, annually);
  - iv) Average time each Shared Micromobility Device spends available (not in use);
  - v) Number of rides per User per day;
  - vi) Number of rides per Shared Micromobility Device per day;
  - vii) Duration of rides per rider per day as well as rides per Shared Micromobility Device;
  - viii) Average duration of ride per day of the week;
  - ix) Anonymized aggregated monthly data of Shared Micromobility Device distribution and GPS-based natural movement in heat map format;
  - x) Anonymized aggregated monthly data specifics on origin/destination data points of the Shared Micromobility Devices;

- xi) Summary of fleet numbers lost to the vandalism;
  - xii) Summary of customer comments/complaints, resolution to, and time it took to resolve each complaint;
  - xiii) Summary of repairs per Shared Micromobility Device per month.
- (2) All permitted System Operators shall provide to the City the following data within fourteen days following the end of each calendar quarter, in ESRI ArcGIS .shp format, or other format specified in the System Permit:

Field Name	Format	Description
Operator Name	Operator Name	n/a
Type of vehicle	Bike, E-Bike, Scooter	n/a
Trip record number	xxx0001, xxx0002, ...	3-letter Operator acronym +consecutive trio #
Trip duration	MM:SS	n/a
Trip distance	Feet	n/a
Start date	MM,DD,YYYY	n/a
Start time	HH:MM:SS {00:00:00-23:59:59}	n/a
End date	MM,DD,YYYY	n/a
End time	HH:MM:SS (00:00:00-23:59:59)	n/a
Start location	Latitude; Longitude	n/a
End Location	Latitude; Longitude	n/a
ID number	xxxx1, xxxx2 ...	Unique identifier for each Shared Micromobility Device
User Home Zip Code	33301 (example)	Home zip code of User (can be credit card-based)

- (3) All permitted System Operators shall distribute a quarterly customer satisfaction survey, the summary and raw results of which shall be provided to the City.
- (4) All permitted System Operators shall provide real-time or semi-real-time Shared Micromobility Device location data via a publicly accessible API in Mobility Data Specification (MDS) format and guidelines. The City reserves the right to post this information through a publicly available portal.
- (5) System Operator shall keep a record of reported collisions in a format as determined by the Director.

- (6) System Operator shall keep a record of maintenance activities which includes the device or unit identification number and maintenance performed.
- (7) System Operator shall be responsible for implementing and submitting to the City a privacy policy that safeguards Users' information, including personal, financial, and travel information.
- (8) System Operator shall not require Users or Customers to grant location services to use the System Operator's Shared Micromobility Device System, while the application is not in use. All other private data belonging to the User, including but not limited to contacts, photos and files, shall not be required to be shared in order to use the System Operator's Shared Micromobility Device System.
- (9) All System Operators handling Users credit card data should be compliant with Payment Card Industry Data Security Standards (PCI DSS).
- (10) System Operator shall not require Users or Customers to share their private data with third parties in order to use the System Operator's Shared Micromobility Device System.
- (11) System Operator may allow Users or Customers to opt-in (not opt-out) to providing access to their contacts, photos, files, other private data and third party data sharing only with clear notice to the customer.
- (12) System Operator shall provide the Director with updates to the terms of service, including but not limited to the Privacy Policy, terms and conditions of use, and the End User License Agreement (EULA) published on the System Operator's website and app and agrees to provide all customers and the City any changes to the terms of service immediately upon adoption.
- (13) On a monthly basis, all System Operators shall provide to the City a complaint history report including the number of complaints, the nature of the complaints, and the time it took to remedy the complaint.
- (14) On a monthly basis, all System Operators shall provide to the Director a collision history report including the number, severity, location and time of crash, in a format as determined by the Director.
- (15) The System Operator shall provide the Director or a City-authorized third party, with real-time and historical information for their entire fleet through a documented web-based application programming interface (API). The System Operator is directly responsible for providing the API key to the Director and shall not refer the City to another subsidiary or parent company representative for API access. The API shall deliver data according to the most current City authorized specifications, in a manner

that protects individual User privacy.

- (16) A System Operator found to be submitting incomplete or inaccurate data, such as underrepresenting the total number of units in service, shall have its System Permit revoked.

**Sec. 12-22-7. Indemnification and insurance.**

- (a) As a condition of the grant of a System Permit the System Operator shall agree to indemnify, hold harmless and defend the City of Birmingham, its representatives, employees, and elected and appointed officials, from and against all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the System Permit, the use of the streets, rights-of way or City-owned property for the Shared Micromobility Device System operations or arising from any negligent act omission or error of the System Operator, owner or, managing agent, its agents or employees or from the failure of the System Operator, its agents or employees, to comply with each and every requirement of this Chapter or with any other federal, state, or local traffic law, ordinance or any combination of same.
- (b) The System Operator shall provide and maintain such public liability and property damage insurance to protect the City of Birmingham, its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily Injury, including death, which may arise from any aspect of the Shared Micromobility Device System or its operation. Such insurance shall be provided from an insurance company with an AM Best rating of not less than "A" and a financial strength rating of not less than "VII," acceptable to the City and shall provide Commercial General Liability Insurance coverage with a limit of no less than One Million Dollars (\$1,000,000.00) for each occurrence and Three Million Dollars (\$3,000,000.00) aggregate. Such insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the termination of the System Permit without thirty (30) days' written notice prior to the termination to the City, filed with the City Clerk, at the address shown in the System Permit.
- (c) If a System Operator will utilize motor vehicles in its operations, the business automotive liability insurance must cover owned, hired, and non-owned vehicles, with a combined single limit for bodily injury (including death) and property damage of \$500,000 per occurrence.
- (d) In addition to the requirements of subsection (a), (b) and (c), the System Operator shall provider Workers' Compensation Coverage as required by law and shall provide additional insurance and comply with any revised indemnification provision specified in the System Permit.
- (e) The System Operator shall provide proof of all required insurance prior to receiving a

System Permit for a Share Micromobility Device System and upon each renewal thereafter.

- (f) A System Operator may not be self-insured.
- (g) Any insurance policy required by this Chapter must be on file with the City within 45 days following the issuance of the initial operating System Permit, and thereafter within 45 days following the expiration or termination of a previously issued policy.

#### **Sec. 12-22-8. Performance Bond**

Before issuance of a System Permit, the System Operator shall give the City a performance bond approved as to form by the city attorney. System Operator shall have a performance bond of \$100 per unit. The form of the bond shall also be approved by the City. These funds shall be accessible to the City for future public property repair and maintenance costs that may be incurred, removing and storing units improperly parked, if a company is not present to remove units if its System Permit is terminated or to recover damages, fees, fines, or penalties due from the System Operator for violation of any provision of this Chapter or the System Permit. If a System Operator increases the size of its fleet, the performance bond shall be adjusted appropriately before deploying additional units.

#### **Sec. 12-22-9. Use of Fees.**

All fees paid to the City pursuant to this Chapter are intended to be used by the City for costs associated with administration of System Permits and the Shared Micromobility Device program, enforcement of this Chapter, oversight, construction and maintenance of Shared Micromobility Device parking, active transportation maintenance activities, and/or active transportation street, sidewalk, or bike path improvements or studies.

#### **Sec. 12-22-10. Penalties.**

Any violation of this Chapter shall be unlawful and subject to the penalties imposed pursuant to Sec. 1-1-6 of the General Code of the City of Birmingham.

#### **Sec. 12-22-11. Interpretation.**

References in this Chapter to any statute, code section or ordinance shall be deemed to refer to such statute, code section or ordinance as currently in effect or as amended from time to time and to any rules or regulations promulgated thereunder.

**SECTION 3. SEVERABILITY.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall become effective upon passage, approval and publication or as otherwise provided by law.



**SECTION 5. CUMMALATIVE.** This ordinance is cumulative in its nature and in addition to any and all other applicable city ordinances or parts of ordinances.

Adopted by the Council February 11, 2020 and Approved by the Mayor February 12, 2020



A CERTIFIED COPY  
Lee Frazier, City Clerk  
Birmingham, Al  
*Lee Frazier*