

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.

