

ORDINANCE NO. _____

An ordinance amending Article 1, Chapter VII of the Los Angeles Municipal Code to replace the existing shared mobility device pilot program with an annual permit program.

WHEREAS, state law authorizes a local authority to regulate the operation and use of bicycles, scooters, and other shared mobility devices within its jurisdiction to the extent that the local regulations are not in conflict with state law;

WHEREAS, regulations are necessary to ensure that service providers and shared mobility device users obey local and state laws, as well as the Los Angeles Department of Transportation's (Department) Rules and Guidelines governing the safe operation of shared mobility devices in the City;

WHEREAS, for the past two and a half years, the City has implemented a shared mobility pilot program to study the data collected during the pilot period in order to: (1) ensure safe and equitable access to shared mobility devices; (2) adopt rules for the operation, parking, and maintenance of the devices; (3) determine proper fleet size in various locations within the City; and (4) refine and update the current rules and regulations in real time to ensure compliance with local and state laws, including the development of data programs to aid in enforcement, and to prevent the accumulation of devices on sidewalks or other public rights-of-way; and

WHEREAS, the City Council now seeks to make the shared mobility pilot program permanent by authorizing the Department to issue a permit on an annual basis to a service provider of shared mobility devices, and to enforce Rules and Guidelines developed by the Department regarding the use of the devices on City public rights-of-way.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 71.29 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

SEC. 71.29. REGULATION OF SHARED MOBILITY DEVICES.

(a) **Shared Mobility Device Permit Program.** The Department shall implement a Shared Mobility Device Permit Program (Program) and may issue a permit on an annual basis to a qualified service provider (Provider) to operate a shared mobility device (Device) in the City. For purposes of this section, a "shared mobility device," as defined in Civil Code Section 2505, means an electrically motorized board, motorized scooter, electric bicycle, bicycle, or a similar personal transportation device. For

purposes of this section, a “shared mobility device provider,” as defined in California Civil Code Section 2505, means a person or entity that offers, makes available, or provides a Device in exchange for financial compensation or membership via a digital application (app) or other electronic or digital platform. A Provider of a Device shall obtain a permit from the Department and shall be subject to all permit terms and conditions, the Department’s Rules and Guidelines (Rules), this Code, and state or federal law. Failure to comply with the permit terms and conditions, Rules, this Code, or state or federal law may result in: (1) suspension or revocation of the Provider’s permit; (2) penalties as listed in the Rules; (3) reduction in the Provider’s authorized fleet size in the City; and (4) criminal prosecution for a violation of state or federal law.

(b) **General Manager Authority.** Notwithstanding Section 71.29.1 and Section 71.29.2 below, the General Manager of the Department shall have the authority to make technical changes to the Rules as needed, and to make changes necessary to implement the Program, including, but not limited to: (1) updating permit application procedures, permit standards, and permit conditions; and (2) updating operating standards for public safety, data sharing, data privacy, fleet size, and Provider maintenance of the Devices.

Sec. 2. Sections 71.29.1 through 71.29.4 of the Los Angeles Municipal Code are added to read as follows:

SEC. 71.29.1. PROVIDER AND DEVICE FEES.

(a) A Provider of a Device shall pay an initial permit fee in the amount of \$20,000, an annual permit renewal fee in the amount of \$20,000, and trip fees in the range of \$0.06 to \$0.40 per trip. The Department shall determine and calculate the trip fees by the geographic zone where a Device is operated. Each geographic zone shall be defined in the Rules. The Rules shall contain a map or maps of the boundaries of each geographic zone. Each geographic zone depicted on a map or maps shall include the trip fee range for a Device’s operation within the geographic zone.

(b) The City Council, by ordinance, shall approve any amendment to this section to add a new fee, or modify or remove an existing fee, prior to its implementation by the Department. The City Council, by resolution, may amend the Rules to modify the boundaries for operation of a Device in a geographic zone. The Department shall update the Rules to incorporate a fee change or modification of a geographic zone, and any other requirements established by the City Council in the amending fee ordinance or amending resolution.

SEC. 71.29.2. RULES.

The Board of the Transportation Commission (Commission) by resolution shall approve any amendment to the Rules that adds a penalty, or modifies or removes a penalty prior to its implementation by the Department. The Department shall update the

Rules to incorporate the amended penalty and any other requirements established in the amending resolution.

SEC. 71.29.3. VIOLATIONS AND NOTICE OF VIOLATIONS.

(a) **Violations of Section 71.29.** Within six months of discovering a violation of Section 71.29, the Department's Rules, or a permit condition, the Department may issue the Provider a Notice of Violation (NOV) and impose any penalties or order corrective actions listed in the Rules, as authorized in Section 71.29.2. An action by the Department does not preclude any enforcement agency from taking its own enforcement action for violation of any local, state, or federal law or regulation.

(b) **Notice of Violation.**

(1) The Department shall issue a NOV by mail to the Provider's agent for service of process as shown on the Provider's application for a permit. The NOV shall contain all of the following:

- (i) a brief description of the violation(s);
- (ii) a brief description of and bases for the penalties and corrective action, if any, imposed; and
- (iii) a timeframe in which the Provider shall take corrective action, if any, and comply with the penalties, if any, which shall not be sooner than 15 days from the date of mailing of the NOV.

The NOV shall also inform the Provider that the Provider may request an administrative hearing, pursuant to Section 71.29.4, within 15 days of the date the Department mailed the NOV. The Provider's right to an administrative hearing shall be deemed waived if the Provider fails to file a timely request for an administrative hearing.

(2) The NOV shall be final and effective 15 days after the date of its mailing if no administrative hearing was timely requested. If a Provider timely requests an administrative hearing, any portion of the NOV upheld or modified by an appellate body shall be final and effective 15 days after the date the appellate body's decision is deemed final under Section 71.29.4.

(3) If after a NOV becomes final and effective, a Provider fails to comply with the penalties and corrective action, if any, in the NOV, the Department may take one or more of the following actions: 1) denial of a permit or permit renewal; 2) revocation or suspension of a permit; or 3) imposition of more restrictive permit conditions.

(c) **Stipulated Agreement.** Prior to or after issuing a NOV, the Department, at its discretion, may enter into a written agreement with a Provider whereby the

Provider stipulates to having committed a violation in exchange for a negotiated penalty or corrective action, if any. If a Provider violates a stipulated agreement, the Department may issue or re-issue a NOV and impose any penalties listed in the Rules, as authorized under Section 71.29.2.

(d) **Suspension of Permit During Pendency of Administrative Hearing and Appeal.** Depending on the severity of the violation alleged in the NOV, the Department may suspend the Provider's permit during the pendency of the administrative hearing and any appeal. The Department shall give written notice, by mail, of the suspension to the Provider, and shall provide the basis for issuing the suspension. The Provider shall remove all of its Devices from the public right of way within seven calendar days of the date the Department mailed the notice of suspension. While the suspension is in effect, Provider is prohibited from deploying, storing, or operating its Devices within the public right-of-way.

SEC. 71.29.4. REQUESTS FOR ADMINISTRATIVE HEARING AND APPEAL.

(a) A request for an administrative hearing may be filed for the following Department actions:

(1) Issuance of a NOV by the Department.

(2) Denial of an application for a Device permit or permit renewal by the Department.

(b) A request for an administrative hearing shall be filed with the Department within 15 days of the date of mailing of the notice of the Department's action, unless a later date is provided in the NOV or the notice of denial of an application for a Device permit or permit renewal. Failure to timely request an administrative hearing shall constitute a failure to exhaust administrative remedies. If the Department suspends the Provider's permit pursuant to Section 71.29.3(d), the suspension shall remain in effect pending the outcome of the administrative hearing.

(c) The Department shall select a hearing officer and schedule an administrative hearing within 45 calendar days from the date the Department received the request for an administrative hearing. The Department shall mail the notice of the hearing to the Provider's agent for service of process no later than 20 calendar days prior to the date of the hearing. The time for holding a hearing may be extended by mutual agreement between the Department and the Provider.

(d) **Pre-Hearing Disclosures.** No later than seven calendar days prior to an administrative hearing, the Department and the Provider shall make the following pre-hearing disclosures to the hearing officer, with simultaneous email service upon the other party: (i) a brief statement of the facts and issues relating to the request for an administrative hearing; (ii) a copy of all documentary evidence to be offered at the

hearing; and (iii) a list of all witnesses to be presented at the hearing. The hearing officer shall not issue any decision relating to the request before the hearing.

(e) Administrative hearings shall be conducted as follows:

(1) The hearing shall be recorded by an audio device provided by the Department. Any party to the hearing may, at its own expense, cause the hearing to be audio recorded and transcribed by a certified court reporter;

(2) The Department shall have the burden of proof by the preponderance of the evidence;

(3) The hearing officer may accept evidence on which persons would commonly rely in the conduct of their business affairs;

(4) The hearing officer may continue the hearing and request additional relevant information from any party; and

(5) Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision that includes a statement of the factual and legal basis of the decision. The hearing officer shall use a de novo standard of review and may uphold or reject, in whole or in part, the Department's action. The hearing officer may waive or reduce the penalties in a NOV after considering the factors specified listed in the Rules, as authorized in Section 71.29.2.

(f) The hearing officer's decision shall be sent by mail to the Provider and shall become final within 15 days of the mailing date, unless the Provider files a timely appeal to the Commission.

(g) The Commission shall hold a public hearing on an appeal by the appellant from a hearing officer's decision within 60 days of the date of filing the appeal to the Commission. The Department shall provide notice of the public hearing no less than 20 days prior to the date of the public hearing. The Commission shall consider de novo the record before the hearing officer and uphold, modify or reject, in whole or in part, the hearing officer's written decision. The Commission may waive or reduce the penalties in the hearing officer's decision after considering the factors listed in the Rules, as authorized in Section 71.29.2. The Commission shall not consider evidence outside of the record before the hearing officer. The Commission shall issue a decision within 30 days of the conclusion of the hearing and mail it to the appellant. The Commission's decision is final.

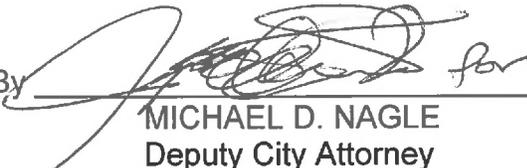
Sec. 3. URGENCY CLAUSE. The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reason: The shared mobility device pilot program is set to expire on March 31, 2021. Therefore, this ordinance must become effective by April 1, 2021, in order to preserve the Department's ability to regulate shared mobility devices

operating in the City and protect its residents in the public right-of-way. The City Council adopts this ordinance to become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  for
MICHAEL D. NAGLE
Deputy City Attorney

Date MAR 10 2021

File No. 17-1125

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Mobility Device Program Ordinance 3.10.21.docx

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____