



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: March 19, 2019

TO: Christine Daniel, City Manager

FROM: Andrew Clough, Public Works Director

SUBJECT: **Introduction And First Reading Of An Ordinance Of The City Council Of The City Of Emeryville Adding Chapter 13, “Dockless Shared Mobility Systems,” to Title 4 Of The Emeryville Municipal Code To Establish Regulations And New Permits To Operate Dockless Shared Mobility Systems In The Public Right Of Way**

RECOMMENDATION

Staff recommends that City Council approve the first reading of the attached ordinance adding Chapter 13, “Dockless Shared Mobility Systems,” to Title 4 of the Emeryville Municipal Code.

BACKGROUND

Shared mobility programs including docked and dockless traditional bicycles, docked and dockless electric bicycles (e-bikes), and electric scooters are already operating in and near Emeryville. Emeryville is a party to one contract, with Bay Area Motivate LLC, which allows the exclusive deployment of docked bicycles for a period of ten years, and sets parameters for allowing e-bike deployment by other entities during that contract term. Exceptions to that contract include non-automated non-self-service bike rentals, electric scooter rentals, and round-trip bike share operations. This item proposes an ordinance that creates a regulatory permit system for “Dockless Shared Mobility Systems” primarily to address the new use of electric scooters in the City of Emeryville. Both Oakland and Berkeley have adopted regulatory frameworks for electric scooters and staff recommends that the City Council do the same for Emeryville.

DISCUSSION

Shared mobility systems are beneficial modes of transportation that reduce demand for private vehicles, decrease per-capita greenhouse gas emissions, and create more affordable mobility options. However, as with all modes of transportation, their presence and use in the public right of way must be kept in balance with other uses, and regulated in the interest of public safety. Unregulated shared use devices proliferating in the public right of way can cause public safety issues including impeding the right of way for other modes of transit, creating tripping hazards and causing additional work for the City’s Public Works Department who may have to remove damaged or inoperable devices from City streets and sidewalks. The proposed ordinance is intended to balance the interest of supporting these new modes of transportation with maintaining public safety for all users of the public rights of way.

The proposed ordinance creates a regulatory permitting framework for the operation of “Dockless Shared Mobility Devices” which are defined as: “a device for short term rental for point to point trips where, by design of the Dockless Shared Mobility Operator, the device is intended to remain in the public right of way, even when not being rented, and is not required to be docked in a designated docking station for rental. Devices include electric assist scooters and dockless bicycles.” The ordinance provides for the issuance of annual permits to Operators of these systems upon the City’s approval of an application.

The following highlights and summarizes several of the key provisions of the proposed ordinance. The complete text of the ordinance is set forth in the attachment.

Among other operational regulations, the ordinance requires certain information be readily available for Users of the Devices, as well as City staff who are managing the program:

“Systems shall have the following information readily available for Users:

1. Provide a single point of contact (phone number and email) customer service line, available 24 hours, seven days a week, for complaints regarding improper parking; and display that contact clearly on each Device, along with a unique identifying number; and
2. Address complaints within three hours of receipt during typical business hours (Monday-Friday, 9 am-6 pm) and six hours on weekends and after typical business hours; and
3. Issue a “ticket number” for each complaint to both the City and the person who reported the issue; and
4. Provide a response to the complainant when a complaint is closed; and
5. Provide sufficient operations and maintenance staff to respond in Emeryville within three hours to address issues and remove improperly parked Devices.”

(Section 4-13.03(i).)

With regard to proper parking of the Devices, the ordinance allows parking within the “Furnishing Zone” which is defined as: “...the portion of the sidewalk between the curb and the Throughway Zone in which street furniture and amenities, such as lighting, benches, utility poles, tree wells and bicycle parking are provided.” “Throughway Zone” is the portion of the sidewalk for pedestrian travel. For areas with narrow sidewalks, Devices may be parked at the curb. However, Devices shall not be parked in:

1. Disabled parking zone, or any other accessible route that would otherwise create a barrier to accessibility;
2. Curb ramps;
3. Fire hydrant zones;
4. Roadways,
5. Loading zones;
6. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;

7. Locked to street furniture that requires pedestrian access (e.g. benches, parking pay stations, bus shelters, transit information signs, etc.);
8. Entryways; and
9. Driveways.

(Section 4-13.04(b).)

The City may remove Devices from the right of way if they are parked for more than three days without moving, or present a hazard, and store them for retrieval by the Operator. The City may also cap or reduce the number of Devices allowed to be deployed by each Operator should the City determine a public safety impact has been created.

Section 4-13.05 of the ordinance includes a number of specifications for the Devices, such as what information must be displayed for the User including notification that:

1. Helmets should be worn when operating an electric scooter if over 18 years of age, and helmets must be worn when operating such a Device if under 18 years of age; and
2. Users shall yield to pedestrians; and
3. Users must follow the rules of the road, following all motor-vehicle laws and ordinances in the City of Emeryville; and
4. "No Riding On Sidewalks" shall be written in minimum 48-point font on the platform or handles of every Device; and
5. For electric or electric-assist scooters, User must have a valid Driver's License or other State-authorized approval to operate the Device.

(Section 4-13.05(c).)

Given the new technology that enables the operation of these Devices, and its ability to provide data on usage that can further inform public policy decisions about transportation, the ordinance requires Operators to provide the following data on a quarterly basis:

1. Utilization rates
2. Total downloads, active Users, and repeat User information
3. Total trips by day of week and time of day
4. Origins and destinations
5. Routes
6. Trips per Device by day of week, time of day
7. Average trip distance
8. Device maintenance reports including battery life and disposition
9. Incidents of theft and vandalism
10. Number of complaints
11. Call volume, wait time, and call abandonment rates
12. Crash information
13. Payment method information
14. Rebalancing information
15. Outreach activities completed
16. Number of free or discounted helmets distributed

17. Number of Users taking advantage of low-income discount
18. Number of discounted rides taken
19. Number of account suspensions or revocations, including reason for the action.

Finally, the ordinance provides that the City Manager, or her or his designee, may revoke or suspend Permits, or impose penalties for non-compliance with applicable laws and regulations. (Section 4-13.12.)

Revisions since February 19, 2019 Council Meeting

The proposed ordinance was initially discussed at the February 19, 2019 City Council meeting. The City Council requested several revisions to the draft ordinance, which revisions are reflected in the red-lined version in the attachment. Additionally, representatives from e-scooter companies addressed the Council to express their concerns regarding the proposed indemnification provisions of the draft ordinance. The City Council requested that staff review those provisions, discuss them with operators and return to the Council to re-introduce the ordinance for first reading after any further revisions were made.

Following that meeting, staff spoke with representatives from some e-scooter companies and reviewed permit language from several more cities. Staff is now proposing indemnification language that mirrors that included by the City of Los Angeles in its "Dockless On-Demand Personal Mobility One-Year Permit." The Los Angeles language is almost identical to the indemnification language in the City of Santa Monica's "Indemnification and Insurance Agreement" for its pilot permit program that runs through December 2019. Staff understands that Jump, Bird, Lime and Lyft are operating in Santa Monica. Staff scheduled a meeting for Wednesday March 13, 2019 and invited e-scooter companies to attend and provide comment on the draft ordinance, including the revised indemnification provision. The feedback provided at that meeting will be shared with the City Council at the March 19th Council meeting.

FISCAL IMPACT

The fiscal impact of these amendments to the Municipal Code will include the staff time necessary to develop and implement a permitting process, including annual renewals and review of quarterly data reports, and to enforce the permit holders' operational compliance with the City's requirements. There is currently no designated staff for this program, nor a revenue source to support this new function.

Should the City Council approve the first reading of the ordinance, staff will return at the second reading with a report proposing amendments to the Master Fee Schedule to establish fees for the initial application, the Annual Permit, the cost of retrieval and storage of improperly parked Devices and penalties for non-compliance. A working draft of these potential fees is attached as Attachment A. It is not anticipated that these fees will be sufficient to cover the costs of staffing for this type of regulatory program. For that reason, staff is considering adding this program to the list of tasks that would be managed by the new program staff anticipated to be added for the Parking Management Plan. That new

staff will include both a program manager and enforcement staff who could fold this program into their Parking Management work.

STAFF COMMUNICATION WITH THE PUBLIC

Shared mobility has been discussed with the City Council at a regular meeting, and also with the Bicycle and Pedestrian Advisory Committee, the Sustainability Committee, and in various public meetings held regionally. Staff has also had conversations with representatives from Uber and Lime.

CONCLUSION

Dockless shared mobility systems are already in use in Emeryville. These proposed amendments to the City's Municipal Code will provide a mechanism to ensure that the systems are operated equitably and safely.

PREPARED BY: Nancy Humphrey, Environmental Programs Supervisor

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS

- Proposed Ordinance
- Coordination Agreement with Bay Area Motivate LLC
- Attachment A – Draft Fee Proposal