

Ordinance 2020-XXX

**Adopted by the City of South Lake Tahoe
City Council**

February 11, 2020

An Ordinance Adding Chapter 4.185 to the South Lake Tahoe City Code Regarding Regulation of Shared Mobility Devices

FINDINGS

- A. The City's public rights-of-way are designed to accommodate a multi-modal transportation system and receive heavy use by residents and visitors, and the use of shared mobility devices including, motorized scooters, has increased significantly over the past several years.
- B. Starting in 2017, Lime made dockless bicycles available for rent throughout the City via a mobile application. The City received complaints regarding the dockless bicycles being left in inappropriate places blocking pedestrian access, being staged in front of businesses not wanting them there, and being vandalized by throwing them into Lake Tahoe and other inappropriate areas. In 2018, Lime also introduced motorized scooters to its fleet within the City.
- C. On April 7, 2019, the City and Lime entered into a License Agreement for Shared Scooter-Only Pilot Program, setting forth the permitted use of the City's right-of-way, parking requirements, customer safety requirements including the age limitation of 18 and over, requiring a valid drivers license per electric scooter rented, and limiting the motorized-assisted speed to no more than 15 miles per hour. The License Agreement also limited Lime's fleet size to 550 scooters, set a fee of five cents per trip, and obligated Lime to cooperate with the City to establish effective geo-fencing around Heavenly Village and Lakeview Commons.
- D. The City desires to codify and strengthen some of the requirements of the 2019 License agreement to ensure their enforceability and applicability to other providers of shared mobility devices who may want to operate in the City.
- E. Due to the numerous complaints the City received regarding shared bicycles, the City intends to ban shared bicycles until a separate ordinance is adopted to regulate them.
- F. While the City desires to provide transportation alternatives consistent with the City's transportation and environmental goals, the proliferation of shared mobility devices creates public safety concerns due to improper usage including underage riders, excessive speeds in high-traffic pedestrian areas, and improper parking of shared mobility devices.

- G. The City has specifically identified Heavenly Village as an area where the operation of shared mobility devices has created a significant safety hazard to pedestrians, and therefore requires that shared mobility device providers use geofencing technology to effectively preclude shared mobility devices from operating within that area.
- H. The City has identified the use of shared mobility devices by underage riders as a significant safety concern, and therefore requires that providers of shared mobility devices effectively prohibit riders under the age of 18 from accessing shared mobility devices.
- I. The City is establishing a fee of \$75 per shared mobility device to recover the cost of administering shared mobility device permits and enforcing the requirements of this Ordinance.
- J. The City Council supports the goal of reaching 100 percent renewable energy consumption within the City by 2032, and thereby encourages operators of shared mobility device businesses to require their devices to be charged using renewable energy.
- K. California Vehicle Code section 21225 authorizes cities to regulate the registration of shared mobility devices and parking and operation of these devices on pedestrian and bicycle facilities and city streets and highways, so long as such regulations are not in conflict with the California Vehicle Code.

Now, Therefore, the City Council of City of South Lake Tahoe does ordain as follows:

SECTION 1. Title 4 of the South Lake Tahoe City Code is amended by adding a new Chapter 4.185 (Shared Mobility Devices) as follows:

4.185 Shared Mobility Devices

- 4.185.010 Purpose
- 4.185.020 Definitions
- 4.185.030 Shared Bicycles Prohibited
- 4.185.040 Permit Required
- 4.185.050 Application For Permit
- 4.185.060 Issuance of Permits
- 4.185.070 Fleet Limits
- 4.155.080 Operating Regulations
- 4.185.090 Impoundment and Retrieval of Shared Mobility Devices
- 4.185.100 Revocation of Permit

4.185.010 Purpose.

The purpose of this chapter is to establish a process for permitting and regulating operators and riders of shared mobility devices to achieve the city's goals of encouraging alternative modes of transportation while protecting public health and safety.

4.185.020 Definitions.

For the purposes of this chapter, the following terms, phrases and words shall have the meanings hereinafter set forth:

"Fleet" means all shared mobility devices in the city owned by a specific operator.

"Geofencing" means the creation of a virtual geographic boundary, defined by Global Positioning System (GPS), radio-frequency identification (RFID), or other technology, that enables an operator to regulate speed, issue notifications, and take other actions, when a shared mobility device within its fleet enters or leaves an area.

"Operator" means any individual, firm, association, partnership, or corporation arranging to provide shared mobility devices within the city.

"Rider" means any person who is riding or is in actual physical control of a shared mobility device.

"Permit" means a permit issued to an operator under this chapter.

"Shared mobility device" means any wheeled transportation device, other than a bicycle, e-bicycle, automobile or motorcycle, by which a person can be propelled, moved or drawn; is accessed via an on-demand portal, whether a smartphone application, membership card, or similar method; is displayed, placed or offered for rent in any public area or public right-of-way by an operator for shared use by members of the public; and is available to members of the public of the public in unstaffed, self-service locations.

4.185.030 Shared Bicycles Prohibited

Shared bicycles and shared e-bicycles are prohibited.

4.185.040 Permit Required

It is unlawful for any operator to conduct a shared mobility device business without a permit.

4.185.050 Application For Permit

- A. An operator shall submit a permit application to the Chief of Police containing, at a minimum, the following:

1. The operator's name and business address, and the name and natural person or persons who will serve as a local point of contact for the operator;
 2. Proof of a valid city business and professions certificate;
 3. The type and number of shared mobility devices and the operator intends to deploy with a list of identifying serial numbers designated for each device, and a schedule for phased deployment of the fleet, if applicable;
 4. The location of any building or property proposed to be used by the operator for its shared mobility device business operations within the city; and
 5. A seventy-five dollar (\$75.00) non-refundable fee for each shared mobility device in the operator's fleet for use within the city. If phased deployment of the fleet is proposed, payment for the first phase of deployment is due with the application and payment for any subsequent phases of deployment is due prior to each deployment.
- B. At the time of application, the operator must provide proof of insurance naming the City of South Lake Tahoe as an additional insured for an amount no less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, and with an aggregate amount of no less than four million dollars (\$4,000,000), and which meets the following requirements:
1. If the operator maintains broader coverage and/or higher limits than the minimums required for all policies, the city requires and shall be entitled to the broader coverage and/or higher limits maintained by the operator. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the city.
 2. The operator's insurance coverage shall be the primary insurance coverage with respect to the city, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the city, its officers, officials, employees, or volunteers shall be excess of the operator's insurance and shall not contribute with it.
 3. The operator agrees to waive rights of subrogation which any insurer of operator may acquire from operator by virtue of the payment of any loss. The operator agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the city has received a waiver of subrogation endorsement from the insurer.
 4. The operator shall provide immediate written notice to the city if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, the operator shall obtain and submit proof of substitute insurance.

C. Each application must bear the operator's signature agreeing to:

1. Provide the city with anonymized data on its fleet trip activity within the city, including the zip code of each rider; and
2. Indemnify, defend, and hold the city harmless the city, its elected and appointed boards, officers, employees, agents, volunteers, contractors, and invitees from any and all liability, for any and all claims, demands, actions, losses, damages, and injuries direct or indirect, including any and all costs and expenses in connection therewith, arising from operator's activities, from and against each and every claim and demand of whatsoever nature made on behalf or by any person, persons, firm, partnership, corporation or otherwise, including operator's employees, except for claims arising out of the sole negligence or willful misconduct of the city.
3. Submit to photo enforcement of violations of this chapter, including the requirement to effectively prohibit riders under 18 years of age.

4.185.060 Issuance of Permits

A. Each permit shall contain the following:

1. The number and each type of shared mobility devices the operator is authorized to deploy, up to no more than 500 shared mobility devices per operator;
2. A requirement to effectively prohibit shared mobility devices from entering or operating on the public walkways and public rights-of-way within the Heavenly Village area, with an extent to be determined by the City Manager, through geofencing or similar technology; and
3. A requirement that each shared mobility device have affixed to it a designated serial number in a font and style that may be observed with the naked eye from 50 feet away.

B. No permit will be issued prior to the operator obtaining any discretionary and building permits required to occupy any building or property within the city proposed to be used for operations, such as warehouse or office space.

C. Any operator in compliance with this chapter may apply for a permit annually.

4.185.070 Fleet Limits

A. No more than 1000 shared mobility devices shall be permitted with the city at a time. Once that limit is reached, no more permits will be issued to operators.

- B. It is unlawful for an operator to deploy more shared mobility devices than allowed by that operator's permit.

4.185.080 Operating Regulations

A. Operators shall comply with the following:

1. Each operator is subject to all applicable laws, rules and regulations including those in this code and the California Vehicle Code pertaining to the operation and safety standards of the shared mobility devices in its fleet.
2. Each operator shall limit the motorized-assisted speed of each shared mobility device to no more than 15 miles per hour.
3. Through geofencing or similar technology, each operator shall effectively prohibit riders from entering or operating shared mobility devices on public walkways and public rights-of-way within the Heavenly Village area, as designated in the operator's permit.
4. The Chief of Police may require operators, through geofencing or similar technology, to temporarily prevent the operation of shared mobility devices in a specific area during an emergency situation or within the perimeter of a permitted special event, when necessary to maintain public health and safety. For permitted special events, the city will provide ten days' notice to operators of any additional geofencing requirements.
5. When a rider operates a shared mobility device in the operator's fleet within an area subject to geofencing, the operator shall notify the rider of the restricted area.
6. Each operator must effectively prohibit a person and account holder from renting more than one shared mobility device at a time.
7. Each operator must effectively prohibit riders under 18 years of age.
8. Operators shall ban the accounts of riders with two or more citations under this chapter.
9. Operators shall remove all shared mobility devices from operation within the city during the period of November 1 through April 30 each year.

B. Riders shall comply with the following:

1. All riders are subject to all applicable laws, rules and regulations including those in this code and the California Vehicle Code.
2. All riders must be 18 years of age or older with a valid driver's license.

3. No rider shall operate a shared mobility device with more than one rider per device at a time.
4. Riders must park shared mobility devices on a sidewalk or other hard surface, in a manner that does not impede pedestrian access and provides a minimum of three feet for a pedestrian walkway; does not impede or obstruct access to ADA parking zones, street furniture, curb ramps, entry ways, driveways, sidewalk cafes, bus stops, loading zones, or landscaping; and does not impede or obstruct vehicular traffic on a street or alley.

4.185.090 Impoundment and Retrieval of Shared Mobility Devices

- A. Within three hours of notice from the city, an operator shall retrieve a shared mobility device that is in any of the following conditions:
 1. Inoperable or not safe to operate and parked on a city street, sidewalk or other city property; or
 2. Parked, displayed, offered or made available for rent in violation of this chapter or the California Vehicle Code.
- B. The city may impound a shared mobility device that is:
 1. Not retrieved within three hours of notice to the operator; or
 2. In a condition or parked in a manner that poses an imminent life safety hazard. No notice is required prior to impounding a shared mobility device posing an imminent life safety hazard.

4.185.100 Revocation of Permit

- A. The City Manager may revoke a permit on any of the following grounds, and shall provide written notice of the reason for the revocation to the operator:
 1. The violation by operator of any of the terms, conditions or requirements of the permit or of this chapter.
 2. Failure to effectively prohibit riders under the age of 18 from accessing shared mobility devices, which may be established either by multiple administrative citations issued to the operator based on photographic evidence of underage riders, by a city-conducted survey identifying a pattern of underage riders using the operator's shared mobility devices, or any combination thereof.
- B. An operator may appeal the City Manager's decision to revoke or not renew a permit to the City Council under the administrative appeal procedures in chapter 2.35 of this code.

- C. Within ten business days of the revocation of an operator's permit, the operator shall remove its fleet from the city and shall retrieve any shared mobility devices impounded by the city. If the operator fails to remove or retrieve any of its shared mobility devices, the city may remove and dispose of the shared mobility device at the operator's cost.

4.185.110 Enforcement

- A. Any operator or rider violating any provision of this chapter is subject to administrative citations under chapter 2.30 of this code.
- B. The city may issue an administrative citation with a \$100 fine to an operator based on photographic evidence that includes the serial number of an operator's shared mobility device and demonstrates that a rider is using that shared mobility device in violation of this chapter, including a rider under the age of 18, riders operating a shared mobility device with more than one rider per device at one time, and operating a shared mobility device within a restricted area subject to geofencing requirements.
- C. Any operator violating, permitting, or assisting the violation of any provisions of this chapter shall be subject to any and all civil remedies, including, without limitation, permit revocation. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.
- D. In addition to the remedies set forth in this chapter, operating a shared mobility device business in violation of any provision of this chapter is hereby declared to constitute a public nuisance under chapter 4.40 of this code and, as such, may be abated or enjoined from further operation in the city.

SECTION 2. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. The City Clerk is directed to certify this Ordinance and cause it to be published in the manner required by law.

SECTION 4. This Ordinance shall become effective thirty days after the date of its adoption.

Adopted by the City of South Lake Tahoe City Council on February 11, 2020, by the following vote:

Yes:

No:

Abstain:

Absent:

Date:_____

Jason Collin, Mayor

Attest:

Susan Blankenship, City Clerk

First Reading:

Published:

Effective: