

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **December 10, 2019**

AGENDA ITEM #:

CONSENT:  
ACTION:

REGULAR: **X**  
INFORMATION:

WORK SESSION:

CLOSED SESSION:  
(Confidential)

**ITEM TITLE: Regulation of shared mobility devices such as electric power-assisted scooters, skateboards, bicycles, etc.**

KEY ELEMENTS:

Economic Development  Excellent Government  Natural and Built Environment  Safe Community  Vibrant Community

**RECOMMENDATION:** Adopt an ordinance to regulate the use of shared mobility devices such as electric power-assisted scooters, skateboards, bicycles, etc. within the City.

**SUMMARY:** As a result of the influx of shared mobility devices throughout the state, in 2019 the General Assembly adopted legislation that allows a locality to adopt an ordinance requiring companies that provide shared mobility devices to the general public to be licensed in order to operate within the locality. However, if a locality has not adopted such an ordinance by January 1, 2020, companies may offer shared mobility devices for hire without local regulation. At its November 12 meeting City Council considered an ordinance that would require companies that provide shared mobility devices to obtain a permit from the City and suggested a number of revisions to the proposed ordinance. Accordingly, the ordinance has been revised as follows:

- The data sharing requirement in the ordinance was removed.
- The provisions in the ordinance dealing with bicycles were amended so the ordinance only applies to electric power-assisted bicycles.
- A definition of "geofencing" was added to the ordinance.
- A provision was added making it an offense to operating a shared mobility device on a public sidewalk or street while texting, wearing headphones or while under the influence of a controlled substance.
- The ordinance was clarified to make it clear that it only applies to companies who are providing shared mobility devices for use on the public ways and not to companies who are providing devices for use on private property such as a college campus.

**PRIOR ACTION(S):** City Council previously considered the ordinance on November 12, 2019.

**FISCAL IMPACT:** Uncertain at this time. If it turns out that the City incurs additional costs in processing applications for companies that provide shared mobility devices and in monitoring the operation of shared utility devices the City can charge the companies a permit fee to recover the City's costs, but no permit fee is being recommended at this time.

**CONTACT(S):** Walter C. Erwin, City Attorney, 455-3973

**ATTACHMENT(S):** An ordinance adding Sections 10-53, 10-54, 10-55, and 10-56 to the City Code

**REVIEWED BY:**

## ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW ARTICLE, ARTICLE IV. SHARED UTILITY SYSTEMS, TO CHAPTER 10 BICYCLES, MOPEDS AND SHARED UTILITY SYSTEMS, CONTAINING SECTION 10-53, SECTION 10-54, SECTION 10-55, AND SECTION 10-56 RELATING TO THE OPERATION OF SHARED MOBILITY SYSTEMS WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto a new article, Article IV. Shared Utility Systems, to Chapter 10. Bicycles, Mopeds and Shared Mobility Devices, containing Section 10-53, Section 10-54, Section 10-55, and Section 10-56 as follows:

### **Chapter 10**

#### **Bicycles and Mopeds and Shared Utility Systems**

#### **Article IV. Shared Utility Systems**

##### **Sec. 10-53. Policy Statement and Purpose**

The purpose of this article is to establish rules and regulations governing the operation of "shared mobility systems" for docked and dockless (i) electric power-assisted bicycles and (ii) motorized skateboard or scooters ("shared mobility devices" or "devices") that utilize the public ways within the Lynchburg city limits. Sections 15.2-2015 and 46.2-1315 of the Virginia Code authorize these rules and regulations. The provisions of this article apply to any deployment of shared mobility systems (to include direct rental or similar programs) within Lynchburg's jurisdictional boundaries.

##### **Sec. 10-54. Permit Application Procedures**

1. Any person seeking to operate a shared mobility system that utilizes the public ways within the city shall first obtain a permit from the city manager, or the city manager's designee, conditioned on compliance with the operating regulations contained in this article. The permittee will be required to obtain a business license and will be responsible for all applicable local fees and taxes.

2. No person shall operate a shared mobility system that utilizes the public ways within the city without a permit. Any person who operates a shared mobility system without a permit shall be subject to a civil penalty not to on thousand dollars (\$1000.00) for each violation within the discretion of the court. Each day of violation shall constitute a separate offense.

3. The city manager, or the city manager's designee, may revoke any permit for failure to comply with the operating regulations.

4. Any person whose permit application has been denied, or whose permit has been revoked or terminated, may file an appeal with the city council by submitting a written statement to the clerk of council within 10 business days of the denial or revocation. The written statement shall describe the basis of the objection. The city council shall issue a final decision on the appeal and the decision of the city council is final and not appealable. Any permittee whose permit has been revoked may not apply another permit within six months.

## Section 10-55 Operating Regulations

The following subsections set forth the general terms and conditions that will be required in any permit issued by the city:

### 1. Equipment Requirements

- a. All electric power-assisted bicycles shall meet the standards established in the Code of Virginia (currently Section 46.2-1015), including lighting during operation in darkness.
- b. The city may increase or decrease the permitted top speed of any shared mobility device at its discretion.
- c. All motorized skateboards or scooters shall meet the safety standards established in the Code of Virginia (currently Section 46.2-1015), requiring both headlight and taillight.
- d. Each shared mobility device shall be equipped with an on-board GPS device capable of providing real-time location.
- e. An operator identifier must be permanently affixed to each mobility device.
- f. All motorized skateboards or scooters and all electric power-assisted bicycles must be equipped with devices that allow the permittee to render by remote means a device inoperable if it has been reported to permittee as being damaged or defective.

### 2. Operations

- a. Each permit shall designate the specific number of shared mobility devices that the permittee may deploy in the city.
- b. The city manager reserves the right to order the removal of all devices due to weather or other local situations, events, or emergencies for up to 48 hours.
- c. Permittees must be aware of and plan for city events, providing additional staffing, rider education/awareness, and temporary no-ride and no-park zones as necessary.
- d. Permittees shall provide administrative access for city officials to relocate devices that are blocking the public right-of-way or creating obstacles for vehicles or pedestrians.

### 3. Safe Riding and Parking

- a. Motorized scooters, as well as electric power-assisted bicycles, must be parked upright on hard surfaces in a manner that does not obstruct or impede the public right of way.
- b. If the city designates parking areas for shared mobility devices, permittees must apply geofencing specifications provided by the city to direct users to such designated parking areas. Users shall not be allowed to sign out of their rides unless parked in a designated parking area. For purposes of this ordinance, geofencing means the use of technology which draws a virtual boundary around a real geographical area, enabling software to trigger a response when a mobile device enters or leaves a particular area.
- c. Devices are to be parked in such a manner as to provide a 4-foot pedestrian clear zone area in the sidewalk.
- d. Devices cannot be parked in such a manner as to impede or interfere with any fire hydrant, call

box, or other emergency facility; bus bench; utility pole or box; or the reasonable use of any commercial window display, or access to or from any building.

- e. Shared mobility devices cannot be parked in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.
- f. Electric power-assisted bicycles and e-scooters may be left in on-street parking spaces only if the city manager, or the city manager's designee, has officially designated those spaces as shared mobility parking stations. The city will apply visible markings to identify any such parking stations.
- g. The city manager, or the manager's designee, reserves the right to designate specified areas of the city where the riding/parking/locking of shared mobility devices is prohibited.

4. Shared mobility devices shall not be parked adjacent to or within:

- a. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
- b. Loading zones;
- c. Disabled parking zones;
- e. Street furniture that requires pedestrian access (for example-benches, parking pay stations, bus shelters, transit information signs, etc.);
- f. Curb ramps; and
- g. Driveways.

5. To the extent a permittee desires to park bicycles or e-scooters on city property other than the public right-of-way (e.g., parks, plazas, parking lots, transit stations, or private property), the permittee must first obtain the right to do so from the city manager, or the city manager's designee.

6. Permittees shall stop placing scooters or bicycles, or allowing contractors to place scooters or bicycles, in front of any address provided by the city within 48 hours of notice.

7. If the city designates specified areas of the city where the riding/parking/locking of shared mobility devices is prohibited, permittees shall apply geofencing specifications provided by the city to prohibit the riding/parking/locking of shared mobility devices in the specified areas of the city.

8. Any shared mobility device found to be in violation of this section is subject to removal; the permittee must pay thirty-five dollars (\$35.00) for each scooter removed and five dollars (\$5.00) per day of storage, including the day of removal and the day of release from storage. The city shall provide notice of removal within twenty-four (24) hours of removal.

9. Permittees shall provide notice to all users by means of signage and through a mobile or web application that:

- a. Helmets are strongly encouraged for all users and required for minors 14 and under. If permittees prohibit the use of shared mobility devices by certain minors, permittees shall provide conspicuous notice of this policy to users;
- b. If the city designates parking areas for shared mobility devices, parking must be done in the designated areas;

- c. Wearing headphones on or in both ears while riding a shared mobility device is prohibited;
- d. Operating a shared mobility device while texting or while under the influence of a controlled substance is prohibited; and
- e. Permittees shall provide education on the city's existing rules and regulations, safe and proper parking.

#### 10. Customer Service

- a. Permittees shall provide easily visible contact information, including a toll-free phone number and e-mail address, on each bicycle or electric scooter for city employees and members of the public to make relocation requests or to report other issues with devices.
- b. Permittees shall maintain a local permittee representative and provide a direct point of contact to the city and its residents.
- c. Permittees shall maintain a 24-hour customer service phone number for customers to report safety concerns, complaints, or to ask questions. This phone number and its website shall be provided on every device that is in service to the city.
- d. Upon notification that a permittee's shared mobility device is improperly parked, left standing or unattended on any sidewalk, street, or public right-of-way under the jurisdiction of the city, the Permittee shall remove the scooter or bicycle within two hours.
- e. Permittees shall provide all riders with a mechanism to report safety or maintenance issues with a shared mobility device.
- f. In the event a safety or maintenance issue is reported for a specific device, the shared mobility device shall immediately be de-activated and shall be removed within the timeframes provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service.

#### 11. Insurance:

The permittee will be required to purchase and maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the following types of coverages and minimum limits:

1. Workers' Compensation - Statutory requirements and benefits. This policy shall specifically list Virginia as a covered state.
2. Employer's Liability - \$100,000. This policy shall specifically list Virginia as a covered state.
3. Commercial General Liability - \$1,000,000 per occurrence. The city and its officers, employees, agents and volunteers must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability-\$1,000,000 per occurrence. (Only required if a motor vehicle is to be used by the permittee in its business activities.)
5. All insurance coverage:
  - a. Shall be issued by an insurance carrier authorized to do business within the Commonwealth of Virginia and otherwise acceptable to the city;

b. Shall be kept in force throughout performance of services;

Prior to beginning operations, the permittee shall (i) have all required insurance coverage in effect, and (ii) the Permittee shall deliver to the city's risk management division certificates of insurance for all lines of coverage, or other evidence satisfactory to the city.

Nothing contained within this ordinance shall effect, or shall be deemed to affect, a waiver of the city's sovereign immunity under law. No permit awarded as a result of this procurement transaction shall contain any provisions requiring the city to waive or limit any sovereign or governmental immunity to which it may be entitled.

The city reserves the right, but not the obligation, to revise any insurance requirement as may be necessary for the best interests of the city and its citizens, including, but not limited to, limits, coverages and endorsements, or reject any insurance policies which fail to meet the criteria stated herein. Additionally, the city reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally.

**Sec. 10-56. Prohibited Activities**

1. No person operating a shared mobility device on the public ways of the city shall text or use a handheld mobile telephone while operating such device.

2. No person shall operate a shared mobility device while wearing headphones on or in both ears.

3. No person shall operate a shared mobility device on the public ways of the city (i) while such person has a blood alcohol concentration of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath as indicated by a chemical test, (ii) while such person is under the influence of alcohol, (iii) while such person is under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree which impairs his or her ability to operate a shared mobility device safely.

4. Any person who violates this section shall be guilty of a class 3 misdemeanor and subject to a fine of not more than \$500.00.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council