

City Council Meeting: August 27, 2024

Santa Monica, California

ORDINANCE NUMBER 2785 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CHAPTER 3.22 TO
ESTABLISH A LONG-TERM SHARED MOBILITY DEVICE PERMIT PROGRAM, AND
REPEALING SANTA MONICA MUNICIPAL CODE CHAPTER 3.23

WHEREAS, in September 2017, shared electric scooters were introduced by a private operator in Santa Monica; and

WHEREAS, in recognizing that a regulated shared mobility device program could be a valued component of Santa Monica's local transportation network by promoting alternatives to car trips, in June 2018, the City approved a Shared Mobility Device Pilot Program and associated fees to develop a new area of policy, regulation, operation, and enforcement for shared mobility devices in the City; and

WHEREAS, in March 2021, Council adopted a Second Shared Mobility Device Pilot Program, and also directed staff to, upon the conclusion of the Second Shared Mobility Device Pilot Program, shift from a temporary permitting model to a longer-term contracting model with fewer operators for shared mobility services in the City; and

WHEREAS, after careful consideration of potential paths forward, City staff recommended a pivot away from contracted shared mobility service to a refreshed and mature long-term permit-based program since the request for proposal process determined that the rationale for shifting toward a contract-based model (centered on the operational stability and efficiency of longer-term commitments from contracted operators, the ability to impose greater affordability constraints on operator fares, and the

ability to revamp device types and service offerings from operators in a new set of operational agreement) were unlikely to fully materialize, particularly with respect to fare affordability; and

WHEREAS, in the period since Council first directed City staff to select contracted shared mobility service in August 2022, numerous operators have prematurely halted operations within the City, diminished service across other operating regions, declared bankruptcy, and/or halted operations altogether; and

WHEREAS, the City's shared mobility device program itself continues to offer substantial benefit to the Santa Monica community, including the following: (1) while the ongoing shared mobility pilot is down to two of its initial four operators, and 1,400 of its initial 2,200 permitted devices, ridership in the system – and the mobility benefits that ridership reflects – continues to outpace available alternatives; and (2) in the first quarter of calendar year 2024, the City's shared mobility program saw a total of 125,736 trips; and

WHEREAS, many of these trips are serving valuable transportation ends, connecting people to jobs, restaurants, and other local destinations; and

WHEREAS, the City may continue to benefit from shared mobility services by converting the Second Shared Mobility Device Pilot Program into a long-term permitting program, adopting the following amendments, and updating the administrative regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.22 of the Santa Monica Municipal Code is hereby amended

as follows:

Chapter 22. SHARED MOBILITY DEVICE PROGRAM

§ 3.22.010. **Purpose.**

Consistent with the City's goals of enhancing mobility and access, easing traffic congestion, and promoting sustainability, this Chapter creates a program to facilitate the use of shared mobility devices while ensuring the protection of public health and safety, including the safety of the public traveling by foot, bicycle, or vehicle on public sidewalks, streets, and other public rights-of-way. The program also seeks to recover the costs to the City of overseeing and enforcing the operation and regulation of a shared mobility device program.

§ 3.22.020. **Definitions.**

"Abandon" shall mean leaving an item unattended for any length of time.

"Director" shall mean the Director of Transportation or designee.

"Mobility officer" shall mean the City's mobility manager or designee.

"Operator" shall mean any person or business entity selected by the City to participate in the second shared mobility device pilot program and in good standing with the City, or any person or business entity selected by the City to participate in the long-term shared mobility device program pursuant to this Chapter.

"Public area" shall mean any outdoor area that is open to the public for public use, whether owned or operated by the City or a private party.

"Public right-of-way" shall mean any public alley, parkway, public transportation path, roadway, sidewalk, or street that is owned, granted by easement, operated, or controlled by the City.

"Shared mobility device" shall mean any transportation device by which a person can be propelled, moved or drawn, that is displayed, offered or placed for rent in any public area or public right-of-way, except that a "shared mobility device" does not include any device being vended or made available for rent exclusively from a vehicle pursuant to a valid City vending permit; a car share vehicle, as defined by Chapter 3.06 of this Code; a moped, as defined by California Vehicle Code Section 406; a device authorized by the City bike share system pursuant to Chapter 3.20 of this Code; a taxicab as regulated in Chapter 6.49 of this Code; a device operated by the Los Angeles County Metropolitan Transportation Authority; or any other device excluded pursuant to administrative regulations.

§ 3.22.025. **Administrative regulations.**

- (a) The Director may adopt administrative regulations to implement the provisions of this Chapter, including, but not limited to, permit application procedures and permit standards, which may include regulations relating to lawful conduct, public safety, data sharing, data privacy, and/or the timely removal of hazards.
- (b) No person shall fail to comply with the City's administrative regulations. Any violation of any administrative regulation issued pursuant to this Section shall constitute a violation of this Code and shall subject the violator to the penalties set forth in this Chapter.

§ 3.22.030. **Prohibited conduct.**

Notwithstanding any other provision of this Code, no person shall:

- (a) Display, offer or make available for rent any shared mobility device within the City, unless the person has first obtained: (1) a valid shared mobility operator permit

issued in accordance with this Chapter: and (2) a business license issued in accordance with Chapter 6.04 of this Code;

- (b) Abandon a shared mobility device not authorized by this Chapter in the public right-of-way or a public area in such a way that the device is available for rent; or
- (c) Abandon a shared mobility device in the public right-of-way or a public area in a manner that: (1) obstructs travel upon or blocks access to a public right-of-way; (2) poses an immediate public safety hazard; or (3) is otherwise prohibited by applicable laws or administrative regulations.

§ 3.22.040. Maximum number of shared mobility operator permits and shared mobility devices permitted.

- (a) The Mobility Officer shall issue up to four shared mobility operator permits authorizing the deployment of one or more shared mobility devices within the City. No shared mobility operator permits shall be issued to any operator that proposes to deploy any shared mobility device that is exclusively powered by the human body or powered by combustion engine.
- (b) The Mobility Officer shall establish the number of shared mobility devices whose deployment within the City is authorized under each shared mobility operator permit. No more than on a weekly basis or within fourteen days following any City Council action adjusting the maximum number of permitted operators or devices pursuant to subsection (d) of this section, the Mobility Officer may adjust the maximum number of devices authorized by each shared mobility operator permit. In making determinations regarding the maximum number of authorized devices, the Mobility Officer shall take into consideration market needs, the total number of

devices and the total number of devices of any particular type deployed in the City, device utilization, and any other criteria set forth in administrative regulations. The Mobility Officer shall first publish his or her tentative adjustment decision under this Section, along with reasons supporting the decision, and solicit comments prior to making a final determination. The Mobility Officer's final determinations under this Section shall constitute the final decision of the City and are not subject to further administrative review. No person shall fail to comply with the Mobility Officer's established device limitations.

- (c) No operator shall be granted authorization for less than fifty shared mobility devices of one type.
- (d) At any time, in the City Council's discretion, the City Council may reassess the number of shared mobility operator permits authorized for issuance. The City Council, in its discretion, may determine by resolution that the number of shared mobility operator permits or the number of total authorized devices should be reduced or increased.

§ 3.22.050. Shared mobility operator permit application procedure, fees and requirements.

- (a) Any person seeking to obtain a shared mobility operator permit shall submit a written application, signed under penalty of perjury, using the form designated by the Mobility Officer for that purpose.
- (b) The City Council may establish permit fees and charges by resolution, which shall:
 - (1) Defray the City's costs in administering and enforcing the provisions of this Chapter; and

- (2) Reflect charges associated with use of public property pursuant to this Chapter.
- (c) The Mobility Officer shall specify the information that must be provided in connection with an application and the form in which the information is to be provided. The application shall contain, at a minimum, the following information:
- (1) The name and business address of each person or entity that: (i) has more than a ten percent equity, participation, or revenue interest in the applicant; or (ii) is a trustee, director, partner, or officer of that entity or of another entity that owns or controls the applicant, except persons serving in those capacities as volunteers, without compensation, for organizations exempt from income taxes under Section 501(c) (3), (4), or (6) of the Internal Revenue Code;
 - (2) The name and business address of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity;
 - (3) Information sufficient to show that the applicant is financially, technically, and legally qualified to operate and maintain a shared mobility device system;
 - (4) A description of the proposed plan of operation, including, at a minimum, a detailed description of:
 - (A) The applicant's current operations as a shared mobility device

provider in the City and other jurisdictions;

- (B) The applicant's proposed operations in the City including the maximum numbers and types of shared mobility devices anticipated to be deployed under the permit program, the plan for balancing deployment of shared mobility devices for Citywide coverage, the plan for shared mobility device maintenance, levels of staff for operations and administration, and the plan for customer service;
- (C) The applicant's regulatory compliance program;
- (D) The applicant's history of, intent to, and ability to comply with state and local law;
- (E) The applicant's plans to implement safety programs, including, for example, programs by which the applicant will receive information about and notify users of inappropriate use, encourage users to use appropriate safety devices such as helmets, and discourage users from leaving devices in locations that create hazards in the public right-of-way for persons with disabilities and others;
- (F) The applicant's plans to educate users of shared mobility devices about applicable California Vehicle Code provisions and other applicable laws, regulations, and guidelines;
- (G) The applicant's plans to comply with applicable Federal, State, and local data privacy laws and otherwise to protect the privacy of personal information provided by users and to provide the City with data necessary for the City to ensure accessibility and availability of

the public right-of-way and other public space for shared use by all, and protect the health, welfare, and safety of the public;

(H) The applicant's plans for encouraging use of shared mobility devices as a substitute for trips by car and as a linkage to existing public mass transit systems; and

(I) The applicant's plans for complying with any other requirements set forth by the administrative regulations.

(5) Except to the extent specifically requested by an applicant, all applications shall be treated as public records pursuant to the California Public Records Act and shall be distributed to all applicants in the event of any appeal by any applicant. If an applicant believes that any portions of an application should be exempt from treatment as a public record and distribution to other applicants, the applicant shall specifically designate those portions and, with respect to each such portion, provide a written explanation of the reasons for the designation.

§ 3.22.060. Shared mobility operator selection.

(a) The shared mobility operator selection committee shall be established by the Mobility Officer. The committee shall consist of City staff with appropriate knowledge and experience, as further set forth in the administrative regulations.

(b) The committee shall review all applications and make written recommendations to the Mobility Officer based on a ranking of each qualified applicant in accordance with objective criteria set forth by this Chapter and the administrative regulations.

(c) Each qualified applicant shall be evaluated based upon objective criteria including: experience; proposed operations plan; financial wherewithal and stability;

adequacy of insurance; ability to begin operations in a timely manner; public education strategies; willingness to permit application materials to be treated as public record and made available to the public and other applicants; relevant record of the applicant's or officers', owners' or principals' violations of Federal, State or local law, or rules and regulations; quality, durability and safety record of proposed devices; proposed public right-of-way management and safety plan; and any other objective criteria established by the administrative regulations.

- (d) Each applicant shall be provided an opportunity to submit written comments or objections to the committee's recommendations.
- (e) The Mobility Officer shall set forth, in writing, the reasons supporting his or her determinations. The Mobility Officer may request additional information from City staff, any applicant, or any other source that would assist in determining the final qualifications and rankings.
- (f) The Mobility Officer shall grant a shared mobility device operator permit to the highest ranking applicants, depending on the number of available openings for operators. Should applicants among the highest ranks receive the same score, a lottery shall be used to establish the final rankings for any applicants that achieved the same score.
- (g) The Mobility Officer shall, on a date determined by the Mobility Officer, post on the City's website, and send to all applicants by email notice of the posting with a link to the City's website, all of the following: the ranking determinations as to all applicants, the determination of the highest ranked applicants to whom shared mobility device operator permits will be issued, the written reasons supporting the

Mobility Officer's determinations, and all portions of all applications other than those portions that applicants have specifically designated with written reasons as exempt from treatment as public records and distribution to the other applicants.

- (h) No later than fourteen calendar days after the date on which the Mobility Officer posts and distributes notice of the Mobility Officer's determinations, an applicant may file an appeal of the Mobility Officer's determinations, with respect to that applicant only, to the Director. The administrative regulations shall contain the process for appeal. In connection with any appeal, no applicant shall be entitled to receive the application materials submitted by any other applicant that the other applicant has designated with written reasons as exempt from treatment as a public record and distribution to the other applicants. The issuance of any shared mobility device operator permits shall be stayed until the Director has issued his or her final determinations.
- (i) In the event of an appeal by any applicant, the Director shall review the Mobility Officer's determinations in their totality de novo and, no later than twenty-eight calendar days after the date on which the Mobility Officer posts and distributes notice of the Mobility Officers determinations, the Director shall either confirm the Mobility Officer's determinations or render his or her own determinations of applicant ranking and of the applicants to whom mobility device operator permits will be issued. The Director shall set forth, in writing, the reasons supporting his or her final determinations.
- (j) The Director's determinations under this Section shall constitute the final decision of the City and shall not be subject to further administrative review.

- (k) The Mobility Officer may impose, as part of any shared mobility operator permit issued, any and all conditions that are necessary to effectuate the purposes of this Chapter, mitigate traffic impacts, ensure accessibility of the public right-of-way and availability of public space for shared use by all, or protect the health, welfare, and safety of the public. No person shall fail to comply with such permit conditions.

(Added by Ord. No. 2630CCS § 2, adopted 2/11/20)

§ 3.22.070. Limitations on City liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a shared mobility operator permit or otherwise approving the operation of any shared mobility device. As a condition to the issuance of any shared mobility operator permit, the applicant shall be required to meet all of the following conditions:

- (a) The applicant must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold harmless the City, and its council, council members, boards, board members, commissions, commission members, task forces, task force members, officers, officials, employees, representatives, volunteers, and agents from any and all claims, losses, damages, injuries, or liabilities which arise out of, or which are in any way related to, the City's issuance of or decision to approve a shared mobility operator permit; the process used by the City in making its decision to approve a shared mobility operator permit; the operation and use of any shared mobility device deployed by any operator who has received a shared mobility operator permit; the classification by the operator of any individuals or entities performing

services for the operator as employees or contractors; or the alleged violation of any Federal, State or local laws by the applicant or any of its officers, managers, employees, contractors, or agents.

- (b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time, as determined by the City's Risk Manager and name the City of Santa Monica as additional insured. The applicant's insurance policy shall be endorsed to state that coverage shall not be cancelled except after thirty days prior written notice by certified mail has been given to the City. If any insurance policy issued to a permittee is cancelled for any reason, the permit issued under this Chapter is automatically suspended. In order to reinstate the permit, the permittee shall provide a new certificate and policy of insurance to the City.
- (c) Reimburse the City for all costs and expenses, including, but not limited to, attorney fees and costs, which it may be required to pay as a result of any legal challenge arising out of or in any way related to any claim, loss, damage, injury, or liability as to which the applicant has an obligation to indemnify, defend, and hold harmless the City pursuant to subsection (a) above. The City may, at its sole discretion, participate at its own expense in the defense of any such legal challenge, but such participation shall not relieve any of the obligations imposed hereunder.

§ 3.22.080. Grounds for revocation, suspension or denial.

A shared mobility operator permit may be revoked, suspended, or denied by the Director based upon any of the following grounds:

- (a) An applicant or operator, including its employees, managers, officers, principals, directors, owners, contractors, representatives, or agents:
 - (1) Making one or more false or misleading statements, or material omissions on the permit application, during the application process, or during the permit program;
 - (2) Failing to provide information requested or required by the City;
 - (3) Operating or proposing to operate in a manner that endangers public health or safety; or
 - (4) Failing to comply with any requirement imposed by the provisions of this Code (or successor provision or provisions) including any rule, regulation, condition or standard promulgated pursuant to this Chapter (or successor provision or provisions), or any term or condition imposed on the shared mobility operator permit, or any provision of State or Federal law.
- (b) Conviction of the operator, to include any of its officers, principals, directors, or owners, of a criminal offense that is substantially related to the qualifications, functions or duties of the shared mobility business or profession, including, but not limited to, any criminal conviction involving a violent or serious felony, fraud, deceit, or embezzlement.

§ 3.22.090. **Program term.**

Permits issued pursuant to this Chapter shall take effect immediately, and shall remain valid unless revoked or suspended pursuant to Section 3.22.080 of this Chapter.

§ 3.22.100. **Impoundment of devices.**

- (a) A shared mobility device that is displayed, offered, or made available for rent, or

abandoned, in the public right-of-way or a public area in violation of Section 3.22.030 shall be subject to immediate impoundment by the City.

- (b) The City Council may adopt impound fees by Resolution, which shall reflect the City's enforcement, investigation, storage, and impound costs.
- (c) No person shall retrieve any impounded shared mobility device except upon demonstrating proper proof of ownership of the device and payment of applicable impound fees.

§ 3.22.110. **Enforcement.**

- (a) Any person who violates any provision of this Chapter, including any permit condition, shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars per violation or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.
- (b) Any person who violates any provision of this Chapter, including any permit condition, shall be subject to administrative fines and administrative penalties pursuant to Chapter 1.09 and Chapter 1.10 of this Code.
- (c) Any person convicted of violating this Chapter in a criminal case, or found to be in violation of this Chapter in a civil or administrative case brought by a law enforcement agency, shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs.

SECTION 2. Chapter 3.23 of the Santa Monica Municipal Code is hereby repealed in its entirety.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. 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 shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby 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 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty days after adoption.

APPROVED AS TO FORM:

DocuSigned by:
DOUGLAS SLOAN
61C02D0CAE84432...

Douglas Sloan, City Attorney

Approved and adopted this 27th day of August, 2024.

DocuSigned by:

 FF645AF0515A449...

 Phil Brock, Mayor

State of California)
 County of Los Angeles) ss.
 City of Santa Monica)


I, Nikima S. Newsome, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2785 (CCS) had its introduction on July 23, 2024, and was adopted at the Santa Monica City Council meeting held on August 27, 2024, by the following vote:

AYES: Councilmembers Zwick, Parra, Davis, Torosis, de la Torre,
 Mayor Brock, Mayor Pro Tem Negrete

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:

 7032651F371E430...

 Nikima S. Newsome, City Clerk

8/28/2024

 Date

A summary of Ordinance No. 2785 (CCS) was duly published pursuant to California Government Code Section 40806.