To: CITY COUNCIL  

From: Camille Cordova, Executive Assistant  

Subject: BILL NO. C/S O-18-29; ENACTMENT NO. O-2018-021  

I hereby certify that on October 5, 2018, the Office of the City Clerk received Bill No. C/S O-18-29 as signed by the president of the City Council, Ken Sanchez. Enactment No. O-2018-021 was passed at the October 1, 2018 City Council meeting. Mayor Keller did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. C/S O-18-29.  

Sincerely,  

Katy Duigg  
City Clerk
INTER-OFFICE MEMORANDUM

TO: Ken Sanchez, President, City Council

FROM: Timothy M. Keller, Mayor

SUBJECT: C/S Amending The Traffic Code To Implement Minimum Standards For Shared Active Transportation Programs As They Relate To Operation And Maintenance In The Public Right-Of-Way

On October 1, 2018, the City Council passed O-18-29, amending the traffic code to implement minimum standards for shared active transportation programs that utilize modes of transportation such as motorized scooters. The ordinance requires the Administration to develop a regulatory and permitting process that keeps our sidewalks safe for pedestrians and our streets safe for cyclists. Multiple city departments will need to work together to develop rules that keep our residents safe and ensure that operators are held accountable for their products. While the Administration will work diligently to implement the ordinance, the City will not issue permits to operate shared active transportation businesses until appropriate regulations are in place.
ORDINANCE

AMENDING THE TRAFFIC CODE TO IMPLEMENT MINIMUM STANDARDS FOR SHARED ACTIVE TRANSPORTATION PROGRAMS AS THEY RELATE TO OPERATION AND MAINTENANCE IN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, shared mobility programs are becoming increasingly popular across the country; and

WHEREAS, shared active transportation programs offer an alternative mode of transportation for people; and

WHEREAS, currently, bicycle and electric scooters are the two major types of shared mobility programs that are active across the country; and

WHEREAS, while these programs are beneficial to a community for many reasons, they also draw administrative and operational concerns from the standpoint of the City; and

WHEREAS, it is in the City’s best interest for the health, safety, and welfare of the community to require shared active transportation programs to comply with minimum operational requirements; and

WHEREAS, it is in the City’s best interest to monitor these programs as they exist in the public right-of-way; and

WHEREAS, many municipalities across the country are determining the best way to address shared active transportation programs; and

WHEREAS, in July of 2018 the National Association of City Transportation Officials (NACTO) published a guide with recommendations on how municipalities might regulate these programs; and

WHEREAS, the requirements outlined in this ordinance are based on recommendations in the aforementioned NACTO guide.
BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. AMEND SECTION 8-1-1-2 DEFINITIONS AS FOLLOWS:

(A) Add the following definitions in the proper alphabetical position in the existing list of definitions:

1. SHARED ACTIVE TRANSPORTATION. A network or system of small vehicles, placed in the public right-of-way and for rent in short time increments, that provides increased mobility options over short distances in urban areas.

2. SHARED ACTIVE TRANSPORTATION STATION. Permitted stations placed throughout the right-of-way and adjacent public and private property where customers pick up and return small vehicles.

3. SMALL VEHICLE. Bicycles, scooters, e-bikes, e-scooters, and other small, wheeled vehicles designed specifically for shared-use by no more than two individuals at a time, and are deployed by private Shared Active Transportation entities. Operators of small vehicles have the same rights as operators of bicycles in the use of streets, highways, roadways, and sidewalks, except as otherwise specifically provided herein.

SECTION 2. Create a new Section 3 in Chapter 8 of the Code of Ordinances titled “Shared Active Transportation” with the following provisions. RENUMBER subsequent sections in Chapter 8.

8-3-1 SHARED ACTIVE TRANSPORTATION PROVISIONS

8-3-1-1 Applicability

When operating within the public right-of-way, every entity offering or managing small vehicles as part of shared active transportation service, including but not limited to bike-share programs and electric scooter-share programs, must comply with the requirements outlined in this section. Equity-focused programming options for vulnerable and underserved populations are encouraged.

8-3-2 REGISTRATION REQUIRED

The Administration shall create a city-wide permitting process including, but not limited to, the following provisions for Shared Active Transportation
entities. Notwithstanding the requirements set forth in this section, the City reserves the right to deny a permit request for any reason.

8-3-2-1 Registration Process

(A) Every entity operating a shared active transportation program within the City limits must have an active City business license.

(B) Prior to offering any small vehicle service within any public right-of-way, every entity operating a shared active transportation program within the City limits must receive City approval to operate within the right-of-way. In order to be eligible for approval, each entity must provide:

1. Proof of liability insurance that names the City as an additional insured, and demonstrating minimum coverage as required by the City.

2. The contact information of a locally-based manager or operations staff member who can respond to city requests, emergencies, or other issues at any time.

3. A listing of every location where the shared mobility stations are to be placed, including scaled diagrams, if applicable. Approval from the City must be obtained for each mobility station location, if any. The City reserves the right to deny a location for present and future municipal or safety reasons.

(C) For all non-publicly funded programs, the City shall charge a fee for the following items. The City may reduce any applicable fees if the permit applicant is able to verify they provide equity and inclusion programming to offer low-income customers a reduced operating fee and alternative options for payment and accessing the services:

1. Each permit application

2. An annual fee for each station (if applicable), authorized by the City within any City owned property, public space, or right-of-way

3. A daily fee per small vehicle in service

All funds collected from subsection 8-3-2-1(C)(2) and 8-3-2-1(C)(3) shall be used for infrastructure improvements related to pedestrian and share active transportation movement and the City’s costs related to maintenance and oversight of any shared active transportation.

(D) The following data and privacy standards shall be applicable:
1. Each system shall provide new users an in-app, email, and text notice upon initial user registration outlining that a variety of data, including location data and individual trips taken, is collected and used for service, operational, or marketing purposes if applicable. The notice shall direct users to a full privacy policy.

2. System data collected by each company shall be provided to the City on a regular basis in a format and time schedule as agreed upon by the City.

3. The City retains the right to request aggregate data on system use and aspects of system operation including but not limited to parking complaints, damaged or lost small vehicles, and reported crashes.

   (E) Each City approval shall be valid for a period of five years, and, upon approval of the City, may be renewed in one-year increments, unless terminated by the City. The City shall conduct an annual review to ensure compliance set forth in §8-3-1. If any company is found to be in violation of the provisions set forth in §8-3-1, the City may take appropriate actions, including but not limited to revocation of the operating permit.

   (F) It is unlawful for any shared active transportation company to offer or manage small vehicles except in conformance with the requirements of this ordinance. Any violations of this ordinance are subject to the penalty provisions of §1-1-99, and further subject to any other penalties or remedies provide by law or in equity.

8-3-2 OPERATIONAL REQUIREMENTS

(A) Entities operating shared active transportation programs within the City limits shall comply with the following regulations. Non-compliance with these regulations may result in the revocation of their permit:

1. Small vehicles shall not be parked on a sidewalk or any other place if the parking impedes normal and reasonable movement of pedestrian or other traffic and shall be placed at an existing, city-approved shared active transportation station, a bicycle rack, an approved shared demarcated drop zone, other permanent fixture meant for the placement of small vehicles, or in the landscaping/buffer area (as defined in §6-5-5-4).
2. Damaged, abandoned, or improperly placed small vehicles in the public right-of-way shall be removed within 24 hours of the local contact being notified of the improper placement. Failure to remove damaged, abandoned, or improperly placed small vehicles shall result in a fine, a minimum of $50 per small vehicle per day. Every small vehicle must have the ability to be remotely disabled in the case that it is reported to be damaged or unsafe for use.

3. The City has the right to request the temporary removal of all small vehicles from specific locations in the event of emergencies, special events, or regular street maintenance. Removal under such conditions must take place within 24 hours of the request.

4. The City shall have the right, but no obligation, to remove any abandoned, unattended or improperly placed small vehicle that is, in the sole opinion of the City, a safety hazard or an impediment to access ensured by the Americans with Disabilities Act. The City shall have the right to charge a removal and storage fee for any vehicles removed for these reasons.

5. All small vehicles must comply with safety standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials, and all other applicable federal, state, and city safety standards.

6. All small vehicles must have, and clearly display, a unique, permanent identification number. Each small vehicle must have a visible customer service phone number.

7. For all electric-assist small vehicles, the maximum motor-assist speed shall be 15 mph.

8. Each entity must agree in writing to defend, save harmless and indemnify the City and any officer or employee of the City relating to any liabilities that may arise from the entity’s operation of its shared active transportation program within the municipal limits.

Section 3. SEVERABILITY. If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section,
paragraph, sentence, clause, word or phrase thereof irrespective of any
provision being declared unconstitutional or otherwise invalid.

Section 4. COMPILATION. Sections 1 and 2 of this ordinance shall be
incorporated in and made part of the Revised Ordinances of Albuquerque, NM,
1994.

Section 5. EFFECTIVE DATE. This Ordinance shall take effect five days
after publication by title and general summary.
PASSED AND ADOPTED THIS 1st DAY OF October, 2018
BY A VOTE OF: 8 FOR 1 AGAINST.

Against: Benton

Ken Sanchez, President
City Council

APPROVED THIS _____ DAY OF ________________________, 2018

Bill No. C/S O-18-29

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Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:

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Katy Duigg, City Clerk