

ORDINANCE NUMBER \_\_\_\_\_ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE CHAPTER 3.21  
ESTABLISHING A SHARED MOBILITY DEVICE PILOT PROGRAM AND RELATED  
PERMITTING AND OPERATOR SELECTION PROCESS

WHEREAS, shared mobility has exploded globally offering several different types of devices including bikes, e-bikes, and electric scooters; and

WHEREAS, in recent months, in part due to rapid technological advancements, the City of Santa Monica's (City) public rights-of-way have been inundated with shared mobility devices; and

WHEREAS, the proliferation of such systems and devices impeded pedestrian circulation and paths of travel, and created hazards in the public rights-of-way for persons with disabilities and others, especially when left unattended; and

WHEREAS, such devices blocked paths of travel, sidewalks, driveways, lanes, and parkways; and

WHEREAS, such devices created safety hazards especially for persons with disabilities attempting to navigate past all such hazards; and

WHEREAS, such devices had been involved in a number of traffic collisions, some of which resulted in serious injuries; and

WHEREAS, in response to the rapid proliferation of such systems and devices, and the serious safety hazards created by their use, the City adopted Ordinance No. 2570, which establishes interim operating regulations for shared mobility systems and devices and requires operators to first obtain a vending permit prior to displaying a shared mobility device for rent in public; and

WHEREAS, the City now seeks to create a shared mobility device pilot program that will improve access to mobility options for residents, employees, visitors to Santa Monica, create new and diverse mobility options, ensure safety by reducing sidewalk and pathway impediments, facilitate access for disabled individuals, educate users about the proper rules and etiquette, create a legal and enforceable framework for managing shared mobility in the public right of way, and build good working partnerships with shared mobility service providers; and

WHEREAS, a shared mobility device pilot program would establish minimum operating requirements in the categories of maintenance, education, safety, customer service, data sharing and insurance/indemnification and also identify a broader list of recommended program components through which applicants could be evaluated during the pilot term; and

WHEREAS, a shared mobility device pilot program would be established for a short term to inform the content of future operating requirements and program components, and to provide flexibility during the pilot program duration through the Administrative Regulations.

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

Section 1. Santa Monica Municipal Code Chapter 3.21 is hereby repealed and replaced in full as follows:

3.21 SHARED MOBILITY DEVICE PILOT PROGRAM

3.21.010 Purpose. Consistent with the City's goals of enhancing mobility and access, easing traffic congestion, and promoting sustainability, this Chapter creates a limited term pilot 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.

3.21.020 Definitions

- (a) "Abandon" shall mean leaving an item unattended for any length of time.
- (b) "Director" shall mean the Director of Planning and Community Development or designee.
- (c) "Operator" shall mean any person or businesses entity selected by the City to participate in the Shared Mobility Device Pilot Program pursuant to this Chapter.
- (d) "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.
- (e) "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.

(f) “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 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.

#### 3.21.025 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.

#### 3.21.030 Prohibited Conduct

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

(a) Display, offer or make available for rent any Shared Mobility Device within the City, unless the person has first obtained (i) a valid Shared Mobility Operator Permit and (ii) 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; and

(c) Abandon a Shared Mobility Device in the Public Right-of-Way or a Public Area in a manner that (a) obstructs travel upon or blocks access to a Public Right-of-Way; (b) poses an immediate public safety hazard; or (c) is otherwise prohibited by applicable laws or Administrative Regulations.

#### 3.21.040 Maximum Number of Shared Mobility Operator Permits and Shared Mobility Devices Permitted

(a) The Director may issue up to three Shared Mobility Operator Permits authorizing the deployment of a Shared Mobility Device within the City. No Shared Mobility Operator Permits shall be issued to any Operator that proposes to deploy a Shared Mobility Device that is exclusively powered by the human body or powered by combustion engine.

(b) The Director may establish the number of Shared Mobility Devices authorized under each Shared Mobility Operator Permit. No more than once every thirty days or within fourteen days following any City Council action adjusting the number of permitted Operators or Devices pursuant to Section 3.21.040(d), the Director may adjust the maximum number of devices authorized by each Shared Mobility Operator Permit. The Director shall take into consideration market needs, the number of devices deployed

in the City, device utilization, and any other criteria set forth in Administrative Regulations. The Director 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 Director's 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 Director's established device limitation.

(c) No Operator may be granted authorization for less than 250 Shared Mobility Devices. The total number of Shared Mobility Devices authorized pursuant to this Chapter shall not exceed 2,250, except as otherwise adjusted by subsection (d) below.

(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.

#### 3.21.050 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 Director for that purpose.

(b) The City Council may establish permit fees and charges by resolution, which shall:

(i) defray the City's costs in administering and enforcing the provisions of this Chapter; and

(ii) reflect charges associated with use of public property pursuant to this Chapter.

(c) The director may 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:

(i) 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, excepting 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;

(ii) 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;

(iii) Information sufficient to show that the applicant is financially, technically, and legally qualified to operate and maintain a Shared Mobility Device system.

(iv) A description of the proposed plan of operation, including, at a minimum, a detailed description of:

(a) The applicant's current operations in the City and other jurisdictions, including copies of the applicant's operating permits for all such jurisdictions;

(b) The applicant's proposed operations in the City including the maximum number of Shared Mobility Devices anticipated during the duration of the pilot program, the plan for balancing 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 educate users of Shared Mobility Devices about applicable California Vehicle Code provisions and other applicable laws, regulations, and guidelines;

(f) 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

(g) Any other requirements set forth by administrative regulation.



### 3.21.60 Shared Mobility Operator Selection

(a) The Shared Mobility Operator Selection Committee shall be established by the Director. 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 Director based on a ranking of each qualified applicant in accordance with objective criteria set forth by this Chapter and 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; relevant record of the applicant's or officers', owners' or principals' violations of Federal, State or local law, or rules and regulations; and any other objective criteria established by Administrative Regulation.

(d) Each applicant shall be provided an opportunity to submit written comments or objections to the Committee's recommendations.

(e) The Director shall set forth, in writing, the reasons supporting his or her final determinations. The Director 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 Director shall grant a Shared Mobility Operator Permit to the highest three ranked applicants. Should two applicants receive the same score, a lottery shall be used to establish the final rankings for any applicants that achieved the same score.

(g) The Director's determinations under this Section shall constitute the final decision of the City and shall not be subject to further administrative review.

(h) The Director 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.

#### 3.21.070      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 officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities or losses 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, or the alleged violation of any federal, state or local laws by the applicant or any of its officers, managers, employees or agents.

(b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time, as determined by the 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 Ordinance 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 related to the City's approval of or activities conducted pursuant to the applicant's Shared Mobility Operator Permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

#### 3.21.080 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:

(i) Making one or more false or misleading statements, or material omissions on the permit application, during the application process, or during the pilot program;

(ii) Failing to provide information requested or required by the City;

(iii) Operating or proposing to operate in a manner that endangers public health or safety; or

(iv) 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 adopted pursuant to this Chapter, or any term or condition imposed on the Shared Mobility Operator Permit, or any provision of state law.

(b) Conviction of the Operator, to include any of its officers, owners or principals, 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.

#### 3.21.090 Pilot Program Term

Permits issued pursuant to this Chapter shall terminate and be of no further force or effect beyond December 30, 2019, unless otherwise extended or terminated earlier by the City.

#### 3.21.100 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 3.21.030 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.

### 3.21.110 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 \$250.00, or a misdemeanor, which shall be punishable by a fine not exceeding \$500.00 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.

### ~~Chapter 3.21-Shared Mobility Systems and Devices~~

#### ~~3.21.010 Purpose~~

~~The City has a compelling interest in protecting the public health and safety and in ensuring safe pedestrian, bicycle and vehicle traffic through management, maintenance and operation of the public rights-of-way. Proliferation of commercial Shared Mobility Systems and Devices creates serious safety hazards for pedestrians, bicyclists and drivers. Proliferation of such Systems and Devices further impedes pedestrian circulation and paths of travel, and creates hazards in the public rights-of-way for persons with disabilities and others, especially when left unattended. This Chapter sets forth~~

regulations of Shared Mobility Systems and Devices in order to protect public health and safety.

### ~~3.21.015 Exemptions~~

~~This Chapter shall not apply to:~~

~~(a) — systems, bicycles and devices authorized by the City Bike Share System pursuant to Chapter 3.20 of this Code;~~

~~(b) — any system of bicycles, bicycle racks and kiosks operated by the Los Angeles County Metropolitan Transportation Authority; and~~

~~(c) — any Car Share Vehicle as defined by Chapter 3.06 of this Code; and~~

~~(d) — any person vending entirely from a vehicle authorized by a valid City vending permit, as recognized by Section 6.36.090 of this Code.~~

### ~~3.21.020 Definitions~~

~~For purposes of this Chapter, the following words shall have the following meanings:~~

~~(a) — “Abandon” means leaving any item unattended for any length of time.~~

~~(b) — “Shared Mobility System” means any system, marking, installation, structure or information system facilitating the display or placement for rent of Shared Mobility Devices in any Public Area or Public Right-of-Way.~~

~~(c) — “Shared Mobility Device” means any device displayed or placed for rent in any Public Area or Public Right-of-Way, in, upon or by which any person or property is or may be propelled, moved or drawn upon any Public Right-of-Way, including but not~~

limited to vehicles, scooters, bicycles, Segways, skateboards, rollerblades, unicycles, and rickshaws.

~~—— (d) —— “Public Right-of-Way” means any area dedicated for public use as a public street, pedestrian way or other thoroughfare, including but not limited to a street, sidewalk, parkway, alley, public transportation path or easement.~~

~~—— (e) —— “Public Area” mean any outdoor area owned or operated by the City of Santa Monica.~~

### 3.21.030 Vending

~~Placement, operation or maintenance of any Shared Mobility System or Device in any Public Area or Public Right-of-Way shall constitute vending, as set forth in Chapter 6.36 of this Code.~~

### 3.21.040 Prohibited Activities.

~~(a) —— Unless otherwise authorized by the City, no person shall:~~

~~(1) —— Display, offer or make available for rent any Shared Mobility Device within the City;~~

~~(2) —— Install, place, maintain, operate, or facilitate the installation, placement, maintenance or operation of a Shared Mobility System within the City.~~

~~—— (b) —— Except as otherwise authorized by the City, any Shared Mobility Device that poses an immediate hazard, obstructs access to any Public Area or Public Right-of-way, or leaves less than four feet of unobstructed access on any Public sidewalk shall constitute an immediate public safety hazard and shall be subject to immediate impoundment by the City.~~

~~(1) The City Council may adopt impound fees by Resolution, which shall reflect the City's enforcement, investigation, storage and impound costs.~~

~~(2) 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.~~

### ~~3.21.100 Sunset~~

~~Unless otherwise extended, this Chapter shall sunset and be of no force and effect after January 1, 2019.~~

Section 2. 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.

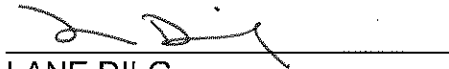
Section 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council 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 4. 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 30 days from its adoption.

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Lane Dilg", is written over a horizontal line.

LANE DILG  
City Attorney