

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Planning and Inspections Department, Planning Division

AGENDA DATE: Introduction: November 27, 2018
Public Hearing: December 11, 2018

CONTACT PERSON/PHONE: Philip F. Etiwe, (915) 212-1553, EtiwePF@elpasotexas.gov
Richard Bristol, (915) 212-7000, BristolRX@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

Ordinance Amending Title 15 (Public Services), Chapter 15.08 (Street Rentals) Of The El Paso City Code To Create A New Section 15.08.150 (Shared Mobility Devices) to regulate Shared Mobility Devices within the Public Right Of Way and Amending Title 15 (Public Services). The Penalty is as provided in Section 15.08.150 of the El Paso City Code as Amended. (All Districts)

BACKGROUND / DISCUSSION:

There is no prior City Council action on this item.

PRIOR COUNCIL ACTION:

There is no prior City Council action on this item.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

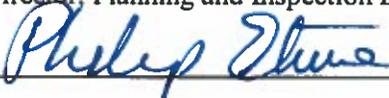
N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Philip F. Etiwe
Director, Planning and Inspection Department



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), CHAPTER 15.08 (STREET RENTALS) OF THE EL PASO CITY CODE TO CREATE A NEW SECTION 15.08.150 (SHARED MOBILITY DEVICES) TO REGULATE SHARED MOBILITY DEVICES WITHIN THE PUBLIC RIGHT OF WAY AND AMENDING TITLE 15 (PUBLIC SERVICES). THE PENALTY IS AS PROVIDED IN SECTION 15.08.150 OF THE EL PASO CITY CODE AS AMENDED.

WHEREAS, new technology has evolved to allow for the shared use by the public of mobility devices; and

WHEREAS, this new technology allows shared use mobility devices to be placed on public places without the need of dock stations to store for return and retrieval of such mobility devices; and

WHEREAS, the public right of way is primary for the passage of persons and goods;

WHEREAS, the City has authority to allow for the use of a street or sidewalk for a private purpose provided that use does not interfere with the public use of the street and the sidewalk and does not create a dangerous condition on the street or sidewalk; and

WHEREAS, the City finds that it is in the best interest of the public to regulate shared use mobility devices on city streets and sidewalks in order to ensure that the public use of the streets and sidewalks is maintained and no dangerous conditions on the street or sidewalk are created; and

WHEREAS, the City finds that it is in the best interest of the public to evaluate for 12 months the placement of shared use mobility devices on the public right of way;

WHEREAS, in order to allow the City to adapt to the challenges presented during the evaluation period, it is important to designate a person within the City organization to enact regulations administratively; and

WHEREAS, following the end of the evaluation period, the City may amend this ordinance, or enact further ordinances, to regulate shared use mobility devices in accordance to the findings made during the evaluation period, including the possibility of regulating through a franchise agreement.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF EL PASO:

SECTION 1. Title 15 (Public Services), Chapter 15.08 (Street Rentals) of the El Paso City Code is amended to create a new Section 15.08.150 (Shared Mobility Devices) to read as follows:

15.08.150- Shared Mobility Devices

ORDINANCE NO. _____

18-1007-2316 | 836773
Shared Mobility Devices Ordinance
OAR

A. **Definitions.** For purposes of this Section, the following terms have the following definitions.

1. “Director” means the person designated by the City Manager in charge of overseeing the enforcement of this Section.
2. “Electric Personal Assistive Mobility Device” means a two non-tandem wheeled device designed for transporting one person that is self-balancing and propelled by an electric propulsion system with an average power of 750 watts or one horsepower.
3. “Non-Personally Identifiable Information” or “non-PII” means data or information that is anonymous.
4. “Person” means a natural person as well as any entity or organization formed under the laws of any state in the United States or abroad.
5. “Permit” means a permit issued by the Director under this Section.
6. “Public Right of Way” means any portion of a street or sidewalk dedicated to the City of El Paso for the use of the public.
7. “Risk Manager” means the person designated by the City Manager as such.
8. “Shared Use Mobility Device(s)” means a motor driven, or non-motor driven, bicycle, scooter, Electric Personal Assistive Mobility Device, or other similar device made available by a Person to the public for rent regardless of whether a fee is charged for the rental of such device. The definition applies regardless of whether the Shared Use Mobility Device is dock less or must be returned to a docking station.

B. **Prohibition.** A Person shall not place a Shared Use Mobility Device on the Public Right of Way without obtaining a Permit under this Section of the El Paso City Code. A Person who obtains a Permit under this Section shall abide by all requirements prescribed under this Section as well as all regulations adopted by the Director under the authority granted to the Director under this Section.

C. **Permit.** A Person who wants to place a Shared Use Mobility Device on the Public Right of Way shall apply for a Permit on an application form as required by the Director. The Director shall issue a Permit to a Person that complies with requirements of this Section and any regulations adopted by the Director pursuant to this Section. The Director shall not issue a Permit to a Person that does not comply with the requirements of this Section or any regulations adopted by the Director pursuant to this Section. A Person is not eligible to apply for a Permit for one year following a revocation of a Permit under this Section. Unless terminated earlier as provided under this Section, all Permits issued under this Section expire December 31, 2019 regardless of the date such permit is issued. No Permit shall be issued to a Person owing ad valorem taxes to the City or who has

defaulted on an agreement with the City within 5 years preceding the application for a Permit under this Section. Notwithstanding anything to the contrary, a permit may only be issued to a Person who owns the Shared Use Mobility Devices for which the Permit is requested. All application forms and documents under this Section must be executed by the owner of the Shared Use Mobility Devices.

D. Regulations and Authority of Director. The Director is authorized to perform the following:

1. Adopt, amend, and repeal regulations for the use, deployment, operation, hours of operation, maintenance, disposal of batteries, customer service, terms of use, public education, identification, contact information, personnel, equipment, speed limits, placement and parking, proof of ownership, timeframes for compliance, advertisement, redistribution, and removal of Shared Use Mobility Devices. The Director is also authorized to adopt, amend, and repeal regulations regarding the collection of Non Personally Identifiable Information data including, but not limited to, the use and sharing of Data with the City of El Paso. The City shall only use this information for the purposes of evaluating public transportation improvements, other public improvements, and public services. The City may release such non-PII pursuant to any request made under the Texas Public Information Act.
2. Establish an application form to ensure that all requirements of this Section, and any regulations adopted by the Director pursuant to this Section, are met.
3. Establish and modify boundaries within the City of El Paso for placement of Shared Use Mobility Devices.
4. Establish limits on the number and deployment of Shared Use Mobility Devices allowed within the boundaries established by the Director. The Director shall consider all factors, including but not limited to, the need or demand of Shared Use Mobility Devices within the boundaries established by the Director. The Director may request in the application form any relevant data necessary to allow the Director to evaluate requests to increase the number of Shared Use Mobility Devices allowed under a Permit.
5. Require applicants to show proof of compliance with provisions of this Section or regulations adopted by the Director.
6. Prohibit the placement, or require the immediate removal, of Shared Use Mobility Devices in certain areas of the City to accommodate any events or construction taking place on the Public Right of Way or address any emergencies that require emergency traffic control.
7. Deny a Permit for failure to comply with this Section or the regulations adopted by the Director under this Section.

ORDINANCE NO. _____

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Shared Mobility Devices Ordinance

OAR

8. Revoke a Permit after 3 violations by a Person of any requirements under this Section or the regulations adopted by the Director under this Section. Notwithstanding anything to the contrary, the Director shall revoke a permit after the first failure by a Person to comply with the requirements of Subsection P below.
 9. Deny or Revoke a Permit upon discovery of any false information submitted by a Person under this Section.
 10. Remove any Shared Use Mobility Devices placed on the Public Right of Way in violation of this Section or any regulation adopted by the Director under this Section. The Director shall assess all costs incurred by the City to the owner of the Shared Use Mobility Device.
- E. Proof of Ownership and Agreement. A Person shall submit proof of sole ownership for all Shared Use Mobility Devices under a Permit. Prior to the issuance of any Permit, the Person shall sign a document agreeing pay all costs associated with a removal by the City of a Shared Use Mobility Device and to surrender all property rights to the City over a Shared Use Mobility Device that is not recovered by a Person after 30 calendar days of being notified by the City that such Shared Use Mobility Device has been removed by the City from the Public Right of Way. The City may dispose of, including by sale, any Shared Use Mobility Device not reclaimed within 30 calendar days. The City shall use the proceeds to recover the costs of removing, storing, and selling a Shared Use Mobility Device. Notwithstanding anything to the contrary, the Person shall remain responsible for any amounts not covered by the sale of a Shared Use Mobility Device. The City may also elect to pursue other remedies under this Section. Notwithstanding anything to the contrary, a Person remains responsible for reimbursing the City for any costs not recovered by the City through any disposition of the Shared Use Mobility Devices under this Section.
- F. Insurance Requirements. The Risk Manager shall establish the coverages and amounts of insurance that will be required to obtain a Permit under this Section. A Person applying for a Permit shall submit, with the application, a copy of the following documents showing proof of compliance with the coverages and amounts established by the Risk Manager: a certificate of insurance and a complete insurance policy with all endorsements. A Person shall maintain the coverages and amounts of insurance as established by the Risk Manager for the duration of the Permit. A Person shall add the City of El Paso as an additional insured to all insurance policies under this Section.
- G. Indemnification and Release Requirements. Prior to obtaining a Permit, a Person applying for a Permit shall agree in writing to an indemnification and release agreement in the form approved by the City's Risk Manager after review by the City Attorney's Office.

- H. Bond Requirements. The Risk Manager shall establish bond or irrevocable letter of credit requirements to cover the following: any damages by the public right of way caused by a Shared Use Mobility Device, costs of removing from the Public Right of Way a Shared Use Mobility Device, and costs of storing and disposing of any Shared Use Mobility Devices. A Person shall comply with the bond requirements or irrevocable letter of credit requirements established in this Section for the duration of a Permit.
- I. Fees charged to customers. A Person holding a Permit under this Section shall clearly communicate rates to customers prior to the use of a device by any person.
- J. Maintenance and Charging. A person shall not perform maintenance on any Shared Use Mobility Device or charge any Shared Use Mobility Device on a Public Right of Way.
- K. Non-Transferability. Permits issued under this Section are not transferable.
- L. No Property Rights. A Permit does not grant any Person an exclusive right to any portion of the Right of Way.
- M. Enforcement. The Director, a code enforcement officer, and/or a City of El Paso Police Officer are authorized to enforce the provisions of this Section and the regulations adopted by the Director under this Section. A person authorized to enforce this Section is authorized to remove/relocate Shared Use Mobility Devices that are left unattended in a manner that threatens the public safety or welfare. A person authorized to enforce this Section is also authorized to require a Person using a Shared Use Mobility Device to remove/relocate a Shared Use Mobility Device that is left in a manner that threatens the public safety or welfare.
- N. Termination. Any Permits issued under this Section may be terminated by City Council for a public purpose as determined by City Council. This provision does not limit the authority of the Director under this Section.
- O. Fees and Costs. City Council may establish fees related to this Section in the annual budget resolution, including but not limited to a fee for the use of the Public Right of Way as may be permitted by law. In addition, the City Council may establish fees sufficient to cover the costs of processing claims related to Shared Use Mobility Devices received by the City. A Person applying for a Permit, holding a Permit, or appealing a denial or revocation of a Permit under this Section shall pay the fees in the amounts provided in the annual budget resolution adopted by City Council.
- P. Damages by Shared Use Mobility Device. A Person shall be responsible for the costs incurred by the City in repairing any damages to the Public Right of Way or any other property owned by the City of El Paso caused by a Shared Use Mobility Device owned by the Person or by the use of a Shared Use Mobility Device owned by the Person regardless of who the user of the Shared Use Mobility Device is at the time the damage was caused. The City, at its sole discretion, may elect to repair any damage caused by a

Shared Use Mobility Device and assesses the costs to the owner of the Shared Use Mobility Device. The owner of a Shared Use Mobility who receives an invoice from the City under this Section shall pay the invoice within 30 calendar days of receiving the invoice. The Director shall revoke the Permit of a Person who fails to comply with the requirements of this provision.

- Q. Appeal. A Person may appeal the denial or revocation of a permit under this Section by submitting an appeal request in writing to the City Manager, or designee, and paying the required appeal fee within 15 calendar days of an action to deny or revoke a permit. The City Manager, or designee, shall hold a hearing within 30 calendar days of receiving an appeal request and appeal fee. The City Manager, or designee, shall review the denial of a Permit or revocation of a Permit for compliance with the requirements of this Section and the regulations adopted by the Director under this Section. A decision by the City Manager, or designee, is final. A Person may also appeal the assessment of any damages under Subsection P above in the same manner as described herein provided that prior to the appeal hearing the Person pays the invoice assessed under Subsection P.
- R. Headings. All headings in this Section are for reference purposes only and do not control the meaning of any provision under this Section.
- S. Penalty. A person who violates a provision under this Section may be subject to any and all of the following:
- a. A Person who violates any provision under this Section shall be found guilty of a Class C misdemeanor and punished by a fine not to exceed \$500. Each day a person fails to comply with the provisions of this Section constitutes a separate offense.
 - b. A Person that violates any provision under this Section may have a Permit denied or revoked.
 - c. A Person that violates any provision under this Section may have the Person's Share Use Mobility Devices removed by the City from the Public Right of Way. Such removal shall be at the sole expense of the Person owning the Shared Use Mobility Device and the City may employ any methods allowed under law to recover the expenses of removing from the Public Right of Way and storing a removed Shared Use Mobility Device. A Person shall pay all expenses incurred by the City in the removal of a Shared Use Mobility Device before the City releases the Shared Use Mobility Device to the Person.
- T. Abatement. Nothing in this Section limits the City of El Paso's right to abate an unlawful obstruction or use of a Public Right of Way. The City may remove from the Public Right of Way any items unlawfully placed on the Public Right of Way and dispose of such item, including by sale, after 30 calendar days of notification to the owner or following a reasonable, but unsuccessful, attempt to locate the owner of such item. The City is

entitled to retain any proceeds of a sale disposing of an item in order to cover the costs incurred by the City for removal and storage of such item.

SECTION 2. Except as herein amended, all provisions of Title 15 remains in full force and effect.

ADOPTED this _____ day of _____, 2018.

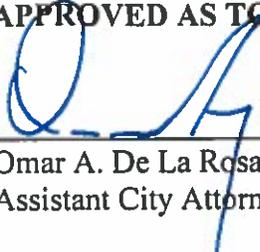
CITY OF EL PASO:

Dee Margo, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Philip F. Etiwe, Director
Planning & Inspections Department

FOL

MEMORANDUM

DATE: November 19, 2018

TO: The Honorable Mayor and City Council
Tommy Gonzalez, City Manager

FROM: Jeff Howell, Lead Planner

SUBJECT: **An Ordinance Amending Title 15 (Public Services), Chapter 15.08 (Street Rentals) Of The El Paso City Code To Create A New Section 15.08.150 (Shared Mobility Devices) to regulate Shared Mobility Devices within the Public Right Of Way and Amending Title 15 (Public Services).**

The proposed amendment to Title 15 creates a new section for Shared Mobility Devices, establishing a 12-month pilot timeframe for evaluation, and a permitting and procedure framework. It also gives the authority to the Director to establish rules and regulations for the deployment and operation of Shared Mobility Devices. The proposed rules and regulations are attached.

Attachments:

Ordinance

Proposed Rules and Regulations to be adopted by the Director

**PROPOSED SHARED USE MOBILITY DEVICE REGULATIONS
AUTHORIZED UNDER SECTION 15.08.150 OF THE EL PASO CITY CODE
ADOPTED ON AND EFFECTIVE ON _____, 20__.**

DIRECTOR

RISK MANAGER

15.08.150- SHARED MOBILITY DEVICES

RULES FOR DEPLOYMENT AND OPERATION OF SHARED MOBILITY DEVICES

A. APPLICATION

1. To obtain a permit, a Person must submit an application to the Director on a form provided by the Director. The application must contain the following, including any additional information and requirements established by the Director:
 - a. The business name, street address, mailing address, email address, and telephone number of the applicant;
 - b. Proof of sole ownership for all Shared Use Mobility Devices
 - c. A non-refundable application fee if applicable;
 - d. A non-refundable permit fee for each Shared Mobility Device which is to be operated within the City of El Paso will be due at the beginning of each month for the duration of the permit;
 - e. The name, phone number and email address of the fleet manager. Any change in this information must be reported to the director within 24 hours of the change;
 - f. A phone number for the public to report improperly parked vehicles and other violations, which must be posted on each Shared Mobility Device;
 - g. The address of the fixed facilities to be used in the operation, if any, and the address of the applicant's headquarters, if different from the address of the fixed facilities;
 - h. Documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the liability insurance required by the City;
 - i. Documentary evidence of payment of ad valorem taxes on property within the City, if any, to be used in connection with the operation of the proposed Shared Mobility Device;
 - j. Documentary evidence from a bonding or insurance company or a bank indicating that the bonding or insurance company or bank has bound itself to provide the applicant with the performance or irrevocable letter of credit required by the City;
 - k. The number and the types of Shared Mobility Devices to be operated; and
 - l. An agreement to indemnify the City.
 - m. Applicants must submit a maintenance, operations, cleaning, disposal, and repair plan.
 - n. Applicants must submit a plan to provide equitable access outlining how their services that will be available to those without smart phones or those who do not have access to credit cards. They must also submit information regarding the rate structures that will be offered to all users including daily, monthly, or annual passes/subscriptions. This information should include any discount programs offered that will be available for low-income residents or other groups.
2. Application fees are due with the submittal of the application. Permit fees will be due at the beginning of each month for the duration of the permit.

3. Any changes to the information provided in the permit application must be reported to the Director, in a manner prescribed by the Director, within 10 days of the change.

B. OPERATIONS

1. Deployment and operation of Shared Use Mobility Devices shall be limited to the Downtown Plan Area, StreetCar Corridor Study Area and other areas as designated by the Director (See Attachment A). Permit holders shall utilize geo-fencing or similar technology to prevent the use or operation of devices in unauthorized areas. The permit holder shall geo-fence or use similar technology to create the boundaries as designated by the Director.
2. A permit holder may deploy no more 100 Shared Mobility Devices within the first month of operation, with possible incremental increases of up to 100 additional devices every six (6) weeks as approved by the Director only when the following conditions are met:
 - a. Ridership exceeds four (4) rides per device per day;
 - b. Is in good standing with the City and any issues that have been identified have been adequately addressed to the City's satisfaction; and
 - c. Does not exceed the maximum specified in B.3.
3. A permit holder shall deploy no more than a total maximum of 500 Shared Use Mobility Devices for revenue service. The permit holder shall provide the identification numbers for all devices deployed for revenue service to the Director, with real time updates as devices are exchanged.
4. The total number of deployed units must maintain a minimum average of 3 trips per device per day. Should this demand not be met, the Director may require a portion of the devices to be relocated or removed.
5. There shall be no more than three (3) permit holders within the City at one time and permits shall be processed on a first come, first serve basis.
6. Shared Use Mobility Devices shall be limited to a maximum operating speed of 15 miles per hour.
7. Each Shared Use Mobility Device must display the emblem of the permit holder, a unique identification number, and a 24-hour customer service phone number for customers and citizens to report safety concerns, make complaints, ask questions, or request a device to be relocated.
8. Shared Use Mobility Devices shall be equipped with:
 - a. A lamp on the front of the device that emits a white light visible from a distance of at least 500 feet in front of the device.
 - b. A red reflector that is visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the device, or a lamp that emits a red light visible from a distance of 500 feet to the rear of the device.
9. Shared Use Mobility Devices may not be operated without a working bell, horn, or other sound mechanism.
10. Spoken word alarm systems are prohibited on Shared Use Mobility Devices.
11. Shared Use Mobility Devices must not display third party advertising.

12. Shared Use Mobility Devices must be high quality and sturdily built to withstand the effects of weather and constant use for five years.
13. Shared Use Mobility Devices must be well maintained and in good riding condition:
 - a. Permit holder shall keep a record of maintenance activities including, but not limited to, unit identification number and maintenance performed.
 - b. Permit holder shall be responsible for implementing and submitting to the Director a maintenance, cleaning, repair and waste management plan for approval. This plan shall address ongoing maintenance of units, routine cleaning and repair, as well as how units that are no longer capable of service will be disposed of responsibly.
 - c. Permit holder shall have a program to ensure proper recycling of batteries and disposal of Shared Use Mobility Device batteries under Universal Waste Battery disposal standards under Title 40 of the Code of Federal Regulations in part 273.
 - d. Permit holder shall rebalance devices at least once per week.
 - e. Permit holders are required to lock and disable use of vehicles reported as broken, from any source, and must remove the device within two hours.
14. Shared Use Mobility Devices shall be equipped with an on-board GPS unit or equivalent that can report the location of a unit at any time for the purposes of use, recovery, repair, and data collection.
15. Permit holder shall maintain sufficient local operations and maintenance staff to address issues and remove improperly parked devices.
16. Permit holder shall employ or contract at least one (1) designated personnel per 25 devices to regularly patrol and track devices to ensure they are complying with all City requirements.
17. Permit holders shall provide the Director electronic access to the current list of Devices available within the city, which includes the unique identification number for each vehicle. If a unique identification numbers changes/updates due to removed device, the permit holder shall notify the Director and provide this information within fifteen (15) days and ensure that the number of devices does not exceed the number on the permit.
18. Permit holder shall deny access to riders who fail to comply with the requirements below. It is up to the Permit holder to demonstrate how the Permit holder ensures riders are complying with the requirements below :
 - a.Devices may only be operated on a hard surface such as concrete or asphalt. Operation of devices is not permitted on natural surfaces such as grass, gravel, or dirt.
 - b.Riders must be at least 18 years of age.
 - c.Riders must possess a valid driver's license or other valid government-issued identification.
 - d.Riders shall abide by the regulations prescribed in Texas Transportation Code including:
 1. Riders must always yield to pedestrians.
 2. Riders must use bike lanes when available.
 3. Riders must obey all state and city traffic laws.

- e. Riders may not have any passengers. Only one person may be on a device while in use.
- f. Riders may not use mobile phones while operating a device.
- g. The wearing of a helmet is encouraged but not required.
- h. Shared Use Mobility Devices may operate seven days a week. Operating hours shall be limited to 6:00 am to 9:00 pm.

C. PARKING

Permit holders shall comply with the following, and permit holders shall ensure that riders comply with the following:

1. Shared Use Mobility Devices shall stand upright when parked.
2. Parking Permitted: Shared Use Mobility Devices may be parked on sidewalks in a manner that does not impede normal and reasonable pedestrian access or travel on a sidewalk. Devices may be parked only in designated areas, defined as follows:
 - a. Any sidewalk five feet or more in width. Devices parked on a sidewalk may not reduce the minimum clear width of the sidewalk to less than four (4) feet.
 - b. Any designated drop zone as designated by the Director.
3. Permit holders shall encourage users to utilize designated drop zones as designated by the Director at the conclusion of rides.
4. Parking Prohibited: Shared Use Mobility Devices shall not be parked in prohibited areas, defined as follows:
 - a. Any portion of a public right-of-way used for vehicular travel or parking
 - b. Alleys
 - c. Public parks, plazas, or woonerven
 - d. Sidewalks less than five (5) feet in width
13. Shared Use Mobility Devices shall not be parked in the area immediately adjacent to the following:
 - a. ADA accommodations including curb ramps, railings and signal push buttons
 - b. Sidewalk cafés or street patios
 - c. Street furniture (including, but not limited to, benches, parking meters, parking pay stations, waste bins, and newspaper boxes)
 - d. Fire hydrants
 - e. Valet parking stands
 - f. Public transit shelters or stops
 - g. Drinking fountains
 - h. Public art
 - i. Any fixed regulatory or informational sign
14. Shared Use Mobility Devices shall not be parked in a manner that impedes access to any of the following:
 - a. Building entryways
 - b. Vehicular entryways (e.g. driveways, parking garage entryways, et cetera)
 - c. Fire escapes
 - d. Railroad crossings

D. SAFETY

1. A permit holder shall remove any inoperable device, or any device that is not safe to operate, from any public right-of-way within two hours of notice from the Director. Any inoperable device, or any device that is not safe to operate, must be repaired before it is returned to revenue service.
2. A permit holder shall provide the Director with special access, via the permit holder's app or other device, to immediately unlock and remove devices that are blocking access to city property or the public right-of-way.
3. Devices that are parked in an incorrect manner must be removed or relocated by the permit holder within two hours of receiving notice from the director on weekdays between 6:00 am and 6:00 pm (excluding holidays) and within 12 hours of receiving notice from the Director at all other times.
4. A Device that is parked may remain in the same location for up to 48 hours as long as it is parked in accordance with this section. It is encouraged that Devices are picked up daily from the City right-of-way, but no device shall be parked in one location for more than 48 hours.
5. A permit holder shall relocate a Device parked in a residential area after receiving a citizen request or complaint within two hours of receiving notice.
6. After the time for correcting a violation under this subsection has expired, the City or authorized agent may remove and impound the device. The permit holder shall be subject to payment of a fee to reclaim any impounded device.
7. Any device that remains impounded for 60 days or longer is subject to sale.
8. Permit holders shall educate customers regarding the law applicable to riding, operating, and parking a Device. A permit holder's application must provide information notifying the user that:
 - a. The use of helmets is encouraged for the safety of the riders;
 - b. The legal parking of Devices;
 - c. The legal operation of Devices, including the duty to yield to pedestrians.
 - d. The areas where riding and parking are prohibited.
9. Permit holders shall continually educate customers regarding the law applicable to riding, operating, and parking devices.
 - a. Permit holders shall, within the user agreement, include a clause stating that the user agrees to comply with all applicable provisions of the City of El Paso Municipal Code.
 - b. A permit holder shall employ an electronic method to randomly test device users on their understanding of the law applicable to riding, operating, and parking devices prior to allowing the usage of a device, as approved by the Director.

E. EQUITABLE ACCESS

1. A permit holder shall have a plan to provide equitable access in neighborhoods and to communities and users that are underserved by mobility and transportation options.
2. Permit holders are encouraged to continually:
 - a. Provide pricing options that address the needs of low-income residents;

- b. Provide discount programs to low income individuals;
- c. Develop options that do not require a smartphone;
- d. Provide cash-payment options; and
- e. Provide adaptive devices that enable operation by people with disabilities.

F. SURVEY

1. Each permit holder will be responsible for surveying users via their individual app/mobile platforms and/or via e-mail at three-month intervals during the duration of the 12 month pilot program. Survey questions will be developed in coordination with the Director and certain questions will be required. The intent of the survey is to capture more information on travel patterns, safety and overall user feedback.

G. FEES

| Description | Fee | Purpose/Covers costs associated with: |
|-----------------|--|---|
| Application Fee | \$371 | Application Review |
| Permit Fee | \$1/day per device; or Per-Trip Surcharge of \$0.25 for each booked trip | Fund improvement and installation of shared use mobility infrastructure |
| Annual Fee | \$50 per device | Analyzing and assessing data, responding to public complaints, cover costs associated with: removing broken, damaged and/or incorrectly parked vehicles if the company cannot or will not themselves; the purchase and installation of shared use mobility infrastructure |

1. For those devices not identified in a permit application, a triple application fee will be assessed for each device that is shown through monthly data reports that is in addition to the original number of permitted devices.
2. If changes to the number of devices is requested to be modified by the permit holder, the request will need to be in writing and an amended application will be required to be submitted at least 30 days prior to the modification of devices being deployed.

H. INSURANCE REQUIREMENTS.

A Person applying for a Permit shall submit, with the application, a copy of the following documents showing proof of compliance with the coverages and amounts established by the Risk Manager: a certificate of insurance and a complete insurance policy with all endorsements. A Person shall maintain the coverages and amounts of insurance as established by the Risk Manager for the duration of the Permit. A Person shall add the City of El Paso as an additional insured to all insurance policies under this Section. The Insurance Requirements established by the Risk Manager are listed below. A Person shall provide and maintain the following:

1. Written on an occurrence form, including all the usual coverage known as:
 - a. Premises/operations liability
 - b. Products/completed operations
 - c. Personal/advertising injury
2. Minimum Limits of Liability
 - a. \$1,000,000 Bodily Injury/\$1,000,000 Property Damage per occurrence
3. Automobile Liability;
 - a. \$1,000,000 Bodily Injury/\$500,000 Property Damage Liability per occurrence
4. The City, its officials, employees, agents and contractors shall be named as additional insureds and contain a “blanket waiver of subrogation” clause in favor of the City.
5. The contractor/vendor and their subcontractors’ insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents and contractors shall be in excess of the contractor/vendor’s or contractor/vendor’s subcontractor’s insurance and shall not contribute to the contractor/vendor’s or contractor/vendor’s subcontractor’s insurance.
6. Prior to undertaking any work under this Agreement, the contractor/vendor, at no expense to the City, shall furnish to the City a certificate of insurance with original endorsements affecting coverage for each of the insurance policies provided in this exhibit. Any deductibles or self-insured retentions must be declared to, and approved by the City.

I. BOND REQUIREMENTS.

The Risk Manager shall establish bond or irrevocable letter of credit requirements to cover the following: any damages to the public right of way caused by a Shared Use Mobility Device, costs of removing from the Public Right of Way a Shared Use Mobility Device, and costs of storing and disposing of any Shared Use Mobility Devices. A Person shall comply with the bond requirements or irrevocable letter of credit requirements established in this Section for the duration of a Permit. The amount established by the Risk Manager is equal to the assessed permit fee of the allowed devices through each permit to cover all devices.

J. DATA REQUIREMENTS.

1. A Person holding a Permit under this Section shall collect Non Personally Identifiable Information, including, but not limited to:
 - a. All trip data, including origins and destinations, trip duration, date and time of trip;
 - b. Unique identification number for each device;
 - c. Number of trips per device per day;
 - d. Total number of devices in service;
 - e. Percentage of devices placed in designated drop zones at the end of use;
 - f. Number of devices lost, stolen, replaced or impounded;
 - g. Total amount of revenue per month including, but not limited to, any rental fees, membership fees, out of area fees, charges per minute, and charges per ride;
 - h. A collision history report including the number, severity, location and time of the incident, and description and severity of injuries sustained by individuals involved, if any;
 - i. A complaint history report including the number of complaints, the nature of the complaints, and the time it took to remedy the complaint, if remediation was necessary.
 - j. Anonymized aggregated data taken by the permit holder's devices in the form of heat maps showing routes, trends, origins, and destinations.
 - k. Anonymized trip data taken by the permit holder's devices that includes the origin and destination, trip duration, distance and date and time of trip.
2. A Person shall provide such non-PII to the City on a monthly basis, during the duration of a Permit, free of charge. The City shall only use this information for the purposes of evaluating public transportation improvements, other public improvements, and public services. The City may release such non-PII pursuant to any request made under the Texas Public Information Act.
3. Permit holders shall provide such other reports or additional data at the Director's request.

