

DRAFT SHARED MOBILITY DEVICE PROVIDER LICENSING ORDINANCE
ORDINANCE NO. 4443

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADDING ARTICLE XIII, SECTIONS 16-700 THRU 16-720 TO CHAPTER 16 OF THE SCOTTSDALE REVISED CODE RELATING TO SHARED MOBILITY DEVICE PROVIDER LICENSING

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Article XXIII, Sections 16-700 thru 17-720 of the Scottsdale Revised Code are hereby added as follows to Chapter 16:

ARTICLE XXIII. – SHARED MOBILITY DEVICE PROVIDER LICENSING

Sec. 16-700. - Purpose.

- (a) Shared mobility device providers benefit the community and public by providing additional transportation options. However, unregulated shared mobility device providers may cause traffic flow stoppages, unanticipated traffic movements, parking violations and unauthorized use of public property. A primary purpose of this article is to regulate shared mobility device providers where its undesirable effects significantly affect public areas or public safety.
- (b) This article is necessary to protect the health, safety and welfare of the public.

Sec. 16-701. - Definitions.

- (a) The following terms, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person making an application for a license issued pursuant to the provisions of this article.

City means the City of Scottsdale.

Director means the director whose responsibilities include licensing and revenue functions, or the director's designee.

License means a license to which this article applies, including a renewed license.

Licensee means a person who has been issued a license pursuant to the provisions of this article.

Person means an individual, firm, partnership, joint venture, association, company, corporation, estate, trust, receiver, syndicate, broker, the federal government, this state, and any group acting as a unit, including any governmental entity, or any political subdivision or agency of this state. For the purposes of this chapter, a person shall be considered a distinct and separate person from any general or

limited partnership or joint venture or other association with which such person is affiliated. A subsidiary corporation shall be considered a separate person from its parent corporation.

Shared mobility device means any bicycle, electric bicycle, motorized bicycle, electric scooter or similar device that is displayed, offered, parked or placed for rent or use by the public in any public area or public right-of-way.

Shared mobility device provider means any person in the business of providing shared mobility devices.

Sec. 16-702. - Administration and approvals.

The city manager and/or designee shall administer this article, except as otherwise specifically provided. The city treasurer, or designee, and chief of police, or designee, shall assist in connection with license applications and enforcement.

Sec. 16-703. - Shared mobility device license required; types of licenses.

- (a) No person shall display, offer, place, park or use a shared mobility device on public property without first obtaining a shared mobility device provider license issued pursuant to the provisions of this article.
- (b) There shall be three types (A, B and C) of shared mobility device provider licenses issued pursuant to the provisions of this article based on the number of devices a licensee wishes to deploy within the city at any given moment as follows:
 - (1) Type A no more than one thousand shared mobility devices.
 - (2) Type B no more than five hundred shared mobility devices.
 - (3) Type C no more than one hundred shared mobility devices.
- (c) No licensee shall deploy within the city on public property more than the maximum number of shared mobility devices authorized by the licensee's license.

Sec. 16-704. - Licenses non-transferable.

All licenses issued under this article are non-transferable between persons.

Sec. 16-705. - Information required for shared mobility device provider license applications.

- (a) Applications to obtain a shared mobility device license shall be made by the owner of the shared mobility device operation or an authorized agent on forms developed by the director. The form shall be filled out completely, signed by the applicant and submitted to the director. The authority of an agent to act on behalf of the shared mobility device operation owner shall be in writing, signed by the owner and presented at the time the application is filed.

- (b) The forms shall include the following information:
- (1) The applicant's name, the applicant's business name, legal structure including the name and address of the person who is authorized to accept service of process including citations on behalf of the business, business location, business mailing address, business email and business phone number.
 - (2) A phone number that shall be answered in person twenty-four (24) hours a day by the applicant or the applicant's agent.
 - (3) The maximum number of shared mobility devices the applicant wishes to deploy within the city. The maximum number shall not exceed one thousand (1,000) shared mobility devices.
 - (4) Proof of insurance coverage and indemnification form as required by section 16-708.
 - (5) A shared mobility device user education and safety plan.
 - (6) A written plan outlining how data sharing will be provided as required by section 16-712.
 - (7) Proof that the applicant's user mobile application is capable of notifying riders that are attempting to park or end their trip outside of legal parking areas.
 - (8) In addition to the information specified above, the applicant shall provide supplemental information as the director reasonably determines is necessary to evaluate fully the application.

Sec. 16-706. - Changes in information.

An applicant or licensee shall submit, in writing, to the director, any changes in or additions to the information required under section 16-705, within ten (10) days of the change or addition.

Sec. 16-707. – Fees; duration.

- (a) The fees related to shared mobility device licenses are:
- (1) Annual application fee and late application renewal fee: One thousand dollars (\$1,000.00) and additional fees to be assessed annually as follows:
 - (a) Ninety-nine thousand dollars (\$99,000.00) for a class A license.
 - (b) Forty-nine thousand dollars (\$49,000.00) for a class B license.
 - (c) Nine thousand dollars (\$9,000.00) for a class C license.
- (b) Payment of all applicable fees is due with the application submission.

- (c) If a shared mobility device license is not issued, the license fee will be refunded. Otherwise, fees are not prorated, transferable or refundable, except as provided by state law.
- (d) All licenses issued pursuant to this article shall be for a period of one (1) year and shall be renewable under the terms and conditions of this article.

Sec. 16-708. - Insurance and indemnification required for licensees.

- (a) The licensee shall be responsible for all liability imposed by law for personal injury, death or property damage arising out of or related in any way to the licensee's shared mobility devices. If any claim of such liability is made against the city, its officers or employees, the licensee shall defend, indemnify and hold them harmless from such claim, including claims alleging the negligence of the city, its officers or employees. The licensee shall sign an indemnification form before receipt of the licensee's shared mobility device license.
- (b) The applicant shall submit to the director certificates of insurance evidencing the applicant's insurance coverage for the term of the shared mobility device license. The licensee shall purchase and maintain minimum insurance as required below.
- (c) The insurance shall:
 - (1) Name the City of Scottsdale, its departments, elected and appointed officials, agents, officers, employees and volunteers as additional insureds;
 - (2) Specifically contain a severability of interest provision and a waiver of subrogation against the city, its departments, elected and appointed officials, agents, officers, employees and volunteers as additional insureds;
 - (3) Be primary with respect to the city, its departments, elected and appointed officials, agents, officers, employees and volunteers as additional insureds;
 - (4) Provide commercial general liability coverage with a limit of not less than one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$2,000,000.00) aggregate, including coverage for bodily injury, broad form property damage, personal injury, products/completed operations, and blanket contractual;
 - (5) Provide that coverage cannot be canceled or expire without providing the city at least ten (10) days prior written notice'
 - (6) The insurance company issuing the policy shall be authorized to issue commercial liability policies in Arizona by the Arizona Department of Insurance and have an A.M. Best rating of at least B++6.
 - (7) Be approved by the city's risk management director.
- (d) No person shall provide, place, use or park shared mobility devices within or on a public area without the insurance required by this section.

Sec. 16-709. - Conditions for issuance of a shared mobility device license.

The director shall issue a shared mobility device license to an applicant or renew a shared mobility device license, if applicable, when the following conditions are fully satisfied:

- (a) The application is complete, signed and submitted as required in section 16-705.
- (b) All fees specified in section 16-707 are paid in full.
- (c) The applicant is not delinquent in the payment of any city taxes, fees or other payments due.
- (d) The applicant submits the insurance documents and signed indemnification form required in section 16-708.
- (e) The applicant has provided proof that the applicant's user mobile application is capable of notifying riders that are attempting to park or end their trip outside of legal parking areas.
- (f) The applicant has complied with the provisions of sections 16-4(a), (b) and (c) of this chapter and which are made applicable to this article by this section.
- (g) No grounds for denial exist including those within section 16-4(d) of this chapter, which are made applicable to this article by this section, except for sections 16-4(d)(1) and (d)(4) which shall not be applicable to this article.

Sec. 16-710. - License timeframes.

- (a) The license timeframes set forth in article I of this chapter apply to this article.
- (b) To avoid a lapse in the license, the licensee applying for renewal shall file an application with the director no later than thirty (30) days before the expiration of the license currently in effect. If a licensee applies for renewal later than thirty (30) days before the expiration of the license currently in effect, an additional non-refundable late application fee will be charged as set forth in this article.

Sec. 16-711. - Denial of issuance.

- (a) The director shall deny an application for a shared mobility device license or a request to review or renew a shared mobility device license, if applicable, if:
 - (1) The applicant has failed to complete the application required, provide the information required by or meet the requirements of section 16-705, or submit the insurance documents and signed indemnification form required by section 16-708; or
 - (2) Other grounds for denial exist under this article, including, but not limited to:
 - a. Failure to provide the shared data required by section 16-712.
 - b. The applicant has had two (2) or more criminal convictions of Chapter 17 within a one (1) year period prior to the application.

- (b) The provisions of section 16-6 shall be applicable to the denial of an application or request for renewal. The aggrieved party may appeal the denial as provided in article I of this chapter.

Sec. 16-712. – Data sharing required.

- (a) All licensees licensed under this article shall provide the following data to the city at least every thirty (30) minutes:

- (1) The quantity, location and type of devices located within the city.
- (2) The quantity of, distance and elapsed time of rides.
- (3) Any other non-personal identifying data that does not impose an undue burden on the licensee as determined by the city manager or designee excluding financial or company proprietary data.

- (b) All licensees licensed under this article shall enter a data sharing agreement developed by the city manager or designee to provide the data listed in subsection (a) above that shall at a minimum contain the following provisions:

- (1) Appropriate administrative, technical and organizational security measures to prevent unauthorized access to data and/or submission of false information to the city.
- (2) Encryption solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or an equivalent industry standard deemed acceptable by the city manager or their designee.
- (3) Providers of data shall notify the city as soon as reasonably feasible, in writing, of any data breach which has impacted or has the potential to impact the city.
- (4) Data provided to the city shall be sent exclusively from within the continental United States of America.
- (5) Providers of data, by entering into a licensing agreement pursuant to this section warrant that no software utilized, or actions taken by the entity, will disrupt city hardware or software.
- (6) Providers of data shall regularly scan all software and files used to transmit data for malicious software.
- (7) The format and specifications of data shared shall be in accordance with the Open Mobility Foundation's "Mobility Data Specification" or a comparable format designated by the city manager or their designee.

- (8) At no time shall data received by the city pursuant to this section be copied, disclosed or retained without the written consent of the city manager or their designee except as otherwise authorized by law.
- (9) All data provided by or on behalf of the city is provided without warranty.

Sec. 16-712 - Revocation and revocation procedures; appeal.

The following are grounds for revoking a license issued pursuant to this article:

- (a) If a licensee has two (2) or more criminal convictions of Chapter 17 within a one (1) year period.
- (b) If a licensee's insurance required in section 16-708 is canceled or lapses.
- (c) If a licensee is found responsible or convicted two (2) or more times in any twelve-month period of any violations of this article.
- (d) If the director has reasonable grounds to believe that the circumstances set forth in sections 16-8(2), (3) or (4) exist.
- (e) If any of the grounds for denial in section 16-711 exist.
- (f) The director's notice of a license revocation hearing shall conform to the provisions of section 16-6.
- (g) The revocation procedure and hearing shall conform to the provisions of section 16-9 and section 16-10, respectively.
- (h) The appeal and appeal procedure shall conform to the provisions of section 16-11.

Sec. 16-713. - Reapplication.

- (a) Except as specified below in this section, any person who, pursuant to this article, has previously been denied a shared mobility device license or renewal, or who has had a license revoked, may reapply for a license at any time after the decision affecting the applicant's license has become final and is no longer subject to appeal pursuant to this article. No new license may be issued to the applicant except upon full compliance with this article.
- (b) Any person who, pursuant to this article, has previously been denied a shared mobility device license or renewal, or who has had a license revoked, for the following reasons, shall not be permitted to apply for a shared mobility device license until two (2) years after the decision affecting the applicant's license has become final and is no longer subject to appeal pursuant to this article:

- (1) False or misleading information was given in any license application or license application supplement as required in section 16-705 or was submitted in support of any application or application supplement.
- (2) The applicant or licensee failed or refused to make full disclosure of all information required for the completion of the application.
- (3) The licensee's license was revoked because the licensee was found responsible for or convicted two (2) or more times in any twelve-month period of any violation of this article.

Sec. 16-714. - Penalties.

- (a) A first violation of this article is a class three misdemeanor and shall be punished in addition to any other penalties authorized by law, by a fine of not less than one hundred fifty dollars (\$150.00) per violation.
- (b) A second or subsequent violation of this article within one (1) year of conviction of a first violation is a class one misdemeanor and shall be punished, in addition to any other penalties authorized by law, by a fine of not less than five hundred dollars (\$500.00) per violation.
- (c) The court shall not suspend any part of any fine required by this section.
- (d) Revocation of a license shall not be a defense against prosecution.

Sec. 16-715 – 16-720. – Reserved.

Section 2. The effective date of this ordinance shall be July 1, 2020.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this ____ day of ____ 2020.

CITY OF SCOTTSDALE, an Arizona municipal corporation

ATTEST:

Carolyn Jagger, City Clerk

W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:

Sherry R. Scott
City Attorney
By: Luis E. Santaella
Deputy City Attorney

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