

THIS PRINT COVERS CALENDAR ITEM NO. : 11

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Sustainable Streets

BRIEF DESCRIPTION:

Amending the Transportation Code, Division II, to establish a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Transportation, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted Powered Scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way, and making non-substantive corrections in Division II.

SUMMARY:

- Recently, three companies have begun operating Powered Scooter Share Programs that utilize the public right-of way.
- Current law prohibits blocking sidewalks and imposes requirements on the operation of Powered Scooters, but there are no specific restrictions on Powered Scooter Share Programs.
- Powered Scooter Share Programs have the potential to complement our existing transportation network by providing a sustainable last mile solution.
- Powered Scooter Share Programs also have the potential to impede pedestrian travel and increase the risk of pedestrian injuries.
- Staff has developed a pilot permit program that would grant permits Powered Scooter Share Operators to operate during the 24-month term of the program, prohibit leaving an unpermitted Powered Scooter share scooter in the public right-of way, and impose administrative penalties.
- The legislation would also make non-substantive corrections to existing provisions of the Transportation Code concerning the Bicycle Share and Stationless Bicycle Share programs.

ENCLOSURES:

1. SFMTAB Resolution
2. Transportation Code Division II legislation

APPROVALS:

DIRECTOR  _____

DATE

4/25/2018

SECRETARY  _____

4/24/2018

ASSIGNED SFMTAB CALENDAR DATE: May 1, 2018

PAGE 2.

PURPOSE

Amending the Transportation Code, Division II, to establish a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Transportation, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted Powered Scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way, and making non-substantive corrections in Division II.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action supports the following SFMTA Strategic Plan Goals and Objectives:

Goal 2 - Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel.

Objective 2.3 - Increase use of all non-private auto modes.

Goal 3 - Improve the environment and quality of life

Objective 3.4 - Deliver services efficiently.

This action supports the following Transit First Policy Principles:

- To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
- Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
- Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.
- The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

DESCRIPTION

Background

In March 2018, three companies (Bird, LimeBike, and Spin), began operating electric scooter share programs in San Francisco. SFMTA is referring to these programs as Powered Scooter Share Programs.

A Powered Scooter is any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by a motor. This device may also have a driver seat that does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion.

PAGE 3.

The proposed legislation defines and regulates any “Powered Scooter Share Program.” Such a program is defined as a system of self-service Powered Scooters for hire in the City and County of San Francisco operated by a Powered Scooter Share Operator, which offers to users a pool of self-service Powered Scooters for use in the public right-of-way or on public property in the City.

While state law currently imposes restrictions on the operation of Powered Scooters, including requiring that users have a driver’s license or instructional permit and use a helmet, prohibiting riding on sidewalks, and prohibiting the obstruction of sidewalks and other pedestrian paths of travel through the parking and/or dumping of scooters, there are no laws regulating the operation of Powered Scooter Share Programs.

The SFMTA supports innovative solutions that have the potential to complement our existing transportation network. Powered Scooter Share Programs introduce a new transportation option that may be convenient for users making short trips or as a “last mile” solution when paired with public transit. Furthermore, if Powered Scooter Share users replace trips they would otherwise have taken by automobile, they have the potential to reduce traffic congestion, parking demand, and carbon emissions. SFMTA staff have received numerous emails from Powered Scooter Share Program users expressing their support for these programs.

However, since program operators began deploying Powered Scooters for hire in San Francisco, the SFMTA and other City agencies have also received numerous complaints from members of the community about Powered Scooter Share scooters being operated on sidewalks and being left in locations that impede pedestrian access, including blocking access to doorways and stairs. This is of particular concern to members of the public who travel in a wheelchair or who have visual impairments, and have greater difficulty seeing and avoiding (or moving) Powered Scooter Share Scooters blocking their path. The SFMTA has been informed of one instance in which a person with a visual impairment fell after tripping on a scooter, as well as a report of a person breaking a toe after tripping on a Powered Scooter Share scooter.

SFMTA staff recommends establishing a pilot permit program to allow the City to effectively regulate Powered Scooter Share operations in San Francisco given the potential risk to public safety.

On March 28, 2018, the SFMTA sent letters to Bird, LimeBike, and Spin notifying the companies of the planned development of a shared scooter program permit and requesting cooperation with the SFMTA to ensure compliance with existing regulations. The SFMTA also requested that the companies acknowledge the letter and provide a business plan that discusses service extent, plans and methods of scooter (re)distribution, and intended use of the public space.

The SFMTA requested responses to the letter by April 6, 2018 and received responses from all three Powered Scooter Share Program operators on or before that date. These letters expressed a desire to continue to operate in San Francisco in compliance with the new permit program as well as providing various details as to their current operational practices.

Current Requirements

As explained above, state law imposes requirements on the operation of Powered Scooters, including prohibiting riding on sidewalks, leaving a scooter lying on its side on a sidewalk, or parked on a sidewalk such that there is not an adequate path for pedestrian traffic. In addition, the City's Public Works Code broadly prohibits obstructing the public right-of-way.

Proposed Transportation Code Revisions

The proposed Transportation Code amendments would authorize the SFMTA to establish a 24-month pilot program to regulate Powered Scooter Share Programs. The following summarizes key provisions of the proposed legislation:

- The Director of Transportation would be authorized to issue up to five permits, each authorizing up to 500 Powered Scooters, for a maximum of 2,500 total.
- Establishes a permit application fee of \$5,000, and a \$25,000 annual permit fee to recover but not to exceed the costs of reviewing applications and administering the permit program.
- Permits would allow Powered Scooters that are part of a Scooter Share Program to be parked or left unattended on the sidewalk or public right-of-way consistent with permit requirements.
- Establishes a violation for an unpermitted Powered Scooter that is part of a Scooter Share Program to be parked or left unattended on the sidewalk or public right-of-way.
- Establish administrative penalties for failure to obtain a permit or violations of permit conditions
- Requires permittees to provide a maintenance, operations, cleaning, disposal, and repair plan approved by the SFMTA and Public Works
- Requires permittees to inform customers of applicable legal requirements governing Powered Scooters, including helmet requirements and the prohibitions on traveling on sidewalks, and parking or leaving scooters in a manner that impedes pedestrian traffic.
- Requires permittees to pay \$10,000 into a public property repair and maintenance endowment that the City can draw upon in the event that costs are incurred by City agencies such as damage to public property or costs associated with removing and storing improperly parked scooters.
- Requires that all Operators establish a Privacy Policy that safeguards user information
- Require permittees to provide detailed trip data to the SFMTA for the purposes of monitoring permit compliance and evaluating the transportation policy implications of the pilot.
- Requires permittees to provide a low-income user plan for customers.
- Permittees required to submit a proposed service area plan to SFMTA for approval, and encouraged to provide service to Communities of Concern.

There is a bill pending in the state Legislature (A.B. 2989) that would modify how Powered Scooters are treated under state law. As currently drafted, this legislation would remove such scooters with motors of less than 750 watts and a top speed that does not exceed 20 miles per hour from the definition of "Motorized Scooter" in Section 407.5 of the California Vehicle Code and subject them

PAGE 5.

instead to requirements applicable to bicycles. The practical effect of this legislation on the proposed Powered Scooter Share Program would be to eliminate the requirement that users have a driver's license or wear helmets (although helmets would still be required for minors under 18). In addition, Powered Scooters would be permitted to operate on sidewalks unless the City passes a law prohibiting such operation. The City may consider changes to local law if this State law is passed; any State changes likely would not go into effect until 2019.

The proposed Powered Scooter Share Program legislation has been drafted to enable the City to regulate Powered Scooters under either current state law or under A.B. 2989 as it currently reads.

On March 6th, 2018, Supervisor Aaron Peskin introduced legislation at the Board of Supervisors to amend Division I of the San Francisco Transportation Code to establish a violation for motorized scooters that are a part of a motorized scooter share program to be parked, left standing, or left unattended on a sidewalk, street, or public right-of-way under the jurisdiction of the SFMTA or Public Works without an SFMTA-issued permit. The Division I amendments were passed on first reading by the Board of Supervisors on April 17th, 2018, and as of April 19th the amendments are scheduled for second hearing on April 24th, 2018.

Finally the proposed Division II legislation would make non-substantive corrections to Transportation Code Sections 901, 902 and 909, relating to the Bicycle Sharing and Stationless Bicycle Share programs.

STAKEHOLDER ENGAGEMENT

In developing this proposed approach, SFMTA staff consulted with the offices of Supervisor Peskin and Supervisor Kim, Public Works, the Port of San Francisco, the San Francisco Bicycle Coalition, Walk San Francisco, and other stakeholders. The general themes from conversations with these stakeholders related to ensuring that Powered Scooter Share Programs comply with existing regulations and do not overwhelm San Francisco's streets or compromise the comfort and safety of pedestrians. The proposed legislation addresses these issues by requiring education of users and implementing a cap on the total number of scooters.

The SFMTA also met with or corresponded with staff representing Bird, LimeBike, and Spin, who currently have Powered Scooter Share Programs operating on San Francisco Streets. In addition, the SFMTA has corresponded with representatives from Waybots, Getzigo, Zagster, and Ofo, all of whom are prospective companies considering operating Powered Scooter Share Programs in San Francisco.

ALTERNATIVES CONSIDERED

Maintaining the status quo and not enacting a regulatory program for Powered Scooter Share Programs was considered by SFMTA staff. Staff concluded that this option posed a threat to public health and safety, would likely result in increasingly cluttered and obstructed sidewalks and public spaces and as well as uneven and inequitable distribution of rental Powered Scooters.

PAGE 6.

Banning Powered Scooter Share Programs altogether was also considered by SFMTA staff; however, given the rapid adoption of scooters by many members of the community, and the potential for scooters to help reduce vehicle trips and add a sustainable and low-emission last-mile solution for people using public transportation, staff concluded that this option would deny the community a new transportation option as well as denying the SFMTA the chance to evaluate the potential benefits of these programs.

FUNDING IMPACT

All costs associated with permitting of Powered Scooter Share Permit Program are recovered through the permit fees – an initial permit fee of \$5,000 for a permit application, and a \$25,000 annual permit fee. These costs were estimated based on review of other SFMTA permit programs and expected level of staff effort to oversee the Powered Scooter Share Permit. These fees will not exceed the costs of the program. Applicable penalties which may be imposed for violations will be tracked by SFMTA staff, however the volume of these violations and the resulting funding impact is unknown.

PUBLISHED NOTICE AND PUBLIC HEARING

Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, published notice was placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing on May 1, 2018, to consider amending the Transportation Code to establish penalties, including administrative penalties, and permit fees related to the Powered Scooter Share Permit Program. In compliance with these requirements, the advertisement ran in the San Francisco Examiner for five-days as follows: April 5, 2018, April 8, 2018, April 11, 2018, April 12, 2018, and April 15, 2018.

ENVIRONMENTAL REVIEW

On April 10, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Powered Scooter Share Program is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

Approval of Transportation Code Division I amendments by the Board of Supervisors is required in order to enable the SFMTA to enforce the penalty provisions of the proposed legislation. As of April 19th, 2018, the Division I amendments were scheduled for second hearing on April 24th, 2018. No other approvals are required.

PAGE 7.

The City Attorney's Office has reviewed this report.

RECOMMENDATION

SFMTA staff recommends that the SFMTA Board amend the Transportation Code, Division II, to establish a pilot Powered Scooter Share Permit Program for 24 months, require a permit issued by the Director of Transportation, establish a fee for the issuance of the permit, establish administrative penalties for failure to obtain a permit or violation of permit requirements, provide a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted Powered Scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way, and make non-substantive corrections in Division II.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, In March, 2018, three companies began operating shared electric scooter programs (Powered Scooter Share Programs) in San Francisco, resulting in a proliferation of Powered Scooters on sidewalks, streets, and other public right-of-ways; and,

WHEREAS, While state law imposes requirements for users of Powered Scooters, including requiring that users have a valid driver's license or instructional permit and wear a helmet, and that such scooters not be operated on sidewalks or parked or left in a manner that obstructs pedestrian traffic, there are no permit or other requirements governing Powered Scooter Share Programs; and,

WHEREAS, Powered Scooter Share Programs have the potential to complement San Francisco's existing transportation network by providing a sustainable last mile solution; and,

WHEREAS, Since the Powered Scooter Share Programs have begun operating, the City has received numerous complaints about these scooters being operated in a manner that is inconsistent with state law, including being operated on sidewalks, or left on sidewalks or in the public right-of-way so as to impede pedestrian traffic, including blocking access to stairways and doorways; and

WHEREAS, Maintaining the status quo and not enacting a regulatory program for Powered Scooter Share Programs would likely result in increasingly cluttered and obstructed sidewalks and public spaces and pose a threat to public health and safety, as well as uneven and inequitable distribution of Powered Scooters, and potential liability for the City; and,

WHEREAS, In order to address these concerns, SFMTA has developed a proposed 24 month pilot permit program to regulate operators of Powered Scooter Share Programs; and,

WHEREAS, The proposed pilot program would allow the Director of Transportation to issue up to five permits, each authorizing up to 500 scooters, and establish permit conditions, permit fees and penalties for violations; and

WHEREAS, In developing the proposed program, SFMTA staff has consulted with members of the Board of Supervisors, the Mayor's Office, Public Works, the Port of San Francisco, the San Francisco Bicycle Coalition, Walk San Francisco, and other stakeholders; and,

WHEREAS, San Francisco City Charter Section 16.112 requires that published notice be given and a public hearing be held before any fee or any schedule of rates, charges or fares which affects the public is instituted or changed; and,

WHEREAS, Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, published notice was placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing to consider amending the Transportation Code to establish penalties, including administrative penalties, and permit fees related to the Powered Scooter Share Permit Program beginning on April 5, 2018; and,

WHEREAS, On April 10, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the Powered Scooter Share Program is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends the Transportation Code, Division II, to establish a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Transportation, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted Powered Scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way, and making non-substantive corrections in Division II.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of May 1, 2018.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION #

[Transportation Code – Regulation of Powered Scooter Share Programs]

Resolution amending Division II of the Transportation Code to establish a pilot Powered Scooter Share Permit Program requiring a permit issued by the Director of Transportation, establishing a fee for the issuance of the permit, administrative penalties for failure to obtain the permit or violation of permit requirements, and a procedure for the assessment and collection of administrative penalties for permit violations or for parking or leaving standing on a sidewalk, street, or other public right-of-way an unpermitted Powered Scooter subject to the Program; and making nonsubstantive corrections in other sections of Division II.

NOTE: Additions are single-underline Times New Roman;
deletions are ~~strike-through Times New Roman~~.
Asterisks (* * * *) indicate the omission of unchanged
Code subsections or parts of tables.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of the Transportation Code is hereby amended by revising Section 302, to read as follows:

SEC. 302. TRANSPORTATION CODE PENALTY SCHEDULE.

Violation of any of the following subsections of the Transportation Code shall be punishable by the fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2016**	FINE AMOUNT Effective July 1, 2017**
* * * *			
<u>BICYCLE SHARED MOBILITY SERVICES VIOLATIONS</u>			
Div I 7.2.110	Stationless Bike Share Parking	\$100	\$100
<u>Div I 7.2.111</u>	<u>Powered Scooter Permit Violation</u>	<u>N/A</u>	<u>\$100</u>
<u>Div I 7.2.111</u>	<u>Unpermitted Powered Scooter Share Parking</u>	<u>N/A</u>	<u>\$100</u>

Section 2. Starting July 1, 2018, Article 300 of the Transportation Code is hereby amended by revising Section 302, to read as follows:

SEC. 302. TRANSPORTATION CODE PENALTY SCHEDULE.

Violation of any of the following subsections of the Transportation Code shall be punishable by the fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2018**	FINE AMOUNT Effective July 1, 2019**
* * * *			
<u>BICYCLE SHARED MOBILITY SERVICES VIOLATIONS</u>			
Div I 7.2.110	Stationless Bike Share Parking	\$100	\$100
<u>Div I 7.2.111</u>	<u>Powered Scooter Permit Violation</u>	<u>\$100</u>	<u>\$100</u>
<u>Div I 7.2.111</u>	<u>Unpermitted Powered Scooter Share Parking</u>	<u>\$100</u>	<u>\$100</u>

Section 3. Article 900 of Division II of the Transportation Code is hereby amended by revising Sections 901 and 902, to read as follows:

SEC. 901. DEFINITIONS.

As used in this Article ~~901~~900, the following words and phrases shall have the following meanings:

* * * *

Permittee. Unless otherwise defined herein with respect to a particular type of permit under this Article 900, the natural person, sole proprietorship, partnership, association, corporation, governmental or non-profit agency that is the named holder of a permit issued pursuant to this Article 900, and such person or entity's successors or assigns in interest. Only a natural person is eligible for a Residential Parking Permit.

* * * *

Powered Scooter. Any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor or other power source. This device may also have a driver seat that does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion. A motorcycle, as defined in Section 400 of the California Vehicle Code, a motor-driven cycle, as defined in Section 405 of the California Vehicle Code, or a motorized bicycle or moped, as defined in Section 406 of the California Vehicle Code, is not a Powered Scooter.

Powered Scooter Share Operator. An individual or a public, private, or non-profit entity that manages a Powered Scooter Share Program.

Powered Scooter Share Program. A system of self-service Powered Scooters for hire in the City and County of San Francisco operated by a Powered Scooter Share Operator that offers to

users a pool of at least 10 self-service Powered Scooters for use in the public right-of-way or on public property in the City and County of San Francisco, Alameda County, Contra Costa County, Marin County, San Mateo County, or Santa Clara County.

* * * *

Stationless Shared Bicycle. A bicycle designed to be locked or secured from unauthorized use without being required to be locked or secured to a bicycle rack, bicycle sharing station, or other object.

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SEC. 902. GENERAL PERMIT CONDITIONS.

* * * *

**Table 902(d)
Permit Fee Schedule**

	Effective July 1, 2016	Effective July 1, 2017
* * * *		
Stationless Bicycle Share Program Permit (§909)		
Permit Application Fee		
Less than 500 bicycles	\$11,826	\$12,208
500 to 1,500 bicycles	\$13,355	\$13,787
1,500 to 2,500 bicycles	\$15,210	\$15,702
2,500 to 3,000 500 bicycles	\$16,739	\$17,280
3,500 or more bicycles	\$18,944	\$19,558
Annual/Renewal Fee		

Less than 500 bicycles	N/A	\$9,725
500 to 1,500 bicycles	N/A	\$11,303
1,500 to 2,500 bicycles	N/A	\$13,219
2,500 to 3,500 bicycles	N/A	\$14,797
3,500 or more bicycles	N/A	\$17,074
* * * *		
Bus Substitution Fee (Division I, Article 6.2(f))	\$32.75	\$33.75
Powered Scooter Share Program Permit (§916)		
<u>Powered Scooter Share Program Permit</u>	<u>\$25,000</u>	<u>\$25,000</u>
<u>Powered Scooter Share Program Permit Application Fee</u>	<u>\$5,000</u>	<u>\$5,000</u>

Section 4. Starting July 1, 2018, Article 900 of Division II of the Transportation Code is hereby amended by revising Section 902, to read as follows:

SEC. 902. GENERAL PERMIT CONDITIONS.

* * * *

**Table 902(d)
Permit Fee Schedule**

	Effective July 1, 2018	Effective July 1, 2019
* * * *		
Bus Substitution Fee (Division I, Article 6.2(f))	\$35	\$36.50
Powered Scooter Share Program Permit (§916)		

<u>Powered Scooter Share Program Permit</u>	<u>\$25,000</u>	<u>\$25,000</u>
<u>Powered Scooter Share Program Permit Application Fee</u>	<u>\$5,000</u>	<u>\$5,000</u>

Section 5. Article 900 of Division II of the Transportation Code is hereby amended by revising Section 909 and adding Section 916, to read as follows:

SEC. 909. BICYCLE RACK, ~~AND~~ BICYCLE SHARING STATION, AND STATIONLESS BICYCLE SHARE PROGRAM PERMITS.

* * * *

(d) **Criteria for Granting a Bicycle Rack or Bicycle Sharing Station Permit.** In considering an application for a bicycle rack or bicycle sharing station permit, the Director of Transportation shall consider the proposed location and design of the bicycle rack or bicycle sharing station in light of all legal requirements, the availability of Parking, and the anticipated effects of the proposed bike rack, or bicycle sharing station on public transit, pedestrian and vehicular traffic and access to or from residences and businesses.

* * * *

(f) **General Permit Requirements and Criteria for Stationless Bicycle Share Program Permit.**

* * * *

(6) To be eligible to obtain a Stationless Bicycle Share Program Permit, the Stationless Bicycle Share Operator must demonstrate compliance with the following requirements to the SFMTA's satisfaction:

* * * *

(E) Adequate insurance as determined by the City's Risk Manager, which lists the City and County of San Francisco as an additional insured, must be provided for each bicycle ridden, parked, or left standing or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the SFMTA or Public Works, and each user using the bicycle during the period of use. The Permittee must indemnify and hold the City and County of San Francisco, its departments, commissions, boards, officers, employees, and agents ("Indemnitees") harmless from and against any and all claims, demands, actions, or causes of action which may be made against the Indemnitees for the recovery of damages for the injury to or death of any person or persons or for the damage to any property resulting directly or indirectly from the activity authorized by the permit, ~~including~~, regardless of the negligence of the Indemnitees.

* * * *

SEC. 916. POWERED SCOOTER SHARE PILOT PROGRAM.

(a) General Permit Program Requirements.

(1) The Director of Transportation is authorized to implement a pilot program for the issuance of Powered Scooter Share Permits commencing on a date designated by the Director. The duration of the pilot program shall not exceed 24 months from the date of commencement.

(2) The Director of Transportation may issue Powered Scooter Share Permits upon receipt of applications from Powered Scooter Share Operators on a form prescribed by the SFMTA which applications meets the requirements of this Section 916. Each applicant shall pay a nonrefundable permit application fee. The maximum number of Powered Scooters authorized under a Powered Scooter Share Permit shall be 250 during the first nine months of the pilot

program, and 500 during the remaining months of the pilot program. In no event shall SFMTA issue more than five Powered Scooter Share Permits under the pilot program. Each permit shall be valid for up to one year, but in no event longer than the ending date of the pilot program. A permittee whose permit is revoked shall not be eligible to reapply for a permit for six months from the date of revocation.

(3) Definition of Permittee. “Permittee” shall mean the natural person, sole proprietorship, partnership, association, corporation, governmental or non-profit agency that is the named holder of a permit issued under this Section 916.

(b) **Permit Required.** No Powered Scooter that is part of a Powered Scooter Share Program may be parked, left standing, or left unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the SFMTA or the Department of Public Works (Public Works) without the Powered Scooter Share Operator first obtaining a permit under this Section 916.

(c) **Director’s Authority to Issue Powered Scooter Share Program Permits.** The Director of Transportation has the authority at his or her sole discretion to grant a revocable permit to the Powered Scooter Share Operator of a Powered Scooter Share Program for operation in the public right-of-way under the jurisdiction of the SFMTA or Public Works in the City. The Director of Transportation may impose permit conditions, including but not limited to, conditions related to the location, placement, parking, securing, safe operation, or maintenance of any Powered Scooter that is part of a Powered Scooter Share Program, as well as conditions the Director determines are necessary to protect the public convenience and safety concerning transfer of permits, grounds for permit revocation, indemnification requirements, protection of personal, financial and travel information of users, and the maintenance of insurance in a form and amount satisfactory to the City.

(d) **General Permit Requirements and Criteria for Powered Scooter Share Program Permits.**

(1) The Director of Transportation may issue a permit to a Powered Scooter Share Operator upon receipt of a written application from a qualified permit applicant on a form prescribed by the SFMTA.

(2) The name and current contact information for the Powered Scooter Share Operator, as well as a unique number identifying the scooter, shall be prominently displayed on each scooter that is part of a Powered Scooter Share Program.

(3) The Director of Transportation reserves the right to revoke a Powered Scooter Share Program Permit for cause at any time upon written notice of revocation as set forth in subsection (f) of this Section 916. The Permittee shall surrender such permit in accordance with the instructions in the notice of revocation.

(4) A permit fee must be paid by the permit applicant before any permit may be issued or renewed. In addition, an applicant shall provide sufficient evidence to demonstrate payment of any penalties assessed for violation(s) of any provision of the San Francisco Municipal Code or of terms of any existing or previously issued permits issued by the City, for which there has been a final determination of the violation.

(5) Upon notification by the City of any Powered Scooter belonging to a Powered Scooter Share Program Operator that is improperly parked, left standing, or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the SFMTA or Public Works, the Powered Scooter Share Operator shall remove the scooter within one hour.

(6) To be eligible and qualified to obtain a Powered Scooter Share Program Permit, a permit applicant must demonstrate compliance with, or must agree to, as applicable, the following requirements, to the SFMTA's satisfaction:

(A) Each Powered Scooter shall be capable of providing real-time location data to the SFMTA in accordance with the specifications issued by the Director of Transportation.

(B) Adequate insurance as determined by the City's Risk Manager, which lists the City and County of San Francisco as an additional insured, must be provided for each Powered Scooter ridden, parked, or left standing or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the SFMTA or Public Works, and for each user using the Powered Scooter during the period of use. The Permittee must indemnify and hold the City and County of San Francisco, its departments, commissions, boards, officers, employees, and agents (collectively, "Indemnitees") harmless from and against any and all claims, demands, actions, or causes of action that may be made against the Indemnitees for the recovery of damages for the injury to or death of any person or persons or for the damage to any property resulting directly or indirectly from the activity authorized by the permit, regardless of the negligence of the Indemnitees.

(C) Powered Scooter Share Operators shall pay the SFMTA a public property repair and maintenance endowment totaling \$10,000, payable at the time of permit issuance, to ensure adequate funds are available to reimburse the City for future public property repair and maintenance costs that may be incurred, including but not limited to any costs of repairing or maintaining damaged public property by the Powered Scooter Share Operator or its customers, removing and storing scooters improperly parked or left unattended on public property, and addressing and abating any other violations.

(D) If the SFMTA, Public Works, or any other City agency, department, or commission, including the City Attorney's Office, incurs any costs of addressing or abating any violations of this Section 916, including repair or maintenance of public property, upon receiving written notice of such City costs, the Powered Scooter Share Operator shall reimburse the SFMTA for such costs within 30 days. The SFMTA shall arrange for transfer of funds to any other City agency, department, or commission that incurred costs described above.

The Powered Scooter Share Operator’s payment under this subsection (e)(6)(D) shall not substitute for any installment payment otherwise owed or to be paid to the SFMTA.

(E) The SFMTA encourages City Powered Scooter Share Operators to make Powered Scooters available to users in census tracts designated as “communities of concern” by the Metropolitan Transportation Commission. Each Powered Scooter Share Program Operator shall provide a proposed service area for approval by the SFMTA and furnish an accurate map of the agreed-upon area to the SFMTA.

(F) Submit a maintenance, operations, cleaning, disposal, and repair plan for the Powered Scooters subject to approval the SFMTA and Public Works.

(G) Submit a low-income user plan that waives any applicable scooter deposit and offers an affordable and discounted cash payment option to any user with an income level at or below 200% of the federal poverty guidelines.

(H) Provide a multilingual website with languages determined by the SFMTA, 311 call center, and mobile application customer interface, that is available 24 hours a day, seven days a week. The website and mobile application shall also meet the requirements of Section 508 of the Rehabilitation Act and Section 255 of the Communications Act that apply to information and communication technology.

(I) Submit a Privacy Policy consistent with guidelines issued by the Director of Transportation that safeguards users’ personal, financial, and travel information and usage including, but not limited to, trip origination and destination data.

(J) Submit aggregate user demographic data that does not identify individual users, payment methods, or their individual trip history, gathered by the system application, to the SFMTA on at least a monthly basis using anonymized keys.

(K) Provide an electronic payment system that is compliant with the Payment Card Industry Data Security Standards (PCI DSS).

(L) Each Powered Scooter Share Program Operator shall use best efforts to ensure that its users comply with all applicable laws. Consistent failure by the users associated with a specific Operator to comply with applicable laws shall be grounds for permit suspension or revocation. At a minimum, each Powered Scooter Share Program Operator shall provide to the user a summary of State and local laws governing the use of Powered Scooters, including but not limited to informing the user of applicable requirements for licensing, helmets, travel on highways, parking, and use of sidewalks, as specified by the Director of Transportation. The user shall be required to acknowledge having read these requirements.

(M) Each Permittee shall comply with, and shall ensure that their employees and contractors comply with, applicable laws, including but not limited to, the provisions of this Section 916, and other applicable provisions of this Transportation Code, the Charter and the remainder of the Municipal Code, the California Vehicle Code, California worker's compensation laws, and the Americans with Disabilities Act.

(e) Powered Scooter Share Program Permit Issuance.

(1) After evaluating an applicant's permit application, the Director of Transportation shall either grant the Permit as requested, grant the Permit with modifications, or deny the Permit. Where the Permit is granted with modifications or denied, the notice shall explain the basis for the Director of Transportation's decision.

(2) Notwithstanding any other requirement, the Director of Transportation has the authority to deny a permit based on the extent that issuing a permit would lead to an over-concentration of shared Powered Scooters in the public right-of-way, cause an imbalance in the geographical distribution of scooters that are part of the Powered Scooter Share Program, or otherwise not be in the public interest.

(f) **Permit Revocation.** For good cause, the Director of Transportation may revoke any permit issued under this Section 916. “Good cause” hereunder shall include, but shall not be limited to, the following:

_____ (1) A Permittee failed to pay a fine imposed by the SFMTA under Section 302 of this Code within 30 days of the date due under this Section 916;

_____ (2) A Permittee failed to pay a permit fee within 30 days following notice of nonpayment;

_____ (3) The Permittee has violated any statute or ordinance, including any provision of Division I or II of this Transportation Code, governing the operation of Powered Scooters regulated by this Code; or

_____ (4) The Permittee has violated one or more conditions of the permit.

(g) **Administrative Penalties Applicable to Powered Scooter Share Program Operators.**

(1) Any Powered Scooter Share Program Operator who violates Division I, Section 7.2.111 of this Code is subject to the issuance of a citation and imposition of an administrative penalty.

(2) Any Powered Scooter Share Program Operator who violates one or more conditions of a permit issued under this Section 916 is subject to the issuance of a citation and imposition of an administrative penalty.

(3) Administrative penalties may not exceed \$500 for each offense.

(4) In addition to other designated employees, the Director of Transportation is authorized to designate officers or employees of the Municipal Transportation Agency to enforce Division I, Section 7.2.111 of this Code. Any officer or employee so designated is hereby authorized to issue citations imposing administrative penalties for violations of Division I, Section 7.2.111.

(h) **Procedure for Assessment and Collection of Administrative Penalties.**

(1) This subsection (h) shall govern the imposition, assessment, and collection of administrative penalties imposed pursuant to subsection (g).

(2) The SFMTA finds:

(A) That it is in the best interest of the City, its residents, visitors, and those who park on City streets to provide an alternative, administrative penalty mechanism for enforcement of violations of the Powered Scooter Share Program Permit requirements established by this Section 916; and

(B) That the administrative penalty scheme established by this Section 916 is intended to compensate the public for the injury or damage caused by any person or Powered Scooter Share Operator who parks or leaves standing or unattended any Powered Scooter, that is part of a Powered Scooter Share Program, on any sidewalk, Street, or public right-of-way under the jurisdiction of the Municipal Transportation Agency or Public Works without a permit issued by the Municipal Transportation Agency authorizing the Powered Scooter to be parked, left standing, or left unattended at that location. The administrative penalties authorized under this Section are intended to be reasonable and not disproportionate to the damage or injury to the City and the public caused by the prohibited conduct.

(3) **Administrative Citation.** Where a designated officer or employee determines that there has been a violation of Division I, Section 7.2.111 of this Code, the officer or employee may issue an administrative citation to the person and/or entity responsible for the violation. The citation may be personally served on the applicant or served by certified U.S. mail to the last known address for the Powered Scooter Share Operator. The citation shall state the date and nature of the violation and the amount of the administrative penalty, and shall state that the penalty is due and payable to the SFMTA within 15 business days from the date of the notice, if not contested within the time period specified. The citation shall also state that the person or entity responsible has the right, under subsection (h)(4), to request an administrative

hearing of the determination as to the violation and assessment of penalties, and shall set forth the procedure for requesting an administrative hearing. The designated officer or employee shall mail the administrative citation and evidence supporting the determination of a violation to the last known address for the Powered Scooter owner.

(4) Request for Hearing; Hearing.

(A) A person or entity that has been issued an administrative citation may request an administrative hearing in person, by telephone, or by email in order to contest the citation issued in accordance with this Section 916. The administrative hearing shall be initiated by filing a request for an administrative hearing with the SFMTA Hearing Section within 15 business days from the date of the citation. Failure to request a hearing in a timely manner or to attend a scheduled hearing shall be deemed a waiver of the right to hearing.

(B) At the time the administrative hearing request is filed, the requesting party must deposit with the SFMTA Hearing Section the full amount of the penalty required under the citation.

(C) Whenever an administrative hearing is requested under this subsection (h)(4), the SFMTA Hearing Section shall, within 15 business days of receipt of the request, notify the requestor of the date, time, and place of the administrative hearing by certified mail. Such hearing shall be held no later than 30 calendar days after the SFMTA Hearing Section receives the request, unless time is extended by mutual agreement of SFMTA and the affected party.

(D) The administrative hearing shall be conducted by a neutral Hearing Officer assigned by the SFMTA Hearing Section. The SFMTA Hearing Section may issue rules as needed to implement this requirement. The parties may present evidence and testimony to the Hearing Officer. All testimony shall be under oath. The Hearing Officer shall ensure that a

record of the proceedings is maintained. The burden of proof to uphold the violation shall be on the City, but the administrative citation shall be prima facie evidence of the violation.

(D) The Hearing Officer shall issue a written decision including a summary of the issues and the evidence presented, and findings and conclusions, within 15 business days of the conclusion of the hearing. The Hearing Officer may uphold the penalty imposed by the citation or dismiss the citation. A copy of the decision may be personally delivered to the person contesting the violation or sent by first class mail. The decision shall be a final administrative determination. An aggrieved party may seek judicial review of the decision pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(5) Payment and Collection of Penalty.

(A) Where a person or entity has not made a timely request for administrative hearing, the penalty shall be due and payable to the SFMTA on or before 15 business days from the date of issuance.

(B) Where a person or entity has made a timely request for administrative hearing, and the violation and penalty have been dismissed upon review, the amount deposited by the requestor under subsection (h)(4)(B) shall be refunded to the requestor not later than 10 business days from the date of the notice of decision issued under subsection (h)(4)(D).

(C) If a penalty due and payable under subsections (h)(5)(A) or (B) remains unpaid after the specified due date, the SFMTA shall send the violator written notice that the penalty is overdue. Penalties that remain unpaid 30 calendar days after the due date shall be subject to a late payment penalty of \$50. Persons and entities against whom administrative penalties are imposed shall also be liable for the costs and attorney's fees incurred by the SFMTA in bringing any civil action to enforce the provisions of this Section 916, including obtaining a judgment for the amount of the administrative penalty and other costs and charges.

(D) Where there is a nexus between the violation and property in the City owned by the violator, the SFMTA shall further inform the violator that if the amount due is not paid within 30 calendar days from the date of the notice, the SFMTA may initiate proceedings to make the amount due and all additional authorized costs and charges, including attorney's fees, a lien on the property. Such liens shall be imposed in accordance with Chapter 10, Article XX of the Administrative Code.

(6) Administrative penalties shall be deposited in the Municipal Transportation Fund and may be expended only by the SFMTA.

(i) **Department of Public Works – Coordination.** A Powered Scooter Share Program Permit shall not be issued by the Director of Transportation until the Department of Public Works is notified in writing of the permit application, had an opportunity to review and comment on the application, and has issued any other required permit(s).

Section 6. Effective Date. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance.

Section 7. The amendments to Sections 302 and 902 of the Transportation Code made by Sections 2 and 4 of this ordinance are intended to be additive to the revisions to those sections made by the SFMTA Board of Directors in approving Resolution No. 180403-057 approving the 2018-2020 budget.

Section 8. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation

marks, charts, diagrams, or any other constituent parts of the Transportation Code that are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

DAVID A. GREENBURG

Deputy City Attorney

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I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of May 1, 2018.

Secretary to the Board of Directors

San Francisco Municipal Transportation Agency