

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 191105-136

WHEREAS, Over the past few years, companies have launched shared mobility devices and services in San Francisco that utilize the public right-of-way without permits or authorization; and,

WHEREAS, The Board of Supervisors has had to react to establish the violation for operating such a service without a permit, such as the powered scooter program, and SFMTA has had to establish individual pilot permit programs in reaction to the launch of an unpermitted service; and,

WHEREAS, Shared mobility devices and services have the potential to complement our existing transportation network by providing an alternative to single occupancy vehicles, but they also have the potential to impede pedestrian travel, and to benefit only certain sectors of San Francisco; and,

WHEREAS, The SFMTA is shifting its stance from reactive to proactive by establishing a violation for operating a Shared Mobility Device Service without a permit or authorization; and,

WHEREAS, The SFMTA is allowing innovation to occur through a clear path for new mobility services through the Proof of Concept Authorization (POCA); and,

WHEREAS, On September 26, 2019, the SFMTA, under authority delegated by the Planning Department, determined that Mobility Permit Harmonization 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; and,

WHEREAS, the San Francisco Municipal Transportation Agency Board of Directors finds that notice was adequately given for this item and waives the SFMTA Board’s Rule of Order, Article 4, Section 10, now therefore, be it


RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amend Division II of the Transportation Code to establish a definition of Shared Mobility Device Service that encompasses existing shared mobility device services (bikeshare and e-scooter share), and, be it

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FURTHER RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amend Division II of the Transportation Code to delegate authority to the Director of Transportation to authorize the temporary operation of a Shared Mobility Device Service or Non-Standard Vehicle service under a Proof of Concept Authorization if there is not an existing permit program and establish fees and administrative penalties for violations.

FURTHER RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors recommend that the Board of Supervisors approve an amendment to Division I of the Transportation Code to prohibit the operation of Shared Mobility Devices Service without a permit or authorization from SFMTA.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 5, 2019.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

[Transportation Code - Regulation of Non-Standard Vehicles]

Resolution amending the Transportation Code regarding Non-Standard Vehicles by (1)revising fine amounts and permit fees for Shared Mobility Device Services; (2) adding definitions of “Authorized Operator,” “Mobility Device,” “Shared Mobility Device Service,” and “Proof of Concept Authorization,” authorizing temporary operation of a “Shared Mobility Device Service” under a “Proof of Concept Authorization;” and (3) providing for the imposition of administrative fines against non-Authorized Operators.

NOTE: Additions are single-underline Times New Roman; deletions are ~~strike-through Times New Roman~~.

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

Section 1. Article 300 of Division II of the Transportation Code is hereby amended by revising Sections 302 and 310, and adding Section 327, 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**
* * * *			
SHARED MOBILITY <u>DEVICE</u> SERVICES VIOLATIONS			

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Div I 7.2.110	Stationless Bicycle Share Parking <u>Shared Mobility Device Service Parking (Shared Mobility Device Service That Does Not Hold an SFMTA Permit or Authorization)</u>		
	<u>First offense</u>	\$100	\$100
	<u>Second offense within one year of first offense</u>	\$200	\$200
	<u>Third or subsequent offense within one year of first offense</u>	\$500	\$500
Div I 7.2.110	<u>Operating a Shared Mobility Device Service without a Permit or Authorization</u>		
	<u>First offense</u>		\$2500
	<u>Second offense within one year of the first offense</u>		\$5000
Div I 7.2.110	<u>Shared Mobility Device Service Parking (Shared Mobility Device Service Operators that Hold a SFMTA Permit or Authorization)</u>		\$100
Div I 7.2.111	Powered Scooter Share Parking (Powered Scooter Share Operators That Do Not Hold a SFMTA Permit)		
	First offense	\$100	\$100
	Second offense within one year of first offense	\$200	\$200
	Third or subsequent offense within one year of first offense	\$500	\$500
Div I 7.2.111	Powered Scooter Share Parking (Powered Scooter Share Operators that Hold a SFMTA Permit)		\$100

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SEC. 310. SCHEDULE OF FINES.

Violation of any of the following subsections of the Transportation Code governing the operation of a motor vehicle for hire, Non-Standard Vehicle, or Shared Mobility Device Service pursuant to a Proof of Concept Authorization, shall be punishable by the administrative fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2018	FINE AMOUNT Effective July 1, 2019
* * * *			
CONDITIONS APPLICABLE TO NON-STANDARD VEHICLE PERMITS <u>AND SHARED MOBILITY DEVICE SERVICES</u>			
DIV. II § 1206(a)	Operating without a permit <u>or authorization</u>	\$5,000	\$5,000
DIV. II §§ 1206(b)(4), <u>1206-1</u> , 1207, 1209(a)	Non-Standard Vehicle Permit Conditions	\$260 per violation per day	\$270 per violation per day
	<u>Shared Mobility Device Service with a Proof of Concept Authorization</u>		<u>\$270 per violation per day</u>

SEC. 327. PROOF OF CONCEPT AUTHORIZATION FEES.

The following fees reimburse the SFMTA for staff costs related to the review of applications for a Proof of Concept Authorization established under Section 1206-1 and costs associated with overseeing the limited operation of any Shared Mobility Device Service or Non-Standard Vehicle pursuant to a Proof of Concept Authorization.

<u>DESCRIPTION</u>	<u>FY 2019</u> <u>Effective July 1, 2018</u>	<u>FY 2020</u> <u>Effective July 1, 2019</u>
<u>Proof of Concept Authorization Application</u>	<u>\$4,089</u>	<u>\$4,089</u>
<u>Proof of Concept Authorization Administration</u>	<u>\$2,110 per 30-day testing period</u>	<u>\$2,110 per 30-day testing period</u>

Section 2. Article 1200 of Division II of the Transportation Code is hereby amended by revising Sections 1202 (with new defined terms placed therein in correct alphabetical sequence), 1206, 1209, and 1210, and adding Section 1206-1, to read as follows:

SEC. 1202. DEFINITIONS.

For purposes of this Article 1200, the following definitions shall apply:

* * * *

“Authorized Operator” shall mean any person, business, firm, partnership, association, or corporation that holds a Proof of Concept Authorization to operate a Shared Mobility Device Service or Non-Standard Vehicle.

“Mobility Device” shall mean

(a) a conveyance with the primary purpose of carrying people and which is capable of transporting one or more persons on a public roadway, and over which the SFMTA may exercise jurisdiction. “Mobility Device” includes but is not limited to, a motor vehicle, bicycle, or other conveyance that has the potential to impede the direction and flow of traffic, and includes a Stationless Shared Bicycle or Powered Scooter.

(b) Notwithstanding the foregoing subsection (a), “Mobility Device” is not:

(1) a type of conveyance excluded from the scope of this Article 1200 under Section 1201(b)(2);

_____ (2) any motor vehicle that is required to have a parking permit under Article 900 of the Transportation Code; or

_____ (3) a device assigned for the sole exclusive use by the same individual for at least 30 consecutive days.

“**Proof of Concept Authorization**” or “**POCA**” shall mean an authorization issued by the Director of Transportation in his or her sole discretion to allow for limited testing of a Shared Mobility Device Service or Non-Standard Vehicle that is subject to the SFMTA’s jurisdiction, but is not yet regulated by the SFMTA.

“**Shared Mobility Device Service**” shall mean one or more Mobility Devices capable, either individually or cumulatively, of carrying 10 or more people, for use in the public right-of-way or on public property within the boundaries of the City and County of San Francisco, Alameda County, Contra Costa County, Marin County, San Mateo County, or Santa Clara County that is:

_____ (a) owned or leased by a business, firm, partnership, association, or corporation, or if owned by an individual, is not primarily for that individual’s own use; and

_____ (b) available for self-service or rental use on a digital application or other electronic digital platform; and

_____ (c) either (i) available for hire, with or without a driver or paid operator; or (ii) provided at no cost or as a benefit to riders, including but not limited to, employees, clients, members or customers as part of an organized program.

SEC. 1206. PERMIT REQUIREMENT; GENERAL PERMIT CONDITIONS.

(a) **Permits Required.** ~~As of the date designated by the Director of Transportation under Section 1201(e) to implement the program for issuance of permits under this Article 1200 , and any date thereafter, Unless otherwise exempted under Section 1201(b)(2) of this Article 12 or authorized under Section 1206-1, no~~ a person, business, firm, partnership, association, or corporation shall

~~not drive, or operate or cause to be operated, any Non-Standard Vehicle or Shared-Mobility Device Service within the City without the applicable permit, agreement, or authorization issued by the SFMTA authorizing such driving or operation in accordance with this Article.~~

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SEC 1206-1. PROOF OF CONCEPT AUTHORIZATION.

(a) **Authority.** Where there is no existing permit program that encompasses a particular Shared Mobility Device Service or Non-Standard Vehicle, the Director of Transportation may, in lieu of a permit, and in the Director’s sole discretion, authorize a limited number of Proof of Concept Authorizations (POCAs) for a Shared Mobility Device Service or Non-Standard Vehicle, provided that the Director determines that to do so would promote the public health, safety, and welfare. The POCA provides an opportunity to demonstrate the potential public benefits of a Shared Mobility Device Service or Non-Standard Vehicle in supporting the City’s “Guiding Principles for Emerging Mobility Services Policy,” adopted by the SFMTA in July 2017, as may be amended from time to time. These Guiding Principles provide a consistent policy framework to evaluate new mobility services and shall be taken into consideration by the Director when evaluating POCA applications. The Director shall attach any conditions to the POCA that the Director deems necessary to protect the public health, safety and welfare; to collect data; to mitigate any potential adverse impacts; or to fulfill other public purposes recognized by the Director. The Director shall be authorized to determine the term of a POCA and any extensions thereof, provided that in not case shall the duration of a POCA exceed one year. There is no appeal of the Director’s decision regarding a POCA application, including whether or not to issue the POCA, to place conditions on the POCA, or to extend the POCA.

(b) **Application.** The Director may provide an application for persons or entities seeking a POCA. An Applicant for a POCA shall pay the Application Fee, and shall submit the following information in addition to any other information which may be required by the Director:

- (1) Name, address, phone number, and email address of the Applicant;

(2) A description of the Mobility Device or Non-Standard Vehicle and a description of the nature and scope of the Applicant’s plan for limited testing of a Shared Mobility Device Service or Non-Standard Vehicle, including the number of devices or vehicles, frequency and span of testing or service, staging locations, and maps or detailed description of any routes and geographic areas of operation, as applicable;

(3) Insurance as required by the Director; and

(4) An acknowledgement by the Applicant that if issued a POCA, the Applicant agrees to comply with all applicable local, state, and federal laws governing its Shared Mobility Device Service or Non-Standard Vehicle, as well as any conditions contained in the POCA. One condition that must be included in any POCA is an agreement to 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 POCA, regardless of the negligence of the Indemnitees.

(c) Fees.

(1) At the time of submitting the POCA Application, the Applicant shall submit a non-refundable Application Fee as set forth in Section 327.

(2) Where the Director decides to issue a POCA, the Applicant shall submit an Administration Fee as set forth in Section 327; provided, however, that the Administration Fee may be increased to recover costs in excess of that amount incurred by SFMTA in administering the POCA program.

(d) Other Permits or Approvals. In the event the Mobility Device or Non-Standard Vehicle subject to a POCA will be tested or operated on any sidewalk, street, or public right-of-way under the jurisdiction of the Department of Public Works, the Port of San Francisco, the Public Utilities

Commission, or the Recreation and Park Commission, the Applicant shall also submit an application to the Office of Emerging Technology, if required under Section 22G of the Administrative Code, for any additional permits or approvals necessary for such testing or operation, assuming the ordinance in Board File No. _____ has been enacted.

(e) **Termination.** A POCA issued under this Section 1206-1 is subject to immediate termination by the Director. The Director may terminate a POCA for violation of any applicable law, violation of conditions included in the POCA, or if the Director concludes that termination is necessary to protect the public health, safety, or welfare. There is no appeal of the Director's decision to terminate a POCA.

(e) **Administrative Fines.** Any person or entity who violates any applicable law or condition contained in a POCA issued under this Section 1206-1 is subject to the issuance of a citation and imposition of an administrative fine in accordance with Section 1209(a).

SEC. 1209. ADMINISTRATIVE FINES; PERMIT REVOCATION.

(a) For good cause, the SFMTA may revoke any permit or terminate any authorization issued under this Article 1200, and may impose an administrative fine against a Permittee or Authorized Operator. "Good cause" hereunder shall include, but shall not be limited to, the following:

(1) A Permittee or Authorized Operator failed to pay a fine imposed by the SFMTA under Section 310 of this Code within 30 days of imposition or within such other time period as determined by the agreement of the Permittee or Authorized Operator and the SFMTA;

(2) A Permittee or Authorized Operator failed to pay a permit or administrative fee within 30 days following notice of nonpayment;

(3) The Permittee or Authorized Operator has violated any statute or ordinance, including any provision of Division I or II of this Transportation Code, governing the operation or licensing of the vehicles and services regulated by this Code; or

(4) The Permittee or Authorized Operator has violated one or more conditions of the permit or POCA.

SEC. 1210. ADMINISTRATIVE FINES ASSESSED AGAINST NON-PERMIT HOLDERS OR NON-AUTHORIZED OPERATORS.

(a) Whenever the SFMTA determines that a non-Permittee or non-Authorized Operator has violated this Article 1200, and it pursues administrative enforcement through the imposition of an administrative fine, SFMTA may issue and serve a Citation, in person or by first-class U.S. Mail, return receipt requested, on any person or entity responsible for the violation. A Citation issued in accordance with this subsection (a) shall include the information required by Section 1209(c).

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Section 3. Effective and Operative Dates.

(a) This ordinance shall become effective 31 days after enactment. Enactment occurs when the Municipal Transportation Agency Board of Directors approves this ordinance.

(b) This ordinance shall become operative upon the later of (1) its effective date as stated in subsection (a) or (2) the effective date of the ordinance in Board of Supervisors File No. _____, amending Division I, Section 7.2.110, and deleting Division I, Section 7.2.111.

Section 4. The amendment to Section 302 and addition of Section 327 of the Transportation Code made by Section 1 of this ordinance are intended to be additive to the revisions made by the SFMTA Board of Directors in approving Resolution No. 180403-057 approving the 2018-2020 budget.

Section 5. 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: _____
STEPHANIE STUART
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 November 5, 2019.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency