

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

CHAPTER 13-8 SHARED BICYCLE SERVICES AND SHARED MICRO-MOBILITY SERVICES

§ 13-8-1 DEFINITIONS.

- (1) DEPARTMENT means the Austin Transportation Department.
- (2) DIRECTOR means the director of the Austin Transportation Department
- (3) DIRECTOR’S RULES mean rules and procedures established by the director to provide additional guidance on the administration of shared micro-mobility devices and services.
- (4) GOOD STANDING means the franchise holder or applicant is compliant with the requirements of City Code, director’s rules, and conditions of its franchise.
- (5) SHARED BICYCLE means a bicycle or electric bicycle (“E-bike”) designed for personal mobility as part of a shared mobility service.
- (6) SHARED BICYCLE SERVICE means a publicly offered transportation service that enables a person to obtain short-term access to a shared bicycles on an as-needed basis.

(7) SHARED MICRO-MOBILITY DEVICE means a skateboard, scooter or other compact device designed for personal mobility as part of a shared mobility service.

(8) SHARED MICRO-MOBILITY SERVICE means a publicly offered transportation service that enables a person to obtain short-term access to a shared micro-mobility device on an as-needed basis.

§13-8-2 SHARED BICYCLE SERVICE DESCRIBED.

Shared bicycle service consists of the provision of bicycles or electric bicycles for transportation purposes, using the public right-of-way to sell, offer for sale, rent, lease, exchange, or take orders for transportation-related merchandise, goods, or services.

§ 13-8-3 SHARED MICRO-MOBILITY SERVICE DESCRIBED.

Shared micro-mobility service consists of the provision of micro-mobility devices for transportation purposes, using the public right-of-way to sell, offer for sale, rent, lease, exchange, or take orders for transportation-related merchandise, goods, or services.

ARTICLE 2. SHARED BICYCLE SERVICE AND SHARED MICRO-MOBILITY SERVICE FRANCHISES

§13-8-4 FRANCHISE REQUIRED.

A person may not provide or operate a shared bicycle service or shared micro-mobility service or represent the person's business to the public as a shared bicycle service or shared micro-mobility service unless that person obtains a franchise to operate a shared bicycle service or shared micro-mobility service under this chapter.

§13-8-5 CITY COUNCIL APPROVAL REQUIRED; GENERAL STANDARDS; FRANCHISE PERMIT TRANSFER.

(A) A shared bicycle service franchise or a shared micro-mobility service franchise may be granted, renewed, extended, amended, or transferred only with council approval. The following conditions apply to shared bicycle service and shared micro-mobility service franchises:

- 73 (1) the applicant must be able to operate the shared bicycle service or micro-
74 mobility service in accordance with the requirements of this chapter, rules
75 of the department, orders issued under this chapter, provisions of the
76 shared bicycle service or shared micro-mobility service franchise, and
77 other applicable law;
- 78 (2) the applicant must demonstrate the public necessity and convenience for
79 the shared bicycle service or micro-mobility service franchise; and
- 80 (3) the applicant must agree to provide shared bicycle service or shared
81 micro-mobility service throughout the City.

82 (B) A shared bicycle service franchise or shared micro-mobility service
83 franchise may be transferred from one shared bicycle service or micro-mobility
84 service franchise holder to another only with council approval.

85 **§13-8-6 FRANCHISE ADMINISTRATION.**

86 Any franchise granted pursuant to this Chapter shall be administered by the
87 director.

88 **§13-8-7 FRANCHISE APPLICATION REQUIRED.**

89 (A) A person must submit a written application to the council to grant, renew,
90 extend, amend, or transfer a shared bicycle service franchise or shared micro-
91 mobility service franchise or to transfer a franchise permit. The applicant must file
92 an original and three copies of the application with the city clerk.

93 (B) The application must contain the following:

- 94 (1) The applicant's full name, date of birth, telephone number, permanent
95 residence address, and mailing address, and the principal place of business
96 of the proposed shared bicycle service business or shared micro-mobility
97 service business.
- 98 (a) An applicant that is a partnership must include in the application
99 the full name, date of birth, telephone number, permanent
100 residence address, and mailing address of each partner, and any
101 person who participates in the business decisions of the
102 partnership or who has the authority to enter contracts on behalf
103 of the partnership.
- 104 (b) An applicant that is a corporation must include in the application
105 the applicant's full name, including any assumed name, location
106 of its principal place of business, and the date of birth, telephone
107 number, permanent address, and mailing address of each officer,
108 director, majority stockholder, and any person who participates in

the business decisions of the corporation or who has the authority to enter contracts on behalf of the corporation.

(c) An applicant that is a corporation, partnership, or other business entity must provide certified copies of any documents required by state law to be filed for the business entity to legally exist, and a statement from the Texas Secretary of State certifying that the business is in good standing if state law requires the entity to file documents with the Texas Secretary of State.

- (2) An applicant that operates a business under an assumed name must provide a copy of the certificate of assumed name.
 - (3) The trade name of the proposed shared bicycle service or shared micro-mobility service in the City.
 - (4) The number of bicycles or micro-mobility devices the applicant proposes to use in the shared bicycle service or micro-mobility service and a description of where the devices will be deployed, with the understanding that this number might be subject to change.
 - (5) The individual who signs the application must indicate the capacity in which the applicant signs the application and the individual's position with the business.
 - (6) If applicable, a description of the proposed insignia and color scheme for the applicant's shared bicycle service or shared micro-mobility service.
 - (7) Evidence demonstrating the public necessity and convenience for the proposed shared bicycle service or shared micro-mobility service franchise.
 - (8) Additional information required on the application form prescribed by the department.
- (C) The applicant must attach the following to the application:
- (1) A current financial statement from the applicant, prepared by an independent certified public accountant licensed by this state and certifying that the financial statement truly and accurately reflects the financial status of the applicant and the assets and liabilities of the proposed shared bicycle service or proposed shared micro-mobility service business. The financial statement must contain a list of the assets to be used in the applicant's proposed shared bicycle service or shared micro-mobility service business. An applicant that does not own 100 percent of the assets to be used must include the names of the other owners of the assets and the other owners of

ownership interest in the assets. An applicant that is a partnership must also provide a financial statement for each partner.

- (2) Certification from an insurance company that it will provide the liability insurance required by this chapter to the franchise holder.
- (3) For each person described in Subsection (B)(1), a description of all criminal convictions, and a criminal history certified by the Texas Department of Public Safety that is dated no more than 90 days before the application date. For a person described in Subsection (B)(1) who has been a resident of Texas for less than one year preceding the date the application is submitted, the criminal history must be certified by the corresponding governmental authority in the former state of residence no more than 90 days before the application date.
- (4) An affidavit that there are no outstanding judgments that arise out of circumstances related to shared bicycle services or shared micro-mobility services against the applicant or a person described in Subsection (B)(1).
- (5) Information related to any pending claims or lawsuits against the applicant or person described in Subsection (B)(1) in their personal or business capacity related to shared bicycle services or micro-mobility services.

(D) The city manager may require additional information in the application process.

(E) On receiving a shared bicycle service or shared micro-mobility service franchise application, the city clerk shall retain the original in the city clerk's files and forward three copies to the city manager.

§13-8-8 RECOMMENDATION ON FRANCHISE APPLICATION.

(A) The city manager shall recommend to the council that the council grant or deny the shared bicycle service or shared micro-mobility service franchise application. In evaluating a shared bicycle service or micro-mobility service franchise application, the city manager may consider the following:

- (1) the service proposed;
- (2) the number, kinds, and types of equipment to be used by the applicant;
- (3) whether the applicant has demonstrated the public necessity and convenience for the shared bicycle service or shared micro-mobility service franchise;
- (4) the effect of the proposed shared bicycle service or shared micro-mobility service on existing shared bicycles services or shared micro-mobility service services;

- 181 (5) the applicant's financial ability to provide the proposed service;
- 182 (6) the shared bicycle service or shared micro-mobility service experience of
- 183 an applicant and of any partner or person having an interest in the
- 184 business if a partnership, and all officers, directors, and majority stock
- 185 holders if a corporation;
- 186 (7) convictions, if any, of applicants, their officers, shareholders, or partners,
- 187 for misdemeanor or felony crimes that directly relate to the duties and
- 188 responsibilities of operating a shared bicycle service or shared micro-
- 189 mobility service business;
- 190 (8) whether a previous permit or shared bicycle or micro-mobility service
- 191 franchise has been revoked; and
- 192 (9) whether applicant has been subject to enforcement actions by a
- 193 government entity for activities related to shared bicycle services or
- 194 shared micro-mobility device services.

195 (B) The city manager may not recommend that the council grant a franchise

196 application unless the requirements of this chapter have been met.

197 (C) If the city manager recommends denial of a shared bicycle service or shared

198 micro-mobility service franchise application, the city manager shall include the

199 reason for that recommendation. A copy of the recommendation shall be provided

200 to the applicant.

201 **§13-8-9 FRANCHISE ORDINANCES.**

202 (A) If the city manager finds the shared bicycle service or shared micro-mobility

203 service franchise applicant meets the requirements of this chapter, the city manager

204 shall direct the city attorney to prepare the shared bicycle service or micro-mobility

205 service franchise ordinance for the council's consideration.

206 (B) In addition to the requirements for a franchise under Article XI (*Franchises*

207 *and Public Utilities*) of the City Charter, a shared bicycle service or shared micro-

208 mobility service franchise ordinance submitted to the council must include the

209 following provisions:

- 210 (1) the period for which the shared bicycle service or shared micro-mobility
- 211 service franchise is granted, and that the shared bicycle service or shared
- 212 micro-mobility service franchise remains in effect for that period unless,
- 213 on review, the council finds that the shared bicycle service or shared
- 214 micro-mobility service franchise is subject to forfeiture or cancellation for
- 215 good cause;

- 216 (2) a requirement that the franchise holder comply with the provisions of this
217 chapter and all amendments to this chapter enacted during the period of
218 the shared bicycle service or shared micro-mobility service franchise;
- 219 (3) a requirement that the shared bicycle service or shared micro-mobility
220 service franchise holder provide identifying information on riders or users
221 involved in crashes or damaged property incidents to law enforcement or
222 other City personnel to assist in the conduct of an investigation of such
223 incidents; and notice that failure to provide this information shall
224 constitute a substantial breach of City Code and the franchise ordinance
225 subjecting the ordinance to forfeiture;
- 226 (4) a requirement that the shared bicycle service or shared micro-mobility
227 service franchise is subject to forfeiture on the franchise holder's
228 violations of the provisions of this chapter or on a showing that the shared
229 bicycle service or shared micro-mobility service franchise holder has
230 substantially breached the terms of the franchise;
- 231 (5) a requirement that the franchise holder own, lease, or contract for control
232 of each shared bicycle or micro-mobility device used in the shared bicycle
233 service or shared micro-mobility service franchise; and
- 234 (6) authorization for the department to inspect all records of a shared bicycle
235 service or shared micro-mobility service franchise in accordance with this
236 chapter; and
- 237 (7) other provisions the city manager deems in the best interest of public
238 health and safety.

239 **§13-8-10 INSURANCE REQUIRED.**

240 Before any franchise granted under this chapter becomes effective, a
241 franchise applicant must:

- 242 (A) Obtain a public liability policy issued by an insurance company licensed to
243 operate in the State of Texas and by an agent licensed by the State of Texas. The
244 policy must include the following: bodily injury and property damage coverage;
245 and owned, non-owned and hired vehicle coverage. The insurance policy must be
246 in a form satisfactory to the City, and it must meet the requirements of this section.
247 The insurance coverage must be maintained throughout the term of the franchise.
248 The applicant must furnish a certificate of insurance for the policy to the City of
249 Austin Mobility Services Division.
- 250 (B) The policy required by Subsection (A) must, at a minimum, provide
251 coverage for:

- 252 (1) bodily injury of \$100,000 per person and \$300,000 per accident;
253 (2) property damage of \$25,000 per accident; and
254 (3) personal injury protection of \$2,500 for each rider.

255 (C) A business automobile liability insurance policy that provides coverage for
256 scheduled vehicles or devices but does not provide the liability coverage prescribed
257 by Subsection (A) does not comply with this section.

258 (D) The City must be included as an additional insured on each policy. The
259 franchise holder is responsible for paying all applicable deductibles.

260 (E) Each policy must contain a "Cancellation Provision or Coverage Change"
261 endorsement that provides 30 days' notice to the City before the policy is canceled
262 or materially changed to reduce or restrict the coverage. The notice must be mailed
263 to the City of Austin Mobility Services Division.

264 (F) Before authority to operate a shared bicycle service or shared micro-mobility
265 service in the City becomes effective, an applicant must obtain a public liability
266 policy issued by an insurance company licensed to operate in the State of Texas
267 and by an agent licensed by the State of Texas. The policy must include the
268 following: commercial general liability insurance for a minimum limit of five
269 hundred thousand dollars (\$500,000) combined single limit per occurrence, and
270 \$2,500 medical expense. The policy shall provide coverage for any and all riders of
271 a shared bicycle service or a shared micro-mobility service. The policy shall
272 provide coverage for all passengers using shared bicycles or shared micro-mobility
273 devices.

274 §13-8-11 RECORDKEEPING REQUIREMENTS. 275 276

277 (A) A franchise holder shall maintain records of its business, operations,
278 receipts, and other documents required by this chapter, the shared bicycle service
279 or shared micro-mobility service franchise agreement, and the department.
280

281 (B) A franchise holder shall maintain a record required by this section and
282 provide the department with any information contained within the record upon
283 request.
284

285 (C) Except as provided in this section, a franchise holder shall keep the records
286 for the term of the franchise. The records used to compile the reports required shall
287 be maintained for 12 months after the date of creation of the records.
288

(D) The franchise holder shall make all records available to the department for examination and inspection without notice.

§13-8-12 REPORTS REQUIRED.

(A) A franchise holder shall submit to the department any data, statistics, or report required by the director's rules. The data or report shall be made on a form or format prescribed by the department and submitted not later than the 15th day of the month following the month for which the data or reports are collected.

(B) The department may require additional information at intervals specified by the department, to include reports describing vehicle or device locations as determined by the vehicle or device's Global Positioning System or similar navigational method.

(C) A franchise holder shall submit to the department a report on any accident, crash or collision involving the operation of a shared bicycle or shared micro-mobility device that results in death or injury to a person or damage to a vehicle or other property exceeding \$500. The franchise holder shall submit the report in a format prescribed by the department not later than the 15th day of the month following the day of the accident.

§13-8-13 FRANCHISE FEE.

(A) A franchise holder shall pay an annual franchise fee for each shared bicycle or shared micro-mobility device, as established by separate ordinance, prior to placing a shared bicycle or shared micro-mobility device into service.

(B) The franchise holder may pay the franchise fee in quarterly installments in accordance with the City's fiscal year. If the franchise holder makes quarterly payments, the first payment is due immediately on approval of the franchise permit. Subsequent payments are due no later than the fifth business day before the beginning of the quarter for which the payment is due.

(C) The franchise holder shall pay a penalty, equal to the daily prorated franchise fee, for every day that the franchise fee is unpaid.

(D) The operator shall reflect the conveyance of a franchise fee as a separate line item on the invoice or receipt from the operator to the customer.

327 **§13-8-14 MULTIPLE FRANCHISES PROHIBITED.**

328

329 (A) Except as provided by this section, a person may not have a pecuniary
330 interest or security interest in the stock or other assets of a shared bicycle service or
331 shared micro-mobility service franchise that confers on the franchise holder a
332 controlling or voting interest in more than one shared bicycle service or shared
333 micro-mobility service franchise.

334

335 (B) A person who has a pecuniary interest in one shared bicycle service or
336 shared micro-mobility service franchise and obtains a pecuniary interest in a
337 second shared bicycle or shared micro-mobility franchise as a result of the
338 foreclosure of a security interest in the stock or other assets of that second shared
339 micro-mobility franchise must comply with Subsection (A) not later than six
340 months after the date the person obtained a pecuniary interest in the second shared
341 micro-mobility service franchise.

342

343 **§13-8-15 SERVICE AREA AND SIZE OF FLEET.**

344

345 (A) The director shall determine the areas of service and size of fleet to be
346 deployed, in accordance with the director's rules.

347 (B) A franchise holder may place into service only the number of bicycles or
348 micro-mobility devices authorized by the director, for which the franchise holder
349 has paid all charges required by the Code.

350 **§13-8-16 USE OF RIGHT-OF-WAY AUTHORIZED.**

351

352 (A) The director may, in the interest of good public order and mobility, authorize
353 shared bicycle service or shared micro-mobility service franchise holders to install
354 shared bicycle or shared micro-mobility device docking stations, components or
355 infrastructure within the public right-of-way.

356 (B) Shared bicycle or shared micro-mobility device docking stations,
357 components or infrastructure authorized by the director do not require a separate
358 authorization, agreement, permit or license as required by Chapter 14-11 – Use of
359 Right-of-Way.

360 (C) Shared bicycle or shared micro-mobility device docking stations,
361 components or infrastructure installed are considered lesser to right-of-way uses
362 authorized by Chapter 14-11.

(D) Upon request from the director, franchise holders shall remove any shared bicycle or shared micro-mobility device docking stations, components or infrastructure and fully restore the right-of-way if required.

§13-8-17 PENALTIES

(A) Without limitation of other remedies available to the City, persons operating in violation of the terms of this article shall be liable to the city for all fees authorized by this article dating to the inception of such violation.

(B) Any person who violates any provision of this article or the director's rules shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than \$150.00 nor more than \$500.00 for each violation, per occurrence.

PART 2. This ordinance takes effect on November 19, 2019.

PASSED AND APPROVED

_____, 2019 §
 §
 §
Steve Adler
Mayor

APPROVED: _____ **ATTEST:** _____
Anne L. Morgan Jannette S. Goodall
City Attorney City Clerk