

Ordinance No. 396-2020 **AS AMENDED**

By Council Member McCormack

AN EMERGENCY ORDINANCE

An Emergency Ordinance to amend Section 4 of Ordinance No. 464-2019, passed June 3, 2019, to remove the sunset provision of certain codified ordinance sections relating to shared mobility devices; and to amend Sections 401.231, 473.02, 473.07, 473.09, 517.02, and 517.04 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No 464-2019, passed June 3, 2019; to supplement the codified ordinances by adding new Sections 517.071 and 517.072, relating to shared mobility grants and contributions and fines for violating rules and regulations; and notwithstanding and as an exception to Sections 517.02 and 517.03, to authorize the Director of Capital Projects to extend the permits issued in 2019 until May 31, 2021 at no additional cost to the shared mobility device and bicycle vendors.

WHEREAS, Ordinance No. 464-2019, passed June 3, 2019, enacted new Sections 401.152, 401.153, 401.231, 473.10, and new Chapter 517, Shared Mobility Device and Bicycle Vendors, Sections 517.01 through 517.08, and amended Sections 473.01 through 473.03, 473.05, 473.07 through 473.09, 431.03, and 431.15 to regulate the vendors and use of shared mobility devices, and promote shared mobility as a way to increase connectivity and opportunity for mobility options; and

WHEREAS, Section 4 of Ordinance No. 464-2019 provides that its provisions will only be in effect for one year after its effective date, which would be June 5, 2020; and

WHEREAS, it is the intention of the Council that by amending Section 4 of Ordinance No. 464-2019 that this Council is permanently enacting its provisions until legislation to the contrary is authorized; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That Section 4 of Ordinance No. 464-2019, passed June 3, 2019, is amended to read as follows:

Section 4. That the provisions of this ordinance shall take effect thirty days after the effective date of this ordinance. ~~The provisions of this ordinance shall be of no force and effect one year after the effective date of this ordinance unless reauthorized by Council. Consideration for reauthorization shall take place one month prior to reauthorization, and~~ The Director of Capital Projects shall provide the members of Council with a review of this legislation ~~at that time.~~ within one year after the effective date of this ordinance.

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Section 2. That Sections 401.231, 473.02, 473.07, 473.09, 517.02, and 517.04, as amended by Ordinance No. 464-2019, passed June 3, 2019, are amended to read as follows:

Section 401.231 Mobility Device

“Mobility device” means small mobility devices, such as scooters, e-scooters, e-bikes, or other similar devices. A mobility device does not include those designed solely for use by a child, ~~or~~ those used as assistive mobility devices by persons with disabilities, or those defined as an electronic personal assistive mobility device.

Section 473.02 Operation of Bicycles, Motorcycles, Mobility Devices, and Snowmobiles

(a) For purposes of this section, “snowmobile” has the same meaning as given that term in RC 4519.01.

(b) (1) No person operating a bicycle, mobility device, or motorcycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle, mobility device, or motorcycle other than upon a separate firmly attached and regular seat thereon, and no person shall ride upon a bicycle, mobility device, or motorcycle other than upon such a firmly attached and regular seat.

(2) A person operating a mobility device without a permanent and regular seat attached thereto shall not ride other than standing upon the footboard.

(3) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(4) No person operating a bicycle or a mobility device shall carry any package, bundle, or article that prevents the driver from keeping at least one (1) hand upon the handlebars.

(5) No person operating an e-scooter should do so on any streets if the posted speed limit is over 35 mph unless in a dedicated bike lane or shared use path.

(6) No person operating an e-scooter shall exceed a speed at greater than ~~twelve (12)~~ fifteen (15) miles per hour.

~~(7)~~ (6) No bicycle, mobility device or motorcycle shall be used to carry more persons than the number for which it is designed and equipped. No motorcycle shall be operated on a street or highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator’s seat or saddle.

(c) (1) Except as provided in division (c)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in division (c)(2) of this section, no person who is under the age of eighteen (18) years, or who holds a motorcycle operator’s endorsement or license bearing a “novice” designation that is currently in effect as provided in RC 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the

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person's head, and no other person shall be a passenger on a motorcycle operated by such a

person unless similarly wearing a protective helmet. The helmet, safety glasses, or other protective eye device shall conform with rules adopted by the Director of Public Safety. The provisions of this paragraph or a violation thereof shall not be used in the trial of any civil action.

(2) Division (c)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(3) A. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar of Motor Vehicles pursuant to RC 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.

B. No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to RC 4507.05 in any of the following circumstances:

1. At any time when lighted lights are required by RC 4513.03(A)(1);
2. While carrying a passenger;
3. On any limited access highway or heavily congested roadway.

(d) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(e) Except as otherwise provided in this division, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a minor misdemeanor. If, within one (1) year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) predicate motor vehicle or traffic offense, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a misdemeanor of the fourth degree. If, within one (1) year of the offense, the offender previously has been convicted of two (2) or more predicate motor vehicle or traffic offenses, whoever violates division (b) or (c)(1) or (c)(3) of this section is guilty of a misdemeanor of the third degree.

Section 473.07 Operating Bicycles, Mobility Devices and Motorcycles on Roadway

(a) Every person operating a bicycle or mobility device upon a roadway shall ride as near to the right side of the roadway where practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles mobility devices or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on shared-use paths or parts of roadways set aside for the exclusive use of bicycles, mobility devices or motorcycles.

(c) This section does not require a person operating a bicycle or mobility device to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow

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for the bicycle or mobility device and an overtaking vehicle to travel safely side by side within the lane.

Section 473.09 Riding on Sidewalks

(a) No person shall ride a bicycle, mobility device, skateboard or roller skates upon a sidewalk within a business district.

(b) No person shall ride a bicycle, mobility device, skateboard or roller-skates upon a sidewalk within the City or paved area within a public park owned by the City when the Chief of Police or Traffic Control Commissioner has prohibited the riding of a bicycle, mobility device, skateboard or roller- skates thereon and, with the consent of the member or members of Council in whose ward(s) the sidewalk or paved area within a public park is located has erected signs on or along such sidewalks or paved areas setting forth such prohibition.

(c) Whenever a person is riding a bicycle, mobility device, skateboard or roller skates upon a sidewalk within the City or paved area within a public park owned by the City, such person shall yield the right-of-way to any pedestrian and give an audible signal before attempting to overtake and pass such pedestrian.

(d) Whoever violates this section is guilty of a minor misdemeanor.

(e) This section shall not apply to the Cleveland Divisions of Police, Emergency Medical Services, and Fire personnel, nor to any private safety/security personnel, when personnel are acting within the scope of their official duties while riding a bicycle or mobility device

Section 517.02 Shared Mobility Device and Bicycle Vendor Permit Application

(a) An application for a permit to operate as a shared mobility device and bicycle vendor shall be made to the Director of Capital Projects upon a form provided by the Director for that purpose. The application form shall include the following:

(1) The name, address, telephone number, e-mail address of the applicant and a contact person primarily responsible for the vendor's shared mobility device and bicycle operations;

(2) Images and descriptions of the devices and mobile application;

(3) Size of initial fleet at launch, including any planned fleet expansions;

(4) Preferred service area at launch, including any planned expansions;

(5) Detailed plan for educating users on proper shared mobility device operation and parking;

(6) Detailed plan for providing an equitable shared mobility device and bicycle service;

(7) Detailed plan for complying with all applicable codified ordinance requirements and rules and regulations;

(8) Any additional information deemed necessary by the Director.

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(b) Upon initial application, a permit shall be valid for not more than a 6-month demonstration period. Following successful completion of the demonstration period, as determined by performance criteria established by the Director of Capital Projects in the Rules and Regulations, the permittee may apply for a 6-month permit renewal ~~followed by annual permits thereafter~~. Permits may be renewed, on a form provided by the Director, provided all the requirements of this chapter are met, and no changes have been made from the previous approved application. The permit renewal fee shall be waived for the 6-month permit following the demonstration period. If there are changes to the application, a new application must be made and the appropriate permit fee shall accompany the application.

(c) Beginning in 2021, the applications for and issuance of permits shall be in accordance with the schedules established by the Director in the rules and regulations.

(e)—(d) Permittees must remove all devices and associated equipment within thirty (30) days after the expiration of the term.

Section 517.04 Rules and Regulations

Within thirty days after the effective date of this ordinance, the Director shall establish rules and regulations governing the operation of shared mobility device and bicycle vendors. Rules and regulations will include, but are not limited to, schedules for permit applications and issuances, applicable procedures, fee schedule, indemnification agreement, operating regulations, insurance requirements, maximum number of vendor permits, maximum number of devices, fleet maintenance requirements, data sharing plan, and communications plan, and fines for violations. Such rules and regulations shall become effective seven (7) days after publication in the City Record. The issuance of permits and all permittees shall be subject to the rules and regulations established by the Director.

Section 3. That existing Sections 401.231, 473.02, 473.07, 473.09, 517.02, and 517.04, as amended by Ordinance No. 464-2019, passed June 3, 2019, are repealed.

Section 4. That the Codified Ordinances of Cleveland Ohio, 1976, are supplemented by adding new Sections 517.071 and 517.072 to read as follows:

Section 517.071 Shared Mobility Grants and Contributions

The Director of Capital Projects is authorized to apply for and accept from various entities, both public and private, such grants and contributions as they become available; provided that such contributions may be in the form of money, material or services. The Director is further authorized to file all papers and execute all documents necessary to receive the funds under any grant or contribution, and upon acceptance of any grant or contribution by the Director, the funds shall be appropriated in the case of grants, for the purposes set forth in the grant agreement, and in the case of contributions, for the purposes designated by the donors. The Director shall report the acceptance of any grant or contribution to the Clerk of Council. Funds accepted under this section shall be deposited in the Shared Mobility Fund.

Section 517.072 Fines for Violating Rules and Regulations

(a) The Director of Capital Projects shall have the authority to set and assess fines against permittees for violations of the rules and regulations as published in the City Record.

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(b) The authority to assess fines under this section does not limit or affect any criminal offense, or the authority of the Director to suspend or revoke a license under Section 517.06, or any other means of enforcement of this chapter provided for in these Codified Ordinances.

Section 5. That, notwithstanding and as an exception to Sections 517.02 and 517.03, the Director of Capital Projects is authorized to extend the permits issued in 2019 until May 31, 2021 at no additional cost to the shared mobility device and bicycle vendors.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

FOR: Council Member McCormack
/JHO

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READ FIRST TIME on MAY 27, 2020

REPORTS

and referred to DIRECTORS of Capital Projects, Public Works, Public Safety, City Planning Commission, Sustainability, Finance, Law; COMMITTEES on Municipal Services and Properties, Safety, Development Planning and Sustainability, Finance

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. 107 Page _____

Published in the City Record _____

REPORT
after second Reading

PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
SAFETY

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE

FILED WITH COMMITTEE

