FILE NO. 104-2023

Pursuant to Section 517.04 of the Codified Ordinances of Cleveland, Ohio, 1976, the following was printed in *The City Record* of January 20, 2023:

# City of Cleveland Shared Mobility Device and Bicycle Vendor Permit Application Instructions - APPENDIX 1.

# CITY OF CLEVELAND, OHIO, SHARED MOBILITY DEVICE AND BICYCLE VENDOR RULES AND REGULATIONS

(effective January 27, 2023)

Pursuant to Section 517.04, the Director of Capital Projects ("Director") hereby promulgates the following Rules and Regulations governing shared mobility device and bicycle vendors who are seeking a permit, or who have been issued a permit, under Chapter 517 of the Codified Ordinances.

## I. Permit Term

a. The initial permit to any shared mobility vendor shall be issued for a demonstration period of up to 6 months. A vendor that successfully completes the demonstration period may apply to renew the permit for an additional 6-month period, and for annual renewal permits thereafter, based on the performance criteria set forth in paragraph (f) below.

b. Permit applications shall be accompanied by an application fee of $250 per permit requested. (A vendor desiring to operate both e-scooters and bikes (electric and/or conventional) shall apply for two permits.)

c. Permittees agree to remit $0.15 per ride originating in the City of Cleveland to the City on a quarterly basis, together with the reporting required in Section X, as invoiced by the City.

d. Any new permit applications received after an application deadline will be held until the next permit cycle and evaluated in the Spring according to the following anticipated annual permit schedule.
   i. February: Permit application opens for the new shared mobility permit cycle
   ii. March: Permit application due by the date specified in the permit application
   iii. April: Permit decisions for the new permit cycle announced
   iv. June 1: effective date of new annual permits

e. To avoid undue congestion on the City's rights-of-way, the City of Cleveland will issue shared mobility permits for up to a total maximum number of 2400 devices at any given time. The Director will periodically evaluate the use and occupancy of mobility devices in the right-of-way and may adjust the total number of permitted devices as necessary to serve and protect the public interest.

f. The Director of Capital Projects' performance criteria shall consist of the evaluation criteria contained in the City's evaluation sheets for the permit applications, the data collected under Section X below, the permittee's compliance with Chapter 517 of the Cleveland Codified Ordinances, and these rules and regulations.

## II. Insurance Coverage/Indemnification

a. Each permittee shall hold harmless the City of Cleveland, its officers and employees and shall indemnify the City of Cleveland, its officers and employees for any claims or damage to property or injury to persons (including intellectual property infringement) which may be occasioned by any activity carried on under the terms of the permit.

b. Each permittee shall furnish and maintain public liability and property damage insurance as will protect the permittee and the City of Cleveland from all claims for damage to property or bodily

injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage in an amount of not less than One Million Dollars ($1,000,000.00) on account of an accident involving injuries, including death, to one (1) or more persons and property damage insurance in an amount of not less than One Million Dollars ($1,000,000.00), or a combined single limit of One Million Dollars ($1,000,000.00) provided however, that this insurance requirement shall not be construed to limit permittee's indemnification obligations to the above-required limits of insurance. Such insurance shall also include the City of Cleveland, its officers, and employees, as additional insured and shall further provide that the policy shall not terminate or be canceled prior to the expiration date of the permit without thirty (30) days written notice to the Director.

c. Any damage to City of Cleveland's property from permittee's shared mobility devices shall be paid by the permittee.
d. Each permittee shall be and remain solely responsible to the City for the acts or faults of any its subcontractors and of such subcontractors' officers, agents and employees, each of whom shall for this purpose be deemed to be an agent or employee of permittee and shall indemnify and save harmless the City and its respective officers, agents, employees, successors and assigns, from all suits or claims that may be based upon any injury to persons or property arising out of an error, omission, or negligent act of it or its subcontractors.
e. Each permittee shall require each of its subcontractors to maintain the types and amounts of insurance required in paragraph (b) above.
f. Permittees shall share any information in their possession about device use with the City where there is an injury, potential claim, or lawsuit related to device use.

III. **Staffing/Operations**

a. Permittees shall have staffed operations located within Cuyahoga County for maintenance and rebalancing efforts.
b. Permittees shall provide the Director with a direct contact for local staff that are capable of rebalancing and relocating improperly parked bicycles and scooters.
c. Permittees shall provide the Director with a direct emergency contact for law enforcement to use in case of emergencies, and the name and address to which subpoenas should be sent to obtain rider information for a criminal investigation.
d. Permittees shall have a 24-hour customer service phone number providing service in at least English and Spanish for customers to ask questions and report safety concerns, maintenance issues, and complaints.
e. Permittees shall maintain a record of maintenance activities, including but not limited to device identification number and maintenance performed. These records shall be made available to the City of Cleveland upon request.
f. All devices shall be maintained so as to operate in a safe and reliable manner at all times. If a device presents a maintenance concern, permittees are to immediately de-activate the device until the maintenance concern is addressed.
g. Permittees shall participate in monthly check-in meetings with the City of Cleveland.

**IV. Device Specifications**

a. All bicycles under this program shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 - Requirements for Bicycles. Additionally, all devices shall meet the safety standards established by the Consumer Product Safety Commission as well as those outlined by the International Organization of Standardization.
b. All e-bikes under this program shall meet the National Highway Traffic Safety Administration's (NHTSA) definition of low-speed electric bicycles, and shall be subject to the same requirements as

ordinary bicycles. This means, among other requirements, that e-bikes shall have fully operable pedals, an electric motor of less than 750 watts, and a top motor-powered speed of less than 20 miles per hour when operated by a rider weighing 170 pounds. Additionally, the City may terminate any permit issued under this program if the battery or motor on a device is determined by the City to be unsafe for public use.

c. Every device shall have a unique permanent identification number that is clearly displayed and visible to the user of the device, along with the permittee's logo and 24- hour customer service phone number. The unique permanent identification number must be provided to the City and must align with monthly data reports.
d. Every device shall be equipped with GPS equipment and shall ping at a minimum of every 90 seconds while in use.
e. Permittees must be able to remotely lock down an individual device upon notice of an issue with the device that makes it unfit for normal use.
f. Every device shall be equipped with an adequate brake when used on a street or highway.
g. Other Mobility Device. If the Director of Capital Projects determines that a mobility device falls within the "other similar devices" described in Section 401.231 of the Cleveland Codified Ordinances because it is substantially similar, the Director may issue a permit for such mobility device. The Director shall state "Other Mobility Device" on the permit and shall include the speed and operating hours regulations applicable to the Shared Mobility Device Vendor. The Director shall use Table 1 in making the determination.

**Table 1. Other Mobility Device Regulatory Framework**

| Safety Parameter | Device Specifications | Regulatory Determinations |
|---|---|---|
| **Stability:**<br>• Wheel diameter<br>• Rider contact points | • All wheels are< 14 inches[1] in diameter AND<br>• Riders have 4 contact points (two hands and two feet) | Section VIII(d): Maximum speed governed bye-scooter regulation |
| | • All wheels are 14inches in diameter AND<br>• Riders have 5 contact points (two hands, two feet, and a seat) | Section VIII(d): Maximum speed governed bye-bike regulation |
| **Visibility:**<br>• Rear light and reflector height from the ground | • The rear light and reflector are < 14 inches[2] from ground level | Section VIII(b): Operating hours governed bye-scooter regulation |
| | • The rear light and reflector are 14 inches from ground level | Section VIII(b): Operating hours governed bye-bike regulation |

[1] Consistent with minimum wheel size for a pedal bicycle.

[2] Consistent with minimum height recommended in the UK Road Vehicles Lighting Regulations.

V. **Permitted Fleet Size**

a. Fleet minimum within the City of Cleveland: Permittees shall have a minimum fleet of 100 shared mobility devices. Permittees shall meet this fleet size within four weeks of permit issuance by the City.
b. Permittees may request a waiver to reduce fleet sizes below 100 for longer than 5 consecutive days in the Winter season (December to March), by emailing dockless@clevelandohio.gov along with a brief overview of the metrics that led to this decision (ridership, workforce, device mechanics, etc.) and the approximate dates that the operational pause will be in effect. The City may, at its reasonable discretion, grant a waiver in writing after reviewing the materials submitted.
c. Fleet maximum within the City of Cleveland: Each permit will specify a maximum permitted fleet size. New permittees, or those resuming operations after an operational pause, shall implement a phased rollout of up to 25 percent of their maximum permitted fleet per week. Permittees shall ensure their fleet size within the City of Cleveland is consistent with permitted amounts on a daily basis.
d. After the maximum permitted fleet size is reached, permittees may request increased capacity quarterly, to be granted at the discretion of the City based on fleet performance metrics.
e. Except for the seasonal waiver process outlined in Section V(b), permittees shall provide the City with two weeks' notice of any plans to reduce their fleet size and shall comply with any updated permit conditions prior to implementing the change.

**VI. Device Deployment/Rebalancing**

a. Designated deployment/rebalancing locations will be specified to permittees via a shapefile provided by the City of Cleveland that highlights locations within commercial districts and near transit stations and bus stops, recreation centers, libraries, and parks. Permittees are required to geofence (designate geographic boundaries using GPS or RFID technology) the designated deployment/rebalancing areas in their public-facing mobile apps.
b. Permittees shall adhere to these designated locations as provided by the City of Cleveland when setting devices out for use. Requests for additional rebalancing locations may be submitted by emailing location specifics and supporting data to dockless@clevelandohio.gov. The City will work with permittees to update designated locations on an ongoing basis.
c. Permittees shall rebalance e-scooters to designated rebalancing locations daily. Each bicycle and e-bicycle in the fleet must be rebalanced to a designated rebalancing location a minimum of three times per week.
d. Each permittee may place a maximum of three devices per permit in any given rebalancing location. (A vendor offering e-scooters and e-bikes would hold two permits, and would be authorized to place up to three e-scooters and three e-bikes in a single location.) The City will consider exceptions to this limit based on requests emailed to dockless@clevelandohio.gov that include location specifics and supporting data.
e. Any device parked in the same location for 7 consecutive days shall be rebalanced to another location.
f. To complement the City's goals around equitable transportation access, permittees must place at least 10 percent of their devices in locations within the City of Cleveland but outside of the Central Business District, Ohio City, and University Circle. (A map will be provided to permittees.) At least five percent of the permitted fleet must be maintained in locations on the east side of Cleveland, excluding the Central Business District and University Circle, and at least five percent must be maintained in locations on the west side of Cleveland, excluding Ohio City. These equity metrics must be met on a daily basis.

## VII. User Parking Requirements

a. Permittees shall provide incentives to device users who return the device to an approved deployment/rebalancing location at the end of their trips, as reported through a plan that is included in their permit applications.

b. Permittees shall educate device users on proper parking locations, as detailed below, as reported through a plan that is included in their permit applications.
   i. Mobility device users will be allowed to park mobility devices in any tree lawn or furniture zone area following specified clearance requirements from doorways, fire hydrants, curbs, curb ramps, and bus boarding zones.
   ii. Parked devices shall not obstruct emergency exits or fire standpipes.
   iii. Parked devices shall not be located within four feet of the curb or occupy any portion of the roadway.
   iv. Parked devices shall not be permitted within six (6) feet of any fire hydrant, within five (5) feet of any driveway, within three (3) feet of any sidewalk handicap ramp, or within five (5) feet of a designated bus stop or bus shelter.
   v. Parked devices shall not be permitted at any location where the clear, continuous, unobstructed sidewalk for the passageway of pedestrians is reduced to less than six (6) feet.
   vi. Parked devices must be upright and shall not impede or interfere with the reasonable use of any bicycle rack.

c. Permittees shall correct improperly parked devices within 2 hours of notification.

## VIII. Operational Safety Requirements and Seized & Impounded Devices

a. Any inoperable device shall be removed from the right-of-way within 24 hours of notice provided by any means to the permittee by any individual or entity, and shall be repaired before placing the device back into service.

b. E-scooters shall only be available for rent from 5:00am to 11:00pm, and must be removed from City streets or locked down so they are inaccessible from 11:00pm to 5:00am.

c. E-scooters shall only be rented to users who are 18 years of age or older.

d. Electric-assist devices shall be limited to a maximum speed of 15 mph fore-scooters and 20 mph for e-bikes.

e. Permittees shall label all devices with the following advisories, or provide the information via in-app notifications:
   i. Wear a helmet when riding a scooter or bike.
   ii. Follow traffic laws and do not ride on the sidewalk in business districts.
   iii. Rent only one device at a time.
   iv. Keep both hands on the handlebars, except when using hand signals for turning or stopping.
   v. Do not carry anything that interferes with your ability to maintain control of the device.
   vi. Do not wear headphones while riding.
   vii. No distracted riding (mobile phone usage, etc.).
   viii. Only one person per device at a time.
   ix. Operating a scooter or bicycle after consuming drugs or alcohol may result in serious injury and legal ramifications.
   x. Failure to comply with these requirements may result in a ticket or suspension from use.

f. Permittees shall work with the City and stakeholders to determine effective methods of placing their company name, scooter identification number, and contact information on each scooter in a format

accessible and easily detectible by the blind. They shall also ensure that their websites and mobile applications are accessible so that blind pedestrians can easily communicate reports of misuse or injury.

g. Permittees must provide helmets to users upon request, in accordance with the plan submitted with their permit application. Permittee shall submit a report of helmet provision to the City of Cleveland on a monthly basis.
h. Permittees shall use geofencing or other technology to restrict device access to freeways within the City of Cleveland, within 5 days of receiving a map provided by the City of Cleveland.
i. Permittees shall remove any problem devices, including those improperly parked or clustered, within 2 hours of notification by any individual or entity. If at any point for any reason a device is to be impounded, the process will follow standard Cleveland Division of Police protocols for towing and impounding vehicles.
j. Devices shall be removed from the right-of-way as quickly as possible, but within 24 hours, of a snowfall greater than two inches, to allow for sidewalk clearing and other snow removal activities.
k. The City of Cleveland may seize any device and other associated equipment, whether placed with or without a permit, without prior notice if the equipment is placed in such a place or manner as to pose an immediate and serious danger to person or property, or if the condition of the equipment renders it unsafe, unsound, or hazardous so as to pose an immediate and serious danger. After seizure, the City of Cleveland shall promptly notify the permittee, and such individual shall have the right to request an informal hearing before the Director within ten (10) days after such notification to determine whether the seizure was proper.
l. As a condition of recovering any equipment seized by the City, the permittee shall pay an impound fee covering the actual cost to the City of transporting and storing such device and other associated equipment.

## IX. Geographical Restrictions

a. Permittees shall establish geofences that restrict device use from two hours before to two hours after each special event, subject to the following:
    i. For events at Progressive Field or Quicken Loans Arena, no use between E. 9th Street and Ontario Street on Euclid Avenue or any street to the south.
    ii. For events at First Energy Stadium, North Coast Harbor, or Burke Lakefront Airport, no use between W. 9th Street and E. 12th Street on Lakeside Avenue or any streets to the north.
b. The City will provide a special events calendar to permittees that includes times, locations, and geofence footprints of events. While the City will make every effort to maintain an updated special events schedule, permittees are responsible for monitoring changes, including but not limited to weather postponements, and adjusting geofencing accordingly.
c. Additional geographic restrictions may be required in certain areas of university campuses, institutions, and public spaces. Permittees shall use geofencing or other technology to restrict device access to these areas within 5 days of receiving a map provided by the City of Cleveland.

## X. Data Reporting

a. Permittees shall provide the City of Cleveland with the following quarterly data formatted according to a provided template, due with the per ride fee remittance:
    i. Number of devices in circulation in the City of Cleveland;
    ii. Number of active riders in the City of Cleveland;

iii. Number of trips that began in the City of Cleveland;
iv. Number of trips that ended in the City of Cleveland;
v. Device usage, including total miles (daily/monthly/quarterly/annually) in the City of Cleveland;
vi. Number and duration of rides/rider/day as well as rides/device/day in the City of Cleveland;
vii. Monthly summary (heat maps) of device distribution and GPS- based natural movement in the City of Cleveland;
viii. Customer comments/complaints and resolution;
ix. Issues of theft/vandalism;
x. Maintenance performed and average repair times;
xi. Number of helmets distributed to users;
xii. Details of any safety incidents, including date and time, location, device ID, traveling path, and severity;
xiii. Instances of illegal parking, including date and time of each parking complaint and the time to remedy the complaint; and
xiv. Number of users and rides taken under low-income, non-smartphone, and non-credit card program offerings.

b. Additionally, permittees shall supply real-time and historical data to the City of Cleveland via an application programming interface (API) following the Mobility Data Specification (MDS) Provider and General Bikeshare Feed Specification (GBFS).
c. Permittees agree that their GBFS feeds will be made available to the public and third party app developers by the City for the purposes of enhancing transportation choice and mode integration. The MDS Provider feed must be available to the City of Cleveland and contracted city partners through direct API access for the explicit purpose of program management. As such, these feeds must be consumable by third-party software.
d. All data use rights shall be maintained for at least three years after the date when permittee ceases operation in a city. Permittees shall maintain feeds and API access for historical data for at least one year after the cessation of operation or revocation of their permit.
e. The City may, in its sole discretion, release subsequent versions and/or updated versions of the specification and require permittees to use the most current version by releasing an automatic update and/or disabling support for the previous version.

## XI. Consumer Privacy/Protections

a. Personally-identifiable information shall not be shared with the City of Cleveland or any other entity. Permittees shall ensure the privacy of their users and shall be in compliance with industry accepted practices related to privacy and safe storage of consumer data.
b. Customers shall not be required to share personal data with 3rd parties in order to use the services.
c. Customers shall not be required to opt-in to providing access to their contacts and other private data in order to use the services.
d. Permittees handling credit card data shall be compliant with Payment Card Industry Data Security Standards.

## XII. Permittee Fines; Permit Suspension, Revocation, & Appeal

a. Permittees agree to remit fines for violating these Rules and Regulations to the City as invoiced by the City. Up to five rides per day in violation of each of these rules are forgivable based on technology

errors or inaccuracies in GPS readings. Violations will be determined using operator-provided data feeds as determined by shared mobility data management software.

i. Special events geofencing: $5 per ride violating requirements
ii. Institutional geofencing: $5 per ride violating requirements
iii. Operating hours: $20 per ride violating requirements

b. A permit granted under Chapter 517 of the Cleveland Codified Ordinances may be suspended or revoked by the Director at any time if the permittee violates the conditions or Rules and Regulations of the permit. Additionally, if the operation of shared mobility device rentals on City streets and rights-of-way become a hazard or risk to the health, safety and welfare of the public, the Director may revoke existing permits and discontinue the issuance of permits under this Chapter. Upon suspension or revocation of a permit, the vendor shall, at no cost to the City, remove all shared mobility devices from the right-of-way.
c. The Director shall give written notice of suspension or revocation of the permit to the permittee or his or her agent stating the reasons therefor. The action shall be effective upon giving such notice to the permittee or to his or her agent, and the permittee shall have five (5) business days to remove all shared mobility devices from the public right-of-way. If the business owner or operator of the equipment fails to comply, the City may seize and remove the shared mobility devices.
d. Within five (5) days of receipt of the notice, the permittee may request a hearing before the Director. The Director shall forthwith hold the requested hearing, at which time the permittee shall be afforded the opportunity to give his or her version of the facts which gave rise to the Director's action. After the hearing the Director shall determine whether to reinstate the permit or to permanently rescind it. The action of the Director may be appealed in accordance with the provisions of the Charter.

**f. <u>COVID-19 Protocols</u>**

a. Permittees shall comply with all COVID-19-related public health and business guidelines established by the Centers for Disease Control and Prevention, the State of Ohio, and the Cleveland Department of Public Health until the termination of the Mayor's Proclamation of Civil Emergency in the City of Cleveland dated March 11, 2020, as amended.
b. Permittees shall ensure that device contact points (including handlebars, brake levers, acceleration and bell levers) are sanitized each time they interact with the device, including for charging/battery swaps, rebalancing, or maintenance.
c. Permittees shall communicate up-to-date public health messaging hand washing, disinfecting surfaces, social distancing, and facial coverings before and after each ride through in-app messages. Examples may include:
    i. This is a shared scooter! Wash your hands with soap and water or use hand sanitizer with at least 60% alcohol before and after your ride.
    ii. If possible, clean and disinfect frequently-touched surfaces like handlebars and brakes before and after your ride.
    iii. Maintain a 6-foot distance from others and wear a mask if possible.

**g. <u>Other Provisions</u>**

a. Permittees shall work with the City of Cleveland to conduct a maximum of two user surveys and two employee surveys per year, upon request.

b. This permit does not give any permittee an exclusive right to operate a shared mobility program in the City of Cleveland. The City reserves the right to limit the number of shared mobility permits within the City.
c. The City of Cleveland reserves the right to amend these rules and regulations as needed, which will become effective seven (7) days after being published in the *City Record*.
d. No permit shall be transferable in any manner.
e. Permittees shall provide immediate written notice to the Director of any recalls of devices, assist in outreach related to a recall, and cover costs related to any necessary outreach related to a recall.
f. Permittees agree not to engage in anti-competitive behavior with other permittees, including falsifying data and sabotaging devices.