

AMENDMENT NO. 1

TO

SECOND SUBSTITUTE ORDINANCE NO. BL2018-1441

Mr. President:

I move to amend Ordinance No. BL2018-1441 by deleting subsection P in Section 6 in its entirety.

INTRODUCED BY:

Jeremy Elrod
Member of Council

AMENDMENT NO. 2
TO
SECOND SUBSTITUTE ORDINANCE NO. BL2018-1441

Mr. President –

I move to amend Second Substitute Ordinance No. BL2018-1441 as follows:

I. By amending Section 1 by deleting Subsection 12.62.020.B as proposed therein and substituting therefore the following:

B. The application must include these items:

1. A completed Certificate of Public Convenience and Necessity Application, in a form approved by the MTLC, which includes the following information and is accompanied by a payment of a \$500 nonrefundable application fee:
- ~~2.~~ a. Images and description of SUMDs and mobile application;
- ~~3.~~ b. Size of fleet at launch, including any planned fleet expansions during the pilot period;
- ~~4.~~ c. Service area at launch, including any planned expansions during the pilot period;
- ~~5.~~ d. A written plan for educating users on proper SUMD operation and parking;
- ~~6.~~ e. A written plan for providing equitable access in neighborhoods and to communities and users that are underserved by mobility and transportation options, as described in section 12.62.090 of this chapter; and
- ~~7.~~ f. A written plan for complying with this ordinance and its requirements.
- ~~8.~~ g. Certificate of Insurance, pursuant to Sec. 12.62.030.D.

II. By amending Section 2 by deleting it in its entirety and substituting therefore the following:

Section 2. That Section 12.62.040.E shall be amended by deleting it in its entirety and substituting therefore the following:

- E. SUMDs shall not be parked in such a manner as to impede the right-of-way or impede access to the right-of-way, consistent with the following:
1. SUMDs shall be parked in the frontage zone as defined in the Major and Collector Street Plan (MCSP), or in the hard surfaces of a furnishing zone (e.g., concrete or asphalt surface; never in a planted area) as defined by the adopted standards of the metropolitan government, or at a bicycle rack owned or operated by the metropolitan government. Operators shall inform customers on how to park SUMDs properly, following the requirements for parking of bicycles outlined in Section 12.60.140.
 2. Restrictions to eligible SUMD parking zones on sidewalks:
 - a. SUMDs shall not be parked on blocks where the frontage/furnishing zone is less than three feet wide, or where there is no frontage/furnishing zone.
 - b. On blocks without sidewalks, SUMDs may be parked if the travel lane(s) and six-foot pedestrian clear zone are not impeded.
 - c. Metro, through the MTLC shall determine certain block faces or areas where free-floating SUMD parking is prohibited. Geo-fenced areas may be used to designate where SUMD parking is or is not allowed. The MTLC shall issue its initial determinations no later than forty-five sixty days from the enactment date of this ordinance and report them to the Metropolitan Council. The determinations shall be made available as a map on the Metropolitan Government's website and the Metro Open Data Portal. Permitted operators shall clearly and conspicuously inform users

about these block faces or areas where SUMD parking is not allowed, including in their mobile applications. It is encouraged, but not required, that wherever free-floating SUMD parking is prohibited that dedicated and preferred SUMD parking areas be available on public or private property within a reasonable distance.

- d. SUMDs shall not be parked in the frontage/furnishing zone adjacent to or within:
 - i. Parklets;
 - ii. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
 - iii. B-Cycle stations;
 - iv. Loading zones;
 - v. Disabled parking zone;
 - vi. Street furniture that requires pedestrian access (for example - benches, parking pay stations, bus shelters, transit information signs, etc.);
 - vii. Curb ramps;
 - viii. Entryways; and
 - ix. Driveways.

3. At all times, SUMDs shall be parked in a manner compliant with the Americans with Disabilities Act, 42 U.S.C. § 12132, et seq.

III. By amending Section 4 by deleting it in its entirety and substituting therefore the following:

Section 4. That Title 12, Section 12.62.040 of the Metropolitan Code is hereby amended by adding new subsections O, P, and Q to read as follows:

O. A powered SUMD shall only be operated by a person who is ~~over~~eighteen (18) years of age or older. It is unlawful for any person who is less than eighteen (18) years of age to operate a powered SUMD.

P. Section 12.84.020 sets out the penalty for violation of subsection O of this section.

Q. Parking a SUMD where it is prohibited pursuant to Section ~~12.62.040.E.1-e~~ 12.62.040.E.2.c shall be a \$10 fine, assessed upon the operator. In its mobile application and elsewhere, a permitted operator shall clearly and conspicuously inform users where SUMD parking is prohibited and inform them that parking where it is prohibited shall result in a \$10 fine. The fine shall be ~~collected from the user by the permitted operator through its mobile application or other means, and it shall be remitted to the Metropolitan Government within 30~~ 60 days. Nothing herein shall prohibit permitted operators from seeking reimbursement of such fines from users whose actions incurred the assessment of fines.

IV. By amending Section 5 by deleting it in its entirety and substituting therefore the following:

Section 5. That Title 12, Section 12.62.040 of the Metropolitan Code is hereby amended by adding the following as a-subsection 12.62.040.R to read as follows:

~~R. The Metropolitan Government~~ department of public works shall establish a program of assigning and marking a limited number of street parking spaces, small sections of sidewalk, areas adjacent to transit stops, and other rights of way as dedicated and preferred parking areas where SUMDs can park without penalty as long as they are properly parked and upright. ~~The Metropolitan Government~~ department of public works shall implement an initial first phase of this program no later than sixty days from the enactment date of this ordinance and report on it to the Metropolitan Council. Information on this program shall be made available as a map on the Metropolitan Government's website and the Metro Open Data Portal. Permitted operators shall clearly and conspicuously inform users about these dedicated and preferred parking areas for dockless SUMDs, including in their mobile applications. Dedicated and preferred parking areas for dockless SUMDs may be located where parking for dockless SUMDs is otherwise prohibited pursuant to Section ~~12.62.040.E.1.c.~~ 12.62.040.E.2.c.

V. By amending Section 6 by deleting Section 12.62.050.N as proposed therein and substituting in lieu thereof the language below, and further adding Subsection 12.62.050.O as provided:

N. MTLC or its staff ~~shall~~ may establish limitations on the hours of operation of SUMDs, the streets within the metropolitan area in which they can or cannot operate, and streets and areas where SUMDs shall be slowed down remotely by the operator. The MTLC shall ~~make its initial determinations~~ establish any necessary initial limitations pursuant to this subsection no later than ~~forty-five days~~ sixty days from the enactment date of this ordinance and report them to the Metropolitan Council. The determinations shall be made available as a map on the Metropolitan Government's website and the Metro Open Data Portal. Permitted operators shall clearly and conspicuously inform users about these determinations, including in their mobile applications. Any deviation from the approved hours, locations of operation, or streets and ~~area~~ areas where SUMDs shall be slowed down remotely by the operator must be approved by the MTLC or its staff. Any approved deviation must be reported to the MTLC or the MTLC director staff prior to beginning of operations.

O. SUMD operators shall purge duplicate user accounts on a regular basis according to rules to be established by the MTLC.

VI. By amending Section 7 by deleting Section 12.62.080.D as proposed therein and substituting in lieu thereof the following:

D. Each expansion or increase in fleet size, including each incremental increase in 12.62.080.B, shall require the following:

1. a determination by the MTLC or its staff that:
 - a) The permitted operator has fulfilled the requirements of this chapter;
 - b) The number of violations associated with the SUMDs of that operator is below a threshold to be established by the MTLC; and
 - c) The type or category of SUMD in the permitted operator's current fleet to be increased is meeting or exceeding the average utilization threshold;
2. a publicly noticed hearing conducted before the MTLC for purposes of determining public preference regarding increases in SUMD volume.

VII. By amending Section 9 by deleting it in its entirety.

~~Section 9. That Title 12, Section 12.62.080 of the Metropolitan Code is hereby amended by adding the following subsections J and K to read as follows:~~

~~J. The number of SUMDs allowed under this section shall apply to the SUMDs of permitted operators on the types or categories of SUMDs they are operating in their fleets on the enactment date of this ordinance.~~

~~K. The MTLC may establish any such different limitations, regulations, guidelines or rules as allowed by law to promote and protect the health, safety, and well-being of the public regarding additional SUMD operators or the number of additional SUMDs in Nashville and Davidson County for:~~

- ~~1. Any SUMD operator that applies after the enactment date of this ordinance for a certificate of public convenience and necessity~~
- ~~2. Any operator permitted on the enactment date of this ordinance that requests to add additional types of SUMDs to their fleets.~~

VIII. By amending Section 10 by deleting it in its entirety.

~~Section 10. That Title 12, Section 12.62 of the Metropolitan Code is hereby amended by adding new section to read as follows:~~

~~Officers of the Metropolitan Nashville Police Department shall have the authority to enforce this chapter. A police officer, upon observing a violation of this chapter, of any regulation or rule established by the MTLC or the MTLC director pursuant to this chapter, shall take necessary enforcement action to insure effective regulation of SUMDs.~~

IX. By amending Section 11 by deleting it in its entirety and substituting therefore the following:

~~Section 11. That Title 12, Section Chapter 12.62 of the Metropolitan Code is hereby amended by adding a new section 12.62.110 to read as follows:~~

12.62.110 – Sunset provision.

~~The SUMD pilot program shall terminate one year from the enactment date of this ordinance on April 1, 2020, except it may be extended before such date by a resolution of the metropolitan council that specifically states the length of the extension. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this chapter is reviewed by the metropolitan council after its adoption. Once the pilot project is terminated, SUMDs and SUMD systems shall no longer be permitted within the geographic boundaries of Nashville and Davidson County, and all certificates of public convenience and necessity shall be revoked. The Metropolitan Government may take all necessary action to conclude the pilot project. By obtaining or renewing a certificate of public convenience and necessity under this chapter, a permitted operator agrees to abide by and comply with the Metropolitan Government as it ends the SUMD pilot project.~~

X. By amending Section 12 by deleting it in its entirety and substituting therefore the following:

~~Section 12. That Title 12, Section Chapter 12.62 of the Metropolitan Code is hereby amended by adding a new section 12.62.120 to read as follows:~~

12.62.120 – Severability.

If any ~~sentence, section, subsection or provision of Title 12, Section 12.62 this chapter~~, or the application of any provision of ~~Title 12, Section 12.62 this chapter~~ to any person or circumstance is ~~be~~ held invalid ~~or unconstitutional~~, ~~the invalidity does such declaration shall not~~ affect ~~the validity of~~ other provisions or applications of ~~Title 12, Section 12.62 this chapter~~ that can be given effect without the invalid provision or application; and to that end, the provisions of ~~Title 12, Section 12.62 this chapter~~ are declared to be severable.

INTRODUCED BY:

Jeremy Elrod

Freddie O'Connell
Member of Council