

SECOND SUBSTITUTE ORDINANCE NO. BL2018-1441

An ordinance amending Chapters 12.62 and 12.84 of Title 12 of the Metropolitan Code of Laws regarding shared urban mobility devices.

BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Title 12, Section 12.62.020, Subsections ~~D B~~ through H of the Metropolitan Code of Laws is hereby amended by deleting said subsections in ~~its~~ their entirety and replacing ~~it~~ them as follows:

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. Images and description of SUMDs and mobile application;
3. Size of fleet at launch, including any planned fleet expansions during the pilot period;
4. Service area at launch, including any planned expansions during the pilot period;
5. A written plan for educating users on proper SUMD operation and parking;
6. 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. A written plan for complying with this ordinance and its requirements.
8. Certificate of Insurance, pursuant to Sec. 12.62.030.D.

C. If the MTLC staff determines that the application meets all the requirements above, the applicant/operator shall submit the items below prior to issuance of the permit.

1. Nonrefundable Program Administrative Fee, pursuant to Sec. 12.62.070.A.;
2. Performance Bond, pursuant to Sec. 12.62.050.D.; and
3. Five (5) account logins to allow Metropolitan Government staff to login to the operator's system as if they were a User, for oversight.

~~D.~~ The number of permitted operators shall not be limited by the Metropolitan Government, except the number of permitted operators that rent powered SUMDs that are not bicycles shall be limited to four. The MTLC may issue certificates of public convenience and necessity to additional permitted operators that rent powered SUMDs that are not bicycles after it conducts a hearing to review applications:

- ~~1. The MTLC director shall fix a time and place for public hearings, to be held biannually, to review applications for additional certificates of public convenience and necessity.~~
- ~~2. No such hearing shall be held to review applications for additional certifications of public convenience and necessity without giving due notice of the time and place of such hearing to each applicant and to all current certificate holders. Additionally, notice shall be given to the general public by posting notice of the hearing on the MTLC home web page at least five days prior to the hearing.~~
- ~~3. Any person may file with the MTLC a memorandum, letter or electronic correspondence in support of or opposition to the issuance of an additional certificate of public convenience and necessity.~~
- ~~4. The MTLC may, in its discretion, call special meetings in addition to the biannual meetings for the consideration of additional certificates of public convenience and necessity.~~
- ~~5. An applicant shall pay all necessary applicant fees, program administrative fees as set forth in Section 12.62.080, and any other fees set forth in this chapter or established by the MTLC before the applicant may be considered by the MTLC for a certificate of public convenience and necessity. These fees shall be payable at the time of application and are nonrefundable.~~

6. ~~The MTLC may set any additional fees as it deems necessary to process and consider an application for a certificate of public convenience and necessity.~~
- D. A certificate shall not be transferred or sold unless approved by the MTLC.
 - E. During this pilot program, a certificate of public necessity and convenience shall be issued for one (1) year and may be renewed by the MTLC only after re-application.
 - F. Permitted operators are not entitled to and have no automatic right to renewal of their permit, and operators must comply with any and all ordinances, regulations or policies that are duly and lawfully adopted by the Metropolitan Government after a permit is approved.
 - G. Any operator determined to have operated without a proper permit within the geographic boundaries of Nashville and Davidson County after June 15, 2018 shall be prohibited from obtaining a permit for one (1) year from the effective date of this ordinance.
 - H. The MTLC is authorized to promulgate regulations to interpret and administer this chapter.
 - I. If a permitted SUMD operator fails to apply for renewal prior to the end of their certificate, the SUMD operator shall be treated as a new applicant.

~~Section 2. That if more than four operators that rent powered SUMDs that are not bicycles have a certificate of public convenience and necessity as of the effective date of this ordinance, the MTLC shall revoke the certificate of public convenience and necessity of any operator that rent powered SUMDs that are not bicycles that received its certificate after four certificates of public convenience and necessity were already issued. The MTLC may hold a hearing to review whether to issue a new certificate of public convenience and necessity to operators that rent powered SUMDs that are not bicycles whose certificate was revoked due to this section.~~

Section 2. That Section 12.62.040.E.2.c is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

- c. Metro, through the MTLC or the ~~its Traffic and Parking Commission~~, reserves the right to 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 initial determinations no later than forty-five 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.

Section 3. That Title 12, Section 12.62.040.M of the Metropolitan Code is hereby amended by deleting said subsection in its entirety and replacing it as follows:

- M. In addition to penalties assessed for any separate violation of Tennessee law or Metropolitan Code of Laws, and except where it is specified otherwise in this chapter, any violation of this ordinance by a user in the operation or parking of a SUMD shall be a fine of twenty-five dollars (\$25) to be assessed on the SUMD and paid by the owner of the SUMD.

Section 34. That Title 12, Section 12.62.040 of the Metropolitan Code is hereby amended by adding new subsections O, ~~and 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.c shall be a \$10 fine. 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 days.

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

The Metropolitan Government 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 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.

Section 6. That Section 12.62.050.N is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

- N. MTLC or its staff ~~may~~ shall establish limitations on the hours of operation of SUMDs ~~or~~, 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 no later than forty-five 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, ~~or~~ locations of operation, or streets and area 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.
- P. SUMD operators shall scan the driver's license of users prior to a user operating a SUMD according to rules to be established by the MTLC.

Section 47. That Section 12.62.080.D is hereby amended by deleting it in its entirety 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 a determination by the MTLC or its staff that:
1. The permitted operator has fulfilled the requirements of this chapter;
 2. The number of violations associated with the SUMDs of that operator is below a threshold to be established by the MTLC; and
 3. The type or category of SUMD in the permitted operator's current fleet to be increased is meeting or exceeding the average utilization threshold.

Section 58. That Section 12.62.080.H is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

- H. The MTLC shall establish regulations, requirements and limitations to reduce clustering of SUMDs. Until the MTLC establishes such regulations, requirements and limitations, All permitted operators shall have systems with service areas that do not exceed three hundred forty of each type of SUMDs per square mile. The MTLC shall designate the location of the square mile locations in relation to service areas. The MTLC may require less than three hundred forty of each type of SUMD per square mile and establish other requirements to reduce clustering of SUMDs only after notice and a hearing before the MTLC.

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.

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.

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

The SUMD pilot program shall terminate one year from the enactment date of this ordinance, except it may be extended before such date by a resolution of the metropolitan council that specifically states the length of the extension. 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.

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

If any provision of Title 12, Section 12.62 or the application of any provision of Title 12, Section 12.62 to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Title 12, Section 12.62 that can be given effect without the invalid provision or

application, and to that end, the provisions of Title 12, Section 12.62 are declared to be severable.

Section ~~613~~. That Title 12, Section 12.84.020(A) of the Metropolitan Code is hereby amended by adding a new subsection 66 to read as follows:

66. 12.62.040(O) and (P), Operating a powered SUMD by a person who is less than eighteen (18) years old.

Section 14. This ordinance shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Jeremy Elrod
Member of Council