

SUBSTITUTE ORDINANCE NO. BL2019-1658

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

WHEREAS, the Metropolitan Government of Nashville and Davidson County has a fundamental responsibility to ensure safe passage on public rights-of-way, to protect public health, safety and welfare, and govern commerce in the public right-of-way; and

WHEREAS, the Metropolitan Government has the authority under state law and the Metropolitan Charter to regulate commerce and commercial equipment that use the public rights-of-way; and

WHEREAS, the Metropolitan Government has the authority under state law and the Metropolitan Charter to regulate the operation of vehicles on the public right-of-way, including streets, roads, bike lanes, sidewalks, and other thoroughfares; and

WHEREAS, research by Walk Bike Nashville suggests hundreds of Nashvillians a day rely on scooters for an affordable commute; and

WHEREAS, studies have shown that one third of scooter trips would otherwise be in a personal automobile, exacerbating traffic congestion and environmental degradation; and

WHEREAS, hundreds of residents of Nashville and Davidson County are employed directly by SUMD operators or rely on them for additional income; and

WHEREAS, a 2019 study conducted and published by the City of Austin, TX Department of Health [<http://www.austintexas.gov/edims/pio/document.cfm?id=318777>], in collaboration with Centers for Disease Control and Prevention (CDC), recommended increasing the "frequency and methods of educational messages on safe e-scooter riding practices"; and

WHEREAS, the Metropolitan Council has determined that, in the interest of public health, safety and welfare, it is necessary to terminate the current shared urban mobility device (SUMD) pilot program for electric scooters, and to issue a request for proposals (RFP) to select a limited number of operators based upon more stringent safety and regulatory standards.

WHEREAS, the Metropolitan Government has issued SUMD permits to seven (7) operators which has resulted in approximately 4100 electric scooters being licensed to operate within Metro Davidson County; and

WHEREAS, the current number of operators and the volume of SUMDs within the right of way presents a safety risk that endangers the welfare of the community; and

WHEREAS, the number and volume of SUMDs must be reduced to protect the public and to make it more realistic for the City to enforce its regulations and police its right of way; and

WHEREAS, the Metropolitan Council believes that the following SUMD fleet reductions and instructions to the MTLC to enact the enumerated emergency rules governing SUMD operations within Davidson County, are required by the Public Welfare and are necessary to protect the Public Safety.

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

Section 1. That Title 12, Section 12.62.080 of the Metropolitan Code of Laws is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

~~12.62.080 – Number of shared urban mobility devices allowed.~~

- ~~A. Permitted operators' fleets shall be limited in number, with separate limitations for each type or category of SUMD, such as bicycles, powered bicycles, and powered scooters. The MTLC may establish other categories of SUMDs.~~
- ~~B. Each type or category of SUMD in a permitted operator's fleet shall be limited in number as determined by the MTLC.~~
- ~~C. The MTLC shall establish criteria, rules and procedures for determining the number SUMDs in a permitted operator's fleet.~~
- ~~D. No permitted operator that is operating as of May 16, 2019 or thereafter shall be granted an increase in the number of SUMDs in its fleet throughout the remainder of the pilot program.~~
- ~~E. The MTLC may require permitted operators to reduce their fleet size after notice and a hearing before the MTLC. Pursuant to the authority provided under subsection 12.62.050.M herein, the MTLC may further require permitted operators to immediately reduce their fleet size in the interests of public health and safety, with such reductions remaining in effect until a notice and hearing is conducted by the MTLC within no more than 60 days following such action.~~
- ~~F. 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 two hundred twenty five of each type of SUMDs per square mile. The MTLC shall designate the location of the square mile locations in relation to service areas.~~
- ~~G. The MTLC shall establish regulations, requirements and limitations to require permitted operators to include Nashville Promise Zones in their service areas. Until the MTLC establishes such regulations, requirements and limitations, any permitted vendors operating systems with five hundred or more SUMDs must include Nashville Promise Zones in twenty percent or more of their service area.~~

Section 2. That Title 12, Section 12.62.070 of the Metropolitan Code is hereby amended by adding a new subsection C to read as follows:

~~C. The MTLC has the authority to establish any additional fees it determines necessary and reasonable to carry out and enforce this pilot program, including but not limited to assessing fees on already permitted operators.~~

Section 1. That all Sections of Chapter 12.62 of the Metropolitan Code of Laws after Section 12.62.010 are hereby deleted in their entirety.

Section 2. That Chapter 12.62 is further amended by creating a new section 12.62.020 – Termination of SUMD Permits:

12.62.020 – Termination of SUMD Permits

- A. In the interest of public safety and to protect public welfare, and upon the effective date of this section, all SUMD permits issued by the MTLC are hereby terminated and replaced by a temporary permit to operate within Metro with a fleet size of 50% of that which was authorized by their permit on July 1, 2019. This temporary permit will terminate automatically upon the issuance of new permits to operate SUMDs by the MTLC as result of a Request for Proposal (RFP) process, as set forth below.

- B. There shall be no additional SUMD permits or fleet expansions issued by the MTLC unless and until an RFP process, as set forth below, has occurred. Any future SUMD operator permit must be issued pursuant to the RFP process.
- C. The MTLC is directed to conduct an RFP process as described herein. This process shall be completed, and new permits issued within 100 days from effective date of ordinance. The RFP shall select up to three (3) operators to operate a fleet of SUMDs. The MTLC shall initially allow each selected operator a minimum of 500 units in its fleet. Future post RFP increases in a specific operator's SUMD fleet size shall be determined by the MTLC and shall be based on reasonable and objective criteria to be developed by the MTLC, including but not limited to, its understanding of an operator's ability and willingness to achieve the goals of this chapter. In addition to any evaluation criteria developed by the MTLC, the RFP process will be required to thoroughly evaluate potential operators in the following areas:
1. Equipment and Safety
 2. Commitment to ensuring rider compliance with State and Local laws, including, but limited to DUI laws and rider age requirements.
 3. Commitment to promoting proper and safe use of SUMDs, including the use of helmets.
 4. Use of staffing, technology and other means to limit or prohibit use of SUMDs in restricted areas, including but not limited to, sidewalks.
 5. Staffing to adequately and timely address issues with parking of SUMDs on public rights-of-way, public sidewalks, and private property, the rebalancing unit during hours of operation, and issues with accessibility, especially those relevant to the Americans with Disabilities Act (ADA).
 6. Response times to address issues with SUMDs.
 7. Plans to coordinate and cooperate with the Metropolitan Government concerning special events.
 8. Inclement weather plans.
 9. Use of technology to limit operation of SUMD's while impaired, especially after 10 PM on weekdays, and after 11 PM on weekends and Holidays.
- D. The MTCL is directed to immediately enact emergency regulations to govern the interim period of reduced SUMD fleet operation in Metro as well as operation after an operator has been selected pursuant to the RFP process outlined above. In addition to any regulations the MTLC believes are necessary for the safe and efficient operation of a SUMD fleet within Metro, including, but not limited to establishing additional fees it determines are reasonable and necessary to carry out and enforce this ordinance, the regulations shall, at a minimum, require:
1. Use of technology where reasonable and practicable to create no ride and slow zones, where operation of SUMDs or where speeds in excess of 8 miles per hour, is not permitted, in the following locations:
 - a. Slow zone - Broadway between 7th Ave and the Cumberland River;
 - b. Slow zone - 2nd Avenue between Broadway and Union Street;
 - c. No ride zone - Any Metropolitan greenways; and
 - d. No ride zone - Within any Metropolitan Parks, except on paved streets located within the same.
 2. Prohibition of the operation of SUMDs after 10 PM on weekdays and 11 PM on weekends and Metro holidays, unless the operator institutes an impaired user function, as a prerequisite to riding the SUMD after these hours.
 3. Two full time employees per 100 SUMDs. The primary responsibility of these employees would be to rebalance fleets to address clustering, sidewalk blockage issues, respond to private property owner complaints, and ensure maximum effective utilization of Metro-provided SUMD corrals and overall fleet safety and reliability.

4. That reasonable helmet promotional activities and increased education activity be conducted by all permitted operators and that the same be reported to the MTCL on a quarterly basis and to the Metropolitan Council annually.
5. Signage that indicates that SUMDs are not to be operated on sidewalks in areas where the MTLC determines sidewalk use is to prohibited. Each permitted operator shall reimburse the Metropolitan Government for the cost of the signage on a pro-rata basis, up to a maximum of \$10,000 per company per year. This signage shall be installed by the MTLC or the Department of Public Works.
6. The establishment of an accessibility complaint "hotline", to be funded on a pro rata basis by all SUMD operators, that would have a required 30-minute response time to all accessibility or ADA related issues or complaints.
7. A 120-minute response time to all non-accessibility or ADA related complaints associated with SUMDs.
8. A right, after notice and hearing, for the MTLC to suspend a permit or reduce fleet size, based on willful failure to comply with MTLC rules and regulation.

Section 3. 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:

Tanaka Vercher

Anthony Davis

Russ Pulley
Members of Council