

ORDINANCE NO. BL2019-_____

An ordinance amending Chapter 12.62 of Title 12 of the Metropolitan Code of Laws and Substitute Ordinance No. BL2019-1658 regarding shared urban mobility devices.

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

WHEREAS, the Metropolitan Government possesses the authority under state law and the Metropolitan Charter to regulate commerce and commercial equipment that uses the public right-of-way; and

WHEREAS, the Metropolitan Government possesses 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, the Metropolitan Council has determined that, in the interest of public health, safety, and welfare, it is necessary to terminate the shared urban mobility device (SUMD) pilot program for electric scooters, as modified pursuant to Substitute Ordinance No, BL2019-1658 and to issue a request for proposals (RFP) to select operators based upon more effective safety and regulatory standards; and

WHEREAS, the Metropolitan Government had previously issued SUMD permits to seven (7) operators which resulted in approximately 4,100 electric scooters being licensed to operate within Nashville and Davidson County. That number of permits was reduced by half when Substitute Ordinance No. BL2019-1658 become effective on August 7, 2019 – pending completion of an RFP process and the issuance of new permits within 100 days from effective date; and

WHEREAS, on November 12, 2019, the Metropolitan Transportation Licensing Commission (MTLC) submitted formal notice to the Metropolitan Council and to Vice Mayor Jim Shulman that the RFP process timeline mandated under Substitute Ordinance No. BL2019-1658 could not be met. The notice further requested the Council's forbearance in permitting an extension of the time specified in the Substitute Ordinance to complete the process; and

WHEREAS, the volume of SUMDs within the right-of-way prior to August 7, 2019 presented safety risks that endangered the welfare of the community. The temporary reduction of that volume, mandated by Substitute Ordinance No. BL2019-1658, afforded greater public safety while the MTLC developed an RFP process. Such reduction in volume remains necessary, at least temporarily, to enable continued development of an RFP process; and

WHEREAS, the Metropolitan Council concludes that continued SUMD fleet reductions, together with instructions to the MTLC to enact the enumerated emergency rules governing SUMD operations within Nashville and Davidson County, remain necessary for the public welfare and in the interests of public safety.

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

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 as follows:

12.62.20 – Termination of SUMD Permits

- A. In the interest of public safety and to protect public welfare, upon the effective date of this section, recognized SUMD permits shall consist solely of the temporary permits authorized under Substitute Ordinance No. BL2019-1658 -- allowing a fleet size of 50% of that which was authorized by predecessor permits on July 1, 2019. All temporary permits shall terminate automatically upon the issuance of new permits by the MTLC to operate SUMDs 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, not including protests and procurement appeals if any, within 120 days from the effective date of this ordinance and new permits issued as soon as practicable thereafter. The RFP shall select operators to operate a fleet of SUMDs. The MTLC shall initially allow each selected operator a maximum of 500 units in its fleet. Future post-RFP increases in a specific operator's SUMD fleet size shall be determined by the MTLC, based upon reasonable and objective criteria to be developed by the MTLC, including but not limited to, 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. The potential operator's commitment to regularly participate in shared micromobility operational stakeholder meetings focusing upon operational matters encompassing a wider and more diverse group than the operators, such as outreach and educational groups;
 - 2. The potential operator's commitment to address the safety and security concerns expressed by the public regarding past, current, and future SUMD services, including specific commitments to and experiences with local governments to achieve safe, effective operations;
 - 3. The potential operator's commitment and ability to effectively partner with the Metropolitan Government on an ongoing basis for purposes of addressing the continuing needs, concerns, and objectives of the Metropolitan Government in regulating SUMDs, including matters of equity including geographic coverage, affordability, technology, and abilities;
 - 4. The potential operator's commitment to ensuring rider compliance with state and local laws, including, but not limited to DUI laws and minimum rider age requirements;
 - 5. The potential operator's commitment to promoting proper and safe use of SUMDs, including use of helmets and/or other equipment and the provision of safety education;
 - 6. The potential operator's use of staffing, technology, and other means to restrict or prohibit use of SUMDs in restricted areas, including but not limited to, sidewalks.
 - 7. The sufficiency of the potential operator's staffing to adequately and timely address (a) improper parking of SUMDs on public rights-of-way, public sidewalks, and private property; (b) uprighting overturned SUMDs during recognized hours of operation; and (c) rebalancing or reallocating SUMDs evenly throughout the city during recognized hours of operation; (d) potential violations of the

Americans with Disabilities Act (ADA) or other improper interference with access to public thoroughfares;

8. The response time required by the potential operator to address issues with SUMDs;
9. The potential operator's plans to coordinate and cooperate with the Metropolitan Government regarding special events;
10. The potential operator's approach to collaborating with the Metropolitan Government in developing shared expectations and approaches for safety-related management matters such as inclement weather, impaired drivers, equipment, public education, *etc.*;
11. The potential operator's willingness and ability to conform to adaptive regulations that address changing technologies, evolving markets, as well as risk impacts that vary based upon location, time of day, and other variables;
12. The potential operator's willingness and ability to perform within a regulatory "pilots" environment in which potential solutions are tested under varied circumstances in order to determine best practices and approaches;
13. The potential operator's willingness and ability to work within outcome-based regulations, including performance-based criteria, in lieu of fixed regulations;
14. The potential operator's willingness and ability to comply with risk-weighted regulations, adjusted to address measured safety risks faced by members of the public and/or SUMD riders under particular circumstances;
15. The potential operator's willingness and ability to provide pricing and availability options to riders based upon equity and lower incomes;
16. The potential operator's proposals for addressing sustainability and environmental concerns; and
17. The potential operator's ability to provide the Metropolitan Government with real time data sharing and open data information regarding SUMD locations, ridership, SUMD traffic patterns, and other data.

D. The MTLC is directed to enact regulations it deems necessary for the safe and efficient operation of a SUMD fleet to govern (i) the interim period of reduced SUMD fleet operation in Nashville and Davidson County, as well as (ii) the period after an operator has been selected pursuant to the RFP process outlined above. In addition to such regulations, the MTLC shall be authorized to establish additional fees it determines as reasonable and necessary to carry out and enforce this ordinance. The regulations previously adopted by the MTLC on August 7, 2019, and amendments thereto, pursuant to the authority given to the MTLC in Substitute Ordinance No. BL2019-1658 to enact regulations, are acknowledged to be consistent with the above and shall remain in force until and unless the MTLC amends them.

E. All temporary permits authorized pursuant to Section 12.62.020.A of this Chapter shall remain subject to indemnification agreements previously executed by or on behalf of SUMD operators indemnifying and holding harmless the Metropolitan Government of Nashville and Davidson County. Additionally, all temporary permit holders shall include in agreements with its users a term that its users must agree to as a prerequisite to the use of the SUMD: that the user fully releases and waives all liability of the metropolitan government for any injury or harm the user experiences arising from the user's use of the certificate holder's SUMD.

Section 2. 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:

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Members of Council