

THIS PRINT COVERS CALENDAR ITEM NO.: 12

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Taxis and Accessible Services

BRIEF DESCRIPTION:

Amending Division II of the Transportation Code to establish a definition of Shared Mobility Device Service that encompasses existing shared mobility device services (bikeshare and e-scooter share); delegate authority to the Director to authorize the temporary operation of a Shared Mobility Device Service or Non-Standard Vehicle service under a Proof of Concept Authorization if there is not an existing permit program, and establish fees and administrative penalties for violations and recommend that the Board of Supervisors approve an amendment to Division I of the Transportation Code to prohibit the operation of Shared Mobility Devices Service without a permit or authorization from SFMTA.

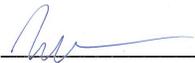
SUMMARY:

- Recently, companies have launched shared mobility devices and services in San Francisco that utilize the public right-of-way without permits or authorization, causing the need for the Board of Supervisors to establish violations for operating such a service without a permit, and SFMTA has had to establish individual pilot permit programs in reaction to regulate the launch of these unpermitted services.
- Shared mobility devices and services have the potential to complement our existing transportation network by providing an alternative to single occupancy vehicles.

ENCLOSURES:

1. SFMTAB Resolution
2. Transportation Code Division II Amendments
3. Transportation Code Division I Amendments

APPROVALS:

DIRECTOR  _____

SECRETARY  _____

DATE

October 30, 2019

October 28, 2019

ASSIGNED SFMTAB CALENDAR DATE: November 5, 2019

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PURPOSE

Requesting that the Board of Directors amend Division II of the Transportation Code to establish a definition of Shared Mobility Device Service that encompasses existing shared mobility device services (bikeshare and e-scooter share); delegate authority to the Director to authorize the temporary operation of a Shared Mobility Device Service or Non-Standard Vehicle service under a Proof of Concept Authorization if there is not an existing permit program, and establish fees and administrative penalties for violations and recommend that the Board of Supervisors approve an amendment to Division I of the Transportation Code to prohibit the operation of Shared Mobility Devices Service without a permit or authorization from SFMTA.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

The Permit Harmonization effort supports the following SFMTA Strategic Plan Goals and Objectives:

Goal 2: Make transit and other sustainable modes of transportation the most attractive and preferred means of travel.

Objective 2.2: Enhance and expand use of the city's sustainable modes of transportation.

Goal 3: Improve the quality of life and environment in San Francisco and the region.

Objective 3.1: Use agency programs and policies to advance San Francisco's commitment to equity.

Objective 3.2: Advance policies and decisions in support of sustainable transportation and land use principles.

Objective 3.3: Guide emerging mobility services so that they are consistent with sustainable transportation principles.

Goal 4: Create a workplace that delivers outstanding service.

Objective 4.5: Increase the efficiency and effectiveness of business processes and project delivery through the implementation of best practices.

The Permit Harmonization effort supports the following Transit First Policy Principles:

Policy 1: To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

Policy 3: Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.

Policy 10: The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

BACKGROUND

Over the past several years, a variety of new mobility devices and services have been introduced on the streets of San Francisco, and San Francisco Municipal Transportation Agency (SFMTA) has been reacting to individual new services as they launch, instead of proactively establishing an overarching regulatory framework for new mobility devices.

In order to shift to a more efficient and effective role, the SFMTA is launching its effort to proactively regulate mobility devices and services (Mobility Permit Harmonization). The goal of this process is to require that all new shared mobility service operators that are under SFMTA's jurisdiction get authorization before starting operations and to streamline the authorization process. This will allow new shared mobility entrants a clear path for innovation on city streets, while ensuring the SFMTA has the regulatory tools needed to manage and evaluate their impacts on the City's mobility goals, and alignment with the City's Guiding Principles for Emerging Mobility. The SFMTA's effort will complement the City's proposed creation of an Office of Emerging Technology, which comes out of a multi-year planning effort led by Supervisor Yee. Once the Office of Emerging is established, staff will continue to collaborate and align with this new office. This legislation will complement and work in concert with the legislation that will establish the Office of Emerging Technology, which will become the City's front door for emerging technologies. Proposals to operate new mobility or non-standard vehicle services that do not fall within an existing permit program will be routed through the Office of Technology. New mobility or non-standard vehicle services that would operate within SFMTA's exclusive jurisdiction will be referred to SFMTA, and new mobility or non-standard vehicle services that would involve multiple jurisdiction will require the applicant to submit an application to the Office of Emerging Technology which includes a requirement to also apply for SFMTA authorization.

DESCRIPTION

Currently, companies can generally operate a new mobility service if there is not an existing permit program in place. If the City chooses to regulate the service, a violation for operating without a permit would need to be established for that individual service and a permit program developed. This leaves SFMTA staff in a position of reacting to new mobility services that may start operating and managing questions and complaints from the public about the nature of the service. It takes extensive staff time and effort to establish a violation for operating and setting up a new pilot or permanent permit program. The Permit Harmonization effort will allow the SFMTA to shift away from this reactive approach by establishing a definition of shared mobility device service which includes existing or new services that are within SFMTA's regulatory jurisdiction, and by establishing the violation for operating without a permit or authorization. This will shift the SFMTA into a proactive position by not allowing operation of a shared mobility device service without a permit or authorization that protects public safety and provides consumer protection. Additionally, Permit Harmonization will establish a clear process for mobility companies to start legal operations in a streamlined manner.

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Transportation Code Division I Amendment

SEC. 7.2.110

In the past, new shared mobility services that did not fall within an established permit category could commence operations with no City input, until a violation for operating without a permit was enacted for that specific service and a permit program developed. The SFMTA will request the Board of Supervisors amend Division I of the Transportation Code to make it a violation to operate a “Shared Mobility Device Service” without a permit or other authorization from the SFMTA. This will ensure that shared mobility device services that are within the SFMTA’s regulatory jurisdiction must obtain authorization before they begin operations.

The proposed Transportation Code Division I Legislation is included as an enclosure and was introduced at the Board of Supervisors on October 8, 2019.

Transportation Code Division II Amendments

In parallel with the proposed Transportation Code Division I amendments, staff is bringing proposed changes to the Board to amend Articles 300 and 1200 of Division II of the Transportation Code to create a clear path to test innovative transportation services.

Proposed changes to Division II of the Transportation Code are summarized below by code section.

SEC. 302. TRANSPORTATION CODE PENALTY SCHEDULE.

Staff is proposing to amend Section 302 of Division II of the Transportation Code to eliminate the Stationless Bicycle Share penalty and incorporate it into a new Shared Mobility Device Service parking penalty. The Shared Mobility Device Service parking penalty would be applied per device. A penalty will also be added for operating without a permit. While the parking penalty will be assessed per vehicle, operating without a permit will result in a larger fine against the operator.

SEC. 310. SCHEDULE OF FINES.

Staff is proposing to amend Section 310 of Division II of the Transportation Code to establish administrative fines for violations of shared mobility device service permit or authorization conditions and establish a violation for operation of a non-standard vehicle service without authorization, which expands the ability to operate a non-standard vehicle service under POCA, as well as an existing permit program. The parking fee was already established under the Bicycle Share Program, while the operating without a permit fine is the maximum allowed by law.

SEC. 327. SHARED MOBILITY DEVICE SERVICE FEES

Staff is proposing to add a new Section 327 to Division II of the Transportation Code to establish a Proof of Concept Authorization application fee (\$4,089) and a fee (\$2,110 per 30-day term or portion thereof) for administering a shared mobility device or non-standard vehicle service Proof of Concept Authorization issued by the Director of Transportation. This fee was determined using a cost recovery analysis.

SEC. 1202. DEFINITIONS.

Staff proposes to amend Section 1202 of Division II of the Transportation Code to add definitions for “Authorized Operator,” “Mobility Device,” “Shared Mobility Device Service” and “Proof of Concept Authorization”. In proposing the new definitions, the intent is to include existing shared mobility device services that are under SFMTA’s regulatory jurisdiction, but not be so specific as to exclude a new type of service that is not yet in operation.

SEC. 1206. PERMIT REQUIREMENT; GENERAL PERMIT CONDITIONS.

Staff proposes to amend Section 1206 of Division II of the Transportation Code to require a permit or authorization to operate a Shared Mobility Device Service and add a new Section 1206-1 to establish the Proof of Concept Authorization (POCA). The POCA is intended to allow companies that want to legally test their mobility devices and non-standard vehicles to operate on a limited basis, under the discretion of the Director of Transportation, presuming basic conditions for ensuring public safety, health, and welfare, and alignment with City mobility goals are met. The POCA is intended to provide a means for the SFMTA to authorize new shared mobility device and non-standard vehicle services as an additional option to the SFMTA developing, and the company applying for, a conventional permit. Under the proposed legislation, shared mobility device and non-standard vehicles services operating under a POCA could not be extended beyond 12-months, in which time the service would be evaluated, and recommendations could be made to refine the service, initiate a pilot program, or develop a permit program.

Under the proposed legislation, the new Section 1206-1 would set forth the basic POCA application requirements, including the process for issuing a POCA, as well as required fees for application and administration. The Director of Transportation may immediately terminate a POCA for violation of any conditions of approval or, if necessary, to protect the public health, safety or welfare.

SEC. 1209. ADMINISTRATIVE FINES; PERMIT REVOCATION.

Staff proposes to amend Section 1209 of Division II of the Transportation Code to allow the Director of Transportation to terminate a POCA for good cause as well as impose an administrative fine of \$270 per violation per day for operating a Shared Mobility Device Service

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against an authorized operator (shared mobility device or non-standard vehicle service operator that is operating under a POCA).

SEC. 1210. ADMINISTRATIVE FINES ASSESSED AGAINST NON-PERMIT HOLDERS OR NON-AUTHORIZED OPERATORS.

Staff proposes to amend Section 1210 of Division II of the Transportation Code to allow the SFMTA to issue and serve a citation of \$5,000 to non-authorized operators (shared mobility device or non-standard vehicle service operators that are not authorized to operate under a POCA) for violations of Article 1200

Subsequent Steps

If the SFMTA Board adopts the proposed legislation, staff will work to finalize Policy Directive issued by the Director of Transportation to guide the implementation of the POCA program. This will include guidance regarding the application process, public outreach, criteria for reviewing applications, criteria for determining the POCA term, and criteria for terminating a POCA. If a POCA is successful, the SFMTA may move to create a pilot program or even a permit program. Establishing a new mobility or non-standard vehicle pilot or permit program would require SFMTA Board approval.

In a separate subsequent phase of the Mobility Permit Harmonization effort, staff will request the SFMTA Board consider a reorganization of Division II of the Transportation Code so that permit requirements for existing shared mobility and non-standard vehicle services are under one umbrella. This will provide multiple benefits and efficiencies for staff, mobility providers and the public, by providing a consistent, standard regulatory framework. This will also streamline the addition of new permit programs as they arise without having to recreate basic elements (e.g. application and appeals processes).

Staff has been engaging with City department colleagues regarding the development of a proposed Office of Emerging Technology, which comes out of a multi-year planning effort led by Supervisor Yee. Once the Office of Emerging Technology is established, staff will continue to collaborate and align with this new office. This legislation will complement and work in concert with the legislation that will establish the Office of Emerging Technology, which will become the City's front door for emerging technologies. Proposals to operate new mobility or non-standard vehicle services that do not fall within an existing permit program will be routed through the Office of Technology. New mobility or non-standard vehicle services that would operate within SFMTA's exclusive jurisdiction will be referred to SFMTA, and new mobility or non-standard vehicle services that would involve multiple jurisdiction will require the applicant to submit an application to the Office of Emerging Technology which includes a requirement to also apply for SFMTA authorization.

STAKEHOLDER ENGAGEMENT

SFMTA held an open community forum for members of the public and industry groups to provide feedback to staff on how to best establish the guidelines for the operation and regulation of future shared mobility device services in San Francisco. Event attendees were asked four key questions, which were used to help inform the proposed legislation:

1. What impacts, positive or negative have you experienced with shared mobility device services?
2. What future impacts are you expecting from new shared mobility device services?
3. Are these the right definitions for a shared mobility device and service? If not, what definition(s) would you suggest?
4. Is the proposed process for the Proof of Concept Authorization sufficient to consider safety, innovation, and limited testing? If not, what terms or process would you suggest?

Staff also presented at the following Committee and Group Meetings, with their feedback helping to shape the current proposed legislation:

- SFMTA Board, Policy and Governance Committee (PAG)
- Pedestrian Safety Advisory Committee (PSAC)
- Multimodal Accessibility Advisory Committee (MAAC)
- Bicycle Advisory Committee (BAC)
- Transportation Authority, Citizens Advisory Committee (SFCTA CAC)
- Paratransit Coordinating Council (PCC)
- Mayor's Disability Council (MDC), Executive Planning
- SFMTA Citizens Advisory Committee (SFMTA CAC), Engineering, Maintenance & Safety Committee (EMSC)

Staff engaged other City departments and agencies that could be affected, including Public Works, Port, Recreation and Parks, Treasure Island Development Agency, City Administrator, Mayor's Office, Police, and Transportation Authority. In addition, staff have also partnered on companion legislation regarding the proposed creation of a separate Office of Emerging Technology.

Staff reached out to other governmental agencies that could be affected, including the Golden Gate Highway and Transportation District and Presidio Trust.

Staff also reached out to various local advocacy groups, non-profits, and industry organizations that have an interest in our proposed project, resulting in several discussions and comments that were considered.

Key themes raised by stakeholders in the various outreach sessions include the need for safety and rider accountability, particularly in the case of the powered scooter program, infrastructure

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needs to be considered as new mobility services are added to the transportation network in San Francisco, public outreach needs to be a key component of any permit or authorization program, enforcement is critical and the needs of seniors and people with disabilities need to be considered. The feedback was considered by staff and will be used to help inform the policy directive establishing the POCA, if the Board approves the proposed amendments.

ALTERNATIVES CONSIDERED

Not enacting a regulatory program for shared mobility device services was considered by staff. Staff concluded that this option was not tenable and could result in increasingly cluttered and obstructed sidewalks and public spaces if a service provider were to launch without any approval requirements.

Staff considered the various definitions of mobility device service and specifically created the proposed definition to not include subscription service or existing brick and mortar bike rental companies. These models are already established, and do not have the same “shared” model as Shared Mobility Device Services that involve patrons leaving devices in the public right of way for others to use.

FUNDING IMPACT

Funding to establish and support the Proof of Concept Authorization program would come from fees charged to both applicants and authorized service providers, using a cost recovery model. Operating funds required for the operations will be budgeted in the SFMTA’s FY2021 and FY2022 Operating budget for the upcoming fiscal years.

PUBLISHED NOTICE AND PUBLIC HEARING

Pursuant to Charter Section 16.112 and the Rules of Order of the Board of Directors, published notice was placed in the City’s official newspaper to provide notice that the Board of Directors will hold a public hearing on November 5, 2019, to consider amending the Transportation Code to establish penalties, including administrative penalties, and permit/authorization fees related to the Mobility Device Program and the Proof of Concept Authorization. In compliance with these requirements, the advertisement ran in the San Francisco Examiner for five-days as follows: October 3, 2019, October 4, 2019, October 6, 2019, October 9, 2019, and October 10, 2019.

ENVIRONMENTAL REVIEW

On September 26, 2019, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Mobility Permit Harmonization - Transportation Code Division I and II Amendments - is not defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b).

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A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

Approval of the proposed amendments to Division I of the Transportation Code by the Board of Supervisors is required in order to enable the SFMTA to enforce the penalty provisions of the proposed legislation. The Division I legislation was introduced to the Board of Supervisors on October 8, 2019 and has been referred to the Land Use and Transportation Committee.

The City Attorney's Office has reviewed this report.

RECOMMENDATION

Requesting that the Board of Directors amend Division II of the Transportation Code to establish a definition of Shared Mobility Device Service that encompasses existing shared mobility device services (bikeshare and e-scooter share); delegate authority to the Director to authorize the temporary operation of a Shared Mobility Device Service or Non-Standard Vehicle service under a Proof of Concept Authorization if there is not an existing permit program, and establish fees and administrative penalties for violations and recommend that the Board of Supervisors approve an amendment to Division I of the Transportation Code to prohibit the operation of Shared Mobility Devices Service without a permit or authorization from SFMTA.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, Over the past few years, companies have launched shared mobility devices and services in San Francisco that utilize the public right-of-way without permits or authorization; and,

WHEREAS, The Board of Supervisors has had to react to establish the violation for operating such a service without a permit, such as the powered scooter program, and SFMTA has had to establish individual pilot permit programs in reaction to the launch of an unpermitted service; and,

WHEREAS, Shared mobility devices and services have the potential to complement our existing transportation network by providing an alternative to single occupancy vehicles, but they also have the potential to impede pedestrian travel, and to benefit only certain sectors of San Francisco; and,

WHEREAS, The SFMTA is shifting its stance from reactive to proactive by establishing a violation for operating a Shared Mobility Device Service without a permit or authorization; and,

WHEREAS, The SFMTA is allowing innovation to occur through a clear path for new mobility services through the Proof of Concept Authorization (POCA); and,

WHEREAS, On September 26, 2019, the SFMTA, under authority delegated by the Planning Department, determined that Mobility Permit Harmonization is not a “project” under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; and

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WHEREAS, the San Francisco Municipal Transportation Agency Board of Directors finds that notice was adequately given for this item and waives the SFMTA Board's Rule of Order, Article 4, Section 10, now therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amend Division II of the Transportation Code to establish a definition of Shared Mobility Device Service that encompasses existing shared mobility device services (bikeshare and e-scooter share), and, be it

FURTHER RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amend Division II of the Transportation Code to delegate authority to the Director of Transportation to authorize the temporary operation of a Shared Mobility Device Service or Non-Standard Vehicle service under a Proof of Concept Authorization if there is not an existing permit program, and establish fees and administrative penalties for violations.

FURTHER RESOLVED,
That the San Francisco Municipal Transportation Agency Board of Directors recommend that the Board of Supervisors approve an amendment to Division I of the Transportation Code to prohibit the operation of Shared Mobility Devices Service without a permit or authorization from SFMTA.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 5, 2019.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION NO.

[Transportation Code - Regulation of Non-Standard Vehicles]

Resolution amending the Transportation Code regarding Non-Standard Vehicles by (1)revising fine amounts and permit fees for Shared Mobility Device Services; (2) adding definitions of “Authorized Operator,” “Mobility Device,” “Shared Mobility Device Service,” and “Proof of Concept Authorization,” authorizing temporary operation of a “Shared Mobility Device Service” under a “Proof of Concept Authorization;” and (3) providing for the imposition of administrative fines against non-Authorized Operators.

NOTE: Additions are single-underline Times New Roman;
deletions are ~~strike-through Times New Roman~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of Division II of the Transportation Code is hereby amended by revising Sections 302 and 310, and adding Section 327, to read as follows:

SEC. 302. TRANSPORTATION CODE PENALTY SCHEDULE.

Violation of any of the following subsections of the Transportation Code shall be punishable by the fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2018**	FINE AMOUNT Effective July 1, 2019**
* * * *			
SHARED MOBILITY <u>DEVICE</u> SERVICES VIOLATIONS			

Div I 7.2.110	Stationless Bicycle Share Parking <u>Shared Mobility Device Service Parking (Shared Mobility Device Service That Does Not Hold an SFMTA Permit or Authorization)</u>		
	<u>First offense</u>	\$100	\$100
	<u>Second offense within one year of first offense</u>	\$200	\$200
	<u>Third or subsequent offense within one year of first offense</u>	\$500	\$500
<u>Div I 7.2.110</u>	<u>Operating a Shared Mobility Device Service without a Permit or Authorization</u>		
	<u>First offense</u>		\$2500
	<u>Second offense within one year of the first offense</u>		\$5000
<u>Div I 7.2.110</u>	<u>Shared Mobility Device Service Parking (Shared Mobility Device Service Operators that Hold a SFMTA Permit or Authorization)</u>		\$100
Div I 7.2.111	Powered Scooter Share Parking (Powered Scooter Share Operators That Do Not Hold a SFMTA Permit)		
	First offense	\$100	\$100
	Second offense within one year of first offense	\$200	\$200
	Third or subsequent offense within one year of first offense	\$500	\$500
Div I 7.2.111	Powered Scooter Share Parking (Powered Scooter Share Operators that Hold a SFMTA Permit)		\$100

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SEC. 310. SCHEDULE OF FINES.

Violation of any of the following subsections of the Transportation Code governing the operation of a motor vehicle for hire, Non-Standard Vehicle, or Shared Mobility Device Service pursuant to a Proof of Concept Authorization, shall be punishable by the administrative fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2018	FINE AMOUNT Effective July 1, 2019
* * * *			
CONDITIONS APPLICABLE TO NON-STANDARD VEHICLE PERMITS <u>AND SHARED MOBILITY DEVICE SERVICES</u>			
DIV. II § 1206(a)	Operating without a permit <u>or authorization</u>	\$5,000	\$5,000
DIV. II §§ 1206(b)(4), <u>1206-1, 1207, 1209(a)</u>	Non-Standard Vehicle Permit Conditions	\$260 per violation per day	\$270 per violation per day
	Shared Mobility Device Service with a Proof of <u>Concept Authorization</u>		\$270 per violation per day

SEC. 327. PROOF OF CONCEPT AUTHORIZATION FEES.

The following fees reimburse the SFMTA for staff costs related to the review of applications for a Proof of Concept Authorization established under Section 1206-1 and costs associated with overseeing the limited operation of any Shared Mobility Device Service or Non-Standard Vehicle pursuant to a Proof of Concept Authorization.

<u>DESCRIPTION</u>	<u>FY 2019</u> <u>Effective July 1, 2018</u>	<u>FY 2020</u> <u>Effective July 1, 2019</u>
<u>Proof of Concept Authorization Application</u>	<u>\$4,089</u>	<u>\$4,089</u>
<u>Proof of Concept Authorization Administration</u>	<u>\$2,110 per 30-day testing period</u>	<u>\$2,110 per 30-day testing period</u>

Section 2. Article 1200 of Division II of the Transportation Code is hereby amended by revising Sections 1202 (with new defined terms placed therein in correct alphabetical sequence), 1206, 1209, and 1210, and adding Section 1206-1, to read as follows:

SEC. 1202. DEFINITIONS.

For purposes of this Article 1200, the following definitions shall apply:

* * * *

“Authorized Operator” shall mean any person, business, firm, partnership, association, or corporation that holds a Proof of Concept Authorization to operate a Shared Mobility Device Service or Non-Standard Vehicle.

“Mobility Device” shall mean

(a) a conveyance with the primary purpose of carrying people and which is capable of transporting one or more persons on a public roadway, and over which the SFMTA may exercise jurisdiction. “Mobility Device” includes but is not limited to, a motor vehicle, bicycle, or other conveyance that has the potential to impede the direction and flow of traffic, and includes a Stationless Shared Bicycle or Powered Scooter.

(b) Notwithstanding the foregoing subsection (a), “Mobility Device” is not:

(1) a type of conveyance excluded from the scope of this Article 1200 under Section 1201(b)(2);

~~not drive, or operate or cause to be operated, any Non-Standard Vehicle or Shared-Mobility Device Service within the City without the applicable permit, agreement, or authorization issued by the SFMTA authorizing such driving or operation in accordance with this Article.~~

* * * *

SEC 1206-1. PROOF OF CONCEPT AUTHORIZATION.

(a) **Authority.** Where there is no existing permit program that encompasses a particular Shared Mobility Device Service or Non-Standard Vehicle, the Director of Transportation may, in lieu of a permit, and in the Director’s sole discretion, authorize a limited number of Proof of Concept Authorizations (POCAs) for a Shared Mobility Device Service or Non-Standard Vehicle, provided that the Director determines that to do so would promote the public health, safety, and welfare. The POCA provides an opportunity to demonstrate the potential public benefits of a Shared Mobility Device Service or Non-Standard Vehicle in supporting the City’s “Guiding Principles for Emerging Mobility Services Policy,” adopted by the SFMTA in July 2017, as may be amended from time to time. These Guiding Principles provide a consistent policy framework to evaluate new mobility services and shall be taken into consideration by the Director when evaluating POCA applications. The Director shall attach any conditions to the POCA that the Director deems necessary to protect the public health, safety and welfare; to collect data; to mitigate any potential adverse impacts; or to fulfill other public purposes recognized by the Director. The Director shall be authorized to determine the term of a POCA and any extensions thereof, provided that in not case shall the duration of a POCA exceed one year. There is no appeal of the Director’s decision regarding a POCA application, including whether or not to issue the POCA, to place conditions on the POCA, or to extend the POCA.

(b) **Application.** The Director may provide an application for persons or entities seeking a POCA. An Applicant for a POCA shall pay the Application Fee, and shall submit the following information in addition to any other information which may be required by the Director:

- (1) Name, address, phone number, and email address of the Applicant;

_____ (2) A description of the Mobility Device or Non-Standard Vehicle and a description of the nature and scope of the Applicant’s plan for limited testing of a Shared Mobility Device Service or Non-Standard Vehicle, including the number of devices or vehicles, frequency and span of testing or service, staging locations, and maps or detailed description of any routes and geographic areas of operation, as applicable;

_____ (3) Insurance as required by the Director; and

_____ (4) An acknowledgement by the Applicant that if issued a POCA, the Applicant agrees to comply with all applicable local, state, and federal laws governing its Shared Mobility Device Service or Non-Standard Vehicle, as well as any conditions contained in the POCA. One condition that must be included in any POCA is an agreement to indemnify and hold the City and County of San Francisco, its departments, commissions, boards, officers, employees, and agents (“Indemnitees”) harmless from and against any and all claims, demands, actions, or causes of action which may be made against the Indemnitees for the recovery of damages for the injury to or death of any person or persons or for the damage to any property resulting directly or indirectly from the activity authorized by the POCA, regardless of the negligence of the Indemnitees.

(c) **Fees.**

_____ (1) At the time of submitting the POCA Application, the Applicant shall submit a non-refundable Application Fee as set forth in Section 327.

_____ (2) Where the Director decides to issue a POCA, the Applicant shall submit an Administration Fee as set forth in Section 327; provided, however, that the Administration Fee may be increased to recover costs in excess of that amount incurred by SFMTA in administering the POCA program.

(d) **Other Permits or Approvals.** In the event the Mobility Device or Non-Standard Vehicle subject to a POCA will be tested or operated on any sidewalk, street, or public right-of-way under the jurisdiction of the Department of Public Works, the Port of San Francisco, the Public Utilities

Commission, or the Recreation and Park Commission, the Applicant shall also submit an application to the Office of Emerging Technology, if required under Section 22G of the Administrative Code, for any additional permits or approvals necessary for such testing or operation, assuming the ordinance in Board File No. _____ has been enacted.

(e) **Termination.** A POCA issued under this Section 1206-1 is subject to immediate termination by the Director. The Director may terminate a POCA for violation of any applicable law, violation of conditions included in the POCA, or if the Director concludes that termination is necessary to protect the public health, safety, or welfare. There is no appeal of the Director’s decision to terminate a POCA.

(e) **Administrative Fines.** Any person or entity who violates any applicable law or condition contained in a POCA issued under this Section 1206-1 is subject to the issuance of a citation and imposition of an administrative fine in accordance with Section 1209(a).

SEC. 1209. ADMINISTRATIVE FINES; PERMIT REVOCATION.

(a) For good cause, the SFMTA may revoke any permit or terminate any authorization issued under this Article 1200, and may impose an administrative fine against a Permittee or Authorized Operator. “Good cause” hereunder shall include, but shall not be limited to, the following:

(1) A Permittee or Authorized Operator failed to pay a fine imposed by the SFMTA under Section 310 of this Code within 30 days of imposition or within such other time period as determined by the agreement of the Permittee or Authorized Operator and the SFMTA;

(2) A Permittee or Authorized Operator failed to pay a permit or administrative fee within 30 days following notice of nonpayment;

(3) The Permittee or Authorized Operator has violated any statute or ordinance, including any provision of Division I or II of this Transportation Code, governing the operation or licensing of the vehicles and services regulated by this Code; or

(4) The Permittee or Authorized Operator has violated one or more conditions of the permit or POCA.

SEC. 1210. ADMINISTRATIVE FINES ASSESSED AGAINST NON-PERMIT HOLDERS OR NON-AUTHORIZED OPERATORS.

(a) Whenever the SFMTA determines that a non-Permittee or non-Authorized Operator has violated this Article 1200, and it pursues administrative enforcement through the imposition of an administrative fine, SFMTA may issue and serve a Citation, in person or by first-class U.S. Mail, return receipt requested, on any person or entity responsible for the violation. A Citation issued in accordance with this subsection (a) shall include the information required by Section 1209(c).

* * * *

Section 3. Effective and Operative Dates.

(a) This ordinance shall become effective 31 days after enactment. Enactment occurs when the Municipal Transportation Agency Board of Directors approves this ordinance.

(b) This ordinance shall become operative upon the later of (1) its effective date as stated in subsection (a) or (2) the effective date of the ordinance in Board of Supervisors File No. _____, amending Division I, Section 7.2.110, and deleting Division I, Section 7.2.111.

Section 4. The amendment to Section 302 and addition of Section 327 of the Transportation Code made by Section 1 of this ordinance are intended to be additive to the revisions made by the SFMTA Board of Directors in approving Resolution No. 180403-057 approving the 2018-2020 budget.

Section 5. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Transportation Code that are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
STEPHANIE STUART
Deputy City Attorney

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I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 5, 2019.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

FILE NO.

ORDINANCE NO.

1 [Transportation Code - Mobility Device Permit Requirement]

2
3 **Ordinance amending the Transportation Code to establish a violation for operating a**
4 **Shared Mobility Device Service without a permit or other authorization from the**
5 **Municipal Transportation Agency, and to repeal certain parking restrictions related to**
6 **stationless bicycle share programs and powered scooter share programs; and**
7 **affirming the Planning Department's determination under the California Environmental**
8 **Quality Act.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
12 **Board amendment additions** are in Arial font.
13 **Board amendment deletions** are in ~~Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. _____ and is incorporated herein by reference. The Board
21 affirms this determination.

22 Section 2. Article 7 of Division I of the Transportation Code is hereby amended by
23 revising Section 7.2.110 and deleting Section 7.2.111, to read as follows. Section 7.2 is
24 reprinted to provide context.

SEC. 7.2. INFRACTIONS.

1 In addition to public offenses created by the Vehicle Code, the actions listed in this
2 Section 7.2 are prohibited, and each and every violation of a prohibition listed below shall be
3 an infraction, except as otherwise provided in: (a) this Code; or (b) the Vehicle Code; or (c) as
4 necessary to comply with the direction of a Police Officer or Parking Control Officer; or (d) with
5 respect to a Municipal Parking Facility, upon the direction of an authorized parking attendant;
6 or (e) with respect to any other Public Property, except with the permission of, and subject to
7 such conditions and regulations as are imposed by the agency that owns the property that are
8 available for public inspection at the agency's offices.

9 **SEC. 7.2.110. ~~STATIONLESS BICYCLE SHARE PARKING RESTRICTIONS~~ SHARED**
10 **MOBILITY DEVICE SERVICE PERMIT REQUIREMENTS.**

11 (a) To operate a Shared Mobility Device Service, as defined in Section 1202 under Division
12 II, without a permit, agreement, or other authorization from the Municipal Transportation Agency or
13 appropriate City department or agency authorizing such operations, except as otherwise provided in
14 Division II of this Code.

15 (ab) To park, leave standing, or leave unattended a ~~bicycle~~ Mobility Device, as defined
16 in Section 1202 under Division II, that is part of a ~~Stationless Bicycle Share Program~~ Shared Mobility
17 Device Service, as defined in ~~Section 909~~, on any sidewalk, Street, or public right-of-way under
18 the jurisdiction of the Municipal Transportation Agency or ~~the Department of Public Works~~ other
19 City department or agency without a permit, agreement, or other authorization issued by the
20 appropriate City department or agency ~~Municipal Transportation Agency~~ authorizing the
21 ~~bicycle~~ Mobility Device to be parked, left standing, or left unattended at that location except as
22 otherwise provided in Division II of this Code. ~~Bicycles~~ Mobility Devices parked, left standing, or left
23 unattended in violation of this Section 7.2.110 constitute a public nuisance subject to
24 abatement and removal pursuant to Article 26 of the Public Works Code, Sections 1600 et
25 seq.

1 (b~~c~~) In addition to any penalty established by the Municipal Transportation Agency in
2 Transportation Code Section 302, the Municipal Transportation Agency may impose
3 administrative penalties ~~pursuant to Transportation Code Section 909~~ for violation of Shared
4 Mobility Device Service permit requirements.

5 **~~SEC. 7.2.111. POWERED SCOOTER SHARE PARKING RESTRICTIONS.~~**

6 (a) ~~— To park, leave standing, or leave unattended a Powered Scooter that is part of a~~
7 ~~Powered Scooter Share Program, on any sidewalk, Street, or public right of way under the jurisdiction~~
8 ~~of the Municipal Transportation Agency or the Department of Public Works without a permit issued by~~
9 ~~the Municipal Transportation Agency authorizing the Powered Scooter to be parked, left standing, or~~
10 ~~left unattended at that location. Powered Scooters parked, left standing, or left unattended in violation~~
11 ~~of this Section 7.2.111 constitute a public nuisance subject to abatement and removal pursuant to~~
12 ~~Article 26 of the Public Works Code, Sections 1600 et seq. For purposes of this Section 7.2.11,1~~
13 ~~“Powered Scooter” shall mean a “motorized scooter” as defined in Section 407.5 of the California~~
14 ~~Vehicle Code as it read on April 1, 2018, and any vehicle defined as a “Powered Scooter” under~~
15 ~~Division II of the Transportation Code.~~

16 (b) ~~— In addition to any penalty established by the Municipal Transportation Agency in~~
17 ~~Transportation Code Section 302, the Municipal Transportation Agency may impose administrative~~
18 ~~penalties for violation of Powered Scooter Share Program permit requirements.~~

19 Section 3. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor’s veto of the ordinance.

23 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the "Note" that appears under
3 the official title of the ordinance.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: 
8 STEPHANIE STUART
9 Deputy City Attorney

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