

THIS PRINT COVERS CALENDAR ITEM NO. : 10.3

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Sustainable Streets

BRIEF DESCRIPTION:

Amending the Transportation Code, Division II, to revise the pilot Powered Scooter Share Permit Program adopted May 1, 2018 by increasing the fines for repeated Powered Scooter Share parking violations, clarifying the scope of the fines, and authorizing the Director of Transportation to issue procedures governing the review of Powered Scooter Share Permit Program application and revocation decisions.

SUMMARY:

- On May 1, 2018, the SFMTA Board of Directors amended the Transportation Code, Division II to establish a pilot Powered Scooter Share Permit Program
- The legislation established a fine amount of \$100 for Unpermitted Powered Scooter Share Parking pursuant to Division I 7.2.111 of the Transportation Code
- In order to provide for more effective enforcement of Powered Scooter Share requirements, staff proposes modifications to the Transportation Code to increase fine amounts for repeat violations and clarify that citations may be issued for improperly parked Powered Scooter Share Program scooters, regardless of whether they are permitted by the SFMTA
- Staff also proposes amending Division II of the Transportation Code to authorize the Director to issue procedures governing the review of SFMTA decisions on Powered Scooter Share Permit Program applications and permit revocations.

ENCLOSURES:

1. SFMTAB Resolution
2. Transportation Code Division II legislation

APPROVALS:

	DATE
DIRECTOR <u></u>	<u>6/11/2018</u>
SECRETARY <u></u>	<u>6/11/2018</u>

ASSIGNED SFMTAB CALENDAR DATE: June 19, 2018

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PURPOSE

Amending the Transportation Code, Division II, to revise the pilot Powered Scooter Share Permit Program by increasing the fines for repeated Powered Scooter Share parking violations, and making technical corrections to clarify the scope of the fines, and the authority of the Director of Transportation to issue procedures governing the review of Powered Scooter Share Permit Program application and revocation decisions.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action supports the following SFMTA Strategic Plan Goals and Objectives:

Goal 2 - Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel.

Objective 2.3 - Increase use of all non-private auto modes.

Goal 3 - Improve the environment and quality of life

Objective 3.4 - Deliver services efficiently.

This action supports the following Transit First Policy Principles:

- 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.
- Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
- 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.
- 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.

DESCRIPTION

In March 2018, three companies (Bird, LimeBike, and Spin), began operating electric scooter share programs in San Francisco. SFMTA is referring to these programs as Powered Scooter Share Programs.

While these programs have the potential to be a valuable complement to our existing transportation network, Powered Scooter Share scooters also have the potential to impact the safety and accessibility of our sidewalks, if they are operated on sidewalks and left in locations that impede pedestrian access. This is of particular concern to seniors and people with disabilities.

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To facilitate the SFMTA's regulation of Powered Scooter Share Programs, on April 24, 2018, the Board of Supervisors passed legislation adding Section 7.2.111 to Division I of the Transportation Code, making it a violation for scooter that is part of a Powered Scooter Share Program to be parked on any street, sidewalk, or public right-of-way without a permit from the SFMTA authorizing the scooter to be left in that location. This legislation became effective on June 4, 2018.

On May 1, 2018 the SFMTA Board of Directors amended the Transportation Code, Division II to establish a pilot Powered Scooter Share Permit Program that authorized the SFMTA to issue permits to operators of Powered Scooter Share Programs, establish permit fees, permit requirements and penalties for violations. A key goal of the pilot program is to enable the City to effectively regulate Powered Scooter Share operations in San Francisco to minimize the potential risk to public safety. This legislation became effective on June 1, 2018.

For the pilot to be effective, it is critical that Powered Scooter Share Program operators comply with the requirements of the Permit Program, and to this end, it is important that penalties for violations be appropriate. Meaningful enforcement is an important part of an effective permit program, and the ability to impose increased penalties for repeated violations will improve SFMTA's ability to ensure compliance with Powered Scooter Share Permit Program requirements.

The legislation passed by the SFMTA Board established a fine amount of \$100 for violations of the permit requirement established by the Board of Supervisors under Division I 7.2.111 of the Transportation Code. However, in order to more effectively enforce Division I 7.2.111, SFMTA is seeking to modify this fine by increasing the fine amounts for repeat infractions, to \$200 for a second infraction occurring within one year of the first, and \$500 for a third or subsequent infraction occurring within one year of the first.

The amendments would also make technical corrections, including clarifying that (1) a powered scooter belonging to a scooter share operator that is permitted under the Pilot Program, but is parked in a manner inconsistent with the permit can be cited for an infraction for being in violation of Division I Section 7.2.111, in addition to being subject to an administrative penalty, and (2) the Director of Transportation is authorized to issue procedures to govern the review of SFMTA decisions on Powered Scooter Share Permit Program applications or permit revocations where the applicant or permittee is seeking review of the Agency's decision following the denial or conditional approval of a permit application, or the revocation of an existing permit.

STAKEHOLDER ENGAGEMENT

On June 1, 2018 staff emailed a description of the proposed changes to representatives of companies that are known to the SFMTA to operate or to be considering operating Powered Scooter Share Programs. Staff received acknowledgement of receipt of the notice and a question

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about how the process works from one of the companies, but otherwise no questions or comments on the notice of changes.

ALTERNATIVES CONSIDERED

Maintaining the status quo was considered but this would limit the SFMTA's enforcement options.

FUNDING IMPACT

Applicable penalties which may be imposed for violations will be tracked by SFMTA staff, however the volume of these violations and the resulting funding impact is unknown.

PUBLISHED NOTICE AND PUBLIC HEARING

Charter Section 16.112 requires published notice and hearing before the SFMTA may institute or change any fare, fee, schedule of rates or charges which affect the public. In compliance with Charter Section 16.112, advertisements were placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing on June 19, 2018, to consider amending the Transportation Code to increase penalties related to the Powered Scooter Share Permit Program.

The Board's Rules of Order require that the advertisement run for at least five days with the last publication not less than fifteen days prior to the public hearing. The advertisements ran in the San Francisco Examiner for five-days as follows: June 3, 2018, June 6, 2018, June 7, 2018, June 10, 2018, and June 13, 2018. Only one of these posted dates was more than fifteen days in advance of the June 19th SFMTA Board meeting. As a result, the SFMTA Board is requested to waive this requirement in the Board's Rules of Order.

Staff recognizes that the purpose of the published notice is to ensure that members of the public are aware of changes to fees and fines which could affect them, and that failure to provide notice sufficiently in advance of the Board Meeting may reduce the opportunity for members of the public to discover these changes and, if desired, provide comment to the SFMTA Board of Directors. In the case of the recommended revisions, the proposed fee change only affects fines that would be issued to operators of Shared Scooter Programs and are unlikely to affect the public at large. Staff has taken steps to ensure that affected parties, namely companies known to be considering operating Powered Scooter Share Programs in San Francisco, are made aware of the proposal over 15 days in advance of the SFMTA Board of Directors hearing.

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ENVIRONMENTAL REVIEW

On April 10, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Powered Scooter Share Program 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).

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

The City Attorney’s Office has reviewed this report. No other approvals are required.

RECOMMENDATION

SFMTA staff recommends that the SFMTA Board amend the Transportation Code, Division II, to revise the pilot Powered Scooter Share Permit Program by increasing the fines for repeated Powered Scooter Share Parking violations, and making technical corrections to clarify the scope of the fines, and the authority of the Director of Transportation to issue procedures governing the review of Powered Scooter Share Permit Program application and revocation decisions.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, In March, 2018, three companies began operating shared electric scooter programs (Powered Scooter Share Programs) in San Francisco, resulting in a proliferation of Powered Scooters on sidewalks, streets, and other public right-of-ways; and,

WHEREAS, Powered Scooter Share Programs have the potential to complement San Francisco's existing transportation network by providing a sustainable last mile solution; and,

WHEREAS, Since the Powered Scooter Share Programs have begun operating, the City has received numerous complaints about these scooters being operated in a manner that is inconsistent with state law, including being operated on sidewalks, or left on sidewalks or in the public right-of-way so as to impede pedestrian traffic, including blocking access to stairways and doorways; and,

WHEREAS, On May 1, 2018 the SFMTA Board of Directors amended Division II of the Transportation Code to establish a pilot Powered Scooter Share Permit Program that authorized the SFMTA to issue permits to operators of Powered Scooter Share Programs and established permit fees, permit requirements and penalties for violations, including a fine amount of \$100 for parking an unpermitted Powered Scooter in the public right-of-way in violation of Section 7.2.111 of Division I of the Transportation Code; and,

WHEREAS, Meaningful enforcement is an important part of an effective permit program, and the ability to impose increased penalties for repeated violations, and issue citations for improperly parked scooters covered by Powered Scooter Share Permits, in addition to the existing authority to impose administrative penalties, will improve SFMTA's ability to ensure compliance with Powered Scooter Share Permit Program requirements; and,

WHEREAS, San Francisco City Charter Section 16.112 requires that published notice be given and a public hearing be held before any fee or any schedule of rates, charges or fares which affects the public is instituted or changed; and,

WHEREAS, In compliance with Charter Section 16.112, advertisements were placed in the City's official newspaper to provide notice that the Board of Directors will hold a public hearing on June 19, 2018 to increase penalties for Powered Scooter Share Permit Program violations; and,

WHEREAS, The Board's Rules of Order require that the advertisement run for at least five days with the last publication not less than fifteen days prior to the public hearing and advertisements ran in the City's official newspaper for five-days as follows: June 3, 2018, June 6, 2018, June 7, 2018, June 10, 2018, and June 13, 2018, resulting in four of these publication dates being less than fifteen days in advance of the June 19th SFMTA Board meeting; and,

WHEREAS, On June 1, 2018 staff contacted representatives of all companies known to the SFMTA to be operating, or considering operating, Powered Scooter Share Programs in San Francisco to inform them of the proposed changes; and,

WHEREAS, The SFMTA Board is requested to waive the Board's Rules of Order that require the last publication to be published not less than fifteen days prior to the public hearing; and,

WHEREAS, On April 10, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the Powered Scooter Share Program 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; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors waives the Board's Rules of Order that require the last date for publication of notice be not less than fifteen days prior to the public hearing; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends the Transportation Code, Division II, to revise the pilot Powered Scooter Share Permit Program by increasing the fines for repeated Powered Scooter Share Parking violations, and making technical corrections to clarify the scope of the fines, and the authority of the Director of Transportation to issue procedures governing the review of Powered Scooter Share Permit Program application and revocation decisions.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of June 19, 2018.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION NO.

[Transportation Code – Powered Scooter Share Program Penalties]

Resolution amending Division II of the Transportation Code to establish increased penalties for violations of Powered Scooter Share Permit Program requirements, clarify the scope of penalties and the authority of the Director of Transportation to issue procedures for the review of Powered Scooter Share Permit Program application and revocation decisions, and make a technical correction.

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 Section 302, 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 SERVICES VIOLATIONS			
* * * *			
Div I 7.2.111	Unpermitted Powered Scooter Share Parking	\$100	\$100
	<u>First offense</u>	<u>\$100</u>	<u>\$100</u>
	<u>Second offense within one year of first offense</u>	<u>\$200</u>	<u>\$200</u>
	<u>Third or subsequent offense within one year of first offense</u>	<u>\$500</u>	<u>\$500</u>

Section 2. Article 900 of Division II of the Transportation Code is hereby amended by revising Section 916, to read as follows:

SEC. 916. POWERED SCOOTER SHARE PILOT PROGRAM.

* * * *

(d) **General Permit Requirements and Criteria for Powered Scooter Share Program Permits.**

* * * *

(6) To be eligible and qualified to obtain a Powered Scooter Share Program Permit, a permit applicant must demonstrate compliance with, or must agree to, as applicable, the following requirements, to the SFMTA's satisfaction:

* * * *

(D) If the SFMTA, Public Works, or any other City agency, department, or commission, including the City Attorney's Office, incurs any costs of addressing or abating any violations of this Section 916, including repair or maintenance of public property, upon receiving written notice of such City costs, the Powered Scooter Share

Operator shall reimburse the SFMTA for such costs within 30 days. The SFMTA shall arrange for transfer of funds to any other City agency, department, or commission that incurred costs described above. The Powered Scooter Share Operator's payment under this subsection (ed)(6)(D) shall not substitute for any installment payment otherwise owed or to be paid to the SFMTA.

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(e) **Powered Scooter Share Program Permit Issuance.**

(1) After evaluating an applicant's permit application, the Director of Transportation shall either grant the Permit as requested, grant the Permit with modifications, or deny the Permit. Where the Permit is granted with modifications or denied, the notice shall explain the basis for the Director of Transportation's decision. An applicant may request review by a hearing officer of the Director of Transportation's decision to deny a permit or grant a permit with modifications. The Director shall issue procedures governing review of these decisions.

(2) Notwithstanding any other requirement, the Director of Transportation has the authority to deny a permit based on the extent that issuing a permit would lead to an over-concentration of shared Powered Scooters in the public right-of-way, cause an imbalance in the geographical distribution of scooters that are part of the Powered Scooter Share Program, or otherwise not be in the public interest.

(3) In evaluating a permit application, the Director of Transportation may consider the extent to which an operator has the capacity to meet the permit terms based on past experience, including compliance with applicable laws and its efforts to ensure compliance by its users with applicable laws.

(f) **Permit Revocation.**

(1) For good cause, the Director of Transportation may revoke any permit issued under this Section 916. "Good cause" hereunder shall include, but shall not be limited to, the following:

~~(1A)~~ A Permittee failed to pay a fine imposed by the SFMTA under Section 302 of this Code within 30 days of the date due under this Section 916;

~~(2B)~~ A Permittee failed to pay a permit fee within 30 days following notice of nonpayment;

~~(3C)~~ The Permittee has violated any statute or ordinance, including any provision of Division I or II of this Transportation Code, governing the operation of Powered Scooters regulated by this Code; or

~~(4D)~~ The Permittee has violated one or more conditions of the permit.

(2) A Permittee may request review by a hearing officer of the Director of Transportation's decision to revoke a permit. The Director shall issue procedures governing review of these decisions.

Section 3. Effective Date. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance.

Section 4. 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: _____

DAVID A. GREENBURG

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 June 19th, 2018.

Secretary to the Board of Directors

San Francisco Municipal Transportation Agency