

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 200818-073

WHEREAS, The current Powered Scooter Share Program for 2019-2020 began on October 15, 2019. The SFMTA issued permits to four companies, Spin, Scoot, Lime, and Jump to operate for a one-year term, beginning October 15, 2019; and,

WHEREAS, The current Powered Scooter Share Permit Program incorporates lessons learned from the 12-month Powered Scooter Share Pilot as well as the City's 18-month Stationless Bikeshare Permit Program to create a more useful, safe, and equitable citywide program with stronger guidance and clearer requirements around key issues such as the distribution of devices, operational sustainability, community engagement processes, and data sharing and accountability standards; and,

WHEREAS, On February 25, 2020, the Mayor declared a local emergency in response to the COVID-19 pandemic and issued the Proclamation of the Mayor Declaring the Existence of a Local Emergency (COVID-19 Emergency) and on March 16, 2020, San Francisco's Health Officer issued a Public Health Order in response to the COVID-19 Emergency, requiring that residents remain in place, with the only exception being for essential needs (Shelter in Place Order or SIP); and,

WHEREAS, With the SIP in effect, Powered Scooters were deemed to be an essential service and were therefore able to continue operations, but only one permittee continued operations throughout the entire period and scooter share trips declined about 90%; and,

WHEREAS, The Director of Transportation recently issued a new policy directive with updated requirements for scooter fleet expansion to ensure that, as scooter share expands, the City will be served equitably; and,

WHEREAS, Staff has determined that a six-month permit term extension will allow Scooter Share Permittees time to recover from the emergency shutdown, to expand as part of the MTA's Transportation Recovery Plan, and give staff the opportunity to analyze the transportation landscape as it emerges into a new stasis, rather than embark on a new permit program during such a time of uncertainty; and,

WHEREAS, The California Environmental Quality Act (CEQA) applies to "projects" that have the potential for resulting in either a direct physical change in the environment, or a reasonable, foreseeable indirect change in the environment; and,

WHEREAS, On June 26, 2020, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Transportation Code legislation 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); 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 be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors suspends the requirement in Transportation Code, Division II, Section 916(a)(2), that the duration of Powered Scooter Share Program permits be up to one year, and authorizes the Director of Transportation, or his designee, to extend the current permits by six months to April 2021 to respond to changes resulting from the COVID-19 emergency; and by it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors amends Transportation Code, Division II, Section 916(e), to clarify the standard governing review of permit decisions to retain the Director's authority to issue or deny permits, and amends Transportation Code, Division II, Sections 916(g) and (h), to update cross-references to Division I, Section 7.2.110, for violations of the program warranting issuance of administrative penalties.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of August 18, 2020.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

RESOLUTION NO. 200818-073

[Transportation Code – Powered Scooter Share Program]

Resolution amending Division II of the Transportation Code to clarify the standard governing review of permit decisions under the Powered Scooter Share Program and update outdated cross-references to provisions of Division I of the Transportation Code addressing violations of the Powered Scooter Share Program; and authorizing, on a one-time basis, suspension of the requirement that the duration of Powered Scooter Share Program permits be up to one year and extension of the current permits issued in October 2019 by six months to account for changes in the program due to the COVID-19 pandemic.

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

SEC. 916. POWERED SCOOTER SHARE PROGRAM

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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 of the Director of Transportation's decision to deny a permit or grant a permit with modifications. Review of the Director's decisions will be conducted under the substantial evidence standard. The Director shall issue procedures

governing review of these decisions by a neutral hearing officer ~~third party~~. In applying the substantial evidence standard, the neutral hearing officer shall not reweigh the evidence. The hearing officer may either deny the appeal or order reconsideration by the Director of the matter in light of the decision, but the order shall not limit or control in any way the discretion legally vested in the Director to issue permits.

(2) Notwithstanding any other requirement, the Director of Transportation has the authority to deny a permit based on the extent to which 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.

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(g) Administrative Penalties Applicable to Powered Scooter Share Program Operators.

(1) Any Powered Scooter Share Program Operator who violates Division I, Section 7.2.110~~Section 7.2.111~~ of this Code is subject to the issuance of a citation and imposition of an administrative penalty.

(2) Any Powered Scooter Share Program Operator who violates one or more conditions of a permit issued under this Section 916 is subject to the issuance of a citation and imposition of an administrative penalty.

(3) Administrative penalties may not exceed \$500 for each offense.

(4) In addition to other designated employees, the Director of Transportation is authorized to designate officers or employees of the Municipal Transportation Agency to enforce Division I, Section 7.2.110~~Section 7.2.111~~ of this Code. Any officer or employee so designated is hereby authorized to issue citations imposing administrative penalties for violations of Division I, Section 7.2.110~~Section 7.2.111~~.

(h) Procedure for Assessment and Collection of Administrative Penalties.

(1) This subsection (h) shall govern the imposition, assessment, and collection of administrative penalties imposed pursuant to subsection (g).

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(3) Administrative Citation. Where a designated officer or employee determines that there has been a violation of Division I, Section 7.2.110~~Section 7.2.111~~ of this Code, the officer or employee may issue an administrative citation to the person and/or entity responsible for the violation. The citation may be personally served on the applicant or served by certified U.S. mail to the last known address for the Powered Scooter Share Operator. The citation shall state the date and nature of the violation and the amount of the administrative penalty and shall state that the penalty is due and payable to the SFMTA within 15 business days from the date of the notice, if not contested within the time period specified. The citation shall also state that the person or entity responsible has the right, under subsection (h)(4), to request an administrative hearing of the determination as to the violation and assessment of penalties and shall set forth the procedure for requesting an administrative hearing. The designated officer or employee shall mail the administrative citation and evidence supporting the determination of a violation to the last known address for the Powered Scooter owner.

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Section 2. The COVID-19 pandemic, as referenced in the Proclamation of the Mayor Declaring the Existence of a Local Emergency dated February 25, 2020 (COVID-19 Emergency), resulted in a sharp decline in usage of Powered Scooters and caused some Powered Scooter Share permittees to suspend business operations. Thus, to respond to these changes resulting from the COVID-19 Emergency, the Director of Transportation or his designee is authorized on a one-time basis to suspend Section 916(a)(2) of the Transportation Code, Division II, that the duration of Powered Scooter Share Program permits be up to one year, and extend the current permits issued in October 2019 by six months to April 2021.

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. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The SFMTA Board of Directors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

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: _____
JULIE VEIT
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 August 18, 2020.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency