



City of Santa Barbara Transportation & Circulation Committee *Staff Report*

DATE: August 23, 2018

TO: Transportation & Circulation Committee (TCC) Members

FROM: Samuel Furtner, Mobility Coordinator

SUBJECT: Dockless Bike Share Update

RECOMMENDATION

That the Committee receive a report on the development of a Bike share Ordinance.

INTRODUCTION

The 2016 Bike Master Plan specifically recommends the implementation of bike share and states, "Bike share is a convenient, cost-effective, and healthy way of encouraging locals and visitors to make short trips by bike and to bridge the 'last mile' between public transit and destinations." The purpose of this meeting is to provide an update to the committee on staff's work on bike share, and to receive input from the Committee on the core elements of the forthcoming Bike share Ordinance. Staff will be using input from the Committee and working with the City Attorney's office to draft an ordinance and bring it to City Council's Ordinance Committee.

BACKGROUND

In 2017, the Santa Barbara Bicycle Coalition helped sponsor the South Coast Bike share Feasibility Report, which identified the University of California Santa Barbara (UCSB) as a logical starting location for the implementation of a pilot bike share program. UCSB's program can serve as a litmus test for other cities in the region to determine the most effective way to implement and regulate bike share. The results of this pilot program will inform Santa Barbara's development of a bike share ordinance, and shape bike share programs throughout the South Coast region.

Bike share operations have evolved dramatically in the last several years. The traditional approach involves station-based "docks", implemented by placing a series of self-serve docks or kiosks at various points around a city. Customers can check out a bike at one of these docks, use it to complete their trip, and return the bike to another dock in close proximity to their destination. However, new technology has enabled shared mobility services to go "dockless" – bikes and scooters are located and rented using GPS-enabled mobile phone apps and, rather than being retrieved from and returned to a specific location, are simply made available to the next user wherever they are left.

Though shared mobility services can offer unique opportunities, there are many challenges to effective implementation and regulation. Shared mobility devices can be left anywhere, including where they don't belong: in the pedestrian pathway on sidewalks, on private property, or in areas where users are limited or nonexistent. These dockless services can cause a number of public safety or nuisance issues, and several of the companies have also demonstrated poor accountability or responsiveness when interacting with city entities throughout the country. In Santa Barbara, Lime's rogue scooter share launch in May 2018 was followed by the adoption of an emergency ordinance to govern the operation of scooter share services (Santa Barbara Municipal Code 10.53). The development of an effective Bike Share Ordinance is the next step toward facilitating these mobility services in the City.

BIKE SHARE ORDINANCE THEMES AND KEY ISSUES

Bike share is an opportunity to increase mobility and decrease traffic congestion. It should be implemented in a way that does not increase safety risks and nuisance behavior, or create unsightly clutter.

A Bike Share Ordinance must integrate the City's adopted Vision Zero policy. It should also address the rapidly-changing nature of shared mobility programs and create accountability for bike share businesses.

Below are themes and key issues that the Bike Share Ordinance should address. Staff is bringing these items to the attention of the Transportation and Circulation Committee for discussion and feedback prior to drafting an ordinance.

- **Sidewalk Hazards and Clutter** – The ordinance should require vendors to address nuisance bicycles promptly and limit the amount of City staff time required to remedy these issues. Related key issues are:
 - Bicycles parked in the public right-of-way may block sidewalks and entryways, may obstruct paths of travel, and create trip hazards.
 - Bicycles that become damaged or incapacitated might be discarded or abandoned, creating trash and blight.
 - City staff resources may be required to locate and remove improperly parked or damaged bicycles in order to maintain safe, orderly conditions in the public right-of-way.

- **Vendor Operations and Responsibility** – The ordinance should hold vendors accountable for operating safely, responsively, and in accordance with their permit conditions and require a high level of service. A small-scale pilot program can inform the growth of shared mobility services, and a permit expiration and renewal process can enable the City to adapt to a rapidly changing market and ensure high quality vendors. Related key issues are:
 - Upstart mobility share companies may expand beyond their capacity for effective operations, compromising service levels.
 - Vendors could fail to respond to complaints and nuisance issues in a timely manner.

- New companies could enter and exit the market unexpectedly, and management changes could impact service levels.
- Vendors might unilaterally make significant changes to their services, such as changing the bicycle technology, raising prices, or relocating services. Quality of service could change drastically and unexpectedly.
- **Data Accessibility** – The ordinance should ensure the City has timely access to bike share data in order to understand user behavior, inform decisions about siting locations, and determine how to tailor the program for maximum effectiveness. Related key issues are:
 - Some shared mobility companies are reluctant to share usage data.
 - User privacy and information security are essential. Bike share users must be confident that their personal and financial information is secure and will not be compromised or provided to third parties without consent.
- **Equity** – The ordinance should ensure that these mobility services are available to all communities, with provisions to make bike share equitable to identified communities of concern. Related key issues are:
 - Dockless bike share has the potential to become concentrated in certain areas of the City. Communities of concern, particularly lower income or minority communities, may not have the same access to bike share service if bike distribution is not equitable.
 - The current model for dockless mobility services requires users to have a smartphone and an app connected to a bank or credit card account. This model makes services difficult to access for low income people, people without credit cards or bank accounts, people who do not have smartphones, and people who do not speak English.
- **Marketing** – The ordinance should ensure that marketing associated with bike share services minimizes aesthetic impacts. Dockless bikes do not require large bike stations or kiosks on City streets. Related key issues are:
 - Signage and marketing materials could be a size, style, and location that is inconsistent with the look and feel of Santa Barbara, particularly within historic districts.
- **Availability** – The ordinance should ensure that a sufficient supply of bikes is available in high traffic locations, such as transit hubs, so that users can consistently rely on this service for their transportation needs. To be an effective “last mile” transportation solution, the user must be able to reliably find a working bike (with sufficient charge if electric-assist) when needed, particularly near transit hubs or other high-traffic locations. Related key issues are:
 - Supplies of bikes near transit hubs or other popular locations could be depleted quickly, making it difficult to rely on bike share for a user’s transportation needs.
 - Batteries can become depleted, and a user may find it difficult to locate a bike with sufficient charge to get them to their destination.

- Vendors often rely on affiliate networks for charging services, which are dependent on having enough chargers who have sufficient motivation to charge all the bikes. If companies fail to maintain a motivated network of chargers, bikes may not be recharged regularly.
- **Safety** – The ordinance should do everything possible to ensure that the bikes are operated safely and lawfully and do not create traffic hazards. The ordinance should ensure that bikes are maintained in safe working condition, including front and rear lights and brakes. Electric-assist bicycles should be governed to operate at safe speeds. Bike share users should be informed of relevant safety and traffic laws and should be encouraged and incentivized to ride safely. Related key issues are:
 - Bikes can break down and become dangerous.
 - Bike share users may not have helmets with them when they need to rent a bike. Shared helmets are not practical or sanitary.
 - Bike share users may not be experienced or confident riders. They may have difficulty maneuvering in traffic and may try to ride on sidewalks, creating pedestrian hazards.
 - Bike share users may have trouble adjusting bikes to fit them or may have difficulty operating unfamiliar bikes.

ATTACHMENT:

1. City Council Emergency Ordinance 10.53, Adopted June 19, 2018

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADDING CHAPTER 10.53 TO THE SANTA BARBARA MUNICIPAL CODE IN ITS ENTIRETY REGARDING THE OPERATION OF SHARED MOBILITY SERVICES

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Intent.

A. The City Council finds that:

1. Cities around the state and country have seen the rapid introduction and implementation of motorized scooter shared programs that requires permitting and oversight by cities and necessitates an emergency ordinance due to safety concerns and the recent increase in popularity.
2. A properly implemented Power Scooter Share Program can contribute to a community both as a short-distance transportation device and as an activity that stimulates economic vitality.
3. Powered Scooters that are carelessly discarded on City streets, sidewalks, or other public right-of-way are a nuisance and can pose a threat to public safety and community.
4. Powered Scooters that are used on the sidewalks can cause safety hazards because they can travel up to 15 mph.
5. That a one-year pilot program is needed for permitting and regulating Powered Scooter Share Programs to study and implement necessary precautions to curtail potential illegal sidewalk riding and the scattering of Powered Scooters across City right-of-ways.

SECTION 2. Chapter 10.53 is added to the Santa Barbara Municipal Code to read as follows:

10.53.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning indicated, unless otherwise expressly stated or the context clearly indicates a different meaning.

- A. **PERMITTEE.** Unless otherwise defined herein with respect to a particular type of permit under this chapter, the natural person, sole proprietorship, partnership, association, corporation, governmental or non-profit agency that is the named holder of a permit issued pursuant to this Chapter, and such person or entity's successors or assigns in interest.
- B. **POWERED SCOOTER.** Any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is powered by an electric motor or other power source. This device may also have a driver seat that

does not interfere with the ability of the rider to stand and ride and may also be designed to be powered by human propulsion. A motorcycle, as defined in Section 400 of the California Vehicle Code, a motor-driven cycle, as defined in Section 405 of the California Vehicle Code, or a motorized bicycle or moped, as defined in Section 406 of the California Vehicle Code, is not a Powered Scooter.

- C. **POWERED SCOOTER SHARE OPERATOR.** An individual or a public, private, or non-profit entity that manages a Powered Scooter Share Program.
- D. **POWER SCOOTER SHARE PROGRAM.** A system of self-service Powered Scooters for hire in the City of Santa Barbara operated by a Powered Scooter Share Operator that offers to users a pool of at least 10 self-service Powered Scooters for use in the public right-of-way or on public property in the City or County of Santa Barbara.
- E. **STATIONLESS SHARED BICYCLE.** A bicycle designed to be locked or secured from unauthorized use without being required to be locked or secured to a bicycle rack, bicycle sharing station, or other object.

10.53.020 Permit Required.

All operators of Shared Mobility Services shall first secure a permit from the City of Santa Barbara Public Works Department before commencing operation in the City.

A. General Permit Program Requirements.

The Director of Public Works is authorized to implement a pilot program for the issuance of Shared Mobility Services (Bicycle or Scooter). The duration of the pilot program shall not exceed 12 months from the date of commencement of the ordinance.

- B. The Director of Public Works has the authority at his or her discretion to grant a revocable permit to Shared Mobility Service operators for a Powered Scooter Share Program or Stationless Shared Bicycle Program. The Public Works Director may impose permit conditions, including but not limited to, conditions related to the location, placement, parking, securing, safe operation, relocation, collection, or maintenance of any shared mobility device, as well as conditions the Director determines are necessary to protect the public convenience and safety concerning transfer of permits, grounds for permit revocation, indemnification requirements, protection of personal, financial and travel information of users, provision of data and reports and the maintenance of insurance in a form and amount satisfactory to the City.

- C. The Director may issue Shared Mobility permits upon receipt of applications from Shared Mobility Operators on a form prescribed by the Director. Each applicant shall pay a nonrefundable permit application fee. The maximum number of Powered Scooters authorized to operate in the City under the Shared Mobility Pilot Program is 300 in total, not per applicant. The Director may limit the number of Shared Mobility Service Permits issued. Each permit shall be valid for up to one year, but in no event longer than the ending date of the pilot program. A Permittee whose permit is revoked shall not be eligible to reapply for six months from the date of revocation.

D. General Permit Requirements.

The Director of Public Works may issue a permit to a Shared Mobility Operator upon receipt of a written application from a qualified permit applicant on a form prescribed by the City.

- (1) The name and contact information of the Shared Mobility Operator, as well as a unique number identifying the shared mobility device, shall be prominently displayed on each device that is part of a Shared Mobility Program.
- (2) The Director of Public Works reserves the right to revoke a Shared Mobility Permit for cause at any time upon written notice as set forth in sub section F of this Section. The Permittee shall surrender the permit in accordance with the instructions in the notice of revocation issued by the Public Works Director.
- (3) A permit fee must be paid by the permit applicant before any permit may be issued or renewed. Permit fees, including application fees, will be set by resolution of the City Council.
- (4) Upon notification by the City of any Powered Scooter belonging to a Powered Scooter Share Program Operator that is improperly parked, left standing, or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the City, the Powered Scooter Share Operator shall remove the scooter within one hour of being notified by the City. Failure to do so can result in the powered scooter being impounded and the Scooter Share Program Operator issued an administrative citation pursuant to 10.53.040.
- (5) 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 City's satisfaction:
 - i. Each Powered Scooter shall be capable of providing real-time location data to the City in accordance with the specifications issued by the Director of Public Works.
 - ii. Adequate insurance as determined by the City's Risk Manager, which lists the City and County of Santa Barbara as an additional insured, must be provided for each Powered Scooter ridden, parked, or left standing or unattended on any sidewalk, Street, or public right-of-way under the jurisdiction of the City, and for each user using the Powered Scooter during the period of use.
 - iii. The Permittee must indemnify and hold harmless the City of Santa Barbara, its departments, commissions, boards, officers, employees, and agents (collectively, "Indemnitees") from and against any and all claims, demands, actions, or causes of action that 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 permit, regardless of the negligence of the Indemnitees.
- (6) Provide a multilingual website with English and Spanish, call center, and mobile application customer interface that is available 24 hours a day, seven days a week.

- (7) Submit a Privacy Policy that safeguards users' personal, financial, and travel information and usage including, but not limited to, trip origination and destination data.
- (8) Provide an electronic payment system that is compliant with the Payment Card Industry Data Security Standards (PCI DSS).
- (9) Each Powered Scooter Share Program Operator shall use best efforts to ensure that its users comply with all applicable laws. Consistent failure by the users associated with a specific Operator to comply with applicable laws shall be grounds for permit suspension, revocation, or criminal liability. At a minimum, each Powered Scooter Share Program Operator shall provide to the user a summary of State and local laws governing the use of Powered Scooters, including but not limited to informing the user of applicable requirements for licensing, helmets, travel on highways, parking, and use of sidewalks, as specified by the Director of Public Works. The user shall be required to acknowledge having read these requirements.
- (10) Each Permittee shall comply with, and shall ensure that their employees and contractors comply with, applicable laws, including but not limited to, the provisions of this Section, and other applicable provisions of this the Municipal Code, the Charter California Vehicle Code, , and the Americans with Disabilities Act.

E. Powered Scooter Share Program Permit Issuance.

- (1) After evaluating an applicant's permit application, the Director of Public Works shall either grant the permit as requested, grant the permit with modifications, or deny the permit.
- (2) Notwithstanding any other requirement, the Director of Public Works 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 Public Works 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 For Good Cause.

- (1) The Director of Public Works may revoke any permit issued under this section. "Good Cause" shall include but not be limited to, the following:
 - i. A Permittee failed to pay a fine imposed by the City within 30 days of the due date.

- ii. A Permittee failed to pay a permit fee within 30 days following nonpayment.
- iii. The Permittee has violated any statute or ordinance including provisions of the Chapter governing operation of Powered Scooters.
- iv. The Permittee has violated one or more of the permit conditions.

G. Administrative Penalties Applicable to Permitted Powered Scooter Share Program Operators.

(1) Any Powered Scooter Share Program Operator who violates any provision of this Chapter or their permit is subject to the issuance of a citation and imposition of an administrative penalty.

(2) Administrative penalties shall follow the fine schedule outlined in Chapter 1.28.

10.53.030 Removal and Impoundment.

- A. The City may remove and impound any powered scooter owned or controlled by a Powered Scooter Share Program Operator that is found unattended and is standing, parked, erected or lying in or upon any part of any public street, avenue, alley, sidewalk, thoroughfare, parkway, park, right-of-way or other public place within the City. The City may dispose an impounded scooter if the owner does not claim and pay any required fees after thirty (30) calendar days after its removal.
- B. A properly permitted powered scooter owned or controlled by a Powered Scooter Share Program Operator may park on a City sidewalk so long as it does not impede the ingress and egress of pedestrians, parked in part of a driveway, or is parked in a fire lane. If a powered scooter is parked in such a manner it is hereby declared a nuisance and may be removed and impounded by the City after being given notice as provided under section 10.53.020 (D). The City may dispose an impounded scooter if the owner does not claim and pay any required fees after thirty (30) calendar days after its removal.
- C. It shall be the duty of the department authorizing the impound immediately following the impounding of such property, where the ownership is ascertainable, to send through regular mail or electronic mail or by a method identified in the permit, to such owner a letter, stating that such property is impounded, giving the date and location of its keeping, together with the information that before the owner or person in charge of the property shall be permitted to remove the same from the custody of the impounding department, evidence of identity and ownership shall be required together with the fees necessary to cover the costs for removal and impound.
- D. All powered scooters impounded as provided in this chapter shall be retained until all costs of impounding, giving notice and redemption shall have been paid. Such charges shall be set by resolution.

10.53.040 Enforcement.

- A. VIOLATIONS. Any violation of the provisions of this Chapter shall be an infraction or be subject to administrative fine and the administrative code enforcement process pursuant to Chapter 1.25.. The penalties for a violation of this Chapter shall be subject to the provisions of Chapter 1.28 of this code.

- B. PRIMA FACIE VIOLATION. Any administrative citation issued pursuant to this Chapter shall be prima facie evidence that the violation occurred.

SECTION 3. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.