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ORDINANCE NO. 5608

AN ORDINANCE AMENDING THE CITY OF WATERLOO CODE OF ORDINANCES BY REPEALING CHAPTER 8, SHARED MOBILITY DEVICE LICENSE, TITLE 3, BUSINESS LICENSE AND REGULATION AND ENACTING IN LIEU THEREOF A NEW CHAPTER 8, SHARED MOBILITY DEVICE LICENSE, TITLE 3, BUSINESS LICENSE AND REGULATION .

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATERLOO, IOWA AS FOLLOWS:

That Title 3, Business License and Regulations, of the City of Waterloo, Code of Ordinances be amended by repealing Chapter 8, Shared Mobility Device License, Title 3, Business License and Regulation and enacting in lieu thereof a new Chapter 8, as follows:

- 3-8-1: Definitions
- 3-8-2: Policy Statement and Purpose
- 3-8-3: Scope
- 3-8-4: Operating Area
- 3-8-5: Application Procedure, Fee, and Duration of License
- 3-8-6: Issuance of License
- 3-8-7: Operating Regulations
- 3-8-8: Rider Regulations
- 3-8-9: Rider Prohibited Acts
- 3-8-10: Data Sharing
- 3-8-11: Indemnification
- 3-8-12: Insurance
- 3-8-13: Appeal
- 3-8-14: Denial, Suspension, or Revocation of License
- 3-8-15: Penalty
- 3-8-16: Severability

3-8-1: DEFINITIONS:
For the purposes of this chapter, certain terms and words are hereby defined:

ELECTRIC-ASSIST BICYCLES:	Electric-assist bicycles as defined by section 6-2-1.
OPERATOR:	Any individual or business engaged in shared mobility device business regardless of whether the operator has received a license. An operator shall include employees, managers, officers, principals, directors, owners, contractors, representatives, or agents.
RIDER:	Any individual that pays to operate a shared mobility device.
SHARED ELECTRIC SCOOTER:	A device weighing less than one hundred fifty (150) pounds, which has (i) has handlebars and an electric motor, (ii) is solely powered by the electric motor and/or human power, and (iii) has a maximum speed of no more than twenty (20) miles per hour on a paved level surface when powered solely by the electric motor.
SHARED MOBILITY	Shall mean any self-service vehicle made available by an individual or business for a fee, for shared use to individuals on a temporary basis that is

DEVICE: displayed, offered, or placed for use on any public property and returned at the end of use on any public property. Shared mobility devices may include, but are not limited to, shared electric foot scooters. A shared mobility device shall not include a vehicle in service for a transportation network company or a taxicab as regulated by article 3-5A of this code, a shared mobility device rented from and returned to a brick and mortar business. Shared mobility devices may include, but are not limited to, shared electric scooters and electric bicycles, as defined by subsection 6-2-1A. (Ord. 5601, 6-1-2021)

3-8-2: POLICY STATEMENT AND PURPOSE:

The purpose of this chapter is to establish rules and regulations governing shared mobility device operators and riders within the city of Waterloo (the "City") and to ensure that such mobility sharing systems are consistent with the safety and well-being of bicyclists, pedestrians, and other riders of the public rights-of-way. (Ord. 5601, 6-1-2021)

3-8-3: SCOPE:

This chapter applies to any proposed deployment of a shared mobility device within the city's jurisdictional boundaries. (Ord. 5601, 6-1-2021)

3-8-4: OPERATING AREA:

The city may, by resolution, establish boundaries for operating shared mobility devices and set maximum speed limits within those boundaries. Operators shall be required to conduct business within this operating area. (Ord. 5601, 6-1-2021) Licensee shall not operate within boundaries established by a special event or events held on city property.

3-8-5: APPLICATION PROCEDURE, FEE, AND DURATION OF LICENSE:

A. Any entity or individual seeking to operate a shared mobility device program within the city shall first obtain a shared mobility device license ("License") from the city conditioned on compliance with the provisions of this chapter and any other conditions (including insurance, indemnity, and performance bond) established by the city clerk. No entity shall operate a shared mobility device program within the city except pursuant to such license and provisions (each such operator, a "Licensee").

B. Contents of Application: Applicants for a license under this chapter shall complete and submit to the city clerk an application, fee, and supporting documentation, all of which shall include but not be limited to the following information:

1. The name, address, and phone number of the applicant, along with at least one form of identification that includes a photograph of the applicant. The name, address and phone number of the business. The name and contact information of the local manager if the local manager is not the applicant.

2. The type and number of shared mobile devices to be used.

3. A certificate of insurance and indemnification agreement as required in sections 3-8-11 and 3-8-12 of this chapter.

4. Application fee as listed in subsection E of this section.

C. Filing: Applications shall be filed with the city clerk's office. No application shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This includes a complete and true application, all of the required materials and information prescribed, and the appropriate application fee.

D. Timely Filing: An application must be filed at the office of the city clerk not less than fifteen (15) business days prior to the first day of operation for a new license or the expiration date of a shared mobile device license. The city reserves the right to reject any application not filed in a timely manner.

E. Fees: The license shall last two years, have an initial annual cost of five hundred dollars (\$500.00), and have a renewal cost of two hundred dollars (\$200.00) per year thereafter.

Application fees are due at the time of filing the application and are not refundable. Once the license is issued, the licensee shall be required to pay to the city five cents (\$0.05) per ride purchased by a rider on a quarterly basis. All outstanding fees owed to the city must be paid in order to receive and maintain a license.

F. Change In Application Information: Upon any change in any of the information required to be submitted as part of the application, the licensee shall, within five (5) business days of such change, notify the city clerk in writing and provide the updated information. (Ord. 5601, 6-1-2021)

3-8-6: ISSUANCE OF LICENSE:

A. Issuance and Licensee Limits: If the city clerk finds the application is complete and made in conformance with section 3-8-4 of this chapter, and upon investigation of the facts stated therein are correct, the license shall be approved by the city council and a license shall be issued. All outstanding fees owed to the city shall be paid prior to issuing the license. The city clerk shall issue a license to no more than two (2) shared mobility device licenses.

B. Term of License: An initial license shall be issued for a period of two (2) years. Following the initial license period, a new license may be issued for a period of one year. (Ord. 5601, 6-1-2021)

3-8-7: OPERATING REGULATIONS:

A. Except as otherwise provided herein, city shall regulate the operation of shared mobility devices in a manner no more restrictive than its regulation of shared bicycles. Licensees shall require all riders certify they are age eighteen (18) or older. Hours of operation shall be 4:00 a.m. to midnight.

B. Licensees shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each shared mobility device for city employees and/or members of the public to make relocation requests or to report other issues with devices.

C. Fleet Size/Caps: Licensees shall have an initial fleet size of one hundred fifty (150). The City Council may allow licensees to increase their fleet size on a weekly/monthly basis in the event that licensees provide data that supports increases in certain areas to meet rider demand for service.

D. Licensees shall maintain twenty-four (24) hour customer service for customers to report safety concerns, complaints, or to ask questions. Licensees shall maintain a multilingual website, call center, and/or mobile app customer interface that is available twenty-four (24) hours a day, seven (7) days a week. The aforementioned shall be compliant with the Americans with Disabilities Act.

E. In the event a safety or maintenance issue is reported for a specific device, that shared mobility device shall be made unavailable to riders and shall be removed within the time frames provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service.

F. Within licensees' zone of operation, licensees shall respond to reports of incorrectly parked shared mobility devices, shared mobility devices continuously parked in one location for more than seventy-two (72) hours, or unsafe/inoperable shared mobility devices by relocating, re-parking, or removing the shared mobility devices, as appropriate, within twelve (12) hours of receiving notice, except that licensees shall respond within four (4) hours of receiving notice in emergency situations.

G. In the event a licensee does not timely respond, and the condition of the shared mobility device cannot be easily remedied, such shared mobility devices may be removed by city crews with notice to licensee and taken to a city facility for storage at the expense of the licensee, not to exceed twenty dollars (\$20.00) per shared mobility device.

H. Licensees shall provide notice to all riders that:

1. Shared mobility devices are to be ridden on streets, and where available, in bike lanes and multi-use recreational trails.
2. Shared mobility devices are to stay to the right of street lanes and to offer the right-of-way

to bicycles on bike lanes and multi-use recreational trails.

3. Helmets are encouraged for all riders.

4. Riding responsibly is encouraged, and licensee will notify riders if repeated irresponsible riding is reported and recorded with identifying rider information.

I. Licensees shall provide education to shared mobility device riders on the city's existing rules and regulations, safe and courteous riding, and proper parking.

J. Licensees shall ensure service meets rider demand, and shall not be required to deploy in areas or zones where average ridership is below one and one-half (1.5) rides/day.

K. Licensee shall take reasonable steps to ensure that all riders understand the requirements of ADA accessibility and the importance of leaving ADA paths of travel clear and accessible.

L. A licensee may stage its shared mobility devices in certain permitted parking areas. To the extent a licensee desires to stage shared mobility devices in areas other than the public right-of-way, the licensee must first obtain the right to do so from the appropriate city department, property owner, or public agency. All staging areas must be approved by the city. (Ord. 5601, 6-1-2021)

3-8-8: RIDER REGULATIONS:

A. Shared mobility devices shall be ridden on streets, and where available, in bike lanes and multi-use recreational trails.

B. Shared mobility devices shall stay to the right of street lanes and to offer the right-of-way to bicycles in bike lanes and on multi-use recreational trails. Riders of shared mobility devices shall be eighteen (18) years of age or older.

C. Riders of shared mobility devices shall park devices upright on hard surfaces in the furniture zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking, or on the street next to an unmarked curb. A furniture zone is defined as the outer four-foot (4') section of a sidewalk along the curb.

D. Riders may park shared mobility devices in on-street parking spaces in the following circumstances:

1. When marked parking spaces are officially designated stations for such devices.
2. Where the furniture zone is less than three feet (3') wide.
3. Where there is no furniture zone.
4. In neighborhoods with rolled curbs, or with inadequate sidewalk space.
5. In marked parking spaces designated for motorcycles.

E. Riders may park shared mobility devices on blocks without sidewalks only if the travel lane(s) and six-foot (6') pedestrian clear zone are not impeded.

F. Riders may park shared mobility devices on blocks without sidewalks only if the travel lane(s) and six-foot (6') pedestrian clear zone are not impeded. (Ord. 5601, 6-1-2021)

3-8-9: RIDER PROHIBITED ACTS:

A. Shared mobility devices shall not be ridden on sidewalks.

B. Riders shall not park shared mobility devices in such a manner as to block the pedestrian clear zone area of the sidewalk; ADA paths of travel including accessible ramps, any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box.

C. Riders shall not park shared mobility devices in such a manner as to impede or interfere with the reasonable use of any commercial window display, outdoor seating area, or access to or from any building entrance/exit doorway.

D. Riders shall not park shared mobility devices in such a manner as to impede or interfere with the reasonable use of any bicycle rack.

E. Riders shall not park shared mobility devices in the landscape/furniture zone directly adjacent to or within the following areas, such that access is impeded:

1. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks.
2. Loading zones.
3. Disabled parking zone.
4. Street furniture that requires pedestrian access (e.g., benches, parking pay stations, bus

shelters, transit information signs, etc.

5. Curb ramps.
6. Entryways.
7. Driveways. (Ord. 5601, 6-1-2021)

3-8-10: DATA SHARING:

A. City may require licensees to provide anonymized fleet and ride activity data for all trips starting or ending within the jurisdiction of city on any vehicle of licensee or of any person or company controlled by, controlling, or under common control with licensee, provided that, to ensure individual privacy:

1. Such data is provided via an application programming interface, subject to Licensee's license agreement for such interface, in compliance with a national data format specification such as the mobility data specification.
2. Such data shall be safely and securely stored by city which shall implement administrative, physical, and technical safeguards to protect, secure, and, where appropriate, encrypt or limit access to the data.
3. Such data shall be subject to publicly available aggregation, retention, and privacy policies of licensee and city.
4. Any such data provided shall be treated as trade secret and proprietary business information, and shall be exempt from public records requests and requests by third parties except with the consent of licensee.
5. Such data shall not be shared with law enforcement except pursuant to valid legal process.

B. City shall require licensee to provide such data to validate the quarterly completed ride fee payment listed in subsection 3-8-5E. (Ord. 5601, 6-1-2021)

3-8-11: INDEMNIFICATION:

Apart from and separate from any insurance required under this chapter, the licensee and its company agree to indemnify, defend and hold harmless city (and its officials, employees, officers, agents, contractors, insurers, or assigns) from and against all actions, damages or claims, including reasonable attorneys' fees, (collectively, "Claims") brought against city for personal or bodily injury or death to any person, or damage or destruction of any property, arising out of or resulting from performance or breach regarding any activity related to a shared mobility device license provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or destruction of property, including the loss of use resulting therefrom, or breach of contract, and (2) not caused by the negligent act or omission or willful misconduct of the city or its elected and appointed officials and employees acting within the scope of their employment. City's right to indemnification shall be contingent on city notifying company promptly following receipt or notice of any claims; company shall have sole control of company's defense, including the ability to choose counsel; and city shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of company. (Ord. 5601, 6-1-2021)

3-8-12: INSURANCE:

Licensees shall provide city with proof of insurance coverage exclusively for the operation of shared mobility devices including: (a) commercial general liability insurance coverage with a limit of no less than one million dollars (\$1,000,000.00) each occurrence and two million dollars (\$2,000,000.00) aggregate; (b) automobile insurance coverage with a limit of no less than one million dollars (\$1,000,000.00) each occurrence and one million dollars (\$1,000,000.00) aggregate; and (c) where licensee employs persons within the city, workers' compensation coverage of no less than the statutory requirement. Licensees' insurance shall also name city as an additional insured on a primary and non-contributory basis, including a waiver of subrogation in favor of city. A certificate of insurance shall be delivered to the city clerk prior to the issuance of a license. Licensees are required to maintain insurance coverage throughout the duration of the license. (Ord. 5601, 6-1-2021)

3-8-13: APPEAL:

A person may appeal a decision of the city clerk to deny an application by filing a written appeal to the office of the city clerk within fourteen (14) days of the date of the decision. An administrative fee of fifty dollars (\$50.00) shall be paid at the time the appeal is filed. Failure to file the appeal and pay the administrative fee shall constitute a waiver of the right to a hearing, and the decision shall thereupon become final. If the written appeal and administrative fee are filed in conformance with this section, a hearing shall be scheduled and conducted pursuant to section 3-8-14. (Ord. 5601, 6-1-2021)

3-8-14: DENIAL, SUSPENSION, OR REVOCATION OF LICENSE:

A. Any application filed or license issued under the provisions of this chapter may be denied, suspended, or revoked by the city clerk as follows:

1. Violation of any provision of this chapter or any other section of this code or has otherwise conducted business in a negligent and or an unlawful manner.
2. Fraud, misrepresentation, or false statements made in securing a license.
3. Fraud, misrepresentation, or false statements made in the course of the applicant's business.
4. Failure to cooperate and with all reasonable requests of any official of the city.
5. Failure of any licensee to maintain the appropriate insurance, or county, state, and federal licenses and permits, during the term of the license.

B. Upon receipt of information alleging grounds exist to suspend or revoke a shared mobility device license, or a written appeal and administrative fee have been received at the office of the city clerk, the city clerk shall cause a notice to be sent by ordinary mail to the applicant or licensee at the address noted in the application. Said notice shall state that a hearing has been set before the city council not less than thirty (30) days from the date of the notice. The notice shall include the reason and grounds for the hearing, the date and time of the hearing, and the place where the hearing will be conducted. The licensee shall have thirty (30) days from the date of the notice to remedy such grounds for the denial, suspension, or revocation.

C. Upon such hearing, if the city council determines that one or more of such grounds do exist, it may suspend or revoke an existing license or uphold a decision to deny a license. A suspension shall constitute a minimum period of fourteen (14) calendar days from the date of the hearing, during which period the licensee may not conduct any business. In the event such license is revoked, no shared mobile device license shall be issued to the licensee for a period of one calendar year from the date of the revocation. The licensee shall have thirty (30) days to remove the licensee's fleet of shared mobility devices from the city's right-of-way. (Ord. 5601, 6-1-2021)

3-8-15: PENALTY:

A. Licensee: Any person who violates any of the provisions of this chapter shall be guilty of a municipal infraction and fined as provided in section 1-3-2 of this code. The provisions of this chapter relating to section 3-8-6 shall apply to all shared mobile device operators whether or not they are a licensed mobile food business.

B. Riders: Shared mobility device riders who violate sections 3-8-8 or 3-8-9 of this chapter or any section of title 6, chapter 2, Bicycles Or Scooters, shall be guilty of a municipal infraction and fined as provided in section 1-3-2 of this code. The parent or guardian of any person under the age of eighteen (18) who violates any of the provisions of this chapter shall be responsible to pay the fines. A violation of any provision of this chapter by a person under the age of eighteen (18) shall not affect any civil right or liability nor shall such violation be considered a criminal offense. (Ord. 5601, 6-1-2021)

3-8-16: SEVERABILITY:

If any section, provision or part of this chapter shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this chapter as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. (Ord. 5601, 6-1-2021).

INTRODUCED:	July 19, 2021
PASSED 1st CONSIDERATION:	July 19, 2021
PASSED 2 nd CONSIDERATION:	July 19, 2021
PASSED 3 rd CONSIDERATION:	July 19, 2021

PASSED AND ADOPTED by this Council this 19th day of July 2021.

Quentin Hart 

Quentin Hart, Mayor

ATTEST:

Kelley Felchle 

Kelley Felchle, City Clerk

CERTIFICATE

I, Kelley Felchle, City Clerk of the City of Waterloo, Iowa, do hereby certify that the preceding is a true and complete copy of Ordinance No. 5608 as passed and adopted by the City Council of the City of Waterloo, Iowa, on the 19th day of July 2021.

Witness my hand and seal of office this 19th day of July 2021.

Kelley Felchle 

Kelley Felchle, City Clerk

SEAL

