

STAFF MEMO

DATE OF COUNCIL MEETING: JUNE 10, 2019 / AGENDA ITEM NO. 13
JUNE 24, 2019 / AGENDA ITEM NO. 13

To: Mayor and City Council
From: Jay N. Hutchison, Director of Public Works, 303-987-7901
Subject: **PROPOSED MUNICIPAL CODE CHAPTER 5.57 – COMMERCIAL MICROMOBILITY**

This ordinance was approved on 1st Reading by a vote of 11 ayes 0 nays.

SUMMARY STATEMENT:

Micromobility devices, such as shared bicycles, e-scooters and e-bicycles, offer opportunities for affordable, alternative transportation and have presented challenges to other communities. These devices or similar ones have been used for decades. Recently these devices have become more generally available from newer transportation businesses. In some communities, challenges have arisen as the business models continue to evolve and public interest grows.

Two ordinances revising Lakewood's municipal code are proposed to address micromobility:

- Creation of a new Municipal Code Chapter 5.57 – *Commercial Micromobility* and
- Revisions to Title 10 of the Municipal Code – *Vehicles and Traffic*.

This Staff Memo addresses the proposed ordinance that would create Municipal Code Chapter 5.57 – *Commercial Micromobility*. City council is asked to review and vote on the proposed ordinance to create Chapter 5.57. A separate staff memo addresses proposed changes to Title 10.

BACKGROUND INFORMATION:

City council received an initial informational presentation and discussed this transportation model during its October 1, 2018 study session. The public and the businesses that provide these types of devices have been engaged by city staff since October.

On February 4, 2019 city council held a study session on this topic and discussed specific provisions to manage micromobility in Lakewood. The staff memorandum from the study session is attached. Public Works understood city council to have reached consensus to proceed with preparation of ordinance(s) to implement all components in the staff memorandum except those identified as **8. Special Programs of Licensees** that begin on page 11 of Attachment B.

Two ordinances have been prepared for city council consideration to implement micromobility. One would create Chapter 5.57 – *Commercial Micromobility* in the municipal code and establish

a framework to license commercial micromobility companies as discussed during the February 4 study session and in the associated staff memorandum.

The micromobility industry is new and evolving. Public understanding and interest is also growing. A license is the mechanism crafted to provide the city the tools necessary to manage the industry and its effects. It would also provide the agility for the city to respond to the industry's evolution and allow the city to be nimble as the community responds to this new mobility option and business model.

Among other information, the license application provisions of the ordinance (section 5.57.030) require each potential licensee to propose approaches to several of the concepts discussed during the February study session. The proposals will be helpful, but not necessarily definitive, in determining provisions of any approved license.

The police, community resources, planning, and public works departments, and the city attorney's office have collaborated on this topic.

BUDGETARY IMPACTS:

A licensing fee will be collected with each application to cover the city's costs of reviewing the application and, if approved, issuing the license.

City costs of managing the program operation are difficult to estimate given the recent creation of the industry and its ongoing evolution. To cover city costs of managing the program, each commercial micromobility company that is licensed will provide a financial deposit (section 5.57.050.B). The deposit will be used to cover costs incurred by the city due to the company and a proportional share of the costs incurred by the city that are due to commercial micromobility in general and not identifiable with a particular company. This approach will ensure the industry bears its actual costs to the public while avoiding over or under charging any particular company.

Tax will be collected pursuant to the current city tax code.

STAFF RECOMMENDATIONS:

Based on the two city council study sessions, the public input received to date and staff research, Public Works recommends approving the ordinance adding Chapter 5.57 – *Commercial Micromobility* to the municipal code, which will create a license for commercial micromobility companies.

ALTERNATIVES:

City council may adopt, amend or reject the proposed ordinance.

PUBLIC OUTREACH:

Public input has been obtained via four open house public meetings and online. In addition to typical notification platforms, a broad list was used to mail invitations. Invitees included business improvement districts, business associations, West Metro Fire, hospitals, the school district and all high school principals, colleges and universities, major retail centers and offices properties, Metro West Housing Solutions, registered neighborhood organizations, Colorado Department of Transportation, and the Regional Transportation District.

Additional public opportunities to provide feedback included the study sessions on October 1, 2018 and February 4, 2019. A public hearing will be held in conjunction with second reading of the proposed ordinance. In addition, discussion occurred with potential licensees and among multiple city departments

NEXT STEPS:

If the proposed ordinances are approved by city council, the micromobility license application process will begin.

ATTACHMENTS: Ordinance O-2019-27
Staff Memo from February 4, 2019 Study Session
(without its attachments)

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney

O-2019-27

AN ORDINANCE

ADDING A NEW CHAPTER 5.57 TO THE LAKEWOOD MUNICIPAL CODE CONCERNING THE LICENSING OF COMMERCIAL MICROMOBILITY COMPANIES

WHEREAS, the City Council of the City of Lakewood recognizes the transportation opportunities and community challenges associated with micromobility devices;

WHEREAS, the City Council believes a local licensing system for micromobility companies is appropriate to improve transportation while protecting the health, safety and welfare of the community;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood Colorado:

SECTION 1. A new Chapter 5.57 is hereby added to Title 5 (Business Licenses and Regulations) of the Lakewood Municipal Code to read in full as follows:

Chapter 5.57

COMMERCIAL MICROMOBILITY

5.57.010 Definitions

As used in this Chapter, the following words and terms shall be defined as follows:

"Bicycle" means a vehicle propelled by human power applied to pedals upon which a person may ride and having two tandem wheels or having two parallel wheels and one forward or rear wheel, all of which are more than fourteen inches in diameter.

"Bicyclist" means any person operating a bicycle or an electric assisted bicycle anywhere within the City.

"City" means the City of Lakewood, Colorado.

"City Manager" means the Lakewood City Manager or designee.

“Commercial Micromobility Company” or “Company” means a business, person or other entity that provides bicycles, electric assisted bicycles, EPAMD and/or electric mobility devices within the City for a fee. Commercial Micromobility Company does not include any entity or person that provides bicycles, electrical assisted bicycles, EPAMD and/or electric mobility devices within the City as a minor component of its business relationship with Riders, such as landlord for tenants, employer for employees, schools for students and staff, geographically use-restricted to private property, or personally owned and used.

“Commercial Micromobility License” or “License” means a license required under this Chapter 5.57.

“Device” means a bicycle, electric assisted bicycle, EPAMD or electric mobility device.

“Electric Assisted Bicycle” means a vehicle having two tandem wheels or two parallel wheels and one forward or rear wheel, fully operable pedals, an electric motor not exceeding seven hundred fifty (750) watts of power, and a top motor-powered speed of twenty (20) miles per hour.

“Electric Mobility Device” means a device weighing less than 100 pounds, typically with handlebars and an electric motor, that has a maximum speed of twenty (20) miles per hour on a paved level surface when powered solely by the electric motor. Electric mobility device does not include a motorcycle, low-power scooter, toy vehicle, golf car, low speed electric vehicle, wheelchair or any device designed to assist people with mobility impairments who use the pedestrian rights of way.

“Electric Personal Assistive Mobility Device” or “EPAMD” means a self-balancing, non-tandem two-wheeled device, designed to transport only one person, that is powered solely by an electric propulsion system producing an average power output of no more than seven hundred fifty (750) watts.

“Rider” means any person operating a Device.

5.57.020 License Required

It is unlawful for any Commercial Micromobility Company to operate or to allow its Devices to be operated or to locate its Devices within the City without a valid Commercial Micromobility License.

5.57.030 License Application

- A. All applicants for a Commercial Micromobility License shall file an application with the City Clerk on forms approved by the City Manager and provided by the City Clerk.
- B. The City Manager will establish an initial application deadline. All applications received by this deadline that are approved shall have a common effective date that will initiate a prohibition of additional Licenses for a period determined by the City Manager not to exceed one (1) year. After the initial one-year license period expires,

applications from new licensees may be submitted at any time using the latest City requirements.

- C. The application for a License shall include, but not be limited to, the following:
1. The applicant shall identify the types of Devices proposed for use in the City.
 2. The applicant shall submit a proposal that includes the following:
 - a. The maximum and minimum number of each type of Device that the applicant will initially make available to the public;
 - b. A usage-based method for increasing and decreasing the maximum number of each type of Device the applicant will make available to the public; and
 - c. The recommended maximum number of each type of Device to be initially provided for use in the City by all Companies in the aggregate. The City may waive this requirement if it determines, in the City's sole and absolute discretion, that such information is no longer necessary.
 3. The applicant shall submit a plan, acceptable to the City Manager, to provide for the following:
 - a. Education of Riders regarding legal operation and parking of Devices;
 - b. Incentives for Riders to properly operate and park Devices; up to and including revocation of a Rider's access to Company's Devices.
 - c. Initial distribution and on-going re-distribution of Devices;
 - d. Retrieval of Devices;
 - e. Inspection and repair of Devices;
 - f. Methods to encourage Riders to use helmets;
 - g. The sharing of data; and
 - h. Permanently affixing to each Device a weatherproof, permanent sign that identifies the owner of the Device, a unique Device identification number geographically tracked by the Company, and a customer service phone number.
 4. The applicant shall provide contact information, as determined by the City Manager, which is continuously monitored by a local representative for questions, maintenance issues, complaints, safety concerns or other issue resolution including retrieving Devices.
 5. If an applicant's previous License was revoked or suspended, the applicant shall also demonstrate, in a form or manner satisfactory to the City, that the cause of the revocation or suspension has been remedied and will not reoccur.

5.57.040 Requirements for License Issuance

- A. The City Manager may limit the number of Companies and Licenses for each type of Device. A Company with a previous License, in good standing with the City, will receive a new License upon an approved application before any new Companies to the City are issued Licenses.
- B. Each License shall include and be subject to, but not limited to, the following requirements acceptable to the City Manager:
1. Certification for each Device;
 2. The minimum number of each type of Device the Company will typically make available to the public during normal operating hours;

3. The maximum number of each type of Device the Company can make available to the public upon initiation of the License term;
4. A usage-based method for increasing and decreasing the maximum number of each type of Device the Company can make available to the public;
5. Maximum time for Device retrieval for each Device that fails an inspection, is improperly parked, is unused for any 48-hour period, causes a verified complaint, or exceeds the Company's approved maximum number for such Device;
6. Obligations to:
 - a. Educate Riders of legal operation and parking of Devices and that the City is neither providing nor approving any Device nor insuring the Company or Riders;
 - b. Incentivize Riders to properly operate and park Devices including conditions in which use by particular Riders would be prohibited;
 - c. Initially distribute, re-distribute and retrieve Devices;
 - d. Inspect and repair Devices;
 - e. Encourage Riders to use helmets;
 - f. Share data at a frequency and in a format and granularity adequate to verify Company operations meet the intent of the License, and for auditing, police enforcement and infrastructure planning needs of the City; and
 - g. Permanently affix to each Device a weatherproof, permanent sign that identifies the owner of the Device, a unique Device identification number geographically tracked by the Company and a customer service contact, as determined by the City Manager.
7. The Company's authorization for the City to relocate or impound any Device improperly parked or otherwise in violation of this chapter;
8. An affirmative obligation by the Company to timely and fully cooperate with the Lakewood Police Department during any investigation of an incident alleged to have involved a Device or Rider associated with the Company;
9. Whether advertising is permitted on any Device;
10. A comprehensive general liability insurance certificate naming the City of Lakewood and its officers and its employees as additional insureds;
11. Company commitment to indemnify, defend and hold harmless the City of Lakewood and its employees from and against all third-party claims and a waiver of liability/release of claims in favor of the City, including from Riders;
12. Acknowledgement of the City's liability limitations under the Colorado Governmental Immunity Act;
13. Remedies including License modification, License suspension and License revocation for violation of any provision of the License;
14. Payment of applicable License fees and the deposit amount required prior to a License becoming valid;
15. A report of Company operations submitted to the City no later than thirty (30) calendar days following expiration of the License as required by the City Manager; and
16. Signature of an authorized person binding the Company to the License terms.

- B. Licenses are not assignable or transferable; with the exception of assignment to a successor entity in the event of a sale of all or substantially all of Licensee's assets or stock or a reorganization within Licensee's existing ownership structure.
- C. Licenses shall be effective for a period not to exceed 365 calendar days or as determined by the City Manager.

5.57.050 - License Fees and Costs

- A. The City Manager shall establish a License application fee adequate to recover the average costs of application review and preparing and issuing a License. This fee must be paid upon submission of a License application. The City will not process applications submitted unless the fee has been paid.
- B. Each Company shall deposit an amount determined by the City Manager from which the City may deduct its costs associated with the Company's operation and Devices, including, but not limited to, City responses to public inquiries, Device relocation or retrieval, and Device impoundment.
 - 1. The deposit amount shall be based on the maximum number of Devices the Company is permitted to provide to the public, the Licensee's performance record in the City and other communities, and other considerations determined by the City Manager to be relevant to the City's potential costs attributable in part or in whole to the Company.
 - 2. The City Manager shall establish a minimum deposit amount below which the company shall replenish within thirty (30) calendar days of notice from the City the fund to an amount determined by the City Manager.
 - 3. The City shall provide an annual reconciliation to the Company of the deposit amount and costs paid from the deposit amount.
 - 4. The remaining deposit amount shall be returned to the Company following:
 - a. Expiration of the current License without approval of a License for the immediately subsequent period;
 - b. Submittal of the required operations report; and
 - c. Deduction of any amounts necessary to retrieve any of the Company's Devices remaining within the City and any other appropriate costs.
- C. Insufficient funds on deposit with the City shall not relieve any Company of the obligation to reimburse the City for costs for which the deposit is intended and may result in, but is not limited to, License suspension or revocation.
- D. The City Manager may reduce or waive the deposit requirement for any Company based on previous License periods during which use of the deposit was unnecessary or minimal.

5.57.060 - Device Relocation, Retrieval and Impoundment

- A. Any Device not in compliance with the License shall constitute a violation of this chapter.
- B. The City is authorized to relocate or retrieve and impound any Device not in compliance with a License. The City shall give notice to the Company of each impounded Device. Such notice shall be to any one of the Company's contacts identified on the License application. The Company shall reclaim impounded devices within 30 calendar days of notice from the City.

- C. The City shall deduct from the Company's funds on deposit with the City all costs and fees of such impoundment. To the extent such deposit is inadequate, the Company shall pay to the City the remaining amounts due within 30 calendar days of billing, and such amounts shall accrue interest after such due date. If not paid within 30 calendar days after billing, such amounts, including interest and collection costs, shall be subject to collection by any lawful method.
- D. The City may sell, donate, recycle or dispose of any Device, as determined by the City Manager, if:
 - 1. The City impounds a Device that is not reclaimed by the Company within thirty (30) calendar days of the date of receipt of the notice provided in subsection B hereof; or
 - 2. The relevant Company is not identifiable.

Such action by the City shall not relieve the Company of its obligation to pay costs and fees.

5.57.070 - Report of Changes

The Company shall report any change in ownership, contact information or location to the City within ten (10) calendar days of the change.

5.57.080 Administration and Enforcement

- A. Administration. This chapter shall be administered and enforced by the City Manager. The City Manager is hereby authorized and directed to promulgate and implement rules, regulations and procedures necessary or appropriate for administration and enforcement of this Chapter.
- B. Enforcement. The City is hereby authorized to enter into, on or upon any public property to examine a Device or parts thereof, to obtain information as to the identity of the owner of any Device, to retrieve or relocate any Device and to impound any Device in accordance with the provisions of this Chapter. Nothing contained in this Chapter shall be deemed to limit the City Manager from entering private property pursuant to permission from the owner or occupant thereof.
- C. Appeal. Any Company may appeal any order, decision or determination of the City Manager that is directly applicable to such Company in accordance with the following:
 - 1. The appeal shall be in writing and received by the City Manager within ten (10) calendar days after delivery of the City Manager's order, decision or determination or, if the order, decision or determination is not one that is directed at any particular Company, within ninety (90) calendar days after the order, decision or determination has been enacted.
 - 2. The appeal shall include the specific objection to the order, decision or determination being appealed, the bases for the appeal including relevant citations to the City's Municipal Code, if applicable, and any specific action proposed by the Company to warrant reconsideration.
 - 3. The City Manager shall designate a hearing officer to hear and decide the appeal through an informal hearing held within twenty (20) calendar days of the

- City's receipt of the appeal, unless the hearing officer grants additional time for good cause.
4. The hearing officer is authorized to uphold, modify or overturn the City Manager's order, decision or determination. Such order, decision or determination decision shall remain in effect during the pendency of any appeal.
 5. The hearing officer shall render a written decision, which shall be mailed to the appealing Company within fifteen (15) calendar days of the hearing.
 6. The decision of the hearing officer shall constitute a final agency action for purposes of any further appeal.

5.57.090 – Noncompliance

- A. It is unlawful for any person to violate a provision of this Chapter or a provision of a License.
- B. Continued operation in compliance with a License shall be a continuing condition of the validity of the License. The City Manager may immediately suspend, modify or revoke a License upon evidence satisfactory to the City Manager of noncompliance by a Company. Suspension, modification or revocation of a License is not an exclusive remedy for any violation of a License.

5.57.100 Cumulative Effect

The provisions of this chapter are cumulative and in addition to any and all other procedures, remedies or penalties provided in the City's municipal code or by state law for the abatement of, or prosecutions for, nuisances. Proceedings under this chapter shall not prejudice or affect any other action, whether civil, criminal, equitable or administrative, for abatement or other remedy of such conditions. Nothing contained herein shall be deemed to invalidate, supersede or render ineffective any other provision of any ordinance of the City. Neither the inclusion, nor the failure to include, under the terms of this chapter, any act or condition otherwise in violation of any provision of this code or other ordinance of the City, is unlawful or constitutes a nuisance, shall be deemed to render such act or condition lawful.

SECTION 2. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

SECTION 3. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 10th day of June, 2019; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 13th day of June, 2019; set for public hearing on the 24th day of June, 2019; read, finally passed and adopted by the City Council on the _____ day of June, 2019; and signed and approved by the Mayor on the _____ day of June, 2019.

Adam Paul, Mayor

ATTEST:

Margy Greer, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney



STAFF MEMO

DATE OF COUNCIL STUDY SESSION: February 4, 2019/ AGENDA ITEM NO. ____

To: Mayor and City Council
From: Jay N. Hutchison, Public Works Director, 303-987-7901
Subject: Scooters and Bikes (Also known as Shared Use Dockless Mobility Devices)

SUMMARY STATEMENT:

Dockless mobility devices, such as e-scooters and e-bicycles, offer opportunities for affordable, alternative transportation and have presented challenges to other communities. These devices or similar ones have been used for decades. Recently these devices have become more generally available from newer transportation businesses. In some communities, challenges have arisen as the business models continue to evolve and consumer interest grows.

City council received an initial informational presentation and discussed this transportation model during its October 1, 2018 study session. The public and the businesses that provide these types of devices have been engaged by city staff since October. The police, community resources, planning, public works departments, and the city attorney's office have collaborated on this topic. From this collaboration, research of potential approaches and multiple public input platforms, described below, the following recommendations, options and additional information have been prepared for city council consideration.

This memorandum and a presentation during the February 4, 2019 study session will propose an approach to managing dockless mobility. City council is asked to review the information and provide staff with direction on how to proceed.

BACKGROUND INFORMATION:

Mobility options continue to expand. Multiple motor vehicle sharing entities exist and have operated in Lakewood for several years. Automobile and bicycle sharing have existed in the Denver metropolitan area since 2010. Bike share has primarily been in the form of B-Cycle, including locations within the Federal Center in Lakewood. In metro Denver, B-Cycle requires all of its bikes to be stored in a fixed-location dock when not in use. The docks define where trips can start and end and add thousands of dollars in infrastructure costs for each dock. B-Cycle has recently added a dockless option in some initial markets.

The next generation of shared mobility—such as dockless bikes and scooters—has arrived in many markets within the last year, including the Denver metropolitan area. Concurrently, electric

assist for bicycles and then scooters has been implemented. Commutes to work, connection to transit, shopping and other shorter distance activities are some of the potential uses of dockless devices. They are lower-cost options to motor vehicles that can help reduce congestion and improve mobility. Public interest seems notable as evidenced by the growth of their availability throughout the country, popularity in Denver to date and recent public input of Lakewood citizens.

The material below outlines requirements that, by ordinance or license, the city could require or encourage. Generally, the provisions suggested would be applicable to the Providers, including Licensees, of dockless mobility Devices and, in some cases, to the Riders. Key terms used herein are:

- “Device” is a vehicle such as a scooter or bicycle, with or without electric assist, but not limited to bicycles and scooters, that generally is capable of transporting one individual, but does not include any vehicle required to have a license plate or any vehicle serving as a mobility vehicle necessary due to a disability.
- “Licensee” is a transportation business that typically provides Devices to the general public.
- “Provider” is either a Licensee or any other entity that makes Devices available to others with whom it has another primary relationship, which could include, but is not limited to, an employer providing Devices only to its employees, or a landlord providing Devices only to its tenants, or an individually owned personal Device.
- “Rider” is an individual operating a Device regardless of the ownership of the Device.

The dockless mobility portion of the transportation industry is evolving rapidly including expanding to new communities, potential Licensees being purchased by more established transportation companies, Devices evolving, growing public interest in using the Devices, and solutions improving for the issues that can be created by the Devices and their use.

Because of the potential number of Devices that may be provided by transportation businesses and their widely distributed geographical use, there is a new need to reasonably manage the presence of Devices throughout the community including on city owned rights-of-way. A license is recommended for such businesses and is described in more detail below. The obligation to obtain a license is proposed only for those entities whose primary business is transportation and that provide service in the Lakewood community.

Entities that provide Devices ancillary to their non-transportation primary business and to a limited clientele with whom the business has a pre-existing relationship would not be required to obtain a city license. And individuals who own a Device for personal use would not be required to obtain a license. The operating and parking requirements described below would apply to all Devices regardless of Device ownership. That is, bicycle operating rules apply to all bikes

regardless of whether it is a personal bicycle or a Device rented from a transportation company or provided by a landlord to its tenants.

A distinction considered in developing the information below is the difference between a more urban area, such as Denver, and its transportation network, pedestrian density and housing stock compared to Lakewood. Lakewood's more suburban character is anticipated to reduce the frequency of issues associated with Devices compared to Denver and other major cities. However, the types of issues may be very similar.

The background information below is organized to address multiple aspects of managing Devices and Providers as follows:

1. License Required
2. Device Operation
3. Device Parking
4. Device Quantities
5. Device Placement for the Start of Trips
6. Other Safety Requirements
7. Data Sharing
8. Special Programs of Licensees
9. Educational Program
10. Incentives, Disincentives, Remedies and Enforcement
11. Other License Requirements

Note that this proposal will not restrict the use of any legally protected accessibility aid or vehicle.

1. License Required

The primary tool proposed to manage commercial transportation company Device fleets in Lakewood is a license authorized by city ordinance and required of Providers that are commercial transportation entities (referred to herein as "Licensees").

Other types of Device Providers would not be required to be licensed because their Devices are restricted to a limited group of Riders with whom the Provider has a separate, primary relationship and such Devices are provided as an ancillary component of the Provider's primary business. Such unlicensed Providers might include:

- A landlord providing Devices only to its tenants,
- A college providing Devices only to its students and staff,
- An employer providing Devices only to its employees, or
- Devices restricted to the Provider's private property (e.g., a fleet restricted to use on the property of a college).

Some of the provisions outlined below would apply regardless of whether a Provider is required to be licensed. For instance, where a Device can be used and how it should be parked are relevant to all Devices regardless of the Device's ownership or Rider.

Many of the provisions discussed below would be required via the license. Some may be required by city law. Some obligations in the license may require the Licensee to impose specific obligations on Riders.

City Council is asked to confirm whether a license as described above, along with any necessary municipal code changes, should be instituted to manage Devices operating in Lakewood.

2. Device Operation – These provisions would apply to all Riders.

A. Safe Operation of Devices – The current municipal code includes provisions applicable to many types of vehicles that require reasonable and prudent operating for the conditions that exist, yielding to pedestrians and prohibit operating in a manner demonstrating lack of adequate control or carelessly or in an imprudent manner.

Such provisions would be applied to Device use. Other components of municipal code provisions applicable to operating Devices could include the following:

- Prohibit distracted and impaired riding,
- Prohibit transporting more than the number of Riders for which the Device is designed,
- Require single-file riding if two abreast riding impedes the normal and reasonable movement of traffic, and
- Require use of an audible warning prior to passing.

B. Rider Expectations – The most effective regulations for many activities are those that are relatively intuitive and generally consistent with reasonably similar situations. Devices have characteristics most similar to bicycles of all the long-standing mobility modes as demonstrated by the following:

- The Devices can move noticeably faster than pedestrians,
- The Devices typically only transport one person at a time,
- The Devices provide less protection to the Rider than the size and mass of an automobile,
- The Devices have neither the power nor potential speed of motorcycles, and
- The Devices include bicycles and approximate bicycle speeds and space needs.

Given the similarities, Device operation recommendations are primarily designed to treat Devices similarly to bicycles for which operating rules exist.

- C. Yield Hierarchy – A hierarchy is important in determining whether to yield to another mode of transportation. It is common on public open space properties for bicyclists to be required to yield to pedestrians who must yield to equestrians. Device Riders would seem appropriate for inclusion with bicyclists in this hierarchy. And, the hierarchy could apply universally and not just on open space properties.
- D. Infrastructure Discontinuity – One factor relevant to Device operation is the limited continuity of some transportation infrastructure. In Lakewood, motor vehicle lanes are the most complete transportation infrastructure network. Bicycle lanes, sidewalks and shared use paths are commonly discontinuous. To relegate any mode of transportation other than cars and trucks to a single type of facility is impractical. However, where options exist, encouraging the safest option is sensible. Currently in the municipal code there is a hierarchy of preferred facilities for pedestrian use, which recognizes that Lakewood transportation infrastructure is discontinuous.

For Devices, the hierarchy from most desirable operating location to least desirable could generally be:

- i. Bicycle lane.
- ii. Paved shoulder of streets with speed limits of 35 MPH or less (local streets and collector streets such as Mississippi, 20th, Garrison, Harlan).
- iii. Shared use path.
- iv. On the right-side motor vehicle lane of streets (similar to current bicycle use) with a speed limit of 35 MPH or less.
- v. Sidewalk.
- vi. Paved shoulder on a street with a speed limit that exceeds 35 MPH.
- vii. On the right-side motor vehicle lane of streets with a speed limit that exceeds 35 MPH.

Devices would be prohibited on C470, US 6, and I-70 as bicycles are today.

This hierarchy recognizes that a difference in speed between vehicles, even between two cars, is a significant factor in crash frequency and severity. It also recognizes that these Devices tend to be quiet and can move rapidly compared to pedestrians.

This recommended hierarchy would leave some discretion to the Rider. For instance, bicyclists currently have the option to ride on a sidewalk or in the street. With riding safely being the underlying requirement, allowing a Rider to exercise some judgement to choose a safe and reasonably comfortable riding location seems appropriate.

As an example, some experienced bicyclists including many bicycle commuters tend to prefer riding on street pavement where they are more visible and have fewer driveways and curb ramps to negotiate. Less experienced and more leisurely recreational bicyclists often prefer an off-street, shared use path. However, such generalities do not address every bicyclist. Continuing the model of Rider responsibility and providing some range for Riders to apply good judgement seems appropriate.

- E. Prohibitions – There may be areas where certain transportation modes should be explicitly prohibited. For instance, riding electric scooters on the more pedestrian-active sidewalks in the Belmar area of downtown would be less desirable when the streets of Belmar provide an option that is relatively low-speed that can accommodate these Devices. The Belmar sidewalks also have more pedestrian distractions (e.g., store fronts and doors) that can cause pedestrian movements that are less predictable to a Device Rider with the associated higher risk of a collision. Prohibiting riding Devices on the Belmar sidewalks seems appropriate.

Currently, use of motorized vehicles on city park paths is prohibited to help manage conflicts. E-assist bikes and e-assist scooters are considered motorized and prohibited. Retaining that general prohibition in parks is suggested with the option to allow Devices on carefully selected routes through parks that also serve as important connections between transportation routes that approach a park. For example, the Bear Creek trail is both an open space or park recreational path and a key transportation route.

Park and open space paths would continue to have signs that generally prohibit motorized vehicles with guide signs for routes, if any, on which Devices are permitted.

Determining which routes through parks and open space locations would permit Devices could include considerations such as:

- Availability of alternative routes,
- Potential conflicts with other types of use, and
- Anticipated desires of Device Riders.

- F. Property Owner Created Restrictions – Property owners have the right to limit how and where Devices are used on their property. Some may invite and benefit from Device use such as a college or employment center and others may choose to exclude Device use on property the entity controls.

City Council is asked to confirm whether Device operating requirements and guidance should conform to the information above.

Establishing speed limits in Lakewood for Devices was also considered. However, speed enforcement typically requires that a violation would have to be observed by an officer with the appropriate equipment to ascertain the Device's speed. Enforcement related to inappropriate speeds would likely revert to the safe operating requirements and yield hierarchy obligations of Riders included above. The speeds the electric assist Devices can

reach are limited and are achievable on manual bicycles. Also, not all Licensees can limit speeds by geographic location (i.e., impose Lakewood-specific speed limits on their devices).

3. Device Parking – These provisions would apply to all Riders.

Today, Bicycles can be legally parked on the street next to the curb, on sidewalks without unduly obstructing the pedestrian path and in or adjacent to bike racks. Thoughtful parking can prevent several issues including the following:

- Significantly or fully blocking sidewalks or intersection ramps from others,
- Scattering Devices rather than consolidating the parking area at high use locations, and
- Parking Devices on landscaped areas.

Accomplishing this includes simple steps such as ensuring each parked Device is standing rather than laying down, utilizing existing bicycle racks or parking adjacent to racks, parking Devices parallel to the direction of pedestrian travel rather than perpendicular where space is narrow to retain at least a three foot wide unobstructed path, parking beyond or before a pre-existing obstruction to pedestrian traffic (e.g., at the side of a bus stop shelter) so as not to increase the encroachment into pedestrian flow, parking close to the edge of a walk or path and not obstructing ramps for those with disabilities.

City Council is asked to confirm whether Device parking should conform to the information above.

As Device utilization becomes better understood, it seems possible that marking designated parking areas may become helpful in higher use areas. Some locations will tend to have more Devices and may warrant physically designating a specific area for parking. RTD has adopted guidelines for parking Devices on RTD property and is developing a uniform method to designate Device parking near light rail stations and perhaps other RTD facilities. Currently, it is anticipated that RTD will create a painted rectangle on the pavement surface and designate it for Device parking, which may become the standard metropolitan-wide physical designation for Device parking in areas of heavy parking demand.

Usage data may also identify that a frequent parking demand exists at a location that has no sidewalk, path or other off-street hard surface for parking. In such a circumstance, a concrete pad could be added to create a designated parking area or an area of an existing, underutilized roadway pavement could be designated for parking.

Over time, additional identifiable parking locations will become available because current land development regulations require installation of bicycle parking. Generally, they are required with multi-family development and most non-residential development.

4. Device Quantities – These provisions would apply only to Licensees.

- A. Device Quantities – The number of Devices available from Licensees should be determined by the usage of each type of Device. Public desire for the Devices would establish the number of Devices available. The type of Device may change the expected usage. Scooters, for example, may be used for shorter trips and usually are ridden more frequently per day than bikes. A Licensee’s fleet-wide average number of trips per day could be the benchmark for each type of Device.

This approach recognizes the following:

- Devices that are used are less likely to be seen as clutter and spend less time parked and potentially interfering with others,
- Licensees are interested in good Device utilization for business success,
- Different Rider groups may use different Device types and each Device type available can be adjusted to reflect its demand,
- Riders may, over time, favor one Licensee over another, and
- Licensees may come and go causing the demand for other Licensees’ Devices to fluctuate.

After an initial evaluation period, discussed below, each Licensee’s deployed Device quantity (by Device type) would be re-established periodically based on usage data. The Licensee could request additional adjustments if there is an unusual event or ridership increases dramatically. Likewise, the City could adjust the fleet size after unusual events are noticed, issues are not being addressed timely, or ridership decreases dramatically.

- B. Initial Device Quantities – An initial period of data collection will be necessary before usage data is adequate to determine the size of Licensees’ fleets appropriate in Lakewood. To obtain the necessary data and ensure equal footing among licensees, the following process would occur:

- An initial license application submittal deadline would be established,
- An initial total number of each type of Device would be equally divided among all successful initial Licensees,
- All initial licenses would become effective on a single date, and
- No additional license applications would be approved during the initial data collection period.

This approach provides equal initial footing to all Licensees. Assuming they all comply with all license requirements, the community’s desires would, after the initial operating period, establish the number of Devices available in the community.

City Council is asked to confirm whether the approach described above for establishing the number of allowed Devices is appropriate.

5. Device Placement for the Start of Trips

A. Device Redistribution – This provision would apply only to Licensees.

Routine redistribution of Devices is necessary to have them available where they are needed. This is an interest shared by the Riders, city and Licensees. The locations where Devices are desired by Riders will become more evident as usage data become available. Licensees will usually redistribute Devices nightly and may redistribute more often to address anticipated demand. Device redistribution is also an opportunity to correct poor parking.

Each Licensees would propose and then adhere to a redistribution plan approved by the city. The City may restrict how many Devices can be deployed to any one block face or at any specific intersection by each Licensee.

A visual inspection and basic test of all components of each Device would be required with each redistribution pick-up.

B. Device Retrieval – This provision would apply to all Providers.

Providers would be obligated to retrieve, within a defined amount of time, each Device that:

- Fails to pass inspection,
- Is poorly parked,
- Is unused for any 48-hour period,
- Causes a verified complaint, or
- Exceeds a Licensee's approved Device quantity allocation.

City Council is asked to confirm whether the approach described above for redistributing and retrieving Devices is appropriate.

Geographically limiting a pilot program for Licensees was considered. Areas that had been mentioned as a possible pilot program area included the Alameda corridor, the Union corridor, along the W Line, or the Belmar area. However, utilization of Devices will fully depend on the pick-up and destination location desires of the Riders. During the public outreach, public interest for Device usage was found throughout the community.

Given the multiple mile travel capability of the Devices and the geographical dispersion of public interest, it is likely that confining use to any geographical area would (a) frustrate potential Riders and (b) result in artificially constrained results unrepresentative of subsequent implementation of a broader program.

6. Other Safety Requirements – These provisions would apply only to Licensees except as noted otherwise below.

Safety includes multiple components that primarily would be the responsibility of the Riders (e.g., prudent operating and parking) and Providers (e.g., Device integrity and maintenance). Although it should not go unstated that safety is also improved as users of all transportation modes are educated and considerate and as transportation facilities for all modes are improved.

While some of the information above addresses safety, the following additional topics are relevant:

- A. Device Certification – All Devices would comply with applicable safety standards.
- B. Device Inspection – Licensees would propose a Device inspection program for city approval.
- C. Device and Provider Identification – Each Licensee’s Devices would have a unique, visible identifier attached with a Provider-specific phone number that would be continuously monitored by Licensees and periodically monitored by non-licensed Providers. This information will be helpful in identifying the Rider involved in an incident investigated by the police and for anyone to report poor parking or other issues. Privately owned personal Devices would be exempt from this requirement.
- D. Cooperation with the Police Department – Licensees generally maintain location information on each Device and identification of each Rider from the beginning to the ending time of each trip. Other Providers may have similar information. In the event of an incident requiring investigation by the Police Department, any Provider who has relevant information will be required to timely provide such information to the Police Department.

This requirement is intended to:

- Reduce police and legal resources necessary to obtain relevant information for investigation of incidents,
- Discourage inappropriate operation of a Device by any Rider, and
- Enhance enforcement against violators.

City Council is asked to confirm whether the other safety requirements listed above should apply.

State law does not require bicyclists, motor cyclists or scooter riders to wear a helmet. However, most potential Licensees encourage helmet use and some currently offer helmets to their Riders at no charge.

Licensees generally have a minimum age requirement to open an account and only allow one account per person. Generally, the minimum age is 18, which may enhance safety and reduce the potential for Licensee liability but fails to serve high school students. Use by high school students could reduce the congestion peaks that occur before and after school and will be a topic of further discussion between potential Licensees and Public Works.

7. Data Sharing – These provisions would apply only to Licensees.

Licensees could be required to provide data to the city that would be helpful in managing Devices and Riders and provide input for city prioritization of infrastructure improvements. For instance, data indicating that a particular route through a portion of Lakewood is frequently used would be a helpful factor, but not the only factor, in prioritizing future infrastructure investments. The data would be foundational to ascertaining the appropriate number of Devices a Licensee is allowed pursuant to 4.A., above. It would also assist in understanding the community's interest and usage of Devices.

Data needs and value may change over time and the license requirement would need to be flexible to optimize the data value.

City Council is asked to confirm whether the approach to data sharing described above should apply.

8. Special Programs of Licensees – These provisions would apply only to Licensees.

Some Licensees have developed programs to directly address certain market needs and other communities' desires. Below are three programs that could be required of Licensees.

- A. Riders without Credit Cards – The primary payment method under Licensees' systems is a credit or debit card. Some potential Riders may not have a credit or debit card and yet would benefit from this additional transportation opportunity. Licensees would provide an optional way for Riders, at no additional cost, to fund their accounts.
- B. Riders without a Smart Phone – Generally, Licensees' smart phone applications are the tools by which Devices are unlocked and rides are concluded to stop costs. To encourage use of these alternative transportation modes, it would be helpful to have an option without the need for a smart phone and at no additional Rider cost.
- C. Riders with Low Income – Licensees could have a program to discount costs to those with low incomes as determined by eligibility for an existing, governmental, financial need-based program.

Licensees could be given a grace period of, perhaps, six months to implement such programs in Lakewood if they do not already offer such programs.

City Council is asked to confirm whether any, some or all the special programs described above should be required.

An alternative to requiring one or more of these programs might be to create an incentive to encourage such program(s). The nature of meaningful incentives would be discussed with potential Licensees if city council prefers to incent rather than require one or more program(s).

9. Educational Program – This provision would apply only to Licensees.

Licensees generally have an educational component as part of the sign-up process for their potential Riders. Such a program would be required and address Device operation and parking in Lakewood.

City Council is asked to confirm whether the educational program described above should be required.

An additional education effort could be a partnership of the Licensees, city, perhaps RTD (as the owner of likely destination locations), perhaps Jefferson County schools and voluntary participation by individual property owners, business associations, business improvement districts, and metropolitan districts. However, the city would implement a program regardless of the involvement of others. The program would primarily use communication platforms of the city and perhaps others such as RTD. The primary goal would be to educate the general population, Riders and non-licensed Providers about the rules of the road and parking relevant to Device use. Target audiences would include Riders, pedestrians and motorists.

10. Incentives, Disincentives, Remedies and Enforcement – These provisions would apply as described below.

A. Applicability to Riders – Because the city will not have a direct contractual relationship with Riders, citations under provisions of the municipal code will be the only formal recourse directly available for unacceptable Rider behavior. However, the license is an opportunity to require each Licensee to create incentives for their Riders to perform well and disincentives for poor behavior. Some potential Licensees have such programs.

Because the goal of an incentive/disincentive program is behavioral, such a program should have flexibility to address chronic issues that may develop. The details of the program may also vary among licensees.

B. Applicability to Licensees – The city's relationship with each Licensee would include remedies for violating terms of the license.

C. Applicability to Non-licensed Providers – Non-licensed Providers are anticipated to have smaller fleets with limited Riders. The Riders would be subject to citation based on municipal code provisions as noted above. If non-licensed Providers become an issue, the city council could revisit whether more Providers should be required to obtain a license.

City Council is asked to confirm whether the enforcement and remedies suggested above should apply.

11. Other License Requirements – Licenses would include the following provisions.

- A. Liability Waiver – Licensees typically require that their Riders provide a waiver of liability. The waiver would be extended to include the city. And, the Licensee would provide a waiver of liability to the city.
- B. Insurance and Indemnification – Bicyclists and scooter riders are not required to have insurance in Colorado. Each Licensee would be required to provide adequate insurance and indemnification of the city. Governmental immunity would not be waived.
- C. Taxes – Under existing city tax law, each transaction to rent a Device would have a 3% tax imposed.
- D. Fees – Licensees would pay a fee for the initial license and for license renewals to cover the city's costs of considering and issuing licenses and managing the licensing program.
- E. Bond – A bond could be required to cover any costs if city forces must remedy a situation. Examples include a Licensee abandoning operations and not removing all Devices or a Device blocking a path or roadway if the Licensee does not timely more it.
- F. Advertising on Devices – Other than identifying the Device Provider, advertising would initially be prohibited on the Devices.

City Council is asked to confirm whether the additional license requirements identified above should apply.

The potential to allow advertising on Devices in the future could be retained. Advertising could provide a means to encourage use by reducing costs or to support potential future city program goals. The space available for advertising is rather small on any Device.

BUDGETARY IMPACTS:

Fees will be established to recover the costs of licensing. Tax will be collected under the current city tax code.

STAFF RECOMMENDATIONS:

Based on city council comments during the discussion on October 1, 2018, city staff research, public input and evolution of the dockless mobility industry, staff recommends modifying the municipal code and creating a license for Providers that are commercial transportation businesses (Licensees) as described herein.

ALTERNATIVES:

City council may direct staff to modify the municipal code and create a license as described herein or as otherwise determined by city council during its discussion.

PUBLIC OUTREACH:

Public input has been obtained via four open house public meetings and online. In addition to typical notification platforms, a broad list was used to mail invitations. Invitees included business improvement districts, business associations, West Metro Fire, hospitals, the school district and all high school principals, colleges and universities, major retail centers and offices properties, Metro West Housing Solutions, registered neighborhood organizations, Colorado Department of Transportation, and the Regional Transportation District.

Additional public opportunities to provide feedback included the October 1, 2018 study session and will include the February 4 study session and during the public hearing on a proposed ordinance. In addition, discussion occurred with potential licensees and among multiple city departments

Input received is provided as the attachments listed below.

NEXT STEPS:

Based on city council consensus regarding each potential change, city staff will draft revisions to the municipal code. If city council's consensus is clear, first reading of an ordinance could be the next step. If council prefers, an additional study session could be held after the municipal code changes are drafted.

ATTACHMENTS:

- Attachment A – Map of Suggested Pick-up and Drop-off Locations – 232 individual locations were suggested by the public, some that were close together were consolidated for the map.
- Attachment B – Survey Responses with Graphs
- Attachment C – Narrative Comments Received – The first three pages of this attachment are summaries developed from the remaining 16 pages of verbatim comments.

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