

1 property, increased traffic congestion and collision, and potential for serious injury to persons
2 and property; and

3 **WHEREAS**, the City Council desires to immediately and expressly prohibit the
4 operation of unauthorized mobility sharing services within the City, unless and until
5 authorized and permitted by a written operating agreement between the City and the mobility
6 sharing operator and/or a permit as set forth in this Ordinance; and

7 **WHEREAS**, the City Council finds that this Ordinance is necessary to preserve the
8 public peace, health, and safety; and

9 **WHEREAS**, any and all other legal prerequisites relating to the adoption of this
10 Ordinance have occurred.

11 **NOW THEREFORE, THE ALBANY CITY COUNCIL DOES ORDAIN AS
12 FOLLOWS:**

13 **SECTION 1:** The recitals above are each incorporated by reference and adopted as findings
14 by the City Council.

15 **SECTION 2: Declaration of Urgency.** The City Council finds that the recitals set forth above
16 are true and correct and hereby adopts and incorporates the recitals herein as findings in
17 support of this Ordinance. Pursuant to Government Code section 36937(b), the City Council
18 hereby declares that the unauthorized and unregulated operation of motorized scooter share
19 programs in the City will result in significant and immediate adverse impacts to City
20 residents, visitors, businesses, public and private property, including impacts on traffic and
21 congestion, unlawful encroachment on property and the public right-of-way, and potential for
22 serious harm to riders and pedestrians alike. Because of these impacts, this Ordinance
23 prohibits motorized scooter share programs unless and until authorized and permitted by
24 future action of the City Council, in order to preserve the public peace, health or safety. To
25 this end, this Ordinance is hereby declared an urgency ordinance to take effect immediately
26 upon adoption by a four-fifths vote of the City Council.

27 **SECTION 3:** The City Council finds that this Ordinance is not subject to the requirements of
28 the California Environmental Quality Act (“CEQA”) for the following reasons:

- 29 A. This Ordinance is not a “project” within the meaning of Section 15378 of the State
30 CEQA Guidelines. (See State CEQA Guidelines, § 15060, subd. (c)(3) [“An activity
31 is not subject to CEQA if ... [t]he activity is not a project as defined in Section
32 15378”].) Here, the Ordinance is not a “project” within the meaning of Section
33 15378 because the Ordinance has no potential “for resulting in a direct physical
34 change in the environment, or a reasonably foreseeable indirect physical change in the
35 environment,” as further discussed below. (State CEQA Guidelines, § 15378.)
- 36 B. In the alternative, and if a project, this Ordinance is exempt under State CEQA
37 Guidelines section 15061(b)(3), the common sense exemption, because it can be seen
38 with certainty that there is no possibility that the activity in question may have a
39 significant effect on the environment.

1 SECTION 4: Albany Municipal Code, Title 5, General Licensing and Business Regulations,
2 is hereby amended to add Chapter 5-12, Dockless Shared Mobility Systems, to read in full as
3 follows:

4 **“§ 5-12 DOCKLESS SHARED MOBILITY SYSTEMS**

5 § 5-12.1 Definitions.

6 § 5-12.2 Dockless Shared Mobility System Operator Permits Required.

7 § 5-12.3 Operating Agreement While Permit Application is Pending

8 § 5-12.4 Parking Requirements Established.

9 § 5-12.5 Revocation or Suspension of Permits.

10 § 5-12.1 Definitions.

11 For the purposes of this section, unless otherwise apparent from the context, certain
12 words or phrases used in this section are defined as follows:

- 13 (a) “City Engineer” means the City Engineer or their designee.
- 14 (b) “Deployment” means the placement of devices by the dockless shared mobility
15 system operator.
- 16 (c) “Dockless shared mobility device,” or “device,” means a device for short-term rental
17 for point to point trips where, by design of the dockless shared mobility operator, the
18 device is intended to remain in the public right-of-way, even when not being rented,
19 and is not required to be docked in a designated docking station for rental. “Devices”
20 include, but are not limited to, electric-assist scooters and dockless bicycles. This
21 definition shall not apply to dockless, point to point car rental services that may be
22 separately authorized to operate within the City.
- 23 (d) “Dockless shared mobility system,” or “system,” means a system providing devices
24 as defined above.
- 25 (e) “Dockless shared mobility system operator” or “operator” is an entity that owns
26 and/or operates a dockless shared mobility system in the public right-of-way. The
27 term includes any employee, agent or independent contractor hired or retained by the
28 operator.
- (f) “Dockless shared mobility system permit” is the permit granted to the operator under
this chapter which allows the operator to commence services within the City.
- (g) “Dockless shared mobility user,” or “user,” is any person that uses, rents, or rides a
dockless shared mobility device or is a customer of the operator.

1 (h) "Locking mechanism" is a locking mechanism integrated into or on the device which
2 cannot be removed using simple tools and which securely holds the device upright
3 when parked at a bike rack or other fixed object.

4 (i) "Roadway" is defined in Section 530 of the California Vehicle Code or any successor
5 statute.

6 § 5-12.2 Dockless Shared Mobility System Operator Permits.

7 (a) All operators seeking to operate a dockless shared mobility system within the City
8 must obtain a dockless shared mobility system permit pursuant to this Chapter.

9 (b) The City Engineer is authorized to issue system operator permits to operators who
10 submit applications and fulfill all requirements of this chapter, including payment of
11 all fees, fines, and penalties to operate such systems.

12 (c) A permit issued pursuant to this chapter shall expire on June 30 of each year. Permits
13 issued prior to July 1, 2023 shall expire on June 30, 2024. Operators must renew such
14 permits annually to continue operation.

15 (d) Operators seeking a permit or renewal of an existing permit shall obtain a business
16 license tax certificate from the Finance Department. Failure to maintain a business tax
17 certificate or pay delinquent business license tax penalties or fees constitutes a basis
18 for revocation or non-renewal of a permit.

19 (e) Operators seeking a permit or renewal of an existing permit shall submit a permit
20 application or renewal application on a form that is provided by the City, and shall
21 pay any applicable application or renewal fee.

22 (f) The City Engineer may impose conditions as part of permit issuance, and may deny a
23 permit to applicants who do not meet program requirements.

24 (g) The City Engineer may establish conditions including, but not limited to, locations for
25 parking devices, locations for riding, speed limits for devices, deployment of devices,
26 device specifications, requirements to indemnify the City and provide certain levels of
27 insurance coverage, and requirements to advance community engagement, equity,
28 accessibility, and personal privacy.

§ 5-12.3 Operating Agreement While Permit Application is Pending

While an operator is engaged in the process of obtaining a permit pursuant to Section 5-12.2, the operator may commence operations immediately without violating this Chapter by entering into a Temporary Operating Agreement with the City. The Temporary Operating Agreement will be of a limited period established by the City Manager, which period is intended to allow staff to process and approve or deny the permit application, and will contain such terms as are necessary to adequately protect the City's and applicant's interests. Section 5-12.4 will apply to the dockless shared mobility service while the operator is awaiting a determination on the permit application.

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2 § 5-12.4 Parking Requirements Established

3 (a) Unless otherwise specified, dockless shared mobility devices must be locked upright
4 to a bike rack or other fixed object, which shall not include trees, and may not impede
5 access to or use of the right-of-way. Devices are required to have locking
6 mechanisms. Devices shall not be parked adjacent to or within:

- 7 (1) Disabled parking zone, or any other accessible route that would otherwise
8 create a barrier to accessibility;
- 9 (2) Curb ramps;
- 10 (3) Fire hydrant zones;
- 11 (4) Roadways;
- 12 (5) Loading zones;
- 13 (6) Transit zones, including bus stops, shelters, passenger waiting areas, and
14 bus layover and staging zones, except at existing bicycle racks;
- 15 (7) Locked to street furniture that requires pedestrian access, such as benches,
16 parking pay stations, bus shelters, and transit information signs;
- 17 (8) Entryways;
- 18 (9) Driveways; and
- 19 (10) Handrails.

20 (b) Dockless shared mobility systems must comply with the following requirements:

- 21 (1) Provide a single point of contact (phone number and email) for a customer
22 service representative who is available 24 hours per day, 7 days a week for
23 matters relating to the system's operation within the City.
 - 24 (i) This information shall be clearly displayed on each device, along
25 with a unique device identification number.
- 26 (2) Issue a "ticket number" for each complaint to both the City's designated
27 contact person and the person who filed the complaint.
- 28 (3) Address such complaints within three hours of receipt of such complaint,
or advise the City and the complainant that additional time is required to
address the complaint and provide an estimated resolution timeframe.

1 (4) Provide a response to the complainant when a complaint is closed.

2 (5) Provide sufficient operations and maintenance staff to respond to the City
3 within three hours to remove improperly parked devices.

4 (c) Operator may be charged an improper parking fee, to be set by resolution of the City
5 Council, if any of operator's devices are found to be improperly parked and are not
6 removed within three hours of receiving a complaint.

7 (d) If operator does not adequately enforce the parking requirements set forth in this
8 chapter, the City Engineer reserves the right to reduce the number of shared mobility
9 devices allowed under the operator's permit, or revoke the permit entirely, subject to
10 section 5-12.5.

11 (e) Any device that remains parked in one location for more than three consecutive
12 calendar days without being moved may be removed and taken to a City facility for
13 storage at the expense of the operator. The City will notify the operator that a device
14 has been removed, and will advise operator that they have 72 hours to retrieve the
15 device before a fee will be imposed, which fee shall be set by resolution of the City
16 Council.

17 (f) Operators shall promptly remove devices from the public right-of-way when they are
18 damaged or their battery has been depleted.

19 (g) Should the City determine that the number of devices deployed within the City is
20 creating a public safety impact, the City may cap or reduce the number of devices
21 each operator is allowed under their existing permit.

22 § 5-12.5 Revocation or Suspension of Permits.

23 (a) The City Manager or designee may revoke or suspend a permit, or impose penalties at
24 their reasonable discretion for reasons including, but not limited to, the following:

25 (1) A failure to comply with the Albany Municipal Code;

26 (2) A failure to comply with the conditions of the permit, if any;

27 (3) A violation of the provisions of this chapter;

28 (4) A determination that the operation of the shared mobility service poses a
risk to public safety;

(5) A determination that the operation of the shared mobility service by the
permittee conflicts with the City's obligation to manage the right-of-way
responsibly;

(6) A transfer of the permit to another party without prior written approval by
the City;

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- (7) A material misstatement or omission in the permit application or any other associated document;
- (8) The permittee sells or shares confidential and individual user data;
- (9) The permittee does not pay fees, surcharges, or penalties required by this chapter or City policy;
- (10) The permittee blocks or alters the presentation of any information or denies access to the online application (“app”), through which it provides its services, by any City representative authorized to enforce the provisions of the associated permit and this chapter, or for the purpose of thwarting or interfering with any City representative’s enforcement or oversight of the associated permit or this chapter; and
- (11) Failure by the users of devices of specific permittee to comply with applicable laws and the requirements of this chapter.

(b) The following procedures shall apply to govern the permittee’s appeal of a disapproval, revocation, or suspension of a permit under this chapter:

- (1) Within 15 days after the City Engineer serves notification of disapproval, revocation, or suspension of a permit, an applicant or permit holder may appeal the action by notifying the City Clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
- (2) The City Clerk shall set a date and time certain for the hearing, within 30 days after the receipt of the appeal, unless the City and the applicant/permit holder agree to a longer time to consider the appeal. The City Clerk shall provide notice of the date, time, and place of hearing, at least seven days prior to the date of the hearing.
- (3) The City Manager shall appoint a Hearing Officer to hear the appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant/permit holder and the City Engineer shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
- (4) The Hearing Officer shall issue a written decision within fifteen (15) days after the close of the hearing. The decision of the Hearing Officer shall be final.”



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

ORDINANCE NO. 2022-08

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 13th day of October, 2022, by the following votes:

AYES: Council Members Gary, McQuaid, Tiedemann and Mayor Jordan

NOES: Council Member Nason

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

14th day of October, 2022.

Anne Hsu
CITY CLERK