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**AN ORDINANCE ADOPTING
CHAPTER 86 OF THE FAIRFAX COUNTY CODE, RELATING TO
SHARED MOBILITY DEVICES**

Be it ordained by the Board of Supervisors of Fairfax County:

- 1. That Chapter 86 is adopted as follows:**

ARTICLE 1. - In General.

Section 86-1-1. - Purpose of chapter.

The purpose of this Chapter is to regulate the operation of Shared Mobility Devices offered for hire within the County to ensure safe, reliable, adequate, and efficient service.

Section 86-1-2. - Definitions.

Applicant means any person that files an application to offer Shared Mobility Devices for hire in the County.

Bicycle has the meaning specified in Virginia Code § 46.2-100.

Commission means the Consumer Protection Commission of the County.

Department means the Fairfax County Department of Cable and Consumer Services.

Director means the Director of the Department or the duly authorized agent of the Director of the Department.

Electric power-assisted bicycle has the meaning specified in Virginia Code § 46.2-100.

Motorized skateboard or scooter has the meaning specified in Virginia Code § 46.2-100.

Operator’s Permit means the permit granted by the Director to offer Shared Mobility Devices for hire in the County and that comprises the specific number of Shared Mobility Device Certificates that have been awarded by the Director.

Permittee means any person who has been granted an Operator’s Permit and holds one or more Shared Mobility Device Certificates.

Shared Mobility Device means a motorized skateboard or scooter, bicycle, or electric power-assisted bicycle and any other device specified in Virginia Code § 46.2-1315.

Shared Mobility Device Certificate means the individual numbered certificate associated with a specific Shared Mobility Device that is issued by the Director to a Permittee.

Section 86-1-3. - Exclusions.

No provision of this Chapter will apply to any Shared Mobility Device offered for hire that is regulated pursuant to County administrative action under a regional multi-jurisdictional agreement.

ARTICLE 2. - Operator's Permit and Shared Mobility Device Certificates.

Section 86-2-1. - Operator's Permit and Shared Mobility Device Certificates required.

- (a) No person will engage in the business of offering Shared Mobility Devices for hire without a valid and current Operator's Permit from the Director. For the purposes of this Chapter, offering Shared Mobility Devices for hire means offering a ride for hire that originates within the County.
- (b) An Operator's Permit will only be issued upon receipt of a complete application and upon a finding that the Applicant has complied with all applicable sections of the Fairfax County Code, the Code of Virginia, and County regulations as may be adopted or amended.
- (c) A Permittee will not offer Shared Mobility Devices for hire or allow Shared Mobility Devices to be operated within the County without having been granted a Shared Mobility Device Certificate for each Shared Mobility Device that Permittee operates in the County.

Section 86-2-2. - Application; forms; contents; notice of application.

- (a) Applicants for Operator's Permits must possess a valid Fairfax County Business, Professional and Occupational License (BPOL) in accordance with Chapter 4 of the Fairfax County Code.
- (b) Applications for Operator's Permits or for a change in the number of individual Shared Mobility Device Certificates issued to a Permittee will be made upon forms provided and in the format requested by the Department. The Applicant will provide full answers to all questions on the application and that information will be submitted under oath.
- (c) The fee for processing an application for an Operator's Permit will be \$100.00. This application processing fee is nonrefundable, and it will be paid by check, credit card, or money order upon submission of the application to the Director.
- (d) In order to carry out the purposes of this Chapter, the Director may request that the Applicant provide information in addition to that provided on the application.

Section 86-2-3. - False statements on applications or reports.

It will be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring an Operator's Permit or Shared Mobility Device Certificates, or to make any false statements or entry on the records required to be kept by this Chapter.

Section 86-2-4. - Operator's Permit and Shared Mobility Device Certificate fees.

- (a) The annual fee for an Operator's Permit will be \$1,000.00.
- (b) The annual fee for each Shared Mobility Device Certificate will be \$28.00.

Section 86-2-5. - Number of Shared Mobility Device Certificates.

- (a) The maximum initial number of Shared Mobility Device Certificates that will be issued to any Permittee is 300.
- (b) Permittee may request that additional Shared Mobility Device Certificates be issued to Permittee. Requests from Permittees to increase the number of Shared Mobility Device Certificates will be considered quarterly. If the Permittee demonstrates to the Director that the Permittee's existing fleet of Shared Mobility Devices averages a minimum of three

1 rides per Shared Mobility Device per day for a three month period, then the Director may
2 authorize up to 75 additional Shared Mobility Device Certificates to be issued to Permittee
3 per quarter. In no circumstances will the fleet size of any Permittee exceed 600 Shared
4 Mobility Devices.

- 5 (c) If the Director determines that the Permittee's existing fleet of Shared Mobility Devices
6 averages less than three rides per Shared Mobility Device per day, then the Director may
7 require Permittee to reduce Permittee's fleet size in the County to no less than the number
8 of Shared Mobility Device Certificates initially issued to Permittee.

9 **Section 86-2-6. - Duration of Shared Mobility Device Certificates; nontransferable.**

10 (a) No Operator's Permit or Shared Mobility Device Certificate will be issued under this
11 Article or continued in effect until all fees and taxes imposed by this Chapter or any other
12 Chapter of this Code are paid, insofar as such fees relate to the operation of a Shared
13 Mobility Device for hire business within the County.

14 (b) Any Operator's Permit or Shared Mobility Device Certificate will be nontransferable by
15 sale, lease, or otherwise and will be valid from the date of issuance until relinquished or
16 revoked as provided in this Chapter.

17 (c) Unless the Shared Mobility Device is removed from service pursuant to Section 86-2-9 or
18 because of a critical safety issue, a Permittee may at any time substitute a replacement
19 Shared Mobility Device for another Shared Mobility Device that has an individual
20 numbered Shared Mobility Device Certificate and is to be removed from service with
21 notice to the Department. The substituted Shared Mobility Device will comply with all
22 provisions of this Chapter.

23 **Section 86-2-7. - Insurance requirements.**

24 (a) Except as otherwise provided by Subsection (d) or (e) of this Section, Permittees will not
25 offer Shared Mobility Devices for hire unless there is in full force and effect a liability
26 insurance policy for each Shared Mobility Device in the amount of at least \$1,000,000 for
27 property damages, bodily injury, or death to any person, and in the amount of at least
28 \$5,000,000 for property damages, bodily injuries, or death to more than one person
29 sustained in the same accident.

30 (b) Such insurance policy will provide coverage for any liability during the operation of the
31 Shared Mobility Device to include any actual or alleged negligence of Shared Mobility
32 Device riders and inure to the benefit of any person who may be injured or the estate in
33 the event of death, or to the benefit of any persons sustaining damage to property for
34 which the Permittee may be liable.

35 (c) Liability insurance may be in the form of commercial general liability insurance,
36 automobile liability insurance, or another specialty insurance policy covering all owned,
37 non-owned, borrowed, leased, or rented Shared Mobility Devices for claims arising from
38 the ownership, maintenance, and use of any Shared Mobility Device by the rider and may
39 be a combination of primary and excess or umbrella liability policy.

40 (d) Evidence of such insurance will be filed with the Director prior to the issuance of any
41 Shared Mobility Device certificates and will include provisions for notice by the
42 insurance carrier to the Director prior to termination of such coverage.

- 1 (e) Permittees will maintain all insurance requirements for Shared Mobility Devices as
2 required by the Commonwealth of Virginia.

3 **Section 86-2-8. - Permittee bonding required; condition; term renewal.**

- 4 (a) All Permittees will maintain a bond or other letter of credit acceptable to the County and
5 furnish it to the Director. The surety will be payable to the County in the amount of \$5,000
6 and conditioned to indemnify, defend, and hold harmless the County and all its elected and
7 appointed officials, officers, boards, commissions, commissioners, agents, and employees
8 against any and all claims, suits, causes of action, proceedings, and judgments made by
9 third parties for any and all losses, damages, injuries, fees (including attorney's fees),
10 charges, expenses (including court costs), or damages caused by Permittee's acts or
11 omissions or any failure to comply with the provisions of this Chapter or other applicable
12 law.
- 13 (b) The following procedures will apply to drawing on any bond or letter of credit provided by
14 a Permittee:
- 15 (1) If the County notifies a Permittee of any amounts due pursuant to any applicable
16 law, and the Permittee does not make such payment within 30 days, the County
17 may draw the amount in question, with any applicable interest and penalties, from
18 the bond or letter of credit after providing written notice to the Permittee and the
19 issuing financial institution, specifying the amount and purpose of such draw.
- 20 (2) Within three business days of a draw on the bond or letter of credit, the County will
21 mail to the Permittee, by certified mail, return receipt requested, written notification
22 of the amount, date, and purpose of such draw.
- 23 (3) If at the time of a draw on the bond or letter of credit by the County, the amount
24 available is insufficient to provide the total payment of the claim asserted in the
25 County's draw notice, the balance of such claim will not be discharged or waived,
26 but the County may continue to assert the same as an obligation of the Permittee to
27 the County.
- 28 (4) No later than 30 days after the County mails notice to the Permittee by certified
29 mail, return receipt requested, of a draw on the bond or letter of credit, the Permittee
30 will restore the amount of the bond or letter of credit to its original amount.
- 31 (a) The bond will be for a term at least equal to the duration of the Operator's Permit.
32 Cancellation of the bond, for any reason, prior to the date of expiration of the Operator's
33 Permit will require a written notification to the Director at least 30 days prior to
34 cancellation. The Operator's Permit will be revoked if an alternate bond, meeting the
35 requirements of this Section, is not provided.
- 36 (b) The Director may increase the bond amount for any Permittee, or allow alternate financial
37 assurance mechanisms, if deemed necessary to protect the financial interests of the County
38 or to address chronic failure to comply with this Chapter.

1 **Section 86-2-9. - Revocation or suspension of Operator’s Permit or Shared Mobility Device**
2 **Certificates.**

3 (a) In response to any finding that the public safety and welfare so demands, the Director may
4 suspend any individual numbered Shared Mobility Device Certificate(s) of a Permittee,
5 until proof of compliance is met to the Director’s satisfaction for any of the following
6 reasons:

7 (1) Failure to maintain the Shared Mobility Device(s) identified in the Shared Mobility
8 Device Certificates in good order, maintenance, and repair, in accordance with
9 Article 5 of this Chapter and industry safety standards as reasonably interpreted by
10 the Director.

11 (2) Failure to comply with applicable speed limitations in state and local law.

12 (3) Failure to pay any fees required under this Chapter.

13 (4) Failure to list Permittee contact information on each Shared Mobility Device.

14 (5) Failure to collect any Shared Mobility Device within the applicable time period of
15 being notified by the County.

16 (b) In response to any finding that the public safety and welfare so demands, the Director may
17 suspend a Permittee’s Operator’s Permit and authority to operate in the County, including
18 all individual numbered Shared Mobility Device Certificates issued to the Permittee, until
19 proof of compliance is met to the satisfaction of the Director for any of the following
20 reasons:

21 (1) Failure to maintain a BPOL license as required by the Fairfax County Code.

22 (2) Failure to supply information required under this Chapter.

23 (3) Failure to pay any fees and taxes required under this this Chapter or any other
24 Chapter of this Code insofar as such fees and taxes relate to operation of a Shared
25 Mobility Device business within the County.

26 (4) Failure to maintain proper insurance required under this Chapter.

27 (5) Discontinuance of service of the entire business of the Permittee for more than five
28 consecutive calendar days.

29 (6) Three or more violations by the Permittee of any of the provisions of this Chapter
30 within a 12-month period.

31 The Director’s failure to suspend an individual Shared Mobility Device Certificate for any of the
32 causes set forth in Subsection (a) of this Section will not impair the authority of the Director to
33 suspend all certificates held by a Permittee based on such causes.

34 (c) Written notice of any suspension pursuant to this Section will be given to the Permittee by
35 electronic mail. Such suspension will be effective upon receipt, unless a different effective
36 date is specified.

37 (d) The Director, upon a determination that the Permittee is not operating the authorized
38 Shared Mobility Devices in such a manner as to serve the public safely, reliably,
39 adequately, or efficiently, may revoke the Permittee’s authority to operate a Shared

1 Mobility Device business in the County, including allowing a rider to originate a ride on
2 the Shared Mobility Device in the County, and all individual numbered Shared Mobility
3 Device Certificates issued thereunder. Such determination will be based upon the
4 Director's consideration of evidence showing violation, by the Permittee, of one or more
5 of the provisions of this Chapter.

- 6 (e) It will be unlawful for Permittee to offer a Shared Mobility Device for hire in the County,
7 including allowing a rider to originate a ride on the Shared Mobility Device in the County,
8 when the Shared Mobility Device Certificate under which the Shared Mobility Device was
9 placed in service is under suspension or revocation. If a Shared Mobility Device Certificate
10 is suspended or revoked, a Permittee will collect the Shared Mobility Device associated
11 with the Shared Mobility Device Certificate within a reasonable time period as determined
12 by the Director.
- 13 (f) An Operator's Permit or Shared Mobility Device Certificate that has been suspended or
14 revoked will be returned to the Director within three business days from the effective date
15 of the revocation or suspension.

16 **Section 86-2-10. - Application after revocation of Operator's Permit.**

17 A Permittee whose operating authority and all Shared Mobility Device Certificates have
18 been revoked may not apply for an Operator's Permit for six months.

ARTICLE 3. - Appeals.

19 **Section 86-3-1. - Appeals from decisions of the Director; procedure.**

- 20 (a) If the Director suspends or revokes an Operator's Permit or any or all Shared Mobility
21 Device Certificates, any party aggrieved thereby may appeal such decision to the
22 Commission.
- 23 (b) Any appeal will be filed with the Department by the appellant or by the legal representative
24 of the appellant. Appeals will be in writing, and appeals will include a brief statement of
25 the reasons thereof. Appeals will be filed within 45 calendar days of receipt of the notice
26 of suspension or revocation, and appeals will be signed by the appellant or the legal
27 representative of the appellant.
- 28 (c) Upon receipt of any notice of appeal, the Department will forward the notice of appeal to
29 the Commission. The Commission will set a time and place for such hearing and will give
30 the appellant or legal representative and the Director reasonable notice thereof. All hearings
31 on appeals will be scheduled and determined as promptly as practicable and in no event
32 more than 60 calendar days from the date the notice of appeal is filed.
- 33 (d) All hearings or other public proceedings conducted by the Commission in accordance with
34 this Chapter will be conducted in an informal manner. The Commission will have the
35 discretion to admit all evidence which may be of probative value even if that evidence is
36 not in accord with formal rules of legal practice and procedure. Applicants and appellants
37 may appear, either by personal appearance, legal counsel, or other representation, to
38 present argument and evidence on their behalf. In addition, the Commission may establish
39 rules of procedure for the conduct of hearings. Any interested party may record all public

- 1 proceedings of any hearing in any manner which will not impede the orderly conduct of
2 the hearing.
- 3 (e) The Commission will consider the case record as well as the statement offered by any
4 interested party and will consider the matter de novo, and the Commission will, upon the
5 basis of the record before it, affirm, modify or reverse the decision of the Director. The
6 Commission will report all recommendations and decisions in writing, and the Commission
7 will furnish copies of those decisions to the Director and to any Applicant or appellant
8 affected thereby. To any other person entitled to receive a copy pursuant to the Virginia
9 Freedom of Information Act, the Commission will furnish copies in accordance with that
10 Act.
- 11 (f) If the Commission affirms the decision of the Director to suspend or revoke an Operator's
12 Permit or any Shared Mobility Device Certificate, then the suspension or revocation will
13 be effective from the date of the Commission's decision.
- 14 (g) If the Commission reverses the decision of the Director, the Director will issue or restore
15 the Operator's Permit or any Shared Mobility Device Certificate in accordance with the
16 Commission's decision.

ARTICLE 4. - Records and reports.

17 **Section 86-4-1. - Records to be maintained; reports; inspection and examination.**

- 18 (a) A Permittee will maintain records of the following in sufficient accuracy and detail to
19 comply with the filing requirements of this Chapter and provide monthly reports to the
20 Director in such format reasonably requested by the Director:
- 21 (1) Total number of active customers riding in the County;
- 22 (2) Number, type, and specifications of all Shared Mobility Devices available for
23 service and in operation on a daily basis, including the number of Shared Mobility
24 Device Certificates reassigned;
- 25 (3) Ride data, including number of rides beginning and ending in the County, rate
26 information, including the proration of any rates, average duration of rides for each
27 of Permittee's Shared Mobility Devices in service per day, and map data sufficient
28 to determine which areas of the County are being serviced;
- 29 (4) Maintenance and repair records of Permittee's Shared Mobility Devices and other
30 equipment employed in operating Permittee's Shared Mobility Device fleet,
31 including the reason why any Shared Mobility was removed from service;
- 32 (5) Number and location of any Shared Mobility Device that was towed or removed
33 from the County;
- 34 (6) Complaints received regarding Permittee's operations in the County or for any
35 Shared Mobility Device located within the County, including the time and date the
36 complaint was received and the resolution of the complaint, the location of the
37 Shared Mobility Devices;

- 1 (7) Injury or crash data, including time, date, precise location, severity of incident, and
2 cause (if known) of any reported injury or crash involving a Shared Mobility
3 Device;
- 4 (8) Such other information reasonably requested by the Director to ensure safe,
5 reliable, adequate, and efficient service of Shared Mobility Devices in the County.
- 6 (b) A Permittee will retain and preserve the records required by this Chapter, for a period of
7 no less than three years. Such records may be kept in any reasonable form in ordinary
8 business practice and will be made available within a reasonable period of time not to
9 exceed 30 calendar days after request for inspection and examination by the Director.

10 **Section 86-4-2. - Reports to be filed.**

11 In order to accomplish the purpose of this Chapter, all Permittees will file, under oath, to
12 the best of their knowledge, with the Department on a monthly basis (or more frequently if
13 requested by the Department) reports with the information in Section 86-4-1(a). Such reports will
14 include data solely related to the operations of Permittee's Shared Mobility Devices located in the
15 County. Such reports must be filed by the 15th day of each month for the previous month.

ARTICLE 5. - Requirements and standards.

16 **Section 86-5-1. - General requirements and standards for Permittees.**

- 17 (a) Permittees will use their best efforts to offer Shared Mobility Devices in all areas of the
18 County and will not restrict Shared Mobility Devices to any specific geographical area of
19 the County.
- 20 (b) Permittees will comply with Chapter 11 (Human Rights Ordinance) of the County Code
21 and all other applicable laws governing fairness and equity to all persons in the County.
- 22 (c) Permittees are encouraged to provide a cash-based or non-smartphone mechanism to access
23 Shared Mobility Devices.
- 24 (d) Permittees will maintain a place of business or office with telephone service within the
25 County or within thirty miles of the County.
- 26 (e) Permittees or their agents must be accessible 24 hours per day to receive requests for
27 service and collect Shared Mobility Devices.
- 28 (f) Permittees will notify all Shared Mobility Device riders of the Permittees' safety and
29 etiquette rules and regulations as well as rider requirements pursuant to Section 86-5-3,
30 and County and state laws applicable to the operation of Shared Mobility Devices.
- 31 (g) If requested by the County, Permittee will collect any Shared Mobility Device within the
32 County:
- 33 i. If notified by the County between 7 a.m. to 9 p.m., within 4 hours, or
34 ii. If notified by the County after 9 p.m., by 8 a.m.

35 If the Permittee fails to collect the Shared Mobility Device(s), the County may remove and
36 store the Shared Mobility Device at Permittee's expense and the Shared Mobility Device
37 may not be reacquired until all such expenses have been paid. Any Shared Mobility Device

1 not reacquired within 30 days will be forfeited to the County and sold at public auction or
2 added to the County's assets.

- 3 (h) In the event of a critical issue or emergency situation designated by the County, Permittee
4 will provide the approximate location of all Shared Mobility Devices to the Director and
5 then collect and relocate all Shared Mobility Devices located within the County within
6 such time reasonably specified by the Director. If the Permittee fails to collect the Shared
7 Mobility Device(s), the County may remove and store all Shared Mobility Devices at
8 Permittee's expense and the Shared Mobility Device may not be reacquired until all such
9 expenses have been paid. Any Shared Mobility Device not reacquired within 30 days will
10 be forfeited to the County and sold at public auction or added to the County's assets.

11 **Section 86-5-2. - Shared Mobility Device requirements.**

- 12 (a) Each Shared Mobility Device offered by a Permittee for hire in the County will:
- 13 (1) Have a unique identifying number provided to the County and associated with a
14 Shared Mobility Device Certificate;
- 15 (2) Have a top-motor-powered speed not to exceed 10 miles per hour if the Shared
16 Mobility Device is a motorized skateboard or scooter;
- 17 (3) Have the name and telephone number of Permittee as well as the unique identifying
18 number for the Shared Mobility Device clearly and legibly displayed on the exterior
19 of the Shared Mobility Device;
- 20 (4) Be equipped with appropriate and operable brakes and bell;
- 21 (5) Be equipped with lights as required by Virginia Code § 46.2-1015;
- 22 (6) Be operable, free of defects, reasonably clean, and conform to relevant safety
23 standards for the operation of commercial Shared Mobility Devices;
- 24 (7) Be maintained so as to provide for the safety of the public and for continuous and
25 satisfactory operation, and to reduce to a minimum, noise and vibration caused by
26 operation.
- 27 (b) If the Director determines that the requirements of this Section are not met or any Shared
28 Mobility Device is unsafe for riders or the public warranting removal from service, then
29 notice will be given to Permittee regarding immediate suspension of the Shared Mobility
30 Device Certificate(s) pursuant to Section 86-2-9, and it will be unlawful for the Permittee
31 to offer the Shared Mobility Device for hire in the County until the deficiencies have
32 been corrected.

33 **Section 86-5-3. - Rider requirements.**

- 34 (a) Where signs have been posted indicating that the use of Shared Mobility Devices is
35 prohibited on designated sidewalks or crosswalks, no person will ride a Shared Mobility
36 Device on any such designated sidewalk or crosswalk.
- 37 (b) No person will park a Shared Mobility Device in a manner that impedes the normal
38 movement of pedestrian or other traffic or where such parking is prohibited by official
39 traffic control devices.

- 1 (c) A violation of this Section will be punishable by a civil penalty of not more than \$50.

ARTICLE 6. - Penalties.

2 **Section 86-9-1. - General penalties.**

3 Any person who violates or causes to be violated any provision of this Chapter except for
4 Section 86-5-3 will be guilty of a misdemeanor punishable by a fine of not more than \$50.00 for
5 the first offense and not more than \$500.00 for each subsequent offense.

6

7 **2. That the provisions of this ordinance will take effect on January 1, 2020.**

8

9 GIVEN under my hand this ____ day of ____, 2019

10

11

12

Jill G. Cooper

13

Clerk for the Board of Supervisors