

BCC Mtg. Date: March 08, 2022

Effective Date: March 21, 2022

ORDINANCE NO. 2022- 07

AN ORDINANCE PERTAINING TO MICROMOBILITY DEVICES; CREATING ARTICLE VIII OF CHAPTER 35, ORANGE COUNTY CODE; PROVIDING PURPOSE, INTENT, AND APPLICABILITY; FINDINGS; DEFINITIONS; MICROMOBILITY DEVICE OPERATIONS; PROPOSALS; LICENSE AGREEMENT; TERMS; DELIVERY AND OPERATION OF MICROMOBILITY DEVICES; COMPANY RESPONSIBILITIES; MICROMOBILITY DEVICE OPERATIONAL REQUIREMENTS; MICROMOBILITY DEVICE REQUIREMENTS; PARKING REQUIREMENTS; IMPOUNDMENT; AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Creation of Article VIII, “Micromobility Devices”. Article VIII of Chapter 35 of the Orange County Code is hereby created and shall read as follows:

ARTICLE VIII

MICROMOBILITY DEVICES

Sec. 35-96. Purpose, intent, and applicability; findings.

(a) *Purpose, intent, and applicability.* The purpose and intent of this Article is to permit and regulate micromobility devices and micromobility device companies in the unincorporated areas of Orange County, Florida (the “County”). This Article does not apply to the operation of individually owned and operated motorized scooters, bicycles, and similar devices.

(b) *Findings.*

(1) The Orange County Board of County Commissioners (the “Board”) recognizes that the passage of Florida HB 453 (Chapter Number 2019-109) has expanded the rights of micromobility device operators within the state and expanded the areas where micromobility device riders may operate these devices

under Section 316.2128, Florida Statutes;

(2) Section 316.2128, Florida Statutes, provides that an operator of a micromobility device has the same rights and duties as an operator of a bicycle under certain circumstances, particularly with respect to the right to use the sidewalk and/or roadway;

(3) Section 316.2128, Florida Statutes, expressly reserves local authority and jurisdiction to regulate micromobility devices to the extent authorized by Section 316.008, Florida Statutes;

(4) Section 316.008(1)(a), Florida Statutes, authorizes local authorities to regulate or prohibit stopping, standing, or parking; Section 316.008(1)(h), Florida Statutes, authorizes local authorities to regulate the operation of bicycles; Section 316.008(1)(n), Florida Statutes, authorizes local authorities to prohibit or regulate the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic; and Section 316.008(7)(a), Florida Statutes, authorizes counties to adopt ordinances to permit, control, or regulate vehicles operating on sidewalks, including motorized scooters;

(5) Micromobility device companies are operating in many local government jurisdictions nationwide, including in the County, providing for reservation of micromobility devices via online application, website, or software;

(6) Micromobility devices may offer a viable and environmentally sustainable transportation option;

(7) In light of issues arising from the use of micromobility devices, and in consideration of community input, the Board finds that a comprehensive regulatory framework is necessary to mitigate the risks and dangers posed by micromobility devices within unincorporated areas of the County;

(8) The County strives to keep County rights-of-way compliant with the Americans with Disabilities Act (“ADA”) and other federal and state regulations; has adopted an ADA Transition Plan for public rights-of-way; and is committed to keeping the County accessible for persons with disabilities;

(9) Improperly parked micromobility devices may create dangerous conditions for pedestrians, bicyclists, transit users, and mobility-impaired individuals needing access and maneuverability for ADA devices and related needs; and

(10) The County has a significant interest in ensuring public safety and therefore finds it necessary to regulate micromobility devices in order to protect the general safety and welfare of the public, including pedestrians, bicyclists, micromobility device riders, and transit users, as well as motor

vehicle drivers and passengers.

Sec. 35-97. Definitions.

As used in this Article, the following words, terms, and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) *Bicycle* shall have the meaning ascribed to it in Section 316.003(4), Florida Statutes, as it may be amended.

(b) *Bicycle path* shall have the meaning ascribed to it in Section 316.003(6), Florida Statutes, as it may be amended.

(c) *Company* means a micromobility device provider that is a person, firm, corporation, or other legal entity that makes bicycles, scooters, and/or other micromobility devices available for immediate, self-service rental through an online application, website, or software for point to point trips.

(d) *Director* means the Orange County Director of Public Works or that person's designee, who shall administer this Article.

(e) *Electric bicycle* shall have the meaning ascribed to it in Section 316.003(23), Florida Statutes, as it may be amended.

(f) *Emergency Preparedness Plan* means a plan that details where a Company's micromobility devices will be located and the amount of time it will take to secure all micromobility devices when a tropical storm or hurricane warning has been issued by the National Weather Service.

(g) *Geofencing* means the use of Global Positioning Systems ("GPS") or Radio Frequency Identification ("RFID") technology to create a geographic boundary, enabling software to trigger a response when a mobile device or micromobility device enters or leaves a particular area.

(h) *Micromobility device* shall have the meaning ascribed to it in Section 316.003(41), Florida Statutes, as it may be amended.

(i) *Motorized scooter* (also referred to herein as "scooter") shall have the meaning ascribed to it in Section 316.003(48), Florida Statutes, as it may be amended.

(j) *Operations Plan* means a Company's plan of business operations that provides the specific Service Area(s) where devices will be utilized, including any areas required by the Director; information describing how devices will be managed within the Service Area(s); and plans showing how Rider and other public safety concerns will be addressed, including but not limited

to accessibility.

(k) *Parking Plan* means a plan that depicts the locations within which a Company requests uniform designated parking areas according to County specifications.

(l) *Program Administrator* means that person authorized by a Company to represent the Company in all communications with the County, and to promptly respond to all County questions or concerns.

(m) *Rebalancing* means the process by which micromobility devices are redistributed to ensure availability throughout the Service Area(s) and to prevent excessive buildup of micromobility devices at any particular location(s).

(n) *Rider* means the operator of a micromobility device.

(o) *Right-of-Way* shall have the meaning ascribed to it in Section 21-173 of the Orange County Code, as it may be amended, and means land in which the County owns the fee or has an easement devoted to, or required for, the use as a public road.

(p) *Roadway* shall have the meaning ascribed to it in Section 316.003(73), Florida Statutes, as it may be amended.

(q) *Safety Operational Analysis* shall mean the analysis conducted by a Company, based upon objective criteria, as determined by the Director and on file at the County's Public Works Department.

(r) *Sanitation Plan* means a plan that details daily sanitization and disinfection protocols and related education provided to staff and Riders.

(s) *Service Area(s)* means a specific geographic area or areas of unincorporated Orange County within which a Company's micromobility devices are authorized to operate under the terms of an approved license agreement with Orange County.

(t) *Sidewalk* shall have the meaning ascribed to it in Section 316.003(80), Florida Statutes, as it may be amended.

(u) *Staging* means the parking and rebalancing of micromobility devices within the public right-of-way.

(v) *Vehicle* shall have the meaning ascribed to it in Section 316.003(106), Florida Statutes, as it may be amended.

Sec. 35-98. Micromobility device operations in Orange County.

(a) The Board will review and may approve up to three (3) Companies to provide micromobility device services within one or more designated Service Area(s) of the County under license agreements.

(b) After such Board approval, only a Company that has been issued a license by the County will be allowed to stage and operate micromobility devices in County rights-of-way; any Company not so approved shall remove all of its devices from County rights-of-way no later than 10 days after such Board approval.

Sec. 35-99. Proposals.

(a) *Proposals.* A Company must respond to the County's Request for Proposals to be eligible to receive a license from the County before commencing micromobility device operations. The proposal form may be obtained on the County website or at the County Public Works Department Office located at 4200 S. John Young Parkway, Orlando, Florida, and must be submitted to the Director. Each proposal must:

(1) Be made on the form provided by the County; include all materials and documents required for a complete submittal; and, at a minimum, provide information necessary to confirm that the Company meets the requirements of this Article and otherwise complies with all applicable federal, state, and local laws, rules, and regulations;

(2) Include documentation confirming that the Company is a business organization duly authorized to conduct business in the State of Florida, together with a copy of the Company's local business tax certificate;

(3) Include an Operations Plan, Safety Operational Analysis, Emergency Preparedness Plan, Sanitation Plan, and Parking Plan, all as defined in Section 35-97;

(4) List any other jurisdictions in the United States in which the Company is currently providing micromobility devices; and

(5) Include any other requested information and/or documentation, as will be detailed in the County's Request for Proposals (the "RFP").

(b) *Notice of changes.* Any changes to information provided in a proposal must be promptly reported in writing to the Director or as otherwise indicated in the RFP.

Sec. 35-100. License agreement; term; requirements.

(a) *License agreement.* After Board approval of a Company's proposal, payment by the Company of the License Fee contemplated in Section 35-100(i), and prior to commencing micromobility device operations, the Company shall be required to execute a license agreement with the County in order to provide micromobility devices in the Company's Service Area(s) during the term of the agreement. The Company must pay the License Fee no later than 10 days after Board approval. In addition to the requirements of this Article, the Director may require special regulations and conditions of the license as he or she deems reasonably appropriate to protect the public health, safety, and welfare. All licenses shall be conditioned on the accuracy of and continued compliance with all material aspects of the proposal.

(b) *Term of license.* The Company's license will be for a term of one year and may be renewed for a maximum of two one-year terms by the Board. No later than ten (10) days after termination, expiration, or revocation of a license, the Company shall remove all its micromobility devices from the Service Area(s) and from the County rights-of-way.

(c) *Quantity of micromobility devices authorized by license agreement.* Each license, upon issuance, will be valid for the minimum and maximum number of Micromobility devices identified therein. Additionally, the Director may reduce or increase the number of authorized micromobility devices, as he or she deems necessary and appropriate.

(d) *Non-transferability and non-assignability.* A micromobility device license may not be transferred or assigned unless approved in writing in advance by the Director.

(e) *Revocation of license.* The Director may issue a notice to revoke a license if a Company violates this Article, any applicable law or regulation, or any material condition of the license or license agreement, subject to the revocation process outlined in the license agreement.

(f) *Liability insurance.* The Company shall maintain liability insurance to protect the interests of the Company and the County with limits and on forms and endorsements as specified by the County in the license agreement. The County shall be named as an additional insured on all liability policies. Nothing herein

constitutes a waiver of the County's sovereign immunity or of the provisions of Section 768.28, Florida Statutes.

(g) *Performance surety.* The Company shall submit to the Director a performance surety in form and amount acceptable to the County prior to the issuance of a license under this section.

(h) *Indemnification.* The Company shall indemnify, defend, and hold harmless the County and its elected and appointed officials, employees, agents, and instrumentalities from any and all liability, losses, or damages, including any and all attorneys' fees and costs of defense, which the County and its elected and appointed officials, employees, agents, and instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature including, but not limited to, personal injury, wrongful death, and/or property loss or damage, to the extent arising out of or in any way connected with the operation, maintenance, or use of micromobility devices on all streets, sidewalks, sidewalk areas, and other unincorporated areas. The Company shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including administrative, trial, and appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The Company shall expressly understand and agree that any insurance protection required by this Article, the micromobility license agreement, or otherwise provided or secured by a Company, shall in no way limit the responsibility to indemnify, defend, and hold harmless the County and its elected and appointed officials, employees, agents, and instrumentalities, as required by this Section. The obligation to indemnify, defend, and hold harmless shall survive the revocation, cancellation, or expiration of a license agreement. The Company shall acknowledge in the license agreement, which will include this indemnification in substantially the language provided by this Section, that the issuance of the license, is, in part, conditioned on the granting of this indemnification which is knowingly and voluntarily given by the Company.

(i) *License Fee.* The Company shall pay a License Fee for the issuance and renewal of a license agreement in an amount established by the Board of County Commissioners from time to time, which shall be inclusive of the County's costs of installing required parking areas in the approved Parking Plan.

(j) *Micromobility Device Annual Fee.* The Company shall remit to the County an annual fee in an amount established by the Board of County Commissioners from time to time. In addition to the County's costs to administer the program, this fee shall be used to defray costs incurred by the County for enforcement;

oversight; construction and maintenance of micromobility device parking; sidewalk and bike path maintenance and construction; other active transportation maintenance activities; and/or active transportation street, sidewalk, and bike path improvements or studies that address micromobility device operations in the County.

Sec. 35-101. Delivery and operation of micromobility devices.

Micromobility devices authorized under a license shall be delivered and operational within the Company's Service Area(s) within sixty (60) days after issuance of the license; otherwise, the license shall automatically expire, and the Company must remove its micromobility devices no later than ten (10) days after such expiration. The Company shall keep, maintain, and operate the number of micromobility devices authorized by the license throughout the term of the license.

Sec. 35-102. Company responsibilities.

A Company shall comply with the following requirements during the term of its license agreement:

(a) *Compliance with Laws.* The Company shall comply with all applicable rules, regulations, and laws, including any additional rules and regulations promulgated by the Director.

(b) *Authorized Florida business.* The Company shall be a business organization authorized to conduct business in the State of Florida and shall maintain active organizational status with the State of Florida Division of Corporations.

(c) *Reimbursement to County.* Notwithstanding any penalty imposed on a Company for the Company's failure to comply with the terms of its license agreement, the Program, and/or this Ordinance, the Company shall promptly reimburse the County for costs incurred to address or abate any violations of this Article or costs incurred for the repair or maintenance of public property arising from the operations of the Company, via payment to the County no later than thirty (30) days after notice to the Company.

(d) *Safety classes.* The Company shall provide safety training classes to educate persons operating micromobility devices regarding the rules, regulations and laws applicable to riding, operating, and parking a micromobility device, subject to the requirements outlined in the license agreement.

(e) *ADA Compliance.* The Company shall continuously and diligently monitor the locations of its micromobility devices to ensure compliance with ADA requirements in public areas.

(f) *Rebalancing, relocating, and removing micromobility devices.* The Company shall, in accordance with its license agreement:

(1) Promptly remove, rebalance, and/or relocate its micromobility devices no later than one (1) hour after receiving direction to do so by the Director.

(2) Upon the issuance of a tropical storm or hurricane warning by the National Weather Service for any part of Orange County, remove and safely store its fleet according to the Company's approved emergency preparedness plan.

(3) Upon notification by the Director of any upcoming significant event in its Service Area(s), coordinate with the County by submitting an event management plan to the County no later than seven (7) days before the planned event. If notified by the County's Traffic Engineering Division that a Maintenance of Traffic permit has been issued for construction in the Company's Service Area(s), the Company will modify operations as needed to ensure traffic safety.

(4) Continually monitor transit assets for rebalancing needs, such as SunRail stations, LYNX stations, and bus stops.

(5) Have the technology available to comply with the Director's requirements regarding geo-fencing.

(6) Have the technology available to comply with the Director's requirements regarding the portion or percentage of a Company's fleet that may be located in a particular part of a Service Area.

(g) *Data sharing.* The Company shall provide real-time or semi-real time micromobility device data in a format specified by the County or County's agent, in accordance with existing industry standards and the conditions of the license agreement.

(h) *Rental records.* The Company shall maintain, during the entire term of the license and for at least seven (7) years after any expiration or termination of the license, a searchable database with detailed information for each micromobility device rented.

(i) *Monthly reports.* In addition to the information referenced in subsection (i) above, the Company shall provide a monthly report to the Director by the fifth business day of each

month for the prior month, in form and content acceptable to the Director, as outlined in the license agreement.

(j) *Customer surveys.* No later than sixty (60) days after issuance of a license, the Company shall place a customer survey on its website or mobile application (“app”), or may conduct the survey by email, in a form approved by the County, and shall forward all results to the County every two months after posting the survey.

(k) *Age of Riders.* The Company shall not knowingly rent or lease any device to, or to be ridden by, a child who is under the age of 18.

(l) *Fixtures.* The Company shall not place or attach any fixtures, structures, or personal property, other than the subject micromobility device, in the public right-of-way.

(m) *Good standing.* The Company shall comply with the terms of the license agreement and this Article and shall maintain the license in good standing throughout the term of the license agreement.

(n) *Waiver/release.* The Company shall require and obtain each Rider’s executed consent of, and to, the approved waiver/release form prior to such Rider’s use of the Company’s micromobility devices. The Company will use the form as part of every rental of a micromobility device throughout the term of the license agreement.

(o) *Parking.* The Company shall, as and if applicable, install designated parking areas as depicted on County-approved Parking Plans per all applicable County and other technical specifications.

Sec. 35-103. Micromobility device operational requirements.

(a) The Company shall inform its Riders that they must comply with all applicable federal, state, and local rules, regulations, and laws, including any additional rules and regulations promulgated by the Director, including without limitation the following:

(1) Micromobility devices may be operated by Riders only in the County-approved Service Area(s).

(2) Micromobility devices shall travel at a speed of no more than ten (10) miles per hour.

(3) Micromobility devices may not be operated on any County roadway identified by the County as a heavily traveled street found to be incompatible with the normal and safe use of micromobility devices consistent with Section 316.008(1)(n), Florida Statutes.

(b) The Director shall have the authority to establish hours of operation as and when determined to be in the best interest of the public.

(c) The Board may modify or suspend micromobility device operations in the County rights-of-way in the event of a threat to the health, safety, or welfare of the public.

Sec. 35-104. Micromobility device requirements.

Micromobility devices shall comply with the following requirements:

(a) Micromobility devices shall be well-maintained and in good operating condition at all times and shall be built to withstand the effects of weather and constant use.

(b) Micromobility devices shall meet the specifications and safety requirements for micromobility devices under applicable federal and state law and shall be equipped as detailed in the license agreement.

(c) Micromobility devices must be rebalanced on a daily basis in the manner prescribed in the license agreement.

(d) Micromobility devices shall not display any third-party advertising.

(e) Every micromobility device shall be equipped with active global positioning system (GPS) technology.

(f) The following parking requirements shall apply:

(1) A micromobility device shall only be parked in designated areas approved by the County for such parking, upright, and in a manner that is compliant with the applicable provisions of the ADA and federal and state regulations and guidance for accessible public rights-of-way.

(2) A micromobility device shall not be parked in a manner that obstructs or interferes with pedestrian or vehicular traffic; in any manner that would restrict the movement of persons with disabilities; or in any manner that

presents a safety hazard or other legal concern, as detailed in the RFP.

(3) A micromobility device shall not be attached, secured, stored, or parked upon public property in a manner that may cause injury or damage to any person or thing or in a manner that renders the public property unusable or impassable.

(4) Except as otherwise may be expressly allowed by the Director, any micromobility device parked on public property, in the same location, continuously for one week or more shall be deemed abandoned and subject to the provisions of Chapter 705, Florida Statutes.

(5) A micromobility device parked in an incorrect or improper manner shall be re-parked, removed, and/or relocated by the Company within one (1) hour of receiving notification, or else be subject to impoundment in accordance with Section 35-105.

Sec. 35-105. Impoundment.

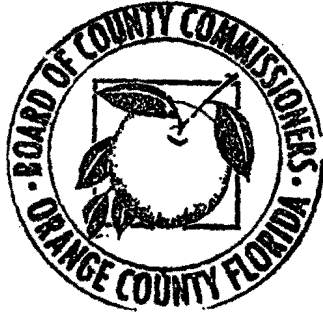
The County may seize and impound any micromobility device parked or being operated in violation of this Article. Without limiting the foregoing, the County may seize and impound any micromobility device that is visibly damaged or non-functional, blocking the public right-of-way, or located outside the Service Area. Such a micromobility device shall be released to the lawful owner after all impoundment and storage fees have been paid. Any micromobility device that remains unclaimed within the County for five (5) days or longer shall be subject to sale pursuant to the procedures for abandoned or lost property set forth in Section 705.103, Florida Statutes, as it may be amended, or by any other method allowed by the laws of the State of Florida.

Secs. 35-106 - 35-115. Reserved.

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Section 2. Effective date. This ordinance shall become effective on March 21, 2022.

ADOPTED THIS 8TH DAY OF March, 2022.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings,
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Phil Diamond*
Deputy Clerk