

TOWN OF HERNDON, VIRGINIA

ORDINANCE

NOVEMBER 12, 2019

Ordinance- to amend Chapter 66 (STREETS, SIDEWALKS, AND CERTAIN OTHER PLACES), of the Code of the Town of Herndon, to add Article V (Shared Mobility Devices)

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. Chapter 66, Streets, Sidewalks, and Certain Other Places, Herndon Town Code (2000), is amended as follows:

ARTICLE V. – SHARED MOBILITY DEVICES

DIVISION 1. - IN GENERAL

Section 66-104. - Purpose.

The purpose of this article is to establish regulations and licensing requirements governing the offering of (i) bicycle or electric power-assisted bicycles and (ii) motorized skateboard or scooters (collectively, “shared mobility devices”) for hire within the Town to ensure safe, reliable, adequate, and efficient service.

Regulations regarding the operation of shared mobility devices by riders shall be governed by Chapter 46.2 of the Code of Virginia and Section 66-1 of the Town Code.

State Law Reference – Code of Virginia §§ 46.2-100, 46.2-1315, 15.2-2100.

Sec.66-105 – Definitions.

All definitions of words and phrases contained in Section 46.2-100 et seq. of the Code of Virginia, as amended, shall apply to such words and phrases, when used in this article, unless clearly indicated to the contrary.

Applicant shall mean any person that files an application to offer shared mobility devices for hire in the Town.

Permittee shall mean any person who has been granted a Shared Mobility Device Permit.

Town Manager shall mean the Town Manager for the Town of Herndon or his authorized designee(s).

Shared Mobility Devices shall mean motorized skateboards or scooters, bicycles, or electric power-assisted bicycles as defined by Section 46.2-100 of the Code of Virginia, as amended.

Shared Mobility Device Permit shall mean a permit to offer for hire motorized skateboards or scooters, bicycles, or electric power-assisted bicycles as defined by Section 46.2-100 of the Code of Virginia, as amended, issued by the Town of Herndon.

Sec. 66-106 – Shared Mobility Device Permit Required; Prerequisites to Issuance.

- (a) It shall be unlawful for any person to offer shared mobility devices for hire without first obtaining a shared mobility device permit from the Town manager. For purposes of this article, offering shared mobility devices for hire shall mean offering a ride for hire that originates within the Town of Herndon.
- (b) A shared mobility device permit shall not be issued unless the applicant has first obtained approval, in the form of a franchise, license or other similar agreement, from the Town Council to use public rights-of-way for this purpose pursuant to Sec. 15.2-2100 of the Code of Virginia. Such franchise, license or other agreement may include such terms as the Town Council deems necessary and appropriate, including but not limited to those pertaining to the regulation and/or limitation of the number, operation, maintenance, specifications, and parking of shared mobility devices; insurance; indemnification; community outreach and communication; records and data sharing; reporting; fees; and rider/user regulations and agreements.
- (c) Nothing herein shall be construed to require the Town Council to grant a franchise, license or other similar agreement to any person or to otherwise limit the discretion of the Town Council with regard to terms of any shared mobility device agreement or shared mobility device permit condition.
- (d) Compliance with this article is a separate and additional legal requirement for shared mobility devices and issuance of a shared mobility device permit shall not be construed to authorize the offering for hire of shared mobility devices in a manner that does not conform to other applicable federal, state, and local law.

State Law Reference – Code of Virginia §§ 15.2-2100 et seq., 46.2-1315.

Sec. 66-107– Shared Mobility Device Permit Requirements and Conditions. Shared mobility device permits issued pursuant to this article shall be subject to the following general conditions. In addition, in granting a shared mobility device permit, the Town manager may impose conditions, requirements, and restrictions as are necessary to reasonably protect the public health, safety, and welfare.

- (a) *Shared mobility device permittees shall be compliant with all applicable federal, state, and local laws, including but not limited to Herndon Town Chapter 30, Article VII as amended, pertaining to business licenses and Code of Virginia § 2.2-4311.2, as amended, pertaining to authorization to transact business in the Commonwealth of Virginia, and the provisions of this article.*
- (b) *Shared mobility device permits shall not be non-assignable without the prior written consent of the Town manager.*
- (c) *Shared mobility device permittees shall be compliant with the applicable franchise, license or other similar agreement for use of public rights-of-way. Expiration or termination of such franchise, license or other similar agreement shall be cause for immediate revocation of the shared mobility device permit.*

State Law Reference – Code of Virginia §§ 15.2-2100 et seq., 46.2-1315.

Sec. 66-108 – Application and Review Process for Shared Mobility Device Permits.

- (a) *The Town manager is authorized and directed to develop an application process for shared mobility device permits, which shall be kept on file in the office of Town manager. No shared mobility device permit shall be approved until a complete application and fee is received. In order to carry out the purposes of this article, the Town manager may require the applicant to provide information in addition to that provided in the application. A fee of \$300 shall accompany all applications for shared mobility device permits.*
- (b) *After receipt and review of the complete application materials, the Town manager may: (1) approve the shared mobility device permit with or without additional conditions if it meets the standards for approval set forth in this article; or (2) deny the shared mobility device permit if it does not meet the standards for approval set forth in this article. Upon denial of a shared mobility device permit application, the applicant shall be apprised of the reasons for denial in writing and shall be entitled to appeal the decision as set forth in Section 66-110.*
- (c) *Upon receipt of an application for a shared mobility device permit or an application for a franchise, license or similar agreement for use of shared mobility devices within public rights-of-way, the Town Council may, in its sole discretion, direct the Town manager to solicit additional proposals through a competitive bidding process and/or direct the Town manager to implement a pilot program for shared mobility devices prior to acting on an application. If a pilot program or competitive bidding process is employed, the Town Council may defer action upon or deny the permit application.*

Sec. 66-109 – Term of Shared Mobility Device Permit; Extensions.

- (a) *The term of any shared mobility device permit shall run concurrently with the term of the applicable franchise, license or other similar agreement for use of public rights-of-way.*

Sec. 66-110– Suspension and Termination of Shared Mobility Device Permits; Appeal.

- (a) *A shared mobility device permit may be suspended or revoked by the Town manager upon the following conditions:*
 - (1) *Continuing violation of this article after reasonable notice to comply has been provided to permittee.*
 - (2) *Continuing violation of the terms and conditions of the shared mobility device permit after reasonable notice to comply has been provided to permittee.*
 - (3) *Expiration or termination of the franchise, license or other similar agreement for use of shared mobility devices within public rights-of-way granted to Permittee.*
 - (4) *False or misleading statements made by the Permittee or applicant in its application materials or other communications with the Town of Herndon.*
 - (5) *A determination that the Permittee is not operating the authorized shared mobility devices in such a manner as to serve the public health, safety, or welfare.*
 - (6) *Continuing violation of any federal, state, or local law after reasonable notice to comply has been provided to Permittee.*
- (b) *In the case of revocation, a Permittee may not apply for a shared mobility device permit until one (1) year has elapsed from the date of the revocation.*
- (c) *An aggrieved applicant or Permittee may appeal in writing the suspension, revocation, refusal to renew, or denial of a shared mobility device permit within 30 days of the date notice was sent of such fact by Town manager. Within 30 days of receipt of an appeal, the Town manager shall schedule a hearing and provide the appellant reasonable notice thereof. The decision on appeal shall be final and unappealable.*

Sec. 66-111 – Enforcement of Article; Penalties.

- (a) *The Town manager shall have the authority to enforce all provisions of this article.*
- (b) *Any person who violates or causes to be violated any provisions of this Article will be guilty of a misdemeanor punishable by a fine of not more than \$50.00*

for the first offense and not more than \$500.00 for each subsequent offense. Each day a violation continues shall constitute a separate offense.

- (c) *In addition to any penalties imposed, a court may enjoin the continuing violation of this article by proceedings for an injunction brought in any court of competent jurisdiction.*

State Law Reference- Virginia Code § 15.2-1429, 15.2-1432.

This is certified to be a true and accurate copy of Ordinance 19-O-42 adopted at a legally convened meeting of the Town Council of the Town of Herndon on November 12, 2019.

Jessica Sizemore

Jessica Sizemore, Legislative Assistant

