

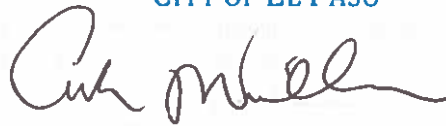


SHARED USE MOBILITY DEVICE RULES & REGULATIONS
AUTHORIZED UNDER SECTION 15.08.150 OF THE EL PASO CITY CODE
ADOPTED ON AND EFFECTIVE ON 5/1/ 2019.



DIRECTOR

PLANNING AND INSPECTIONS DEPARTMENT
CITY OF EL PASO



RISK MANAGER
CITY OF EL PASO



15.08.150- SHARED MOBILITY DEVICES

RULES FOR DEPLOYMENT AND OPERATION OF SHARED MOBILITY DEVICES

A. APPLICATION

1. To obtain a permit, a Person shall submit an application to the Director on a form provided by the Director. The application shall contain the following, including any additional information and requirements established by the Director:
 - a. The business name, street address, mailing address, email address, and telephone number of the applicant;
 - b. Proof of ownership for all Shared Use Mobility Devices
 - c. A non-refundable application fee if applicable;
 - d. A non-refundable permit fee for each Shared Mobility Device which is to be operated within the City of El Paso;
 - e. The name, phone number and email address of the fleet manager. Any change in this information shall be reported to the director within 24 hours of the change;
 - f. A phone number for the public to report improperly parked vehicles and other violations, which shall be posted on each Shared Mobility Device;
 - g. The address of the fixed facilities to be used in the operation, if any, and the address of the applicant's headquarters, if different from the address of the fixed facilities;
 - h. Documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the liability insurance required by the City. A certificate of insurance and a complete copy of the actual insurance policy and all endorsements shall be submitted;
 - i. Documentary evidence of payment of ad valorem taxes on property within the City, if any, to be used in connection with the operation of the proposed Shared Mobility Device;
 - j. Documentary evidence from a bonding or insurance company or a bank indicating that the bonding or insurance company or bank has bound itself to provide the applicant with the performance bond or irrevocable letter of credit required by the City;
 - k. The number and the types of Shared Mobility Devices to be operated; and
 - l. A signed agreement to indemnify the City in the form approved by the City Attorney's Office.
 - m. Applicants shall submit a maintenance, operations, cleaning, disposal, and repair plan.
 - n. Applicants shall submit a plan to provide equitable access outlining how their services that will be available to those without smart phones or those who do not have access to credit cards. The Applicant shall also submit information regarding the rate structures that will be offered to all users including daily, monthly, or annual passes/subscriptions. This information should include any discount programs offered that will be available for low-income residents or other groups.



- o. Applicants shall submit a plan indicating actions the applicant will undertake to educate users and the community on the proper locations to ride, how to safely operate the devices, how to properly park devices, ways to encourage proper parking and usage, and laws/regulations applicable to riding, operating, and parking devices.
2. Application fees are due at time of application submittal and Permit fees are due prior to permit issuance. If an amendment to the number of devices is submitted, additional Permit fees will be required at time of application amendment prior to updated permit issuance.
3. Any changes to the information provided in the permit application shall be reported to the Director, in a manner prescribed by the Director, within 10 days of the change.

B. OPERATIONS

1. Deployment and operation of Shared Use Mobility Devices within City right-of-way shall be limited to the Downtown Plan Area, Streetcar Corridor Study Area and other areas as designated by the Director (See Attachment A). Permit holders shall utilize geo-fencing or similar technology to prevent the use or operation of devices in unauthorized areas. The permit holder shall geo-fence or use similar technology to create the boundaries as designated by the Director. Permit holders shall contact and coordinate with the University of Texas at El Paso (UTEP) for rules and regulations within this area and requires UTEP authorization for deployment and operation on their property. The Rules and Regulations found herein and Section 15.08.150 does not permit the operation on private property or property owned or controlled by any other governmental entity, school district, or institution of higher education, including but not limited to UTEP.
2. In order to protect the health safety and welfare of the citizens of El Paso and in order to allow for the responsible deployment of Shared Use Mobility Devices in the City, the Director establishes the regulations in this Section to regulate the numbers, and manner of deployment of, Shared Use Mobility Devices in the City of El Paso for the duration of the pilot program.

The City of El Paso will issue initial permits (“Initial Permit(s)”) for the deployment of a total number of 150 Shared Use Mobility Devices to be deployed in the operation and deployment areas of the City for the start of the pilot program. Only one Initial Permit per person will be allowed. Initial Permits will be issued for 50 Shared Use Mobility Devices per Initial Permit. Notwithstanding anything to the contrary, no additional Initial Permits will be issued by the City once Initial Permits for all 150 Shared Use Mobility Devices allowed within the operation and deployment areas of the City have been issued.

Only persons that have an Initial Permit (the “Permit Holder”) may request authorization to increase the number of Shared Use Mobility Devices allowed to be deployed under the Initial Permit. No Permit Holder may have more than 200 Shared Use Mobility Devices under an Initial Permit at any time. No more than 600 Shared Use Mobility Devices will be authorized for deployment for the duration of



the pilot program. In order to obtain authorization to increase the number of Shared Use Mobility Devices allowed for deployment under an Initial Permit, a Permit Holder must demonstrate all of the following:

- a. The Permit Holder can demonstrate that all Shared Use Mobility Devices permitted under the Initial Permit are being used on average at a minimum of four rides per device per day for a time period beginning from the issuance of the Initial Permit and ending on the date the application for authorization to deploy additional Shared Use Mobility Devices;
 - b. The Permit Holder is in good standing with the City of El Paso;
 - c. The Permit Holder is in full compliance with Section 15.08.150 of the El Paso City Code;
 - d. At least three weeks have passed since the issuance of the Initial Permit;
 - e. At least three weeks have passed since the last approval to increase the number of Shared Use Mobility Devices; and
 - f. The request to increase the number of authorized Shared Use Mobility Devices under an Initial Permit is not more than 50 devices. Multiple requests for increases can be submitted provided that all conditions above are met.
3. The Permit Holder shall provide the Director the identification numbers of all Shared Use Mobility Devices deployed for revenue service, with real time updates as devices are exchanged.
 4. The total number of deployed Shared Use Mobility Devices shall maintain a minimum average of 3 trips per day per device. Should the this requirement not be met, the Director may require the Permit Holder to remove from the Right of Way or relocate the Shared Use Mobility Devices not meeting the usage requirements under this provision.
 5. Shared Use Mobility Devices shall be limited to a maximum operating speed of 15 miles per hour.
 6. Each Shared Use Mobility Device shall display the emblem of the permit holder, a unique identification number, and a 24-hour customer service phone number for customers and citizens to report safety concerns, make complaints, ask questions, or request a device to be relocated.
 7. Shared Use Mobility Devices shall be equipped with:
 - a. A lamp on the front of the device that emits a white light visible from a distance of at least 500 feet in front of the device.
 - b. A red reflector that is visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the device, or a lamp that emits a red light visible from a distance of 500 feet to the rear of the device.
 8. Shared Use Mobility Devices may not be operated without a working bell, horn, or other sound mechanism.
 9. Spoken word alarm systems are prohibited on Shared Use Mobility Devices.



10. Shared Use Mobility Devices shall not display third party advertising.
11. Shared Use Mobility Devices shall be high quality and sturdily built to withstand the effects of weather and constant use for five years.
12. Shared Use Mobility Devices shall be well maintained and in good riding condition:
 - a. Permit holder shall keep a record of maintenance activities including, but not limited to, unit identification number and maintenance performed.
 - b. Permit holder shall be responsible for implementing and submitting to the Director a maintenance, cleaning, repair and waste management plan for approval. This plan shall address ongoing maintenance of units, routine cleaning and repair, as well as how units that are no longer capable of service will be disposed of responsibly.
 - c. Permit holder shall have a program to ensure proper recycling of batteries and disposal of Shared Use Mobility Device batteries under Universal Waste Battery disposal standards under Title 40 of the Code of Federal Regulations in part 273.
 - d. Permit holder shall rebalance devices at least once per week.
 - e. Permit holders are required to lock and disable use of vehicles reported as broken, from any source, and shall remove the device within **two hours**.
13. Shared Use Mobility Devices shall be equipped with an on-board GPS unit or equivalent that can report the location of a unit at any time for the purposes of use, recovery, repair, and data collection.
14. Permit holder shall maintain sufficient local operations and maintenance staff to address issues and remove improperly parked devices.
15. Permit holder shall employ or contract at least one (1) designated personnel per 25 devices to regularly patrol and track devices to ensure they are complying with all City requirements.
16. Permit holders shall provide the Director electronic access to the current list of Devices available within the city, which includes the unique identification number for each vehicle. If a unique identification numbers changes/updates due to removed device, the permit holder shall notify the Director and provide this information within fifteen (15) days and ensure that the number of devices does not exceed the number on the permit.
17. Permit holder shall deny access to riders who fail to comply with the requirements below. It is up to the Permit holder to demonstrate how the Permit holder ensures riders are complying with the requirements below :
 - a. Operation of Shared Use Mobility Devices shall be limited to the Deployment and Operation Area found in Section B.1. above.
 - b. Operation of Shared Use Mobility Devices shall be limited to City right-of-way, including sidewalks and bike lanes. Operation is prohibited within the following areas:
 1. Public parks and plazas, including but not limited to, San Jacinto Plaza.
 2. State (TXDOT) right-of-way, including but not limited to Mesa Street, Paisano Drive and Texas Avenue.



- c. Devices may only be operated on a hard surface such as concrete or asphalt. Operation of devices is not permitted on natural surfaces such as grass, gravel, screenings, or dirt.
 - d. Riders shall be at least 18 years of age.
 - e. Riders shall possess a valid driver's license or other valid government-issued identification.
 - f. Riders shall abide by the regulations prescribed in Texas Transportation Codes including, but not limited to Section 551.352, as well as:
 - 1. Riders shall always yield to pedestrians. When utilizing sidewalks where pedestrians are present, riders shall maintain a low rate of speed and provide an audible signal when passing such pedestrians.
 - 2. Riders shall use bike lanes when available.
 - 3. In the absence of a bike lane, riders may ride on streets which have a speed limit of 35 miles per hour or less, and on sidewalks, including sidewalks adjacent to roads which have a speed limit over 35 miles per hour.
 - 4. If ridden on a sidewalk, riders shall maintain a distance of two feet from all pedestrians.
 - 5. Riders shall obey all state and city traffic laws.
 - 6. Riders shall only operate and park devices within the deployment and operation area as defined above in Section B.1 and B.2.
 - g. Riders may not have any passengers. Only one person may be on a device while in use.
 - h. Riders may not use mobile phones while operating a device.
 - i. The wearing of a helmet is encouraged but not required.
 - j. Shared Use Mobility Devices may operate seven days a week. Operating hours shall be limited to 6:00 am to 9:00 pm.
18. Section 15.08.150 provides the penalties for violation, which are:
- a. The Director is authorized to:
 - 1. Require the immediate removal of Shared Use Mobility Devices for events, construction, emergencies or violations.
 - 2. Deny a permit for the duration of the pilot program following a person's failure to comply with the regulations or Section 15.08.150.
 - 3. Revoke a permit after three (3) violations of the regulations or Section 15.08.150.
 - 4. Revoke a permit after the first (1st) failure to comply with the indemnification requirements and damages to the public right-of-way Section of 15.08.150.
 - 5. Deny or Revoke a permit upon discovery of any false information submitted by a permit holder.

C. PARKING



Permit holders shall comply with the following, and permit holders shall ensure that riders comply with the following:

1. Shared Use Mobility Devices shall stand upright and stable when parked.
2. **Parking Permitted:** Shared Use Mobility Devices shall be parked on a hard surface and may only be parked on sidewalks in a manner that does not impede normal and reasonable pedestrian access or travel on a sidewalk. Devices may be parked only in designated areas, defined as follows:
 - a. Any paved parkway or sidewalk five feet or more in width. Devices parked on a sidewalk may not reduce the minimum clear width of the sidewalk to less than four (4) feet.
 - b. Any designated drop zone as designated by the Director.
3. Permit holders shall encourage users to utilize designated drop zones as designated by the Director at the conclusion of rides.
4. **Parking Prohibited:** Shared Use Mobility Devices shall not be parked in prohibited areas, defined as follows:
 - a. Any portion of a public right-of-way used for vehicular travel or parking
 - b. Alleys
 - c. Within or on sidewalks adjacent to any public parks or plazas, including but not limited to;
 1. San Jacinto Plaza
 - d. Sidewalks less than five (5) feet in width
5. Shared Use Mobility Devices shall not be parked in the area immediately adjacent or impeding access to the following:
 - a. ADA accommodations including curb ramps, railings and signal push buttons
 - b. Sidewalk cafés or street patios
 - c. Street furniture (including, but not limited to, benches, parking meters, parking pay stations, waste bins, and newspaper boxes)
 - d. Fire hydrants
 - e. Valet parking stands
 - f. Public transit shelters or stops
 - g. Drinking fountains
 - h. Public art
 - i. Any fixed regulatory or informational sign
6. Shared Use Mobility Devices shall not be parked in a manner that impedes access to any of the following:
 - a. Building entryways
 - b. Vehicular entryways (e.g. driveways, parking garage entryways, et cetera)
 - c. Fire escapes
 - d. Railroad crossings
 - e. ADA accessibility

D. SAFETY, EDUCATION & OUTREACH



1. A permit holder shall remove any inoperable device, or any device that is not safe to operate, from any public right-of-way within **two hours** of notice from the Director. Any inoperable device, or any device that is not safe to operate, shall be repaired before it is returned to revenue service.
2. A permit holder shall provide the Director with special access, via the permit holder's app or other device, to immediately unlock and remove devices that are blocking access to city property or the public right-of-way.
3. Devices that are parked in an incorrect manner shall be removed or relocated by the permit holder within **two hours** of receiving notice from the director on weekdays between 6:00 am and 6:00 pm (excluding holidays) and within 12 hours of receiving notice from the Director at all other times.
4. A Device that is parked may remain in the same location for **up to 24 hours** as long as it is parked in accordance with this section. It is encouraged that Devices are picked up daily from the City right-of-way, but no device shall be parked in one location for more than **24 hours**.
5. A permit holder shall relocate a Device parked in a residential area after receiving a citizen request or complaint within **two hours** of receiving notice.
6. After the time for correcting a violation under this subsection has expired, the City or authorized agent may remove and impound the device. The permit holder shall be subject to payment of a fee to reclaim any impounded device.
7. Any device that remains impounded for 60 days or longer is subject to sale.
8. Permit holders shall educate customers regarding the law applicable to riding, operating, and parking a Device. A permit holder's application shall provide a public education plan information notifying the user that:
 - a. The use of helmets is encouraged for the safety of the riders;
 - b. The legal parking of Devices;
 - c. The legal operation of Devices, including the duty to yield to pedestrians.
 - d. The areas where riding and parking are prohibited.
9. Permit holders shall continually educate customers regarding the law applicable to riding, operating, and parking devices.
 - a. Permit holders shall, within the user agreement, include a clause stating that the user agrees to comply with all applicable provisions of the City of El Paso Municipal Code.
 - b. A permit holder shall employ an electronic method to randomly test device users on their understanding of the law applicable to riding, operating, and parking devices prior to allowing the usage of a device, as approved by the Director.

E. EQUITABLE ACCESS

1. A permit holder shall have a plan to provide equitable access and distribution in neighborhoods and to communities and users that are underserved by mobility and transportation options.
2. Permit holders are encouraged to continually:
 - a. Provide pricing options that address the needs of low-income residents;
 - b. Provide discount programs to low income individuals;



- c. Develop options that do not require a smartphone;
- d. Provide cash-payment options; and
- e. Provide adaptive devices that enable operation by people with disabilities.

F. SURVEY

- 1. Each permit holder will be responsible for surveying users via their individual app/mobile platforms and/or via e-mail at three-month intervals during the duration of the 12 month pilot program. Survey questions will be developed in coordination with the Director and certain questions will be required. The intent of the survey is to capture more information on travel patterns, safety and overall user feedback.

G. FEES

Description	Fee	Purpose/Covers costs associated with:
Application Fee	\$371	Application Review
Permit Fee	\$21/device	Cost to operate within the right-of-way

- 1. If changes to the number of devices is requested to be modified by the permit holder, the request will need to be in writing and an amended application will be required to be submitted at least 30 days prior to the modification of devices being deployed.

H. INSURANCE REQUIREMENTS.

- 1. All documents submitted under this Section (H) are subject to review by the Risk Manager for compliance with the requirements under this Section (H). A Person applying for a Permit shall submit, with the application, a copy of the following documents showing proof of compliance with the coverages and amounts established by the Risk Manager: **A certificate of insurance and a complete copy of the actual insurance policy and all endorsements.** A Person shall maintain the coverages and amounts of insurance as established by the Risk Manager for the duration of the Permit. A Person shall add the City of El Paso as an additional insured to all insurance policies under this Section. The Insurance Requirements established by the Risk Manager are listed below. A Person shall provide and maintain the following:
 - a. Commercial General Liability written on an Occurrence Form including all the usual coverage known as:
 - i. Premises/operations liability
 - ii. Products/completed operations
 - iii. Personal/advertising injury
 - b. Minimum Limits of Liability
 - i. \$1,000,000 Bodily Injury/\$1,000,000 Property Damage per occurrence, with a \$2,000,000 annual aggregate.
 - c. Automobile Liability;



- i. \$1,000,000 Bodily Injury/\$500,000 Property Damage Liability per occurrence, with a \$2,000,000 annual aggregate.
2. Applicable to Permit Holders who provide insurance policies, as required in Section (H) (1) above, with aggregate amounts. In addition to the previous requirements in Section (H) (1) above, the Permit Holder shall provide insurance that meets the following requirements: The City, its officials, employees, agents, and contractors shall be named as additional insureds and contain a “blanket waiver of subrogation” clause in favor of the City. The Permit Holder’s insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and contractors. Any insurance , or self insurance, maintained by the City its officials, employees, agents, and contractors shall be in excess of the Permit Holder’s insurance and shall not contribute to the Permit Holder’s insurance. Prior to deploying any units under this permit, the Permit Holder, at no expense to the City, shall furnish to the City a complete copy of the insurance policy, a certificate of insurance with all original endorsements. Any deductibles or self-insured retentions must be approved in advance by the City. Pursuant to a motion made by City Council on March 19, 2019, no other parties (other than the Permit Holder and the City) may be named as insured, named insured, additional insured, and/or additional named insured. Before a permit is issued, and every 30 calendar days following issuance of a permit, a Permit Holder shall provide the City with an updated schedule from the insurance provider showing all insured, named insured, additional insured, and/or additional named insured under the policy. In addition, a Permit Holder shall provide to the City currently valued monthly reports, from the insurance provider, reporting all claims under the Permit Holder’s insurance policy. The Permit Holder shall immediately provide all documents required under this Section following any policy renewals or change of insurance providers. The Permit Holder and/or the Permit Holder’s insurance company shall allow the Risk Manager to audit an insurance policy and claims reports provided under this Section.
3. Applicable to Permit Holders that provide insurance on a “per occurrence” basis, as required in Section (H) (1) above, with no aggregate. In addition to the previous requirements in Section (H) (1) above, the Permit Holder shall provide insurance that meets the following requirements: The City, its officials, employees, agents, and contractors shall be named as additional insureds and contain a “blanket waiver of subrogation” clause in favor of the City. The Permit Holder’s insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and contractors. Any insurance , or self insurance, maintained by the City its officials, employees, agents, and contractors shall be in excess of the Permit Holder’s insurance and shall not contribute to the Permit Holder’s insurance. Prior to deploying any devices under a permit, the Permit Holder, at no expense to the City, shall furnish to the City a complete copy of the insurance policy, a certificate of insurance with all original endorsements. Any deductibles or self-insured retentions must be approved in advance by the City.

I. BOND REQUIREMENTS.



The Risk Manager shall establish a bond or irrevocable letter of credit requirements to cover the following: any damages to the public right of way caused by a Shared Use Mobility Device, costs of removing from the Public Right of Way a Shared Use Mobility Device, and costs of storing and disposing of any Shared Use Mobility Devices. A Person shall comply with the bond requirements or irrevocable letter of credit requirements established in this Section for the duration of a Permit. The amount established by the Risk Manager may be subject to change; however, the minimum initial performance bond amount shall be \$10,000. Submitted documents subject to review and approval by the Risk Manager.

J. DATA REQUIREMENTS.

1. A Person holding a Permit under this Section shall collect Non Personally Identifiable Information, including, but not limited to:
 - a. All trip data, including origins and destinations, trip duration, date and time of trip;
 - b. Unique identification number for each device;
 - c. Number of trips per device per day;
 - d. Total number of devices in service;
 - e. Percentage of devices placed in designated drop zones, if any, at the end of use;
 - f. Number of devices lost, stolen, replaced or impounded;
 - g. Total amount of revenue per month including, but not limited to, any rental fees, membership fees, out of area fees, charges per minute, and charges per ride;
 - h. A collision history report including the number, severity, location and time of the incident, and description and severity of injuries sustained by individuals involved, if any;
 - i. A complaint history report including the number of complaints, the nature of the complaints, and the time it took to remedy the complaint, if remediation was necessary.
 - j. Anonymized aggregated data taken by the permit holder's devices in the form of heat maps showing routes, trends, origins, and destinations.
 - k. Anonymized trip data taken by the permit holder's devices that includes the origin and destination, trip duration, distance and date and time of trip.
2. A Person shall provide such non-PII to the City on a monthly basis, during the duration of a Permit, free of charge. The City shall only use this information for the purposes of evaluating public transportation improvements, other public improvements, and public services. The City may release such non-PII pursuant to any request made under the Texas Public Information Act.
3. Permit holders shall provide such other reports or additional data at the Director's request.
4. The Director may require the permit holder to provide real-time information on the entire City fleet through a documented application program interface (API) built to Mobility Data Specification (MDS). Reports may also be requested using the Mobility Data Specification (MDS) standard.



ATTACHMENT A

Deployment and Operation Area

