

ORDINANCE NO. _____

AN ORDINANCE AMENDING WINONA CITY CODE, CHAPTER 51 – LICENSES AND PERMITS AND SERVICE CHARGES OF THE CITY, AND
CHAPTER 61 – TRAFFIC

THE CITY OF WINONA DOES ORDAIN (new material is underlined; deleted material is lined out; sections which are not proposed to be amended are omitted; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

SECTION 1. That Winona City Code, Chapter 51 – Licenses and Permits and Service Charges of the City, Section 51.01, Fees and Charges Established, be amended as follows:

<u>Shared Transportation System License</u>	
<u>Annual license</u>	<u>\$500.00</u>

SECTION 2. That Winona City Code, Chapter 61 – Traffic, Section 61.53 Bicycles, be repealed in its entirety and replaced with the following:

61.53 MICROMOBILITY: BICYCLES AND SHARED TRANSPORTATION SYSTEMS

- (a) Definitions: For the purposes of this section, the terms defined herein shall have the meanings ascribed to them.
- (1) *Bicycle* has the meaning specified in Minn. Stat. § 169.011.
 - (2) *Central Business District* means the area located within the following described area: Any property within the city's downtown, which is zoned as Mixed Use-Downtown Core or Mixed Use-Downtown Fringe and adjoining public rights-of-way.
 - (3) *Electric-assisted bicycle* has the meaning specified in Minn. Stat. § 169.011.
 - (4) *Helmet* means a Department of Transportation or SNELL Foundation Certified helmet.
 - (5) *Motorized bicycle* has the meaning specified in Minn. Stat. § 169.011.
 - (6) *Motorized foot scooter* has the meaning specified in Minn. Stat. § 169.011.
 - (7) *Shared device* means a micromobility vehicle/device as identified and covered within the scope of this section 61.53 specifically permitted by license with the city of Winona for a shared transportation system operator to operate a shared transportation system.

- (8) *Shared Transportation System Operator* means a business, including a nonprofit organization, that provides shared transportation devices for use in the city of Winona.
- (9) *Shared Transportation System* means the system by which a shared transportation operator, pursuant to a contract/license with the city of Winona, provides (1) or more shared devices for vending, renting, or lending where, by design, the shared devices are intended to be parked in the public right-of-way or on other publicly owned properties when not rented by a customer.
- (b) Operation of Bicycles and Electric-assisted Bicycles. The city of Winona hereby adopts Minnesota Statutes, section 169.222 in regard to the operation of bicycles and electric-assisted bicycles in the city. In addition, the provisions below shall apply:
 - (1) Use of a helmet and other forms of protective gear while operating a bicycle or electric-assisted bicycles is strongly encouraged for all ages, especially those age 16 and under.
 - (2) Walking alongside one's bicycle or electric-assisted bicycles while within a designated crosswalk is encouraged.
 - (3) The operation of bicycles and electric-assisted bicycles is prohibited on sidewalks in the Central Business District, except when necessary for parking a bicycle or electric-assisted bicycle or for purposes of accessing or leaving an adjacent property.
 - (4) The operation of bicycles on sidewalks is permitted outside the central business district, but discouraged for persons over age 16.
 - (5) The operation of electric-assisted bicycles on sidewalks outside the Central Business District is prohibited, except when necessary for parking an electric-assisted bicycle or for purposes of accessing or leaving an adjacent property.
 - (6) Electric-assisted bicycles shall not be parked or operate in city parks or on city trails.
- (c) Operation of Motorized Foot Scooters: The city of Winona hereby adopts Minnesota Statutes, section 169.225 in regard to the operation of motorized foot scooters in the city. In addition, the provisions below shall apply:
 - (1) Use of a helmet and other forms of protective gear while operating a motorized foot scooter is strongly encouraged for all ages and required for users under age 18.

- (2) The operation of motorized foot scooters is prohibited on sidewalks in the Central Business District, except when necessary for parking a motorized foot scooter or for purposes of accessing or leaving an adjacent property.
 - (3) The operation of motorized foot scooters on sidewalks outside the Central Business District is prohibited, except when necessary for parking a motorized foot scooter or for purposes of accessing or leaving an adjacent property.
 - (4) Motorized foot scooters shall not be parked or operate in city parks or on city trails.
- (d) Shared Transportation Systems. The city hereby requires that shared transportation systems desiring to operate in the city shall comply with the below regulations:
- (1) License Agreement Required. No person may operate a shared transportation system on the public rights-of-way or on park property within the city without a city council approved and fully executed license agreement between the shared transportation system operator and the city of Winona (the “license”). The license must specifically identify the type of shared devices that are permitted to be operated. No shared transportation system operator may operate a shared transportation system with shared devices that are not specifically identified in the license. Completed applications shall be filed with the city clerk.
 - (2) License Fee. The fee for a license shall be as set by the city council from time to time as provided in Winona City Code, section 51.01. No license shall be issued until the required fee has been paid. An license application is not valid and shall be deemed incomplete and returned to the applicant unless the application includes the required license fee.
 - (3) License Term. The term of an annual shared transportation system license shall allow a period of use commencing March 1 and expiring November 1 of each year. A license application must be submitted and a new license issued by the city each year in order for a shared transportation system operator to continue to operate a shared transportation system in the city.
 - (4) License Application. License applications on forms required by the city shall be filed with the city clerk. The applicant shall provide information in the application, including but not limited to the following, but which shall comply with this section and applicable law:
 - i. Legal Name and address of shared transportation system operator along with type of legal entity (e.g., corporation,

limited liability company, etc.) and state of registration of legal entity.

- ii. Service and operations plan outlining how the shared transportation system operator will deploy and maintain a specified number of shared devices within the designated service area(s);
- iii. Contact information for both the shared transportation system operator's company and local manager responsible for operation, maintenance and management of the shared transportation system within the city. The shared transportation system operator shall have a designated staff to implement the operations and service plan, oversee and manage operations, and coordinate with the city as required. Designated staff shall be located within the city of Winona or up to 15 miles outside of the city and their contact information shall be kept on file with the city and made visible on all shared devices.
- iv. Name and position/title of the person duly authorized to execute the license agreement with the city on behalf of the applicant's company.
- v. Description of proposed shared transportation system, which shall include, but not be limited to, the following:
 - a. Type of shared devices proposed to be let, rented or otherwise furnished to shared device users/customers;
 - b. Number of shared devices within established limits contained in this section;
 - c. A GPS or GIS based map depicting locations within the city served/designated service area(s), along with written narrative description of the same and any limits on locations served;
 - d. Parking locations when shared devices are not in use;
 - e. Storage locations when shared devices are not in use;
 - f. Standards for operation and maintenance of shared devices;
 - g. A 24-hour customer service telephone number available to address customer concerns and must be capable of accepting re-routed calls from the city of Winona;
 - h. Rules of use of shared devices for users/customers;

- i. Certificate of insurance meeting license requirements; and
 - j. Such other information as deemed necessary or required by the city clerk.
- (5) License Contents. The license agreement between the shared transportation system operator and the city shall be on the form required by the city. By submitting an application, the applicant agrees to the terms and conditions contained in the city license. The license form is available for inspection by request from the office of the city clerk. The license agreement is subject to approval by the city council in accordance with this section and applicable law. The city council may impose additional reasonable requirements or conditions in the license agreement beyond those specified herein.
- (6) Renewal of License of Existing Operator. A renewal of a license of an existing shared transportation system operator shall follow the same process as a new license by submitting a complete license application as provided above to the city clerk. A renewal license application of an existing operator shall have priority over a new license application from a new shared transportation system operator in the event that there are two (2) shared transportation system operators who were in operation within the city in the immediately preceding license year. A license application for a renewed license shall be submitted to the city clerk on or before December 31 of the expiring license year in the event that there are two (2) shared transportation system operators who were in operation within the city in that immediately expiring license year. Nothing in this section shall prevent or prohibit the city council from granting a license to a new shared transportation system operator and correspondingly denying the license application of an existing shared transportation system operator who was in operation within the city in the immediately preceding license year.
- (7) Limitation on the Number of Licenses and Shared Devices.
 - i. To protect the health, safety, and welfare of the residents of the city, at no time shall more than two (2) shared transportation system operators be licensed to operate a shared transportation system simultaneously in the city. Notwithstanding the foregoing, nothing in this section shall prevent or prohibit the city council from granting only one (1) license for a shared transportation system in the city in the city council's sole judgment and discretion based on the council's consideration of need and the public health, safety and welfare of city residents.
 - ii. The city may limit the number of shared devices that are approved to operate within the city. The city manager, or his or her designee, shall make the determination of the number of

shared devices licensed to operate in the city, but no one shared transportation system operator shall be licensed to operate more than 100 shared devices in the city.

- iii. In making the determination of the number of shared devices licensed to operate in the city, the city manager, or his or her designee, may consider the following, among other factors: (1) the city's ability to maintain the integrity of the city's entire transportation system; (2) the city's ability to keep rights-of-way, trails, and park walkways free and clear of unnecessary obstructions; (3) the city's ability to protect the health, safety, and welfare of the residents of the city; and (4) the locations and size of the designated service area and operation plan.
- iv. The city reserves the right to amend or limit the shared device fleet size and service area at any time.

(8) Indemnification. Any shared transportation system operator issued a license under this section shall, as a condition of the issuance and continued validity of the license to operate a shared transportation system in the city, indemnify, hold harmless and defend, by counsel of the city's choosing, the city of Winona and their respective officers, agents, officials and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission, or violation of any provision of this City Code, the license or other law by such shared transportation system operator or any of its officers, agents, employees and shared device users or customers arising from the operation, maintenance, or use of the shared transportation system and the shared transportation system operator's shared devices. Such indemnity shall include attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by any insurance coverage required by this section or otherwise carried by the shared transportation system operator. This indemnification requirement shall be memorialized in the license agreement signed by an authorized representative of the shared transportation system operator who is an officer or employee of the same with authority to legally bind the shared transportation system operator. The indemnification provision required by this section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the city of Winona.

(9) Insurance Required. The shared transportation system operator shall at all times during the term of a license have in effect a policy of commercial general liability insurance meeting the requirements specified by the city in the city's license agreement, which insurance shall minimally meet the levels of insurance coverage provided in Minn. Stat. § 466.04, the amounts stated in the applicant's certificate

of insurance, or the amounts required in the city's license, whichever are greater.

(10) Parking Shared Devices.

- i. The shared transportation system operator shall be responsible for shared devices parked in improper locations and shall be financially liable for the city's costs of removal and impounding of shared devices.
- ii. The shared transportation system operator shall be responsible for the use of the operator's shared devices within the city.
- iii. The shared transportation system operator shall identify and provide information to all shared device users regarding any city designated no-locking zones, low speed zones, no shared device zones, and no parking zones, and such other regulations as the city may impose.
- iv. The shared transportation system operator shall provide information to all shared device users regarding the requirements for parking and use of shared devices in compliance with the Americans with Disabilities Act (ADA) with respect to sidewalk accessibility and the importance of leaving ADA paths of travel clear and accessible to persons with disabilities.
- v. Shared device users shall not park in such a manner as to block the pedestrian clear zone area of any sidewalk, ADA paths of travel, sidewalk accessible ramps at intersections or otherwise, any fire hydrant or other emergency facility, bus benches or shelters, utility poles, or utility boxes.
- vi. Shared device users shall not park shared devices in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building entrance/exit doorway.
- vii. On blocks without sidewalks, shared devices shall be parked in a manner so as not to impede the travel lane or six feet (6') of pedestrian clear zone along the street.
- viii. Shared devices shall not be parked or operate in city parks or on city trails.
- ix. Shared devices shall be parked upright on hard surfaces in the furniture zone of the sidewalk not interfering with ADA accessibility, beside a bicycle rack, or in another area specifically designated for bicycle parking or shared device parking, or on the street directly adjoining the curb or side of

the street where there is no curb, provided that such curb or area it is not otherwise marked for “no parking” or as a loading zone, or for some other restricted or temporary parking use.

- x. Shared devices that are part of a shared transportation system may not be secured, attached, or connected to a bicycle rack, or any other immovable object on the right-of-way, unless expressly permitted by the contract between the city and the shared transportation operator.
- xi. The shared transportation system operator shall be liable for any violations of the parking requirements contained herein, City Code and applicable law, and shall indemnify and hold the city of Winona harmless for such claims.

(11) Designated Service Area and Operations Plan.

- i. The shared transportation system operator shall be responsible for providing a designated service area, which shall be specified in the license.
- ii. The shared transportation system operator shall be responsible for the relocation of shared devices outside of the designated services area as well as within the area to designated parking locations specified in the license when such shared devices are not in use by shared device users.
- iii. The shared transportation system operator shall submit a service and operations plan outlining how they will deploy and maintain a specified number of shared devices within the service area.

(12) Data and Reporting Requirements.

- i. The shared transportation system operator shall monitor usage of their fleet of shared devices and shall provide an annual report of usage in the city based on such data.
- ii. The usage report and data shall be provided in compliance with a national data format specification such as the North American Bikeshare Association’s General Bikeshare Feed (GBFS) and Open Mobility Foundation’s Mobility Data Specification (MDS) formats.
- iii. The usage report and data shall be subject to publicly-available aggregation, retention, and privacy policies of the shared transportation system operator and the city.
- iv. All data provided by the shared transportation system operator to the city is subject to the requirements of the Minnesota Government Data Practices Act.

- v. The shared transportation system operator shall provide a written notice to the city of Winona city manager's office or his or her designee of any incidents with shared devices in public or private space, not otherwise involving the city's police department, within 48 hours of an occurrence, including but not limited to: crashes, fires, and tampering.
 - vi. The shared transportation system operator shall provide semi-annual reports of correspondence received from shared device users/customers in the city of Winona. Reports shall include: wait times, response times, and descriptions of the nature of each inquiry.
- (13) Shared Device Requirements and Maintenance. The shared transportation system operator shall comply with the following shared device equipment and maintenance requirements:
- i. When used in a shared transportation system, each shared device shall meet and be at all times in compliance with the applicable federal and state technical and safety standards set for the particular shared device.
 - ii. All shared devices must be certified as safe to operate under any applicable standard by Underwriters Laboratories (UL) or an equivalent safety rating agency.
 - iii. Each shared device must comply with the applicable equipment registration requirements.
 - iv. Each shared device must be equipped with technology, such as GPS, that allows the shared device to be located and tracked by the shared transportation system operator and the city.
 - v. Each shared device must include contact information for the shared transportation operator with 24-hour telephone number posted on the shared device.
 - vi. All shared devices shall be maintained in clean, good and safe operating condition at all times by the shared transportation system operator.
 - vii. Every shared device shall be equipped with a bell, horn or other sound signaling device.
 - viii. Every shared device shall be equipped with safety lights in the front (white light) and rear (red light) for operation in non-daylight hours and inclement conditions.

- ix. The shared transportation system operator shall conduct weekly on-street checks of all shared devices and repair/replace shared devices and/or components of the same on an as-needed ongoing basis.
- x. The shared transportation system operator shall keep records of all maintenance actions on shared devices and provide access to the city upon request.
- xi. The shared transportation system operator shall detail battery safe practices, including but not limited to how the program will charge, store, and dispose of batteries; procedures for preventing future incidents of battery tampering; information about the battery management system the shared transportation system uses; how the program identifies at-risk motorized foot scooters and responds to these identified risks.
- xii. The shared transportation system operator shall suspend use of any shared device with an identified safety hazard and remove it from service until fixed.
- xiii. The shared transportation system operator shall disable all shared devices within 24 hours of written notice from the city manager should an unknown, immediate equipment safety issue of unknown scale be identified. Re-launch shall only occur when the city manager, or his or her designee, approves of the results of any associated investigation, safety test results, and any related mitigation or corrective actions have been completed to the satisfaction of the city manager.
- xiv. It is unlawful to let, rent, or otherwise furnish any shared device, which is not equipped with a device or "governor", through geofencing or other similar technology, limiting the speed of such shared device to fifteen (15) miles per hour.

(14) Driver's License Required; Records; Parental Consent.

- i. No shared transportation system operator shall let, rent or otherwise furnish any shared device to any person not having a valid motor vehicle driver's license issued in accordance with the provisions of the law of the State of Minnesota. Before letting, leasing or otherwise furnishing any shared device to any person, the shared transportation system operator shall make a permanent and legible record containing the name, address and age of the person to whom the shared device is leased, rented or otherwise furnished shall record thereon the number and date of issue and expiration of the driver's license, together with the description of the person as shown by the driver's license, and identify of the shared device leased, rented or otherwise furnished to the person by the motor

vehicle license number issued by the State of Minnesota, together with the date or dates of such licensing.

- ii. It is unlawful for any person to operate a shared device without a valid driver's license, or to permit any other person who is not licensed by the State of Minnesota to drive to operate such shared device.
- iii. It is unlawful to let, rent or otherwise furnish any shared device to any person under the age of eighteen (18) years unless such person shall furnish and leave with the shared transportation system operator a statement in writing showing the consent of the parent or guardian to the leasing, letting or otherwise furnishing of the shared device to such person. All records required by this section shall be kept for a period of not less than one year and shall at all times be open to inspection by the police department of the city.

(15) Enforcement and Impounding Authorized.

- i. A shared device may be immediately removed and impounded by any city police officer or duly authorized city employee at the shared transportation system operator's expense because:
 - a. The shared device has been left unattended by the shared transportation device operator or a shared transportation device user and has not otherwise been parked in accordance with the requirements in this section for a period of three (3) hours or more within the designated service area.
 - b. The shared device has been left unattended by the shared transportation device operator or a shared transportation device user and has not otherwise been parked in accordance with the requirements in this section for a period for three (3) hours outside of the designated service area.
 - c. The shared device has been parked in violation of this section, City Code or applicable law or otherwise poses an imminent threat to public safety.
 - d. The shared device is part of an unauthorized shared transportation system.
 - e. The shared device is in violation of one (1) or more of the terms of the license or is in violation of one (1) or more of the terms of this section, City Code or applicable law.

- ii. Not more than seventy-two (72) hours after impounding of a shared device, the city shall provide notice to the owner, if identifiable. If the shared device is redeemed prior to the notice, or if the city is unable to identify the owner, then notice need not be sent. Saturdays, Sundays and city holidays are to be excluded from the calculation of the seventy-two-hour period.
 - iii. All shared devices impounded under this section are subject to an impound fee sufficient to offset the city's costs of enforcement and storage for each such shared device. Shared transportation system operator's shall bear the costs of removal, impound and storage of shared devices, and shall pay such costs within 30 days of receipt of an invoice from the city, or immediately at the time of seeking to recover or retrieve a shared device from city impound, as applicable, or as required by the city.
 - iv. Any shared device coming into the possession of the city and remaining unclaimed by the owner for a period of at least sixty (60) days may be disposed of in accordance with City Code, Section 21.12.
- (16) Compliance with laws. Shared transportation system operators and their users/customers shall comply with all applicable federal, state, and local laws, and the license, as the same may be amended from time to time.
- (17) Suspension or Revocation of License. The suspension or revocation of any license issued under this section shall be governed by the procedures contained in Section 51.03 of City Code. A license issued pursuant to this section may be suspended or revoked, or, in connection with the application or renewal of a license, denied, upon a finding by the city clerk that the licensee has violated any provisions of this section, or upon occurrence of any of the following events:
 - i. The licensee failed to comply with applicable state law or city code pertaining to its use or operation of a shared transportation system in the city;
 - ii. The licensee failed to comply with any condition set forth in the license and such failure has not been timely cured to the satisfaction of the city manager, except that repeated violations shall not be excused as grounds for suspension or revocation regardless of whether the same have been timely cured;
 - iii. The licensee allowed the shared transportation system to be operated or maintained in a way that has caused nuisance conditions to persist in the city following repeat notification from the city;

- iv. The licensee allowed the shared transportation system to be operated or maintained in a way that has caused repeated and continuing public nuisance conditions in violation of City Code, or has injured the safety or health of any considerable number of members of the public; or
 - v. The licensee or proposed licensee provided false or misleading information on the licensee's application.
- (18) Termination of License. In the event of termination of a license for any reason, within ten (10) business days thereof, the shared transportation system operator shall remove its fleet of shared devices from all public rights-of-way in the city and properly store the same. If the operator fails to timely comply, the city may remove and dispose of such shared devices to the same extent and in the same manner as abandoned or unclaimed property in the possession of the city.
- (19) Criminal Penalty. In addition to or in lieu of any administrative or civil penalty, a shared transportation system operator/licensee may be criminally charged for a violation of this section. Violation of this section shall be a misdemeanor. Each separate day such violation is continued shall constitute a separate offense.

SECTION 3. That this ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Winona, Minnesota, this ____ day of _____, 2021.

Mayor

Attested By:

City Clerk