

Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Mayor Sam Liccardo
Councilmember Raul Perez
Councilmember Dev Davis

SUBJECT: SEE BELOW

DATE: December 5, 2018

Approved   Date 

**SUBJECT: MICROMOBILITY PERMITS: PROMPTING INNOVATION FOR SAFER
STREETS**

RECOMMENDATION

Restrict the issuance of electric scooter permits to companies that will include the following elements with their service:

1. **Geo-Fencing for E-scooter Operations:** In addition to complying with standard permit requirements, companies will be required to deploy technology that in designated areas—primarily sidewalks with high pedestrian activity like Downtown and transit station areas—either (a) halts, or (b) adjusts e-scooters to substantially lower speeds no faster than a casual walking pace (approx. 5 mph). On such pedestrian-dense streets, scooters may only be operated at full speeds within bike lanes and shared lanes (“sharrows”).
 - a. Staff is directed to immediately conduct outreach to companies that are operating, or seeking to operate, to assess technology safety solutions and the path for expedited implementation.
 - b. The permit program will begin in February of 2019. By July 1, 2019, any company that is unable, or unwilling, to implement the technology required to ensure the safety of our community must cease operations in San José as of that date. Through the City Manager, the Director of Transportation may modify that date as necessary for successful implementation of the program. In the intervening period, companies are invited to test and/or pilot safety technology solutions in San José in coordination with the Department of Transportation.
 - c. The City would work with the applicants to define pedestrian-dense areas, such as Downtown core, or parts of Willow Street in Washington-Guadalupe, Jackson Street in Japantown, or Lincoln Avenue in Willow Glen, where suitable bike infrastructure is also present.
 - d. Applicants will be responsible for the installation, maintenance and removal of sensors or other infrastructure needed for the deployment of their technology, facilitated by the Department of Transportation.

- e. If the technology warrants the use of city streets and poles, the City Manager may restrict access with exclusive agreements to minimize street clutter, provided that shared-use agreements can enable fair competition among companies.
2. **Geo-Fencing for E-scooter Parking:** In pedestrian-dense areas, the City may mandate e-scooter parking areas to ensure that the City can avoid tripping hazards, obstructing transit boarding, and blocking of sidewalks for residents with limited mobility or disabilities. Permitted companies must deploy suitable technology to ensure compliance.
3. **Data sharing:** Permitted companies must provide data—with appropriate restrictions to protect personal information and proprietary data from competitors—with the City to allow Department of Transportation and the Valley Transportation Authority staff to gather insights about frequency of usage and routes to assist with infrastructure planning, monitoring first and last mile connections, and with e-scooter monitoring and compliance. Operators should also enable third-party Mobility as a Service (MaaS) providers to integrate scooters into their apps, including availability data and support for transactions, allowing for scooter use by a wider population.
4. **Safety-reporting capability:** Permitted companies must enable residents to readily report unsafe riding (e.g. riding on sidewalks in ways menacing to pedestrians, weaving through traffic, riding in bike lanes in the wrong direction, etc.), defective scooters, and scooters left on private property with an easy-to-use app feature. City staff should also work with permitted companies to explore options for reporting by non-smartphone users.
5. **Safety Messaging and Prevention:** Permitted companies must display prominent messaging to riders at the beginning of each ride that educates them about San José's rules and safe riding practices.

BACKGROUND

Cities throughout the United States have been both delighted and beleaguered by the proliferation of electric scooters. As accounts of collisions mount, however—with several causing serious injury and death—it has become increasingly clear that the disruptive nature of this new mobility option requires more innovation before it can operate safely in a public environment. In particular, the use of scooters at high speeds on sidewalks poses serious collision risk to seniors, residents with physical disabilities, and many other wary pedestrians. Increasingly we see litigation claims up and down the coast that will punish taxpayers for the failure of cities to properly regulate these vehicles.

In October of 2018, Mayor Liccardo co-signed a letter with Santa Monica Mayor Ted Winterer—whose city has become something of a “ground zero” for scooter deployment—in an effort to prod the industry to more rapidly innovate the kinds of improvements we need to make scooters safe in our cities. (See Exhibit A.) That letter, sent to the CEO's of several scooter makers and operators, prompted an industry response that convinces us that technology is available today to create virtual “no-scooting” zones, for operations and/or parking. While some companies are closer than others in integrating this technology into their operations, no company has yet done so in a comprehensive manner in any U.S. city. As Silicon Valley's urban center,

there is no reason why San José should not be the place where we see these innovations put into practice.

Some market participants will undoubtedly seek “an extended grace period” to allow them to operate for a year or more without this safety mandate. We urge against such an approach, for two reasons. First, a lengthy delay or “grace period” merely encourages a “race to the bottom” of companies seeking to rapidly grow market share without the perceived inconvenience of safety restrictions. We see that tendency today, as some companies refuse to modulate the speeds of their scooters because younger riders prefer unconstrained riding, thereby boosting subscriptions at the expense of public safety. Second, every day that we wait to implement these safety improvements is an additional day in which the probability of a high-injury collision mounts. We acknowledge that the timeline for deployment of safety innovations for e-scooters is ambitious, and may even outpace the rapid innovation for which our region is renowned. Accordingly, the Director should have delegated authority to adjust these timelines as necessary.

By offering permits to the companies that implement this safety infrastructure, we’ll create competition that will further all of the right objectives: improved safety, convenience, and mobility. This is yet another opportunity for San José to demonstrate its innovative leadership to the rest of the nation, forging a safer future for all of our cities.



October 22, 2018

Travis VanderZanden, CEO
Bird Rides
406 Broadway, #369
Santa Monica, CA 90401

Dear Travis VanderZanden,

Electric scooter companies are changing the way people are moving around our cities. As we work to reduce emissions from the transportation sector, we appreciate the role that electric scooters can play to provide a cleaner and greener first mile-last mile solution. We also appreciate the additional choice and convenience these scooters offer our residents, as evidenced by their fast-growing popularity.

Nonetheless, as you know, very real safety concerns arise from scooter operations. We have all experienced accidents in our cities, and a host of safety-related issues—including the lack of helmet use, unsafe speeds, and usage on already-congested sidewalks in the most densely populated areas of cities—create very real challenges.

While our cities have begun adopting micro-mobility regulations to better manage safety and conflicting uses in our crowded public rights of way, even the most enlightened regulations will not address all of the safety issues relating to scooter use. The mere prohibition of scooter usage on sidewalks under California law, for example, is not alone sufficient to protect the safety of seniors or other sidewalk users with physical limitations.

Absent a more effective solution, mounting safety concerns and liability risks will inevitably cause many of our cities to reconsider implementing stricter regulations, including the type of local bans you've seen in many other cities.

As progressive, innovation-friendly mayors, we do not like to pit all-or-nothing regulatory policies against innovative technologies. So we encourage you to join us in seeking another path – one that will better protect the safety of our residents and help your company avoid the ongoing existential risk of bans. We encourage you to innovate with us.

We are mayors of two California cities very familiar with the innovation economy, and with the ability of the private sector to implement technologies that can enhance safety. We are familiar with geo-fencing technologies that have existed for two decades. We are familiar with fast-developing IoT and Wi-Fi technology that might be deployed on public street infrastructure in densely populated downtowns, for example, to remotely cut the power of e-scooters operating on sidewalks.

We urge you to work with us to explore these and other technological innovations that can help us deploy electric scooters more safely in our cities. Our cities stand ready to test and demonstrate these innovations in our densest, most pedestrian-heavy central business districts and neighborhoods. We are also willing to provide free or low-cost access to public infrastructure on a pilot basis for these efforts.

For such innovations to succeed, your companies must devote more proactive attention to technological solutions that provide our residents with a better assurance of safety. Any competitor that successfully does so will benefit from the competitive advantage of regulatory changes in cities like ours that will pose existential risks of exclusion for companies that fail to innovate.

Please reach out to people identified below our signature blocks to discuss how we can work together toward deployment of technology that will ensure safer e-scooter operations in an urban environment. We look forward to working with you to ensure cleaner, greener, and safer mobility options in our cities.

Sincerely,



Sam Liccardo
Mayor
City of San José



Ted Winterer
Mayor
City of Santa Monica

Contacts:

Shireen Santosham: Shireen.santosham@sanjoseca.gov

Scott Green: Scott.Green@sanjoseca.gov