RELATING TO SHARED MICROMOBILITY VEHICLES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to authorize the City to reserve parking stalls and other areas for a fee for the deployment and parking of shared micromobility vehicles fleets, and to set the conditions and requirements for these permits.

SECTION 2. Chapter 15, Revised Ordinances of Honolulu 1990 ("Traffic Code"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"Article __. Shared Mobility - Micromobility Vehicle Parking

Sec. 15-___.1 Definitions.

As used in this article:

"Department" means the Department of Transportation Services.

"Deploy" means the action by an operator of removing a shared micromobility vehicle from its physical custody and making it available to and accessible by the public for rent.

"Director" means the Director of Transportation Services, or the Director's authorized representative.

"Fleet" means the collective shared micromobility vehicles deployed by an operator.

"Operator" means a shared micromobility vehicle business that holds a valid shared micromobility vehicle parking permit issued under this article.

"SMV parking permit" means the permit approved by the director to a qualified shared micromobility vehicle business and valid for a period of one (1) year from date of issue to park one or more SMVs in a stall or space on City property.

"Shared micromobility vehicle" or "SMV" means commercial transportation equipment weighing less than one hundred pounds that is either power-assisted or propelled solely by human power, by which a person can be propelled or moved, is a
shared resource among multiple users, available to the public for short-term renting on a self-service basis intended for point-to-point travel usually through a website or mobile application.

"Shared micromobility vehicle business" or "SMV business" means a for-profit or non-profit entity that rents shared micromobility vehicles to the public. This term does not include a government agency or department of the City, State of Hawaii, or the United States.

"Shared micromobility vehicle user" or "SMV user" means an individual who rides an SMV rented from an operator.

Sec. 15-___.2 Authorization.

Notwithstanding any ordinance to the contrary, the director is authorized to issue SMV parking permits to qualified SMV businesses.

Sec. 15-___.3 SMV parking permit application and renewal terms and conditions.

(a) The director is authorized to issue an SMV parking permit to an SMV business, upon satisfaction of the requirements of this article, for portions of property controlled by the City, including but not limited to spaces in parking meter zones, off-street parking, and attendant parking facilities for use of these areas for SMV parking and deployment. When an SMV business desires a SMV parking permit for a portion of City property not controlled by the department, the director or designee shall obtain prior written consent of the appropriate City department, agency, or office that controls the subject property. There shall be one SMV parking permit per designated space. Subject to the approval of the director, an operator may mark or indicate the area covered by the SMV parking permit using paint, signage, or decals to guide its SMV users to authorized parking areas.

(b) An SMV parking permit may be issued for a term not to exceed one (1) year and shall be revocable by the director upon thirty (30) days written notice. No operator holding an SMV parking permit shall be required to have a Peddler's License pursuant to Chapter 29, Article 6.

(c) To receive an SMV parking permit, an SMV business shall submit an application to the director, in the manner prescribed by the director. The application, to be accompanied by the non-refundable application fee set forth in section 15-___.7., shall contain the following:
(1) The name of the person designated by the applying SMV business to receive on its behalf any future notices sent by the city to the SMV business, and that person's contact information, including a mailing address, telephone number, and email;

(2) A Certificate of Good Standing issued by the State of Hawaii Department of Commerce and Consumer Affairs for the SMV business and dated no earlier than six months prior to the date of the application;

(3) Documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applying SMV business with the liability insurance required by this article;

(4) A comprehensive operations plan that includes: a timeline for the launch of operations or a history of operations for established operations; a detailed description of the SMV specifications and the size of the SMV fleet; a map of the proposed or actual service area and deployment and parking locations; planned schedules for fleet management, maintenance, and repair; an overview of the website, mobile application, or other program to be used by the public to access and rent an SMV; an overview of the technology to be used to track and locate each SMV; an overview of the technology, geofencing or other means used to control operational and parking areas for the SMV fleet; a policy on how SMV users' personal data will be safeguarded; minimum requirements and rules for SMV users; strategies for SMV-user education; strategies to serve low-income riders and communities with limited transit options; and any other details describing how the SMV business will comply with all SMV parking permit requirements set forth in this article.

(d) Any document submitted as part of the application shall become part of the SMV parking permit and may be used to evaluate operator compliance with SMV parking permit conditions. Any change to the information provided in the application must be reported to the director, in the manner prescribed by the director, no later than ten business days following the change. Any such change is subject to approval by the director, and a change found to be in violation of, or inconsistent with, the SMV parking permit may result in the termination of the SMV parking permit.

(e) Based upon the availability of spaces designated by the director for SMV parking, the director shall review complete applications and evaluate the
extent to which an applying SMV business has the capacity to provide a reliable and safe shared micromobility service and to meet the SMV parking permit terms and conditions.

(f) An operator shall renew its SMV parking permit annually. The process for renewing an SMV parking permit shall be the same as the application process set forth in this section for receiving an SMV parking permit. In reviewing the application for renewal of an SMV parking permit, the director shall also evaluate the operator's performance over the preceding permit term. No SMV parking permit may be renewed unless all outstanding fees or penalties assessed against the SMV business have been paid to the department.

Sec. 15--_.4 SMV parking permit requirements and conditions.

(a) An operator shall comply with all applicable city, state, and federal laws, including, but not limited to, the state and city traffic codes and laws governing uses of streets or highways, bikeways, sidewalks, and specific classes of SMVs. An operator shall educate SMV users regarding the laws applicable to riding, operating, and parking an SMV, and compliance with these laws.

(b) An operator shall obtain, maintain, and keep in force through the term of the operator permit insurance policies issued by insurance or surety companies authorized by law to issue such insurance in the State of Hawaii in the following amounts:

(1) General liability insurance of not less than TWO MILLION AND NO/100 DOLLARS ($2,000,000.00) for bodily injury and property damage liability arising out of each occurrence and FOUR MILLION AND NO/100 DOLLARS ($4,000,000.00) in the aggregate;

(2) Business automobile liability insurance of not less than ONE MILLION AND NO/100 DOLLARS ($1,000,000.00) combined single limit per accident; and

(3) Worker's compensation insurance as required by law.

All insurance policies shall name the City and County of Honolulu and its officers and employees as additional insureds, and shall provide for written
notification to the director at least thirty (30) days prior to any termination, cancellation, or material change in coverage.

(c) An operator shall pay all applicable fees for the permit as set forth in section 15-____.7.

(d) An operator shall indemnify the City and its officers, employees, and agents, and shall defend them and shall hold them harmless, individually and in their official capacities, from all claims of liability for damages made by any person or entity for death, personal injury, or damage to real or personal property arising from or connected with the activities of the SMV business. The obligations imposed by this subparagraph shall survive the expiration of the permit.

(e) An operator shall adhere to the operations plan submitted as part of its SMV parking permit application, and any amendments to the plan approved by the director.

(f) Prior to deployment, an operator shall register with the department each SMV to be deployed and pay to the department the SMV registration fee set forth in section 15-____.7 for each SMV. Once deployed, each SMV registration shall be renewed annually and the registration fee shall be paid annually. This registration is in addition to any vehicle registration required by state or city law.

(g) An operator may not deploy any SMV that is inoperable or unsafe to operate. If an SMV is inoperable or unsafe, the operator shall ensure the SMV is not available to or accessible by the public for use until it is repaired.

(h) All SMVs in the operator’s fleet must be marked with the operator’s name, livery, logo, or trade dress.

(i) All SMVs in the operator’s fleet shall be equipped with an active global positioning system (“GPS”) technology that collects the required data that shall be reported to the director pursuant to this article.

(j) An operator shall maintain a staffed 24-hour customer service center to receive questions, complaints, reports of collisions, or notices of noncompliance. The contact information for the center shall be posted on each SMV.
A BILL FOR AN ORDINANCE

(k) In addition to the fine set forth in Sec. 15-___.5, the director may require an operator to reimburse any costs the city, the department, or any other city agency or office incurs to address or abate the operator's noncompliance with the SMV parking permit terms and conditions.

(l) An operator shall not transfer its SMV parking permit to any other SMV business or other entity, including a subsidiary, or an individual.

(m) Prior to the close of business on the expiration date of an SMV parking permit, unless the SMV parking permit is renewed, the operator is responsible to remove its SMVs, all equipment, and improvements from the permitted space and shall restore the permitted space to the condition it was in at the commencement of the SMV parking permit term.

Sec. 15-___.5 Shared micromobility vehicle deployment and parking

(a) An operator is responsible for ensuring that its SMVs and SMV users comply with the following requirements:

(1) An SMV must be standing upright when deployed and parked on city property;

(2) An SMV may not be deployed or parked on a sidewalk, street, or highway controlled by the city except in accordance with a valid SMV parking permit;

(3) An SMV may not be parked in a manner that impedes vehicular traffic on a street or highway, or impedes pedestrian traffic on a sidewalk; and

(4) An SMV may not be parked in a manner that obstructs a bus stop, a commercial loading zone, a disabled parking stall or zone, curb ramp, or driveway, or portion thereof.

(b) Any SMV deployed or parked in a manner that fails to comply with the requirements in this section must be re-parked or removed by the operator. If the director, city employee or agent, or police officer notifies an operator of non-compliance with the requirements in this section, the operator must remedy the non-compliance within four (4) hours of receiving the notice. If the non-compliance is not remedied within such time, the city may remove and store the offending SMV. When the director or designee, or department employee or agent, or police officer removes or causes to remove an SMV,
the department will notify the operator and will assess a fine of $50.00 per
SMV to be paid prior to the city's release of the vehicle.

Sec. 15-___.6 Operator data sharing requirements

(a) An operator shall collect and submit to the director, in the manner and
frequency prescribed by the director, the following data on the SMVs in its
fleet:

(1) Number of SMVs deployed;

(2) Number of SMVs removed from service and returned to the operator's
physical custody;

(3) Average length of time an SMV is deployed but not rented;

(4) Total number of trips for the entire fleet;

(5) Total number of trips per SMV;

(6) Trip origin, destination, and duration;

(7) Total miles ridden; and

(8) Number of collisions, accidents, injury, or incidents of property damage
involving an SMV.

(b) An operator shall collect and submit to the director, in the manner and
frequency prescribed by the director, the following aggregate data on SMV
users and trips taken on deployed SMVs:

(1) Number of unique SMV users registered with the operator; and

(2) Number of unique SMV users who used the operator's service on a
monthly and weekly basis during the reporting period, which shall be
determined by the director.

(c) An operator shall disclose to each SMV user the type of data it collects from
SMVs and SMV users and the type of data the operator reports to the
department or any other party.
(d) The department may use and analyze the data it receives from each operator. The department may also publish data it receives, except data identifying individual users or their private information. Data submitted to the department may be subject to public disclosure; provided that any data or information required to be shared by this section and determined to be proprietary shall be available for inspection by the director or designee and not submitted to the city.

Sec. 15-_.7 Fees

(a) Application fee. An SMV business applying for an SMV parking permit shall submit a non-refundable fee of $500.00 to the department with the complete application. This fee shall also be paid when an operator renews its SMV parking permit annually.

(b) SMV registration fee. An operator shall pay an annual registration fee of $30.00 per SMV that is deployed.

(c) SMV parking permit fee. The annual fee per SMV parking permit per designated stall shall be as follows:

(1) For a stall designated in a parking meter zone, a fee equal to one-quarter of the annualized maximum daily charge, based on location of each stall, as set forth in Section 15-22.4;

(2) For a stall designated in an unmetered area, a fee equal to the annualized daily charge, as set forth in Section 15-22.8;

(3) For a stall designated in an off-street parking facility or in an attendant parking facility, a fee equal to one-quarter of the annualized maximum daily charge or lost ticket charge, whichever is higher, as set forth in Section 15-23.2A; and

(4) For a portion of property controlled by the city that is not covered by subsections (1)-(3), a fee charged by the controlling city department, agency, or office.

Sec. 15-_.8 Administrative enforcement

(a) Enforcement of this article shall be done pursuant to the traffic code as set forth in Articles 15-4 and 15-26. If any operator is found to be in violation of
its SMV parking permit, this chapter, or other applicable laws, the department may immediately suspend or revoke the operator permit, and refuse to issue subsequent SMV parking permits to that SMV business.

(b) It is unlawful for an SMV business to deploy SMVs on any city property, including streets and sidewalks, without a valid SMV parking permit. When an SMV owned by an unpermitted SMV business is parked on city property and is found to be available for rent to the public, the city is authorized to remove and store the offending SMV. When the director or designee, or department employee or agent, or police officer removes or causes to remove an SMV, the department will notify the operator and will assess a fine of $200.00 per SMV to be paid prior to the city's release of the vehicle. In addition, the director may require an SMV business to reimburse any costs the city, the department, or any other city agency or office, incurs to address or abate noncompliance with this article.

Sec. 15-__9 Deposit of revenues

The funds collected under this article shall be deposited in the general fund.

Sec. 15-__10 Severability

The provisions of this article, are hereby declared to be severable. In accordance therewith, if any portion of this article is held invalid for any reason, the validity of any other portion of this article shall not be affected and if the application of any portion of this article to any person, property, or circumstance is held invalid, the application hereof to any other person, property or circumstances shall not be affected.

SECTION 3. Section 28-3.3, Revised Ordinances of Honolulu 1990 ("Bidding not required -- Concessions"), is amended to read as follows:

"Sec. 28-3.3 Bidding not required -- Concessions.

The finance director may award concessions on terms and conditions approved by the corporation counsel as to form and legality without calling for public bids, when:

(a) Activities Without Charge. Concessions or concession spaces which are set aside without any charge for events, productions, attractions or activities including the exhibition and sale of handcrafts, works of art, produce or products of a nonprofit organization, as defined in Article 1, or its members as long as the sale of any craft item, works of art, produce or products are made by the member
of the organization who actually makes, creates, grows or gathers the items being sold, and as long as all net profits earned by the nonprofit organization from the concession are to be applied to the expenses of the organization incurred in connection with events or activities directly related to the purpose for which it has been organized.

(b) Periods of Two Days or Less. Concessions or concession spaces which are set aside for a period or periods of time not to exceed two successive days without any charge:

(1) For the exhibition and sale of works of art by artists who actually produce the works of art being exhibited and sold;

(2) For the exhibition and sale of handcrafted items being exhibited and sold; and

(3) For the display and sale of fruits and vegetables, seafoods and prepared but not manufactured food products by the person who actually grows or gathers the fruits and vegetables, catches the seafoods or prepares the food products being displayed and sold.

(c) Handicapped or Blind Persons. Concessions or concession spaces which are set aside for the use of handicapped or blind persons or any nonprofit organization primarily engaged in physical rehabilitative programs.

(1) Nonprofit Private Corporations. The word "persons" contained herein shall include a nonprofit private corporation which has been exempted from taxation as prescribed under Section 501 of the Internal Revenue Code of 1986, as amended, and its articles of incorporation or association shall have a provision contained therein that the primary objective of the corporation is to service or aid or abet or assist the handicapped or blind persons.

(2) No Rent, Except for Maintenance Cost. Notwithstanding any provisions to the contrary contained herein, the finance director shall assess no rent for leasing or renting of concessions or concession space to handicapped or blind persons, including any vending machines assigned to such vendors; provided, that for real property, including improvements thereon, the finance director shall assess the cost of maintenance of that portion of such real property leased or rented to handicapped or blind persons.
(d) Governmental Subdivisions. Concessions or concession spaces which are set aside for the use of any political or governmental subdivision of the federal, state or county governments.

(e) Nonprofit Beachboy Concessions. Concessions or concession spaces which are set aside for beachboys licensed by the state department of transportation.

(1) Policy. The council finds that Hawaiian beachboys are rooted in the state's historical and cultural traditions and that there is a need for the city to provide for concessions available to licensed beachboys on beach property under the jurisdiction of the City and County of Honolulu.

(2) Definition. "Nonprofit beachboy concession" is the grant to a qualified beachboy association of the privilege to conduct operations essentially retail in nature, involving the rental of surfboards, bodyboards or canoes. A qualified beachboy association is an association which is dedicated to the preservation of the beachboy tradition and is incorporated as a nonprofit corporation in accordance with state law.

(3) Special Conditions to Be Met When Providing Beachboy Concessions on Beach Park Property under the Jurisdiction of the City and County of Honolulu. The following special conditions shall govern the award of nonprofit beachboy concessions on beach park property under the jurisdiction of the City and County of Honolulu:

(A) The department of parks and recreation shall designate specific sites on the beach for each beachboy concession and shall locate the sites so as not to impede access to and use of the beach by the public;

(B) A beachboy concession may offer to provide instruction for the use of rental equipment incidental to the rental of said equipment, and may offer the sale of canoe rides incidental to the rental of canoes; and

(C) The department of parks and recreation shall establish policies to ensure that the use of the nonprofit beachboy concessions is restricted to beachboys who are licensed pursuant to Chapter 82, Title 19, Hawaii Administrative Rules (department of transportation), and that such concessions are operated to provide equal opportunity for use by all licensed beachboys.
(4) Fees and Charges for Beachboy Concessions. The department of parks and recreation is authorized to set the fees charged by the beachboy concessions.

(5) Rules. The director of parks and recreation shall adopt rules pursuant to HRS Chapter 91 necessary for the purposes of this subsection.

(f) Nonprofit Zoo, Cultural Park and Botanical Garden Concessions. Concessions or concession space at county zoos, cultural parks or botanical gardens set aside for use by support groups which are incorporated as nonprofit corporations in accordance with state law, for the purpose of supporting county aims and goals of the zoo and botanical gardens and cultural parks; provided that each support group shall annually submit to the director of parks and recreation and the council an audited financial statement of the revenues and expenditures of that support group.

(g) Coin-Operated Vending Machines. Concession spaces which are leased or rented for coin-operated vending machines except coin-operated insurance vending machines.

(h) Public Pay Telephones. Concession spaces which are leased or rented for public pay telephones.

(i) Hans L'Orange Baseball Facility. Concessions or concession spaces at the Hans L'Orange baseball facility which are set aside without charge to the permittee of a professional sports activity; provided, however, that the period of use of such concessions or concession space shall be limited to the term of the permit. As used in this section, unless the context otherwise requires:

(1) " Permittee" means the promoter, sponsor, exhibitor, league or other person who obtains a permit for the purposes of conducting a professional sports activity at a professional sports facility for which admission fees are charged;

(2) "Professional sports activity" means a game, event, exhibition, or activity of a recognized sport for which admission fees are charged and the participants in which receive compensation in return for participation in the sport;

(3) "Hans L'Orange baseball facility" means the playing field, bleachers, stands and other areas of the facility enclosed by a fence.
Parking stalls for shared micromobility vehicles. Concessions or concession spaces, including parking stalls, set aside for shared micromobility vehicle businesses, as defined in Section 15- .1, ROH 1990, as amended, pursuant to permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one-year period, to deploy or park its fleet vehicles to be available to the public for short-term renting on a self-service basis; provided that these shared micromobility vehicle businesses are operators permitted pursuant to Chapter 15, Article_.”

SECTION 4. This ordinance shall not affect or impair any interest, right, benefit, obligation, or entitlement of any party to any contract, agreement, or permit with the city that exists or is in full force and effect, as of the effective date of this ordinance, for the provision of shared micromobility vehicles; provided, however, that upon the completion or termination of such contract, agreement, or permit with the city, any new contract, agreement, or permit with such party shall be governed by the new article of the Revised Ordinances of Honolulu enacted by this ordinance.

SECTION 5. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material bracketed and stricken material, or the underscoring.
SECTION 6. This ordinance shall take effect 120 days following its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

AUG 1 2019

Honolulu, Hawaii

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of ______________, 20 ___.

KIRK CALDWELL, Mayor
City and County of Honolulu