

Legislative #

180115

ORDINANCE NO. 180115

An ordinance of the City of Gainesville, Florida, amending Chapter 26 of the City Code of Ordinances to create Article VII Micromobility Services, to regulate micromobility services within the City of Gainesville, Florida; establishing permit requirements; establishing operational requirements; establishing revocation, appeals and suspension processes; amending Appendix A – Schedule of Fees, Rates and Charges to establish regulatory fees; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, micromobility devices are emerging transportation options that provide city residents and visitors with alternative shared transportation options;

WHEREAS, the measures set forth in this ordinance are intended to promote and regulate micromobility services throughout the city;

WHEREAS, it is in the best interest of the city to regulate micromobility services in order to promote the safety of residents, to promote traffic safety, to ensure the public right-of-way is being used in safe manner and to prevent obstruction of the right-of-way;

WHEREAS, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the public hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. The Code of Ordinances of Gainesville, Florida is hereby amended by adding a new Article VII to Chapter 26, which article reads as follows:

1 **Chapter 26 – TRAFFIC AND MOTOR VEHICLES**

2 **ARTICLE VII. –MICROMOBILITY SERVICES**

3 **Sec. 26-190. Definitions.**

4 As used in this article, the following terms shall have the following meanings:

5 *Bicycle rack* means a stationary fixture to which a bicycle can be securely attached to
6 prevent theft.

7 *City* means the City of Gainesville.

8 *City manager* means the city manager of the city, or designee.

9 *Corral* means the designated parking zones for a group of micromobility devices
10 typically installed within the right-of-way.

11 *Department* means the city department of mobility, or such other department or division
12 of the city which is assigned responsibilities for mobility planning and operations.

13 *Director* means the city’s mobility director, or designee, or such other officer the city has
14 assigned responsibilities for mobility planning and operations.

15 *Geofencing* means the use of technology to create a virtual geographic boundary,
16 enabling software to trigger a response when a micromobility device enters or leaves a
17 particular area.

18 *Micromobility device* means any motorized transportation device which weighs less than
19 100 pounds, including motorized scooters and motorized bicycles as defined in the
20 Florida Statutes, that is made available for public use by a micromobility service.

21 *Micromobility service* means a publicly offered transportation service that enables a
22 person to obtain short-term access, by reservation through an online application, website,
23 or software, for point-to-point trips on a micromobility device.

1 Rebalancing means the process by which micromobility devices are redistributed to
2 ensure availability throughout a service area and to prevent excessive buildup of devices
3 at locations throughout the city.

4 Right-of-way means the surface and space above an improved or unimproved public
5 roadway, highway, boulevard, road, freeway, bridge, alley, court, street, bicycle lane,
6 and public sidewalk in which the city or other public entity has an interest in law or
7 equity whether held in fee, easement, dedication, plat or other estate or interest
8 including any other dedicated right-of-way for travel purposes.

9 Service area means the geographical area within which a micromobility service is
10 allowed to operate as defined in the permit issued by the city.

11 University means the University of Florida.

12 User means the individual who uses a micromobility device provided by a
13 micromobility service.

14 **Sec. 26-191. Micromobility service permit.**

15 (a) It is unlawful for a micromobility service to operate within the city without first
16 having obtained a permit issued by the city under this article.

17 (b) No more than 3 micromobility services will be permitted to operate within the city
18 at any time.

19 (c) Upon issuance of a permit, the micromobility service is granted the privilege of
20 operating within the service area. Each permit will be valid for 1 year. Permits are
21 not transferable or assignable. Preference will be given to renewal of current permit
22 holders who have had no violations under their permit; however, the city is not
23 required to renew a permit of a current permit holder.

1 (d) The micromobility service must obtain separate approval from the university in
2 order to operate its micromobility service on the university campus.

3 (e) A micromobility service is not eligible to apply for a permit if it currently has a
4 suspended permit, the city has revoked its permit within 2 years of the date of
5 application, and or it has any outstanding and unsatisfied civil penalties imposed for
6 violations of this article.

7 **Sec. 26-192. Enforcement of permit requirement.**

8 It is unlawful to operate a micromobility service without a permit. Operating
9 without a permit shall be punishable as provided in Chapter 1, Section 1-9.

10 **Sec. 26-193. Permit application requirements.**

11 The micromobility service must apply for a permit by submitting an application to
12 the department on the form required by the department. A complete application consists
13 of the following:

14 (a) The number of micromobility devices the applicant will deploy. The initial fleet
15 must be a minimum of 100 and no more than 200 micromobility devices.

16 (b) Proof that the applicant has operated in 3 municipalities that are comparable in size
17 or larger than the city, with at least one of those being a municipality in Florida with
18 a population of 100,000 or more, wherein the applicant operated under regulations
19 promulgated by the municipalities, permits issued by the municipalities, or by
20 agreement with the municipalities.

21 (c) Proof that each micromobility device in the applicant's fleet has customer service
22 information displayed on the device, unique identifiers, the ability to be tracked

1 remotely, and a kickstand capable of keeping the micromobility device upright
2 when not in use.

3 (d) An operations plan, which includes, but is not limited to, maintenance of fleet and
4 staffing.

5 (e) Proof that an education plan is provided to each user, including user safety,
6 instructions for operation of the micromobility device, parking rules, and Florida
7 law.

8 (f) An equity plan that will ensure equitable deployment of micromobility devices in
9 accordance with sec. 26-198, allows users without capable mobile devices to use the
10 micromobility devices, and has payment/access options for unbanked users.

11 (g) An affirmation that the applicant will provide data reports and real-time location of
12 the micromobility devices to the city in the type and form required by the city.

13 (h) A plan to relocate the micromobility devices to a private facility within 24 hours
14 after notification by the city in the event of an emergency or declared severe
15 weather event. The plan must detail the amount of time it will take to remove all
16 micromobility devices from circulation when an emergency or severe weather
17 watch or warning has been established.

18 (i) An affirmation that the applicant will provide proof of the insurance and bond
19 required by this article prior to issuance of a permit by the city.

20 (j) An affirmation that the micromobility service will charge a per ride regulatory fee
21 as set forth in Appendix A (in addition to the micromobility service's rental rates),
22 which the micromobility service shall remit to the city monthly on the 10th day of
23 each month.

1 (k) Proof that a legal entity applicant is registered and active under the laws of Florida to
2 do business under the name for which it has applied for a permit.

3 (l) The name, mailing, physical and email addresses, and telephone number of the
4 natural person located within Alachua County that the applicant has authorized to be
5 its agent for purposes of this article.

6 (m) An affirmation that no fraud or willful or knowing misrepresentation or false
7 statement or information is provided in the application.

8 (n) An affirmation that the applicant will comply with this article and with applicable
9 federal and state law.

10 **Sec. 26-194. Procedures for grant or denial of permit.**

11 (a) Applicants must submit an application for a permit to the department via email. The
12 date and time of the submittal shall be recorded as the date and time the department
13 receives the email containing the application.

14 (b) Within 10 business days from the date of receipt, the director shall review complete
15 applications in the order of receipt. The city shall conditionally grant a permit if the
16 applicant has submitted a complete application that satisfies each of the criteria in
17 the application form. Upon the conditional grant of 3 permits, the remainder of
18 complete applications will be placed on hold. The director shall notify applicants
19 whose applications have been placed on hold in writing that the director will not
20 review the applications until the 3 conditionally granted permits have been
21 processed by the university and the city.

1 (c) The conditional grant of a permit by the city is subject to the university's approval
2 of the applicant. The conditionally approved applicant must submit an application
3 to the university to operate its micromobility service on campus.

4 (d) If the university approves the application, the city shall issue the city permit upon
5 the applicant's payment of required fees and proof of insurance and bonds. If the
6 university disapproves the application, the city shall deny the permit.

7 (e) If city denies the permit application, the reason for such denial shall be provided in
8 writing and shall advise that the applicant may correct deficiencies in the
9 application within 7 calendar days of the notice of denial without incurring an
10 additional application fee.

11 (f) If a permit is finally denied, the director will proceed to review the next on hold
12 application in the order received.

13 **Sec. 26-195. Indemnification and insurance.**

14 (a) As a condition of the permit, the micromobility service shall indemnify, hold
15 harmless and defend the city, its representatives, employees, and elected and
16 appointed officials, from and against all liability, claims, damages, suits, losses,
17 and expenses of any kind, including reasonable attorney's fees and costs for
18 appeal, associated with or arising out of the permit, the use of right-of-way or city
19 owned property for operations, or arising from any negligent act, omission or error
20 of the micromobility service, owner, managing agent, its agents or employees, or
21 from the failure of the micromobility service, its agents or employees, to comply
22 with the requirements of this article or with any other federal or state traffic law.

1 **(b)** The micromobility service shall provide and maintain public liability and property
2 damage insurance to protect the city, its representatives, employees, and elected
3 and appointed officials, from all claims and damage to property or bodily injury,
4 including death, which may arise from its operation. Such insurance must be
5 provided from an insurance company that is an admitted carrier in the state of
6 Florida with an A.M. Best rating of not less than "A" and a financial strength rating
7 of not less than "VII," acceptable to the city's risk management division, and must
8 provide coverage of not less than two million dollars (\$2,000,000.00) for bodily
9 injury, and property damage respectively per occurrence. Such insurance must
10 name as additional insured the city, its officers and employees, and shall further
11 provide that the policy must not terminate or be canceled prior to the expiration of
12 the permit without 30 days' written notice prior to the termination to the
13 department at the address shown in the permit.

14 **(c)** The micromobility service shall provide and maintain a performance bond in the
15 amount of \$80.00 per micromobility device and \$10,000.00 for the fleet. After
16 notification to the micromobility service, the city may call the bond in order to
17 cover the city's losses, which consist of employee labor and actual costs, associated
18 with the city's need to remove, store, and/or dispose of the micromobility devices as
19 a result of the micromobility service's failure to comply with this article or in the
20 event the micromobility service abandons the micromobility devices.

21 **Sec. 26-196. Operation.**

1 (iii) Inhibits the ingress and egress of vehicles parked on or off street;

2 (iv) Creates conditions which are a threat to public safety and security; or

3 (v) Impedes access to existing bicycle racks. The micromobility service may not
4 rely solely on publicly-placed bicycle racks to secure micromobility devices
5 that are capable of being locked directly to a bicycle rack.

6 (c) Micromobility devices must not be parked within the following areas: loading
7 zone, handicap accessible parking zone or other facilities specifically designated
8 for handicap accessibility, on-street vehicular parking spots, landscape areas, curb
9 ramps, business or residential entryways, driveways, travel lanes, bicycle lanes,
10 parklets, or any geofenced area where the director has prohibited the parking of
11 micromobility devices.

12 (d) The director, based upon public safety, pedestrian use, user behavior, vehicular
13 traffic, and data, may establish geofenced areas where micromobility devices shall
14 not be parked but may still allow access of devices through the area. The
15 geofenced areas will be identified on a map maintained by the department. The
16 micromobility service must have the technology available to implement these
17 requirements upon notice. The micromobility service must comply with any and all
18 geofencing requirements within 5 business days of a written request. The
19 micromobility service will bear the cost of implementing geofencing.

20 (e) The director, based upon public safety, parking supply/demand, user behavior, trip
21 origin and destination data, distance to a mobility hub, availability of right-of-way,
22 requests from the public/stakeholders, may establish corrals in certain areas where

1 micromobility devices must be parked, and the corrals will be identified on a map
2 maintained by the department. The city will bear the cost of implementing corrals.

3 **Sec. 26-198. Removal and rebalancing.**

4 (a) The micromobility service shall place a minimum of 10% of its approved fleet in
5 Zone A, which will be described in a map on file in the department and which map
6 may be revised from time to time by the director. The micromobility service must
7 rebalance micromobility devices daily to meet this requirement. The requirement
8 may be increased at the director's discretion based on utilization rates.

9 (b) If a micromobility device is parked in an area where parking or operation is
10 prohibited, or a micromobility device is inoperable/damaged or does not comply
11 with this article, the director will notify the micromobility service to remotely
12 disable and then relocate or remove the device. An inoperable or damaged
13 micromobility device is one that has non-functioning features, such as gear
14 selectors, pedals, bell, or lights, or is missing components, such as fenders, grips, or
15 chain guards, as applicable to that device. The micromobility service will have 2
16 hours to comply with the request if the request is received between the hours of
17 6:00 A.M. and 10:00 P.M., 7 days per week, and 12 hours to comply on city
18 holidays. If the micromobility service does not comply, the city may remove,
19 relocate, or store the micromobility device.

20 (c) The micromobility service shall relocate the micromobility devices to a private
21 facility within 24 hours after notification by the municipality in the event of an
22 emergency or declared severe weather event. If the micromobility service fails to

1 timely remove the micromobility devices, the city may remove and store the
2 micromobility devices.

3 (d) The city shall charge a fee set forth in Appendix A of this code when the city
4 removes, relocates, or stores micromobility devices pursuant to this section.

5 **Sec. 26-199. Violations: revocation of permit; appeal.**

6 Except as provided in sec. 26-192 (operating without a permit) and sec. 26-200
7 (failure to maintain university approval), if the micromobility service violates any other
8 section of this article, the director shall provide written notice of the violation to the agent
9 of the micromobility service designated in the permit. The micromobility service shall
10 remedy the violation and come into compliance within the time stated in the notice.
11 Failure to timely remedy the violation may result in the director reducing the fleet size or
12 revoking the permit.

13 (a) The director may revoke the permit or reduce fleet size of a micromobility service
14 on any of the following grounds:

15 (i) The permit application contained a fraudulent, willful, or knowing
16 misrepresentation or false information or statement;

17 (ii) The micromobility service failed to comply with the requirements of and
18 maintain qualifications required by the permit application, except for university
19 approval;

20 (iii) Submission of inaccurate data;

21 (iv) Failure to pay fees as specified in Appendix A of this code; or

22 (v) The micromobility service violated any other provision of this article.

1 **(b) If the director finds cause (as defined in paragraph (a) above) to reduce the fleet or**
2 **revoke the permit, written notice of that decision must be sent via certified mail to**
3 **the agent of the micromobility service designated in the permit, informing the**
4 **micromobility service of the decision and the reasons therefore, at least 15**
5 **calendar days prior to the effective date of the fleet reduction or permit**
6 **revocation. The written notice shall advise the micromobility service that it may**
7 **contest the fleet reduction or revocation by requesting a hearing as provided below.**

8 **(c) The micromobility service may file a written request for a hearing before the city**
9 **manager prior to the effective date of the fleet reduction or revocation. Failure to**
10 **timely request a hearing will constitute a waiver by the micromobility service of**
11 **any right to a hearing. Upon request for a hearing, the fleet reduction or**
12 **revocation will be stayed until the city manager has issued a final administrative**
13 **decision.**

14 **(d) At the hearing, the micromobility service will have the opportunity to present**
15 **evidence (consisting of verbal testimony and/or written documentation) the**
16 **micromobility service believes negates or mitigates the basis for the fleet reduction**
17 **or revocation.**

18 **(e) In conducting the hearing, the city manager has the power to take testimony under**
19 **oath, require the production of books, paper, and other documents, and receive**
20 **evidence. Should a party refuse to provide documents as directed by the city**
21 **manager, then there may be an adverse inference against the party who failed to**
22 **produce said documents. All parties have an opportunity to respond, to present**
23 **evidence and argument on all issues involved, to conduct cross-examination and**

1 submit rebuttal evidence, and to be represented by counsel. Hearsay evidence may
2 be used for the purpose of supplementing or explaining other evidence, but it is not
3 be sufficient in itself to support a finding unless it would be admissible over
4 objection in civil actions. Any party desiring the hearing be recorded, is
5 responsible for arranging and paying the cost of a court reporter's attendance and
6 services.

7 (f) If the city manager finds that the director's decision meets the requirements for
8 fleet reduction or permit revocation as set forth in sec. 26-199(a), then the city
9 manager will direct that either (1) the micromobility service's fleet be reduced and
10 issue an amended permit, or (2) the micromobility service's permit be revoked and
11 set the revocation date to begin on the date the written final administrative order is
12 issued, subject to a petition for writ of certiorari being filed pursuant to paragraph
13 (i) below.

14 (g) If the city manager finds that the director's decision does not meet the
15 requirements for fleet reduction or permit revocation as set forth in sec. 26-199(a),
16 then the city manager will order the micromobility service's permit to continue in
17 effect.

18 (h) The city manager will issue a written final administrative order to the
19 micromobility service. The decision of the city manager is the final administrative
20 action.

21 (i) The final administrative order of the city is subject to certiorari review in a court of
22 competent jurisdiction in Alachua County, Florida by the timely filing of a

1 petition. Upon the filing of a petition in the circuit court, the revocation of the
 2 permit or fleet reduction will be stayed pending final disposition of the civil case.

3 **Sec. 26-200. Suspension for failure to maintain university approval.**

4 If the micromobility service loses approval from the university to operate on its
 5 campus, the director shall suspend the permit. Written notice of the suspension must be
 6 sent via certified mail to the agent of the micromobility service designated in the permit,
 7 informing the micromobility service of the suspension and the reason therefore. During
 8 the period of suspension, the micromobility service may not operate within the city. If
 9 the micromobility service is able to regain approval from the university to operate on
 10 campus prior to expiration of the current permit year, the city shall revoke the suspension
 11 upon receipt of proof of university approval to operate on campus, and the micromobility
 12 service may resume operations.

13 **Section 2.** Appendix A – Schedule of Fees, Rates and Charges is amended as set forth
 14 below. Except as amended herein, the remainder of Appendix A remains in full force and effect.

15 TRAFFIC AND MOTOR VEHICLES

16 (7) Micromobility Devices. (Art. VII, Ch. 26)

<u>Fee Schedule</u>	
<u>Initial Permit Fee - Up to 200 devices</u>	<u>\$8,000</u>
<u>Annual Permit Renewal Fee - Up to 200 devices</u>	<u>\$8,000</u>
<u>Annual Permit Renewal Fee - Up to 400 devices</u>	<u>\$16,000</u>
<u>Fleet Increment Fee (Per 50 Devices)</u>	<u>\$2,000</u>
<u>Fleet Increment Fee (Per 100 Devices)</u>	<u>\$4,000</u>
<u>Fee per Ride</u>	<u>\$0.15/ride</u>
<u>Micromobility Device Removal/Relocation Fee (Per Device)</u>	<u>\$75</u>

<u>Micromobility Device Storage Fee (Per Device/Per Day)</u>	<u>\$50</u>
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Section 3. It is the intention of the City Commission that the provisions of Section 1 and Section 2 of this ordinance will become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 4. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding will not affect the other provisions or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 5. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 6. This ordinance will become effective immediately upon final adoption. However, the city will not begin accepting applications until January 19, 2021 at 12:00 p.m., eastern standard time.

PASSED AND ADOPTED this ____ day of _____, 2020.

LAUREN POE, MAYOR
Approved as to form and legality:

Attest:

OMICHELE D. GAINEY,
CLERK OF COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2020.

DRAFT

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This ordinance passed on second reading this _____ day of _____, 2020.