



Council Agenda Report

To: Mayor Wagner and the Honorable Members of the City Council

Prepared by: Susan Duenas, Public Safety Manager

Approved by: Reva Feldman, City Manager

Date prepared: August 5, 2019 Meeting date: August 26, 2019

Subject: Shared On-Demand Personal Mobility Devices (Electric Scooters) Ordinance (Continued from July 8, 2019)

RECOMMENDED ACTION: 1) After the City Attorney reads the title, introduce on first reading Ordinance No. 448 adding Chapter 9.33 (Shared On-Demand Personal Mobility Devices) to Title 9 of the Malibu Municipal Code prohibiting electric ride share scooters from being placed or operated in the public right-of-way and finding the same exempt from the provisions of the California Environmental Quality Act; and 2) Direct staff to schedule second reading and adoption of Ordinance No. 448 for the September 9, 2019 Regular City Council Meeting.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: This item was on the agenda for July 8, 2019 City Council Regular meeting and was continued on approval of the agenda.

In 2018, electric ride-share scooter companies began operating in Santa Monica and neighborhoods adjacent to Malibu. In July 2018, one of these companies placed a fleet of their scooters at Topanga Canyon Boulevard and Pacific Coast Highway (PCH) and these scooters very quickly made their way into the City. On August 27, 2018, City Council directed staff to return with a proposed policy on electric ride-share scooters on City-owned streets.

State law prohibits the operation of an electric scooter on a highway with a speed limit of more than 25 miles per hour unless the scooter is operated within a Class II bike lane. A Class II bike lane provides a solid striped lane specifically for one-way bike travel on a street or highway. Most of Malibu has Class III bike lanes, which provide a shared space for bicycles and vehicles. A Class III bike lane does not provide as much separation between bicycles and vehicles as a Class II bike lane does. As such, electric scooters

are illegal along PCH in Malibu.

State law also includes the following stipulations:

- riders must have a driver's license or learners permit,
- riders must wear a bicycle helmet,
- riders cannot have passengers,
- riders must not ride on any sidewalk except to leave or enter adjacent property, and
- riders cannot leave the scooter on a path or sidewalk.

Other cities have recently banned these scooters or established strict regulations regarding their deployment. West Hollywood and Beverly Hills have both banned electric ride-share scooters. Santa Monica has established temporary regulations while they develop long-term regulations and has stepped up enforcement of existing laws that apply to the scooters such as the requirement to wear a helmet.

Staff is recommending a ban on electric ride share scooters with an administrative penalty to be applied to the company that owns the scooter. If found within City limits, the scooter company will be notified and will have four hours to remove the scooter from the City. If the scooter is not removed in four hours, a \$500 fine will be sent to the scooter company. In the event the scooter company receives three citations for violating this ordinance in any 90-day period, the fine for each subsequent violation after the third violation shall be \$1,000.

ATTACHMENTS: Ordinance No. 448

ORDINANCE NO. 448

AN ORDINANCE OF THE CITY OF MALIBU, CALIFORNIA ADDING CHAPTER 9.33 (SHARED ON-DEMAND PERSONAL MOBILITY DEVICES) TO TITLE 9 OF THE MALIBU MUNICIPAL CODE PROHIBITING ELECTRIC RIDE SHARE SCOOTERS FROM BEING PLACED OR OPERATED IN THE PUBLIC RIGHT-OF-WAY AND FINDING THE SAME EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Chapter 9.33 of the Malibu Municipal Code is hereby added to Title 9 of the Malibu Municipal Code to read as follows:

Chapter 9.33

Shared On-Demand Personal Mobility Devices

- 9.33.010** **Definitions.**
- 9.33.020** **General Requirements.**
- 9.33.030** **Violations.**

9.33.010 Definitions.

For the purposes of this chapter, the following words shall be defined as follows:

“Shared On-Demand Personal Mobility Devices” shall mean any wheeled device that has handlebars and is designed to be either powered by an electric motor or other power source, or to be powered by human propulsion that are provided to the public by an Owner in unstaffed locations.

“Owner” shall mean an individual or a public, private, or non-profit entity that manages, owns or offers to the public any wheeled device that has handlebars, and is designed to be either powered by an electric motor or other power source, or to be powered by human propulsion.

9.33.020 General Requirements.

- A. It is unlawful to provide, place, or offer for use a Shared On-Demand Personal Mobility Device on any street or public right-of-way, other public place within the City in which the public has the right of travel, or private property without authorization.
- B. The City Manager may promulgate regulations for the notification to the Owner and return of Shared On-Demand Personal Mobility Devices to the Owner and as may otherwise be deemed necessary to implement the purpose of this Chapter.

9.33.030 **Violations.**

A violation of this Chapter is subject to the administrative penalty provisions of Chapter 1.10 of this Code. Where the violation is of a continuing nature, each day or portion thereof wherein the violation continues constitutes a separate and distinct violation.

In addition:

- A. The Owner shall be responsible for violations of this chapter.
- B. Grace Period: The Owner of a Shared On-Demand Personal Mobility Device shall have four (4) hours after the City has provided notice to the Owner to remove the Shared On-Demand Personal Mobility Device from the City before a citation is issued.
- C. The initial administrative citation fine for violating this chapter shall be five hundred dollars (\$500.00). In the event an Owner receives three (3) citations for violation of this Chapter in any ninety (90) day period, the fine for each subsequent administrative violation after the third violation shall be one thousand dollars (\$1,000.00) for each violation occurring within twelve (12) months of the third citation.

SECTION 2. Section 1.10.040 of Title 1 of the Malibu Municipal Code is amended to read as follows:

A. In addition to any criminal, civil or other legal remedy established by this code or other law that may be pursued to address violations of the municipal code, the violations described in the municipal code titles, chapters and sections listed below are subject to the administrative penalty procedures and other provisions of this chapter:

- 1. Chapter 5.04: Business Licenses Generally;
- 2. Chapter 5.20: Motion Pictures, Television and Photographic Productions;
- 3. Chapter 5.46: Prohibition of Price Gouging;
- 4. Chapter 8.04: Health Code Adopted;
- 5. Chapter 8.24: Noise;
- 6. Chapter 8.32: Solid Waste and Recyclable Materials;
- 7. Chapter 9.08: Offenses Against Property;
- 8. Chapter 9.20: Water Conservation;
- 9. Chapter 9.24: Ban on Expanded Polystyrene Food Packaging;
- 10. Chapter 9.28: Ban on Plastic Shopping Bags;
- 11. Chapter 9.33: Shared On-Demand Personal Mobility Devices;
- 12. Chapter 9.38: Valet Attendant Safety Requirements;
- 13. Chapter 10.18: Oversize Vehicles;
- 14. Chapter 13.04: Storm Water Management and Discharge Control;
- 15. Chapter 13.60: Recycled Water Requirements

16. Chapter 15.04: Building Code Adopted;
17. Chapter 15.08: Electrical Code Adopted;
18. Chapter 15.12: Plumbing Code Adopted;
19. Chapter 15.16: Mechanical Code Adopted;
20. Title 17: Zoning.

B. Any person who violates or fails to comply with the provisions of this code set forth in subsection A of this section and who possesses no photo identification or refuses to identify him or herself to an enforcement officer, making it impossible to issue an administrative citation, shall be guilty of a misdemeanor.

SECTION 3. Environmental Review.

This ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines and because it has no potential for resulting in physical change to the environment, directly or indirectly as it pertains solely to requiring the removal of shared on-demand personal mobility devices which could potentially damage the environment, create nuisance issues, or obstruct access in the city.

SECTION 4. Severability.

This ordinance is adopted under the authority of City Council of the City of Malibu and State law. If any section, subsection, clause or phrase is declared invalid or otherwise void by a court of competent jurisdiction, it shall not affect any remaining provision hereof. In this regard City Council finds and declares that it would have adopted this measure notwithstanding any partial invalidity hereof.

SECTION 5. Certification.

The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California Law.

SECTION 6. Effective Date.

This ordinance shall take effect on the 31st day following adoption by the City Council.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2019.

JEFFERSON WAGNER, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:
THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney