

November 9, 2018

Andre Dickens, Transportation Committee Chair
Dustin Hillis, Public Safety Committee Chair
55 Trinity Avenue SW
Suite 2900
Atlanta, GA 30303

RE: Comments - Shareable Dockless Mobility Devices legislation (18-O-1322)

Dear Chairmen Dickens and Hillis:

Shareable bikes and scooters offer City residents, workers and visitors a much-needed transportation option for first and last mile trips. In our judgment, the City of Atlanta should intervene through legislation with the goal of making these mobility options work better and to ensure that the system is managed for the safety of both riders and the public.

Midtown is a center of activity for these new forms of transportation, and we see first-hand what is working and what is not working with the current offerings.

As the City considers how best to regulate these new devices, Midtown Alliance offers the following comments. Our letter is divided into: 1) overall comments and observations, and 2) specific recommendations on the latest version of the proposed legislation.

1. Overall comments and observations:

- a) **The safe passage for all on the City's public rights-of-way should be the top priority.** The City has an important responsibility to ensure that private mobility companies operate in a managed and orderly fashion that ensures safe passage for all on public rights-of-way. The City built and maintains the infrastructure where these vehicles operate, and the City should not hesitate to assert its ownership and control of how these companies and their riders use the City's infrastructure.

- b) **The City should expedite and expand its development of "multi-modal" lanes to provide more safe places for the operation of these new forms of transportation.** It is not surprising that a primary challenge with these new mobility vehicles is conflicts on sidewalks between riders and pedestrians. The sidewalk feels much safer compared with riding in the street where cars exceed posted speed limits, and bike lanes are scarce and often ignored by cars.

The City of Atlanta is behind the curve in terms of building a connected network of multi-modal lanes. Now is the time for the City to double-down, with the design of

multi-modal lanes considering the needs of bikes as well as coexisting with scooters, e-bikes and other mobility devices. Mobility companies should be invited to the table to participate financially to help the City advance the construction of these multi-modal lanes.

- c) **The City should put more of an onus on the private mobility companies to innovate to ensure the safe and proper operation of their vehicles on the City's right-of-way, and to require regular reporting on these efforts to the City.** In our judgment, safe operation and enforcement is best approached as a partnership with mobility companies where they have the responsibility to promptly identify and address problems. A model that primarily relies on the City to enforce rules, document violations and impound vehicles seems less effective and workable.

By way of example, **the current draft ordinance reinforces the “no riding on the sidewalks” requirement.** Given the speed differential of a scooter operating at 15MPH and a pedestrian walking, this is a critically important safety measure, especially in dense pedestrian areas.

It is not legal to ride on the sidewalk today, but people do it routinely and there is no enforcement. We see numerous close calls every day on crowded Midtown sidewalks with pedestrians being buzzed by people on both scooters and bicycles.

With thousands of devices and riders in the City at any point in time, it is unlikely that the City will ever have the resources to enforce this “no sidewalks” rule to any reasonable degree. The scope and the scale of this challenge also goes well-beyond what is likely to be achieved from public education efforts.

In the near-term, this “sidewalk” problem needs a technology solution, and the mobility companies are the only ones who are positioned to bring one forward. These mobility companies are well-funded.¹ These companies should be expected to use the technology at their control to mitigate well-recognized safety challenges that are caused by the operation of their vehicles, and to keep the City informed on these efforts and progress.

For example, current technology enables e-scooter companies to automatically control both the speed and ability to operate their vehicles based on location. E-scooter companies can geo-fence certain areas as off-limits to their scooters, where riders either won't have the ability to operate their scooters, or the scooters can only operate at something closer to walking speed.

¹ The valuations of Bird and Lime alone now exceeds \$3B, after approximately 2-years of operation.

Currently, GPS and geo-fencing technologies can only determine locations to a 5-10 ft level degree of accuracy, so they are unable to differentiate sidewalks from adjacent streets. However, as GPS accuracy increases, the ability to determine their scooter is being operated at 15MPH on a sidewalk vs an adjacent street should become practical.

Bird is reportedly perfecting a sensor for its e-scooters that will pick up the one thing that is common to riding on most concrete sidewalks in the City: the regular “be-dump, be-dump” of riding over sidewalk expansion joints. When this condition is detected, the vehicle can either automatically turn off and freewheel, or can slow to a max speed that is closer to walking speed. Once the scooter is off the sidewalk, operation automatically returns to normal. Bird reports that it hopes to perfect this technology by the end of 2018²

The City should require the pursuit of this kind of innovation for any mobility company licensed to operate in the City’s right-of-way, with monthly or at least quarterly reporting on their progress. The sidewalk problem is just one example. Technology innovations can also apply to proper parking and storage, unsafe riders, etc.

2. Specific observations and recommendations on the proposed legislation.

a) **Future Administrative Regulations:** The draft ordinance states that Administrative regulations will be drafted later to deal with issues including **fleet size minimums and maximums, identifying parking areas and no-parking areas, and equity**, etc. These are important issues and as future Administrative Regulations are drafted, we offer the following comments:

- i. We think **the City should reserve the right to limit the number of companies operating, cap the number of permits or licenses issued, and issue exclusive contracts, permits, or licenses under certain circumstances** (based on past performance, ability to achieve future performance targets, etc).

We would caution against arbitrary limitations or caps on the number of vehicles, as a certain scale of operation is required for companies to effectively manage and staff, and the City should avoid artificially stifling the growing market for these mobility options.

² 10/26/18 conversation with Bird Director of Government Affairs, Carl Hanson

- ii. **In terms of parking and no-parking areas, more structure in the ordinance is needed now in high-traffic sidewalk areas and central business districts.** Under the current language, these vehicles can essentially be parked anywhere on any sidewalk so long as 5 feet is left clear for pedestrians. Even if this requirement were consistently complied with and enforced, we don't see this rule working well in high-traffic pedestrian areas.

It is somewhat confusing that a rider can only park the vehicle on the sidewalk, but can't ride the vehicle on the sidewalk. For now and at a minimum, vehicles should be required to be parked in the furniture zone between the sidewalk and the curb in central business districts, and to be parked to obstruct the least amount of sidewalk space. Ultimately, we would suggest exploring dedicated corrals that include the use of a repurposed on-street parking spot. We would be glad to partner on a pilot to accomplish this.

- iii. **Equity:** In addition to the options laid out in the draft legislation, mobility companies could be encouraged to at least explore discount programs or pricing options that address the needs of low-income residents. Bird and Lime currently offer these discounts. The companies should provide regular reporting to the City on how these efforts are working, and how these companies measure their progress in ensuring that these mobility options can be accessed by a broad cross section of citizens across our City.

- b) **The City should reserve the right to establish operating zones.** Other than sidewalks, the current ordinance does not identify any area in the City where these vehicles cannot be operated at all times, nor does the ordinance expressly reserve this option for the City in the future.

However, it seems reasonable that the City could wish to restrict operation of these mobility vehicles in certain areas at certain times (large public events, the Super Bowl, etc). To this end, companies could be required to geo-fence these zones so their vehicles can't be operated in them. It seems prudent for the City to reserve this as an option now, rather than undertaking a separate legislative process to amend the ordinance later.

- c) **Removal of unsafe or improperly parked vehicles.** Our Midtown Blue (public safety) and Midtown Green (public ROW maintenance) teams spend a lot of time picking-up scooters laying on the sidewalk and moving scooters that are blocking the sidewalk. These devices pose both a safety and tripping hazard and add

significantly to sidewalk clutter – which also reflects negatively on the scooter companies. The City may also see even more dockless mobility companies enter the market.

The current draft ordinance states that “Operators will remove improperly parked Shareable Dockless Mobility Devices in accordance with ‘local laws’ and without prior notice from the City.” Today these local laws aren’t being enforced. Does the City contemplate any change to the current local law? Other cities have established a time limit for vehicles to be removed after notification. (In Chicago and Sacramento, the mobility company is required to remove within 2 hours of notification, 24/7). Perhaps this is something that could be considered by the City of Atlanta to further incentivize proper parking of vehicles.

d) Strengthen public communications and company contact requirements:

- i. **Companies should be required to establish a customer service phone number to be answered 24/7. This information should be supplied on a sticker affixed to all of their vehicles.** (The current draft ordinance only requires a name, address and contact information of the general manager in the permit application.)
- ii. **Beyond this public customer service contact, the City should consider requiring companies applying for a permit to provide 24/7 contact information of a locally-based manager with decision-making power who can respond to emergencies and other City requests.**
- iii. **Companies should create and maintain a City-specific website and/or social media platform that explains safety and operation requirements, rules of the road, terms of service, how to notify the company of issues, etc.**
- iv. **The quality and effectiveness of public education/safety efforts is important.** The draft ordinance simply provides that, “all Operators will educate users regarding laws applicable to riding and operating in the City.” This ‘check-the-box’ language should be strengthened, with operators required to:
 - keep the City informed as to their public safety education efforts, priorities and methods;
 - demonstrate how they measure the effectiveness of these efforts; and
 - demonstrate how they are adapting their education strategies to improve effectiveness based upon this information.

- e) **Holding riders accountable for unsafe actions.** In our experience, there is a percentage of bike and scooter riders who operate these vehicles on sidewalks in a very unsafe manner. While these riders don't have a monopoly on obnoxious behavior, it's a problem and one the companies themselves are uniquely positioned to help address with respect to their customers.
- i. **Companies should be required to affix a unique identification to each device so that it is visible coming and going at a distance of at least 10 feet,** and to provide and publicize the phone number where unsafe practices can be reported by citizens.
 - ii. **Based in part on this reporting, companies should be required to use reasonable efforts to curtail and/or eliminate the customer privileges of frequent violators,** and to report to the City their efforts and success in doing so.
- f) **Minimum age of operators and enforcement.** Given the speeds that devices can operate and the risks to riders and non-riders, it seems prudent to set a minimum age of 18 for riders. A valid drivers license or government issued ID should be required and operators should take reasonable efforts to enforce this age requirement. The current draft ordinance is silent on minimum age of users.
- g) **Vehicle safety standards should be identified.** The draft ordinance states that, "devices meet safety standards as set forth in this article." No safety standards are identified. Sec 150-403 (b) also states that these devices, "must adhere to minimum safety standards as established by law." It would help for the City to clarify the minimum safety standards that apply and exist today. For example, while the companies would seem to have every incentive to ensure safe vehicles and compliance with existing law, we see Bird scooters operating after dark – and these scooters have no taillight.
- h) **The City's permit fees should be sufficient to cover the City's cost of regulating, overseeing, and managing these dockless mobility vehicle fleets.** The draft ordinance states that, "the City anticipates that the *annual cost to the City of the regulatory activity required by this Ordinance exceeds the amount to be collected by any fees.*"

In addition to administration, oversight and permit review, City staff will need to access and analyze data, respond to public complaints, remove unsafe vehicles (subject to impound fee), as well as undertake planning and engagement, assessment, enforcing compliance, etc.

In the interests of a successful and effective implementation, we would encourage the City to set initial permit fees at a level sufficient to cover the City's anticipated activities, then adjust from there as direct costs become clear.

We remain keenly interested in these issues and stand ready to assist. The City of Atlanta and other cities will likely see the offerings of mobility vehicles continue to expand and diversify, especially as battery technology continues to advance and costs drop. We likely haven't hit "peak scooter" yet.

It is important to set the right expectations with mobility companies now, as the City also ensures that an effective regulatory regime is in place that can adapt with changing conditions. This will better position the City of Atlanta for the mobility revolution that is here today, and with much more to come. Thanks for the opportunity to comment.

Sincerely,



Kevin Green
President

cc:

Council members of the Transportation and Public Safety Committees
Councilmember Amir Farokhi, Council District 2
Councilmember Jennifer Ide, Council District 6
Tim Keane, Commissioner of Planning
James Jackson, Interim Commissioner of Public Works
Janide Sidifall, Office of Mobility Planning