

**Office of the Assistant Chief Operating Officer**

March 6, 2018

Mobike, Inc.  
80 M Street, #801  
Washington, DC 200003-3544

Re: Doing Business within the City of San Diego Limits

Welcome to San Diego!

The purpose of this letter is to provide a non-exhaustive summary of City of San Diego (City) municipal code provisions and state statutes that your business must adhere to when doing business within City limits. (Please see attachment.) Although City staff members may have discussed applicable laws with your firm prior to launching your business, we understand that a number of violations have occurred. This letter is not intended to provide legal advice, but instead to provide you with general information regarding potential violations associated with the use of your products. We provide this information for your reference and convenience, but encourage you to consult with your own attorney for a comprehensive list of all laws that may govern your business.

We have received numerous complaints of certain types of violations. For example, we have received a particularly high number of complaints regarding bicycles/scooters (bicycles) being placed in the right of way by the users. This is a reminder that it is illegal to block the public right of way, including the sidewalk. Not only is this a violation of the City's Municipal Code, but the right of way must remain free of impediments to comply the federal Americans with Disabilities Act. The City may impound bicycles found to be in violation of these laws, as appropriate.

In addition, we have received complaints regarding the large number of bicycles in City parks. Per SDMC 63.0102(b), operating a business within a City park is illegal unless it has been authorized by the City Manager. If your users choose to travel through City parks, please inform your clientele to park the bicycles within the park's bicycle racks and not obstruct the right of way. If you have not already done so, please provide Mr. Herman Parker, City's Parks and Recreation Department Director a contact, including e-mail address and phone number, to request bicycles be picked up if they are encroaching within the parks' sidewalks and park roads. Mr. Parker can be reached at [hparker@sandiego.gov](mailto:hparker@sandiego.gov).

It was reported to us that some company's bicycles may have been placed within the DecoBike San Diego docking stations which have locations throughout the City. We have informed DecoBike San Diego representatives that they need to communicate with those companies directly on this issue. As a reminder, the DecoBike San Diego docking stations are not public property; they are private property and may not be used for other companies'

Page 2  
Mobike, Inc.  
March 6, 2018

dockless bike parking without permission. Private property owners may have private remedies available in addition to criminal remedies, such as trespass.

Finally, there have been reports of bicycles placed on private property. We would like to provide City staff with a direct contact so that this can be provided to the individuals who may be contacting the City regarding this issue. As you know, the City has no authority to retrieve items from private property.

Please contact Ms. Patricia Santillan at [psantillan@sandiego.gov](mailto:psantillan@sandiego.gov) to provide the appropriate contact information.

Sincerely,



Stacey LoMedico  
Assistant Chief Operating Officer

Attachment: Summary of San Diego Municipal Codes and State Statutes

cc: Mara Elliott, City Attorney, Office of the City Attorney  
Kris Michell, Chief Operating Officer  
Aimee Faucett, Chief of Staff, Office of the Mayor  
Stacey LoMedico, Assistant Chief Operating Officer  
Paz Gomez, Deputy Chief Operating Officer, Infrastructure/Public Works  
David Graham, Deputy Chief Operating Officer, Neighborhood Services  
Ronald H. Villa, Deputy Chief Operating Officer, Internal Operations  
Elyse Lowe, Policy Advisor, Office of the Mayor  
Department Directors

## Attachment to the letter

# SUMMMARY OF CITY OF SAN DIEGO MUNICIPAL CODE PROVISIONS AND STATE STATUTES

*Note: This list is non-exhaustive, subject to change, and does not constitute legal advice. Your firm's compliance with applicable laws may require you to confer with a private attorney qualified to guide you on this matter.*

The following California Vehicle Code Sections pertains to individuals who rent your dockless scooter/bicycles. These sections are enforceable by our San Diego Police Department.

### California Vehicle Code Sections

#### **(Dockeless bikes) 21210.**

No person shall leave a bicycle lying on its side on any sidewalk, or shall park a bicycle on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic. Local authorities may, by ordinance or resolution, prohibit bicycle parking in designated areas of the public highway, provided that appropriate signs are erected.

#### **(Scooters) [21221.](#)**

Every person operating a motorized scooter upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs, and by Division 10 (commencing with Section 20000), Division 17 (commencing with Section 40000.1), and Division 18 (commencing with Section 42000), except those provisions which, by their very nature, can have no application.

#### **(Scooters) [21221.5.](#)**

Notwithstanding Section 21221, it is unlawful for any person to operate a motorized scooter upon a highway while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug. Any person arrested for a violation of this section may request to have a chemical test made of the person's blood or breath for the purpose of determining the alcoholic or drug content of that person's blood pursuant to subdivision (d) of Section 23612, and, if so requested, the arresting officer shall have the test performed. A conviction of a violation of this section shall be punished by a fine of not more than two hundred fifty dollars (\$250).

#### **(Scooters) [21223.](#)**

(a) Every motorized scooter operated upon any highway during darkness shall be equipped with the following:

- (1) Except as provided in subdivision (b), a lamp emitting a white light which, while the motorized scooter is in motion, illuminates the highway in front of the operator and is visible from a distance of 300 feet in front and from the sides of the motorized scooter.
- (2) Except as provided in subdivision (c), a red reflector on the rear that is visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.
- (3) A white or yellow reflector on each side visible from the front and rear of the motorized scooter from a distance of 200 feet.

(b) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the motorized scooter, may be used in lieu of the lamp required by paragraph (1) of subdivision (a).

(c) A red reflector, or reflectorized material meeting the requirements of Section 25500, attached to the operator and visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of the reflector required by paragraph (2) of subdivision (a).

**(Scooters) [21224.](#)**

(a) A person operating a motorized scooter is not subject to the provisions of this code relating to financial responsibility, registration, and license plate requirements, and, for those purposes, a motorized scooter is not a motor vehicle.

(b) A motorized scooter is exempt from the equipment requirements in Division 12 (commencing with Section 24000), except for Sections 24003 and 27400, Article 4 (commencing with Section 27450) of Chapter 5 of Division 12, and Section 27602.

(c) Notwithstanding subdivision (b), any motorized scooter may be equipped with equipment authorized by Division 12 (commencing with Section 24000).

(d) Any motorized scooter equipped with lighting equipment that is authorized by Division 12 (commencing with Section 24000) shall meet the lighting requirements in Article 1 (commencing with Section 24250) of Chapter 2 of Division 12 for that equipment.

**(Scooters) [21225.](#)**

This article does not prevent a local authority, by ordinance, from regulating the registration of motorized scooters and the parking and operation of motorized scooters on pedestrian or bicycle facilities and local streets and highways, if that regulation is not in conflict with this code.

**(Scooters) [21227.](#)** (a) A motorized scooter shall comply with one of the following:

(1) Operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied.

(2) Operate in a manner so that the motor is engaged through a switch or mechanism that, when released, will cause the electric motor to disengage or cease to function.

(b) It is unlawful for a person to operate a motorized scooter that does not meet one of the requirements of subdivision (a).

**(Scooters) [21228.](#)**

Any person operating a motorized scooter upon a highway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or right edge of the roadway, except under the following situations:

(a) When overtaking and passing another vehicle proceeding in the same direction.

(b) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

(c) (1) When reasonably necessary to avoid conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes, which make it unsafe to continue along the right-hand curb or right edge of the roadway, subject to Section 21656.

(2) For the purposes of paragraph (1), a “substandard width lane” is a lane that is too narrow for a motorized scooter and another vehicle to travel safely side by side within the lane.

(d) Any person operating a motorized scooter upon a highway that carries traffic in one direction only and has two or more marked traffic lanes may operate the motorized scooter as near the left-hand curb or left edge of that roadway as practicable. However, when preparing for a right turn, the operator shall stop and dismount as close as practicable to the left-hand curb or left edge of the highway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

**(All) [21229.](#)**

(a) Whenever a class II bicycle lane has been established on a roadway, any person operating a motorized scooter upon the roadway shall ride within the bicycle lane, except that the person may move out of the lane under any of the following situations:

(1) When overtaking and passing another vehicle or pedestrian within the lane or when about to enter the lane if the overtaking and passing cannot be done safely within the lane.

(2) When preparing for a left turn, the operator shall stop and dismount as close as practicable to the right-hand curb or right edge of the roadway and complete the turn by crossing the roadway on foot, subject to the restrictions placed on pedestrians in Chapter 5 (commencing with Section 21950).

(3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

(4) When approaching a place where a right turn is authorized.

(b) No person operating a motorized scooter shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in Chapter 6 (commencing with Section 22100) in the event that any vehicle may be affected by the movement.

**(Scooters) [21230.](#)**

Notwithstanding any other provision of law, a motorized scooter may be operated on a bicycle path or trail or bikeway, unless the local authority or the governing body of a local agency having jurisdiction over that path, trail, or bikeway prohibits that operation by ordinance.

**(Scooters) [21235.](#)**

The operator of a motorized scooter shall not do any of the following:

- (a) Operate a motorized scooter unless it is equipped with a brake that will enable the operator to make a braked wheel skid on dry, level, clean pavement.
- (b) Operate a motorized scooter on a highway with a speed limit in excess of 25 miles per hour unless the motorized scooter is operated within a class II bicycle lane.
- (c) Operate a motorized scooter without wearing a properly fitted and fastened bicycle helmet that meets the standards described in Section 21212.
- (d) Operate a motorized scooter without a valid driver's license or instruction permit.
- (e) Operate a motorized scooter with any passengers in addition to the operator.
- (f) Operate a motorized scooter carrying any package, bundle, or article that prevents the operator from keeping at least one hand upon the handlebars.
- (g) Operate a motorized scooter upon a sidewalk, except as may be necessary to enter or leave adjacent property.
- (h) Operate a motorized scooter on the highway with the handlebars raised so that the operator must elevate his or her hands above the level of his or her shoulders in order to grasp the normal steering grip area.
- (i) Leave a motorized scooter lying on its side on any sidewalk, or park a motorized scooter on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic.
- (j) Attach the motorized scooter or himself or herself while on the roadway, by any means, to any other vehicle on the roadway.

## **San Diego Municipal Code**

### **§63.0102 – Use of Public Parks and Beaches Regulated**

(b) It is unlawful for any person within any public park or plaza or public beach or beach areas within the City of San Diego to do any of the acts enumerated in Section 63.0102(b).

...

(14) Solicitation. It is unlawful to practice, carry on, conduct, or solicit for any trade, occupation, business or profession without the written consent of the City Manager.

...

(19) Bicycles. It is unlawful to ride a bicycle except: (1) where posted to authorize bicycle riding; or (2) on any designated bikeway; or (3) on any road designated and established for automotive traffic; or (4) on paved and unpaved park roads used as fire or service roads by authorized motor vehicles unless otherwise posted. Motorcycles or any other motorized vehicles are prohibited except on roads designated and established for automotive traffic.

### **§63.20 Beach Areas — Authority and Control**

(a) The Park and Recreation Department of The City of San Diego shall have jurisdiction and control over all beaches owned or controlled by The City of San Diego and all waters abutting or adjacent thereto within the limits of The City of San Diego, and of all lands heretofore and hereafter owned or controlled by the City, adjoining the waterfront of the Pacific Ocean and the waters of Mission Bay, and it shall be responsible for the control and management of

said beaches and lands, and waters abutting or adjacent thereto, and of the recreational activities thereon and therein.

(b) In the following sections dealing with the same subject, wherever the context thereof shall permit, the term "beach area" shall mean any beach or land and the waters abutting or adjacent thereto under the jurisdiction and control of the Park and Recreation Department, as set forth in paragraph (a) of this section.

**§63.20.20 Sale or Rental of Merchandise, Goods, Property, Etc. Prohibited; Exceptions**

It is unlawful for any person, firm or corporation to attempt to carry on or to carry on any commercial operation, to rent or sell merchandise of any kind, or to beach or moor any vessel for the purpose of displaying it for rental or sale, in any beach area, as defined in Section 63.20, including Mission Bay Park, unless licensed or otherwise specifically permitted to do so by the Director. This is specifically intended to include a commercial operation which involves delivering merchandise, a rental item, or a service to a beach area whether or not a financial transaction takes place within the beach area. Lessees and others who carry on a commercial operation under the terms of a formal agreement with the City are exempt from this section. Commercial fishers are permitted to use beach areas provided that their activity does not interfere with recreation.

If advertising of any kind, other than incidental advertising permanently affixed to the side of a vehicle, is displayed in the beach area, it shall constitute prima facie evidence that the actions of the person or persons, firm or corporation responsible for introducing said advertising within the beach area violate this section.

**§ 54.0110 Unauthorized Encroachments Prohibited**

It is unlawful for any *person* to erect, place, allow to remain, construct, establish, plant, or maintain any vegetation or object on any public street, alley, sidewalk, highway, or other public property or public right-of-way, except as otherwise provided by this Code.

**§54.0105 Sidewalk Sales and Displays Prohibited**

(a) Except as provided in Section 54.0105(b) and (c), it is unlawful for any Person to place, or allow to remain, any goods, wares, baggage, personal property or merchandise on any sidewalk or curb, between the outer edge of the sidewalk or curb and the property line.

(b) Section 54.0105(a) does not:

(1) prohibit any Person from loading or unloading goods, wares, or merchandise in front of the Person's place of business;

(2) prohibit any Person from leaving any goods, wares or merchandise on any sidewalk for the length of time necessary for loading or unloading them;

(3) prohibit any Person from loading or unloading attended baggage or personal property into or from a means of transportation.

(c) A sidewalk sale may be permitted in a Special Event Venue pursuant to a Special Event Permit issued under Chapter 2, Article 2, Division 40 of this Code.