

CITY AND COUNTY OF SAN FRANCISCO



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April 16, 2018

Travis VanderZanden
CEO and Founder
travis@bird.co
Bird Rides, Inc.
2621 Pico Boulevard, Unit G
Santa Monica, CA 90405

Re: Cease and Desist Unlawful Operation of Motorized Stand-up Scooters

Dear Mr. VanderZanden:

Despite previous warnings, your company Bird Rides, Inc. ("Bird") has continued to operate an unpermitted motorized scooter rental program in the City and County of San Francisco (the "City"), creating a public nuisance on the City's streets and sidewalks and endangering public health and safety. Bird must immediately cease and desist from unlawful conduct, as we provide further below.

As the San Francisco Municipal Transportation Agency ("SFMTA") informed you by letter dated March 28, 2018, State and local law currently regulate operating motorized scooters such as yours in the public right of way. Yet my Office has continued to receive numerous complaints from members of the public and City officials and departments about dangerous operation of Bird scooters. We have compiled documented evidence that Bird and its customers are ignoring the requirements set forth in that letter and violating both State and local law. For instance, customers are driving the scooters on the sidewalk, imperiling pedestrians and themselves. Customers are also leaving scooters in the public right of way, creating falling hazards and impeding the safe use of sidewalks, access ramps, and other facilities that enable persons with disabilities and seniors to navigate this City. Bird is not quickly relocating scooters that its customers have left creating these hazards. And customers are riding the scooters without helmets, putting themselves at risk.

At a minimum, Bird and its customers are violating the following laws as a direct consequence of Bird's business model and decisions.

First, Bird violates State law provisions governing the operation of motorized scooters set forth in Sections 21220 et seq. of the California Vehicle Code. These laws include, but are not limited to, specific requirements in Section 21235 that operators must have a valid driver's license or permit, they must wear a helmet, and they must not operate a motorized scooter on the sidewalk except where necessary to enter or depart adjacent property. And, State law requires that operators of scooters must not carry passengers. Bird has violated these State law requirements by allowing and promoting use by its customers of Bird scooters: (1) without helmets; (2) to travel on the sidewalk; and (3) with passengers. We cannot overstate the public safety hazard that operating motorized scooters pose on City sidewalks. The scooters do not display a warning to riders that it is unlawful to operate them on sidewalks.

Second, Bird has allowed its customers to leave rental scooters occupying the public right of way so that they constitute a public nuisance and public safety hazard. San Francisco Public

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Works Code section 723 provides that it is "unlawful ... to pile, cap or otherwise obstruct any street, lane, alley, place or court, or any portion thereof" without permission from the City's Department of Public Works ("DPW"). State law also prohibits parking a motorized scooter on a sidewalk so that it does not provide an adequate path for pedestrian traffic. And the parking of scooters near curb ramps and access ramps present an unacceptable obstacle to San Franciscans with disabilities. Finally, the parking of scooters at public transit stops impedes and endangers transit passengers while they wait, board and depart from buses.

DPW has begun and will continue impounding scooters that violate section 723, and it will seek reimbursement from Bird for DPW's costs. Bird can expect that City departments including, but not limited to, DPW and SFMTA will continue to take necessary steps to respond to any improper obstructions of public property and the public right of way relating to Bird's scooter operations.

Our Office has extensive documentation demonstrating consistent and flagrant disregard for these laws. Sample photos are attached. Any efforts Bird has maintained that it has taken to address these problems are not evident to date on the City's streets and sidewalks.

For all these reasons, Bird's current business practices create a public nuisance and are unlawful. Bird must immediately cease and desist from these practices that allow its customers to create a public health safety hazard on the City's public streets and sidewalks, and take effective action to abate its unlawful nuisance conduct. More particularly, Bird must ensure that its rental scooters are not operated on the sidewalk, that its users have drivers licenses and wear helmets, and that the scooters are parked so that they do not create a safety hazard or impede the use of sidewalks, curb ramps, access ramps or transit stops by pedestrians, disabled persons, and transit passengers.

For example, Bird could address these issues as follows:

1. Riding Requirements:

- a. Prominently provide in the user agreement and post on every scooter in large, easily readable font that State law prohibits riding on the sidewalk and carrying passengers and that riders must wear helmets.
- b. Have Bird's app more prominently provide this information
- c. Have Bird's website show only law compliant means of riding them.
- d. Implement technology that detects when customers are riding on sidewalks, and which immediately provides an audible warning and ultimately disables that illegal, dangerous use.
- e. Develop a system to identify customers who violate safety rules and a system to suspend and ultimately ban them from using scooters.

2. Parking Requirements:

- a. Prominently provide in the user agreement and post on every scooter in large, easily readable font that customers may not leave scooters so that they block the right of way, entrances to transit stations or buildings, bus stops, or other paths of travel; scooters must be placed safely out of the path of travel including disability access ramps; and the sidewalk must be kept free of obstructions, etc.
- b. Have Bird's app more prominently provide this information

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- c. Have Bird's website show only law compliant means of parking.
- d. Prominently post on every scooter in large, easily readable font a toll-free number that pedestrians can use to file a complaint or text a photo and location of an improperly parked scooter. Upon any report of an improperly parked scooter, you must re-park it without delay.
- e. Implement technology requiring customers to document by photo or otherwise that they have properly parked a scooter after use; and any improperly parked scooter must be re-parked by Bird without delay.

3. Other steps:

- a. Consider using in person "ambassadors" to educate customers in the startup period and to encourage legally compliant behavior.
- b. Identify locations that are popular places to begin or end travel by the scooters and ensure that there is adequate safe parking, including by reaching agreement with private property owners.
- c. Develop a public education campaign to make sure that customers are aware of the rules of the road and respect the public right of way

We demand that no later than the close of business on April 30, 2018, Bird provide a written report that Bird has taken immediate steps to address the above unlawful business practices. The report must describe those steps in reasonable detail, including ways for the City to verify that the steps are being implemented. Bird should send the report to this Office, in care of Mr. Peter Keith, Chief Attorney, Neighborhood and Residential Safety Division. Until Bird takes action to address the violations and public nuisance described in this letter, Bird must cease and desist any operations that result in unlawful conduct by its customers on the City's public streets and sidewalks.

Finally, the demands set forth in this letter are separate from the City's pending legislative process for permitting motorized scooters. If the City adopts requirements for permits for the scooters, we expect that Bird will work in good faith with the SFMTA, DPW and other appropriate City Departments to ensure full and effective compliance with the permit conditions.

If you have any questions, you or your legal representative may contact Mr. Keith (415-554-3908) directly. We look forward to swift, effective action.

Very truly yours,


DENNIS L. HERRERA
City Attorney

cc: Mayor Mark Farrell
Members, Board of Supervisors
Ed Reiskin, Director of Transportation
Mohammed Nuru, Director, San Francisco Public Works
Elaine Forbes, Executive Director, Port of San Francisco