

6-26-18

ORDINANCE NO. 30936

An ordinance amending Chapter 43, "Streets and Sidewalks," of the Dallas City Code by adding a new Article X, "Dockless Vehicle Permit"; providing that a permit is required to operate a dockless vehicle service in the city; establishing fees and providing regulations for a dockless vehicle permit program; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Chapter 43, "Streets and Sidewalks," of the Dallas City Code is amended by adding a new Article X, "Dockless Vehicle Permit," to read as follows:

"ARTICLE X.

DOCKLESS VEHICLE PERMIT.

SEC. 43-157. DEFINITIONS.

In this article:

(1) **DIRECTOR** means the director of the department designated by the city manager to enforce and administer this article and includes representatives, agents, or department employees designated by the director.

(2) **DOCKLESS VEHICLE** means a bicycle, an electric bicycle, or an electric motor-assisted scooter, pursuant to the definitions set forth in Texas Transportation Code, Sections 541.201 and 551.351, that can be located and unlocked using a smartphone app.

(3) **OPERATOR** means an individual or company that has been issued an operating authority permit under this article.

(4) **REBALANCE** means moving dockless vehicles from an area of low demand to an area of high demand.

(5) **RESIDENTIAL AREA** means a residential district as defined in Section 51A-2.102, "Definitions," of the Dallas Development Code, or a planned development district or conservation district with residential base zoning.

SEC. 43-158. GENERAL AUTHORITY AND DUTY OF DIRECTOR.

The director shall implement and enforce this article and may by written order establish such rules or regulations, consistent with this article and state or federal law, as he determines are necessary to discharge his duty under, or to affect the policy of, this article.

SEC. 43-159. ESTABLISHMENT OF RULES AND REGULATIONS.

(a) Before adopting, amending, or abolishing a rule, the director shall hold a public hearing on the proposal.

(b) The director shall fix the time and place of the hearing and, in addition to notice required under the Open Meetings Act (Chapter 551, Texas Government Code), as amended, shall notify each operator and such other persons as the director determines are interested in the subject matter of the hearing.

(c) After the public hearing, the director shall notify all operators and other interested persons of the director's action and shall post an order adopting, amending, or abolishing a rule on the official bulletin board in city hall for a period of not fewer than 10 days. The order becomes effective immediately upon expiration of the posting period.

SEC. 43-160. OPERATING AUTHORITY PERMIT.

A person commits an offense if, within the city, he operates, or causes or permits the operation of, a dockless vehicle service without a valid operating authority permit issued under this article.

SEC. 43-161. APPLICATION FOR OPERATING AUTHORITY PERMIT.

(a) To obtain an operating authority permit, a person shall make application in the manner prescribed by the director. The applicant must be the person who will own, control, or operate the proposed dockless vehicle program.

(b) An applicant shall file with the director a verified application statement, to be accompanied by a non-refundable application fee, containing the following:

(1) the form of business of the applicant and, if the business is a corporation or association, a copy of the documents establishing the business and the name and address of each person with a 20 percent or greater ownership interest in the business;

(2) the verified signature of the applicant;

(3) the address of the fixed facilities to be used in the operation, if any, and the address of the applicant's corporate headquarters, if different from the address of the fixed facilities;

(4) the name of the person designated by the applicant to receive on behalf of the applicant any future notices sent by the city to the operator, and that person's contact information, including a mailing address, telephone number, and email or other electronic address;

(5) documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the liability insurance required by this article;

(6) documentary evidence of payment of ad valorem taxes on property within the city, if any, to be used in connection with the operation of the proposed dockless vehicle program;

(7) documentary evidence from a bonding or insurance company or a bank indicating that the bonding or insurance company or bank has bound itself to provide the applicant with the performance bond or irrevocable letter of credit required by this article;

(8) the number and types of dockless vehicles to be operated; and

(9) an agreement to indemnify the city.

(c) An operating authority permit may be renewed following the process in this section.

(d) The initial application for an operating authority permit must be accompanied by an application fee of \$808 and the appropriate vehicle fee as specified in Section 43-172. Applications to renew an operating authority permit must be accompanied by an application fee of \$404 and the appropriate vehicle fee as specified in Section 43-172.

SEC. 43-162. CHANGES TO INFORMATION IN OPERATING AUTHORITY APPLICATION.

(a) Any changes to the information provided in the operating authority permit application must be reported to the director, in the manner prescribed by the director, within 10 days of the change.

(b) If the information reported to the director under this section includes an increase in the number of dockless vehicles, any additional vehicle fees due under Section 43-172 must be submitted to the director simultaneously with the change in information.

SEC. 43-163. EXPIRATION OF OPERATING AUTHORITY PERMIT.

An operating authority permit expires one year from the date it is issued.

SEC. 43-164. REFUSAL TO ISSUE OR RENEW OPERATING AUTHORITY PERMIT.

(a) The director shall refuse to issue or renew an operating authority permit if the applicant:

(1) intentionally or knowingly makes a false statement as to a material matter in an application for a permit or permit renewal; or

(2) has been convicted twice within a 12-month period for a violation of this article regarding the deployment of a dockless vehicle or the rebalancing or removal of a dockless vehicle, or a rule or regulation adopted under this article regarding the deployment of a dockless vehicle or the rebalancing or removal of a dockless vehicle, or has had an operating authority permit revoked within two years of the date of application.

(b) If the director determines that a permit should be denied, the director shall notify the applicant or operator in writing that the application is denied and include in the notice the specific reason or reasons for denial and a statement informing the applicant or operator of the right to, and the process for, appeal of the decision.

SEC. 43-165. SUSPENSION OR REVOCATION OF OPERATING AUTHORITY PERMIT.

(a) Suspension. The following regulations apply to the suspension of an operating authority permit:

(1) The director may suspend an operating authority permit if the director determines that:

(A) the operator failed to comply with a request to remove a dockless vehicle or a request to rebalance dockless vehicles issued by the director within the time specified in the order; or

(B) a performance bond or irrevocable letter of credit required by this article is cancelled.

(2) Suspension of an operating authority permit does not affect the expiration date of the permit.

(b) Revocation. The following regulations apply to the revocation of an operating authority permit:

(1) The director shall revoke an operating authority permit if the director determines that the operator has:

(A) made a false statement as to a material matter in the application concerning the operating authority permit;

(B) failed to maintain the insurance required by this article;

(C) operated dockless vehicles that were not authorized by the operating authority permit; or

(D) failed to pay a fee required by this article.

(2) After revocation of an operating authority permit, an operator is not eligible for another permit for a period of up to two years, depending on the severity of the violation resulting in the revocation.

SEC. 43-166. APPEALS.

Any person whose application for an operating authority permit, or renewal of an operating authority permit, is denied by the director, or an operator whose operating authority permit has been revoked or suspended by the director, may file an appeal with the permit and license appeal board in accordance with Section 2-96, "Appeals From Actions of Department Directors," of this code.

SEC. 43-167. NONTRANSFERABILITY.

An operating authority permit is not transferable. This regulation should not be construed to impede the continuing use of trade names.

SEC. 43-168. OPERATIONS.

(a) Each operator shall provide dockless vehicles to accommodate a wide range of users.

(b) Each dockless vehicle permitted under this article must display the emblem of the operator along with a unique identification number.

(c) Dockless vehicles must not display third party advertising.

(d) Dockless vehicles must meet all requirements of local, state, and federal law. Bicycles must meet the safety standards outlined in ISO 43.150 – Cycles, Subsection 4210, as amended.

(e) Dockless vehicles must be high quality and sturdily built to withstand the effects of weather and constant use for five years.

(f) Dockless vehicles must be well maintained and in good riding condition.

(g) Each dockless vehicle permitted under this article must be equipped with active global positioning system technology.

(h) Spoken word alarm systems are prohibited on dockless vehicles.

(i) Operators shall maintain a staffed operations center.

(j) Operators shall maintain a 24-hour customer service number posted on each dockless vehicle for customers and citizens to report safety concerns, make complaints, ask questions, or request a dockless vehicle be relocated.

(k) Operators shall rebalance dockless vehicles at least once per week.

(l) Operators shall provide the director with contact information for someone who can rebalance and relocate dockless vehicles. The operator shall rebalance or relocate dockless vehicles within two hours of receiving notification on weekdays between 6:00 a.m. and 6:00 p.m. (excluding holidays) and within 12 hours of receiving notice at all other times. An operator shall notify the director within 24 hours of a change of contact information.

(m) An operator shall remove any inoperable dockless vehicle, or a dockless vehicle that is not safe to operate, from the right-of-way within 24 hours of notice from the director. A dockless vehicle removed from the right-of-way in accordance with this subsection must be repaired before it is returned to revenue service.

(n) An operator shall provide the director with special access, via the operator's app or other device, to immediately unlock and remove dockless vehicles that are blocking access to city property or the public right-of-way.

(o) Any dockless vehicle retrieved by the director from a stream, lake, fountain, or other body of water will be disposed of in accordance with Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, as amended, if not collected by the operator after notification.

(p) If the city incurs any costs addressing or abating any violations of this article, or incurs any costs of repair or maintenance of public property, the operator shall reimburse the city for the costs within 30 days of receiving written notice from the director.

(q) An operator shall not place or attach any personal property (other than dockless vehicles), fixtures, or structures in the public right-of-way without the separate written permission of the director. Any permission to place items in the public right-of-way must be incorporated into the permit.

(r) An operator shall not adversely affect the property of any third parties during the use of city property or the public right-of-way.

(s) An operator shall educate customers regarding the law applicable to riding, operating, and parking a dockless vehicle. An operator's mobile application must provide information notifying the user that:

(1) minors must wear helmets while riding a bicycle as required by Section 9-8, "Bicycle Helmet Required," of the Dallas City Code and while riding a motor assisted scooter as required by Section 28-41.1, "Restrictions on the Use of Motor Assisted Scooters, Pocket Bikes, and Minimotorbikes," of the Dallas City Code;

(2) dockless vehicles must be parked legally and properly;

(3) bicyclists and motor assisted scooters must yield to pedestrians on sidewalks and trails; and

(4) bicycles may not be ridden on sidewalks within the central business district per Section 9-1, "Applicability of Traffic Regulations to Bicycle Riders," of the Dallas City Code.

(t) The number of dockless vehicles in a fleet must be commensurate with the expected level of service.

SEC. 43-169. DOCKLESS VEHICLE PARKING, DEPLOYMENT, AND OPERATION.

(a) Dockless vehicles may not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk or in any manner that would reduce the minimum clear width of a sidewalk to less than 48 inches.

(b) Dockless vehicles may not be parked in a manner that would impede vehicular traffic on a street or alley.

(c) Dockless vehicles may not be parked in a manner that would impose a threat to public safety or security.

(d) Dockless vehicles may not be parked on a public street without specific permission from the director.

(e) Dockless vehicles may not be deployed on a block where the sidewalk is less than 96 inches in width, or on a block that does not have sidewalks. The director may determine other blocks where deploying dockless vehicles is prohibited.

(f) Dockless vehicles must be deployed on a sidewalk or other hard surface, at a bicycle rack, or at a city-owned location. Dockless vehicles may only be deployed on private property with the permission of the property owner.

(g) Dockless vehicles must stand upright while parked.

(h) Dockless vehicles may not be parked in a visibility triangle as defined in Section 51A-4.602, "Fence, Screening and Visual Obstruction Regulations," of the Dallas Development Code.

(i) Dockless vehicles may not be parked within five feet of a crosswalk or curb ramp, unless given specific permission by the director.

(j) Dockless vehicles may not be parked in a way that blocks:

- (1) Transit stops, shelters, or platforms.
- (2) Commercial loading zones.
- (3) Railroad or light rail tracks or crossings.
- (4) Passenger loading zones or valet parking service areas.
- (5) Disabled parking zones.
- (6) Street furniture that requires pedestrian access (for example, benches or parking pay stations).
- (7) Building entryways.
- (8) Vehicular driveways.

(k) Dockless vehicles parked along multi-use trails may only be parked at trailheads or other areas identified by the director.

(l) Dockless vehicles that are parked in an incorrect manner must be re-parked or removed by the operator within two hours of receiving notice from the director on weekdays between 6:00 a.m. and 6:00 p.m. (excluding holidays) and within 12 hours of receiving notice from the director at all other times.

(m) A dockless vehicle that is parked in a residential area may remain in the same location for up to 48 hours as long as it is parked in accordance with this section. An operator shall relocate or rebalance a dockless vehicle parked in a residential area after receiving a citizen request or complaint in accordance with the timeframes specified in Section 43-169(l).

(n) The director may remove and store any dockless vehicle that is left parked at the same location for seven or more consecutive days if the director has sent the operator a notification to rebalance the dockless vehicle.

- (1) The operator is responsible for the costs of removal and storage.
- (2) The director shall invoice the operator for the cost of removal and storage.

(3) Any dockless vehicle that remains unclaimed with the city for 60 days is subject to sale in accordance with Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, as amended.

(o) The director may identify designated dockless vehicle parking zones. Subject to advance approval of the director, an operator may indicate virtual dockless vehicle parking areas with paint or decals where appropriate in order to guide riders to preferred parking zones in order to assist with orderly parking of dockless vehicles throughout the city.

(p) Every person riding a dockless vehicle upon the streets of the city shall be subject to provisions of all laws and ordinances applicable to the operator of any other vehicle, except those provisions of laws and ordinances which, by their very nature, can have no application; provided, however, it shall not be unlawful to ride a dockless vehicle on a public sidewalk anywhere in the city outside of the central business district; said district being formed by the following street lines:

The south line of Young Street from Houston Street to Lamar Street.

The west line of Lamar Street from Young Street to the DART Rail Corridor.

The north line of the DART Rail Corridor from Lamar Street to Interstate 45.

The west line of Interstate 45 from the DART Rail Corridor to Interstate 30.

The north line of Interstate 30 from Interstate 45 to Exposition Avenue.

The east line of Exposition Avenue from Interstate 30 to CBD Fair Park Link.

The east line of the CBD Fair Park Link from Exposition Avenue to Gaston Avenue.

The north line of Gaston Avenue from the CBD Fair Park Link to Pacific Avenue.

The north line of Pacific Avenue from Gaston Avenue to Pearl Street.

The east line of Pearl Street from Pacific Avenue to Ross Avenue.

The north line of Ross Avenue from Pearl Street to Austin Street.

The west line of Austin Street from Ross Avenue to Pacific Avenue.

The north line of Pacific Avenue from Austin Street to Houston Street.

The west line of Houston Street from Pacific Avenue to Young Street.

(q) Any person riding a dockless vehicle upon a sidewalk shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

SEC. 43-170. INSURANCE REQUIREMENTS.

(a) An operator shall procure and keep in full force and effect no less than the insurance coverage required by this section through a policy or policies written by an insurance company that:

- (1) is authorized to do business in the State of Texas;
- (2) is acceptable to the city; and
- (3) does not violate the ownership or operational control prohibition described in Subsection (e) of this section.

(b) The insured provisions of the policy must name the city and its officers and employees as additional insureds, and the coverage provisions must provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a dockless vehicle.

(c) An operator shall maintain the following insurance coverages:

(1) The commercial general liability insurance must provide single limits of liability for bodily injury (including death) and property damage of \$1 million for each occurrence, with a \$2 million annual aggregate.

(2) If an operator will utilize motor vehicles in its operations, the business automotive liability insurance must cover owned, hired, and non-owned vehicles, with a combined single limit for bodily injury (including death) and property damage of \$500,000 per occurrence.

(3) Worker's compensation insurance with statutory limits.

(4) Employer's liability insurance with the following minimum limits for bodily injury by:

- (A) accident, \$500,000 per each accident; and
- (B) disease, \$500,000 per employee with a per policy aggregate of \$500,000.

(d) Insurance required under this article must:

(1) include a cancellation provision in which the insurance company is required to notify the director in writing not fewer than 30 days before cancelling the insurance policy (for a reason other than non-payment) or before making a reduction in coverage;

(2) include a cancellation provision in which the insurance company is required to notify the director in writing not fewer than 10 days before cancelling for non-payment;

(3) cover all dockless vehicles during the times that the vehicles are deployed or operating in furtherance of the operator's business;

(4) include a provision requiring the insurance company to pay every covered claim on a first-dollar basis;

(5) require notice to the director if the policy is cancelled or if there is a reduction in coverage; and

(6) comply with all applicable federal, state, and local laws.

(e) No person who has a 20 percent or greater ownership interest in the operator may have an interest in the insurance company.

(f) An operator may not be self-insured.

(g) Any insurance policy required by this article must be on file with the city within 45 days of the issuance of the initial operating authority permit, and thereafter within 45 days of the expiration or termination of a previously issued policy.

SEC. 43-171. DATA SHARING.

(a) An operator shall cooperate with the city in the collection and analysis of aggregated data concerning its operations.

(b) An operator shall provide a quarterly report to the director that includes:

(1) Total number of rides for the previous quarter.

(2) Total number of vehicles in service for the previous quarter.

(3) Number of rides per vehicle per day.

(4) Anonymized aggregated data taken by the operator's dockless vehicles in the form of heat maps showing routes, trends, origins, and destinations.

(5) Anonymized trip data taken by the operator's dockless vehicles that includes the origin and destination, trip duration, and date and time of trip.

(c) An operator shall provide other reports at the director's request.

SEC. 43-172.

VEHICLE FEE.

An operator shall pay a vehicle fee as follows:

Number of Dockless Vehicles	Fee
1-100	\$2,100
101-200	\$4,200
201-300	\$6,300
301-400	\$8,400
401-500	\$10,500
Fee per dockless vehicle in excess of 500	\$21

SEC. 43-173.

PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT.

Before issuance of an operating authority permit, the operator shall give the director a performance bond or an irrevocable letter of credit approved as to form by the city attorney.

(1) A bonding or insurance company authorized to do business in the State of Texas and acceptable to the city must issue the performance bond. A bank authorized to do business in the State of Texas and acceptable to the city must issue the irrevocable letter of credit.

(2) The performance bond or irrevocable letter of credit must list the operator as principal and be payable to the city.

(3) The performance bond or irrevocable letter of credit must remain in effect for the duration of the operating authority permit.

(4) The amount of the performance bond or irrevocable letter of credit must be at least \$10,000.

(5) Cancellation of the performance bond or irrevocable letter of credit does not release the operator from the obligation to meet all requirements of this article and the operating authority permit. If the performance bond or irrevocable letter of credit is cancelled, the operating authority permit shall be suspended on the date of cancellation and the operator shall immediately cease operations until the operator provides the director with a replacement performance bond or irrevocable letter of credit that meets the requirements of this article.

(6) The city may draw against the performance bond or irrevocable letter of credit or pursue any other available remedy to recover damages, fees, fines, or penalties due from the operator for violation of any provision of this article or the operating authority permit.

SEC. 43-174. ENFORCEMENT.

(a) The director may, with or without notice, inspect any dockless vehicle operating under this article to determine whether the dockless vehicle complies with this article, rules and regulations established under this article, or other applicable laws.

(b) The director shall enforce this article. Upon observing a violation of this article or the rules or regulations established by the director, the director shall take necessary action to ensure effective regulation of dockless vehicles.

SEC. 43-175. CRIMINAL OFFENSES.

(a) A person commits an offense if he violates or attempts to violate a provision of this article, or a rule or regulation established by the director under this article, that is applicable to a person. A culpable mental state is not required for the commission of an offense under this article unless the provision defining the conduct expressly requires a culpable mental state. A separate offense is committed each day in which an offense occurs.

(b) Prosecution for an offense under Subsection (a) does not prevent the use of other enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.”

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That Chapter 43 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

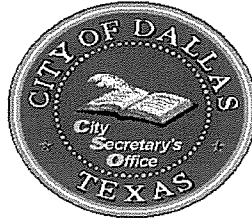
APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

By Casey Byers
Assistant City Attorney

JUN 27 2018

Passed _____



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

JUN 27 2018

DATE ADOPTED BY CITY COUNCIL _____

ORDINANCE NUMBER 30936

DATE PUBLISHED JUN 30 2018

ATTESTED BY: