

CHAPTER 28 – MISCELLANEOUS OFFENSES AND PROVISIONS

ARTICLE XVIII. – DOCKLESS BIKE SHARE OPERATORS

Sec. __. – **Definitions.**

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

Application Program Interface means [definition to be provided]

Customer means a person who rents and uses a bicycle from a bike share operator.

Dockless bike share system means a system which provides bicycles for short-term rentals for point-to-point trips and which may be locked and unlocked without the requirement of a bicycle rack or other docking station to be installed within the city.

Dockless bike share operator or *operator* means a corporation, firm, joint venture, limited liability company, partnership, person, or other organized entity that operates a dockless bike share system, whether for profit or not for profit.

Director means the Director, or his or her designee, of the Administration and Regulatory Affairs Department.

Geofence means the definition provided in section 9-51 of this Code.

Permittee means a dockless bike share operator that holds a current and valid permit issued pursuant to this article.

Public right of way or *right of way* means the definition provided in section 37-251 of this Code.

Sec. __. – **Permit required; permit program time limit; permit validity; continuation, modification, or termination of the permit pilot program.**

- (a) City council hereby establishes a pilot period for the director to administer a dockless bike share permit program. For a period ending on the day following the first anniversary of the effective date of this article, it shall be unlawful for any dockless bike share operator to operate a dockless bike share system within the city unless the operator possesses a permit for the dockless bike share system. Following the expiration of the pilot period, this article shall continue to remain in

effect unless city council takes action to terminate the dockless bike share permit requirements.

- (b) A permit is valid only for operations of a dockless bike share system within the public right of way. Permission to operate a dockless bike share system outside the public right of way shall require permission of the appropriate department, agency, or property owner(s).
- (c) As soon as practicable after the time period provided in subsection (a) of this section, the director shall report to city council on the effectiveness of the dockless bike share system permit pilot program, and provide the director's recommendations for continuation, modification, or termination of the program.
- (d) Upon recommendation from the director, city council may modify or terminate the dockless bike share system permitting program prior to or after the time period provided in subsection (a) of this section.

Sec. __. – **Exemptions.**

This article does not apply to the following:

- (a) The operation of a bike share system in the city in which bicycles are required to be locked at, and unlocked from, bicycle stations between use; and
- (b) A bicycle dealer, as it is defined by section 45-325 of this Code.

Sec. __. – **Permit application.**

A dockless bike share operator may submit an application for an original or renewed permit to the director. Each submitted application shall be on a form prescribed by the director and contain the following information:

- (a) The name and form of business of the operator;
- (b) The name, phone number, and street address (and mailing address if different) of the operator's agent for service of legal process;
- (c) The total fleet size operator intends to deploy during the first 30-day period of the permit term, starting on the date of the permit application approval. For a new permit, the total fleet size shall not be more than 500 bicycles during the first 30-day period. Following the first 30-day period of a new or renewal permit term, permittee may deploy additional bicycles, and increase the size of its fleet, according to the limitations to be determined by the director;

- (d) A photographic image or visual representation of each type of bicycle to be deployed as part of operator's dockless bike share system;
- (e) A description of an internet-enabled mobile device application to be used by customers to register membership to use, pay for, lock, and unlock each bicycle;
- (f) The service area at launch, including any area in which operator plans to expand its dockless bike share system during the permit period;
- (g) A plan for permittee to maintain each bicycle in a safe and operable condition, and to recover and repair bicycles discovered or reported to be unsafe or inoperable before redeployment;
- (h) A plan for permittee to rebalance and relocate bicycles;
- (i) A plan for educating customers on proper bicycle parking;
- (j) A plan for educating customers on the safe use of a bicycle and knowledge of compliance all applicable laws;
- (k) A commitment and a plan for permittee, upon possessing a fleet size of 2,000 or more bicycles, to deploy and maintain the availability of at least 20 percent of its fleet in locations which the director determines to be underserved areas;
- (l) A document executed by the operator to certify that the operator's equipment complies with the requirements under section ___-___ (Bicycles - standards);
- (m) Proof of current coverage of insurance as required by section ___-___ of this Code (Insurance);
- (n) A bond as required by section ___-___ (Bond);
- (o) A declaration that the operator has read the provisions of this article; and
- (p) Any additional information as requested by the director for the administration of this article.

Sec. __. – Fees.

Permittee shall include with each permit application the payment of the following fees, the amount of which is provided in the city fee schedule, for:

- (a) A permit application filing fee;

- (b) For a new application, a fee for each bicycle to be deployed as part of operator's dockless bike share system at launch, which shall be the date of the application approval, if applicable. Permittee shall pay the additional fee for any additional bicycle it will deploy after launch, provided permittee may elect to pay the additional fee either at the time of the submission of the application or in the two-week notice to the director prior to deploying any additional bicycle pursuant to section ___-___ (subsection (m) in Permittees – operations);
- (c) For a renewal application, a fee for each bicycle to be deployed as part of operator's dockless bike share system on the date of the application approval, if applicable. Permittee shall pay the additional fee for any additional bicycle it will deploy subsequent to the first 30-day period following the date of the application approval either at the time of the submission of the renewal application or in the two-week notice to the director pursuant to section ___-___ (subsection (m) in Permittees – operations);

Sec. __. – Permit issuance; denial; term; and director's right to revoke.

- (a) The director shall issue a new or renewal permit upon review and approval within 10 days of an operator's submission of an application that fully complies with this article.
- (b) The application shall be denied and no permit shall be issued if the director finds that:
 - (1) Any statement made in the application is incomplete, misleading, or false;
 - (2) The operator, its partners, officers, owners, and other principals have not paid to the city all fees due under this article; or
 - (3) The operator has otherwise not complied with this article.
- (c) In the event of a denial, the operator shall be given written notice by the director of the basis for such action within 10 days of the submission of the application. If the reason for the denial of a permit application is curable, the director shall allow the application, upon a written request, to submit an amended application to cure the defect.
- (d) Permits shall be issued by the director for a term of one year, starting from the date of the director's approval.
- (e) The director may revoke a permit at any time due to operator's failure to comply with its permit, this Code, or any applicable federal, state, or local law or regulation and require. In addition to revoking the permit, the director may require operator to remove, at the operator's cost, the operator's entire fleet of bicycles from the public right of way within 30 days.

Sec. __. – Indemnity.

By accepting a permit, the permittee, its assigns, successors, and representatives agree to and shall defend, indemnify, and hold the city, its agents, employees, officers, and legal representatives harmless for all claims, causes of action, liabilities, fines, and expenses (including, without limitation, attorneys' fees, court costs, and all other defense costs and interest) for injury, death, damage, or loss to personal or property sustained in connection with or incidental to the activity authorized by the permit.

Sec. __. – Insurance.

- (a) No permit shall become effective until the permittee has filed with the director the requisite proof of insurance insuring the general public against any loss or damage that may result to any person or property from the operation of a bicycle covered by the permit.
- (b) The insurance required in subsection (a) shall be in the form of commercial general liability, including contractual liability, bodily injury and property damage, personal and advertising injury, and products and completed operations, with the following limits:
 - (1) Personal and advertising injury limit: \$1,000,000.00
 - (2) Each occurrence limit: \$1,000,000.00
 - (3) General aggregate limit: \$2,000,000.00
- (c) Permittee shall provide the director with proof of coverage on a form approved by the Texas Department of Insurance. The policy issuer shall have a certificate of authority to transact insurance business in Texas or be an eligible non-admitted insurer in the state of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.
- (d) The required insurance shall name the city as an additional insured. The policies issued under this section shall contain a provision requiring the permittee provide 30 days prior written notice to the city before the cancellation or expiration of the policy is effective.
- (e) If any policy is cancelled or expires, and no new policy is filed by the permittee before the cancellation or expiration of the original insurance, the permit shall automatically be suspended, and the permittee shall discontinue the operation of the dockless bike share system within the city. If a proper replacement policy is not provided to the director on or before the 10th business day after the date of cancellation or expiration of the policy, the permit shall automatically terminate.

Sec. __. – Bond.

Each operator shall furnish, along with the permit application, for the director's review and approval a bond in an amount determined by the director to be adequate to cover the cost of removal of bicycles from the public right of way which are improperly parked or in a condition determined by the director to be unsafe to the general public. The form of the bond shall be approved by the City Attorney and executed by one or more surety companies legally authorized to do business in the state of Texas.

Sec. __. – Bicycles – standards.

All bicycles deployed by a permittee shall meet the standards outlined in the following:

- (a) Code of Federal Regulations, Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles, as may be amended;
- (b) International Standards Organization 43.150 – Cycles, subsection 4210, as may be amended;
- (c) Section 551.104 of the Texas Transportation Code, as may be amended, regulating the safety equipment of bicycles; and

Sec. __. – Bicycles – parking.

- (a) All bicycles deployed by a permittee shall be parked:
 - (1) In an upright position on top of a hard surface;
 - (2) To maintain a pedestrian travel space to a width of at least six feet;
 - (3) To maintain unimpeded access to entrances to public or private property;
 - (4) To maintain unimpeded access to any bicycle docking station that is visibly designated as a station for the parking and locking of reserved bicycles;
 - (5) To maintain vehicular travel area for any vehicle;
 - (6) To maintain unimpeded pedestrian travel area; and
 - (7) In an area or location which the director may specify.
- (b) The director may require any bicycle that is parked in the public right of way in violation of section (a) above, or is parked in one location for more than seven

consecutive days, be removed and taken to a city facility for storage at the expense of the permittee.

- (c) The permittee shall re-park or remove any bicycle that is parked in violation of this article within the following times:
 - (1) Within two hours of receiving notice between 6:00 a.m. to 6:00 p.m., seven days per week, except a holiday observed by the closure of city offices; and
 - (2) Within 10 hours of receiving notice during all other times.
- (d) If city employees or contractors remove or relocate a bicycle from a public right of way where a bicycle is prohibited, the director may assess a bicycle relocation fee against the operator of such bicycle.
- (e) The director may create geofenced areas where bicycles must be parked.

Sec. __. – Permittees – operations.

Each permittee shall:

- (a) Maintain a staffed operations center within the city limits;
- (b) Maintain a 24-hour customer service phone number for customers to report concerns, complaints, or inquiries;
- (c) Maintain a record of all bicycles, each assigned and tracked by permittee with a unique identifier, to be deployed as part of permittee's dockless bike share system within the city;
- (d) Affix on each bicycle the following items:
 - (1) The contact information of the permittee, including the web site address;
 - (2) Contact information of permittee's customer service and a statement on how to report incorrectly parked bicycles, safety concerns, complaints, or questions;
 - (3) A clearly visible name, logo, trademark, or other identifying information of the permittee; and
 - (4) Unique identification, consisting of numbers or letters or both.
- (e) Notify customers via a web site or mobile device application the following information:

- (1) The items in subsection (d)(1)-(3) of this section;
 - (2) Bicycle riders are encouraged to wear helmets;
 - (3) Bicycle riders must follow all traffic laws;
 - (4) Customers may not ride bicycles on city sidewalks; and
 - (5) Customers must park the bicycles properly and in compliance with this Code and applicable laws.
- (f) Provide payment options for cash-based and electronic methods;
- (g) Be responsible for educating customers regarding the proper parking and safe use of a bicycle and knowledge of compliance with applicable laws;
- (h) Provide to the director the direct contact information for permittee's staff responsible for relocating or rebalancing bicycles;
- (i) Maintain staff to relocate or rebalance bicycles on a regular basis, in addition to the times provided under section ___-___ of this Code (Bicycles - parking);
- (j) Remove from the public right of way each bicycle that is inoperable, unsafe, or otherwise failing to meet the standards under section ___-___ of this Code (Bicycles – standards), within the following times:
- (1) Within two hours of receiving notice between 6:00 a.m. to 6:00 p.m., seven days per week, except a holiday observed by the closure of city offices; and
 - (2) Within 10 hours of receiving notice during all other times.
- (k) Fix, repair, or correct each bicycle that was inoperable, unsafe, or otherwise in violation of the standards under section ___-___ of this Code (Bicycles – standards) before re-deployment back into service;
- (l) Be responsible for costs of repair to public infrastructure damaged by the use of its bicycles, and costs incurred by the city to remove and store bicycles that have been improperly parked or otherwise are required to be removed from the public right of way in this article;
- (m) At least two weeks before permittee makes any increase to the size of its dockless bike share fleet, permittee shall provide to the director the following items:
- (1) Written notification of the fleet size increase;

- (2) The unique identifier for each additional bicycle to be added to permittee's fleet; and
 - (3) The fee for each additional bicycle, if such fee has not been paid by permittee.
- (n) Any permittee operating a dockless bike share system with a fleet size of 2,000 or more bicycles must deploy 20 percent or more of its fleet in underserved areas within the permittee's service area. Underserved areas will be determined by the director.

Sec. __. – Survey, records, and data sharing.

- (a) Permittee shall Conduct a member survey of all customers prior to the end of the pilot period, but no earlier than six months after the effective date of this article. Prior to initiating the survey, permittee shall submit survey questions for the director's review. Permittee shall deliver the survey results to the director.
- (b) Permittee shall maintain records of its fleet and each unique identifier associated to each bicycle, customer membership, trip information regarding time and distance, parking, and bicycle locations. On a regular basis to be determined by the director or within 7 days of the director's request, permittee shall deliver the records to the director in a format to be determined by the director.
- (c) Permittee shall provide to the director anonymized data on trips and other information regarding its dockless bike share system to be determined by the director. The permittee's user agreement with each customer shall clearly indicate this data will be collected and shared by the permittee with the city.
- (d) Upon the request of the director, permittee shall provide the items in sections (b) and (c) via a public application program interface.

Sec. __. – Authority of the director to promulgate rules.

The director is authorized to promulgate additional rules and regulations for the enforcement of this article.