

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A NEW ARTICLE OF THE CITY’S CODE OF ORDINANCES BY ADDING CHAPTER 12 TRAFFIC AND VEHICLES, ARTICLE 12.08 DOCKLESS VEHICLES: ELECTRIC BICYCLES AND BICYCLES EQUIPPED WITH GPS; PROVIDING FOR THE REGULATION OF DOCKLESS VEHICLES: ELECTRIC BICYCLES AND BICYCLES EQUIPPED WITH GPS IN THE CITY; PROVIDING FOR THE PERMIT REQUIREMENTS FOR DOCKLESS VEHICLES: ELECTRIC BICYCLES AND BICYCLES EQUIPPED WITH GPS; PROVIDING FOR A PENALTY OF UP TO \$500 PER DAY FOR A VIOLATION OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, the City of Rollingwood is a General Law Type A City under the statutes of the State of Texas;

WHEREAS, the City Council of the City of Rollingwood (“City Council”) seeks to establish regulations for the use of Dockless Vehicles, namely electric bicycles and bicycles equipped with GPS as defined in this ordinance; and

WHEREAS, pursuant to Chapter 311.002 of the Texas Transportation Code, the City has the authority to abate or remove an encroachment or obstruction on a highway, street, or alley, and regulate a street; and

WHEREAS, pursuant to Chapter 311.003 of the Texas Transportation Code, the City has the authority to prevent an encroachment or obstruction on a sidewalk in the municipality; and

WHEREAS, bike share service companies now possess GPS, 3G, and self-locking technology on their bicycles such that their bicycles may be locked and opened by users with a smart phone application and tracked to provide for operations and maintenance; and

WHEREAS, some of the goals of the City are to provide safe and affordable multimodal transportation options to all residents, increase mobility across the City, maintain all current uses of the streets and sidewalks, and regulate the placement and proliferation of bicycles in the City’s right-of-way in a manner that ensures the public health, safety and welfare; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council finds that the amendments imposed by this Ordinance are characterized as reasonable, necessary, and proper for the good government of the City; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROLLINGWOOD, TEXAS, THAT:

SECTION 1. All the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The City’s Code of Ordinances Chapter 12, Traffic and Vehicles is amended to add Section 12.08 Dockless Vehicles: Electric Bicycles, and Bicycles Equipped with GPS as shown on Exhibit “A.”

SECTION 3. All provisions of the ordinances of the City of Rollingwood in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Rollingwood not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. Should any sentence, paragraph, sub Article, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

APPROVED, PASSED AND ADOPTED by the City Council of the City of Rollingwood, Texas, on the ____ day of _____, 2019.

APPROVED:

Michael Dyson, Mayor

ATTEST:

Ashley Wayman, City Secretary

EXHIBIT A

ARTICLE 12.08 DOCKLESS VEHICLES: ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH GPS

Sec. 12.08.001 Definitions

In this article:

Bicycle Equipped With GPS means a device that a person may ride and that is propelled by human power and has two tandem wheels at least one of which is more than 14 inches in diameter, which has a global positioning system (GPS) to determine the geographic location of the bicycle.

City means the City of Rollingwood, Texas.

Dockless Vehicle means a Bicycle Equipped with GPS or an Electric Bicycle that is available for use for a fee and that is capable of being parked at locations other than a docking station.

Electric Bicycle A Bicycle that is: (a) designed to be propelled by an electric motor, exclusively or in combination with the application of human power; (b) cannot attain a speed of more than 20 miles per hour without the application of human power; and (c) does not exceed a weight of 100 pounds, as defined in Tex. Trans. Code §541.201 (24).

Fleet Manager means the person responsible for the daily operations of a Dockless Vehicle with GPS service, who must be based in Travis County, Texas.

Permit Agreement means the written agreement between the City and a person for an operating permit which authorizes the operation of a service providing Dockless Vehicles equipped with GPS for compensation

Permit Holder means the person who owns the operation if a sole proprietorship, or the person providing Dockless Vehicles with GPS for compensation

Person means an individual, partnership, corporation, company, association, or other legal entity.

Sec. 12.08.002 Dockless Vehicle for Hire Permit Agreements

- (a) The City will only issue an aggregate total of total permits for Dockless Vehicles which are made available to the public by permit holders for a fee.
- (b) A person must register and obtain a permit agreement from the City of Rollingwood, and pay any applicable fees, prior to providing a Dockless Vehicle for any compensation, including but not limited to any money, thing of value, payment, consideration, donation, gratuity, or profit.

- (c) To obtain a permit agreement, a person must submit an application to the Office of the Chief of Police on a form provided by the Police Chief for that purpose. The application must contain the following, including any additional information and requirements established by the Police Chief:
- (1) The business name, street address, mailing address, email address, and telephone number of the applicant;
 - (2) A non-refundable business permit fee of \$500;
 - (3) A non-refundable permit fee of \$10.00 for each Dockless Vehicle which are to be operated within the city limits of Rollingwood;
 - (4) The name, phone number and email address of the fleet manager. Any change in this information must be reported to the Police Chief is representative within 24 hours of the change;
 - (5) A phone number for the public to report improperly parked Vehicles and other violations, which must be posted on each Dockless Vehicle;
 - (6) The address of the fixed facilities to be used in the operation, if any, and the address of the applicant's headquarters, if different from the address of the fixed facilities;
 - (7) 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;
 - (8) 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;
 - (9) 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 or irrevocable letter of credit required by this article;
 - (10) The number and the types of Dockless Vehicles to be operated; and
 - (11) An agreement to indemnify the City.
- (d) An applicant or registrant shall notify the Police Chief, in the manner prescribed by the Police Chief, within 10 days of any change in the information contained in the application for permit agreement. If the information reported to the Police Chief includes an increase in the number of Dockless Vehicles for any single company, any additional fees due must be submitted to the Police Chief simultaneously with the change in information.
- (e) A permit agreement expires one year from the date it is issued. An applicant may renew a permit agreement following the process in this section. Notwithstanding the one year permit term, the City reserves the right and prerogative to cancel or amend permit terms and fees at will as the City determines to be in the public interest based upon factors such as traffic load, permit holder needs, safety concerns and other factors selected by the City.
- (f) A permit agreement is non-transferrable. This regulation should not be construed to impede the continuing use of trade names.

Sec. 12.08.003 Issuance, Renewal, Suspension, Termination and Revocation of Permit Agreements.

- (a) The Police Chief shall refuse to issue or renew a permit agreement if the applicant:
 - (1) Does not meet the requirements in the permit application, including failing to meet any requirements established by the Police Chief or his designee;
 - (2) Intentionally or knowingly makes a false statement as to a material matter in an application for a permit agreement; or
 - (3) Has been convicted twice within a 12-month period for a violation of this article, or has had a permit agreement revoked within two years of the date of application.
- (a) If the Police Chief determines that a permit agreement should be denied, the Police Chief 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.
- (b) The Police Chief shall revoke a permit agreement if the Police Chief or his designee determines that the permit holder has:
 - (1) Made a false statement as to a material matter in the application concerning the operating authority permit;
 - (2) Failed to maintain the insurance required by this article;
 - (3) Operated Dockless Vehicles in excess of the number authorized by the permit agreement; or
 - (4) Failed to pay a fee required by this article.
- (c) 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.
- (d) Any person whose application for a permit agreement, or renewal of a permit agreement, is denied by the Police Chief, or an operator whose permit agreement has been revoked or suspended by the Police Chief, may file an appeal with the Police Chief, who shall forward the notice of appeal to the City Manager or the City Manager's designee:
 - (1) A hearing on the matter will be conducted within 30 days of the request for the hearing unless one of the parties requests a continuance for good cause;
 - (2) Every person who appeals shall have the right to appear in person or through an attorney;
 - (3) The City Manager or designee shall render a decision within 30 days of the conclusion of the hearing;
 - (4) The City Manager or designee shall have the sole authority for upholding or overruling the action of the Police Chief, which was appealed; and
 - (5) The decision of the City Manager or designee shall be final.
- (e) The City, for good cause, may terminate a permit agreement at any time and require that all Dockless Vehicles permitted under an agreement be removed from City streets and its right-of-ways within ten (10) calendar days.

Sec. 12.08.004 Insurance.

- (a) A permit holder 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 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 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) A permit holder 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 \$5 million annual aggregate.
 - (2) If a permit holder 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 \$1 million per occurrence.
 - (3) Worker's compensation insurance with statutory limits.
 - (4) Employer's liability insurance with the following minimum limits for bodily injury by:
 - i. Accident, \$500,000 per each accident; and
 - ii. Disease, \$500,000 per employee with a per policy aggregate of \$500,000.
- (d) Insurance required under this Section must:
- (1) Include a cancellation provision in which the insurance company is required to notify the Police Chief 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 Police Chief in writing not fewer than 10 days before cancelling for nonpayment;
 - (3) Cover all Dockless Vehicles during the times that the vehicles are deployed or operating in furtherance of the permit holder'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 Police Chief 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 permit holder may have an interest in the insurance company.
- (f) A permit holder may not be self-insured.
- (g) Any insurance policy required by this article must be on file with and approved by the City prior to the issuance of a permit agreement, must remain in effect during the term of the permit agreement.

Sec. 12.08.005 Dockless Vehicle Operations and Parking or Staging

- (a) Each Dockless Vehicle permitted under this article must display the emblem of the permit holder, a unique identification number, and a 24-hour phone number for customers and citizens to report safety concerns, make complaints, ask questions, or

- request a Dockless Vehicle be relocated.
- (b) The fleet manager, or a designated representative, shall be available by the phone number provided on the application, seven days a week between 8:00 a.m. and 5 p.m. to accept calls from the Police Chief or designee.
 - (c) Permit holders shall not attach any personal property (other than Dockless Vehicles), fixtures, or structures to the public right-of-way without the separate written permission of the Police Chief. Any permission to place items in the public right-of-way must be incorporated into the permit.
 - (d) Permit holders shall educate customers regarding the law applicable to riding, operating, and parking a Dockless Vehicle. A permit holder's application must provide information notifying the user that:
 - (1) The legal parking of the Dockless Vehicle;
 - (2) The use of helmets is encouraged for the safety of the drivers;
 - (3) Operation of Dockless Vehicles, including the duty to yield to pedestrians; and
 - (4) **Areas where riding and parking are prohibited.**
 - (e) Notices of violations or broken Dockless Vehicles:
 - (1) Permit holders shall have one hour after receiving notice of a violation, from any source, to correct violations for a Dockless Vehicle being parked in an area prohibited under this article; for other violations, the permit holder **has two hours after receiving notice to correct** the violation.
 - (2) Permit holders are required to lock Dockless Vehicles reported as broken, from any source, and must remove the Dockless Vehicle within two hours.
 - (f) After the time for correcting a violation has expired, the City may remove and impound a Dockless Vehicle that is parked in violation of this article or broken at the City's designated Vehicle impound location. The permit holder must pay all fees associated with the impound and storage of Dockless Vehicles at the rates of the impound facility.
 - (g) Parking of Electric Bicycles and Bicycles Equipped with GPS:
 - (1) These vehicles may not be parked on streets, sidewalks or in right-of-ways, except in areas designated by the Police Chief or his designated representative or otherwise allowed in this Section;
 - (2) Electric bicycles and bicycles equipped with GPS may only be parked at a location designated by the Chief of Police.

Sec. 12.08.006 Enforcement

- (a) The Police Chief and his designees shall enforce this Ordinance.
- (b) Upon observing or confirming a report of a violation of this Ordinance, the Police Chief or his designees shall take necessary action to ensure effective regulation of Dockless Vehicles.
- (c) The Police Chief or his designees may, with or without notice, inspect any Dockless Vehicle operating under this article to determine whether the Dockless Vehicle complies with this article and other applicable laws.

Sec. 12.08.007 Penalties

- (a) The Office of the Chief of Police shall enforce and administer this Ordinance and includes

police officers, code compliance agents, or department employees designated by the Chief of Police.

- (b) A person commits an offense if, within the city, the person operates or causes or permits the operation of a Dockless Vehicle service without a valid permit agreement issued under this article.
- (c) A person commits an offense if the person violates or attempts to violate a provision of this article.
- (d) Violations of the Texas Transportation Code Chapter 551, Subchapter B and Subchapter E as they relate to the operation of electric bicycles will be strictly enforced.
- (e) A culpable mental state is not required for the commission of an offense under this article. A separate offense is committed each day in which an offense occurs.
- (f) Prosecution for an offense under this article does not prevent the use of other enforcement remedies or procedures applicable to the person charged with the conduct or involved in the offense.
- (g) Any person who violates any of the provisions of this Ordinance shall be guilty of a Class C misdemeanor and upon adjudication or conviction thereof shall be fined in an amount not to exceed \$500 for each offense.