

TOWN OF LITTLE ELM

ORDINANCE NO. 1491

AN ORDINANCE ADOPTING A NEW ARTICLE X, “DOCKLESS MOBILITY SYSTEM,” IN CHAPTER 98, “TRAFFIC AND VEHICLES,” OF THE CODE OF ORDINANCES OF THE TOWN OF LITTLE ELM, TEXAS, TO ESTABLISH REGULATIONS AND NEW PERMITS TO OPERATE DOCKLESS MOBILITY SYSTEM; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF LITTLE ELM, DENTON COUNTY, TEXAS:

Section 1. That Article X, “Dockless Mobility System,” in Chapter 98, “Traffic and Vehicles,” of the Code of Ordinances of the Town of Little Elm, Texas, is hereby adopted to read as follows:

ARTICLE X. – DOCKLESS MOBILITY SYSTEM

Sec. 98-212. Definitions.

As used in this Article:

Customer means a person who rents or otherwise uses a Unit from a Dockless Mobility System Operator.

Dockless Bicycle or *Dockless Tricycle* means a Dockless Mobility Unit consisting of two or three wheels held in frame, propelled by pedals and steered with handlebars, including electric-assist bicycles that are part of a publically offered transportation system that does not require a fixed apparatus for its receipt or return.

Dockless Mobility System means a mobility system or service permitted by the Town, comprised of Unit(s) for the purpose of transportation or conveyance.

Dockless Mobility Unit means a singular vehicle used in a greater, publicly offered transportation Dockless Mobility System for the conveyance of people, goods, or services that does not require fixed docking stations or apparatus to receive or return a Unit.

Dockless Scooter means a Dockless Mobility Unit consisting of a footboard mounted on two or more wheels and a steering handle that is part of a publicly offered transportation system that

does require a fixed apparatus for its receipt or return.

Electric Assist means an electric motor affixed to a Dockless Mobility Unit that assists the efforts of the driver when they are pedaling.

Home Zone means an area designated by the Town staff, typically delineated with traffic grade striping or paint, where Dockless Mobility Units must be parked. Home Zones located on private property must also have the consent of the property owner. A map of Home Zones will be provided to the Operator upon approval of the permit.

Operator means a person(s) who holds a permit issued by the Town under Chapter 98 of the Code of Ordinance to operate a town-wide service. The term includes any employee, agent, or independent contractor hired by the permit holder.

Unit means a singular vehicle used for the transportation or conveyance of people, goods, or services.

Sec. 98-213. Dockless Mobility Units Requirements.

(a) Dockless Mobility Units shall:

- (1) Prominently display the name of the Operator, their current contact information, and a unique Unit number;
- (2) Be equipped with a brake, and for those Units that operate at nighttime, a front light that emits white light and a red light and reflector at the rear of the Unit, pursuant to Section 551.104 of the Texas Transportation Code. All Dockless Mobility Units must have always-on front and back lights that are visible from a distance of at least 500 feet under normal atmospheric conditions at night. Front and rear lights must stay on at least 90 seconds after the Unit has stopped;
- (3) Be equipped with an on-board GPS unit or equivalent that can report the location of a Unit at any time for the purposes of use, recovery, repair, data collection, and incident investigation;
- (4) Be high quality, sturdily built to withstand the rigors of outdoor storage and constant use;
- (5) Employ tamper-resistant security hardware;
- (6) Be able to securely stand upright when parked; and
- (7) Be inspected when removed from routine service, to ensure that all of its components are present and function properly.

(b) Electric-assist Dockless Mobility Units used in systems issued a permit must employ an

electric motor of less than 750 watts (1 h.p.);

- (c) Bicycles used in Dockless Mobility Systems issued a permit shall meet standards outlined in the Code of Federal Regulation (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles. Additionally, permits systems shall meet the safety standard outlined in the International Organization for Standardization (ISO) 43.150 – Cycles, subsection 4210;
- (d) Electric bicycles used in Dockless Mobility Systems shall meet the most up-to-date definition of low-speed electric bicycle outlined in CPSC Public Law 107-309 for Low Speed Electric Bicycle and 15 U.S.C. Chapter 47 Section 2085 and be equipped with fully operable pedals and shall be subject to the same requirements as ordinary bicycles;
- (e) Scooters used in Dockless Mobility Systems shall meet the most up-to-date equivalent safety standards as those outlined in the Code of Federal Regulations and the International Organization for Standardization for bicycles. Currently, scooters shall meet COSC in Public Law 107-309 for standards around weight bearing; and
- (f) For all dockless electric scooters and bicycles used in Dockless Mobility Systems, the maximum motor-assist speed for permitted Units shall be 20 mph, when ridden in the street environment.

Sec. 98-214. Dockless Mobility System Permit.

(a) To obtain a permit for a Dockless Mobility System, a person must submit an application on a form provided for that purpose to the Development Services Department. The application must contain the following:

- (1) The name, street address, mailing address, email address, and telephone number of the applicant;
- (2) If the applicant is a partnership, a corporation, or limited liability company, the application shall list the names of all partners, directors, members, and officers, as applicable, of the applicant;
- (3) A non-refundable permit fee in the amount of \$500; and
- (4) Local point of contact for Operator staff that are capable removing or relocating Units based on the time frames listed in Section 98-217.

Sec. 98-215. - Granting, Renewing Permit and Permit Terms.

- (a) A person may operate a Dockless Mobility System only with a properly granted or renewed Town permit as set forth in this Article, and only in accordance with applicable law.

- (b) A Dockless Mobility System permit shall be valid for a period of one year from the date of issuance and may be renewed by applying in accordance with Section 98-214.

Sec. 98-216. - Operating Requirements.

- (a) Provide a mechanism for Customers to notify the Operator that there is a safety or maintenance issue with the Unit, and to include a telephone number, web address, and email address that must be properly established, maintained and available twenty-four (24) hours a day.
- (b) Maintain sufficient staff to relocate or rebalance Units on a regular basis as needed, in addition to handling local issues as they arise, including timely removals, installation or maintenance of equipment and other issues arising pursuant to this Article requiring local action on the part of Operator.
- (c) Assume responsibility for the cost and all obligations associated with properly maintaining its Units in good, safe operating condition, including fixing, repairing, or correcting each Unit that is considered inoperable, unsafe, or otherwise in violation of the standards under this Article before re-deployment back into service.
- (d) Be responsible for repair and payment of actual costs of repair to public infrastructure damaged by the use of Operator's Units, including reimbursement to Town if Town makes such repair, and including payment of costs incurred by the Town to remove and/or store Units that have been improperly parked or otherwise are required to be removed from the Public Right-of-Way or other areas pursuant to this Article. Payment shall be due within thirty (30) days of written notice by Town to Operator.

Sec. 98-217. Parking Requirements.

- (a) Dockless Units shall prominently display the Operator's current contact information for the purposes of requesting removal, relocation, or retrieval of the Unit.
- (b) All Units deployed by an Operator shall be parked:
 - 1) In an upright position on top of a hard surface;
 - 2) In a manner that does not detrimentally impact vehicular or pedestrian traffic; and
 - 3) Only within a Home Zone.
- (c) Units shall not be parked adjacent to or within:
 - 1) Transit zones, including bus stops and shelters;
 - 2) Loading zones;

- 3) ADA handicap parking zones;
 - 4) Street furniture that requires pedestrian access;
 - 5) Curb ramps;
 - 6) Entryways and driveways;
 - 7) Within the visibility triangle at intersections;
 - 8) Rail road tracks and crossings;
 - 9) Passenger loading zones or valet parking service areas; and
 - 10) A place where the Town determines poses an unreasonable risk to the health, safety, and welfare of the general public.
- (d) Operator shall relocate or remove from the Public Right-of-Way or anywhere within the Town each Unit that is inoperable, unsafe, or otherwise failing to meet the standards under this Article, within the following times:
- (1) Within two (2) hours of when Operator becomes aware of or receives notice between 8 a.m. and 8 p.m., seven days per week, except a holiday observed by the closure of Town offices; and
 - (2) Within twelve (12) hours of when Operator becomes aware of or receives notice during all other times.

Sec. 98-218. Safety Requirements.

- (a) All Units deployed by an Operator shall meet the standards outlined in the following:
- 1) Code of Federal Regulations, Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles, as may be amended;
 - 2) International Standards Organization 43.150 – Cycles, subsection 4210, as may be amended; and
 - 3) Section 551.104 of the Texas Transportation Code, as may be amended, regulating the safety equipment of bicycles.
- (b) All Operators shall have visible language on signs approved by the Town in designated parking areas or other appropriate places that notify the user that:
- 1) Helmet use is encouraged while riding the Unit for users 18 years of or older, and required for users under 18 years of age;

- 2) User shall yield to pedestrians on sidewalks; and
- 3) When riding on a street, users must follow the rules of the road as one would in a motor vehicle.

Sec. 98-219. Relocation, Removal, or Impoundment.

The Town has the right to relocate, remove, or impound any obstruction or encumbrance caused by a Unit anytime such Unit poses a threat to the health, safety and welfare of the general public or anytime a Unit has been parked or otherwise located in violation of this Article. In such case, the Operator will be fined an impoundment fee in the amount of \$50 per Unit.

Sec. 98-220. Survey, Records, and Data Sharing.

Dockless Bike Share Operators are required to report monthly information to the Town regarding their operations, fleet, and membership. The goal of these reports is to better understand how the entire Dockless Mobility System is being utilized and to better inform future policy changes. Operators will work with the Town to provide the following information on their operations in the Town:

- (a) Number of Units in their Dockless Mobility System;
- (b) Origin and destination data;
- (c) Usage (total trips, per timeframe, per location, per Unit);
- (d) Total number of Customers;
- (e) Customer survey and general demographics (if available);
- (f) Reported repairs, collisions;
- (g) Removal or relocation data including response times and locations; and
- (h) Any other data determined by Town as necessary to ensure compliance with this Article and with applicable law.

Sec. 98-221. Indemnity.

By making application for a permit, the Operator, its assigns, successors, and representatives agree to, and shall, defend, indemnify, release, and hold the Town, its agents, employees, officers, volunteers, 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 interests) for injury, death, damage, or loss to personal or real property sustained in connection with or incidental to the activity related to operating a Dockless Mobility System in

the Town and as may be authorized by the permit.

Sec. 98-222. Insurance, Performance Bond and Fees.

The following types of insurance must be procured and maintained by Operator:

- (a) Commercial general liability with minimum limits of liability per occurrence of \$1,000,000 with \$2,000,000 general aggregate.
 - 1) Policy shall be written by a licensed carrier authorized to do business in Texas, rated A:VI or better under the current A. M. Best Key Rating Guide.
 - 2) Policy shall be endorsed to name the Town of Little Elm as an Additional Insured, with a waiver of subrogation rights and “primary and non- contributory” language with regard to any self-insurance or insurance the Town may have or obtain.
 - 3) Policy shall not exclude: personal and advertising liability, contractual liability (for the indemnity provided herein), products/completed operations; independent contracts.
- (b) Business Automobile Liability
 - 1) Policy shall be written by a licensed carrier authorized to do business in Texas rated A:VI or better under the current A. M. Best Key Rating Guide.
 - 2) Policy shall name the Town of Little Elm as an Additional Insured, with a waiver of subrogation rights and “primary and non-contributory” language with regard to any self-insurance or insurance the Town may have or obtain.
 - 3) Minimum combined single limit of liability of \$1,000,000 for bodily injury and property damage.
 - 4) Coverage shall include any autos, owned autos, leased or rented autos, non- owned autos and hired autos.
- (c) Workers’ Compensation Insurance.
 - 1) Statutory limits required.
 - 2) Employer’s Liability minimum limits of liability of \$1,000,000 for each accident/each disease/each employee.
 - 3) “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04.”
 - 4) Texas must appear in Item 3A of the Workers’ Compensation coverage or Item 3C must contain the following: “All States except those listed in Item 3A and the

States of NV, ND, OH, WA, WV, and WY.”

Operator shall provide the Town with evidence of required coverage on the most current State of Texas Department of Insurance-approved form. Carrier may be an eligible non- admitted insurer in the State of Texas.

Policy shall not be canceled, non-renewed, suspended or reduced in limits of liability until the Town has received 30 days’ written notice of such change. Should policies lapse or expire, the permit shall automatically be suspended and Operator shall discontinue its Dockless Mobility System within the Town. Such permit suspension shall be in effect until Operator provides Town with evidence of a replacement policy. If Operator fails to provide evidence of replacement policies acceptable to the Town within five (5) business days following the policy lapse, the permit shall terminate automatically.

Sec. 98-223. General.

- (a) The Director of Development Services shall approve any dockless mod type and technology, prior to approving Unit deployment.
- (b) No dockless system may operate within the Town of Little Elm right-of-way, parks, or trails without obtaining a permit.
- (c) The Director of Development Services shall determine all permit terms, conditions, fines and other standard or special requirements.
- (d) Units are eligible to be placed into operation immediately, upon authorization issued by the Director of Development Services.

Sec. 98-224. Revocation, suspension or denial of a permit.

- (a) The Director of Development Services may immediately revoke or suspend the permit, or deny either the issuance or renewal thereof, if it is found that:
 - (1) The Operator has violated or failed to meet any of the provisions of this Article or conditions of the permit;
 - (2) The Operator has violated any federal, state, or town law, or regulation;
 - (3) The chief of the police department or the chief of the fire department has determined that the Dockless Mobility System would pose a serious threat to public health, safety, or welfare; or
 - (4) The applicant has made a false statement of material fact on an application for a Dockless Mobility System permit.
- (b) The Director of Development Services may terminate a permit at any time for cause and

require that the entire fleet of Units be removed from Town streets, within ten (10) calendar days.

Sec. 98-225. Notice to applicant/Operator; appeals.

- (a) Upon denial, suspension or revocation, the Director of Development Services shall notify the applicant or Operator in writing either in person or by certified mail to the address listed on the application of the action taken and the reasons therefore. A person may appeal a decision to deny, revoke, or suspend a permit to the Town Council. Appeals shall be submitted to the Town Secretary in writing within 15 days following the date the applicant or Operator receives the decision. A hearing on the denial, suspension, or revocation will be scheduled for the next regular meeting of the Town Council that is more than six days away. The council will render a decision on the appeal within ten days of the hearing. An Operator shall not operate a Dockless Mobility System during the appeal process.
- (b) At the appeal hearing on a denial of an initial permit application, the appealing party must present evidence clearly indicating that the Director of Development Services was incorrect in determining that the stated grounds for the permit denial existed.
- (c) At the appeal hearing on a permit suspension, revocation, or refusal to renew, the Director of Development Services must present evidence clearly indicating that the stated grounds for such action existed.

Sec. 98-226. - Violation. Penalties.

It shall be unlawful for a Dockless Mobility Operator to operate, maintain or conduct within the Town a Dockless Mobility System without first securing a permit, and/or without complying with all of the provisions of this Article or any other law.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 4. That it is the intention of the Town Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the Town of Little Elm, Texas, and that sections of this ordinance may be renumbered or re-lettered to accomplish such intention.

Section 5. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for

violating this ordinance shall be as provided for in Sec. 1-10 of the Code of Ordinances of the Town of Little Elm, which shall be a fine of not less than \$1.00 and no more than \$500.00, and each day a violation exists shall be a separate offense.

Section 6. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED THIS 19 DAY OF MARCH, 2019:

David Hillock, Mayor

ATTEST:

Kathy Phillips, Town Secretary