

ORDINANCE NO. 3428

AN ORDINANCE OF THE CITY OF STILLWATER, OKLAHOMA, AMENDING TITLE 37 OF THE STILLWATER CITY CODE “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES” BY THE ADDITION OF NEW ARTICLE V ENTITLED “SHARED ACTIVE TRANSPORTATION,” SECTION 37-301 “PURPOSE,” SECTION 37-302 “DEFINITIONS,” SECTION 37-303 “PERMIT REQUIRED; PERMIT TERM AND FEES,” SECTION 37-304 “SHARED ACTIVE TRANSPORTATION PROCEDURE,” SECTION 37-305 “OPERATIONS AND MAINTENANCE,” SECTION 37-306 “FLEET SIZE REQUIREMENTS,” SECTION 37-307 “SMALL VEHICLE PARKING,” SECTION 37-308 “SAFETY REQUIREMENTS,” SECTION 37-309 “DISTRIBUTION,” SECTION 37-310 “DATA, STATISTICS, REPORTING,” SECTION 37-311 “INSURANCE & INDEMNIFICATION,” SECTION 37-312 “TERMINATION,” AND SECTION 37-313 “APPEAL”; REPEALING ANY CONFLICTING ORDINANCES AND PROVIDING FOR SEVERABILITY.

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

Section 1. That Title 37, Stillwater City Code, be and the same is hereby amended by adding a new Article V, “Shared Active Transportation,” to read as follows:

ARTICLE V. – SHARED ACTIVE TRANSPORTATION

Section 37-301 Purpose.

The availability of small vehicles and new funding models have attracted numerous vendors to the Shared Active Transportation business. While there are a number of benefits for communities, some cities have experienced public safety challenges and concerns over clutter in the public right-of-way when small vehicles are placed on streets and sidewalks without the benefit of permits or agreements, or when small vehicles are abandoned outside of the service area. To mitigate these challenges, minimize risk and liability, and maximize the public benefits of Shared Active Transportation, this ordinance creates a permit process which provides a clear path for Shared Active Transportation companies and takes advantage of their expertise and motivation to implement this emerging mobility option.

Section 37-202 Definitions.

- A. ***Bicycle*** means a human-powered or electric bicycle, as defined in Title 29, Article 1, of the Stillwater City Code.
- B. ***City*** means the City of Stillwater.
- C. ***Docked Small Vehicle Sharing System*** means a Shared Active Transportation Program in which companies distribute Small Vehicles via a stationary location and the Small Vehicles must be returned at specific stationary locations. Docked Small Vehicles are tracked via GPS.
- D. ***Dockless Small Vehicle Sharing System*** means a Small Vehicle Share Program in which companies distribute Small Vehicles throughout a city to be rented per trip. Dockless Small Vehicles can be placed at any lawful location, and not at a set location, subject to this ordinance. Dockless Small Vehicles are tracked via GPS and can be located by users through electronic means.
- E. ***Electric Scooter*** means a device designed to be stood upon, is powered by an electric motor, and is propelled at no more than 15 miles per hour, as further defined in Title 29, Article 1, of the Stillwater City Code.
- F. ***Geo-Fencing*** means the use of Global Positioning System (“GPS”) or Radio Frequency Identification (“RFID”) technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

- G. *Free Operator* means a company, person, or philanthropic organization that engages in or operates a Shared Active Transportation Program but does not charge for the use of their Small Vehicles.
- H. *Operator* means a company or person that engages in or operates a Shared Active Transportation Program business or enterprise.
- I. *Shared Active Transportation Permit* means a permit issued by the City of Stillwater as described under this ordinance.
- J. *Shared Active Transportation Program* means a transportation program ideal for short distance, point-to-point trips providing users the ability to pick up a Small Vehicle from one location and leave it at another within a system's service area. The system provides users unencumbered access to Small Vehicles within a defined system area. Small Vehicles can be remotely accessed via a smart phone application or other credentials and do not need to be attended by the Operator.
- K. *Small Vehicle* means Bicycles, Electric Bicycles, and Electric Scooters as defined by this Title and Title 29, Article 1, of the Stillwater City Code.

Section 37-302 Permit Required; Permit Term and Fees.

- A. All Operators of a Shared Active Transportation Program within the City of Stillwater shall, prior to implementation of such a program, secure a Shared Active Transportation Permit, as issued by the City Clerk.
- B. Each permit shall be active for one (1) year from the date of issuance.
- C. The initial permit fee, and subsequent permit renewal fees, shall be as provided in this Title. The fee shall include the appropriate application fee, an inspection fee, and other fees as applicable.
- D. All Operators shall pay the City a public property repair and maintenance fee of Twenty Dollars (\$20.00) per Small Vehicle, per year, calculated based upon the maximum fleet size requested and approved in the permit application. Should an increase in fleet size be approved in accordance with Section 37-306 of this Code, this fee amount shall also be increased to reflect the new maximum fleet size.
- E. All Operators shall also pay the City a public infrastructure fee of Thirty Dollars (\$30.00) per Small Vehicle, per year, calculated based upon the maximum fleet size requested and approved in the permit application. Should an increase in fleet size be approved in accordance with Section 37-306 of this Code, this fee amount shall also be increased to reflect the new maximum fleet size.
- F. Shared Active Transportation Programs that are managed by Free Operators, or that 1) are incorporated as a nonprofit organization, and 2) receive local public financial assistance shall be exempt from the fees required in Subsections D and E of this Section for each fiscal year in which the Shared Active Transportation Program continues to meet these criteria. Furthermore, Free Operators shall be exempt from Sections 37-305 (A-C), 37-306 (A-B), 37-309, and 37-310 of this Chapter.

Section 37-304 Shared Active Transportation Procedure.

- A. Docked Small Vehicle Sharing Systems may be located on stations or racks on private property, or on public right-of-way or other public property pursuant to a License Agreement or Shared Active Transportation Permit issued by the City.
- B. Dockless Small Vehicle Sharing Systems may be located on public right-of-way or other public property pursuant to a License Agreement or Shared Active Transportation Permit issued by the City so long as they do not obstruct or interfere with the public's use of said right-of-way or property. A user, having activated and used the Dockless Small Vehicle in accordance with

the Operator's rules, may leave the Small Vehicle at any designated lawful location, subject to Section 37-307 of this Code, within the system's service area.

Section 37-305 Operations and Maintenance.

- A. All Operators shall have staffed operations located within the City of Stillwater for the purpose of Small Vehicle maintenance and rebalancing.
- B. All Operators shall have a twenty-four (24) hour customer service phone number for customers to report safety concerns, maintenance issues, complaints, or ask questions.
- C. Every Small Vehicle shall have the Operator's name, phone number and a unique identifier for each Small Vehicle that is clearly displayed and visible to the user on the Small Vehicle.
- D. Any inoperable or unsafe Small Vehicles shall be removed from the right-of-way within twenty-four (24) hours of notice by any means to the Operator by any individual or entity, and shall be repaired to full working order before being placed back into the City right-of-way.
- E. The City may, in its sole discretion and without prior notice, remove Small Vehicles from the public right-of-way if it is a matter of public safety or some other public purpose, including the obstruction of a public way. In such instances, the City will attempt to notify the permitted Operator as soon as reasonably practicable thereafter. The City will not be liable for any damages that occur as a result of this removal. The Operator shall pay for the cost of such removal.
- F. The City may require an Operator to geo-fence any area where the operation of a Small Vehicle is prohibited by ordinance.

Section 37-306 Fleet Size Requirements.

- A. Permitted Bicycle Operators--Bicycles and Electric Bicycles: maximum fleet size three hundred (300) bicycles.
- B. Permitted Electric Scooter Operators: maximum fleet size three hundred (300) Electric Scooters.
- C. All applicants shall indicate the proposed fleet size in the application for a Shared Active Transportation Permit.
- D. The City may increase the number of permitted Small Vehicles in an Operator's fleet at its sole discretion, and will consider doing so on a permit-by-permit basis. No increase in fleet size shall be considered unless the Operator demonstrates that, on average, each Small Vehicle in its fleet is being used more than four (4) times per day and the change requested does not exceed the maximum fleet size authorized under this section. Each request for an increase in fleet size will be subject to an application renewal fee as provided in this Code.

Section 37-307 Small Vehicle Parking.

- A. Docked Small Vehicles available for use or rental shall be parked in a rack or other appropriate apparatus located within areas designated for such purpose pursuant to a Shared Active Transportation Permit.
- B. Dockless Small Vehicles available for use or rental shall be parked within the boundaries of areas specifically designated by the City for pick up and drop off of such vehicles.
- C. Dockless Small Vehicles available for use or rental shall not be parked on a sidewalk, on the right-of-way, or on a public easement on or across property occupied by a single or two-family residence unless the Operator has first obtained the written permission of the property owner. The City shall remove such vehicles upon the request of the property owner or occupant and the Operator shall pay a fee of five dollars (\$5.00) per day per vehicle to recover any such vehicle in the custody of the City as the result of such removal.

- D. Small Vehicles shall not be parked in a manner that obstructs or otherwise would impede normal and reasonable pedestrian access or use of a sidewalk.
- E. Small Vehicles shall not be parked in a manner that would impede vehicular traffic on a street or alley.
- E. Incorrectly parked Small Vehicles shall be moved by the Operator within twenty-four (24) hours of notice to the Operator.
- F. The City may remove a Small Vehicle from the City's right-of-way if it constitutes an obstruction or immediate public safety hazard without any advance notice to the Operator. The Operator shall pay a fee of five dollars (\$5.00) per day per Small Vehicle to recover any such vehicle in the custody of the City as the result of such removal.
- G. Any Small Vehicle removed by the City from public right-of-way pursuant to this section which is not claimed by the Operator and remains unclaimed with the City for sixty (60) days, shall be considered abandoned, and the City may assert ownership of same, and keep or dispose of said Small Vehicle as City sees fit, including public sale in accordance with state statutes. The proceeds of any such sale shall belong to City and shall be deposited into City's general fund.

Section 37-308 Safety Requirements.

- A. All Bicycles and Electric Scooters used in systems issued a permit under this ordinance shall meet applicable safety standards established by federal and state regulatory authorities.
- B. All Small Vehicles used in systems issued a permit under this ordinance shall meet state law requirements regarding lights and other operating equipment.
- C. All permitted Shared Active Transportation Programs shall notify users in writing that:
 - 1. Helmet use is encouraged while riding a Small Vehicle;
 - 2. Users of Electric Bicycles and Electric Scooters shall yield to Bicycles in bike lanes;
 - 3. Users of Small Vehicles shall follow Chapter 29 Stillwater City Code requirements for operation of bicycles when riding on a sidewalk; and
 - 4. When riding on-street, Small Vehicles shall follow Chapter 29 Stillwater City Code requirements and applicable state law for operation of bicycles.

Section 37-309 Distribution.

- A. If an Operator has deployed more than one hundred fifty (150) Small Vehicles, at least twenty percent (20%) of such inventory shall be rebalanced once per day and located in underserved communities of the City, as determined by the City Manager or designee.
- B. All Operators shall provide the City with a plan for equitable Small Vehicle sharing service, including: education of, marketing to, and engagement with low-income, minority, non-English speaking, and zero-car populations. The plan should address such topics as how to use Shared Active Transportation Programs, Small Vehicle safety, and Small Vehicle laws and regulations.
- C. All Operators shall provide information on how users can use the Shared Active Transportation Program without 1) a smartphone, and/or 2) a credit or debit card.

Section 37-310 Data, Statistics, Reporting.

- A. All Operators shall include active GPS location tracking capabilities on each Small Vehicle.
- B. All Operators shall provide users with a Privacy Policy that safeguards users' personal, financial and travel information and usage, including but not limited to trip origination and destination data.

- C. All Operators shall maintain a record of maintenance activities, including but not limited to Small Vehicle identification number and maintenance records. These records shall be made available to the City upon request.
- D. All Operators shall provide the City, or a third-party researcher designated by the City, the following data on a monthly basis in a format approved by the City:
 - 1. Aggregated breakdown of users by gender and age;
 - 2. The number of Small Vehicles in circulation;
 - 3. Daily, weekly and monthly active users;
 - 4. Small Vehicle usage, including:
 - a. Total user miles, broken out daily, monthly, quarterly, and annually;
 - b. The number and duration of rides per user per day, as well as the number of rides per small vehicle per day;
 - 5. Anonymized aggregated data taken by the Operator's small vehicles in the form of heat maps showing routes, trends, origins, and destinations;
 - 6. Anonymized trip data taken by the Operator's small vehicles that includes the origin and destination, trip duration, and date and time of trip;
 - 7. Customer comments/complaints and resolution, theft/vandalism, and average repair times; and
 - 8. Reported collisions.
- E. All Operators shall provide the City with anonymous real-time data (information that is delivered immediately after collection) on the availability and location of the entire Stillwater fleet upon request.
- F. All Operators shall conduct annual qualitative surveys, developed collaboratively between the City and Operator.

Section 37-311 Insurance & Indemnification.

- A. All Operators shall maintain throughout the entire term of the permit general commercial liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000.00), listing the City as additionally insured, and issued by an insurance company licensed to do business in the State of Oklahoma.
- B. Prior to the permit being issued, all applicants shall sign an agreement indemnifying and holding harmless the City, its officers, employees and agents.
- C. The City is not responsible for educating users regarding safety requirements and other laws, nor is the City responsible for educating users on how to ride or operate a Small Vehicle. Operators shall, as a condition of the Shared Active Transportation Permit, agree to educate users regarding laws applicable to riding and operating a Small Vehicle in the City of Stillwater and to instruct users to comply with applicable laws pertaining to bicycles in Chapter 29 Stillwater City Code and applicable state law.

Section 37-312 Termination.

The City reserves the right to terminate a Shared Active Transportation Permit at any time, and require that the entire fleet of Small Vehicles be removed from City right-of-way. Such notice of termination shall be delivered to the Operator as set forth in the permit.

Section 37-313 Appeal.

Any applicant who is denied a permit, or an Operator whose permit is terminated as outlined in Section 37-312, may appeal, or request a review or reconsideration of, that permit decision. An appeal of a Shared Active Transportation Permit decision may be made to the City Council by submitting the decision letter, as well as a request for the appeal, in writing, within ten (10) calendar days of the original permit decision.

Section 2. SEVERABILITY CLAUSE. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable.

PASSED, APPROVED, AND ADOPTED THIS _____ DAY OF FEBRUARY 2019.

WILLIAM H. JOYCE, MAYOR

(SEAL)
ATTEST:

ELIZABETH CHRZ, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS _____ DAY OF FEBRUARY 2019.

JOHN E. DORMAN, CITY ATTORNEY

First Reading: 02-04-19
Second Reading: 02-11-19