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City Attorney

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**OAKLAND CITY COUNCIL****ORDINANCE No. \_\_\_\_\_ C.M.S.****ORDINANCE AMENDING TITLE 10 AND TITLE 12.08 OF THE OAKLAND MUNICIPAL CODE TO ESTABLISH REGULATIONS AND NEW PERMITS TO OPERATE AND PARK DOCKLESS BIKE AND SCOOTER SHARING PROGRAMS IN THE PUBLIC RIGHT OF WAY**

**WHEREAS**, the City of Oakland recognizes the practice of bike sharing as a beneficial mode of transportation that reduces demand for private vehicles, decreases per capita greenhouse-gas emissions, and creates more affordable mobility options for all of Oakland's residents; and

**WHEREAS**, dockless bike share sharing and scooter sharing services, which do not require a docking station to operate and may be electric-assist vehicles (E-bikes and E-scooters), have the potential to offer the same benefits as bike sharing, and may offer additional mobility benefits for the public, including larger, more equitable service areas and accommodation for riders with a greater range of physical abilities; and

**WHEREAS**, the Energy and Climate Action Plan (Resolution No. 84126 C.M.S.) calls for a 36% reduction in greenhouse gas emissions and 20% reduction in vehicle-miles traveled from 2005 levels by 2020; and

**WHEREAS**, the City of Oakland, through its "Alternative Modes Policy" (Resolution No. 73036 C.M.S.) supports transportation alternatives to private, single-occupant vehicles; and

**WHEREAS**, the City of Oakland applied for Transportation Fund for Clean Air funding and received \$660,616.00 for the Oakland Bike Share Program; and

**WHEREAS**, the City of Oakland adopted a Bike Sharing Policy (Resolution No. 85715 C.M.S.) which calls for the implementation of a bike sharing program that facilitates the "last mile" of transit trips and non-auto short trips; and

**WHEREAS**, the City of Oakland has the authority, pursuant to City Charter Article I, to amend the Municipal Code to amend the Master Fee Schedule to include permit fees for dockless bike sharing and scooter sharing operations; and

**WHEREAS**, unregulated, unpermitted shared-use bikes and scooters proliferating in our community can cause problems, including impeding the public right of way, lack of accountability for improper use and placement, and can cause tripping hazards; and

**WHEREAS**, this ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15301 (existing facilities), and 15061(b) (3) (no significant effect on the environment); and

**WHEREAS**, effective and responsible regulation can help ensure that these new services can provide improved mobility options for the public, while also incentivizing appropriate placement and responsible behavior, and local jobs and accountability; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1. Title 10 of the Oakland Municipal Code is amended to add new Chapter 10.18:**

**Chapter 10.18 DOCKLESS BIKE AND SCOOTER SHARE PROGRAM**

**10.18.10 – Definitions.**

As used in this chapter, the following definitions shall apply:

- A. "Dockless Bike and Scooter share system" means providing bikes/scooters, inclusive of electric-assist bikes/scooters (E-bikes/E-scooters), for short-term rentals for point to point trips where, by design of the dockless bike/scooter share operator, the bikes/scooters are intended to remain in the public right of way, even when not being rented/used by a customer."
- B. "Dockless Bike/Scooter share operator" or "Operator" is any entity that owns and/or operates a City authorized dockless Bike/Scooter share system or program in the City's right of way. The term includes any employee, agent or independent contractor hired by the Operator.
- C. "Dockless Bike/Scooter share User or Customer" is any person that uses, rents or rides a dockless Bike or Scooter or is a customer of the Dockless Bike/Scooter Operator.

**10.18.20 – Dockless Bike and Scooter Operator Permits and Regulations Governing Dockless Bike and Scooter Programs.**

- A. The City Administrator, or her designee, shall develop dockless bike and scooter operator program criteria, application process and program requirements to operate within the City's right-of-way.
- B. The City Administrator, or her designee, is authorized to review, approve and issue dockless bike and scooter operator permits to operators who submit applications to operate such programs within the City.
- C. The City Administrator, or her designee, shall promulgate additional regulations governing dockless bike and scooter programs which at minimum will require Operators to provide bike and scooter safety features (such as lights and reflectors), to follow parking rules, to meet operating and customer service performance standards, and to perform data collection and reports to the City that monitors performance and effectiveness. Safety communication materials and app features must be preapproved by

the City prior to launching.

- D. The City Administrator, or her designee, shall set requirements for Operators to quickly remove vehicles parked in inappropriate areas, rebalance vehicles, and similar operator obligations and responsibilities.
- E. The City's Dockless Bike and Scooter Share Operator permit will also require Operators to provide proof of insurance of the types and at the levels determined by the City, indemnification, performance bonds, and cost recovery fees.
- F. Termination. Operator permits shall be subject to termination for non-compliance including, but not limited to, operations that in the City's discretion constitute a nuisance, dangerous condition or repeated violations.
- G. The City Administrator, or her designee, will establish a process to determine well-planned, designated locations for dedicated spaces for dockless bike and scooter sharing in the public right of way and in public plazas in cooperation with Operators, and the public.

#### **10.18.30 – Dockless Bike and Scooter Program Operator Requirements**

##### **A. Communications to Customers/Users**

All permitted Operators shall include visible language within the Operator's mobile and web application that notifies the customer that:

- a. Adult Users or Customers on dockless bikes will be encouraged to wear helmets, Adult Users on E-scooters and minor Users of either bikes or E-scooters are required to wear helmets.
- b. Dockless bike/scooter Users must follow all state and local traffic laws, including but not limited to the California Vehicle Code and Oakland Municipal Code.
- c. Dockless bike/scooter Users are not allowed to ride on the sidewalk.

##### **B. Program Safety**

Dockless Bike/Scooter Share Operators are responsible for educating customers about safe use of bikes/scooters, including providing education about state and local laws applicable to riding, operating and depositing a dockless bike/scooter in the public right of way.

##### **C. Federal, State and Local Law Compliance**

Operators shall comply with all federal, state and local laws and shall be responsible for dockless bike/scooter User compliance with all laws, rules and regulations governing the use of dockless bikes/scooters. Compliance with such laws shall include, without limitation, U.S.C, Title 15 Section 2052 (a) (1) and 2085, C.F.R. 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations, and Article 4, sections 21200-21213, and Article 5, section 407.5 and sections 21220-21235, of the California Vehicle Code, the California Penal Code and Oakland Municipal Code applicable to the use of bikes, E-bikes and E-scooters in the public right of way.

- D. Operator's vehicles shall not create excessive or annoying noises in violation of Chapter 8.18.010 of the Oakland Municipal Code, nor play threatening messages.

**10.18.40 – Establish parking and fleet size requirements in accord with California Vehicle Code section 21206 (Bicycles) and section 21225 (motorized scooters).**

- A. The City Administrator, or her designee, shall establish parking requirements for dockless bikes/scooters, and assess each Operator's compliance with those requirements. Shared bikes and scooters with both "self-locking" technology and those that lock to bike racks may be allowed.
- B. Unless otherwise specified, dockless shared bicycles and scooters may be parked in acceptable areas of the right-of-way, including the "furnishing zone" if one exists, or at the curb side in areas with narrow sidewalks and no furnishing zone.
- C. If Operator's bikes/scooters are found to be consistently parked improperly, the City Administrator reserves the right to reduce the number of shared bikes or scooters allowed under their permit, or revoke it all together. To maintain parking compliance, Operators shall:
1. Provide a single point-of-contact (phone number and email) customer service line, available 24 hours, for complaints regarding improper parking; and
  2. List that contact clearly on each bike or scooter along with a unique identifying number; and
  3. Address those complaints within 3 hours during typical work hours (Monday-Friday, 9am-6pm) and 12 hours on weekends and after typical work hours; and
  4. Issue a "ticket number" for each issue to both the City and the person who reported the issue; and
  5. Provide a response when a complaint is closed, similar to Oakland's 311 system; and
  6. Provide sufficient operations and maintenance staff in Oakland to address issues and remove improperly parked bikes or scooters.
- D. Each Operator shall be required to provide a minimum and maximum number of dockless bikes and scooters, to ensure availability and avoid over-saturation. A maximum number of bikes or scooters should be established, with an additional 100 vehicles allowed in phases if the Operator's total fleet achieves a threshold of usage.

**10.18.50 – City Administrator shall require equitable service areas and rebalancing of dockless bikes and scooters**

- A. The Dockless Bike and Scooter Share permit is only valid for operations within the city public right of way. An Operator shall not restrict use of its bicycle/scooter share system within certain geographical areas of the city unless approved by the city. Permission to operate the bicycle/ scooter share system outside the public right of way shall require permission of appropriate department, agency, or property owner(s); the bicycle/scooter share Operator shall have a means of communicating to the customer when the bike/scooter has been operated in non-permitted areas. The communication to the User shall be sent electronically at the

end of the ride.

- B. Dockless Bikes and Scooters should be distributed equitably throughout Oakland. No less than 50% of Operators scooters and bikes shall be deployed in Oakland's Communities of Concern (as designated by the Metropolitan Transportation Commission). Operators shall provide real-time access to data showing the location of all their bikes and scooters.
- C. Operators will closely monitor ridership and adjust bike and scooter density and location accordingly to maximize the convenience of the greatest number of riders.

#### **10.18.60 – Provide accessibility to persons experiencing disabilities**

- A. Dockless bike Operators shall be required to include adaptive bicycles for Users experiencing disabilities, including hand-cycles, tandems and trikes. The total percentage of adaptive E-bikes should be based on expected need, performance and usage.
- B. If Operator is unable to deploy adaptive bicycles at the time of permit issuance, a plan must be submitted to the Department of Transportation within three months detailing a timeline for incorporation of shared adaptive bicycles into their fleet. This plan should detail the types and numbers of adaptive bikes that will be made available.

#### **10.18.70 – Provide access to persons without smart phones or credit cards**

Operators shall make available ways to use and pay for the service that do not require a smart phone or credit card.

#### **10.18.80 – Ensure affordability**

Operators shall offer a discounted membership plan for those with low-incomes, equivalent to \$5 for one year of unlimited 30 minute rides for those who participate in the State Nutritional Assistance Program (SNAP) or California Alternative rates for Energy (CARE).

#### **10.18.90 – Protect personal data and privacy**

Operators should clearly communicate to the public and to the City what personal information is being collected about Users, how it is being used, and for how long. The dockless bike and scooter share permit shall include a standard reporting form for this information, and the responses should be available on the City's website.

#### **10.18.100 – Share data and reports**

Operators shall make real-time data available to the City and designated third parties via the data standard developed by the North American Bikeshare Association, known as the "General Bikeshare Feed Specification (GBFS)". In addition, reports summarizing usage, maintenance, rebalancing, customer service and other key performance indicators should be provided to the

City on a bi-yearly or quarterly basis.

#### **10.18.110 – Establish a Community Engagement Process**

The City Administrator or her designee will establish requirements for a robust community engagement process, including public workshops where Operators co-plan the system with the community and a public forum for Operators to present their proposals directly to, and receive comments from, Oakland residents. Public outreach plans shall be pre-approved by designated City staff, and should include a full list of presentations, activities and events.

#### **Section 2. Chapter 12.08 is Amended to Read as Follows:**

##### **12.08.012 – Dockless Bike and Scooter Sharing Minor Encroachment Permits.**

Operators of Dockless Bike and Scooter share systems as defined in Chapter 10.18.10 are required to obtain a minor encroachment permit before commencing any operation of such programs within the City's right-of-way.

The City Administrator, or her designee, is authorized to issue minor encroachment permits to a dockless bike/scooter sharing Operator in compliance with the provisions of this title. Such permits shall be required for the dockless bike/scooter sharing operator to maintain public dockless bike/scooter sharing systems on the public right-of-way, including streets, sidewalks, and plazas of the City. The number and location of shared dockless bicycle/scooter vehicles allowed under each such permit shall be subject to approval of the City Administrator, or her designee.

A dockless bike/scooter share Operator shall be required to obtain a minor encroachment permit from the City Administrator, or her designee, prior to and in order to provide a dockless bicycle/scooter share system in the City of Oakland. Encroachment permits will be effective for a period of one year and are renewable annually.

It shall be unlawful for a dockless bike/scooter share Operator to provide a dockless bike/scooter share system within the City without first obtaining an encroachment permit from the Department of Transportation.

**Section 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**Section 4. CEQA Determination.** This ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15301 (existing facilities), and 15061(b) (3) (no significant effect on the environment).

**Section 5. Effective Date.** This Ordinance shall be effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA; \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_

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## **NOTICE AND DIGEST**

**ORDINANCE AMENDING TITLE 10 AND TITLE 12.08 OF THE OAKLAND MUNICIPAL CODE TO ESTABLISH REGULATIONS AND NEW PERMITS TO OPERATE AND PARK DOCKLESS BIKE AND SCOOTER SHARING PROGRAMS IN THE PUBLIC RIGHT OF WAY**

Ordinance creating a regulated permit program for the establishment, operation and oversight of shared mobility services featuring dockless bikes and scooters, including electric-assist bike and scooters (e-bikes and e-scooters) that operate and park in the public right of way.