

AN ORDINANCE 2018-10-11-0803

**REGULATING THE USE OF MOTOR-ASSISTED SCOOTERS,
ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH
GPS; REGULATING PERSONS THAT PROVIDE THESE
VEHICLES FOR COMPENSATION; ESTABLISHING CERTAIN
FEES AND FINES; AND AMENDING THE CITY CODE OF SAN
ANTONIO, TEXAS.**

* * * * *

WHEREAS, multiple transportation options allow residents and people who visit the City of San Antonio, for business or pleasure, to enhance their enjoyment and experiences by allowing easy access to different areas of the city; and

WHEREAS, new transportation options have recently been offered for a fee, including motor-assisted scooters, electric bicycles and bicycles equipped with GPS; and

WHEREAS, regulation of these transportation options is necessary to establish the rules for the safe operation of these vehicles and to protect the safety and convenience of pedestrians and others who might be impacted by the use of these vehicles; and

WHEREAS, due to the new and constantly changing nature of these vehicles and the entities that provide them for use for a fee, the director of the department designated by the City Manager to enforce this ordinance must have the authority to establish rules and regulations for the issuance of permits and the operation of these vehicles consistent with this ordinance; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. That CHAPTER 19, "MOTOR VEHICLES AND TRAFFIC" of the City Code of San Antonio, Texas is hereby amended by adding new Article XIX, " MOTOR-ASSISTED SCOOTERS, ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH GPS, " composed of Sections 19-660 through 19-669, to read as follows:

ARTICLE XIX. - MOTOR-ASSISTED SCOOTERS, ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH GPS

Sec. 19-660. - Definitions and exclusions.

(a) As used in this article:

- (1) 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.

- (2) DIRECTOR means the director of the department designated by the city manager to enforce and administer this article and includes representatives, agents, or department employees designated by the director.
- (3) DOCKLESS VEHICLE means a Bicycle Equipped with GPS, an Electric Bicycle, or a motor assisted scooter that is available for use for a fee;
- (4) ELECTRIC BICYCLE means a bicycle that:
 - (A) is 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.
- (5) FLEET MANAGER means the person responsible for the daily operations of a dockless vehicle service, who must be based in the city.
- (6) MOTOR-ASSISTED SCOOTER means a self-propelled device, not including a pocket bike or minimotorbike, with:
 - (A) at least two wheels in contact with the ground during operation;
 - (B) a braking system capable of stopping the device under typical operating conditions;
 - (C) a gas or electric motor not exceeding 40 cubic centimeters;
 - (D) a deck designed to allow a person to stand or sit while operating the device; and
 - (E) the ability to be propelled by human power alone.
- (7) 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 for compensation.
- (8) PERMIT HOLDER means the person who owns the operation if a sole proprietorship, or the person who has been designated as managing the operation if any other entity, of a service providing dockless vehicles for compensation.
- (9) PERSON means an individual, partnership, corporation, company, association or other legal entity.

(b) This article does not apply to a moped or motorcycle; a motorized mobility device (Trans. Code Section 542.009); an electric personal assistive mobility device (Trans. Code Section 551.201; or a neighborhood electric vehicle (Trans. Code Section 551.301).

Sec. 19-661. - Operation, parking, and required equipment of motor-assisted scooters, electric bicycles, and bicycles equipped with GPS.

- (a) Operation of Motor-Assisted Scooters:
 - (1) Riders must always yield to pedestrians.
 - (2) Riders must use bike lanes when available.

- (3) In the absence of a bike lane, riders may ride on streets which have a speed limit of 35 miles per hour or less, and on sidewalks, including sidewalks adjacent to roads which have a speed limit over 35 miles per hour. Riders must obey all state and city traffic laws.
 - (4) If ridden on a sidewalk, riders must maintain a distance of two feet from all pedestrians.
 - (5) Riders may not ride on trails, creek ways, plazas and in parks, including but not limited to the Riverwalk, Alamo Plaza, La Villita, Main Plaza and Market Square. Public streets and sidewalks that intersect parks and plazas may be ridden upon.
 - (6) The person operating or in control must be at least 16 years of age.
 - (7) Riders may not have any passengers. Only one person may be on the vehicle when it is being operated.
 - (8) Riders may not use a portable wireless communication device while operating a vehicle.
 - (9) The wearing of a helmet is encouraged but not required.
- (b) Operation of Electric Bicycles, and Bicycles equipped with GPS:
- (1) Riders must always yield to pedestrians.
 - (2) Riders may not ride on sidewalks, and must use bike lanes when available.
 - (3) Riders must obey state and city traffic laws.
 - (4) For Electric Bicycles, the person operating or in control must be at least 16 years of age.
 - (6) Riders may not use a portable wireless communication device while operating a vehicle.
 - (7) The wearing of a helmet is encouraged but not required.
- (c) Parking of Motor-Assisted Scooters, Electric Bicycles and Bicycles Equipped with GPS:
- (1) These vehicles may not be parked on streets, except in areas designated by the director by paint, decals or signs.
 - (2) These vehicles may be parked upright on sidewalks in a manner that does not impede the normal and reasonable pedestrian access on a sidewalk, or in any manner that would reduce the minimum clear width of a sidewalk to less than three feet, except as prohibited below in subsection (2).
 - (3) These vehicles may not be parked on sidewalks at the following locations:
 - (A) In the area beginning at a Bus Stop Flag Pole, continuing back 15 feet in the direction from which busses arrive, for the full width of the sidewalk;
 - (B) Within eight feet of commercial or pedestrian loading zones, or disabled parking zones;
 - (C) Within four feet of street fixtures that require pedestrian access, including but not limited to benches, parking pay stations and transit information signs;
 - (D) Within eight feet of curb ramps, entryways and driveways;
 - (E) Within eight feet of a building entrance;
 - (F) On trails, creek ways, plazas and parks, including but not limited to the Riverwalk, Alamo Plaza, La Villita, Main Plaza and Market Square.
 - (G) In a space reserved for a SWell Cycle, or any other docking station for shared bicycles.
- (d) Required equipment of Motor-Assisted Scooters, Electric Bicycles and Bicycles Equipped with GPS:
- (1) These vehicles may not be operated at nighttime unless the vehicle is equipped with:
 - (A) A lamp on the front of the vehicle that emits a white light visible from a distance of a least 500 feet in front of the vehicle; and

- (B) A red reflector that is visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the vehicle, or a lamp that emits a red light visible from a distance of 500 feet to the rear of the vehicle.
- (2) These vehicles may not be operated without a working bell, horn, or other sound mechanism.

Sec. 19-662. - Dockless vehicle for hire permit agreements.

- (a) A person must register and obtain a permit agreement from the city, and pay any applicable fees, prior to providing a dockless vehicle to for any compensation, including but not limited to any money, thing of value, payment, consideration, donation, gratuity or profit.
- (b) To obtain a permit agreement, a person must submit an application to the director on a form provided by the director for that purpose. The application must contain the following, including any additional information and requirements established by the director:
- (1) The business name, street address, mailing address, email address, and telephone number of the applicant;
 - (2) A non-refundable semi-annual business permit fee of \$500;
 - (3) A non-refundable semi-annual permit fee of \$10.00 for each dockless vehicle which is to be operated within the city limits of the City of San Antonio;
 - (4) The name, phone number and email address of the fleet manager. Any change in this information must be reported to the director 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.

(c) Except as provided in subsection (b)(4), an applicant or registrant shall notify the director, in the manner prescribed by the director, within 10 days of any change in the information contained in the application for permit agreement. If the information reported to the director includes an increase in the number of dockless vehicles, any additional fees due must be submitted to the director simultaneously with the change in information.

(d) A permit agreement expires six months from the date it is issued. An applicant may renew a permit agreement following the process in this section.

(e) A permit agreement is non-transferrable. This regulation should not be construed to impede the continuing use of trade names.

Sec. 19-663. - Issuance, renewal, suspension and revocation of permit agreements.

(a) The director 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 director;
- (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.

(b) If the director determines that a permit agreement should be denied, the director 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.

(c) The director shall revoke a permit agreement if the director 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.

(d) 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.

(e) Any person whose application for a permit agreement, or renewal of a permit agreement, is denied by the director, or an operator whose permit agreement has been revoked or suspended by the director, may file an appeal with the director, who shall forward the notice of appeal with the City Manager or the City Manager's designee, for appointment of an independent Hearings Officer to preside over the appeal:

(1) The hearings officer shall conduct a hearing on the matter within 30 days of the request for the hearing unless one of the parties requests a continuance for good cause.

(A) Every person who appeals shall have the right to appear in person or through an attorney;

(B) Every person who testifies at a hearing shall testify under oath, the person who appealed and the city have the right to produce evidence, and subpoena and call witnesses; and

(C) The burden of proof is on the city by a preponderance of the evidence that the decision of the director should be upheld.

(2) The hearings officer shall render a decision within 30 days of the conclusion of the hearing.

(3) The hearings officer shall have the sole authority for upholding or overruling the action of the director which was appealed.

(4) The decision of the hearings officer shall be final.

Sec. 19-664. - Dockless vehicle operations.

(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 director.

(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 director. Any permission to place items in the public right-of-way must be incorporated into the permit.

(d) Permit holders shall provide the director electronic access to the current list of dockless vehicles available for rent in the city, which includes the unique identification number for each vehicle.

(e) 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 use of helmets is encouraged for the safety of the drivers;

(2) The legal parking of dockless vehicles;

(3) The legal operation of dockless vehicles, including the duty to yield to pedestrians.

(4) For motor-assisted scooters and electric bicycles, the areas where riding and parking are prohibited.

(f) Notices of violations or broken 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 vehicles reported as broken, from any source, and must remove the vehicle within two hours.

(3) After the time for correcting a violation has expired, the city may remove and impound a vehicle that is parked in violation of this article or broken. The permit holder must pay the city a fee of \$50 to obtain the return of each vehicle impounded.

- (g) Permit holders shall cooperate with the city in the collection and analysis of aggregate data concerning its operations:
- (1) Permit holders shall provide a monthly report to the director of the maximum number of permitted vehicles in use by riders at any time in the previous week; and
 - (2) Permit holders shall provide a monthly report to the director that includes:
 - (A) The total number of rides the previous month;
 - (B) The total number of vehicles in service for the previous month;
 - (C) The average number of rides per vehicle per day;
 - (D) Anonymized aggregated data taken by the permit holder's dockless vehicles in the form of heat maps showing routes, trends, origins, and destinations; and
 - (E) Anonymized trip data taken by the permit holder's dockless vehicles that includes the origin and destination, trip duration, distance and date and time of trip.
 - (3) Permit holders shall provide such other reports at the director's request.

Sec. 19-665. - 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 \$2 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 \$500,000 per occurrence.
 - (3) Worker's compensation insurance with statutory limits.
 - (4) Employer's liability insurance with the following minimum limits for bodily injury by:
 - (A) Accident, \$500,000 per each accident; and
 - (B) Disease, \$500,000 per employee with a per policy aggregate of \$500,000.
- (d) Insurance required under this article must:
- (1) Include a cancellation provision in which the insurance company is required to notify the director 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 director 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 director 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. 19-666. - Indemnification.

- (a) PERMIT HOLDER covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage (collectively "CLAIMS"), made upon the CITY directly or indirectly arising out of, resulting from or related to PERMIT HOLDER'S violation of this Contract, including any violation attributable to any agent, officer, director, representative, employee, consultant or subcontractor of PERMIT HOLDER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Contract. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence or intentional misconduct of CITY, its officers or employees. IN THE EVENT PERMIT HOLDER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.
- (b). The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. The parties shall advise each other in writing within 24 hours of any claim or demand against either party that it reasonably believes are covered by PERMIT HOLDER's INDEMNITY obligations hereunder. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving PERMIT HOLDER of any of its obligations under this paragraph.
- (c) Defense Counsel - PERMIT HOLDER shall retain the right to select defense counsel in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by PERMIT HOLDER in writing. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense.

(d). Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of PERMIT HOLDER, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for PERMIT HOLDER or any subcontractor under worker's compensation or other employee benefit acts.

(e) It is expressly understood and agreed that PERMIT HOLDER is and shall be deemed to be an independent contractor and permit holder responsible to all parties for its respective acts or omissions and that CITY shall in no way be responsible therefor.

Sec. 19-667. - Enforcement.

(a) The director shall enforce this article.

(b) Upon observing a violation of this article, the director shall take necessary action to ensure effective regulation of dockless vehicles.

(c) The director 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. 19-668. - Criminal offenses.

(a) 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.

(b) A person commits an offense if the person violates or attempts to violate a provision of this article.

(c) 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.

(d) 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.

(e) Any person who violates any of the provisions of this article 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.

Sec. 19-669. - Inconsistent city code provisions.

This Article controls over any previously enacted ordinance or Provision of the City Code of San Antonio, Texas, to the extent there is any conflict, including but not limited to Secs. 19-286, 19-294 and 29-20.

SECTION 2: Funds generated by this ordinance will be deposited as follows:

Amount	General Ledger	Fund	Internal Fund
\$ 500 per semi-annual business permit	4202420	11001000	219000000000
\$ 10 per semi-annual permit for each dockless vehicle	4202966	11001000	219000000000

SECTION 3: The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

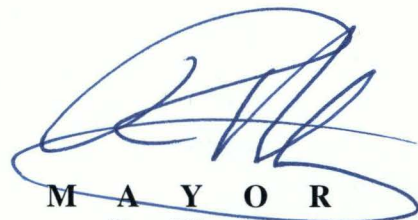
SECTION 4: Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be illegal, inoperative, unconstitutional, invalid or ineffective.

SECTION 5. The publishers of the City Code of San Antonio, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing code.

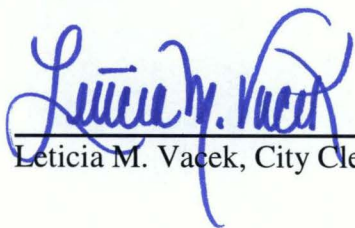
SECTION 6. The City Clerk of the City of San Antonio is hereby directed to publish notice of this ordinance as required by the Charter of the City of San Antonio and the laws of the State of Texas.

SECTION 7. This ordinance shall take effect five days following the date of the publication provided for above.

PASSED and APPROVED this 11th day of October, 2018.

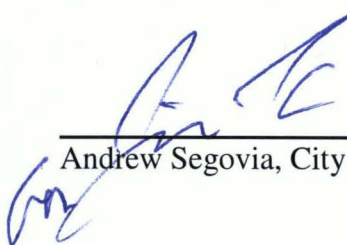

M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	5						
Date:	10/11/2018						
Time:	10:30:31 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance establishing a six month dockless vehicle pilot program, the creation of permit and application fees, and amending City Code to allow riding and parking dockless vehicles in the Right of Way. [Lori Houston, Assistant City Manager; John Jacks, Director, Center City Development & Operations]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x				x
William Cruz Shaw	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x			x	
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				