

INTRODUCED BY COUNCILMEMBER _____


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 10 AND TITLE 12.08 TO RENAME THE DOCKLESS SCOOTER SHARE PROGRAM TO DOCKLESS VEHICLE SHARE PROGRAM AND INCLUDE DOCKLESS ELECTRIC BICYCLES AND TRICYCLES AS ELIGIBLE VEHICLES FOR PERMITS UNDER THE DOCKLESS VEHICLE SHARE PROGRAM

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 electric bike sharing, which does not require a docking station to operate and includes electric-assist vehicles (e-bikes), has 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 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 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 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, dockless e-bike sharing services operate in a similar manner to dockless electric scooter sharing services and would benefit from a similar regulatory regime; and

WHEREAS, the City of Oakland desires to explicitly include e-bicycles as a type of vehicle eligible for permits under the dockless electric scooter sharing program; and

WHEREAS, This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to, the following: CEQA Guidelines §15301 (Existing Facilities), §15303 (New Construction or Conversion of Small Structures), §15061(b)(3) (no significant effect on the environment), and §15183 (projects consistent with a community plan, general plan, or zoning).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 10.18 is amended to read as follows (additions are indicated by underscoring and deletions are indicated by strike-through type; any portions not cited or not shown in underscoring or strike-through type are not changed):

Chapter 10.44 – DOCKLESS ~~SCOOTER~~VEHICLE SHARE PROGRAM

10.18.10 - Definitions.

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

A. "Dockless ~~Scøøter~~Vehicle share system" means providing ~~scøøters~~ light weight two or three wheeled dockless vehicles, inclusive of electric-assist bikes, trikes and scooters (E-scooters), for short-term rentals for point to point trips where, by design of the dockless ~~scøøter~~ vehicle share operator, the ~~scøøters~~ vehicles are intended to remain in the public right of way, even when not being rented/used by a customer."

B. "Dockless ~~Scøøter~~Vehicle share operator" or "Operator" is any entity that owns and/or operates a City authorized dockless ~~Scøøter~~Vehicle 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 ~~Scøøter~~Vehicle share User or Customer" is any person that uses, rents or rides a dockless Scooter or is a customer of the Dockless ~~Scøøter~~Vehicle Operator..

10.18.20 – Dockless ~~Scøøter~~Vehicle Operator Permits and Regulations Governing Dockless ~~Scøøter~~Vehicle Programs.

A. The City Administrator, or her designee, shall develop dockless ~~scøøter~~vehicle 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 ~~scooter~~vehicle 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 ~~scooter~~vehicle programs which at minimum will require Operators to provide 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 ~~Scooter~~Vehicle 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 ~~scooter~~vehicle sharing in the public right of way and in public plazas in cooperation with Operators, and the public.

10.18.30 – Dockless 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. Users or Customers on E-scooters are required to wear helmets.
- b. Dockless ~~scooter~~vehicle Users must follow all state and local traffic laws, including but not limited to the California Vehicle Code and Oakland Municipal Code.
- c. Dockless ~~scooter~~vehicle Users are not allowed to ride on the sidewalk.

B. Program Safety

Dockless Scooter Share Operators are responsible for educating customers about safe use of ~~scooter~~vehicles, including providing education about state and local laws applicable to riding, operating and depositing a dockless ~~scooter~~vehicles 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 ~~seoters~~vehicle User compliance with all laws, rules and regulations governing the use of dockless ~~seoters~~vehicles. 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, 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 E-scooters and E-bikes 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 21225 (motorized scooters).

A. The City Administrator, or her designee, shall establish parking requirements for dockless ~~seoters~~vehicles, and assess each Operator's compliance with those requirements. Shared ~~seoters~~vehicles with both "self-locking" technology and those that lock to bike racks may be allowed.

B. Unless otherwise specified, dockless shared ~~seoters~~vehicles 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 ~~seoters~~vehicles are found to be consistently parked improperly, the City Administrator reserves the right to reduce the number of shared ~~seoters~~vehicles 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 ~~seoter~~vehicle 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 ~~seoters~~vehicles.

D. Each Operator shall be required to provide a minimum and maximum number of dockless ~~seoters~~vehicles, to ensure availability and avoid over-saturation. A maximum number of ~~seoters~~vehicles 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 ~~scooters~~vehicles

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

B. Dockless ~~Scooters~~Vehicles should be distributed equitably throughout Oakland. No less than 50% of Operators ~~scooter~~vehicles 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 ~~scooters~~vehicles.

C. Operators will closely monitor ridership and adjust ~~scooter~~vehicle density and location accordingly to maximize the convenience of the greatest number of riders.

10.18.60 – Provide accessibility to persons experiencing disabilities

A. Operators shall be required to include adaptive ~~scooters~~vehicles for Users experiencing disabilities. The total percentage of adaptive ~~scooters~~vehicles should be based on expected need, performance and usage.

B. If Operator is unable to deploy adaptive ~~scooters~~vehicles 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 ~~scooters~~vehicles into their fleet. This plan should detail the types and numbers of adaptive ~~scooters~~vehicles that will be made available.

SECTION 2. Chapter 12.08 is Amended to Read as Follows:

12.08.012 – Dockless ~~Scooter~~Vehicle Sharing Minor Encroachment Permits.

Operators of Dockless ~~Scooter~~Vehicle 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 ~~scooter~~vehicle sharing Operator in compliance with the provisions of this title. Such permits shall be required for the dockless ~~scooter~~vehicle sharing operator to maintain public dockless scooter sharing systems on the public right-of-way,

including streets, sidewalks, and plazas of the City. The number and location of shared dockless ~~scooter~~-vehicles allowed under each such permit shall be subject to approval of the City Administrator, or her designee.

The City Administrator, or her designee, shall not issue permits for dockless ~~scooter~~vehicle sharing systems in contradiction with terms of any existing agreement.

A dockless 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 ~~scooter~~vehicle 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 ~~scooter~~vehicle share Operator to provide a ~~scooter~~vehicle share system within the City without first obtaining an encroachment permit from the Department of Transportation.

SECTION 3. Exemption From The California Environmental Quality Act. This action is exempt from the California Environmental Quality Act ("CEQA") under the following, each as a separate and independent basis, including but not limited to: CEQA Guidelines §15301 (c), (Existing Facilities), §15303 (New Construction or Conversion of Small Structures), §15061(b)(3) (no significant effect on the environment), and §15183 (projects consistent with a community plan, general plan, or zoning).

SECTION 4. CEQA Finding and Determination. The City Council has independently reviewed and considered this environmental determination and finds and determines that the action complies with CEQA and directs the City's Environmental Review Officer to file a Notice of Exemption.

SECTION 5. 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 6. Effective Date. This ordinance shall become 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED

Acting City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 10 AND TITLE 12.08 TO RENAME THE DOCKLESS SCOOTER SHARE PROGRAM AND INCLUDE DOCKLESS ELECTRIC BICYCLES AND TRICYCLES AS ELIGIBLE VEHICLES FOR PERMITS UNDER THAT PROGRAM