

Rule No: R161-18.09e

NOTICE OF RENEWAL OF EMERGENCY RULE ADOPTION

ADOPTION DATE: September 10, 2018

By: Spencer Cronk, City Manager

The City Manager has adopted the following emergency rule. This notice is issued under Chapter 1-2 of the City Code, renewing the rule for 61 calendar days.

EFFECTIVE DATE OF EMERGENCY RULE RENEWAL

The rule adopted by this notice was effective on **May 7, 2018** and expires on **September 10, 2018** (not later than the 121st day after the effective date). The rule is being renewed from **September 10, 2018 to November 4, 2018**.

TEXT OF EMERGENCY RULE RENEWAL

A copy of the complete text of the adopted rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Parking Operations, 1111 Rio Grande Street, Austin Texas 78701

and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas 78701.

SUMMARY OF RULE

Emergency Rule governs dockless mobility technology. Specifically, this rule describes licensure requirements relating to: (1) definitions; (2) dockless mobility units; (3) service area and size of fleet; (4) safety; (5) parking; (6) operations and customer service; (7) data reporting and sharing; (8) insurance, performance bonds and fees; and (9) general.

NATURE OF EMERGENCY

Emergency rule is necessary to regulate, enforce and safeguard public safety and mobility, in the public right-of-way. Emergency action is necessary to ensure there are binding provisions that all dockless transportation operators will follow for safe operations within the public right-of-way.

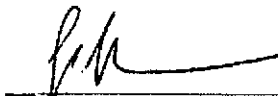
AUTHORITY FOR ADOPTION OF RULE

The authority and procedure for adoption of a rule to assist in the implementation, administration and enforcement of a provision of the City Code is provided in Chapter 1-2 of the City Code. The authority to establish safe practice rules for private use of public right of way, as established in City Code Chapters 14-9 (Traffic or Sidewalk Obstructions).

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Emergency Rule Adoption Rule 161-18.09c, the City Attorney certifies that the City Attorney has reviewed the rule and finds adoption of the rule to be a valid exercise of the City Manager's authority.

REVIEWED AND APPROVED



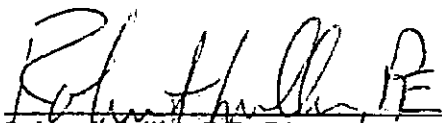
Spencer Cronk, City Manager

DATE: 8/21/18



Anne Morgan, City Attorney

DATE: 8/17/18



Robert J. Spillar, P.E., Director
Austin Transportation Department

DATE: 8/14/2018

1 **EMERGENCY RULES FOR DEPLOYMENT OF**
2 **EMERGING TRANSPORTATION MOBILITY SYSTEMS**

3
4 **Dockless Mobility Technology – Rule No: R161-18.09e**

5
6 **Section 1 – Definitions**

7
8 Defined terms used in these rules shall have the meanings assigned to them in
9 City Code, Chapter 14-9 or as follows:

10
11 **Designated Area** means any part of the public right of way designated by the
12 director of transportation, for the placement of dockless units.

13
14 **Director** means the director of the Austin Transportation Department.

15
16 **Director's Rules** means these rules and procedures established by the director,
17 under Chapter 14-9, to provide additional guidance and clarity on the
18 administration of dockless transportation mobility systems and services.

19
20 **Dockless Mobility System** means a mobility system or service licensed by the
21 City, comprised of unit(s) for the purpose of transportation.

22
23 **Dockless Mobility Unit** means a singular device used in a greater, publically
24 offered transportation system for the conveyance of people, goods or services,
25 that does not require fixed docking stations or apparatus to receive or return a
26 unit.

27
28 **Electric Assist** means an electric motor affixed to a bicycle regulated by
29 pedaling, that assists the efforts of the driver when they are pedaling.

30
31 **Good Standing** means the status of an applicant or licensee, when such is
32 compliant with the payment of all statutory fees, fines and the filing of required
33 data, statistics and reports owed the City.

34
35 **Licensee** means a person(s) who holds a license issued by the City under
36 Chapter 14-9 of the code to operate a city-wide service. The term includes any
37 employee, agent or independent contractor hired by the permit holder.

38
39 **Notice** means a communication such as a letter, email, citation or civil penalty,
40 warning or announcement.

41
42 **Restricted Area** means any part of the public right of way restricted by the
43 director, for the placement of dockless units.
44

1 **Unit** means a singular device used for the transportation or conveyance of
2 people, goods or services.

3
4 **Unit Placement Plan** means the written plan regarding the licensee's internal
5 program, policy decisions and proposed actions in order to come into compliance
6 with the rules, regulations and standards established by the City, in order to
7 avoid violation of the City's ordinances or director's rules.

8 9 **Section 2 – Dockless Mobility Units**

- 10
11 A. Dockless units shall only be available at rates that are clearly and
12 understandably communicated to the customer prior to use of a unit.
13
14 C. Each unit shall prominently display the name of the licensee, their current contact
15 information, a unique serial number and the permit sticker issued by the City,
16 affixed to the unit itself.
17
18 D. Dockless units shall be equipped with a brake, and, for those units that operate
19 at nighttime, a front light that emits white light and a red light and reflector at the
20 rear of the unit, pursuant to Section 551.104 of the Texas Transportation Code.
21
22 E. Dockless units shall be equipped with an on-board GPS unit or equivalent that
23 can report the location of a unit at any time for the purposes of use, recovery,
24 repair, and data collection.
25
26 F. Dockless units shall be high quality, sturdily built to withstand the rigors of
27 outdoor storage and constant use for at least five years.
28
29 G. Dockless units shall employ tamper-resistant security hardware.
30
31 H. Electric-assist dockless units used in systems issued a license must employ an
32 electric motor of less than 750 watts (1 h.p.) whose maximum speed on a paved,
33 level surface, when powered solely by such a motor when ridden by an licensee
34 who weighs 170 pounds, is less than 20 mph.
35
36 I. Bicycles used in systems issued a license shall meet standards outlined in the
37 Code of Federal Regulation (CFR) under Title 16, Chapter II, Subchapter C, Part
38 1512 – Requirements for Bicycles. Additionally, licensed systems shall meet the
39 safety standards outlined in International Organization for Standardization (ISO)
40 43.150 – Cycles, subsection 4210.
41
42 J. Electric bicycles used in systems shall meet the definition of low-speed electric
43 bicycle outlined in 15 U.S.C. Chapter 47 Section 2085, be equipped with fully
44 operable pedals and shall be subject to the same requirements as ordinary
45 bicycles.

1
2 K. Scooters used in systems shall meet equivalent safety standards as those
3 outlined in the Code of Federal Regulations and the International Organization
4 for Standardization for bicycles.

5
6 L. Electric scooters and bicycles shall be incapable of reaching a top speed of 20
7 mph or greater.

8
9 M. Dockless units shall be able to securely stand upright when parked
10 and no later than August 1, 2018, all units shall be capable of being locked to a
11 bike rack or shall be equipped with haptic technology that indicates to the user if
12 they have parked in a designated, geo-fenced parking area.
13

14 **Section 3 – Service Area and Size of Fleet**

15
16 A. The director shall limit the number of units licensed to a maximum of 500 units,
17 per initial license. Units must show a minimum utilization rate of 2 rides per day.
18 Should this demand not be met, the director may require a portion of the units to
19 be relocated or removed. By August 1, 2018, all units must show a minimum
20 utilization rate of 2 rides per day, per unit, per zone.
21

22 B. Licensees may request to deploy additional units beyond the 500 unit maximum,
23 in increments of 250, provided they meet the following criteria:
24
25

- 26 1. The licensee provides a specific geographic area, in ESRI ArcGIS
27 shapefile format, of at least 5 square miles in size.
- 28
29 2. All additional units will operate outside of the Downtown Austin Project
30 Coordination Zone (DAPCZ) as verified in real-time through a web-based
31 application programming interface (API).
- 32
33 3. The performance bond is adjusted at \$100/unit to cover all units operated
34 by the licensee.
35

36 C. Authorization of additional units is within the sole discretion of the director.
37 Licensees are authorized to operate within the City of Austin full purpose, public
38 right-of-way. All other operations, including access to the service and storage of the
39 unit, is NOT authorized within parks, publically-accessible plazas subject to City
40 license agreements with private property owners, off-street parking lots/garages,
41 state owned land and/or facilities, campuses, or other areas outside of the City of
42 Austin public right-of-way, unless authorized by a separate agreement.
43

44 D. Licensee shall be responsible for monitoring distribution of units available to
45 customers according to parameters required by the director. The director may
46 require a reduction in a licensee's total number of units based on the overall

number of units concentrated within a specific area. Licensees shall reduce the number of units according to the following timelines:

1. Reduction shall occur within four (4) hours of receipt of notice on weekdays, 6am and 6pm, not including holidays.
2. At all other times, reduction shall occur within ten (10) hours of receipt of notice.

- E. The director may amend, suspend or terminate a license pursuant to **City Code § 14-9-25** and require that the entire fleet of units be removed from Austin streets, within ten (10) calendar days.

Section 4 – Safety

- A. Licensee shall be capable of quickly identifying and addressing safety and maintenance issues with one or more of their dockless mobility units, including a mechanism for customers to notify the company that there is a safety or maintenance concern with the unit.
- B. Licensee shall be capable of remotely disabling the use of a unit should it be reported or found to have a safety, maintenance or other hazardous condition.
- C. Licensee shall remove any unit that is not safe to operate within four (4) hours of receipt of notice and shall not be redeployed until repaired.
- D. Licensee shall keep a record of reported collisions and send these reports to the director on a monthly basis.
- E. Licensee shall keep a record of maintenance activities including but not limited to unit identification number and maintenance performed.
- F. Licensee shall sign and record an indemnification agreement indemnifying the City and holding harmless the City.
- G. Licensee agrees to educate users on lawful and safe use of the dockless mobility unit.
- H. The director may require the removal of units with batteries or motors that are deemed unsafe for public use.
- I. Licensees operating electric-assist units shall have a program to ensure proper recycling of batteries and disposal of these batteries under Universal Waste Battery disposal standards under Title 40 of the Code of Federal Regulations (CFR) in part 273.

- 1
2 J. Licensee shall require individuals or companies that pick up, drop off or charge
3 units to wear high-visibility safety apparel that meets the Performance Class 2 or
4 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American
5 National Standard for High-Visibility Apparel and Headwear".
6

7 Section 5 – Parking

- 8
9 A. Dockless units shall prominently display the licensee's current contact
10 information for the purposes of requesting removal, relocation or retrieval of the
11 unit.
12
13 B. Licensee shall park units and instruct users on how to park units only in
14 designated areas, defined as follows:
15
16 1. The hard surface (e.g. concrete, asphalt) within the landscape/furniture
17 zone of a sidewalk so long as there is at least 3 feet of clear walking
18 space;
19
20 2. At a public bike rack;
21
22 3. The director may further designate areas by geofencing, marked parking
23 boxes or other determined method.
24
25 C. Licensee shall NOT park units and instruct users to NOT park units in restricted
26 areas, defined as follows:
27
28 1. In the area within or immediately adjacent to:
29
30 a. Americans with Disabilities Act (ADA) accommodations including
31 curb ramps, railings and signal push buttons;
32
33 b. Sidewalk Cafes or Street Patios;
34
35 c. Transit zones, including bus stops, shelters, passenger waiting
36 areas, and bus layover and staging zones, except at existing bike
37 racks;
38
39 d. Loading zones;
40
41 e. Disabled parking zone;
42
43 f. Street furniture that requires parking access (for example, benches,
44 pay stations);
45

- g. Entryways and exitways, including fire exits, fire escapes, or any other building evacuation exitways or
 - h. Driveways.
2. Blocks where the landscape/furniture zone is less than 3 feet wide, or where there is no landscape/furniture zone.
 3. In the paved right-of-way between curb lines, unless there is zone designated by the director.
 4. The director may further restrict additional areas for the purposes of dockless mobility unit parking.
- D. Units that are parked incorrectly shall be re-parked in a correct manner or removed by the operator within the following time frames:
1. Within two (2) hours of receipt of notice, during weekdays, 6am and 6pm, not including holidays.
 2. All other times shall occur within ten (10) hours of receipt of notice.

Section 6 – Operations and Customer Service

- A. Licensee shall have a customer service phone number, website, and app customer interface that is available (24) twenty four hours a day, (7) seven days a week for customers to report safety concerns, complaints or ask questions.
- B. Licensee shall have a staffed operations and customer service center in the City of Austin.
- C. Licensee shall have visible language that notifies the user of the City of Austin's "Dockless Mobility Code of Ethics" as follows:
1. **Pedestrians First** - People operating bicycles and scooters shall yield to pedestrians on sidewalks.
 2. **Parking Responsibly** - Units shall be parked in a secure upright position only in designated areas.
 3. **Stay on Right of Way** - Users should not take units to areas where they are not authorized to operate, such as private property, parkland, state-owned land or other unauthorized areas.
 4. **Know What You're Sharing** – Users have access to dockless mobility services without having to share Personally Identifiable Information and

1 have the opportunity to Opt-In to sharing this information only after getting
2 clear information about what type of information will be shared.

- 3 5. **Right and Report** – If you see a unit toppled over or parked improperly;
4 help out by righting the unit and reporting the issue via 311.
5

6 D. The director reserves the right to modify the Dockless Mobility Code of Ethics
7 and/or require licensees to provide additional information to their users.
8

9 E. Licensee shall provide the director with a direct contact for licensee staff that are
10 capable of rebalancing units. All licensed licensees shall remove, relocate or
11 rebalance units based on these times:
12

- 13 1. Rebalancing shall occur within two (2) hours of receipt of notice, during
14 weekdays, 6am and 6pm, not including holidays.
15
16 2. All other times rebalancing shall occur within ten (10) hours of receipt of
17 notice.
18

19 F. Licensee shall prepare and implement a marketing and outreach plan at its own
20 cost to promote the use of dockless mobility in neighborhoods currently
21 underserved by dockless mobility options, (initially defined as less than 25
22 licensee units per square mile, subject to change at the director's discretion)
23 including offering an affordable option that does not require the user to access
24 the service via a smartphone application for any customer with an income level at
25 or below 200% of the federal poverty guidelines.
26

27 G. Licensee shall be responsible for implementing and submitting to the director a
28 maintenance, cleaning, repair and waste management plan for approval. This
29 plan shall address ongoing maintenance of units, routine cleaning and repair as
30 well as how units that are no longer capable of service will be disposed of
31 responsibly.
32

33 H. Licensee shall employ an electronic payment system that is compliant with the
34 Payment Card Industry Data Security Standards. Each transaction shall include
35 the unit identification number listed on the Unit Inventory List.
36

37 **Section 7 – Data Reporting and Sharing**

38
39 A. Licensee shall not require users (customers) to grant location services to use the
40 licensee's mobility service. All other private data belonging to the user, including
41 but not limited to contacts, photos and files, shall not be required to be shared in
42 order to use the licensee's dockless mobility service.
43

44 B. Licensee shall not require users (customers) to share their private data with 3rd
45 parties in order to use the licensee's dockless mobility services.

- 1
2 C. Licensee may allow users (customers) to opt-in (not opt-out) to providing access
3 to their contacts, photos, files, other private data and 3rd party data sharing only
4 with clear notice to the customer.
5
6 D. Licensee shall provide the director with updates to the terms of service; including
7 but not limited to the Privacy Policy, terms and conditions of use, and the End
8 User License Agreement published on the licensee's website and app, and
9 agrees to provide all customers and the director any changes to the terms of
10 service immediately upon adoption.
11
12 E. On a monthly basis, all licensees shall provide the director with aggregate
13 customer demographic data gathered by the system application, anonymized to
14 protect Personal Identifiable Information.
15
16 F. Licensee shall provide the director with real-time information for their entire fleet
17 through a documented web-based application programming interface (API). The
18 licensee is directly responsible for providing the API key to the director and shall
19 not refer the City to another subsidiary or parent company representative for API
20 access. The API shall deliver data in JSON format and include the following
21 information in real time for every unit in service, in the format specified in the
22 table below:
23
24 1. Assigned Area (e.g. DAPCZ)
25
26 2. Point location;
27
28 3. Unit identification number;
29
30 4. Type of unit;
31
32 5. Charge level (if electric), if available; and
33
34 6. Additional information as required by the director.
35

Description	Format	Field Name
Assigned Area	Text, e.g. "DAPCZ"	assigned_area
Unit location latitude in decimal degrees	Number	unit_location_latitude
Unit location longitude in decimal degrees	Number	unit_location_longitude
Unique unit identifier	Text	unit_id
Type of Unit	Text, e.g. "Bicycle"	unit_type
Charge Level %	Number	charge_level
Availability start date and time	ISO-8601 compliant string	availability_start_datetime

Availability end date and time	ISO-8601 compliant string	Availability_end_datetime
Company Name	Text	company_name

G. Licensee found to be submitting incomplete or inaccurate data, such as underrepresenting the total number of units in service, shall have their license revoked.

H. Licensee agree to provide a separate web-based application programming interface (API) for the purposes of sharing data with a university research institute authorized by the director to evaluate the dockless mobility system for the purposes of human factors research.

I. Licensee shall provide the following anonymized data for each trip record:

Description	Format	Field Name
Company Name	[company name]	company_name
Type of unit	Text, e.g. "Bicycle"	unit_type
Assigned Area	Text, e.g. "DAPCZ"	"assigned_area", e.g. "DAPCZ"
Unique trip record identifier	Text	trip_id
Trip duration in minutes	Number	trip_duration
Trip distance in feet	Number	trip_distance
Start date and time	ISO-8601 compliant string	startdatetime
End date and time	ISO-8601 compliant string	enddatetime
Start location latitude in decimal degrees	Number	start_location_latitude
End location longitude in decimal degrees	Number	end_location_latitude
Unique unit identifier	Text	unit_id

J. Licensee shall administer a customer satisfaction survey within (60) sixty calendar days prior to the expiration of their license and provide the results of that survey to the director (15) fifteen calendar days prior to the expiration of their license.

Section 8 – Insurance, Performance Bond and Fees

A. Licensee shall maintain commercial general liability insurance, worker's compensation, business automobile insurance and additional coverages specified in the license terms and conditions. The City of Austin shall be named as an additional insured.

- 1 B. Licensee shall have a performance bond of \$100/unit. The form of the bond shall
2 be approved by the director. These funds shall be accessible to the director for
3 future public property repair and maintenance costs that may be incurred,
4 removing and storing units improperly parked or if a company is not present to
5 remove units if its license is terminated. If a licensee increases the size of their
6 fleet, the performance bond shall be adjusted appropriately before deploying
7 additional units.
8
- 9 C. If the director or any other City of Austin agency, department or commission,
10 including the Law Department, incurs any costs for addressing or abating any
11 violations of law, including impound dollars, impound fees, costs to recover a unit
12 from a waterway and other ancillary costs, including repair or maintenance of
13 public property, the licensee, upon receiving written notice from the City of Austin
14 regarding such costs shall reimburse the director for these costs within (30) thirty
15 days. Any payment made pursuant to this paragraph shall not substitute for any
16 other payment otherwise owed or to be paid to the director.
17
- 18 D. Under Chapter 9-1 of the City of Austin Code of Ordinances, any dockless
19 mobility unit left for more than 48 hours in one location without moving may be
20 removed and stored by the City of Austin at the expense of the licensee.
21

22 Section 9 – General

- 23
- 24 A. The director shall determine all license terms, conditions and other standard or
25 special requirements.
26
- 27 B. The director may remedy rule violations by amending, suspending or completely
28 revoking a license for cause listed in City Code, Chapter 14-9 or for public safety
29 concerns.
30
- 31 B. The director may require rule violators to reduce fleet size or to completely
32 remove units from the right of way for revocation or during a period of
33 suspension.
34
- 35 C. Prior to licensing, applicants shall be in good standing with the City of Austin.
36
- 37 D. Units are eligible to be placed into operation immediately upon issuance of a
38 dockless mobility sticker by the director.