

NOTICE OF PROPOSED RULE

POSTING DATE: October 2, 2018

The Director of the Austin Transportation Department proposes to adopt the following rule after **November 3, 2018**.

Comments on the proposed rule are requested from the public. Comments should be submitted to Jason T. Redfern, 1111 Rio Grande Street, Austin Texas 78701 or via google doc <https://goo.gl/forms/w8GnePnvvnE06bQ03> or by email at jason.redfern@austintexas.gov. To be considered, comments must be submitted before **November 3, 2018**, the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

EFFECTIVE DATE OF PROPOSED RULE

DCC RECEIVED AT
OCT 2 '18 PM 1:32

A notice of rule adoption may not be posted before **November 3, 2018** (the 32nd day after the date of this notice) or not after **December 11th** (the 70th day after the date of this notice).

TEXT OF PROPOSED RULE

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:

1. Parking Enterprise, 1111 Rio Grande Street, Austin Texas 78701 and
2. Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas 78701

Or downloaded for free at:

3. <http://www.austintexas.gov/departments/city-clerk>

BRIEF EXPLANATION OF PROPOSED RULE

This rule is necessary to govern, regulate, enforce and monitor dockless mobility technology for public safety and mobility. Specifically, this rule describes licensure requirements establishing: (1) Definitions; (2) Dockless Mobility Units; (3) Service Area and Size of Fleet; (4) Safety; (5) Parking; (6) Operations and Customer Service; (7) Privacy, Data Reporting and Sharing; (8) Insurance, Performance Bonds and Fees; and (9) General.

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). This will also be added to the Transportation Criteria Manual, for the regulation of Transportation Services. The proposed rule adopts policies and regulations to the administration of dockless mobility technologies and solutions.

CERTIFICATION BY CITY ATTORNEY

CERTIFICATION BY CITY ATTORNEY

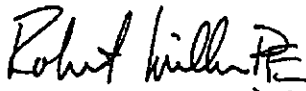
By signing this Notice of Proposed Rule 161-18.09, the City Attorney certifies that the City Attorney has reviewed the rule and finds adoption of the rule to be a valid exercise of the City Manager's authority.

REVIEWED AND APPROVED



Anne Morgan, City Attorney

DATE: 10/1/18



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

DATE: October 1, 2018

DIRECTOR RULES FOR DEPLOYMENT AND OPERATION OF SHARED SMALL VEHICLE MOBILITY SYSTEMS

Dockless Mobility Technology

Section 1 – Definitions

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

Parking Box means an area designated by the Director within the public right of way, typically delineated with traffic grade striping or paint, where dockless bicycles and scooters are to be parked when not in active use.

Bike Share Station or Hub means a fixed location designated by the Director, consisting of several docking devices where bicycles may be returned or retrieved.

Designated Area means any part of the public right of way designated by the Director of transportation, for the placement of dockless units.

Director means the department Director designated by the city manager.

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

Dockless Bicycle means a Dockless Mobility Unit consisting of a two wheels held in a frame one behind the other, propelled by pedals and steered with handlebars, that is part of a publically offered transportation system that does not require a fixed apparatus for its receipt or return.

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

Dockless Mobility Unit means a singular vehicle used in a greater, publically offered transportation Dockless Mobility System for the conveyance of people, goods or services, that does not require fixed docking stations or apparatus to receive or return a unit.

Dockless Scooter means a Dockless Mobility Unit consisting of a footboard mounted on two wheels and a steering handle, that is part of a publically offered

1 transportation system that does not require a fixed apparatus for its receipt or
2 return.

3
4 **Electric Assist** means an electric motor affixed to a bicycle regulated by
5 pedaling, that assists the efforts of the driver when they are pedaling.

6
7 **Good Standing** means the status of an applicant or licensee, which is compliant
8 with the payment of all statutory fees, fines and the filing of required data,
9 statistics and reports.

10
11 **Licensee** means a person(s) who holds a license issued by the City under
12 Chapter 14-9 of the code to operate a city-wide service. The term includes any
13 employee, agent or independent contractor hired by the permit holder.

14
15 **Notice** means a communication such as a letter, citation or civil penalty, warning
16 or announcement.

17
18 **Restricted Area** means any part of the public right of way restricted by the
19 Director of transportation, for the placement of dockless units.

20
21 **Unit** means a singular vehicle used for the transportation or conveyance of
22 people, goods or services.

23
24 **Unit Placement Plan** means the written plan regarding the licensee's internal
25 program, policy decisions and proposed actions in order to come into compliance
26 with the rules, regulations and standards established by the City, in order to
27 avoid violation of the City's ordinances or Director's rules.

28 29 **Section 2 – Dockless Mobility Units**

- 30
31 A. Dockless Mobility Units shall only be available to customers at rates that are
32 clearly and understandably communicated to the customer prior to use.
- 33
34 B. Each Dockless Mobility Unit shall prominently display the name of the licensee,
35 their current contact information and a unique unit number. .
- 36
37 C. Dockless Mobility Units shall be equipped with a brake, and, for those units that
38 operate at nighttime, a front light that emits white light and a red light and
39 reflector at the rear of the unit, pursuant to Section 551.104 of the Texas
40 Transportation Code. All Dockless Mobility Units must have always-on front and
41 back lights that are visible from a distance of at least 300 feet under normal
42 atmospheric conditions at night. Front and rear lights must stay on at least 90
43 seconds after the unit has stopped.
- 44

- 1 D. Dockless Mobility Units shall be equipped with an on-board GPS unit or
2 equivalent that can report the location of a unit at any time for the purposes of
3 use, recovery, repair, and data collection.
4
- 5 E. Dockless Mobility Units shall be high quality, sturdily built to withstand the rigors
6 of outdoor storage and constant use.
7
- 8 F. Dockless Mobility Units shall employ tamper-resistant security hardware.
9
- 10 G. Electric-assist Dockless Mobility Units used in systems issued a license must
11 employ an electric motor of less than 750 watts (1 h.p.).
12
- 13 H. Bicycles used in Dockless Mobility Systems issued a license shall meet
14 standards outlined in the Code of Federal Regulation (CFR) under Title 16,
15 Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles. Additionally,
16 licensed systems shall meet the safety standards outlined in International
17 Organization for Standardization (ISO) 43.150 – Cycles, subsection 4210.
18
- 19 I. Electric bicycles used in Dockless Mobility Systems shall meet the most up-to-
20 date definition of low-speed electric bicycle outlined in CPSC Public Law 107-309
21 for Low Speed Electric Bicycle and 15 U.S.C. Chapter 47 Section 2085, and be
22 equipped with fully operable pedals and shall be subject to the same
23 requirements as ordinary bicycles.
24
- 25 J. Scooters used in Dockless Mobility Systems shall meet the most up-to-date
26 equivalent safety standards as those outlined in the Code of Federal Regulations
27 and the International Organization for Standardization for bicycles. Currently,
28 scooters shall meet CPSC in Public Law 107-309 for standards around weight
29 bearing.
30
- 31 L. For all dockless electric scooters and bicycles used in Dockless Mobility
32 Systems, the maximum motor-assist speed for licensed units shall be 15 mph.
33
- 34 M. Dockless Mobility Units shall be able to securely stand upright when parked.
35
- 36 N. Dockless Mobility Units shall be inspected when removed from routine service, to
37 ensure that all of its components are present and functioning properly.
38

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

- 40 A. The Director shall issue one initial license, per mobility unit type.
41
- 42 B. The Director shall limit the number of units licensed to a maximum of five
43 hundred (500) units, per initial license.
44

- 1 C. The total number of deployed units within a licensed area must maintain a
2 minimum average of 2 trips per day. Should this demand not be met, the
3 Director may require a portion of the units to be relocated or removed.
4
- 5 D. The Director may issue supplemental licenses, per mobility unit type, to deploy
6 additional units outside the initial license area, in increments of two hundred and
7 fifty (250) units, per licensed area, provided they meet the following criteria:
8
- 9 1. The licensee provides a specific geographic area, in ESRI ArcGIS
10 shapefile format, of at least 5 square miles in size.
 - 11
 - 12 2. All additional units will operate outside of the Downtown Austin Project
13 Coordination Zone (DAPCZ) as verified in real-time through a web-based
14 application programming interface (API).
 - 15
 - 16 3. The performance bond is adjusted at \$100/unit to cover all units operated
17 by the licensee.
 - 18
 - 19 4. There is not another compelling reason, as determined by the Director, to
20 limit fleet size.
 - 21
- 22 E. Licensees shall only operate within the City of Austin full purpose, public right-of-
23 way.
- 24
- 25 F. Licensees shall not operate or access dockless units within parks, publically-
26 accessible plazas subject to City license agreements with private property owners,
27 off-street parking lots/garages, state owned land and/or facilities, campuses, or other
28 areas outside of the City of Austin public right-of-way, unless authorized by a
29 separate agreement.
- 30
- 31 G. Licensee shall be responsible for monitoring distribution of units available to
32 customers according to parameters required by the Director. The Director may
33 require a reduction in a licensee's total number of units based on the overall number
34 of units concentrated within a specific area. Licensees shall reduce the number of
35 units according to the following timelines:
36
- 37 1. Reduction shall occur within four (4) hours of receipt of notice on
38 weekdays, 6am and 6pm, not including holidays.
 - 39
 - 40 2. At all other times, reduction shall occur within ten (10) hours of receipt of
41 notice.
 - 42
- 43 H. The Director, for good cause, may terminate a license at any time and require that
44 the entire fleet of units be removed from Austin streets, within ten (10) calendar
45 days.
- 46

1. I. The Director may issue supplemental licenses and expand allowable fleet size by an amount determined by the Director, for strategies that promote or incentivize good parking or riding behaviors. Licensed operators shall submit strategies for review and approval by the Director. Below are some examples:

1. The ability to lock to fixed bike parking infrastructure.
2. Technology that enables the licensee to elicit specific behavior from riders, for an outcome that enhances safety and mobility.
3. Augmented reality that uses digital interface to display virtual parking or no parking zones to riders.
4. Ability to govern speed and riding location remotely.

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. Dockless units that are reported as unsafe or non-functional shall be immediately deactivated for rental and removed from operations until sufficiently repaired.
- 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. Licensed operators shall respond to complaints and obstructions within the following timeframes:
 1. Emergency: Sidewalk Obstruction of less than 3 feet – 60 minutes
 2. Emergency: Travel and bicycle lanes – 60 minutes
 3. Emergency: Other obstruction – 60 minutes
 4. Emergency: Environmentally sensitive area– 60 minutes
 5. Non-Emergency: Private property – 2 hours
 6. Non-Emergency: Rebalancing off-hours – 2 hours
 7. Non-Emergency: Other obstructions and nuisances – 2 hours
- E. Licensee shall keep a record of reported collisions in a format as determined by the Director (See Section 7 - H).Director
- F. Licensee shall keep a record of maintenance activities including but not limited to unit identification number and maintenance performed.

- 1
- 2 G. Licensee shall sign and record an indemnification agreement indemnifying and
- 3 holding harmless the City.
- 4
- 5 H. Licensee agrees to educate users on lawful and safe use of the dockless mobility
- 6 unit.
- 7
- 8 I. The Director may require the removal of units with batteries or motors that are
- 9 deemed unsafe for public use.
- 10
- 11 J. Licensees operating electric-assist units shall have a program to ensure proper
- 12 recycling of batteries and disposal of these batteries under Universal Waste
- 13 Battery disposal standards under Title 40 of the Code of Federal Regulations
- 14 (CFR) in part 273.
- 15
- 16 K. Licensee shall require individuals or companies that pick up, drop off or charge
- 17 units to wear high-visibility safety apparel that meets the Performance Class 2 or
- 18 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American
- 19 National Standard for High-Visibility Apparel and Headwear".
- 20
- 21 L. Licensee shall employ an electronic method to randomly test the vehicle user
- 22 on their understanding of proper usage, ADA accessibility and vehicle parking
- 23 prior to allowing the usage of a dockless vehicle as approved by the Director.
- 24
- 25 M. Licensee shall participate in City of Austin initiatives that raise awareness for
- 26 accessibility, mobility and the safety of pedestrians and mobility unit users,
- 27

28 **Section 5 – Parking**

- 29
- 30 A. Dockless units shall prominently display the licensee's current contact
- 31 information for the purposes of requesting removal, relocation or retrieval of the
- 32 unit.
- 33
- 34 B. Licensee shall park dockless units and instruct users on how to park units only in
- 35 **designated areas**, defined as follows:
- 36
- 37 1. The hard surface (e.g. concrete, asphalt) within the landscape/furniture
- 38 zone of a sidewalk so long as there is at least 3 foot pedestrian clear
- 39 zone ;
- 40
- 41 2. At a public bike rack;
- 42
- 43 3. The Director may further designate areas by geofencing, Parking Boxes
- 44 or other determined method.
- 45

1 C. Licensee shall NOT park units and instruct users to NOT park units in **restricted**
2 **areas**, defined as follows:

3
4 1. In the area within or immediately adjacent to:

- 5
6 a. Americans with Disabilities Act (ADA) accommodations including
7 curb ramps, railings and signal push buttons;
8
9 b. Sidewalk Cafes or Street Patios;
10
11 c. Transit zones, including bus stops, shelters, passenger waiting
12 areas, and bus layover and staging zones, except at existing bike
13 racks or within areas approved by Capital Metro;
14
15 d. Loading zones;
16
17 e. Disabled parking zone;
18
19 f. Street furniture that requires parking access (for example, benches,
20 pay stations);
21
22 g. Entryways;
23
24 h. Driveways, alley or curb cut
25
26 i. Sidewalks four (4) feet or less in width;
27
28 ii. Crosswalks;
29
30 iii. Fire hydrants;
31
32 iv. Drinking Fountain;
33
34 v. Public Art;
35
36 vi. Any fixed regulatory or informational sign;
37
38 j. and Within 25 feet of a Bike Share Station.

39
40 2. Blocks where the landscape/furniture zone is less than 3 feet wide, or
41 where there is no landscape/furniture zone.

42
43 3. The paved right-of-way between curb lines, unless there is zone approved
44 or designated by the Director.
45

- 1 4. The Director may further restrict additional areas for dockless mobility unit
2 parking, for the purposes of maintaining order, safety and mobility.
3
4 D. Units that are parked incorrectly shall be re-parked in a correct manner or
5 removed by the operator within the following time frames:
6
7 1. Within two (2) hours of receipt of notice, during weekdays, 6am and 6pm,
8 not including holidays.
9
10 2. All other times shall occur within ten (10) hours of receipt of notice.
11
12 E. Licensees shall install and maintain one Parking Box for every 10 units permitted, at
13 locations selected and approved by the Director, per Director-approved
14 specification(s).
15

16 Section 6 – Operations and Customer Service

- 17
18 A. Licensee shall have a customer service phone number, website, and smart
19 phone application customer interface that are available (24) twenty four hours a
20 day, (7) seven days a week for customers to report safety concerns, complaints
21 or ask questions.
22
23 B. Licensee shall have a staffed operations and customer service center in the City
24 of Austin.
25
26 C. Licensee shall have visible language that notifies the user of the City of Austin's
27 "Dockless Mobility Code of Ethics" as follows:
28
29 1. **Pedestrians First** - People operating bicycles and scooters shall yield to
30 pedestrians on sidewalks.
31
32 2. **Parking Responsibly** - Units shall be parked in a secure upright position
33 only in designated areas.
34
35 3. **Stay on Right of Way** - Users shall not take units to areas where they are
36 not authorized to operate.
37
38 4. **Know What You're Sharing** – Users have access to dockless mobility
39 services without having to share Personally Identifiable Information and
40 have the opportunity to Opt-In to sharing this information only after getting
41 clear information about what type of information will be shared.
42
43 5. **Right and Report** – If you see a unit toppled over or parked improperly;
44 help out by righting the unit and reporting the issue via 311.

- 1 D. The Director reserves the right to modify the Dockless Mobility Code of Ethics
2 and/or require licensees to provide additional information to their users.
3
- 4 E. Licensee shall provide the Director with a direct contact for licensee staff that are
5 capable of rebalancing units. All licensed licensees shall remove, relocate or
6 rebalance units based on these times:
7
- 8 1. Rebalancing shall occur within two (2) hours of receipt of notice, during
9 weekdays, 6am and 6pm, not including holidays.
10
- 11 2. All other times rebalancing shall occur within ten (10) hours of receipt of
12 notice.
13
- 14 F. Licensee shall be responsible for implementing and submitting to the Director a
15 marketing and outreach plan at its own cost to promote the use of dockless
16 mobility in neighborhoods currently underserved by dockless mobility options,
17 (initially defined as less than 25 licensee units per square mile, subject to change
18 at the Director's discretion) including offering an affordable option that does not
19 require the user to access the service via a smartphone application for any
20 customer with an income level at or below 200% of the federal poverty
21 guidelines.
22
- 23 G. Licensee shall be responsible for implementing and submitting to the Director a
24 maintenance, cleaning, repair and waste management plan for approval. This
25 plan shall address ongoing maintenance of units, routine cleaning and repair as
26 well as how units that are no longer capable of service will be disposed of
27 responsibly.
28
- 29 H. Licensee shall employ an electronic payment system that is compliant with the
30 Payment Card Industry Data Security Standards (PCI DSS). Each transaction
31 shall include the unit identification number listed on the Unit Inventory List.
32
33

34 **Section 7 – Privacy, Data Reporting and Sharing**

- 35
- 36 A. Licensee shall be responsible for implementing and submitting to the Director a
37 privacy policy that safeguards users' information, including personal, financial,
38 and travel information.
39
- 40 B. Licensee shall not require users (customers) to grant location services to use the
41 licensee's mobility service. All other private data belonging to the user, including
42 but not limited to contacts, photos and files, shall not be required to be shared in
43 order to use the licensee's dockless mobility service.
44
- 45 C. Licensee shall not require users (customers) to share their private data with 3rd
46 parties in order to use the licensee's dockless mobility services.

- 1
- 2 D. 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 E. 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 (EULA) published on the licensee's website and app,
- 9 and agrees to provide all customers and the Director any changes to the terms of
- 10 service immediately upon adoption.
- 11
- 12 F. On a quarterly basis, all licensees shall provide the Director with marketing plan
- 13 update.
- 14
- 15 G. On a monthly basis, all licensees shall provide a complaint history report
- 16 including the number of complaints, the nature of the complaints, and the time it
- 17 took to remedy the complaint.
- 18
- 19 H. On a monthly basis, all licensees shall provide a collision history report including
- 20 the number, severity, location and time of crash, in a format as determined by the
- 21 Director.
- 22
- 23 I. Licensee shall provide the Director or a Director-authorized third party, with real-
- 24 time and historical information for their entire fleet through a documented web-
- 25 based application programming interface (API). The licensee is directly
- 26 responsible for providing the API key to the Director and shall not refer the City to
- 27 another subsidiary or parent company representative for API access. The API
- 28 shall deliver data the most current specifications as approved by the Director.
- 29 Director
- 30 J. Licensee found to be submitting incomplete or inaccurate data, such
- 31 underrepresenting the total number of units in service, shall have their license
- 32 revoked.
- 33
- 34 K. Licensee agree to provide a separate web-based application programming
- 35 interface (API) for the purposes of sharing data with a university research
- 36 institute authorized by the Director to evaluate the dockless mobility system for
- 37 the purposes of human factors research.
- 38
- 39
- 40 L. Licensee shall administer a Director-issued customer satisfaction survey within
- 41 (60) sixty calendar days prior to the expiration of their license and provide the
- 42 results of that survey to the Director (15) fifteen calendar days prior to the
- 43 expiration of their license.
- 44
- 45
- 46

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

Section 9 – General

- A. The Director shall approve any dockless mode type and technology, prior to approving unit deployment.
- B. No dockless system may operate within the City of Austin right of way without obtaining the appropriate authorization as required by City Ordinance § 14-9.
- C. The Director shall determine all license terms, conditions and other standard or special requirements.
- D. The Director may remedy habitual rule violations by amending, suspending or completely revoking a license for cause listed in City Code, Chapter 14-9 or for public safety concerns.

- 1 E. The Director may require habitual violators to reduce fleet size or to completely
2 remove units from the right of way for revocation or during a period of
3 suspension.
4
- 5 F. Prior to licensing, applicants shall:
6 1. be in good standing with the City of Austin.
7
8 2. provide the Director or Director authorized third party company a verifiable
9 and fully functional API.
10
- 11 G. Units are eligible to be placed into operation immediately, upon authorization
12 issued by the Director.