



Legislation Details (With Text)

File #: 21-0261 **Version:** 1 **Name:** Ordinance: To establish Regulations and grant Permits for the Operation of Shared Dockless Transportation Vehicle Fleets in the public right-of-way

Type: Ordinance **Status:** Adopted

File created: 2/24/2021 **In control:** Engineering

On agenda: 3/9/2021 **Final action:** 4/21/2021

Title: AN ORDINANCE AMENDING TITLE XXIX ENTITLED "STREETS AND SIDEWALKS" OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO CREATE A NEW CHAPTER TO ESTABLISH A PERMIT PROCESS FOR THE OPERATION OF SHARED DOCKLESS VEHICLES IN THE PUBLIC RIGHT-OF-WAY.

Deferred 6PSF-c 031721
Deferred 6PSF-a (s)032321

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
4/21/2021	1	Municipal Council	Close on Public Hearing and Adopt	Pass
4/7/2021	1	Municipal Council	Motion to amend	Pass
4/7/2021	1	Municipal Council	maintained on public hearing and adopted as amended	Pass
3/23/2021	1	Municipal Council	Maintained on Public Hearing and Deferred	Pass
3/17/2021	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
3/9/2021	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE AMENDING TITLE XXIX ENTITLED "STREETS AND SIDEWALKS" OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO CREATE A NEW CHAPTER TO ESTABLISH A PERMIT PROCESS FOR THE OPERATION OF SHARED DOCKLESS VEHICLES IN THE PUBLIC RIGHT-OF-WAY.

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WHEREAS, the City of Newark (the "City"), recognizes the growth of new mobility technologies and their potential to help the City achieve its goals in equity, livability, and sustainability enumerated in the mobility element of the 2012 Master Plan; and

WHEREAS, the City views shared mobility services as a means to achieve the goals in the North Jersey Transportation Planning Authority's 2045 long-range plan, including the provision of

dynamic transportation systems responsive to all current and future travelers; enhanced system coordination, efficiency, overall safety and connectivity; among others; and,

WHEREAS, the City finds that shared mobility services can link underserved populations to jobs, schools, housing, health care facilities, grocery stores, mass transit and other essential services; complement the use of public transportation; and create attractive, vibrant, pedestrian-friendly neighborhoods where people can live, shop, work, and play without relying on automobiles; and

WHEREAS, the City believes that shared mobility services provide a needed service to low-income neighborhoods facing lengthy commutes, and help lower combined housing and transportation costs for the same; and

WHEREAS, the City deems it necessary to regulate shared mobility services, to maintain affordability for low-income individuals, and so that those without credit cards or bank accounts can pay by cash; and

WHEREAS, the City deems that shared mobility services reduce air pollution and greenhouse gas emissions, especially in low-income communities of color that face a disproportionately high burden of air pollution; and

WHEREAS, the City intends that the Director of Engineering specifically, and the Department of Engineering as a whole, continue in its role of regulating and managing the use of the City's streets; and

WHEREAS, the City finds it necessary and appropriate to establish and clarify its policy with respect to the use of the City rights-of-way; and

WHEREAS, the City deems it necessary and appropriate to create a fair and transparent permit application process that requires shared mobility service providers to meet or exceed requirements based on the program rules and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

SECTION 1. Title XXIX of the Revised General Ordinances of the City of Newark, New Jersey 2000 shall be amended and supplemented by adding a new Chapter to establish a permit process for the operation of shared dockless vehicles in the public right of way that includes the following **underlined and bold** text:

1. DEFINITIONS.

A. “Adaptive Dockless Vehicle” means a Dockless Vehicle which is accessible to people with various physical disabilities. Examples include recumbent bicycles, tricycles, and hand cycles, any of which may be motorized.

B. “Administrator” refers to the Director of Engineering.

C. “Compliance Officer” means two code enforcement personnel designated by the

Department of Engineering who are responsible for conducting varied types of field and office work involved in seeing that residents, businesses, and citizens comply with the City of Newark's municipal ordinances related to Dockless Vehicles including, but not limited to proper parking procedures, equity requirements, and other stipulations of the Program through spot checks, internal reports, audits, and other methods.

- D. "Dockless Vehicle Share System or Program" means a system or program to provide Dockless Vehicles for short-term rentals for point-to-point trips where, by design of the Dockless Vehicle Share Provider, the Dockless Vehicles are intended to remain in the public Right of Way, even when not being rented/used by a Customer.
- E. "Dockless Vehicle Share Provider" or "Provider" means a company that is in the business of providing a Dockless Vehicle for Hire to the general public to use in the City's right-of way. The term includes any employee, agent or independent contractor hired by the Provider.
- F. "Dockless Vehicle Share User" or "Customer" or "User" is any person that uses, rents or rides a Dockless Vehicle or is a customer of the Dockless Vehicle Provider.
- G. "Dockless Vehicle" means a dockless electric bicycle, dockless electric scooter, dockless non-electric bicycle and a dockless non-electric scooter approved by the Administrator that are available to rent for use in the City's public rights-of-way through the Dockless Vehicle Share System. The term "Dockless Vehicle" does not include a motor vehicle, motorcycle, low-speed vehicle, or a motor-driven cycle.
- H. "E-Bicycle" or "Electric Bicycle" means a device designed and equipped with: (i) an electric motor for assisted or self-propulsion; (ii) 2 tandem wheels; and (iii) a locking device to either lock itself or lock to existing structures. It does not include a motorcycle, motor scooter or other form of motor vehicle.
- I. "E-Scooter" or "Electric Scooter" means a device designed and equipped with: (i) an electric motor for self-propulsion; (ii) 2 wheels below a platform on which a User can stand upright to operate and control the vehicle; and (iii) a locking device to either lock itself or lock to existing structures. It does not include a motor scooter or other form of motor vehicle.
- J. "Rebalance" means allocating Dockless Vehicles across the equity zone as established in greater detail in the Dockless Vehicle Provider Share System Program Regulations to ensure access across the City, and to avoid overconcentration in any one area.
- K. "Right of Way" shall mean and includes highways, roads, avenues, boulevards, courts, public lanes, alleys, sidewalks, foot paths and all other public highways for vehicular or pedestrian travel within the City of Newark's control.

L. "User" means any individual who operates a Dockless Bicycle or Scooter.

2. Pilot Permit Program Governing Dockless Vehicles.

A. The City hereby establishes a six (6) month pilot program (the "Pilot Term") where the Administrator is authorized to issue no more than Two Thousand permits during the first two (2) months of the Pilot Term for the operation of Dockless Vehicles in the City's Right-of-Way. The City will only issue permits to those applicants who submit a completed application.

B. No permits shall be issued until applications are deemed complete.

C. The Administrator will issue one permit for each Dockless Vehicle that a Provider wishes to operate in the City's Right-of-Way.

D. The City will issue Dockless Vehicle permits to Providers as follows: (1) no less than Five Hundred (500) permits regardless of the Dockless Vehicle type included in the application; (2) up to Nine Hundred (900) permits if only one Dockless Vehicle type is included in the application; or (3) no more than One Thousand (1000) permits if at least One Hundred (100) E-bicycles and/or Bicycles are included in the application. Subject to 2 (E) below, under no circumstances shall any one Provider be entitled to obtain any more than One Thousand (1000) Permits during the Pilot Term..

E. The City encourages Providers to make Adaptive Dockless Vehicles to users where feasible.

F. After two months of the Pilot Period, the Administrator is authorized to evaluate the Program and operator fleet sizes determine if additional permits are warranted and if so, the Administrator shall be permitted to issue an additional one thousand permits under the Program pursuant to the same requirements set forth in this Ordinance.

G. If the City, under the authority of the Director of Engineering, intends to continue this program after the Pilot Period all Providers shall be required to submit a new application for a permit which shall be valid for an annual one-year period.

3. Application for Pilot Program Permit.

A. A Provider may not operate a Dockless Vehicle Program for the duration of the Pilot Program without first obtaining a valid Permit from the Administrator.

B. A person desiring to obtain a Permit shall make a written application in a form prescribed by the Administrator with the applicant being the person who will own, control, or operate the proposed Dockless Vehicle service

C. An application fee of \$250.00 shall be submitted with each application. The Director of Finance is authorized to receive said application fee and deposit same towards the Department of Engineering's budget.

D. An applicant shall file with the City a verified application statement that, at a minimum, contains the following:

- i. The address of the applicant's operations center within the City, and the address of the applicant's corporate headquarters, if different from the address of the operations center;**
- ii. A witnessed signature of the applicant;**
- iii. Documentary evidence from an insurance company indicating that such insurance company has bound itself to provide the applicant with the insurance required by the City's Dockless Vehicle Provider Share System Program Regulations;**
- iv. 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 payment and performance bond or irrevocable letter of credit required by the Dockless Vehicle Provider Share System Program Regulations;**
- v. Documentary evidence indicating that the applicant has applied for and received a current Business License from the City's Department of Finance, Division of Tax Abatement and Special Taxes;**
- vi. An agreement to indemnify the City, in a form acceptable to the City; and**
- vii. The name of the person designated to receive any and all notices sent by the City to the Provider, including their mailing address, telephone number, and e-mail address;**

E. A Pilot Program permit shall expire six (6) months from the date it is issued.

F. In the event that the Pilot Program is reinstated by the City, the permit may be renewed following the same process set forth in this Ordinance.

G. The Administrator, in his or her sole discretion, reserves the right to revoke any permit, after notice and hearing, that is deemed non-compliant with this Ordinance and/or the City's Dockless Vehicle Provider Share System Program Regulations.

4. Permit Fee.

The permit fee shall be \$70.00 per Dockless Vehicle to cover the City's cost to administer the Dockless Vehicle Program.

The Director of Finance is authorized to receive said permit fees and deposit same towards the Department of Engineering's budget.

5. Dockless Vehicle Regulations Governing Dockless Vehicle Program.

- A. The Administrator shall develop Dockless Vehicle Provider Share System Program Regulations that govern program requirements to operate Dockless Vehicles within the City's Rights of Way to ensure that the performance, effectiveness and safety concerns of the City are achieved.
- B. The Administrator shall promulgate additional regulations governing Dockless Vehicle Programs from time to time as he sees fit to ensure that the continued performance, effectiveness and safety concerns of the City are achieved.
- C. The City's Dockless Vehicle Share Provider permit will also require Providers to provide certificates of liability insurance, indemnification, performance bonds, and cost recovery fees in forms and at the levels set forth in this Ordinance.

6. Insurance Requirements

- A. An Provider 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 an insurance company or companies authorized to do business in New Jersey, who are rated A- (V) or better per A.M. Best's Key Rating Guide.
- B. The insured provisions of the policy or policies must list the City 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 Motorized Scooter.
- C. The City, its elected/appointed officials, employees, and agents shall be covered, by endorsement as additional insureds on Permit Holder's commercial general liability and commercial automobile liability policies, as respects to liability arising out of activities performed by or on behalf of Permit Holder in connection with this Agreement.
- D. To the extent of Permit Holder's negligence, Permit Holder's insurance coverage shall be primary insurance as respects the City, its elected and appointed employees and agents. Any insurance and/or self-insurance maintained by the City with its elected appointed officials, employees and agents shall not contribute to Permit Holder's insurance or benefit it in any way.
- E. An Operator shall maintain the following insurance coverages:
 - i. Commercial general liability with limits of \$2,000,000 per occurrence, \$5,000,000 policy aggregate affording coverage for claims resulting from bodily injury (including death) and property damage. The policy shall be written on a primary and noncontributory basis, and should insure against premises and operations, personal injury, and contingent and contractual exposures.
 - ii. Automobile/Motorcycle liability affording coverage on all motor vehicles/scooters used in connection with the operations or activities

contemplated under this Article. The Operator should furnish the City with a policy affording coverage on all owned autos and scooters, including coverage for hired and non-owned auto exposures, with a combined single limit for bodily injury (including death) and property damage of \$2,000,000 per accident.

iii. Worker's Compensation coverage as required by the State of New Jersey, as well as any similar coverage required for this work by applicable Federal law or the laws of other States.

iv. The City retains the right to require additional insurance coverage in connection with the activities performed by the Provider under this Article as may be determined by the City's Risk Management, considering the size of the fleet and other liability insurance related factors.

v. Failure to maintain required insurance coverage is cause for immediate revocation of the Permit by the Administrator.

F. Any insurance policy required by this Section must be on file with the Department of Engineering, in a form acceptable to the Administrator prior to the issuance of a Permit under this Article.

G. Insurance required under this Section must include a cancellation provision in which the insurance company is required to notify both the Provider and Administrator in writing not fewer than thirty (30) days before cancelling any insurance policy or before making a reduction in coverage. A Provider, upon receiving said notice, shall file with the Department of Engineering, in a form acceptable to the Administrator, any and all replacement insurance policies prior to the cancellation or reduction of the same.

H. An Operator may not be self-insured

7. Performance Bond or Irrevocable Letter of Credit.

A. Each permit holder shall submit with its Application, a security deposit, in form satisfactory to the City, in the amount of \$10,000 to assure the permit holder's compliance with these Rules and Regulations. If such security deposit shall be in the form of a bond, the same shall be irrevocable and shall be accompanied by a Power of Attorney for the full amount of the Proposal Bond from a surety company authorized to do business in the State of New Jersey. Sums due to the City pursuant to the terms hereof shall be released upon notice to the permit holder as provided for herein. Any amounts drawn upon the Security by the City shall be replenished by the permit holder within fourteen (14) days' written notice by the City, the purpose being to maintain a security deposit in the amount of \$10,000 throughout the term. All Security amounts held by the City shall be returned in accordance with law. No interest shall be allowed upon any such Security amounts held by the City.

B. Cancellation of the security deposit does not release the Provider from the

obligation to meet all requirements of this Ordinance for a Dockless Vehicle permit. If the security deposit is cancelled, the permit shall be suspended on the date of cancelation and the Provider shall immediately cease operations until the Provider provides the Administrator with a Security Deposit that meets the requirements of this Section.

8. Indemnification. Providers shall indemnify, defend, and hold harmless the City, and their respective officers, employees, agents and instrumentalities from any and all liability, losses or damages, including any and all attorneys' fees and costs of defense, which the City and its officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature including, but not limited to, personal injury or wrongful death, property loss or damage, the conditions and features on the City's right-of-way, including all Sidewalks and Sidewalk Areas, or other areas within the City on which a Dockless Vehicle is operated, to the extent arising out of or in any way connected with the operation of the Dockless Vehicle Service or use of a Dockless Vehicle.

Providers shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City, where applicable, including administrative, trial, and appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon.

Providers shall expressly understand and agree that any insurance protection required by this Ordinance, or otherwise provided or secured by a Provider, shall in no way limit the responsibility to indemnify, defend and hold harmless the City or their officers, employees, agents and instrumentalities as required by this Section. The obligation to indemnify, defend, and hold harmless will survive the revocation, cancellation, or expiration of a Dockless Vehicle Permit. The Providers will acknowledge on the Dockless Vehicle Permit Application Form, which will include this Indemnification in substantially the language provided by this Section, that the granting of the Permit is, in part, conditioned on the granting of this Indemnification which is knowingly and voluntarily given by the Providers.

9. Dockless Vehicle Program Provider Requirements

A. Communications to Customers/Users

All Providers issued a Permit by the Administrator shall include visible language within the Provider's cell phone application, as defined in the Dockless Vehicle Provider Share System Program Regulations, that notifies the Customer/User that:

- i. All Customers and Users using Dockless Vehicles are encouraged to wear helmets; Users and Customers under the age of 17 are required to wear helmets according to NJ Statute (Title 39:4-10.1).
- ii. Dockless Vehicle Customers and Users must follow all state and local traffic laws.
- iii. Dockless Vehicle Customers and Users are not allowed to ride on the

sidewalk unless the speed limit of the adjacent street/road exceeds 35 miles per hour.

B. Program Safety

Providers are responsible for educating Customers and Users about safe use of a Dockless Vehicle, including providing education about state and local laws applicable to riding, operating and depositing a Dockless Vehicle in the public Right of Way.

C. Federal, State and Local Law Compliance

Providers shall comply with all federal, state and local laws, ordinances, rules and regulations and shall be responsible for Dockless Vehicle Customer and User compliance with all laws, ordinances, rules and regulations governing the use of Dockless Vehicles. Compliance with such laws shall include, without limitation, all laws, ordinances, rules and regulations applicable to the use of Dockless Vehicles in the public Right of Way.

10. Parking/Storage; Fleet Size; Service Areas; Payment Plans; Persons with Disabilities; Personal Data Privacy; Community Outreach.

A. The Administrator shall establish parking and fleet size requirements; require equitable service areas and payment plans; require provisions for persons experiencing disabilities; safeguard personal data and privacy of the consumer; establish methods and policies regarding data sharing; and require a community outreach plan as part of the Dockless Vehicle Provider Share System Program Regulations, to which this ordinance refers.

SECTION 3. To the extent that any previous ordinance(s) are inconsistent with or contradictory hereto, said ordinance(s) are hereby repealed or amended to the extent necessary to make the same consistent herewith.

SECTION 4. The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph, or provision of the Ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance establishes a method under which a system or program to provide bicycles and scooters, inclusive of electric-assist bicycles and scooters (E-bicycles/E-scooters), for short-term rentals in which the bicycles and scooters are intended to remain in the public Right of Way, even when not being rented/used by a customer.