

**ORDINANCE NO. 2021-06
(LISTED ON FIRST READING AS ORDINANCE NO. 2021-52)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING CHAPTER 12 – TRAFFIC AND VEHICLES, TO ADOPT ARTICLE 12.14 – MOTOR-ASSISTED SCOOTERS, ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH GPS; AND PROVIDING FOR FINDINGS OF FACT, ADOPTION, REPEALER, SEVERABILITY, AND ENFORCEMENT; ESTABLISHING AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

- WHEREAS,** the City of Bastrop, Texas ("City") is a Home-Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and
- WHEREAS,** the City Council of Bastrop, Texas has reviewed the Police Chief's recommendations and has determined it is desirable to regulate the operation of motor-assisted scooters, electric bicycles, and bicycles equipped with a GPS, which are rented for a fee, to ensure public safety, and pursuant to the Texas Transportation Code; and,
- WHEREAS,** Texas Transportation Code Sections 551.106 and 551.352 authorizes the governing body of a municipality to regulate and control the operation of motor-assisted scooters and electric bicycles within the city's legal boundaries and on its public streets and sidewalks to ensure the public safety of the community, including the operation of companies renting these vehicles to consumers within the City; and
- WHEREAS,** the use of motor-assisted scooters, electric bicycles, and bicycles equipped with a GPS can help to reduce overall emissions and their use is an eco-friendly or 'green' alternative to traditional passenger vehicles; and
- WHEREAS,** motor-assisted scooters, electric bicycles, and bicycles equipped with a GPS are not normally equipped with many of the traditional safety features that are customarily required or found on more commonly-used motor vehicles; and
- WHEREAS,** passenger ejection and injuries can be reduced in an urban setting by requiring additional safety equipment and providing rules of operation; and
- WHEREAS,** Texas Local Government Code Section 51.001 provides the City general authority to adopt an Ordinance or police regulations that are for good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and
- WHEREAS,** the City Council finds it necessary to regulate motor-assisted scooters, electric bicycles, and bicycles equipped with a GPS in order to preserve health, property, good government, and order in a Home-Rule municipality as defined under Chapter 54 of Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. ADOPTION

Chapter 12, Article 12.14 of the City of Bastrop Code of Ordinances is hereby adopted and shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

SECTION 3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

SECTION 5. ENFORCEMENT

The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

SECTION 6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

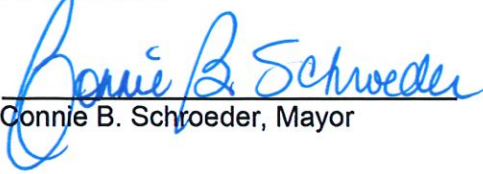
SECTION 7. OPEN MEETINGS

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

READ & ACKNOWLEDGED on First Reading on the 25th day of May 2021.


READ & APPROVED on the Second Reading on the 22nd day of June 2021.

APPROVED:



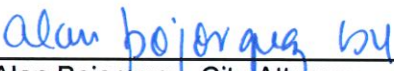
Connie B. Schroeder, Mayor

ATTEST:

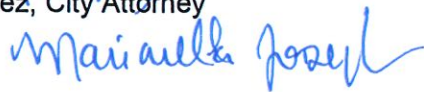


Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney



Bastrop Code of Ordinances

Chapter: TRAFFIC AND VEHICLES

**Article 12.14: MOTOR-ASSISTED SCOOTERS,
ELECTRIC BICYCLES, AND BICYCLES EQUIPPED WITH GPS**

Sec. 12.14.001 - Definitions:

- 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 an electric bicycle, or a motor assisted scooter that is available for use for a fee.
- 4) ***Electric bicycle*** means an electric bicycle as defined in Texas Transportation Code § 664.001 (as may be amended).
- 5) ***Fleet manager*** means the person responsible for the daily operations of a dockless vehicle service.
- 6) ***Geofencing*** means the use of GPS technology to create a virtual geographic boundary, enabling software to trigger a response when a dockless vehicle enters or leaves a particular area.
- 7) ***Motor-assisted scooter*** means a motor-assisted scooter as defined in Texas Transportation Code § 551.351 (as may be amended).
- 8) ***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. The permit agreement may be part of a Pilot Program, as stipulated in the application form.
- 9) ***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.
- 10) **Person** means an individual, partnership, corporation, company, association, or other legal entity.
- 11) ***Pilot Program*** means an initial small-scale preliminary study conducted to evaluate the operation of dockless vehicles in the City.

- 11) **Rider** means a person operating a motor-assisted scooter, an electric bicycle, or a bicycle equipped with a GPS.

This article does not apply to a moped or motorcycle; a motorized mobility device (Transportation Code Section 542.009); an electric personal assistive mobility device, such as electric wheelchairs or other medical mobility devices (Transportation Code Section 551.201); a neighborhood electric vehicle (Transportation Code Section 551.301); or a golf cart or all-terrain vehicle (Transportation Code Section 551.401).

Sec. 12.14.002 - Operation and parking 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 may ride on streets which have a speed limit of thirty-five (35) miles per hour or less. Riders must obey all state and City traffic laws.
- (3) Riders operating or in control must be at least sixteen (16) years of age.
- (4) Riders may not have any passengers. Only one person may be on the scooter when it is being operated.
- (5) The wearing of a helmet is encouraged, but not required.
- (6) It is unlawful for a rider to operate a motor-assisted scooter under the influence of alcohol or drugs.
- (7) It is unlawful for a rider to use a portable wireless communication device while operating a vehicle.

(b) Operation of electric bicycles, and bicycles equipped with GPS.

- (1) Riders must always yield to pedestrians.
- (2) Riders may not ride on sidewalks.
- (3) Riders must obey state and City traffic laws.
- (4) Riders operating or in control must be at least sixteen (16) years of age.
- (6) It is unlawful for a rider to use a portable wireless communication device while operating a bicycle.
- (7) The wearing of a helmet is encouraged, but not required.
- (8) It is unlawful for a rider to operate an electric bicycle under the influence of alcohol or drugs.

(c) Parking of motor-assisted scooters, electric bicycles, and bicycles equipped with GPS.

- (1) It is unlawful for riders to park dockless vehicles on streets, except in areas designated by the City by paint, decals, or signs.

- (2) Riders of dockless vehicles may park dockless vehicles 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 (4) feet.
- (3) Riders of dockless vehicles may not park dockless vehicles in a manner that blocks any American with Disabilities Act (“ADA”) access to sidewalks or streets.
- (4) It is unlawful for a rider to park a dockless vehicle on sidewalks at the following locations:
 - a. Within eight (8) feet of commercial or pedestrian loading zones, or disabled parking zones.
 - b. Within four (4) feet of street fixtures that require pedestrian access, including but not limited to benches.
 - c. Within eight (8) feet of curb ramps, entryways and driveways.
 - d. Within eight (8) feet of a building entrance.
 - f. On trails, creek ways, including in any City park.
- (5) It is unlawful for a rider to park, other than momentarily, a dockless vehicle within 75 feet of the Colorado River.

Sec. 12.14.003 - Colliding with pedestrians on sidewalk.

- (a) No person, while riding a motor-assisted scooter, electric bicycle, or bicycle equipped with a GPS, upon any sidewalk of the City, shall collide with any pedestrian, or cause any pedestrian to leave the sidewalk to avoid a collision with such vehicle.

Sec. 12.14.004 - Required equipment of motor-assisted scooters, electric bicycles.

- (a) Riders may not operate motor-assisted scooters or electric bicycles at nighttime unless the vehicle is equipped with:
 1. A lamp on the front of the vehicle that emits a white light visible from a distance of at least five hundred (500) feet in front of the vehicle; and
 2. A red reflector that is visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from fifty (50) to three hundred (300) feet to the rear of the vehicle, or a lamp that emits a red light visible from a distance of five hundred (500) feet to the rear of the vehicle.
- (b) Riders may not operate motor-assisted scooters or electric bicycles without a working bell, horn, or other sound mechanism.
- (c) Riders may not operate dockless vehicles between the hours of 11:00 p.m. and 6:00 a.m., and permit holders shall make dockless vehicles inoperable during these hours.

Sec. 12.14.005 - 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 for any compensation, including but not limited to any money, thing of value, payment, consideration, donation, gratuity, or profit.

(b) The City reserves the right to implement a Pilot Program, as defined in the City's application form.

(c) To obtain a permit agreement, a person must submit an application to the City on a form provided by the City Secretary for that purpose. The application must contain the following, including any additional information requested for motor-assisted scooters or electric bicycles requirements established by the City:

(1) The business name, street address, mailing address, email address, and telephone number of the applicant, with the addressing being in the city limits or within one hour response time of the city limits;

(2) A non-refundable annual business permit fee of \$500.00;

(3) A non-refundable annual permit fee of \$50.00 for each dockless vehicle which is to be operated within the City limits of the Bastrop;

(4) The name, phone number and email address of the fleet manager. Any change in this information must be reported to the City Secretary within twenty-four (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.

(d) A permit agreement expires 12 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. 12.14.006 - Issuance, renewal, suspension and revocation of permit agreements.**

(a) The City 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 City;

- (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, by any other local government, within two (2) years of the date of application.
- (b) If the City determines that a permit agreement should be denied, the City 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 City shall revoke a permit agreement if the City 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 (2) 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 City, or an operator whose permit agreement has been revoked or suspended by the City, may file an appeal with the City, 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 thirty (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 City should be upheld.
 - (2) The hearings officer shall render a decision within thirty (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 City which was appealed.
 - (4) The decision of the hearings officer shall be final.

Sec. 12.14.007 - Dockless vehicle operations.

- (a) Permit holders shall display on each dockless vehicle permitted under this article 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 (7) days a week between 8:00 a.m. and 5:00 p.m. to accept calls from the City.
- (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 City. Any permission to place items in the public right-of-way must be incorporated into the permit.
- (d) Permit holders shall provide the City 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) 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 or that has been thrown in the riverbanks of the Colorado River; for other violations the permit holder has two (2) 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 (2) 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 fifty dollars (\$50.00) to obtain the return of each vehicle impounded.
 - (4) City staff, and other persons authorized by City staff, may remove dockless vehicles parked in prohibited areas, dockless vehicles blocking ADA facilities, or dockless vehicles located within areas identified consistent with section 12.14.002 in violation of this article, or that are identified as broken, immediately and without notice of violation to a permit holder, in which case the City may not impose an impound fee.
 - (5) Permit holders are required to use Geofencing or other means to locate dockless vehicles that are located near the riverbanks of the Colorado River, or have been thrown into the water.

- (6) Notwithstanding the above, the City has the authority to identify areas where vehicles must be removed to accommodate special events, construction, and maintenance work performed by the downtown public improvement district. The City shall have the authority to establish the time for any required removal and any subsequent deployment.

Sec. 12.14.008 - Insurance.

- (a) A permit holder shall procure and keep in full force and effect insurance coverage in accordance with this section, through a policy or policies written by an 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, at a minimum, 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 one million dollars (\$1,000,000.00) for each occurrence, with a two million dollars (\$2,000,000.00) 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 five hundred thousand dollars (\$500,000.00) 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, five hundred thousand dollars (\$500,000.00) per each accident; and
 - b. Disease, five hundred thousand dollars (\$500,000.00) per employee with a per policy aggregate of five hundred thousand dollars (\$500,000.00).
- (d) Insurance required under this article must:
 - (1) Include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than thirty (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 City in writing not fewer than ten (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 City 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 twenty (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 and must remain in effect during the term of the permit agreement.

Sec. 12.14.009 - Indemnification.

- (a) Nothing in this article shall be construed as an assumption of liability by the City for any injuries (including death) to persons, pets, or property which may result from the operation of a dockless vehicle, motor-assisted scooter, electric bicycle, or bicycle equipped with a GPS, by an authorized driver; and
- (b) It is expressly understood and agreed that a permit holder is and shall be deemed to be an independent contractor and the permit holder is responsible to all parties for its respective acts or omissions, and that City shall in no way be responsible, therefore.

Sec. 12.14.010 - Enforcement.

- (a) The City shall enforce this article.
- (b) Upon observing a violation of this article, the City shall take all necessary actions to ensure effective regulation of dockless vehicles.
- (c) The City 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. 12.14.011 - 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 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 five hundred dollars (\$500.00) for each offense.

