

Exhibit A
Dockless Mobility Program

ORDINANCE NO. 180115

An ordinance of the City of Gainesville, Florida, amending [Chapter 26] by creating [Division _____], Dockless Mobility Program, to permit and regulate dockless bicycle programs, dockless scooter programs, and dockless electric bicycle programs in the City of Gainesville, Florida; establishing fees and penalties; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, dockless or station-less mobility programs are emerging transportation options that provide city residents and visitors with alternative shared transportation options within the City;

WHEREAS, the measures set forth in this ordinance are intended to regulate dockless mobility programs throughout the City;

WHEREAS, at least 10 days’ notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Chapter _____ is amended to read as set forth below.

DIVISION 2. – DOCKLESS MOBILITY PROGRAM

Sec. _____ . – Purpose.

(a) The purpose of this division is to:

- (1) Permit and regulate a Dockless Mobility Program in the City of Gainesville.

Sec. _____ . – Applicability.

The provisions of this division shall apply to the Dockless Mobility Program. For the purpose of this division, the applicant, managing agent or operator, and owner shall be jointly and severally liable for complying with the provisions of this division, and the permit and license agreement.

Sec. _____ . Definitions.

For the purpose of this division, the following words shall have the meanings indicated:

Bicycle Rack means a stationary fixture to which a bicycle can be securely attached to prevent theft.

Corral means parking facilities that can accommodate a group of Dockless Units typically installed on-street in lieu of a single vehicle parking space.

City Manager means the City Manager of the City of Gainesville.

City-owned property means property owned, occupied, managed, maintained, or controlled by the city pursuant to deed, easement, lease, license, or dedication, and includes city park land and any other property owned by or under the control of the city.

Customer or User means the individual who rents or uses a Dockless Unit provided by an Operator.

Department means the City of Gainesville Department of Mobility, or such other department or division of the City assigned responsibilities for mobility planning and operations.

Director means the City of Gainesville Mobility Director, or such other officer the City assigned responsibilities for mobility planning and operations.

Dockless Program means a program authorized by this division that provides Dockless Units for short-term rentals for point to point trips where, by design of the Operator, the Dockless Units are intended to remain in the public way when not being rented by a customer.

Dockless Units utilized by an Operator may have the capability of being locked to a bicycle rack or be free-standing when not in use.

Dockless Electric Bicycle, also known as electric-assist or e-bike, means a bicycle equipped with a battery and an electric motor that is activated by pedaling and deactivates when not in use.

Dockless Unit means any and all of the following: Dockless Electric Bicycles, Dockless Bicycles, and Dockless Scooters.

Dockless Scooter means a vehicle consisting of a footboard mounted to two wheels, steered using a long handle, does not include a seat, is equipped with a battery, and propelled by an electric motor.

Geofencing means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

Operator means any entity that owns, operates, redistributes, or rebalances Dockless Units, and services a Dockless Mobility Program.

Permit Application means the application required by the Department in order to participate in the Dockless Program.

Rebalancing means the process by which Dockless Units are redistributed to ensure availability throughout a service area and to prevent excessive buildup of units at locations throughout the city.

Right-of-way or ROW means the surface and space above and below an improved or unimproved public roadway, highway, boulevard, road, freeway, bridge, alley, court, street, bicycle lane, and public sidewalk in which the city or other public entity has an interest in law or equity whether held in fee, easement, dedication, plat or other estate or interest including any other dedicated right-of-way for travel purposes.

Service Area means the geographical area within the City of Gainesville where the Dockless Mobility Program is intended to offer service for its users/customers as defined by the permit application.

Sec. _____ . Dockless Mobility Program Permitting.

- (a) Unlawful to operate without authorization: It shall be unlawful for an Operator to provide or operate a Dockless Mobility Program within the City without first obtaining a permit from the Department.
- (b) No more than four (4) dockless mobility Operators will be permitted to operate within the City at any time.
- (c) Authorization: An Operator shall apply to participate by submitting to the Department an application to provide a Dockless Mobility Program in the city limits.
- (d) Program permits shall be subject to the approval of the Director or the Director's designee.
- (e) The issuance of permits will be prioritized based upon the submission of a complete permit application, and must demonstrate/commit to deploy a minimum of 75% of authorized fleet within 30 days of obtaining a permit.
- (f) Permits will be effective for the period specified in the permit, which shall not exceed one year. Operators shall be required to re-apply for a permit upon the conclusion of each permit period.
- (g) Operators must, at a minimum, comply with the requirements of Section _____ below.
- (h) Operators must obtain separate approval from the University of Florida in order to operate devices on the university campus.
- (i) Dockless units shall be allowed to operate between the hours of 6 AM to 10 PM. Operator shall be responsible for collecting and removing its fleet from the rights-of-way within 2 hours of disabling. Dockless units shall not be enabled for public use until 6 AM. Director or the Director's designee, at their discretion, may adjust the hours of operation based on local conditions. An Operator must have the ability to implement any modifications to hours of operation within 48 hours of written or emailed notice.

Sec. _____ . Dockless Mobility Program Requirements.

- (a) General Regulations Pertaining to Dockless Units:

- (1) All bicycles utilized in a Dockless Mobility Program shall conform with the standards set forth in Title 16, Code of Federal Regulations, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles, the safety standards outlined in ISO 43.150 – Cycles, subsection 4210, and Section 316.2065, Florida Statutes, as may be amended or revised.
- (2) All Dockless Units utilized shall comply with the lighting standards set forth in Section 316.2065(7), Florida Statutes, as may be amended or revised, which requires a reflective front white light visible from a distance of at least 500 feet and a reflective rear red light visible from a distance of at least 600 feet.
- (3) All Dockless Units utilized shall include easily accessible and identifiable language that clearly directs users to customer support mechanisms, including but not limited to a customer service phone number, websites, and applications.
- (4) Dockless Electric Bicycles (e-bikes) utilized under this program shall meet the National Highway Traffic Safety Administration’s (NHTSA) definition of low-speed electric bicycles; and shall be subject to the same requirements as ordinary bicycles and with Florida Statutes Chapter 316.003, which defines bicycles. This means, among other requirements, that electric bicycles shall have fully operable pedals, an electric motor of less than 750 watts, and a top motor-powered speed of less than 20 miles per hour when operated by a rider weighing 170 pounds.
- (5) Dockless Scooters must have a top motor-powered speed of less than 15 miles per hour.
- (6) The City Manager or designee, at their discretion, may create designated areas where Dockless Units shall not be operated or where the maximum Dockless Unit operating speed shall be reduced. An Operator must have the technology available to operate these requirements upon request.
- (7) All Dockless Units utilized shall include an easily accessible and legible unique identifier that is clearly displayed and visible to the user of the unit.
- (8) All Dockless Units utilized shall be equipped with GPS, cell phone, or a comparable technology for the purpose of tracking.
- (9) Advertising and signage on Dockless Units must comply with Section _____. As a condition of approval, the applicant must agree and acknowledge that all signs on Dockless Units are subject to final approval by the Department. Such approved specifications shall be included in the permit and license agreement required under section _____ between the Operator and the City.
- (10) All Dockless Units utilized must include a kickstand capable of keeping the Dockless Units upright when not in use.

(b) Parking and Right-of-Way

- (1) Use of public sidewalks for parking Dockless Units must not:

- i) Adversely affect the public use of streets or sidewalks
- ii) Inhibit pedestrian movement
- iii) Inhibit the ingress and egress of vehicles parked on- or off-street
- iv) Create conditions which are a threat to public safety and security
- v) Prevent a minimum three (3) foot pedestrian clear path.

(2) Dockless Units shall be parked in a way that maintains unimpeded access to existing docked bikeshare stations and bicycle racks.

(3) Dockless Units shall not be parked within the following areas: loading zone, handicap accessible parking zone or other facilities specifically designated for handicap accessibility, on-street vehicular parking spots, landscape areas, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes, parklets or within 15 feet of a fire hydrant.

(4) Dockless Units shall not be parked in a manner that in any way violates Americans with Disabilities Act (ADA) accessibility requirements.

(5) Dockless Units shall be parked upright at all times.

(6) The City Manager or designee, at their discretion, may create geofenced areas where Dockless Units shall not be parked. An Operator must have the technology available to operate these requirements upon request. Operator shall comply with any and all geofencing requirements within 5 business days of a written or emailed request. The cost of installing and maintaining geofencing equipment or facilities shall be borne by the Operator.

(7) The City Manager or designee, at their discretion, may create designated parking zones (i.e., bike corrals) in certain areas where Dockless Units shall be parked.

(8) Dockless Units parked in one location for more than three consecutive days without moving may be removed by the municipality at the expense of the Operator.

(9) Dockless Mobility Programs that utilize equipment capable of being locked directly to a bicycle rack shall not rely solely on publicly-placed bicycle racks for their operation.

(c) Maintenance, Operations, and Fleet Size

(1) Operators shall comply with Florida Statutes, Chapter 316, State Uniform Traffic Control.

(2) Dockless Scooters shall be restricted to a maximum speed of 15 miles per hour on sidewalks or sidewalk areas in compliance with Florida Statutes Section 316.008(7)(a).

(3) Operators must comply with Florida Statutes Section 316.2065(15) which prohibits the rental of bicycles to persons under 16 years of age without also providing or requiring

the use of a helmet. Operators must also apply these regulations to the rental of Dockless Scooters.

- (4) Operators must provide details on how users can utilize the service without a smartphone.
- (5) Operators participating in the Program must rebalance Dockless Units daily based on use within each service area as defined by the Permit Application.
- (6) Dockless Units that are inoperable/damaged or do not comply with other subsections of this code must be removed within 2 hours upon receipt of the complaint between the hours of 7 AM and 7 PM, 7 days per week and within 12 hours upon receipt of the complaint on holidays. An inoperable or damaged Dockless Unit is one that has non-functioning features (i.e., gear selectors, pedals, bell, lights, etc.) or is missing components (i.e., fenders, grips, chain guards, etc.) as applicable to that vehicle. An Operator whose Dockless Unit is inoperable or damaged or that has non-functioning features and which is relocated and/or stored is subject to the fees set forth in Section _____ of this division.
- (7) The City Manager or designee, at their discretion and without notice, reserves the right to remove Dockless Units from the right-of-way if an emergency arises. In such instances, the City will attempt to notify the Operator as soon as reasonably practicable thereafter.
- (8) Operators must detail a plan to relocate the Dockless Units to a safe, indoor facility within 24 hours of notification by the municipality in the event of a declared tropical weather event (tropical storm or hurricane watch or warning, whichever comes first) or other emergency event. The plan must detail the amount of time it will take to remove all Dockless Units from circulation once a storm watch or warning has been established.
- (9) The Operator's smartphone application and website must inform users of how to safely and legally ride a bicycle as defined by Florida Statute 316.2065, including the rights and duties of cyclists riding on sidewalks or in streets. For the purposes of this Division, these duties shall also apply to users of Dockless Scooters.
- (10) The Operator's mobile application must inform users of helmet laws and encourage the use of helmets for those over 16 years of age.
- (11) The Operator's phone application must clearly direct users to customer support mechanisms, including but not limited to phone numbers or websites.
- (12) The Operator must provide a staffed, toll-free Customer Service line which must provide support 24 hours per day, 365 days per year.
- (13) The Operator must provide a direct customer service or operations staff contact to Department staff.

(14) Operators initial fleet must be a minimum of 100 Dockless Units. Operators initial fleet may not exceed 200 Dockless Units. Operators may request an increase to their initial fleet in increments of up to 50 Dockless Units upon demonstration of use of at least 3 rides per device over a consecutive 30 day period. Each request shall include a rationale and analysis to justify the additional fleet size. Authorization of additional units is at the sole discretion of the City Manager or designee.

(15) The City Manager, at his discretion, reserves the right to cap the total number of Dockless Units permitted to operate within City limits.

(16) Operators must place a minimum of 20% of the fleet in disadvantaged areas as designated in the permit and provide for waivers of any initial deposits and a cash option for payment.

(17) The deployment of bicycles shall be delayed until June 1, 2019.

(d) Equity

(1) Operators shall provide the pricing structure prior to start of service. Any changes in pricing structure shall be provided to the City in writing at least two weeks before the changes go into effect. Operators must receive approval in writing by the Director before enforcing modified pricing structures.

(2) Operators must provide details on how users can utilize the service without a smartphone.

(3) Operators must provide service in all service areas as identified by the Permit Application. This includes rebalancing Dockless Units as needed in order to maintain a reasonable level of convenience in renting a Dockless Unit.

(e) Data Sharing

(1) All permitted Operators shall provide the City of Gainesville with the following data on a monthly basis in Excel format:

- Number of Dockless Units in circulation by type of unit;
- Number of daily, weekly, and monthly riders by type of unit;
- Total number of miles traveled by users (daily, monthly, quarterly, annually) broken down by type of unit;
- Average time each Dockless Unit spends available (not in use);
- Number of rides per user per type of unit per day;
- Duration of rides per rider per type of unit per;
- Average duration of ride per type of unit per day of the week;
- Summary of fleet numbers lost to theft/vandalism;
- Summary of customer comments/complaints, resolution to, and time it took to resolve each complaint;
- Summary of repairs per unit per type of unit per month;
- Summary of crashes involving a Dockless Unit per month, including the crash report number, location, and severity type;
- User demographics (gender, age, and race).

(2) All permitted Operators shall provide to the Department the following data within fourteen days following the end of each month, in ESRI ArcGIS shapefile or file geodatabase in the NAD 1983 State Plane Florida North FIPS 0903 (US Feet) format, or other format specified in the Permit:

<u>Field Name</u>	<u>Format</u>	<u>Description</u>
<u>Operator Name</u>	[Operator Name]	n/a
<u>Type of vehicle</u>	“Standard Bicycle” or “Electric Bicycle” or	n/a
<u>Trip record number</u>	xxx0 0 0 1 , xxx0 0 0 2 , ...	3-letter Operator acronym + consecutive trip #
<u>Trip duration</u>	MM:SS	n/a
<u>Trip distance</u>	Feet	n/a
<u>Trip Start date</u>	MM,DD,YYYY	n/a
<u>Trip Start time</u>	HH:MM:SS (00:00:00- 23:59:59)	n/a
<u>Trip End date</u>	MM,DD,YYYY	n/a
<u>Trip End time</u>	HH:MM:SS (00:00:00- 23:59:59)	n/a
<u>Trip Start location</u>	lat,long	n/a
<u>Trip End Location</u>	lat,long	n/a
<u>ID number</u>	xxxx1 , xxxx2 ,	Unique identifier for each Dockless Unit
<u>User Home Zip Code</u>	33301 (example)	Home zip code of user (can be credit card based)

(3) All permitted Operators shall provide a monthly summary of Dockless Unit distribution and GPS-based natural movement in heat map format.

(4) All permitted Operators shall distribute a six month and one-year customer satisfaction survey, the summary and raw results of which shall be provided to the Department.

(5) All permitted operators shall provide real-time or semi-real-time Dockless Unit location data via a publicly accessible API in General Bikeshare Feed Specification (GBFS) format per North American Bikeshare Association (NABSA) guidelines. The City reserves the right to post this information through a publicly available portal.

Sec. . Indemnification and insurance.

(a) As a condition of the permit and license agreement the Operator agrees to indemnify, hold harmless and defend the City of Gainesville, its representatives, employees, and elected and appointed officials, from and against all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the permit and license agreement, the use of ROW or city owned property for Program operations or arising from any negligent

act, omission or error of the Operator, owner or, managing agent, its agents or employees or from the failure of the Operator, its agents or employees, to comply with each and every requirement of this Division or with any other federal, state, or local traffic law or any combination of same.

(b) The Operator shall provide and maintain such public liability and property damage insurance to protect the City of Gainesville, its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily injury, including death, which may arise from any aspect of the Program or its operation. Such insurance shall be provided from an insurance company that is an admitted carrier in the state of Florida with an A.M. Best rating of not less than "A" and a financial strength rating of not less than "VII," acceptable to the city's risk management division, and shall provide coverage of not less than two million dollars (\$2,000,000.00) for bodily injury, and property damage respectively per occurrence. Such insurance shall be without prejudice to coverage otherwise existing and shall name as additional insured the City of Gainesville, and city commission, its officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the termination of the permit and license agreement without thirty (30) days' written notice prior to the termination to the City's Risk Management Division and the Director at the address shown in the license.

(c) In addition to the requirements of subsection (a) and (b), the Operator shall provide additional insurance and comply with any revised indemnification provision specified in the permit and license agreement.

(d) The Operator shall provide proof of all required insurance prior to receiving a permit and upon each renewal thereafter.

Sec. . Fees and Penalties.

(a) The following fees shall apply to Operators:

<u>(i) Initial Permit Filing Fee</u>	<u>\$5,000 for up to 100 devices; \$7,500 for up to 200 devices</u>
<u>(ii) Annual Permit Renewal Fee</u>	<u>\$5,000 for up to 100 devices; \$7,500 for up to 200 devices</u>
<u>(iii) Fleet Increment Fee</u>	<u>\$2,500 per 50 Units</u>
<u>(iv) Performance Bond</u>	<u>\$80 per Unit/ \$10,000 maximum</u>
<u>(v) Unit Relocation Fee</u>	<u>\$75 per Unit</u>
<u>(vi) Unit Storage Fee</u>	<u>\$50 per day</u>

(b) An Operator is subject, at the discretion of the City Manager or designee, to a fleet size reduction or total permit revocation should the following occur:

(i) If violations of the regulations set forth in this division are not addressed in a timely manner or;

(ii) 10 unaddressed violations of the regulations set forth by this division within a 30 day period or;

(iii) Submission of inaccurate data

(c) In the event of a permit revocation, the City Manager or designee shall provide written notice of the revocation via certified mail, informing the Operator of the permit revocation.

Sec. . Appeal from revocation.

(a) Operators who have been subject to a permit revocation may appeal the revocation of such permit to the City Commission. Should an Operator seek an appeal from the revocation, the Operator shall furnish notice of such request for appeal to the city clerk no later than ten (10) business days, after the date of mailing, of the certified letter informing the Operator of the revocation of the permit.

(b) Upon receipt of a request for appeal, the city clerk shall fix the date and time at which the city commission shall hear the appeal, such hearing to be held no more than sixty (60) days subsequent to the date upon which such request for appeal was filed with the city clerk. Upon setting the matter for hearing, the city clerk shall notify the Operator of the date and time of such hearing. At the conclusion of the hearing, the City Commission shall either sustain the decision of the City Manager or direct the City Manager to reinstate the permit.

Section 2. It is the intention of the City Commission that the provisions of Section 1 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 4. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 5. This ordinance shall become effective _____ upon final adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2018.

LAUREN POE
MAYOR

ATTEST:

Approved as to form and legality

OMICHELE D. GAINNEY
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2019.

This ordinance passed on second reading this ____ day of _____, 2019.