

ORDINANCE NO. 17-____

AN ORDINANCE OF THE CITY OF HERMOSA BEACH AMENDING TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE HERMOSA BEACH MUNICIPAL CODE TO ESTABLISH A PERMITTING PROCESS TO CREATE A BICYCLE SHARE PERMITTING PROGRAM, AND ESTABLISHING ADMINISTRATIVE PENALTIES FOR FAILURE TO OBTAIN A PERMIT AND/OR FOR PARKING, LEAVING STANDING, OR LEAVING UNATTENDED IN A PUBLIC RIGHT-OF-WAY ANY DOCKLESS BIKESHARE BICYCLE THAT IS NOT PART OF A CITY-PERMITTED PROGRAM.

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings.

A. Title 5 of the Hermosa Beach Municipal Code currently establishes requirements and regulations for business licenses and items for which a permit is required to place equipment in the public right of way.

B. In light of recent transportation and technology innovations regarding dockless bikeshare operations, and the ability for dockless bikeshare equipment to be placed virtually anywhere in the public right-of-way, this Ordinance establishes permit requirements and operational procedures to prevent nuisance conditions associated with bikeshare equipment.

SECTION 2. A new Chapter 5.76 (Bike Share) is hereby added to Title 5 (Business Licenses and Regulations) of the Hermosa Beach Municipal Code to read as follows:

**Chapter 5.76
Bike Share**

5.76.010 Definitions.

“Bike share program” shall mean a system operated by an operator not under contract with the City, for the purpose of providing the general public with opportunities to rent bicycles.

“Dockless bike” shall mean a bicycle designed to be locked or secured from unauthorized use without being locked or secured to a bicycle rack, bicycle sharing station, or other object.

“Dockless bike share program” shall mean a system funded, managed and operated by one or more City-authorized Operators, which provides the public with opportunities to rent bicycles from a network of designated locations on public property.

1 “Operator” shall mean a public, private or nonprofit entity, or individual that manages or
2 operates, and is responsible for the re-distribution of equipment, for a dockless bike share
3 program, as this term may be qualified.

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5 **5.76.020 Fees.**

6 Fees and regulations governing operation of the dockless bike share program may be
7 established and changed, from time to time, by resolution of the City Council. No person shall
8 place a dockless bike that is part of the dockless bike share program without payment of permit
9 fees adopted by resolution of the City Council.

10
11 **5.76.030 Penalties.**

- 12 A. Any person who violates any provision of this Chapter shall be guilty of an
13 infraction with a penalty amount of fifty dollars (\$50).
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15 B. Any person who violates any provision of this Chapter shall be subject to
16 administrative fines and penalties pursuant to Chapter 1.10 of this Code.
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18 C. The remedies provided in this Chapter are not exclusive, and nothing in this
19 Chapter shall preclude any person from seeking other remedies, penalties or
20 procedures provided by law.

21
22 **5.76.040 Permits.**

- 23 A. *Permit required.* No bicycle rack or dockless bike share bicycle may be installed,
24 parked, left standing, or left unattended on any sidewalk, street, or public right-of-
25 way without first obtaining a permit from the City and paying the required permit
26 fee.
27
28 B. *Issuance of permits.* The City Manager, or his/her designee, has the authority to
29 grant a revocable permit to the operator of a dockless bike share program for
30 operation in the public right-of-way.
31
32 C. *Permit conditions.* The City Manager, or his/her designee, may impose permit
33 conditions related to the location, placement, parking, safe operation,
34 indemnification requirements, customer outreach, or maintenance of any bicycle
35 that is part of the City’s dockless bike share program as he/she determines
36 necessary to protect the public convenience and safety.
37
38 D. *Criteria for granting permit.* In considering an application related to the
39 implementation of the dockless bike share program, the City Manager (or designee)
40 shall consider the availability of bicycle parking in the City , and the anticipated

1 effects that any additional bicycle parking needs would have on public transit,
2 pedestrian and vehicular traffic and access to or from residences or businesses.

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4 E. *Permit denial.* The City Manager (or designee) has the authority to deny a permit
5 based on the extent that issuing a permit would conflict with existing contractual
6 agreements or permits issued to other bike share program operators, lead to an
7 over-concentration of bicycle-share bicycles in the public right-of-way, cause an
8 imbalance in the geographical distribution of bicycles which are part of a bicycle
9 share program, or otherwise adversely impact an existing or proposed bicycle share
10 network.

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12 F. *Revocation or suspension of Permit.* The City Manager may immediately revoke
13 or suspend a permit, if it is found that the provisions of this chapter have not been
14 satisfied or have been violated; or the operation of the dockless bike share program
15 constitutes a public nuisance, pursuant to Chapter 8.28 of this code.

16 1. Notice of violation shall be made in writing to the permittee by the City. A
17 copy of the notice shall be given to the City Manager. The permittee shall
18 have a reasonable opportunity to cure the violation; if the violation is not
19 cured within the time proscribed by the notice to the permittee, the City
20 may revoke or suspend the permit.

21 2. The City Manager may immediately revoke or suspend a permit, for any
22 single violation of this chapter, and shall immediately revoke the permit of
23 any permittee who has committed three violations of this chapter within a
24 twelve-month period.

25
26 G. *Appeal permit denial, revocation or suspension.* Any permittee whose permit
27 application has been denied, or whose permit has been revoked or suspended, may
28 request in writing a hearing before the City Manager (or designee). The City
29 Manager shall grant the request and hold an informal hearing, where the basis for
30 the denial, revocation or suspension shall be explained to the permittee. The permit
31 applicant or permittee shall have the opportunity at the hearing to present evidence
32 of compliance with the provisions of this code. If, after the hearing, the City
33 Manager lets stand his or her decision to deny the permit application, or revoke or
34 suspend the permit, the permit applicant or permittee may appeal the decision to
35 the City Manager, whose action shall be deemed final.

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37 H. *Permit renewal.* An application for renewal of a dockless bike share permit for
38 operation of a dockless bike share program may be submitted to the office of the
39 City Manager on a form provided by the City. The application must be filed with
40 the office of the City Manager not later than November 30th of the year preceding

1 the year for which renewal of the permit is sought. The application shall include,
2 but not be limited to, a completed application for renewal of dockless bike share
3 permit form, which shall include the most recent information regarding the
4 dockless bike share operator's name, address, and telephone number; the
5 applicant's name, address and telephone number; the applicant's business license
6 number and expiration date; and an indemnification of the city from liability.
7 Upon a determination by the City Manager that the permit should be renewed, the
8 permittee shall pay the annual fee.

- 9
10 I. *Permit fee.* Upon a determination by the City Manager that a permit should issue
11 or be renewed, the permittee shall pay a permit issuance or renewal fee in an
12 amount determined by resolution of the City Council. This fee shall include a fixed
13 annual amount to cover the costs of city processing and monitoring of the permit.
14 The fee may be prorated for permits granted mid-year.

15
16 **5.76.050 Permit application requirements.**

- 17 A. The City may issue a permit to a qualified dockless bike share operator upon
18 receipt of a written application on a form provided by the City.
- 19
20 B. The name and current contact information for the dockless bike share operator shall
21 be displayed on each bicycle that is part of the dockless bike share program.
- 22
23 C. The City reserves the right to revoke a dockless bike share program permit, for
24 cause, at any time upon written notice of revocation. The permittee shall surrender
25 such permit in accordance with the instructions in the notice of revocation.
- 26
27 D. A permit fee must be paid by the permittee before any permit may be issued. In
28 addition, the permittee shall provide sufficient evidence to demonstrate payment of
29 any penalties assessed for violation(s) of any provision of this Code or of any
30 previously City-issued permit terms, for which there has been a final determination
31 of the violation.
- 32
33 E. The size of the fleet at the time of the application, including any planned
34 expansions during the permit period. Permitted operators shall notify the City if
35 they plan to change their fleet size two weeks before deployment.
- 36
37 F. Satisfactory demonstration by the dockless bike share operator of the ability to
38 comply with the requirements outlined in Section 5.76.060, below.
- 39
40 G. Evidence satisfactory to the City Manager of having procured comprehensive

1 general liability insurance which will insure and indemnify the applicant and the
2 customers against liability or financial loss resulting from injury occurring to
3 persons or passengers from the operation of such vehicles in an amount not less
4 than \$100,000 for bodily injury to any person, \$300,000 for any one accident and
5 \$50,000 for any property damage.

- 6 1. The policy insurer must be either a carrier licensed by the State of
7 California to sell general liability insurance in the State of California and be
8 an admitted carrier member of the California Insurance Guarantee Fund, or
9 maintain an AM Best rating of "A" or better for non-admitted carriers (with
10 proof of licensing or rating to be provided by applicant.)
- 11 2. The policy shall be primary and not contributing to any other insurance
12 maintained by the City;
- 13 3. The policy shall name the City, the City Council, its officers, agents, and
14 employees as additional insureds;
- 15 4. The policy shall provide the City Manager with thirty (30) days prior notice
16 of any cancellation or modification of the policy.
- 17 5. As a condition of the permit, the permittee agrees to indemnify, defend, and
18 save harmless the City, its agents, officers and employees from and against
19 any and all liability, expense, including defense costs and legal fees and
20 claims for damages of any nature whatsoever, including, but not limited to,
21 bodily injury, death, personal injury, or property damage arising from or
22 connected with the permittee's activities, including any worker's
23 compensation suits, liability or expense, arising from or connected with
24 services performed by or on behalf of the permittee by and person pursuant
25 to this permit.

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31 H. A detailed bicycle relocation plan which includes, but is limited to, the means by
32 which the applicant proposes collect dockless bicycles will be picked up, the
33 frequency by which dockless bikes will be picked up, and where the dockless bikes
34 are to be relocated with the City.

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36 I. Evidence of adequate bicycle parking must be provided by the dockless bike share
37 operator. Additionally, the operator shall provide evidence that contact
38 information for bicycle relocation requests will be provided on every bicycle.

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40 J. Payment of a public property performance bond of \$100 per bike, capped at

1 \$10,000, to ensure adequate funds are available to reimburse the City for future
2 public property repair costs that may be incurred, including but not limited to any
3 costs of repairing damaged public property by the dockless bike share operator or
4 its customers, removing and storing bicycles improperly parked or left unattended
5 on public property, removing equipment in the event a company ends service, and
6 addressing and abetting any other violations.

7
8 **5.76.060 Permit operating requirements.**

9 To be eligible to obtain a dockless bike share program permit, the dockless bike share
10 operator must demonstrate compliance with the following requirements, to the City's satisfaction:

11 A. *Safety.*

- 12 1. The bicycles must be of high quality, sturdily built and with tamper-
13 resistant hardware to accommodate a range of users, comply with the
14 California Vehicle Code requirements, and withstand the rigors of outdoor
15 storage and constant use for at least five (5) years. The make and model of
16 each bicycle made available to customers and a corresponding unique
17 identification number must be submitted to the City.
- 18 2. Any electric bicycles must meet the National Highway Traffic Safety
19 Administration's definition of "low-speed electric bicycles;" and shall be
20 subject to the same requirements as ordinary bicycles (described in
21 subsection 1 above). Electric bicycles shall have fully operable pedals, an
22 electric motor of less than 750 watts, and a top motor-powered speed of less
23 than 20 miles per hour when operated by a rider weighing 170 pounds. The
24 City reserves the right to terminate any permit issued if the battery or motor
25 of an electric bicycle is determined by the Department of Transportation to
26 be unsafe for public use.
- 27 3. All bicycles shall meet the California Vehicle Code requirements for
28 brakes, lights and reflectors during hours of darkness, described in
29 California Vehicle Code sections 21201 and 21204.
- 30 4. All dockless bike share operators shall provide a mechanism for customers
31 to notify it of any safety or maintenance issues with the bicycle. Any
32 inoperable bicycle, or any bicycle that is not safe to operate shall be
33 removed from the right-of-way within 2 hours of notice by any means to the
34 operator or by any individual or entity, and shall be repaired before putting
35 the bicycle back into revenue service.
- 36 5. The dockless bike share system has visible language that notifies the user
37 that: (i) persons under the age of 18 are required to wear a helmet while
38 riding a bike in the City; (ii) bicyclists shall yield to pedestrians on
39 sidewalks; (iii) it is unlawful for any person to ride a bicycle in the City
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while under the influence of alcohol or drugs; and (iv) bicycles must obey speed limits established on the Strand and all City streets. The City is not responsible for educating users regarding these requirements and other laws; neither is the City responsible for educating users on how to ride or operate a bicycle.

- 6. As a condition of the permit, the permittee agrees to indemnify, defend, and save harmless the City, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with the permittee's activities, including any worker's compensation suits, liability or expense, arising from or connected with services performed by or on behalf of the permittee by and person pursuant to this permit.

B. *Parking.*

- 1. Bicycles shall be upright when parked; bicycles may not be left on their sides on the sidewalk or parked in a manner which obstructs pedestrian or wheelchair path access, driveways, crosswalks, or loading zones. Dockless bike share operators shall inform customers on how to park a bicycle properly. Upon notification by the City of any bicycle that is improperly parked or left standing or unattended on any sidewalk, street, or public right-of-way, the dockless bike share operator shall have two (2) hours within which to remove the bicycle. Otherwise, it shall be removed and impounded pursuant to section 5.76.070 of this Code.
- 2. All permitted operators shall provide contact information for bicycle relocation requests on every bicycle.

C. *Operation.*

- 1. All dockless bike share operators shall have a staffed operations center within five miles of the City's limits. As well as a valid, City-issued business license for said operations center; unless the operator can establish that the dockless bike share program is organized as a nonprofit agency under 26 United States Code Section 501(c)(3).
- 2. Dockless bike share operators shall develop a marketing and targeted community outreach plan, which shall include a strategy to partner with bicycle advocacy and community benefit organizations, a culturally relevant and multilingual communications plan, and an equitable bike share implementation plan, to promote the use of their bicycle sharing system citywide among low income communities, and implement the plan at their

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own cost.

- 3. Dockless bike share operators shall maintain an adequate number of dockless bicycles in the City, pursuant to Section 5.76.050(E), and shall redistribute dockless bikes to designated/approved areas throughout the City, as necessary to ensure their availability to customers
- 4. A maintenance, cleaning and repair plan for the bicycles must be submitted to and approved by the City, as applicable.
- 5. A privacy policy that safeguards customers’ personal, financial, and travel information and usage, including, but not limited to, trip origination and destination data. On at least a monthly basis, Permittee will provide the City with aggregate customer demographic data gathered by the system application using anonymized key that does not identify individual customers, payment methods, or their individual trip history.
- 6. A general liability insurance policy which will insure and indemnify the applicant and the customers against liability or financial loss resulting from injury occurring to persons or passengers from the operation of such vehicles in an amount not less than \$100,000 for bodily injury to any person, \$300,000 for any one accident and \$50,000 for any property damage.
- 7. All dockless bikes shall be relocated subject to the relocation plan provided by the operator, as detailed in Section 5.76.050(J).

5.76.070 Prohibitions regarding parking.

- A. No person shall park or leave standing any dockless bike that is not part of the City’s dockless bike share program at, on, or within any City-owned property. Any dockless bike that is not part of the City’s dockless bike share program which is parked or left standing at, on, or within any City-owned property may be removed and impounded.
- B. No person shall park or leave standing any bike share bike that is not part of the City’s dockless bike share program at, on, or within any City-owned property. Any bike share bike that is not part of the City’s dockless bike share program which is parked or left standing at, on, or within any City-owned property may be removed and impounded.
- C. The owner of the bicycle that is removed and impounded shall be responsible for any fees in connection with such removal and impounding including, but not limited to, payment of a release fee to recover the cost of impounding and storage of the bicycle.

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SECTION 3. This ordinance shall become effective and be in full force and effect from and after thirty (30) days of its final passage and adoption.

SECTION 4. The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage.

SECTION 5. The City Clerk shall certify to the passage of this Ordinance, shall enter the same in the book of original ordinances of said city, and shall make minutes of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2017 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney