

RECORD OF ORDINANCES

Ordinance No. **0-44-19**

Passed _____, _____

Introduced by Jeff Risner, Vice-Chair
Planning & Development Committee

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 11, BUSINESS REGULATIONS, TO INCLUDE CHAPTER 11.12, SHARED ACTIVE TRANSPORTATION.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Title 11, Business Regulations, of the Athens City Code is hereby amended to include Chapter 11.12, Shared Active Transportation, a copy of which is attached hereto and incorporated herein by reference.

SECTION II: This Ordinance shall be in full force and effect upon its passage and approval by the Mayor.

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

CHAPTER 11.12. - SHARED ACTIVE TRANSPORTATION

Section 11.12.01 - Purpose.

Section 11.12.02 - Definitions.

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Section 11.12.05 - Operations and Maintenance.

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Section 11.12.01 - Purpose.

Athens City Code Section 11.12 is enacted for the purpose of promoting micromobility options for Athens city residents and visitors and to provide for the orderly management of such transportation devices.

Section 11.12.02 - Definitions.

"**Bicycle**" shall mean every device propelled by human power upon which any person or persons may ride, propelled solely by human power through a belt, chain or gears, and having two (2) or more wheels. Bicycle shall also include tricycles, quacycles or similar human-powered devices.

"**Block Face**" means one side of a street between two consecutive intersecting streets.

"City" means the City of Athens, Ohio

"**Docked Small Vehicle Sharing System**" means a Shared Active Transportation Program in which companies distribute Small Vehicles via a stationary location and the Small Vehicles must be returned at specific stationary locations. Small Vehicles are tracked via GPS.

"**Dockless Small Vehicle Sharing System**" means a Shared Active Transportation Program in which companies distribute Small Vehicles throughout a city to be rented per trip. The Small Vehicles can be locked at any lawful location, and not at a set location, subject to Section 11.12.07 of this ordinance. Small Vehicles are tracked via GPS and can be located by users.

"**Electric Bicycle**", or "**E-bike**" means a two-wheeled device that has handlebars, a seat, and pedals designed to be operated similar to a bicycle, and is powered by electricity. The electricity is stored on board in a rechargeable battery.

"**Electric Scooter**" or "**E-scooter**" means a two-wheeled device that has handlebars, a floor board, designed to be stood upon when operating and is powered by electricity. The electricity is stored on board in a rechargeable battery and is propelled at no more than 15 miles per hour.

"**Geo-Fencing**" means the use of Global Positioning System ("GPS") or Radio Frequency Identification ("RFID") technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

"**Free Operator**" means a company, person, or philanthropic organization that engages in or operates a Shared Active Transportation Program but does not charge for the use of their program.

"**Operator**" means a company or person that engages in or operates a Shared Active Transportation Program business or enterprise.

"**Public infrastructure and property maintenance fee**" means a per vehicle annual fee paid by Operators to repair, maintain, and build public infrastructure associated with Small Vehicles.

"**Shared Active Transportation Permit**" means a permit issued by the City of Athens as described under this program.

"**Shared Active Transportation Program**" means a transportation program ideal for short distance, point-to-point trips providing users the ability to pick up a Small Vehicle from one location and leave it at another within a system's area. The system provides users unencumbered access to Small Vehicles within a defined system area. Small Vehicles can be remotely accessed via a smart phone application or other means and do not need to be attended by the Operator.

"**Small Vehicle**" means Bicycles, Electric Bicycles, and Electric Scooters.

Section 11.12.03 - Permit Required; Permit Term and Fees.

- A. All Operators wishing to operate a Shared Active Transportation Program within the City of Athens shall submit an application and secure a Shared Active Transportation Permit, as issued by the City of Athens Office of Code Enforcement. The decision to issue a permit is at the sole discretion of the City.
- B. Each permit shall be active for one (1) year from the date of issuance.
- C. The application fee, permit fee, and subsequent permit renewal fees, and other fees as applicable, shall be as provided by separate ordinance.
- D. All Operators shall pay the City, through the Athens Office of Code Enforcement a public infrastructure and property maintenance fee as provided by separate ordinance per Small Vehicle, per year, calculated based upon the maximum fleet size requested and approved in the permit application. Should an increase in fleet size be approved in accordance with Section 11.12.06 of this ordinance, this fee amount shall also be increased to reflect the new maximum fleet size. The public infrastructure and property maintenance fee shall pay the cost of installation, maintenance and repair of City's infrastructure related to or necessitated by the Shared Active Transportation Program. This fee shall be remitted to the city street fund.
- E. Permit Renewal Fee—all operators requesting to increase their fleet above the maximum amount identified in their initial permit shall at the time of renewal pay a fee for every 10 additional Small Vehicles. This fee shall be provided by separate ordinance.
- F. Shared Active Transportation Programs that are managed by Free Operators shall be required to secure a permit and shall be exempt from the fees required in Subsections C, D and E of this Section for each fiscal year in which the Shared Active Transportation Program continues to meet these criteria. Furthermore, Free Operators shall be exempt from Sections 11.12.05 (A-B), 11.12.06(A-B), 11.12.09, and 11.12.10 of this Chapter.

Section 11.12.04 - Shared Active Transportation Procedure.

- A. Docked Small Vehicle Sharing Systems may be located on stations or racks on private property, or on public right-of-way or other public property pursuant to receiving a Special Right of Way Permit in accordance with Athens City Code Title 49.
- B. Dockless Small Vehicle Sharing Systems may be located on public right-of-way or other public property so long as they do not obstruct or interfere with the public's use of said right of-way or property. A user, having activated and used the Small Vehicle in accordance with the Operator's rules, may leave the Small Vehicle at any designated lawful location, subject to Section 11.12.07 of this Ordinance, within the system's service area. The Small Vehicle is then available for another's use.

Section 11.12.05 - Operations and Maintenance.

- A. All Operators shall have staffed operations located within the City of Athens for the purpose of Small Vehicle maintenance and rebalancing.
- B. All Operators shall have a twenty-four (24) hour customer service phone number for customers to report safety concerns, maintenance issues, complaints, or ask questions.
- C. Every Small Vehicle shall have the Operator's name, phone number and a unique identifier for each Small Vehicle that is clearly displayed and visible to the user on the Small Vehicle.
- D. Any inoperable or unsafe Small Vehicles shall be removed from the public right-of-way within twenty-four (24) hours of notice by any means to the Operator by any individual or entity and shall be repaired to full working order before being placed back into the public right-of way.
- E. The City may, in its sole discretion and without prior notice, remove Small Vehicles from the public right-of-way if it is a matter of public safety or some other public purpose. In such instances, the City will attempt to notify the permitted Operator as soon as reasonably practicable thereafter. The City will not be liable for any damages that occur as a result of this removal. The Operator shall pay for the cost of such removal.

Section 11.12.06 - Fleet Size Requirements.

- A. Permitted Bicycle Operators for both Bicycles and electric Bicycles shall have a minimum fleet size of 50 Bicycles/Electric Bicycles, and a maximum Bicycle/Electric Bicycle fleet size of 100 bicycles.
- B. Permitted Electric Scooter Operators shall have a minimum fleet size of 50 Electric Scooters, and a maximum fleet size of 100 Electric Scooters.
- C. Permitted Operators with a combination of Bicycles/Electric Bicycles and Scooters shall have a minimum fleet size of 50 Small Vehicles and a maximum of 150 Small Vehicles provided that there is a minimum of 20 of each type of Small Vehicle.
- D. The total number of Bicycles, Electric Bicycles, and Electric Scooters permitted under this program shall be limited to a cumulative total of 500 between all permittees.
- E. All applicants shall include their fleet size in their application for a Shared Active Transportation Permit.
- F. The City may increase the maximum number of Small Vehicles in an Operator's fleet above the maximums in 11.12.06 (A-C) at its sole discretion and will consider doing so on a permit-by-permit basis. In order to increase the maximum number of Small Vehicles, an Operator must demonstrate that, on average, each Small Vehicle in their fleet is being used more than three (3) times per day. Operators may request an increase to their fleet size above the maximum amount up to one time per month, provided that at

least two (2) months have elapsed after their initial permit issuance. Each request will be subject to an application renewal fee, as provided in Section 11.12.03.

Section 11.12.07 - Small Vehicle Parking.

- A. Small Vehicles may not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk, or in any manner that would impede the pedestrian zone of a sidewalk to less than five (5) feet, or in any manner that would impede the opening or closing on automobile doors, or in any manner the exiting or entry to an automobile;
- B. The City reserves the right to determine certain block faces where Small Vehicle parking is prohibited.
- C. Small Vehicles may not be parked in a manner that would impede vehicular traffic on a street or alley.
- D. Small Vehicles shall not be parked in a manner such that access to the following is impeded:
 - a. ADA Handicap parking zones;
 - b. Street furniture that requires pedestrian access (i.e., benches, parking pay stations, bus shelters, etc.)
 - c. Curb ramps;
 - d. Entryways; and
 - e. Driveways
- E. Small Vehicles shall not be parked within:
 - a. Transit zones, including bus stops, shelters, passenger waiting areas and bus staging zones, except at existing bicycle racks;
 - b. Loading zones; and
 - c. Landscape planting beds or other landscape materials.
- F. The City reserves the right to create Geo-Fenced stations within certain areas where Small Vehicles shall be parked.
- G. Incorrectly parked Small Vehicles shall be moved within twenty-four (24) hours of notice to the Operator by any means, and by any individual or entity, unless the Small Vehicle is creating a public safety hazard.
- H. The City may immediately remove a Small Vehicle from the City's right-of-way if it violates any part of this section.
- I. Any Small Vehicle, removed by the City from public right-of-way pursuant to subsection (G) above, which is not claimed by the Operator, and remains unclaimed with the City for sixty (60) days, shall be considered abandoned, and the City may assert ownership of same, and keep or dispose of said Small Vehicle as City sees fit, including public sale. The proceeds of any such sale shall belong to City and shall be deposited into City's general fund.

Section 11.12.08 - Safety Requirements.

- A. All Bicycles used in systems issued a permit under this ordinance shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512-Requirements for Bicycles. Additionally, permitted systems shall meet the safety standards outlined in the International Organization for Standardization (ISO) section 43.150-Cycles, subsection 4210.
- B. All Electric Bicycles used in systems issued a permit under this ordinance shall meet the Consumer Product Safety Act definition of low-speed Electric Bicycles; and shall be subject to the same requirements as ordinary Bicycles described in Subsection A. 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. Additionally, the City may terminate any permit issued under this program if the battery or motor on an Electric Bicycle is determined by the City to be unsafe for public use.
- C. All Electric Bicycles used in systems issued a permit under this ordinance shall meet the requirements of Ohio Revised Code 4511.522
- D. All Electric Scooters used in systems issued a permit under this ordinance shall meet the Consumer Product Safety Act definition of electric scooters, in addition to requirements provided by the City's definition for Electric Scooters as defined in Section 11.12.02.
- E. All Small Vehicles shall meet City of Athens' requirements for lights during hours of darkness, including a front light that emits white light and a rear red light as described in Section 7.04.69 of this code and all other applicable requirements of city and state law.
- F. All Small Vehicles used in systems issued a permit under this ordinance shall meet the requirements of Ohio Revised Code 4511.711.
- G. All permitted Shared Active Transportation Programs shall have visible language that notifies the user that:
 - a. Helmet use is encouraged while riding a Small Vehicle;
 - b. Users of Class 2 Electric Bicycles and Electric Scooters shall yield to Bicycles in bike lanes;
 - c. Users of Small Vehicles shall follow Section 7.03.39 of this code and ORC 4511.711 with regards to riding on a sidewalk
 - d. No person shall operate a Small Vehicle upon a sidewalk within a business district, or where otherwise identified as prohibited;
 - i. Whenever any person is riding a Small Vehicle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian;
 - e. Users of Small Vehicles shall yield to pedestrians when riding on a sidewalk; and
 - f. When riding on-street, Small Vehicles shall follow all posted traffic signs and signals.

Section 11.12.09 - Distribution.

- A. If an Operator has over 150 Small Vehicles, at least twenty percent (20%) shall be rebalanced once per day to be located in underserved areas of the City, as determined by City staff.
- B. All Operators shall provide the City with a plan for equitable Small Vehicle sharing service, including: education of, marketing to, and engagement with low-income, minority, non English speaking, and zero-car populations. The plan should address such topics as how to use Shared Active Transportation Programs, Small Vehicle safety, and Small Vehicle laws and regulations.
- C. All Operators shall provide information on how users can use the Shared Active Transportation Program without 1) a smartphone, and/or 2) a credit or debit card.

Section 11.12.10 – Geo-fencing

- A. The City shall maintain a list of areas of the city that are geo-fenced. Geo-fencing may include streets, sidewalks, paths, parks, campuses, and other areas of the city.
- B. During temporary street or other right-of-way closures due to scheduled construction, special events, or other planned activities the City shall provide Operators with 21-day notice of the change in order to establish temporary geo-fenced areas.

Section 11.12.11 - Data, Statistics, Reporting.

- A. All Operators must include active GPS location tracking capabilities on each Small Vehicle to ensure the easy location of damaged Small Vehicles or Small Vehicles in disrepair, as well as to facilitate data collection and data sharing as outlined in this section.
- B. All Operators will provide users with a Privacy Policy that safeguards users' personal, financial and travel information and usage, including but not limited to trip origination and destination data.
- C. All Operators shall maintain a record of maintenance activities, including but not limited to Small Vehicle identification number and maintenance records. These records shall be made available to the City upon request.
- D. All Operators shall provide the City, or a third-party researcher designated by the City, the following data on a monthly basis in a format approved by the City:
 - a. Aggregated breakdown of users by gender and age;
 - b. The number of Small Vehicles in circulation;
 - c. Daily, weekly and monthly active users;

- d. Small Vehicle usage, including:
 - i. Total user miles, broken out daily, monthly, quarterly, and annually;
 - ii. The number and duration of rides per user per day, as well as the number of rides per small vehicle per day
 - e. Anonymized aggregated data taken by the Operator's small vehicles in the form of heat maps showing routes, trends, origins, and destinations;
 - f. Anonymized trip data taken by the Operator's small vehicles that includes the origin and destination, trip duration, and date and time of trip;
 - g. Customer comments/complaints and resolution, theft/vandalism, and average repair times; and
 - h. Reported collisions.
- E. All Operators shall provide the City with anonymous real-time data (information that is delivered immediately after collection) on the availability and location of the entire City fleet upon request.
- F. All Operators shall conduct qualitative surveys, developed collaboratively between the City and Operator, after the first six months of operation, and then annually after the first six-month survey.

Section 11.12.12 - Insurance & Indemnification.

- A. All Operators shall continuously maintain throughout the entire term of the permit general commercial liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000.00), listing the City as additionally insured, and issued by an insurance company licensed to do business in the State of Ohio.
- B. Prior to the permit being issued, all applicants shall sign an agreement indemnifying and holding harmless the City as outlined in the Shared Active Transportation Permit.
- C. All Operators shall agree that the City is not responsible for educating users regarding safety requirements and other laws, nor is the City responsible for educating users on how to ride or operate a Small Vehicle. Operators agree to educate users regarding laws applicable to riding and operating a Small Vehicle in the City of Athens and to instruct users to comply with applicable laws pertaining to Small Vehicles in Athens City Code Title 11.12.

Section 11.12.13 -Termination.

The City reserves the right to terminate a Shared Active Transportation Permit at any time and require that the entire fleet of Small Vehicles be removed from City right-of-way. Such notice of termination shall be delivered to the Operator as outlined in the permit. The termination shall be completed within thirty (30) days unless a different time period is determined by the City.

Section 11.12.14 - Appeal.

Any applicant who is denied a permit, or an Operator whose permit is terminated as outlined in Section 11.12.13, may appeal, or request a review or reconsideration of, that permit decision. An appeal of a Shared Active Transportation Permit decision may be made to the City Council by submitting the decision letter, as well as a request for the appeal, in writing, within ten (10) calendar days of the original permit decision. The request must identify:

1. The permit application that is up for review or reconsideration. The permit may be identified by its identification number and the permit application address;
2. The specific objections to the original City decision; and
3. The specific actions being proposed by the business that could change the permit decision.

Section 11.12.15 – Severability.

SEVERABILITY CLAUSE: If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable.