

## Chapter 330. Bicycles and Play Vehicles

### Article III. Sharable Dockless Mobility Devices

[Adopted 6-21-2022 by Ord. No. 1653]

#### § 330-7. Purpose.

- A. Whereas, companies have created new business offering bicycles and scooters ("dockless mobility devices") for public use via the placement of sharable dockless mobility devices throughout the City of Gardner ("City") without being locked to a bike rack or other infrastructure; and
- B. Whereas, the City's bicycle and toy vehicle ordinances do not regulate sharable dockless mobility devices; and
- C. Whereas, the City has evaluated other sharable dockless mobility device ordinances from Boston, Seattle, Atlanta, Brookline, and other cities to understand the regulatory schemes they have implemented to regulate these new devices; and
- D. Whereas, the City has been selected as one of three pilot cities for the use of sharable dockless mobility devices in the commonwealth; and
- E. Whereas, the City has a substantial interest in regulating how private operators of sharable dockless mobility devices operate on the public rights-of-way to promote public safety and to ensure the public right-of-way remains obstruction-free; and
- F. Whereas, accordingly, the City of Gardner desires to amend Chapter **330**, entitled "Bicycles and Play Vehicles," by adding an additional Article **III** to be entitled "sharable dockless mobility devices," to establish regulations related to sharable mobility devices, which shall include a requirement that dockless mobility device system operators secure a permit issued by the City for the operation of dockless mobility device systems in the City of Gardner; and
- G. Whereas, it is the desire of the City to establish an annual licensing process and fee to be paid by dockless mobility device system operators which shall permit the operation of up to 100 dockless mobility devices within the City's limits, along with an additional per-device fee for each device operated under a dockless mobility device permit over the initial 100 devices to offset any costs to the City related to the implementation and enforcement of the regulations contained in Chapter **330**, Article **III**, of the Code of the City of Gardner;
- H. Therefore, the following provisions are to be included in the Code of the City of Gardner to meet such requirements.

#### § 330-8. Definitions.

When used in this article, unless the context otherwise requires, the following terms shall have the following meanings:

**CHIEF**

The Chief of the Gardner Police Department or their designee.

**DOCKLESS MOBILITY DEVICE SYSTEM OPERATOR (OPERATOR)**

A private entity that owns and operates a City-permitted sharable dockless mobility device system.

**DOCKLESS MOBILITY DEVICES**

An electric/motorized device that permits an individual to move or be moved freely which shall include but not be limited to e-scooters, stand-up electric scooters, and any device with no more than two ten-inch or smaller diameter wheels that has handlebars, front and rear lights, brake lights, is designed to be stood upon, and is powered by an electric motor that is capable of propelling the device with or without human propulsion at a speed no more than 15 miles per hour on a paved level surface, and shall exclude bicycles/e-bicycles and any motor vehicle required to be registered with the Commonwealth in accordance with the General Laws, or the operation of which is otherwise governed by state law.

**DOCKLESS MOBILITY DEVICES SHARING BUSINESSES**

Do not include publicly maintained or publicly owned dockless mobility device sharing systems.

**SHARABLE DOCKLESS MOBILITY DEVICE LICENSE (DOCKLESS LICENSE)**

A license required to operate a sharable dockless mobility device system within the City.

**SHARABLE DOCKLESS MOBILITY DEVICE SYSTEM**

- A. A fleet of sharable dockless mobility devices operated by private entities that provides the general public with sharable dockless mobility devices.
- B. "Sharable dockless mobility device system" shall not include "transportation network companies" as defined by Chapter 159A 1/2 of the General Laws.

**§ 330-9. Operation of sharable dockless mobility device system.**

- A. No person or entity shall operate a dockless mobility device system except pursuant to a license issued by the Chief. A license to operate such a business may be issued upon:
  - (1) Completion of such application as required by the Chief setting forth the required information to determine qualification under any standards and requirements as may be established; and
  - (2) Determination by the Chief that the applicant's proposal meets such standards and requirements, which may take into account the applicant's past conduct in the City or other locations around the Commonwealth prior to the passage of this article, and that the issuance of such license complies with applicable law and contractual arrangements.
- B. Sharable dockless mobility device system operators shall ensure that their dockless mobility devices comply with all applicable federal and state laws and regulations.
- C. All sharable dockless mobility devices shall have permanently affixed contact information and unique company-specific device identifiers on all devices for relocation requests.
- D. Operators must monitor and document relocation requests and responses 24/7, including providing a 24/7 toll-free phone number and/or email address on each dockless mobility device for members of the public to make relocation requests, report complaints, safety concerns, questions, or any other issues with devices.
- E. Operators shall provide education to dockless mobility device riders on the Commonwealth of Massachusetts and City's existing rules and regulations including, but not limited to, obeying all traffic laws, being subject to arrest for OUI, leaving the scene of a personal injury accident, failure to stop for the police, etc., as well as safe and courteous riding, and proper parking via technological means. Such education to dockless mobility device riders shall also include:

- (1) Operators shall provide notice to all users that dockless mobility devices are to be ridden on streets, and, where available, in bike lanes and bike paths, and are to stay to the right of street lanes and to offer the right-of-way to bicycles in bike lanes and on bike paths. Users of dockless mobility devices shall be 16 years old or older.
- (2) Dockless mobility devices shall be parked upright on sidewalks or on the street next to an unmarked curb. To the extent operators desire to park dockless mobility devices in areas other than the public right-of-way (e.g., parks, plazas, parking lots, private property, or transit stations), operators must first obtain the right to do so from the appropriate City department, property owner, or public agency and shall communicate this right to users through signage approved by the respective entity and/or through a mobile or web application.

## § 330-10. Licensing requirements and procedures.

A. Licensing. In the City, sharable dockless mobility device systems shall be subject to annual licensure by the Chief and the minimum requirements provided in this chapter. The minimum requirements shall be as follows:

- (1) Dockless mobility devices for rent by dockless mobility device systems shall not obstruct crosswalks, curb ramps, fire hydrants, building ingress or egress, public utilities, or as otherwise directed within the City's traffic rules and regulations as issued by the City's Traffic Commission.
- (2) Sharable dockless mobility device system applicants shall submit a safety plan, which outlines their plan to inspect, maintain, and replace, when appropriate, their dockless mobility devices and how they plan to meet applicable federal and state laws.
  - (a) The safety plan shall also include a proposal to educate the public on proper and safe usage of their dockless mobility devices.
  - (b) The safety plan shall also include a proposal and commitment to ensure safe parking of such dockless mobility devices.
  - (c) The safety plan must be presented and approved by the Chief.
- (3) Sharable dockless mobility device system applicants shall submit their proposed area(s) of service. Such proposed area(s) shall be subject to approval and revision by the Chief.
- (4) Sharable dockless mobility device systems shall have the ability to remove their dockless mobility devices in advance of a snow emergency or other extreme weather, in advance of major events, or as otherwise directed by the Gardner Police Department or Department of Public Works.
- (5) Sharable dockless mobility device systems shall have the ability to remotely lock down individual dockless mobility devices when they are deemed or reported to be unsafe, in advance of a snow emergency or other extreme weather, in advance of major events, when located outside approved service areas, or as otherwise directed by the Gardner Police Department or Department of Public Works.
- (6) The maximum speed of dockless mobility devices made available by a sharable dockless mobility device system shall not exceed 15 miles per hour ("MPH").
- (7) Dockless mobility devices for rent by sharable dockless mobility device systems shall clearly display a unique, permanent identification number that is provided to the City as required by § 330-1 of the Code of the City of Gardner.
- (8) Sharable dockless mobility device systems and sharable dockless mobility device system operators shall indemnify, defend and hold harmless the City of Gardner, as well as its employees, agents, and affiliates, from and against all actions, damages or claims brought

against the City arising out of sharable dockless mobility device systems and sharable dockless mobility system operators' negligence or willful misconduct with regard to the use of dockless mobility devices. Sharable dockless mobility device systems shall also be required to hold insurance.

- (9) Sharable dockless mobility device systems shall be required to meet with community and business groups, as directed by the Chief in consultation with the Mayor's office, ahead of launching service.

B. Application fee. The application fee for a license or an annual renewal of a license for the operation of a dockless mobility devices sharing business shall be \$1,000 for 100 devices and an additional \$50 per dockless mobility device in the operator's system for every device over the initial 100 allowed by this article.

C. License requirements.

- (1) Any operator applying for a dockless license shall submit a license application to the Gardner Police Department. The application shall be sworn to by the applicant or agent thereof and must include the following:

- (a) Completed dockless permit application form.
- (b) City business license obtained from the City Clerk's office.
- (c) City certificate of good standing as required by Chapter **464** of the Code of the City of Gardner.
- (d) Insurance documentation and acknowledgement that the City is indemnified and held harmless for all liability related to the operation of the sharable dockless mobility device system.
- (e) Images and description of the applicant's dockless mobility device, including technical specifications, any signage or instructions permanently affixed to the device, mobile application, and documentation that the devices meet safety standards as set forth in this article.
- (f) Address and contact information of the general manager for the sharable dockless mobility device system.
- (g) Plan for educating users on proper parking, operations, and other applicable laws.
- (h) Plan for encouraging helmet usage.
- (i) Plan for sustainability measures when disposing of a broken dockless mobility device.
- (j) Application fee of \$1,000.

- (2) The dockless license shall be valid for a period of 12 months, beginning on January 1 and expiring on December 31 of each calendar year. All permit holders shall be required to renew their permits annually with all of the documentation prescribed in this section by December 1 of each calendar year.

- (3) Any expansion of a sharable dockless mobility device system not originally permitted in the most current dockless license on file may be authorized through the filing of an application to amend the permit to add devices along with the applicable fees.

- (4) Upon administrative declaration by the Chief, a permit holder may apply for a temporary expansion of their fleet in accordance with a temporary fleet maximum.

## § 330-11. Rental and storage of dockless mobility devices.

- A. Based upon the interest of safety, no person or entity shall store or make available for rent dockless mobility devices associated with their sharable dockless mobility device system on the public property in the City of Gardner, except as specifically authorized by this chapter.
- B. Public property includes but is not limited to all public ways, sidewalks, parks, plazas, bicycle paths and shared use paths owned by and/or under the care, custody and control of the City of Gardner.

## § 330-12. Authority over dockless mobility devices sharing businesses.

- A. Limits on dockless mobility devices. The Chief may by regulation limit the total number of types of dockless mobility devices available for rent by dockless mobility devices sharing businesses based upon issues such as safety, accessibility of the public way, geographic availability, and usage rates. The Gardner Police Department shall evaluate this limit from time to time to determine whether the limit should be adjusted.
- B. Limits on licenses. The Chief may from time to time set a limit on the number of total licenses that may be issued or renewed per year. The Chief's authority to limit the total number of licenses shall also include the ability to issue licenses for a defined period of time as "pilot licenses," in order to assess the impact of dockless mobility devices sharing businesses and inform the promulgation of regulations.
- C. Transfers. No person holding a dockless mobility devices sharing business license shall sell, lend, lease or in any manner transfer such license for value. However, a license holder may transfer the license as part of the sale of a majority of the stock in a corporation holding such license, as part of the sale of a majority of the membership interests of a limited liability company holding such license, or as part of the sale of a business or substantially all of its assets; provided that, prior to any such transfer, the transferor shall notify the Gardner Police Department in writing and the transferee shall submit an application for approval pursuant to § **330-10** of this chapter.
- D. Regulatory authorities. The Chief may, by regulation, establish any standards and requirements for safe and responsible operation of dockless mobility devices sharing businesses deemed necessary for reasonable management of the public right-of-way. Such regulations may include, but are not limited to:
  - (1) Standards for safety of equipment, responsible operation and aesthetics;
  - (2) Requirements to remove or promptly repair any vehicle determined by the City to present an impermissible risk to health or safety;
  - (3) Standards designed to promote compliance with parking and storage requirements, including the establishment of penalties and fines in connection with dockless mobility devices and dockless mobility devices sharing businesses;
  - (4) Requirements to notify customers of legal or other requirements applicable to use of vehicles under the program;
  - (5) Standards regarding the area of service;
  - (6) Requirements to label vehicles with identifying information;
  - (7) Requirements regarding insurance, security and indemnification of the City;
  - (8) Requirements regarding the regular provision of data to the City regarding vehicles used by the business, such as usage rates and vehicle condition;
  - (9) Requirements regarding the total number of shared vehicles in the City, or in any area of the City;
  - (10) Standards for the suspension and revocation of a license;

(11) Rules and procedures concerning renewal of a license; and

(12) Such other standards or requirements as may be necessary for safe and reasonable management of the public right-of-way, and compliance with the licensing provisions of this article.

- E. Revocation; suspension; modification. Once a license has been issued it may be revoked, suspended, modified, or not renewed by the Gardner Police Department for failure to comply with the provisions of this section or any rules and regulations promulgated.
- F. Enforcement. The provisions of this section or any rules and regulations promulgated thereof may be enforced by the Gardner Police Department.

## § 330-13. Enforcement.

- A. The Chief shall have the authority to impound and/or contract with a third-party towing service to impound dockless mobility devices of unlicensed dockless mobility devices sharing businesses and impose fees related to the City's efforts to collect, store, and track such dockless mobility devices.
- B. The Chief shall also have the authority to impound dockless mobility devices of licensed dockless mobility devices sharing businesses that are stored or parked on the public right-of-way in a manner that is inconsistent with this chapter or the City of Gardner traffic rules and regulations and impose fees accordingly.

## § 330-14. Operation of dockless mobility device.

- A. No person under the age of 16 may operate a dockless mobility device in the City.
- B. Dockless mobility devices shall be allowed to operate daily between of hours of 6:00 a.m. and 9:00 p.m. and must be removed from the public way and public property between the hours of 10:00 p.m. and 5:00 a.m.
- C. In the event a dockless mobility device is not relocated, reparked, or removed within the timeframe specified herein, or any dockless mobility device is parked in one location for more than 48 hours without moving, such dockless mobility device may be removed by City crews and taken to a City facility for storage at the expense of the company.
- D. Dockless mobility devices are to be ridden on streets, and, where available, in bike lanes, bike paths and multi-use paths. Dockless mobility devices are to stay to the right of street lanes and to offer the right-of-way to bicycles and other mobility devices in bike lanes, bike paths, and multi-use paths.
- E. No person operating a dockless mobility device shall operate so as to damage or interfere with the use and enjoyment of any park or playground within the City or with any equipment, playing fields or courts, gardens and shrubbery found therein.
- F. Operation within a cemetery shall be strictly prohibited.
- G. Sharable dockless mobility devices and dockless mobility devices may be operated within the City's parks only on paved walking paths. Operations shall not be allowed on any grass areas of City parks.
- H. Sharable dockless mobility devices and dockless mobility devices may not be operated on sidewalks or any space exclusively for pedestrian use.
- I. Sharable dockless mobility devices and dockless mobility devices may operate in vehicle travel lanes, in bike lanes, and along shared use paths throughout the City.

- J. Sharable dockless mobility devices and dockless mobility devices shall be operated in a manner consistent with all applicable state and local laws.
- K. Operators must educate users on proper sharable dockless mobility devices operations.
- L. Sharable dockless mobility device and dockless mobility device riders must yield to pedestrians in all cases, including along shared use paths.
- M. Operators shall provide sufficient local operations and maintenance staff to address issues and remove improperly parked bikes or scooters. In the event of a safety or maintenance issue that is reported for a specific dockless mobility device, said device shall be made unavailable to all users and shall be removed by operators at their sole expense and cost. Any inoperable or unsafe device shall be repaired by operators prior to being placed back into service or use.
- N. Operators shall work with the Gardner Police Department to enforce this article with the most advanced and appropriate available technology.
- O. Operators shall work with the Gardner Police Department to enforce temporary or permanent no-ride zones authorized by the City with the most appropriate available technology.
- P. Parking.
  - (1) The City reserves the right to identify parking areas and no-parking areas through administrative regulations issued by the Gardner Police Department. All parking areas and no-parking areas will be communicated directly to operators.
  - (2) Operators must communicate proper sharable dockless mobility devices parking requirements to all users.
  - (3) Sharable dockless mobility devices shall be parked upright at all times.
  - (4) No person shall park a sharable dockless mobility device or a dockless mobility device other than upon the sidewalk in a bike rack or against a building or at a curb, in such manner as to afford the least obstruction of pedestrian traffic and provides a minimum of five feet clear for pedestrians.
  - (5) Sharable dockless mobility devices and dockless mobility devices shall not be parked:
    - (a) On vegetation.
    - (b) On any grate, manhole cover, or access lid.
    - (c) In any loading zone, driveway, vehicle travel lane, bike lane, or shared-use path.
    - (d) Where they obstruct vehicle parking.
    - (e) Where they obstruct pedestrian or wheelchair access to private or public buildings and establishments.
    - (f) Street features that require pedestrian access, including but not limited to benches, parklets, parking pay stations, and crosswalk buttons.
    - (g) Accessibility and safety features, including curb ramps, wheelchair ramps, ramp landings, handrails, areas of refuge, and detectable warning strips.
    - (h) A bus stop clear zone of 40 feet long by eight feet wide for transit stops.
    - (i) At or within five feet of a bikeshare station.
    - (j) Where it obscures any fixed, regulatory, or informational signs or traffic control devices.
    - (k) Where it obstructs emergency service infrastructure, including but not limited to fire hydrants, standpipes, or automated external defibrillators.

- (l) In such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
- (6) Operators will remove improperly parked sharable dockless mobility devices in accordance with local laws and without prior notice from the City.
- (7) Upon evidence that an operator's sharable mobility devices are found to be consistently parked improperly, the City reserves the right to reduce the number of shared devices allowed under their permit or revoke it all together.
- (8) The City reserves the right to cite, impound and store, and dispose of improperly parked devices at the operators' expense.

## § 330-15. Prohibited acts while operating dockless mobility devices.

- A. Sharable dockless mobility devices shall not be operated by more than one person at a time.
- B. While operating a sharable dockless mobility device or dockless mobility device, no individual shall physically hold or utilize a wireless telecommunications device, including cell phones, including but not limited to talking, texting, emailing, or otherwise using said telecommunications device.

## § 330-16. Violations and penalties.

- A. Whoever violates any of the provisions of this article shall be issued a citation by the Gardner Police Department and will be subject to a fine of \$5 for each violation.
- B. Any person with three or more violations, defined as a habitual offender, shall upon any subsequent violations be subject to a fine of \$25 and may be prohibited from such further use of a dockless mobility device.
- C. A police officer taking cognizance of any such violation may request the offender to state his/her true name and address. Whoever upon such request refuses to state his/her name and address or states a false name and address or a name and address which are not his/her name and address in ordinary use shall be punished by a fine of not less than \$25 nor more than \$50. Any such offender so refusing to state his/her name and address may be arrested without a warrant, but no person shall be arrested without a warrant for any other violation of this article.

## § 330-17. Severability.

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.