

RESOLUTION 44-19

A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA, DECLARING THE INTENTION OF THE CITY TO CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE CITY CODE RELATING TO THE REGULATION OF DOCKLESS MOBILITY DEVICES; INVOKING THE PENDING ORDINANCE DOCTRINE; PROVIDING THAT FROM JANUARY 15, 2019 AND DURING THE PENDENCY OF CONSIDERATION, THE CITY WILL DEFER THE PROCESSING AND APPROVAL OF ALL APPLICATIONS FOR DOCKLESS MOBILITY DEVICES INCONSISTENT WITH THE CODE OF ORDINANCES; DIRECTING THE CITY CLERK TO PUBLISH A NOTICE OF INTENT TO ADOPT SUCH ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, this Resolution is enacted pursuant to the home rule powers of the City Commission of the City of Delray Beach, Florida ("City") as set forth in Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, *Florida Statutes* and the City Charter; and

WHEREAS, the City is responsible for the protection of the health, safety and welfare of its businesses, residents, and visitors; and

WHEREAS, the primary purpose of the City's streets and sidewalks is to provide a safe place for pedestrian and vehicular travel that includes, but is not limited to bikes, buses, cars, motorcycles, and scooters; and

WHEREAS, in light of the recent increase in the number of businesses that rent dockless bicycles and scooters, also known as dockless mobility devices, for public use via the placement of shareable mobility devices throughout the City without being locked to a bike rack or other infrastructure and the potential negative impacts of the unregulated use of personal transportation vehicles, City staff desires to analyze the situations that have occurred in other cities and evaluate and make recommendations for regulations which will better promote the safety and general welfare of the City businesses, residents, and visitors; and

WHEREAS, the City has been actively engaged in the process of undertaking a revision and update of the existing Code of Ordinances with respect to the regulation of dockless mobility devices since at least January 15, 2019; and

WHEREAS, the City Commission finds and declares a need to temporarily suspend the approval or denial of applications related to the sharing of dockless bicycles, scooters and/or other personal transportation vehicles in the public right-of-way to allow the development of regulations for such uses; and

WHEREAS, the City wishes to definitively place all parties on notice that it is considering amending the City Code and that all parties who are considering the operation of dockless mobility devices for the sharing of

bicycles, scooters and/or other personal transportation vehicles in the public right-of-way that the City is considering the adoption of ordinances with respect to this subject matter and that this subject matter should be considered pursuant to the pending legislation doctrine.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, and incorporated herein by this reference.

Section 2. The City Commission of the City of Delray Beach hereby declares its intention to consider adoption of an ordinance amending the City Code relating to the regulation of dockless mobility devices for the sharing of bicycles, scooters and/or other personal transportation vehicles in the public right-of-way.

Section 3. Pursuant to the pending legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA 1980), all persons and entities that plan to establish and/or operate dockless mobility devices for the sharing of bicycles, scooters and/or other personal transportation vehicles in the public right-of-way that:

- (a) The City is considering the adoptions of regulations relating to such use;
- (b) The regulations are considered pending; and
- (c) Any reliance upon current regulations or expenditure of funds or efforts in reliance on current regulations, until the regulations are considered by the City Commission and adopted and effective, or determined that they will not be adopted, is not reasonable and is at the risk of the applicant.

Section 4. City staff, after January 15, 2019, shall defer the processing of applications and the issuance of approvals for all dockless mobility devices for the sharing of bicycles, scooters and/or other personal transportation vehicles in the public right-of-way, pending the passage of revisions to the City Code regarding such use, except as follows:

- (1) Such deferral in processing applications is temporary and shall automatically dissolve upon the passage of one hundred eighty (180) days from the effective date of this Resolution, or until new regulations for dockless mobility devices for the sharing of bicycles, scooters and/or other personal transportation vehicles in the public right-of-way are adopted by the City Commission, whichever occurs first.

Section 5. The City Clerk is hereby directed to publish a Notice of Intention to consider adoption of an ordinance in a newspaper of general circulation in the City.

Section 6. The provisions of this Resolution are declared to be severable, and if any sentence, section, clause or phrase of this resolution shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Resolution,


but they shall remain in effect it being the legislative intent that this resolution shall stand notwithstanding the invalidity of any part.

Section 7. This Resolution shall take effect immediately upon adoption.

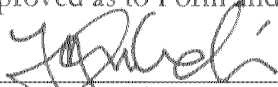
PASSED AND ADOPTED in regular session on this 5th day February, 2019.

ATTEST:


Katerri Johnson, City Clerk


Shelly Petrolia, Mayor

Approved as to Form and Legal Sufficiency:


Lynn Geln, Interim City Attorney