

ORDINANCE NO. 18-277

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AUTHORIZING A PILOT BICYCLE SHARE PERMIT PROGRAM; ESTABLISHING THE RULES AND REGULATIONS FOR THE PILOT BICYCLE SHARE PROGRAM AND THE PROVISIONS FOR ENFORCEMENT THEREOF; ESTABLISHING A FEE SCHEDULE FOR THE PERMIT PROGRAM; PROVIDING A PENALTY CAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, The City of Denton seeks to provide active transportation options to its citizens; and

WHEREAS, stationless bicycle share (“Bike Share”) is a third generation bike share system that provides bicycles for the public to use for short trips and does not require the bicycle to be locked to a docking station or fixed bicycle rack; and

WHEREAS, a third generation Bike Share system provides user’s more flexibility for their origins and destinations and has the ability to expand multimodal and overall transportation choices for Denton citizens; and

WHEREAS, any Bike Share system would necessarily involve public streets and right-of-way in the course of business, and

WHEREAS, the City must maintain and oversee its streets and rights-of-way in the interest of public health and safety; and

WHEREAS, the City finds that it is in the public interest to establish a Pilot Bicycle Share Permit Program (the “Pilot Program”) under the terms and conditions as set out below; NOW, THEREFORE

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals and findings contained in the preamble of this ordinance are expressly incorporated herein as if fully set forth herein.

SECTION 2. The City of Denton hereby establishes the Pilot Program for a term of six (6) months from the effective date of this ordinance. The Pilot Program will apply to all companies operating or desiring to operate a stationless Bike Share system or business within the city limits of the City of Denton (the “Operators”).

SECTION 3. Each Operator must obtain a permit from the City of Denton, received as follows:

(A) The Operator must file a permit application with the Capital Projects Department (Office of the Bike and Pedestrian Coordinator); said application to include the following items and information:

(i) Completed Application, in the form attached to this Ordinance as Exhibit A;

- (ii) Company name and local, primary contact information;
- (iii) Insurance and indemnification documents meeting the criteria specified below;
- (iv) A detailed implementation plan with map showing locations of virtual bike corrals;
- (v) Images and description of bicycles and mobile applications;
- (vi) Size of fleet, including any planned fleet expansions over the term of this Pilot Program;
- (vii) Service area, including any planned expansions over the term of this Pilot Program;
- (viii) Plan for educating users on proper bicycle parking; and
- (ix) Permit Fee in the amount applicable to the Operator as specified below.

(B) Within five (5) business days of receiving a completed application which complies with all of the rules and regulations herein, the City shall issue a Pilot Program Permit to the Operator, valid during the term of this Pilot Program, subject to the restrictions and regulations herein.

SECTION 4. Public health and safety is the main concern in establishing this Pilot Program. Therefore, each Operator must comply with the following safety provisions:

- (A) All bicycles used in Bike Share systems issued a permit under this Pilot Program shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, part 1512 – Regulations for Bicycles. Additionally, permitted systems shall meet the safety standards outlined in ISO 43.150 – Cycles, subsection 4210.
- (B) All bicycles shall meet the Texas Transportation Code requirement for lights during nighttime, described in Texas Transportation Code Section 551.104.
- (C) All bicycles must be equipped with Global Positioning System (GPS) devices, allowing the Operator to monitor their positions and restrict parking as provided in this Ordinance.
- (D) Each Operator shall provide a mechanism for customers to notify the Operator that there is a safety or maintenance issue with the bicycle, to include a telephone number, web address, and email address.
- (E) Each Operator shall have visible language posted on the bicycle (top or main tube) that notifies the user that:
 - (i) Helmet use is encouraged while riding the bicycle;
 - (ii) Bicyclists shall yield to pedestrians on sidewalks; and
 - (iii) When riding on-street, bicyclists must follow the rules of the road as one would in a motor vehicle.
- (F) Operators agree that the City of Denton is not responsible for educating users regarding bicycle laws. Neither is the City responsible for educating users on how to ride or operate a bicycle. Operators must educate users regarding laws applicable to riding and operating a bicycle within the city limits and must instruct users to comply with applicable laws.

SECTION 5. To ensure responsible use of public rights-of-way and to promote multimodal and active transportation options, Operators must comply with the following provisions for service area:

- (A) Each Operator shall include at least one of the following locations within its service area: the Downtown Denton Transit Center (“DDTC”), downtown, the University of North Texas, Texas Woman’s University, or other activity centers (retail and employment areas) approved by the City.
- (B) Each Operator must submit, as part of a permit application to the City, a detailed implementation plan along with a map that identifies the locations and size of virtual bike corrals that will be used by the Operator. This plan must be approved by the City’s engineering staff before approval of the permit application.
- (C) Any changes to the implementation plan within the term of the Pilot Program must be approved by the City’s engineering staff.

SECTION 6. To further ensure responsible use of public streets and rights-of-way, Operators must comply with the following parking restrictions:

- (A) Operators must inform their customers on how and where Bike Share parking is permissible.
- (B) Restrictions to eligible virtual bike corral areas include:
 - (i) Bicycles shall not be parked in the Vision Clearance Area of a sidewalk. *See Figure 1-1 on the attached Exhibit B.*
 - (ii) Bicycles shall not be parked against trees or within the landscape planting bed.
 - (iii) The City reserves the right to determine certain block faces where stationless Bike Share parking is prohibited.
 - (iv) The City reserves the right to restrict the number of bicycles at a location and assign use of certain locations on a first-come-first-serve basis.
 - (v) Bicycles shall not be parked or stationed in such a way that will inhibit pedestrian movement or Americans with Disabilities Act (ADA) accessibility, which requires a minimum of forty-eight inches (48”) of clear path on sidewalks and pedestrian ways.
 - (vi) Bicycles shall not be parked adjacent to or within:
 - (a) Outside dining areas;
 - (b) Loading zones;
 - (c) ADA handicap parking zones;
 - (d) Street furniture that requires pedestrian and/or ADA access;
 - (e) Curb ramps; or
 - (f) Entryways and driveways.
- (C) This Pilot Program Permit is only valid for operations within the City of Denton right-of-way. Additional zones (or virtual bike corrals) may be established; for example, locations within parks, on-street parking spaces, off-street parking lots/garages, or campuses. However, permission to do so shall require coordination with the appropriate City department and/or property owner, and shall be communicated to the customer through signage approved by the respective entity and/or through the mobile web application.
- (D) It is a violation of this ordinance for any Operator’s bicycle to be parked in one location for more than three (3) consecutive days without moving. During that time, it must be evaluated and moved to an approved virtual bike corral location by the Operator. If an Operator’s bicycle remains in the same location for the first two (2) hours of the fourth day, it may be removed by the City of Denton and

taken to a facility for storage at the expense of the Operator. The City shall invoice the violating Operator as provided below.

- (E) All Operators shall provide, on every bicycle, contact information for bicycle relocation requests, including a telephone number, web address, and email address.
- (F) Bicycles shall be upright when parked.
- (G) Any Operator's bicycle that is parked incorrectly shall be re-parked in a correct manner or shall be removed by the Operator based on the following times:
 - (i) Monday through Friday, 8:00 a.m. to 8:00 p.m. (Federal holidays excluded): within two (2) hours of the Operator receiving notice of incorrect parking.
 - (ii) All other times: by 10:00 a.m. the following calendar day (Federal holidays included).

SECTION 7. For events that take place on the Downtown Denton Square or in the Downtown Implementation Plan area that require street closure and/or booths to set up on the sidewalk, removal of Bike Share bicycles will be handled by the Operator as follows:

- (A) Notification by the City will be by email to each Operator's official point of contact, as indicated on the Operator's application.
- (B) Two (2) weeks prior to the event, City staff will contact all Operators alerting them to the upcoming event.
- (C) Operators will be required to remove their bicycles from the event and street closure area at least three (3) hours prior to street closures or event set-up.
- (D) It is the responsibility of each Operator to ensure users are aware of the restricted parking areas during the time of the event.

SECTION 8. To ensure responsible use of the public rights-of-way and in the interest of public health and safety, Operators must comply with the following operational provisions within the city limits of the City of Denton:

- (A) Each Operator must have a 24-hour customer service phone number for customers and others to report safety concerns, complaints, or ask questions.
- (B) Each Operator must provide the City of Denton with a direct point of contact for the Operator's staff that is capable of rebalancing and re-parking bicycles.
- (C) Operators will provide a rebalancing management plan to the City that includes the following:
 - (i) Each Operator must have a dedicated staff team assigned to the City of Denton;
 - (ii) Bicycles will be rebalanced to approved virtual bike corral locations by 8:00 a.m. each morning, seven days per week; and
 - (iii) Each Operator must have a customer service telephone number which is monitored 8:00 a.m. to 8:00 p.m.
- (D) In the event City staff identifies or receives a nuisance complaint, each Operator shall relocate or rebalance bicycles based on the following times:
 - (i) Monday through Friday, 8:00 a.m. to 8:00 p.m. (Federal holidays excluded): within two (2) hours of the Operator receiving notice of incorrect parking.

- (ii) All other times: by 10:00 a.m. the following calendar day (Federal holidays included).
- (E) Any inoperable bicycle, or any bicycle deemed not safe to operate either by a user or the Operator, shall be removed from the public right-of-way within twenty-four (24) hours of notice by any means to the Operator by an individual or entity, and shall be repaired before returning the bicycle into service within the public right-of-way.
- (F) Each Operator shall have a minimum bicycle fleet of twenty-five (25) bicycles and Operators shall meet this fleet size requirement within four (4) weeks of permit approval.
- (G) Each Operator shall have a maximum bicycle fleet of one hundred (100) bicycles. If ridership reports demonstrate a need for a larger fleet size and all Operators are meeting responsible rebalancing/relocation requirements, the fleet size maximum limit may be reassessed by the City.
- (H) Every bicycle shall have a unique identifier, such as a unit number, that is visible to the user on the bicycle.
- (I) Each Operator shall work with the Denton County Transportation Authority (“DCTA”) to best identify placement, if allowed by DCTA, of bicycles at DCTA bus stops or transit centers to ensure pedestrian access is not obstructed to boarding and alighting DCTA modes of transportation, or access along and adjacent to pedestrian ways.
- (J) Each Operator must provide Two Thousand Dollars (\$2,000.00) in cash per one hundred (100) bicycles, not to be prorated, to the City to be held in escrow for the term of the Permit to cover direct costs incurred by the City due to violations of the Permit, subject to the provisions of subsection (K), below. Should the escrow account be debited, said Operator shall provide additional funds to raise the amount back to Two Thousand Dollars (\$2,000.00) per one hundred (100) bicycles within thirty (30) of any such debit hereunder.
- (K) If the City of Denton incurs any costs addressing or abating any violations of these requirements, or incurs any costs of repair or maintenance of public property, upon receiving written notice of the costs incurred, the Operator shall reimburse the City for such costs within thirty (30) days. If reimbursement is not received by the City within thirty (30) days of written notice to Operator, the City may withdraw the funds from the escrow account provided in subsection (J), above.
- (L) Permits may be revoked for lack of customer service response, to include but not limited to, safety concerns, failure to actively manage rebalancing/relocation according to the parameters set out herein, a documented history of violating the terms and regulations of this Pilot Program, and/or any of the following:
 - (i) If an Operator has five (5) or more bicycles impounded by the City at any one time;
 - (ii) If an Operator has had ten (10) or more bicycles impounded by the City within a thirty (30) day time frame; or
 - (iii) If an Operator leaves a bicycle impounded for five (5) or more consecutive calendar days.

- (M) An Operator has a right to appeal the following decisions of the City if it requests an appeal in writing and delivers the request to the City Manager not more than ten (10) business days after receiving notice of the action:
 - (i) A denial of an application for permit under this Pilot Program; and
 - (ii) A revocation of a permit under this Pilot Program.
- (N) The City Manager or his designee shall act as the appeal hearing officer in an appeal hearing under this section and will provide a decision on all appeals within ten (10) business days. The hearing officer shall give the appealing party an opportunity to present evidence and make argument on its behalf. The formal rules of evidence shall not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of the evidence presented at the hearing. The hearing officer may affirm, modify, or reverse all or part of the action being appealed. The decision of the hearing officer is final.
- (O) Following the revocation or termination of a permit under this Pilot Program, or the final decision of the appeal hearing officer should the decision be appealed as provided in subsection (M) above, the Operator shall have ten (10) business days to remove all bicycles in its service fleet from City streets, property, and rights-of-way.
- (P) If the term of this Pilot Program expires without the City renewing the program or establishing an alternative Bike Share permit, Operators shall have thirty (30) days to remove all bicycles in their service fleets from City streets, property, and rights-of-way.

SECTION 9. Any Bike Share system bicycle that is not reparked, relocated, or rebalanced in accordance with the provisions of Section 8 of this Ordinance is subject to impoundment by the City.

- (A) A bicycle removed and impounded under the authority of this Ordinance shall be kept at the place designated by the police department until application for redemption is made by the Operator or his authorized agent or other person legally entitled to possession of the bicycle. The police department shall require adequate proof of ownership or proof of right to possession of the bicycle. The fees for impoundment of bicycles are as follows:
 - (i) *Impound fee.* The impoundment fee shall be Fifty Dollars (\$50.00).
- (B) It shall be unlawful for any person to remove or attempt to remove a bicycle from a city pound location without first paying the impoundment fee.
- (C) Upon payment of the impoundment fee a bicycle impounded by the police department pursuant to the enforcement of the provisions of this Ordinance may be released to the Operator, owner, or person showing proof of a right to possession.
- (D) When a bicycle is authorized to be impounded, the police department shall keep and maintain a record of the bicycle impounded, listing the color, Operator logo exhibited on the bicycle, and any unique fleet identification number. The record shall also include the date of impoundment, location removed from, reason for

impoundment, the name of the city staff member or officer authorizing the removal and impoundment, and copies of all notices sent to Operators.

SECTION 10. To help confirm the effectiveness of this Pilot Program and stationless Bike Share, all Operators must comply with the following data sharing requirements:

- (A) Each Operator will report the data specified below to the Bicycle and Pedestrian Coordinator or the Traffic Engineer for reporting and analysis purposes.
- (B) Each Operator must provide the City with at least three (3) administrative access or license profiles to the Application Programming Interface (“API”) to verify data as reported.
- (C) Each Operator shall be required to report, on a monthly basis, information regarding their fleet and membership. The goal of these reports is to better understand how the Bike Share system is being utilized and to better inform future policy decisions and potential changes. Each Operator will work with the City to provide the following information on their respective operations in Denton:
 - (i) Number of Bicycles;
 - (ii) Origin and destination trip data, including the distance travelled therein;
 - (iii) Usage, including routes and total trips, per timeframe, location, and bicycle;
 - (iv) Total number of members/registered users;
 - (v) Member survey and general demographics (if available); and
 - (vi) Reported collisions.

SECTION 11. Each Operator shall obtain insurance meeting the following criteria:

- (A) All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications through the duration of the Permit, or longer if so indicated:
 - (i) Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A- or better.
 - (ii) Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees, and volunteers; or the Operator shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
 - (iii) All liability policies shall be endorsed to provide the following:
 - (a) Name the City of Denton, its officials, agents, employees, and volunteers as Additional Insureds.
 - (b) That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one Additional Insured shall not operate to increase the insurer’s limit of liability.

- (c) Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
 - (iv) Cancellation: City requires thirty (30) day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.
 - (v) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Operator shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
 - (vi) Should any required insurance lapse during the Permit term and not be reinstated within ten (10) calendar days, the City may, as its sole option, terminate or revoke the Operator's permit.
- (B) General Liability Insurance: General Liability insurance with combined single limits of not less than **One Million Dollars (\$1,000,000.00)** shall be provided and maintained by each Operator. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.
- (i) If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:
 - (a) Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering operations under the Permit and broad form property damage coverage.
 - (b) Coverage B shall include personal injury.
 - (c) Coverage C, medical payments, is not required.
 - (ii) If the Comprehensive General Liability form (ISO Form GL 0002 current edition and ISO Form GL 0404) is used, it shall include at least:
 - (a) Bodily Injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse, or underground (XCU) exposures.
- (C) Automobile Liability Insurance: Each Operator shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **Five Hundred Thousand Dollars (\$500,000.00)** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance, and use of all automobiles and mobile equipment used in conjunction with operations conducted under the Permit. Satisfaction of the above requirements shall be in the form of a policy endorsement for:
- (i) Any auto; or
 - (ii) All owner, hired, and non-owned autos.

SECTION 12. The following Pilot Program Permit fee schedule shall be applied to approved Bike Share Operators based on the size of the Operator's fleet:

- (i) Twenty-Five (25) to Fifty (50): Five Hundred Dollars (\$500.00)
- (ii) Fifty (50) to One Hundred (100): Seven Hundred Fifty Dollars (\$750.00)

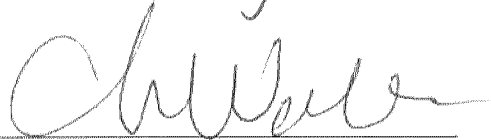
SECTION 13. It shall be a violation to operate a stationless Bike Share system or business within the city limits of the City of Denton without a permit issued by the City, under the terms and conditions set out above.

SECTION 14. Any person found guilty of violating this Ordinance by a court of competent jurisdiction shall be fined a sum not to exceed Five Hundred Dollars. (\$500.00). Each day that a provision of this ordinance is violated shall constitute a separate offense.

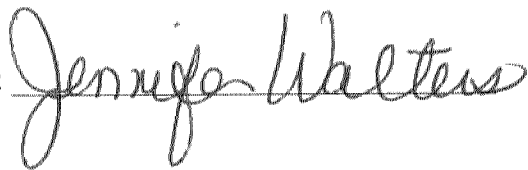
SECTION 15. If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions despite any invalidity.

SECTION 16. This ordinance providing for a penalty shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas, within ten (10) days of the date of its passage.

PASSED AND APPROVED this the 20th day of February 2018.


CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: 

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By: 



PERMIT APPLICATION

City of Denton – Bike Share Application Form

Bicycle Share Provider Name
Address
City, State, Zip
Phone
Email

License and Insurance Requirements

The permit holder shall maintain General Liability Insurance and Automobile Liability Insurance during the term of this agreement. The City shall be named as an Additional Insured on both coverages. The cost of the required insurance shall be paid by the permit holder. Prior to commencement of this agreement, the permit holder and its subcontractors shall provide a certificate of insurance evidencing the following coverages:

General Liability insurance with combined single limits of not less than **\$1,000,000.00** shall be provided and maintained by the Permittor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

Permittee shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **\$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

All the above must be verified, fees paid, and the following documents attached with the application prior to permit issuance:

1. Insurance documentation
2. A detailed implementation plan with a map showing locations of virtual bike corals
3. Images and description of bicycles and mobile application
4. Size of fleet, including any planned fleet expansion over the pilot program
5. Service area, including any planned expansions over the pilot program
6. Education and outreach plan for proper bicycle parking and riding

Completed applications can be sent to:

City of Denton
Bike/Ped Coordinator
215 E. McKinney
Denton, TX 76209

Amount due:

The following annual permit fee schedule shall be applied to approved bicycle share permit holders based on the size of the operator’s fleet.

25 to 50 bicycles	\$500	51 to 100 bicycles	\$750
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Approval for Permittee:

In signing this permit, the applicant agrees to having read and understand all the Rules and Regulations of the Pilot Bicycle Share Permit Program, certifies that they have the authority to sign for and bind Permittee, and by virtue of their signature the Permittee is bound by the provisions of this permit, including the Rules and Regulations mentioned above, the City of Denton Code and all other State laws regulating bicycle and vehicle usage.

Print Name _____
Signature _____ Date _____

Exhibit B

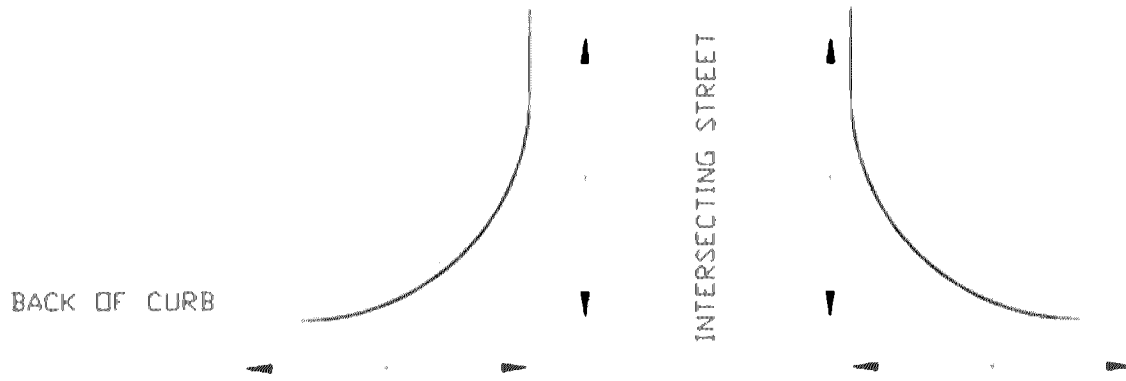


Figure 1-1, Vision Clearance Area