



TO: Chair Thibodeau and Members of the Sustainability and Transportation Committee

FROM: Bruce Hyman, Transportation Program Manager

DATE: July 12, 2018

SUBJECT: Draft Bike Share Ordinance

CC: Jon Jennings, City Manager
Jeff Levine, Planning and Urban Development Director
Jennifer Thompson, Associate Corporation Counsel

Introduction:

In March 2018, the Sustainability and Transportation Committee unanimously sent a Bike Share Ordinance to the full City Council for its consideration. At that meeting, the S&T Committee requested that draft Bike Share Regulations come back to it before being implemented. In April, the City Council adopted the ordinance unanimously.

Draft Regulations:

The draft regulations, similar to the ordinance, are based on a review of regulations and other materials from other municipalities and bike share operators and organizations from around the country.

The draft regulations contain the following sections with their intended purpose noted:

- Permit/Fees – establishes the requirement for a Street Occupancy Permit and outlines the fee structure
- Fleet Type, Fleet Size and Service Area – establishes the type of bicycles and systems allowed, the size of fleets during pilot and subsequent years (with provisions for adjustments if utilization thresholds are not met) and system service areas
- Safety/Equipment – establishes minimum safety standards and equipment and customer education requirements
- Maintenance and Operations – establishes the requirement for an operations and maintenance plan including minimum response times and customer service levels and how system equity/accessibility goals will be achieved



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- Parking – establishes where Shared Bikes may and may not be parked and how customers will be educated about permitted and prohibited parking locations
- Insurance, Indemnity and Performance Bond – establishes minimum insurance requirements, requires indemnification of the City by the operator and requires posting a performance bond to be used for monitoring and enforcement of the regulations
- Data Sharing and Reporting – established requirements for reporting of anonymized bicycle trip usage and reporting of system utilization and safety.

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Permit/Fees

Permit Requirements:

Prior to commencing operations, Bike Share Operators shall obtain the required Street Occupancy Permit from the Department of Public Works (paying all applicable fees based upon fleet size and type – station-based or station-less) and obtain the required Business License(s) to operate a business in the City of Portland and State of Maine, as applicable.

To remain in good standing under the Bike Share ordinance, an operator must obtain a Street Occupancy Permits each calendar year prior to commencing operations within that year. The cost of permits will be adjusted annually based upon fleet size and composition. Failure to comply with the Bike Share ordinance and/or these Regulations will be a basis for denying or revoking a Street Occupancy Permit.

An application for a Street Occupancy Permit shall be accompanied by a Maintenance and Operations Plan for review and approval by the City (see below).

Permit Fee Structure:

The Street Occupancy Permit fee structure is as follows:

Operation of a bike sharing system (as defined in 25-31) according to the following fee schedule:

Station-less Systems (or Hybrid systems not meeting 50% docking point threshold):

Initial Annual Permit Fee, per operator per calendar year:

Up to 250 bicycles	\$1500
251 to 500 bicycles	\$2500
More than 500 bicycles	\$ 500 per every additional 250 bicycles or fraction thereof

Annual Renewal Fee (Station-less Systems), per operator per calendar year:

Up to 250 bicycles	\$1000
251 to 500 bicycles	\$2000
More than 500 bicycles	\$ 250 per every additional 250 bicycles or fraction thereof

Bicycle Parking Mitigation: To help mitigate the increased bicycle parking demands of a Station-less Bike Sharing System, the operator will either: 1) provide and have installed within the public right-of-way bicycle parking sufficient to accommodate the equivalent of 10% of the number of bicycles deployed in the operator's fleet with approved bicycle racks in approved locations or 2) make a financial contribution to the Sustainable Transportation Fund for the purchase and installation by the City of bicycle parking sufficient to accommodate the equivalent to 10% of the number of bicycles deployed in the operator's fleet.

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Station-based/Hybrid Systems (Station-based systems must provide at least 50% as many docking points as bikes):

Initial Annual Permit Fee, per operator per calendar year:

Up to 250 bicycles	\$ 500
251 to 500 bicycles	\$1000
More than 500 bicycles	\$ 250 per every additional 250 bicycles or fraction thereof
Plus \$50 per approved docking station.	

Annual Renewal Fee, per operator per calendar year:

Up to 250 bicycles	\$ 500
251 to 500 bicycles	\$1000
More than 500 bicycles	\$ 250 per every additional 250 bicycles or fraction thereof
Plus \$25 per approved docking station.	

Fleet Type, Fleet Size and Service Area

Fleet Type:

At this time, bike share fleets shall be comprised of:

- Pedal-only bicycles and Tri-cycles that meet the safety requirements as outlined under the provisions below
- Electric-assist bicycles with fully operable pedals that meet the safety requirements as outlined below as well as the operating limitations listed below.

Electric Scooter Share systems are not currently permitted to operate within the City of Portland.

Fleet size:

Year 1, Pilot Program – The first calendar year during which any single bike share operator operates a bike share program within the City shall be considered a Pilot Program subject to monitoring and evaluation by the City of Portland for compliance with the ordinance and regulations governing its Bike Share operations. During the Pilot Program year (Year 1), Street Occupancy permits under the Bike Share ordinance shall limit total fleet size for any operator of a bike share program to 200 bicycles per bike share operator.

Year 2 Plus - If bike share programs are permitted to continue in the City after Year 1, bike share operators may apply for an annual Street Occupancy Permit. Fleet size after Year 1 may be increased by up to 500 additional bikes per year per operator (but still subject to the Fleet Size monitoring and adjustment provisions).

During the Pilot Program period, the operator will monitor and report to the city on a monthly basis its bicycle utilization and adjust its fleet size based upon established utilization thresholds:

Beginning the first month after its Pilot Program launch, the Bike Share operator must demonstrate that each bicycle in service has been utilized at least 3 times per week, on average, over the prior 4 week period, unless inclement weather prevents the normal utilization or movement of bicycles. If the bike share operator does not meet the minimum utilization metric, the operator must remove 15% of the fleet within 7 days. The Bike Share operator may then be allowed to increase the number of bicycles in service when operator

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demonstrates that they have met the minimum utilization metric for the next 4 week period. At no time may the operator exceed the Pilot Program maximum for fleet size.

Following the Pilot Program (Year Two Plus), utilization will be monitored and reported to the City monthly for the first 3 months of that calendar year's operation and then quarterly afterwards. Fleet size is to be adjusted according to that outlined for the Pilot Program.

Service Area:

The operator shall designate its own service area within the limits of the City of Portland upon application for its Street Occupancy Permit. The operator is solely responsible for bikes that are left outside its designated service area, including in adjoining municipalities. Operators are encouraged to coordinate operations with municipalities adjoining Portland.

Safety/Equipment

Fleet Bicycles:

Bicycles shall have the following safety features:

- Bicycles must be certified compliant with ISO 4201-6:2015, meeting or exceeding bicycle safety requirements for city/trekking bicycles and mountain bicycles.
- Bicycles shall remain in a state of good repair and function.
- Bicycles are equipped with front and rear wheel brakes that will enable the user to make safe stops on dry, level, clean pavement.
- Bicycles are equipped with a front light that emits white light while the bicycle is in motion, illuminates the highway, sidewalk, or bikeway in front of the bicyclist and is visible from a distance of 200 feet in front and from the sides of the bicycle. Lights must turn on automatically and stay on while a trip is being made, whether the user is in motion or stopped. When stopped, the light must stay on for 60 seconds.
- Bicycles are equipped with a solid or flashing red light with a built-in reflector on the rear that shall be visible from a distance of 200 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. Lights must turn on automatically and stay on while a trip is being made, whether the user is in motion or stopped. When stopped, the light must stay on for 60 seconds.
- Bicycles that are equipped with reflector material on the pedals.
- For bicycles in a station-less system, a bicycle lock that is integrated to the bicycle, contains no detachable parts, and requires user authentication through the bike share operators' network.
- All Shared Bicycles are to be equipped with an on-board GPS device capable of providing data that meets the specifications described in the data sharing requirements.

All electric-assist Shared Bicycles used in systems issued a permit under this program must employ fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, with a motor-powered speed of less than 20 mph. Operators that employ electric-assist Shared Bicycles as part of their fleet composition must notify users prior to their use that their operation on sidewalks is not permitted within the City of Portland and must be indicated on the bicycle and acknowledged explicitly within the rental agreement.

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Safety / Education

The Bike Share operator shall offer to its customers safety training instruction either live or via recording. Permitted systems shall have visible language located on the bicycle that notifies the user of the following requirements:

1. Helmets must be worn in compliance with State law while riding in Portland.
2. Bicyclists must yield to pedestrians on sidewalks.
3. Electric-assist bicycles are not permitted to be operated on sidewalks.
4. Bicyclists must obey all applicable traffic laws.
5. Bicycles may only be parked in docking stations with permits (for station-based systems) and other allowable/non-prohibited bicycle parking locations as outlined below.

Maintenance and Operations:

Maintenance & Operations Plan:

The system operator agrees to file an approved Maintenance and Operations Plan with the City prior to seeking a Street Occupancy Permit. Such Plan shall include, at a minimum:

- Establish minimum response time and process for correcting improperly parked or placed bicycles. Minimum response times may not be more than 2 hours and would preferably be shorter than 2 hours.
- Establish minimum maintenance requirements and/or clear definitions of “functioning” bicycles.
- Establish a mechanism for users to report bikes in need of repair.
- Establish a fleet maintenance plan which identifies 1) strategies and response time to identify and repair or remove damaged or broken bicycles and 2) fleet replacement timelines.
- Establish a 24-hour customer service number be available and staffed at all times the system is operable.
- Provide a contact person from their company with phone number and email (outside of the public customer service number) for the City to contact directly.
- Instruction prior to rental of how and where to park a bike properly.
- Description of target usage rates per bicycle and thresholds for adjusting fleet size or rebalancing strategies in response to low usage (triggering potential fleet reduction) or high usage (triggering potential fleet increase). See Fleet Size above.
- Description of pricing structure, rates, and method(s) of communication to the customer

System Equity/Accessibility:

In addition to any application-based bike use or reservation system, bike share operators must enable a bike use or reservation system for users without smartphones.

System operators shall indicate how they will provide membership and/or system access to low income individuals that may not have a credit/debit card and that meet income eligibility requirements.

Parking

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For Station-based/Hybrid Bike Share Systems, all docking stations require individual licensing by the City for each location and must be obtained prior to receiving a Street Occupancy Permit.

For Hybrid and Station-less Bike Share Systems:

- Shared Bicycles shall be parked in the furniture zone of the sidewalk (i.e., not blocking the pedestrian travelway or frontage zone of buildings), or at a bicycle rack, but in no instance shall a parked Shared Bicycle reduce the clear pedestrian travel space to less than five feet in width.
- Bikes are to be parked in an upright position

Bikes must not be parked:

- So as to reduce pedestrian travel space to a clear path with a width of less than five (5) feet.
- Within 5 feet of a building entrance to private property or a driveway.
- Blocking the vehicular travel area for any vehicle.
- Blocking street furniture such as benches, trash receptacles, etc.
- On a tree planting area.
- Within 5 feet of a curb ramp at an intersection or crosswalk.
- Blocking the bus loading area of a bus transit stop or bus shelter.
- Blocking a handicapped parking space/zone.
- Blocking a commercial loading zone.

The Operator will use all of its communication platforms to educate users on proper bike parking.

The Operator will remove improperly parked bikes in accordance with local law and without prior notice from the City of Portland.

When a bike is incorrectly parked the Operator shall move that bike within two (2) hours of notification, including notifications through its communication platforms.

Any Stationless Shared Bicycle that is parked at one location for more than 7 consecutive days may be removed by City staff and taken to a City facility for storage at the operator's expense.

The operator through its rental agreement shall instruct customers how and where to park a bicycle properly.

Insurance, Indemnity and Performance Bond

Insurance:

At all times during the term of this Permit and any use of public space by Permit holder pursuant to this Permit, Permit holder shall maintain the insurance coverage set forth below:

Each operator of a bike share system and Street Occupancy permit holder (hereinafter "permit holder") will procure and maintain occurrence-based Commercial General Liability Insurance coverage in amounts of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, death and property damage, naming the City as an additional insured thereon, and also Workers' Compensation Insurance coverage to the extent required by law. With respect to the Liability Insurance, the permit holder shall name the City

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as additional insured for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. This provision shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the City under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. Prior to the granting of any Street Occupancy Permit, the permit holder will provide the City and thereafter maintain a certificate of insurance evidencing such coverage, which certificate shall guarantee thirty days' notice to the City of termination of insurance from the insurance provider or agent. The permit holder shall also provide a copy of any endorsement naming the City as additional insured. Deductibles and/or self-insured retentions are not to exceed \$10,000 without prior written approval of the City's Office of Corporation Counsel. The Workers' Compensation insurance shall include an endorsement waiving all rights of subrogation against the City of Portland, its officers or employees. The permit holder will be required to sign an agreement in which it agrees to the fullest extent permitted by law, that the permit holder shall defend, indemnify and hold harmless the City, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including, but not limited to, the costs of defense and attorney's fees arising out of or resulting from any activities conducted under its Street Occupancy permit or the activities contemplated herein, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use therefrom.

Performance Bond.

All permitted operators shall have a performance bond of \$50/bicycle, with a cap of \$10,000. The City may draw upon this bond to recoup costs associated with monitoring and enforcement of these regulations.

Data Sharing/Reporting

Permit holder shall provide a publicly-accessible API that shows at a minimum:

- The current location of any bikes available for rental at all times.
- Anonymized trip data for completed trips.

Bike share operators will provide the city with anonymized trip level data showing trip origins and destinations. Bike share operators have 3 months from initiating service to begin delivering this data to the municipality.

This quarterly data dispatch will include:

- Timestamp, including date & time, for beginning and end of bike trip
- Census Block in which trip began or Latitude/Longitude
- Census Block in which trip ended or Latitude/Longitude
- Estimated Distance traveled during trip, in miles
- Duration of trip, in seconds
- Average number of bicycles in service per month.

Each bicycle should be equipped with a smart technology equipment in order to track ridership data, owned and provided by the bicycle share operator.

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The Operator will keep a record of reported crashes involving their fleet. These records will be sent to the City of Portland on no less than a monthly basis.

Per the Maintenance and Operations Plan, the operator will report monthly the average daily usage per bicycle in the fleet to monitor fleet size and utilization.