

ORDINANCE TO ESTABLISH A PERMITTING PROCEDURE TO REGULATE THE
OPERATION OF BIKE SHARE COMPANIES WITHIN DURHAM

THE CITY COUNCIL OF THE CITY OF DURHAM ORDAINS:

Section 1. Section 66-307 of the ordinance is amended to add the following definitions:

Bike share system means providing bicycles for short-term rentals for point to point trips where, by design of the bike share operator, the bicycles are intended to remain in the public way, even when not being rented by a customer.

Bike share operator is any entity that owns and/or operates a bike share system.

Customer means a person that rents or uses a bicycle from a bike share operator.

Department means the city's transportation department.

Director means the director of the city's transportation department

Public way means the definition provided in section 62-50.

Section 2. The following section is added to Division 2 of Article V of Chapter 66 of the City Code:

Sec. 66-314. – Bike Share System Permitting

- (a) Unlawful to operate without authorization: It shall be unlawful for a bike share operator to provide a bike share system within the city without first obtaining a permit from the department.
- (b) Authorization: A bike share operator shall apply for a permit with the department to provide a bike share system in the city.
- (c) Bike share system permits will be approved by the director or his or her designee. Permits will be effective for a period of one year and are renewable annually.
- (d) All bicycles used in a bike share system shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles, as amended. Additionally, permitted bike share operators shall meet the safety standards outlined in ISO 43.150 – Cycles, subsection 4210, as amended.
- (e) All bicycles shall meet the North Carolina General Statutes 20-129(e) – Lamps on bicycles.
- (f) All permitted bike share systems shall include visible language within the bike share operator's mobile and web application that notifies the customer that:
 - a. People on bicycles are encouraged to wear helmets.
 - b. People on bicycles must follow all traffic laws.
 - c. Bicycles are not allowed to ride on the sidewalk

- (g) Permitted bike share operators are responsible for educating customers on how to safely ride or operate a bicycle, including knowledge of laws applicable to riding and operating a bicycle in the city.
- (h) At the time of application for a permit, the bike share operator shall provide proof of general commercial liability insurance and the bike share operator shall maintain that level of insurance throughout the term of the permit.
- (i) The permit will include a commitment from the bike share operator to defend and indemnify the city from and against all claims and liabilities that arise from the bike share operator and its customer's acts or omissions in the public way relating to the bicycles or stations that are used in the bike share operator's bike share system.
- (j) A permit is only valid for operations within the city public way. A bike share operator shall not restrict use of its bike share system within certain geographical areas of the city unless approved by the city. Permission to operate the bike share system outside the public way shall require permission of appropriate department, agency, or property owner(s); the bike share operator shall have a means of communicating to the customer when the bicycle has been operated in non-permitted areas. The communication to the user shall be sent electronically at the end of the ride.
- (k) All pricing charged to the customer shall clearly explain structure for ride and time period as well as fees for additional or overage periods. The maximum charge should be clearly stated.
- (l) Bicycles shall not be parked in a way that may impede the regular flow of travel in the public way or otherwise cause a violation of the City Code. Bicycle share operators shall inform customers on how to park a bicycle properly. Bicycles shall be upright when parked. Any bicycle that is parked in violation of the permit or City Code shall be re-parked in a correct manner or shall be removed by the bike share operator in accordance with the following:
 - a. 6am to 6pm on weekdays, not including holidays - within three hours of receiving notice from the city,
 - b. All other times – within 12 hours of receiving notice from the city.
- (m) The city retains the right to limit and/or create specific locations where bicycles shall be parked.
- (n) No bicycle shall be parked in one location for more than 7 consecutive days.
- (o) All permitted bike share operators shall provide, on every bicycle, contact information of the bike share operator including the website and phone number.
- (p) All permitted bike share operators shall have a 24-hour customer service phone number for customers to report safety concerns, complaints, or ask questions.
- (q) All permitted bike share operators shall have a staffed operations center in the city.
- (r) All permitted bike share operators shall provide the department with a direct contact for bicycle share operator staff capable of rebalancing bicycles (moving bicycles from one location to another). All permitted bike share operators shall relocate or rebalance bicycles

daily. The City retains the right to determine specific locations or areas for relocating or rebalancing bicycles. Failure to properly relocate or rebalance bicycles shall be a violation of the permit, which may result in permit revocation.

- (s) All permitted bike share operators shall provide an option for users without a smart phone and/or credit card to use the bike share system.
- (t) All permitted bike share operators shall provide the city with a performance bond in an amount determined by the Director to be sufficient to cover the obligations of the bike share operator under the permit. The form of the bond shall be approved by the department and shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina. The bond shall guarantee the performance of all the obligations of the bike share operator under issued permit. If a permitted operator increases the size of their fleet, the performance bond shall be adjusted appropriately before deploying additional bicycles.
- (u) A permitted bike share operator shall be responsible for costs of repair to public infrastructure damaged by use of its bicycles by its customers, and costs incurred by the city in removing and storing bicycles that have been improperly parked, including under the circumstances where a bike share operator fails to remove bicycles in violation of its permit or in case its permit is terminated.
- (v) Any inoperable bicycle, or any bicycle that is not safe to operate shall be removed from the public way within 24 hours of notice, and shall be repaired before being put back into service.
- (w) All bike share operator applicants shall state the desired maximum fleet size in their application. Permitted bike share operators shall notify the department if they plan to change their fleet size two weeks before deployment; and include the additional permit issuance fee for the expanded fleet and documentation of their updated performance bond. The Director shall have the authority to limit a bike share operator's bike fleet numbers in his or her reasonable discretion to protect the safety of the traveling public and integrity of the bike share system itself and entire transportation system within the public way.
- (x) Bike share operators shall not discriminate against low and moderate income residents of the city. Permitted bike share operators must deploy and maintain a sufficient number of bicycles to satisfy customer demand within census tracts of low median income areas of the city as defined in the permit and determined by the Director.
- (y) Every bicycle shall have a unique identifier that is visible to the user on the bicycle.
- (z) All permitted bike share operators shall provide anonymized data regarding the number of bike share customers and trips to inform and support safe, equitable and effective management of the bicycle share system throughout the city, and for transportation planning efforts. The bike share operator user agreement shall clearly indicate this data will be collected and shared with the city. If a permitted operator has a signed agreement with a university partnering with the city, they are exempt from providing data directly to the city but must show they are complying with the university agreement.
- (aa) All permitted bike share operators shall keep records of maintenance and reported collisions. Records shall be shared on a regular basis with the city via email during intervals determined by the Director and stated in the permit.

- (bb) To operate in the city, a bike share operator shall be required to pay an initial permit application fee and a permit issuance fee (per bicycle deployed). In subsequent years, a bike share operator shall be required to pay an annual permit renewal fee and permit issuance fee (per bicycle deployed). All fee amounts shall be established according to the fee schedule set from time to time by city council.
- (cc) If city crews are required to relocate or remove bicycles from any location where a bicycle is prohibited, a bicycle relocation fee shall be assessed. The fee amount shall be established according to the fee schedule set from time to time by city council.
- (dd) The city reserves the right to terminate a permit and require that the entire fleet of bicycles be removed from city streets if an operator fails to comply with its permit or violates the City Code.
- (ee) A permit does not grant exclusive rights to operate a bike share system in the public way.

Section 3. This ordinance is effective upon adoption by the city council.

**APPROVED BY
CITY COUNCIL**

OCT 16 2017

CITY CLERK

Robert Gray