

STAFF REPORT

DATE: April 3, 2018

TO: City Council

FROM: Brian Mickelson, Assistant City Engineer
Brian Abbanat, Senior Transportation Planner
Jennifer Donofrio, Bicycle/Pedestrian Coordinator

SUBJECT: Bicycle Share Business Ordinance

Recommendations

1. Introduce Ordinance (Attachment 1) amending the Davis Municipal Code to:
 - a. Add Article 6.05 to the Davis Municipal Code to Establish Permitting and Regulations for Bicycle Share Businesses in the City; and
 - b. Amend Article 27.02.040 Traffic, Parking and Bicycles in Chapter 27 Parks and Open Space Areas to require people to lock bicycles to bicycle racks (i.e., not on fences, poles, trees, or other structures).

Fiscal Impact

Staff time was expended to prepare a new Ordinance, amend existing sections of the Davis Municipal Code, develop a Bicycle Share Business Application, and permitting process. Staff required support from the City legal consultant to draft the new Ordinance and modify the Davis Municipal Code.

Council Goals and Policies

While this project does not directly meet a specific City Council goal, it is consistent with and supports the following City Council Goals:

Goal 2 – Drive a Diverse and Resilient Economy, Objective 3: Address the needs of new businesses and business types identified as desirable additions to our economic diversity and sustainability.

Goal 4 – Build and Promote a Vibrant Downtown, Objective 1: Improve downtown for motor vehicle, bicycle, and pedestrian travel.

Goal 7 – Ensure a Safe and Healthy Community, Objective 5: Pursue and promote policies that promote encourage safe and healthy lifestyles, Task D. Provide and enhance opportunities for outdoor fitness and exercise.

This effort also supports an Action item in the General Plan Transportation Element in the Bicycling and Walking section:

Policy TRANS 4.4 – Provide pedestrian and bicycle amenities, Action C: Establish a bicycle sharing program focused initially around the train station and UC Davis campus.

In addition, the City of Davis Bicycle Action Plan Section 5.3 Regional Bicycle Share System states that the primary goals of a bicycle share system in Davis are to foster bicycle transportation between UC Davis campus and the Davis train station, to connect transit stops with shopping centers and the downtown, and to offer greater, regional, multimodal transportation options.

Background and Analysis

Bicycle share is a service-orientated business, which provides shared bicycles to use on a short-term basis for a price. Anyone with a membership to the bicycle share business can check out a bicycle and ride. People use bicycle share for recreation, commuting, exercise, or other trips. It helps people get to transit stops more easily, connect to different neighborhoods, shops, restaurants, and jobs, and can help people be more active.

Bicycle share has many environmental and health benefits. Bicycle share can be used to replace motor vehicle trips, which helps the City reduce vehicle emissions, air pollution, and noise. Studies show that electric-assist bicycle share introduces people to biking including senior citizens and people with disabilities. Riding bicycle share can increase physical activity and improve health. Bicycle share is also a great way for tourists and visitors to explore Davis.

As a result of these benefits, the Sacramento Council of Governments (SACOG) has been working with the cities of Davis, Sacramento and West Sacramento as well as UC Davis and Sacramento State to bring bicycle share to our region. In 2016, JUMP Bikes, a private bicycle share business, selected through a competitive bid process will launch a 900-bicycle electric-assist system within the region.

In preparation for bicycle share arriving, Staff has been working on developing processes and procedures for bicycle share businesses to operate in Davis. This includes the development of a new Bicycle Share Business Ordinance (Attachment 1), a Bicycle Share Business Application (Attachment 2) with a business expansion process (Attachment 3), and amendments to the Davis Municipal Code. These new rules, regulations and processes are being proposed to ensure that bicycle share businesses operating in Davis are safe and that our sidewalks, streets, and pathways will remain accessible.

In addition to bicycle share becoming popular, shared electric scooter businesses are popping up in California. Staff is aware of the City Council's interest in developing regulations for shared electric scooters and plans to address this in the future.

Bicycle share Business Ordinance

Adopting the attached Ordinance will establish rules and regulations governing the operation of bicycle share businesses in the City; ensuring bicycle share programs are consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public right-of-ways.

Below is a table that highlights the objectives of the Ordinance, how the objectives will be achieved and what is required from the Applicant. The proposed, draft application forms developed by Staff are included as Attachments 2 and 3. Staff used the City of Sacramento bicycle share ordinance and guidance from the North American Bike Share Association to help inform the creation of this ordinance.

**Table 1
Bicycle share business ordinance objectives**

Ordinance and Bicycle Share Business Application Objectives	Achieve Objectives by:	Would require applicant to:
Ensure safe operation of bicycle share in the City.	<ul style="list-style-type: none"> • Establish a bicycle share business application. 	Submit: <ul style="list-style-type: none"> • Business plan • Bicycle standards • Maintenance plan • Rebalance plan • Insurance.
Protect the public right-of-way from uncontrolled, unmanaged encroachment. Staff wants to ensure that ADA requirements are met for access to sidewalks by designating where bicycles can be parked. Prohibit bicycles from being locked to trees, trash cans, blocking fire hydrants, ramps, and entry ways.	<ul style="list-style-type: none"> • Amending Article 27.02.040 Traffic, Parking and Bicycles in Chapter 27 Parks and Open Space Areas to require people to lock bicycles to bicycle racks. • Imposing requirements regarding adequate and approved bicycle parking 	<ul style="list-style-type: none"> • Ensure that bicycle share bicycles are not obstructing sidewalks and pathways. • Bicycle share businesses will be required to provide 1.5 bicycle spaces for each bicycle share bicycle in Davis, subject to approval by the Public Works director and obtaining a valid encroachment permit. The primary purpose of the bicycle share bicycle parking is to provide bicycle parking for bicycle share. If there is space available on these racks, then the public may also use them.
Ensure compensation for use of public right-of-way.	Establishing fees for bicycle-share bicycle businesses to obtain business permit and encroachment permit.	Staff will return to Council with a Resolution to set permit fees for this Ordinance.
Regulate the pedal-assist speed of bicycle share bicycles.	<ul style="list-style-type: none"> • Establishing a requirement that bicycle share bicycles must be equipped with software to other mechanism to prevent bicycles from providing assistance when the bicycle exceeds 15 miles per hour. 	Comply with requirement.
Ensure equitable access and widespread investment in the City.	Establish bicycle fleet expansion process.	Require City Manager approval for expansion.

Ensure Safe Operation of Bicycle Share in the City

Staff is recommending a Bicycle Share Business Permit Application, which would include the following:

Bicycle standards

All bicycle share businesses would need to comply with these bicycle standards.

1. Comply with the California vehicle code requirements for bicycle lights and reflectors
2. The ability to adjust seat heights
3. Electric bicycles shall be equipped with software or other mechanism to prevent them from providing assistance when the bicycle exceeds 15 miles per hour.
4. Tamper-resistant hardware
5. Withstand being outdoors for 5 years
6. Include a basket
7. Have a bicycle lock
8. Bear a visible business name, telephone number, and identification number on the bicycle
9. Be equipped with GPS for real-time location data

Business Plan

1. A business plan that demonstrates that the bicycle share business will provide customers with rates that are understandable and clearly communicated to the customer.
2. Bicycles must be operational for 24-hours a day every day.
3. A method for providing the City with trip data and bicycle availability data on a monthly basis.
4. An electronic payment system that complies with the Payment Card Industry Data Security Standards.
5. A proposed service area map in ESRI shape file format
6. A plan for installing 1.5 bicycle rack spaces for every bicycle share bicycle in service to ensure adequate bicycle parking for all.
7. A plan for educating customers that bicycles not in use must be locked to bicycle racks.
8. A privacy policy that safeguards customers' personal, financial, travel and usage information.

Maintenance and Repair Plan

1. A plan for routine maintenance inspections and cleaning performed by the bicycle share operator at least every six weeks or 200 miles.
2. A method for providing full-service maintenance for bicycles.
3. A method for customers to report issues and a 24-hour customer service number.

Rebalancing and Relocation Plan

1. A plan for rebalancing the bicycle share bicycles to and from high use areas within peak operating hours.
2. Relocating and rebalancing bicycles within two hours in compliance with the proposed bicycle share business ordinance.

Community Outreach Plan

1. Develop a plan to education and promote to city residents the proper use, benefits, and access to bicycle share bicycles.

Insurance

Provide insurance as outlined in the new Bicycle Share Business Ordinance.

Fee for Reviewing Bicycle Share Application

Staff will return with a proposed fee schedule applicable to bicycle-share business applications. The ordinance authorizes Council to impose, by resolution, the following fees: application fee, renewal fee, and fleet-expansion application fee, which is required if a bicycle-share business proposes to increase the number of bicycle-share bicycles available in the City. Staff is estimating at this time that an application processing fee of about \$2,000 will be required to cover the costs associated with reviewing and permitting the bicycle share business pursuant to the ordinance. This nonrefundable fee pays for 12 hours of Staff time at the fully burdened hourly rate of \$171. If Staff time exceeds 12 hours, the applicant will be notified and charged for additional hours. This fee does not include costs associated with encroachment permits or other necessary permits.

Protect the Public Right-of-Way from Uncontrolled, Unmanaged Encroachment

Staff is recommending the following amendment to the Davis Municipal Code to ensure that the public right-of-way is accessible to all. Staff wants to prevent “self-locking” bicycle share bicycles from being locked anywhere not intended for bicycle parking. This style of bicycle share is creating blight and nuisance issues in other cities.

Amend Article 27.02.040 Traffic, Parking and Bicycles in Chapter 27 Parks and Open Space Areas in the Davis Municipal Code

Below, the underlined text are the proposed changes to this article.

No person using a park shall:

(a) Fail to comply with all applicable provisions of the Vehicle Code of the state in regards to equipment and operation of vehicles;

(b) Leave a bicycle, including an electric bicycle, unattended in a place other than a bicycle rack when such is provided and there is a space available.

(c) Lock or secure a bicycle, including an electric bicycle, to a fence, pole, tree or other structure not intended for bicycle parking.

The purpose of this amendment is to:

- Protect the public right-of-way from uncontrolled, unmanaged encroachment.
- Ensure that ADA requirements are met for access to sidewalks by designating where bicycles can be parked.
- Prohibit bicycles from being locked to trees, trash cans, blocking fire hydrants, ramps, and entry ways.

Regulate the Pedal-Assist Speed of Bicycle share bicycles

Staff is proposing that the Bicycle Share Business Ordinance include a requirement that all bicycle share electric bicycles be equipped with a software or other mechanism to prevent the bicycles from providing assistance when the bicycle exceeds 15 miles per hour. A governor restricting the pedal assist to 15 mph does not prevent the users from pedaling faster than 15 mph. The user would need to use their human-power to pedal faster than 15 mph. This requirement is in section 6.05.170 *Bicycle-share bicycles* of the proposed ordinance.

Here are several reasons why Staff is recommending this restriction:

- The bicycle speed limit at UC Davis campus is 15 miles per hour. This restriction would help people to not exceed the UC Davis speed limit.
- Electric bicycles are heavier than normal bicycles and can be more challenging to control especially for older adults and people new to biking.
- Our Davis pathways are for slow moving traffic and not for high-speeds.
- Increased speeds directly correlates with increased damage and injuries. The City of Davis has several policies in place to reduce vehicle travel speeds to improve safety and mobility for all Davis travelers.

Staff wants to be clear that this speed restriction only effects bicycle share bicycles. All other electric-assist bicycles must comply with the California Vehicle Code standards on speed. Customers are still required at all times to comply with posted speed limits, regardless of a bicycle-share bicycle's maximum speed.

Ensure Equitable Access and Widespread Investment in the City

Bicycle share in Davis and at UC Davis has the potential to grow significantly and become a part of our Davis bicycle culture. As bicycle share grows, Staff wants to ensure that bicycle share expands to neighborhoods beyond those that primarily serve UC Davis. Staff envisions bicycle share serving residents and visitor all over Davis. As a result, Staff is proposing the following strategies to ensure that bicycle share is equitable.

1. Staff is working on developing a process for developers and private landowners interested in including bicycle share stations on their properties.
2. Staff is incentivizing bicycle share stations outside of the downtown core with a lower per bicycle parking space fee for operating in the public right-of-way.
3. Staff has developed a bicycle share expansion application and process of approval. Staff is recommending that the City Manager or designee approve the Bicycle Share Expansion Applications.

Staff understands that bicycle share is new to Davis. This proposed Ordinance and Business Applications are intended to serve as a starting point as bicycle share businesses begin to operate in Davis. Overtime, elements of the Bicycle Share Business Ordinance might change as technology and bicycle share evolve.

Attachments

1. Bicycle share Business Ordinance
2. Bicycle share Business Application
3. Bicycle share Business Expansion Application

ORDINANCE NO. XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS ADDING ARTICLE 6.05 TO CHAPTER 6 OF THE DAVIS MUNICIPAL CODE TO ESTABLISH PERMITTING AND REGULATIONS FOR BIKE SHARE BUSINESSES AND TO AMEND SECTION 27.02.040 TO PROHIBIT LOCKING BICYCLES AND ELECTRIC BICYCLES TO TREES, POLES, OR FENCES IN CITY PARKS

WHEREAS, the City desires to authorize and permit “bicycle-share businesses” to operate in the City to provide opportunities for visitors and residents of the City to access, use and rent self-service bicycles; and

WHEREAS, some bicycle-share bicycles may be self-locked anywhere within the City, making it difficult for the city to ensure that these bicycles are placed safely, upright, and out of the way of pedestrian walkways, bicycle paths, and roadways; and

WHEREAS, the City Council therefore finds that regulations governing bicycle-share businesses are necessary to promote the general health, safety, and welfare by ensuring safe operation of bicycle-share businesses in the City; protecting the public right-of-ways from uncontrolled, unmanaged encroachment, creating clear expectations for bicycle-share management and operations, establishing responsible parties, and processes to address nuisances, and ensuring equitable access and widespread investment in the City; and

WHEREAS, the purpose of this Ordinance is to establish bicycle-share business requirements that achieve the City’s goals of encouraging bicycling and providing adequate bicycle parking to meet the needs of shoppers, visitors, and residents while also reducing the potential for bicycles to block or interfere with pedestrian and emergency service use and access to all streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic; and

WHEREAS, this Ordinance makes minor additional revisions to the Municipal Code to account for bicycle share bicycles and related parking concerns to ensure bicycles are not improperly locked to trees, fences, poles or other structures not intended for bicycle parking.

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are hereby found to be true and are incorporated herein by this reference.

SECTION 2. Amendment. The Davis Municipal Code is hereby amended to add Article 6.05 to Chapter 6 of the Davis Municipal Code, titled “Bicycle-Sharing Businesses and Regulations,” to read in full as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3. Amendment. Davis Municipal Code, Section 27.02.040 Traffic, parking, bicycles, is hereby amended to read in full as follows (*additions indicated in italics and underlined*):

No person using a park shall:

(a) Fail to comply with all applicable provisions of the Vehicle Code of the state in regard to equipment and operation of vehicles;

(b) Leave a bicycle, including an electric bicycle, unattended in a place other than a bicycle rack when such is provided and there is a space available.

(c) Lock or secure a bicycle, including an electric bicycle, to a fence, pole, tree or other structure not intended for bicycle parking.

SECTION 4. Severability. If any provision, clause, sentence, or paragraph of this Ordinance or the Application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. Effective Date. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law. This Ordinance shall take effect thirty (30) days after its adoption.

INTRODUCED on the 3rd day of April, 2018 and PASSED AND ADOPTED by the City Council of the City of Davis on this _ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robb Davis
Mayor

ATTEST:

Zoe S. Mirabile, CMC
City Clerk

EXHIBIT A

Article 6.05 BICYCLE-SHARING BUSINESSES AND REGULATIONS

6.05.010 Definitions.

6.05.020 Bicycle-share business permit required.

6.05.030 Application for a bicycle-share business permit.

6.05.040 Term of bicycle-share business permits.

6.05.050 Application, renewal, and fleet expansion fees.

6.05.060 Bicycle fleet expansion.

6.05.070 Bicycle-share business permit renewal.

6.05.080 Issuance of a bicycle-share business permit.

6.05.090 Grounds for denying a bicycle-share business permit.

6.05.100 Insurance requirements.

6.05.110 Bicycle parking spaces required.

6.05.120 Retrieval of bicycle-share bicycles.

6.05.130 Grounds for suspending, revoking, or modifying a permit.

6.05.140 Right of appeal from denial, suspension, modification, or revocation of a bicycle-share business permit.

6.05.150 Impoundment.

6.05.160 Violations.

6.05.170 Bicycle-share bicycles.

6.05.010 Definitions.

As used in this chapter, the following terms shall have the following meanings:

“Bicycle fleet” or “fleet” means all bicycles operated by a specific bicycle-share business.

“Bicycle parking space” means any space in the public right-of-way in which a bicycle-share bicycle may be parked in compliance with this chapter.

“Bicycle rack” or “rack” means a stationary fixture, including charging stations, intended to be used for securely attaching a bicycle to prevent movement or theft.

“Bicycle-share bicycle” means a bicycle available to persons for renting on a self-service basis.

“Bicycle-share business” means a business owning, managing, or making available bicycle-share bicycles for hire.

“Bicycle-share operator,” means a person that manages, owns, or operates a bicycle-share business.

“City manager” means the city manager or designee.

“Customer” means any person using a bicycle-share bicycle.

“Director of community development” means the city’s director of community development department or designee.

“Director of public works” means the city’s director of public works or designee.

6.05.020 Bicycle-share business permit required.

- (a) No person shall operate a bicycle-share business unless the person holds a valid bicycle-share business permit issued pursuant to this Article.
- (b) Bicycle-share business permits are the property of the city and are not transferable.

6.05.030 Application for a bicycle-share business permit.

An application for a bicycle-share business permit or its renewal shall be filed with the department of public works on a form prescribed by the director of public works, approved by the city manager, and shall include, at minimum:

- (1) The applicant’s true name, address, and telephone number; and the true and fictitious name, address, and telephone number of the bicycle-share business;
- (2) Written evidence that the applicant is an owner or legal representative of the bicycle-share business;
- (3) The name, address, and telephone number of a local point of contact;
- (4) A copy of a valid business license issued by the city;
- (5) Proof of compliance with the insurance requirements set forth in this article; and
- (6) Such other material as the city manager or director of public works may require to carry out the purposes of this chapter.
- (7) A nonrefundable bicycle-share business permit application fee.

6.05.040 Term of bicycle-share business permits.

Bicycle-share business permits are valid for one year, unless suspended or revoked sooner. Bicycle-share business permits may be renewed pursuant to 6.05.070.

6.05.050 Application, renewal, and fleet expansion fees.

- (a) The following fees are hereby established and imposed:
 - (1) Bicycle-share business permit application fee;
 - (2) Bicycle-share business permit renewal application fee;
 - (3) Bicycle-share business fleet expansion fee;
- (b) The amounts of the fees described in subsection (a) shall be established by resolution of the city council.

6.05.060 Bicycle fleet expansion.

- (a) No bicycle-share operator shall expand its bicycle fleet beyond the permitted amount specified in the bicycle-share business permit, until such expansion has been approved by the director of public works pursuant to this article.
- (b) An application to expand a bicycle-share business's fleet shall be filed with the department of public works on a form prescribed by the director of public works.
- (c) Every application for expansion of a bicycle fleet shall be accompanied by a nonrefundable fleet expansion fee.
- (d) Notwithstanding any provision to the contrary in this chapter, the city reserves the right to limit the number of bicycle-share bicycles to be operated by the bicycle-share business, based on the projected impact to city streets, sidewalks, paths, driveways, doorways, and other avenues of vehicular and pedestrian traffic.

6.05.070 Bicycle-share business permit renewal.

A bicycle-share business permit is renewable upon the filing and approval of a renewal application and payment of the nonrefundable permit renewal fee. The renewal application shall be on a form prescribed by the city manager.

6.05.080 Issuance of a bicycle-share business permit.

- (a) Except as provided in section 6.05.130, a bicycle-share business permit may be issued or renewed if there are no grounds for denial in accordance with section 6.05.090, and after the director of public works has:
 - (1) Physically inspected the applicant's bicycle-share bicycles to ensure compliance with this chapter and applicable state laws; provided, however, that the director of public works may accept proof of compliance with this chapter and the applicable state requirements for operating a bicycle-share bicycle in lieu of conducting an inspection; and
 - (2) Received a determination from the director of community development that the proposed bicycle-share business location and storage location, if within the city, complies with applicable zoning regulations and other applicable laws.
 - (3) Confirmed the bicycle-share business' compliance with the bicycle parking space requirement, pursuant to section 6.05.110.

6.05.090 Grounds for denying a bicycle-share business permit.

The director of public works may deny an application for a bicycle-share business permit or its renewal on the following grounds:

- (a) The application is incomplete.

- (b) The applicant is in violation of any provision of this article.
- (c) The applicant is delinquent on any payment of money to the city, including any fees, fines, penalties, or taxes.
- (d) The applicant has had its bicycle-share business permit revoked within three years of the date the application was submitted.
- (e) The applicant's operation of a bicycle-share business would be a threat to the public health, safety or welfare.

6.05.100 Insurance requirements.

- (a) A bicycle-share operator shall maintain at all times in full force and effect at its sole expense, the following minimum insurance:
 - (1) General liability for bodily injury, including death, of one or more persons, property damage, and personal injury. Coverage shall include all customers, and shall be at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000.00) per occurrence.
 - (2) Automobile liability insurance providing protection against claims of bodily injury, including death, of one or more persons, personal injury, and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles. Coverage shall be at least as broad as ISO CA 00 01 (any auto), with limits of not less than one million dollars (\$1,000,000) per accident.
- (b) The city, its officials, and employees shall be covered by policy terms or endorsement as additional insureds regarding general liability and automobile liability arising out of activities performed by or on behalf of the bicycle-share operator.
- (c) The bicycle-share operator's insurance coverage shall be primary insurance as it pertains to the city, its officials, and employees.
- (d) The city must be provided with 30 days' prior written notice of cancellation or material change in the policy language or terms by both the bicycle-share operator and the insurer.
- (e) The bicycle-share operator shall furnish the city with certificates and endorsements evidencing the insurance required, which must be maintained during the term of a bicycle-share business permit. The city may suspend, modify, or revoke a bicycle-share operator's vehicle permit if current certificates of insurance and required endorsements have not been provided.

- (f) Notwithstanding the above, the city may, in its sole discretion, determine that different or greater insurance requirements are necessary for the public health and safety.

6.05.110 Bicycle parking spaces required.

- (a) No person shall operate a bicycle-share business unless and until they have provided and maintain at least one and one-half bicycle parking spaces in the city for every bicycle-share bicycle to be operated by the bicycle-share business, as approved by the city. The bicycle parking spaces shall be provided on bicycle racks that satisfy the city's bicycle parking standards, to the satisfaction of the director of public works.
- (b) In approving a bicycle-share business' proposed bicycle parking spaces, the director of public works shall consider, and may condition approval, on the following:
 - (1) The proposed size, materials, and location of the bicycle racks, consistent with all applicable zoning requirements and city regulations;
 - (2) The placement of the racks so as not to obstruct the public's use of the sidewalk and/or street;
 - (3) Any other conditions as may be necessary for protection of the public safety and welfare.
- (c) The installation of bicycle parking spaces and bicycle racks in the city are subject to encroachment permit requirements, as set forth in section 35.01.040 of this code, which may be issued in accordance with the requirements set forth in this section.

6.05.120 Retrieval of bicycle-share bicycles.

- (a) A bicycle-share business shall, within two hours of notice from the city, retrieve their bicycle-share bicycles that are in any of the following conditions:
 - (1) Bicycle-share bicycles that are inoperable or not safe to operate, and parked in the public right-of-way;
 - (2) Bicycle-share bicycles that are not locked to a bicycle rack in an upright position, or that otherwise violate city bicycle parking and use regulations;
 - (3) Bicycle-share bicycles with a battery or motor determined by the city to be unsafe for public use.

6.05.130 Grounds for suspending, revoking, or modifying a permit.

- (a) The director of public works may suspend, revoke, or modify any bicycle-share business permit issued pursuant to this chapter on any of the following grounds:
 - (1) That the permitted bicycle-share business is being operated in a manner that constitutes a nuisance, or is injurious to the public, health, safety, or welfare;

- (2) The operation of the bicycle-share business violates any condition of the permit or city approved application and plans, including any conditions or requirements imposed in an encroachment permit obtained for providing bicycle parking spaces;
- (3) The bicycle-share business fails to pay any fines, penalties, fees or damages lawfully assessed upon it;
- (4) The bicycle-share business violates any provision of this chapter or any other applicable law;
- (5) The bicycle-share business fails to collect its bicycle-share bicycle from the city within 30 calendar days of receiving written notice from the city of impoundment pursuant to section 6.03.150 of this code; or
- (6) Circumstances that would have been grounds for denial of the permit application.

6.05.140 Right of appeal from denial, suspension, modification, or revocation of a bicycle-share business permit.

Any applicant or permittee aggrieved by a decision of the director of public works in denying, suspending, modifying or revoking a permit, or imposing conditions on the issuance of a permit or permit renewal, may appeal the decision to the city manager in accordance with the following procedures:

- (a) Appeal to city manager or designee.
 - (1) Any applicant or permittee who desires to appeal a decision of the director of public works may appeal the decision by submitting a written appeal to the city manager within ten calendar days from the date of service of the notice of denial, suspension, modification, revocation, or conditioned approval or renewal. The written appeal shall contain:
 - (A) A brief statement in ordinary and concise language of the specific decision or condition protested, together with any material facts claimed to support the contentions of the appellant;
 - (B) A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;
 - (C) The signatures of all parties named as appellants and their official mailing addresses; and
 - (D) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

(2) Upon receipt of a timely filed appeal, the city manager may hire or appoint a hearing officer or may serve as the hearing officer.

(3) Upon receipt of any appeal filed pursuant to this section, the hearing officer shall calendar it for hearing within fifteen calendar days.

(4) Written notice of the time and place of the hearing shall be given at least seven calendar days prior to the date of the hearing to each named appellant either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address(es) shown on the appeal.

(5) Failure of any person to timely file an appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and decision, or any portion thereof.

(6) Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

(7) In the case of a suspension, modification, or revocation of a permit or permit renewal, the permittee may continue to conduct bicycle-share business operations during the pendency of any appeal.

(b) Hearings—Generally.

(1) At the time set for hearing, the hearing officer shall proceed to hear the testimony of the director of public works, the appellant, and other competent persons, including members of the public, respecting those matters or issues specifically raised by the appellant in the notice of appeal.

(2) The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

(3) The hearing officer may, upon request of the appellant or upon request of the city, grant continuances from time to time for good cause shown, or upon his or her own motion.

(4) In any proceedings under this chapter, the hearing officer has the power to administer oaths and affirmations and to certify to official acts.

(c) Conduct of hearing.

(1) Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(2) Oral evidence shall be taken only upon oath or affirmation.

(3) Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

(4) The hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(5) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.

(6) Each party shall have these rights, among others:

(A) To call and examine witnesses on any matter relevant to the issues of the hearing;

(B) To introduce documentary and physical evidence;

(C) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(D) To impeach any witness regardless of which party first called the witness to testify;

(E) To rebut the evidence presented against the party; and

(F) To represent him, her, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.

(7) In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

(d) Form and contents of decision—Finality of decision.

(1) If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, modify, or revoke the permit, the hearing officer shall affirm the director of public works' decision to deny, suspend, modify, revoke or condition the permit. Following the hearing and after reviewing the testimony and evidence presented at the hearing, the city manager shall issue a decision, or if the city manager appointed a hearing officer, the hearing officer shall issue a recommendation to the city manager, regarding the propriety of the police chief's

determination. The decision or recommendation shall be in writing and shall contain findings of fact and a determination of the issues presented. The city manager shall accept, amend and accept, or reject a hearing officer's recommendation.

(2) The city manager's determination of the appeal shall be final.

(3) The final decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be delivered to the appellant personally or sent by certified mail to the address shown on the appeal within ten business days following the conclusion of the hearing.

(4) The decision shall be final when signed by the city manager and served as provided in this section.

6.05.150 Impoundment.

- (a) The city may impound a bicycle-share bicycle that is not retrieved by the bicycle-share business pursuant to section 6.05.120.
- (b) If the city incurs any costs for impounding bicycle-share bicycles pursuant to this section, the bicycle-share business shall reimburse the city for the costs of impoundment within 30 calendar days from the date of written notice of the impoundment from the city.
- (c) In addition to the remedies provided in this section, the bicycle-share business permit may be revoked or suspended for failure to collect the impounded bicycle-share bicycle after 30 calendar days from the city's written notice of impoundment.

6.05.160 Violations.

- (a) In addition to any other remedy allowed by law, any person who violates a provision of this chapter may be subject to criminal sanctions, civil actions, and administrative penalties pursuant to article 1.02.
- (b) Violations of this chapter are hereby declared to be a public nuisance.
- (c) All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the city from the pursuit of any other remedy to enforce this chapter.

6.05.170 Bicycle-share bicycles.

- (a) Bicycle-share bicycles that are electric bicycles as defined in California Vehicle Code section 312.5 shall be equipped with software or other mechanisms to prevent the motor from providing assistance when the bicycle's speed exceeds 15 miles per hour.
- (b) Bicycle-share operators shall additionally ensure that customers are informed of the following:

- (1) Customers shall use bicycle-share bicycles in accordance with all applicable city ordinances, regulations, and state law applicable to bicycles and electric bicycles.
- (2) Customers shall properly secure bicycle-share bicycles to racks, and shall not leave a bicycle-share bicycle unattended and lying on its side on any portion of a sidewalk, street or highway so as to obstruct pedestrian or vehicular travel.
- (3) Customers under age 18 are required by California law to wear a bicycle helmet.



23 Russell Boulevard, Davis, CA 95616

BICYCLE SHARE BUSINESS PERMIT APPLICATION

A. Information on Bicycle Share Business

Business Name: _____

Business Address: _____ City/State/Zip: _____

Phone #: _____ Alt. Phone #: _____

Mailing Address: _____ City/State/Zip: _____

Email Contact: _____ Alt. Email _____

Applicant Name: _____

Title: _____

Mailing Address: _____ City/State/Zip _____

Primary Phone No: _____ Alt. Phone No: _____

Email address: _____

Local Point of Contact Name: _____

Title: _____

Mailing Address: _____ City/State/Zip _____

Primary Phone No: _____ Alt. Phone No: _____

Email address: _____

The applicant shall demonstrate, to the satisfaction of the City, that its bicycle fleet meets the following standards:

1. Be made of high quality, sturdily built, and meet the minimum standards of the United States Consumer Product Safety Commission;
2. Have adjustable seat height to accommodate a wide range of customers;
3. Comply with California Vehicle Code sections 21201 *et seq.* requirements including, but not limited to, reflectors and integrated front and rear lights, and any other applicable laws and regulations;
4. Electric bicycles shall comply with California Vehicle Code subsections 312.5(a), (a)(1), and (c) and section 24016; and any other applicable laws and regulations; notwithstanding the aforementioned, such electric bicycles shall be equipped with software or other mechanism to prevent them from providing assistance when the bicycle exceeds 15 miles per hour;
5. Built with tamper-resistant hardware;
6. Withstand the rigors of outdoor storage and constant use for at least five years;
7. Include a basket;
8. Equipped with hardware to allow the bicycle to be locked to a bicycle rack;
9. Bear a unique identification number made visible to customers;
10. Bear the bicycle share business' name and telephone number in a visible location;
11. Equipped with a GPS capable of providing real-time location data;

C. Business Plan

The applicant shall submit a business plan that demonstrates, to the satisfaction of the City, how the bicycle share business will comply with the following requirements:

1. Bicycles shall be available to customers at an hourly rate, or smaller intervals, which are clearly and understandably communicated to the customer prior to the customer's use of the bicycle;
2. Bicycles must be operational for customers on a 24-hour, seven days per week basis;
3. Method for providing the City with anonymized, aggregated data for trip records and bicycle availability on a minimum of a monthly basis which include the following: trip start date, time,

and location; trip end date, time, and location; trip duration and distance; payment method; and GPS coordinates;

4. An electronic payment system that complies with the Payment Card Industry Data Security Standards. Each transaction shall include the bicycle identification number corresponding to the make and model of the bicycle registered with the City;
5. A proposed service area map in ESRI shapefile format;
6. A bicycle share operator shall install, a minimum of, one and one half (1.5) parking spaces in a bicycle rack for every bicycle share bicycle in service to ensure adequate bicycle parking, at no cost to the City.
7. A plan for educating customers that bicycles not in use must be locked to a bicycle rack and incentivizing customers to lock bicycles to bicycle racks;
8. A privacy policy that safeguards customers' personal, financial, and travel information, and usage including, but not limited to, trip origination and destination data.

D. Maintenance and Repair Plan

The applicant shall submit a maintenance and repair plan that demonstrates, to the satisfaction of the City, how the bicycle share business will comply with the following requirements:

1. Routine maintenance inspections and cleaning performed by the bicycle share operator at least every six weeks or 200 miles;
2. A method for providing full-service maintenance for bicycles;
3. A method for customers to report issues with the bicycle share bicycles including, but not limited to, a 24-hour customer service number.

E. Rebalancing and Relocation Plan

The applicant shall submit a rebalancing and relocation plan demonstrating, to the satisfaction of the City, how the bicycle share business will comply with the following requirements:

1. Rebalancing the bicycle share operator's bicycles to and from high use areas within peak operating hours;
2. Ensuring compliance with Article 6.05 Bicycle-Sharing Businesses and Regulations of the Davis Municipal code; and

3. Relocating or rebalancing bicycles within two hours in compliance with Article 6.05.120 of the Davis Municipal Code.

F. Community Outreach Plan

The applicant shall submit, to the City’s satisfaction, a community outreach plan that:

1. Educates and promotes to City residents the proper use, benefits, and access to its bicycle share bicycles.

G. Application Review Fee

Every application or renewal for a bicycle share business permit shall be accompanied by a nonrefundable fee of \$2,000 to cover the costs associated with the review, permitting, and administration of bicycle share.

H. Operating in the Public Right-of-way Fee

The Public Right-of-Way is intended for public benefit. Any private bicycle share for-profit business operating within the Public Right-of-Way will be charged an annual per bicycle parking fee.

	Annual cost per bicycle, per year
Downtown Core	\$90.55
Outside Downtown Core	\$63.27

I. Required Submission Checklist

Please attach the following documents to your application:

Proof of compliance with the Bicycle Standards (Section B)

A list of the make, model, and unique identification number for each bicycle (Section B)

All listed plans: (Sections C – F)

Application Fee (Non-Refundable): A \$2,000 fee to cover the costs associated with the review and permitting of bicycle share.

Insurance Policy and Indemnification: The applicant’s certificates of insurance, as outlined in city code section 5.95.200.

City of Davis Business License

J. Applicant’s Certification & Indemnification

I certify under penalty of perjury under the laws of the State of California, that I have personal knowledge of the information contained in this application, and that the information contained herein is true and correct, and that I am fully authorized to sign and am signing this application on behalf of the bicycle share business and to bind the bicycle share business.

The applicant, shall indemnify and hold harmless the City and its officers, agents, and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of the applicant or loss of or damage to property, arising directly or indirectly from the applicant's performance of this permit, including, but not limited to, the bicycle share business's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City , except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this application, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of the City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on the applicant or agent or employee. The foregoing indemnity shall include reasonable fees of attorneys, consultants, and experts and related costs and City's costs of investigating any claims against the City. In addition, the applicant specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to the applicant by City and continues at all times thereafter. The applicant shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by the City, or any of its officers or agents, of articles or services to be supplied in the performance of this permit.

Signature: _____

Date: _____

***The information contained in this document is subject
to disclosure under the Public Records Act.***



23 Russell Boulevard, Davis CA 95616

BICYCLE SHARE EXPANSION PERMIT APPLICATION

A. Information on Bike Share Business

Business Name: _____

Business Address: _____ Zip: _____

Phone #: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Email Contact: _____

Email Contact: _____

Applicant Name: _____

Title: _____

Mailing Address: _____ City/State/Zip _____

Primary Phone No: _____ Alt. Phone No: _____

Email address: _____

The applicant shall demonstrate the its fleet of bicycles meet the following standards:

1. Meet the same standards as those approved in the initial Bike Share Business Application.

C. Business Plan

The applicant shall submit a business plan that demonstrates, to the satisfaction of the City, compliance with the following requirements:

1. The same standards as those approved in the initial Bike Share Business Application, as well as;
2. A proposed service area map in ESRI shapefile format, if modified from initial Bicycle Share Application;

D. Maintenance and Repair Plan

The applicant shall submit a maintenance and repair plan that demonstrates, to the satisfaction of the City, compliance with the following requirements:

1. The same standards as those approved in the initial Bike Share Business Application.

E. Rebalancing and Relocation Plan

The applicant shall submit a rebalancing and relocation plan demonstrating, to the satisfaction of the City, compliance with the following requirements:

1. The same methods as those approved in the initial Bike Share Business Application; and
2. An updated plan for rebalancing the bicycle-share operator's bicycle new fleet to and from high use areas within peak operating hours.

F. Community Outreach Plan

The applicant shall submit, to the City's satisfaction, a community outreach plan that:

1. Educates and promotes to City residents the proper use, benefits, and access to the continued use of bike share bikes.

G. Application, Renewal and Expansion Fees

Every application or renewal for a bike share business permit shall be accompanied by a nonrefundable fee of \$2,000 to cover the costs associated with the review, permitting, and administration of bike share.

The Public Right-of-way is intended for public benefit. Any private bike share for-profit business operating within the Public Right-of-Way, will be charged an annual per bike parking fee.

	Annual cost per bike, per year
Downtown Core	\$90.55
Outside Downtown Core	\$63.27

H. Required Submission Checklist

Please attach the following documents to your application:

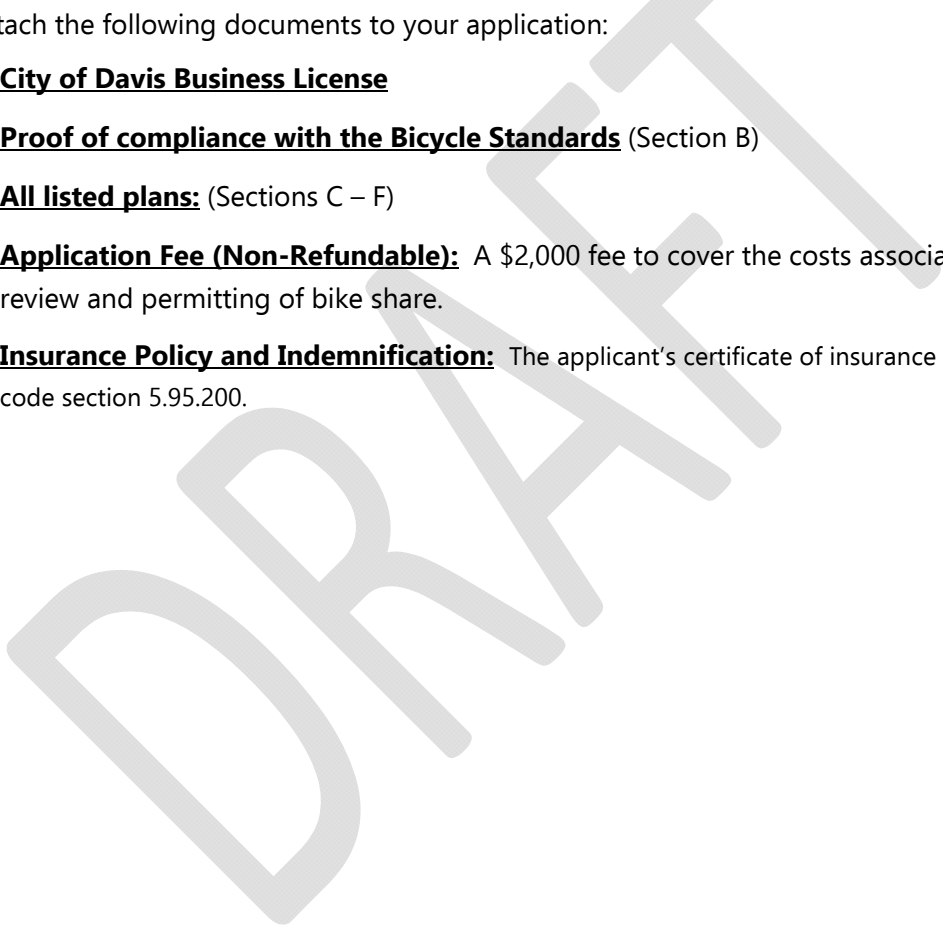
City of Davis Business License

Proof of compliance with the Bicycle Standards (Section B)

All listed plans: (Sections C – F)

Application Fee (Non-Refundable): A \$2,000 fee to cover the costs associated with the review and permitting of bike share.

Insurance Policy and Indemnification: The applicant’s certificate of insurance as outlined in city code section 5.95.200.



I. Applicant’s Certification

I certify under penalty of perjury under the laws of the State of California, that I have personal knowledge of the information contained in this application, and that the information contained

herein is true and correct, and that I am fully authorized to sign and am signing this application on behalf of myself and the bicycle-share business and to bind the bicycle-share business.

The applicant, shall indemnify and hold harmless the City and its officers, agents, and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of the applicant or loss of or damage to property, arising directly or indirectly from the applicant's performance of this permit, including, but not limited to, the bicycle-share business's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this application, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of the City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on the applicant or agent or employee. The foregoing indemnity shall include reasonable fees of attorneys, consultants, and experts and related costs and City's costs of investigating any claims against the City. In addition, the applicant specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to the applicant by City and continues at all times thereafter. The applicant shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by the City, or any of its officers or agents, of articles or services to be supplied in the performance of this permit.

Signature: _____

Date: _____

The information contained in this document is subject to disclosure under the Public Records Act.