

4.10 Philadelphia Department of Streets Regulations Governing a Pilot Program for Dockless Bicycle Sharing

4.10.1 Authority and Scope. These Regulations are promulgated pursuant to Section 9-209 of The Philadelphia Code and establish the framework for a pilot program for the licensing and regulation of Dockless Bicycle Sharing Businesses.

4.10.2 Definitions.

Bicycle. A vehicle composed of two wheels held in a frame one behind the other, propelled by pedals and steered with handlebars attached to the front wheel, including an electric-assist bicycle.

Small Vehicle Sharing Business. The business of making small vehicles available for rental to the public at multiple locations, including the public right-of-way, in which the business does not require that the vehicle be returned after use: to the location from where the vehicle was taken; to a supervised location; to a location on private property; or to a docking station.

Dockless Bicycle Sharing Business or “DBSB.” A small vehicle sharing business that utilizes bicycles or electric-assist bicycles.

Department. The Department of Streets, unless otherwise specified.

4.10.3 License Required. No DBSB shall put a bicycle into service or conduct business in the right-of-way without a license issued under these regulations.

4.10.4 License Application and Approval.

4.10.4.1 License Applications.

4.10.4.1.1 The Department shall accept applications for a license from August 1st, 2019 through August 30th, 2019.

4.10.4.1.2 An application for a license must be filed with the Department on a form approved and issued by the Department which shall require the following:

- a. Detailed information regarding ownership, management and contact information for the applicant;
- b. The applicant’s operational plans, including but not limited to, the number of bicycles to be utilized; planned zones of operation; planned limitations on areas of use; and standards for bicycle operation, parking and locking;

- c. Detailed information regarding the applicant's ability, including financial ability, to meet the operating, equipment, insurance and other standards set forth in these Regulations;
- d. Such additional information as may be requested by the Department such as: in person discussion of the applicant's proposed program; clarification of submitted information; demonstration of operational capabilities; and reference checks for performance in other markets;
- e. Agreement by the applicant to comply with the conditions of the license and the program Standards and Conditions set forth in these Regulations; and
- f. Payment of the application fee.

4.10.4.2 License Approval.

4.10.4.2.1 No License shall be approved unless the Department has determined that:

- a. The applicant has demonstrated the operational and financial capacity to operate its proposed operational plan;
- b. The proposed plan will cause minimum obstruction or inconvenience to other users of the Right-of-Way; and
- c. The plan will otherwise meet the standards and requirements set forth in these Regulations.

4.10.4.2.2 The Department may limit the number of licenses issued during the pilot period to two (2), in order to control regulation and evaluation of DBSB operations during such period. If more than two (2) applicants meet the minimum requirements of these regulations for licensing, licenses shall be issued based on an evaluation of which DBSBs are most likely to cause least disruption of the right-of-way and most likely to carry out their operational plans, in consideration of the totality of all DBSB license applications received.

4.10.4.2.3 License issued under these regulations shall be valid for one year, or such lesser period as specified in the license, unless the Department extends the pilot period for a period of no more than one year, in which case the license term may be extended, accordingly.

4.10.4.2.4 A License may not be transferred to another party or entity without the written approval of the Department.

4.10.5 Standards and Conditions.

4.10.5.1 Licensed DBSB Responsibility. At all times, a licensed DBSB is responsible for compliance with the requirements of these regulations, including with respect to all bicycles in its fleet, regardless of whether the bicycle is in the possession of the licensed DBSB.

4.10.5.2 Bicycle Safety and Maintenance. All bicycles utilized in connection with licensed operations must meet the following standards for safety and usability:

4.10.5.2.1 All bicycles must be in good working order; clean; and safe to operate by a wide range of users.

4.10.5.2.2 Bicycles must comply with all current federal or state statutes for safety and design. Examples of such laws include, but are not strictly limited to:

- a. 16 C.F.R. § 1512
- b. 15 U.S.C. § 2085
- c. ISO Standard 43.150

4.10.5.2.3 Additional requirements include:

- a. Bicycles must be designed in such a manner such that any motor assist is engaged only while the rider is pedaling the bicycle;
- b. Bicycles must be designed such that the electric assist motor is deactivated once the bicycle exceeds a speed of 17 MPH.

4.10.5.2.4 Bicycles must be equipped with a locking mechanism to prevent unauthorized use, theft and vandalism;

4.10.5.2.5 All bicycles must possess a device such as a lock or cable which may be used to securely fasten the vehicle to a fixed object when not in use.

4.10.5.2.6 Each bicycle must be clearly marked with:

- a. Consistent information that identifies it as belonging to a particular, licensed DBSB;
- b. Easily visible customer service contact information for the DBSB, including a phone number and e-mail address; and
- c. A unique identifier number or code for the bicycle that is easily visible.

4.10.5.3 Parking Standards.

4.10.5.3.1 When not in use, bicycles must be parked upright at a lawful location for bicycle parking, in a manner that does not unreasonably interfere with pedestrians, motorists, bicyclists or other road or sidewalk users.

4.10.5.3.2 Bicycles cannot be parked on private property without the property owner's consent.

4.10.5.3.3 A bicycle that is not parked lawfully shall be re-parked or removed within two hours of receiving notice from the City.

4.10.5.3.4 When not in use, bicycles must be secured using a locking mechanism to bike rack or other stationary object clearly marked as a bicycle parking device or object.

4.10.5.4 Bicycle Distribution.

4.10.5.4.1 There shall be a maximum of **1200** vehicles that may be put into use at any one time by a DBSB pursuant to a license.

4.10.5.4.2 Licenses shall be issued solely in connection with the zones of use described in the application and approved License documents. A license may limit the operation of a DBSB solely within a designated zone.

4.10.5.4.3 A License may be limited with respect to the number of bicycles available for use within sub-areas of such zones or in total based on the discretion of the Department.

4.10.5.4.4 No bicycle that is disabled or otherwise unavailable for use shall remain in one location for more than forty-eight hours.

4.10.5.4.5 Bicycles shall be relocated in order to comply with the requirements of these regulations within two (2) hours of any notice provided by the City.

4.10.5.5 Staffing and Other Standards. Licensed DBSBs shall:

4.10.5.5.1 Maintain a customer service system that is easily accessible 24 hours a day, seven (7) days per week. Customer service shall be accessible to users and non-users of the program.

4.10.5.5.2 Have an operations center within the City that is staffed during the operating hours of 7 AM to 10 PM with employees who have decision-making authority and can respond promptly to requests by the Department, emergencies, and other issues that arise.

4.10.5.5.3 Remove from operation any inoperable or unsafe bicycle or any bicycle that does not otherwise meet the standards of Section 4.10.5.2 above, within two (2) hours of notice by the City or any complaint.

4.10.5.5.4 Comply with directives that limit operations or require implementation of special protocols due to special events, extreme weather conditions, public safety emergencies as may be made by the City.

4.10.5.5.5 Develop and implement a plan for informing customers regarding responsible use of shared bicycles, including proper parking and securing of bicycles, courteous shared use of the right-of-way behavior and how to deal with accidents and mechanical problems.

4.10.5.5.6 Develop and implement a plan to address barriers to access of the service faced by low-income individuals and those without access to bank accounts or cellular telephones.

4.10.5.6 Insurance and Indemnification.

At all times during the Term of the License, the DBSB shall maintain procure and maintain insurance in the types and amounts as specified below. DBSB shall, at its sole cost and expense, procure and maintain in full force and effect, for the Term of the Permit Agreement, covering its obligations under this Agreement, the types and minimum limits of insurance specified below. All insurance shall be procured from reputable insurers authorized to do business in the Commonwealth of Pennsylvania and acceptable to the City. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis.

4.10.5.6.1 Workers Compensation: Statutory limits

Employers Liability: \$100,000 each Accident - Bodily Injury by Accident;
\$100,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy

Limit -Bodily Injury by Disease. All States coverage and Pennsylvania Endorsement.

General Liability Insurance:

- a. Limit of liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.
- b. Coverage: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent contractors; employees and volunteers as insureds; cross liability; and broad form property damage (including loss of use) liability.

Automobile Liability

- a. Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability
- b. Coverage: Owned, hired and non-owned vehicles.

4.10.5.6.2 The City of Philadelphia, its officers, employees, and agents, shall be named as additional insureds on the General Liability Insurance Policy. Also, an endorsement is required stating that the coverage afforded the City and its officers, employees and agents as additional insureds will be primary to any coverage available to them. The City reserves the right to require DBSB to furnish certified copies of the original policies of all insurance required hereunder at any time upon ten (10) days prior written notice to DBSB. All such policies shall include an endorsement stating that the coverage afforded to these parties as additional insureds will be primary to any other coverage available to them.

4.10.5.6.3 Certificates of insurance evidencing the required coverage shall be submitted to the City of Philadelphia, 1515 Arch Street, 14th Floor, Philadelphia, Pennsylvania 19102). DBSB shall furnish certified copies of the original policies of all insurance required under this Agreement, at any time, within ten (10) days after written request by the City.

4.10.5.6.4 All insurance policies shall provide for a least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled, or not renewed. At least ten (10) days prior

to the expiration of each policy, DBSB shall deliver to the City a Certificate of Insurance evidencing a replacement policy to become effective immediately upon the termination of the previous policy.

4.10.5.6.5 The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by DBSB to City, its officers, employees, and agents, or to limit DBSB's liability under this Agreement to the limits of the policies of insurance required to be maintained by DBSB hereunder.

4.10.5.6.6 Certificates of insurance evidencing the required coverage shall be submitted to the City of Philadelphia, 1515 Arch Street, 14th Floor, Philadelphia, Pennsylvania 19102. Operator shall furnish certified copies of the original policies of all insurance required under this Agreement, at any time, within ten (10) days after written request by the City.

4.10.5.6.7 The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by Operator to City, its officers, employees, and agents, or to limit Operator's liability under this Agreement to the limits of the policies of insurance required to be maintained by Operator hereunder.

4.10.5.6.8 Indemnification; Release. Except for the active negligence or willful misconduct of the City, or any of its boards, officers, agents, employees, assigns, and successors in interest, Operator shall defend, indemnify, and hold harmless the City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands, and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), damages, or liability of any nature whatsoever, for death or injury to any person, including Operator's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by Operator, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of the city provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

4.10.5.7 Security for Performance. All licensed DBSBs shall provide to the City security for performance (“Surety”) in an amount determined by the Department. The Surety may be in the form of a performance bond or a letter of credit.

A performance bond shall be in a form approved by the City and issued by a surety listed on the then-current annual “Surety List” promulgated by the Commonwealth Insurance Department.

A letter of credit shall be in a form approved by the City from a bank that has an office or representative in the City of Philadelphia.

4.10.5.8 Data Sharing, Reporting, and Protection.

4.10.5.8.1 Reporting Requirements. All licensed DBSBs must agree to provide accurate, complete, and timely data to the City or its designee(s) pursuant to such specifications as provided by the City.

- a. Data must be formatted in accordance with standards established by the Department
- b. APIs must be provided prior to license issuance

4.10.5.8.2 A DBSB shall provide such additional data, including aggregated information regarding system use, compliance, user polling, and other aspects of operations, as the City may reasonably request.

4.10.5.8.3 Customer-specific information, including personal information, collected by a licensed DBSB, or any affiliated business, service or partner, may not be transmitted to, processed or stored at a location outside of the United States.

4.10.6 Fees. A non-refundable application fee of \$2,580 shall be paid at the time of submitting an application.

A license fee of \$76,000 shall be required in connection with issuance of a DBSB license to cover the costs of management and regulation of the pilot program. An additional fee of a similar amount may be required in connection with extension of a license if the pilot period is extended.

4.10.7. Compliance.

4.10.7.1 The Department shall issue a notice of any identified violation to the licensed DBSB and may require corrective action to be taken by the Operator.

4.10.7.2 Bicycles parked improperly or located improperly with respect to zone requirements more than two (2) hours after the provision of notice by the City are subject to removal by the City. Operators shall be subject to the following fees related to such removal and storage of the bicycle:

Fee for removal -- \$65

Fee for storage -- \$10 per day per vehicle

4.10.7.3 Failure to comply with any of the terms of the License or these Regulations, including but not limited to any of the following, may be cause for suspension or revocation of a License:

- a. Misrepresentation of data provided in a license application;
- b. Failure to comply with equipment safety and customer education requirements of the program;
- c. Negligence in operation of the program;
- d. Failure to maintain bicycles in service;
- e. Repeated failure to timely relocate or correctly park vehicles after receipt of notice of improper parking or bicycle location from the City; or
- f. Failure to share data, failure to abide by the data sharing specifications or misrepresentation or falsification of program data.