



Legislation Details (With Text)

File #:	18-0452	Version:	2	Name:	Presentation, possible action, and discussion regarding an ordinance amending chapter 8, "Businesses," of the Code of Ordinances of the City of College Station, Texas, by adding article XIII "Dockless Bike Share Program"; providing a severability clause;
Type:	Ordinance	Status:			Consent Agenda
File created:	7/2/2018	In control:			City Council Regular
On agenda:	7/12/2018	Final action:			
Title:	Presentation, possible action, and discussion regarding an ordinance amending chapter 8, "Businesses," of the Code of Ordinances of the City of College Station, Texas, by adding Article XIII "Dockless Bike Share Program"; providing a severability clause; declaring a penalty; and providing an effective date				
Sponsors:	Aubrey Nettles				
Indexes:					
Code sections:					
Attachments:	Proposed Dockless Bike Share Ordinance				

Date	Ver.	Action By	Action	Result
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Presentation, possible action, and discussion regarding an ordinance amending chapter 8, "Businesses," of the Code of Ordinances of the City of College Station, Texas, by adding Article XIII "Dockless Bike Share Program"; providing a severability clause; declaring a penalty; and providing an effective date

Relationship to Strategic Goals: (Select all that apply)

- Good Governance
- Neighborhood Integrity
- Improving Mobility

Recommendation(s): staff recommends approval of the ordinance

Summary: Texas A&M University entered into an exclusive contract with the bike share company OFO for a bike share program in February of 2018. OFO launched their program in March with the introduction of 850 OFO bikes in College Station. TAMU and OFO plan to expand their fleet to 3,000 to 4,000 bikes for the fall semester. Based on feedback received from City Council at the workshop meeting on June 28th, staff is moving forward with an ordinance regulating dockless bike share.

Budget & Financial Summary:

Attachments:

Dockless Bike Share Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 8, “BUSINESSES,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY ADDING ARTICLE XIII “DOCKLESS BIKE SHARE PROGRAM”; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of College Station (“City”) is a Texas home-rule city and as such is empowered to employ its police powers to ensure public health, safety and welfare, including regulating the use of its roadways, easements, public ways, and other properties, and including the regulation of land use, businesses, structures and related activities in accordance with applicable law; and

WHEREAS, pursuant to Texas Transportation Code Section 311.001, the City of College Station maintains and regulates the streets and alleys within the City; and

WHEREAS, pursuant to Texas Transportation Code Section 316.021, cities may grant permission and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for a private purpose if it does not interfere with the public use of the street or sidewalk or create a dangerous condition on the street or sidewalk; and

WHEREAS, bike share service companies now possess GPS, 3G, and self-locking technology on their bicycles such that their bicycles may be locked and opened by users with a smart phone application and tracked to provide for operations and maintenance; and

WHEREAS, some of the goals of the City are to provide safe and affordable multimodal transportation options to all residents, increase mobility across the City, maintain all current uses of streets and sidewalks, and regulate the placement and proliferation of bicycles in the City’s right-of-way in a manner that ensures the public health, safety and welfare; and

WHEREAS, bike share services are a component to help the City achieve its transportation goals and the City desires to make bike share services available to residents, employees and visitors in the City, while maintaining the right-of-way for use by the public for passage and maintaining or enhancing property values; and

WHEREAS, the City will incur costs administering and regulating the use and safe operation of bike share systems; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That the facts and recitations of this Ordinance are hereby declared true and correct.

PART 2: That Chapter 8, “Businesses,” of the Code of Ordinances of the City of College Station, Texas, be amended by adding Article XIII “Dockless Bike Share Program,”

as set out in **Exhibit “A”**, attached hereto and made a part of this Ordinance for all purposes.

PART 3: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or of the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

PART 4: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 5: This Ordinance is a penal ordinance and becomes effective _____ which is at least ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2018.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

Article XIII Dockless Bike Share Program of Chapter 8, “Businesses,” of the Code of Ordinances of the City of College Station, Texas, is hereby created to read as follows:

“ARTICLE XIII. DOCKLESS BIKE SHARE PROGRAM

Sec. 8-810. Applicability.

This Article applies to all Dockless Bike Share Systems and to all Dockless Bike Share Operators unless expressly provided otherwise herein.

Sec. 8-811. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Customer means a person who rents or otherwise uses a Bicycle from a Dockless Bike Share Operator.

Dockless Bike, Bicycle or Bike means a device that a person may ride that is propelled by human power, typically has two tandem wheels, and is part of a Dockless Bike Share System.

Dockless Bike Share Operator or Operator means a corporation, firm, joint venture, limited liability company, partnership, person, or other organized entity that operates a Dockless Bike Share System, whether for profit or not for profit.

Dockless Bike Share System means a system which provides Bicycles for short-term rentals for point-to point trips and which may be locked and unlocked without the requirement of a bicycle rack or other docking station within the City.

Geo-Fence Platform means an interactive geographic spatial layer or map controlled by the City to quickly and effectively detect and manage connected devices, like shared Bicycles, in the City’s public spaces.

Geo-Fence Zone means an area used for commercial, single-family, or multi-family purposes in the City and which is designated in accordance with this Article defined by GPS or RFID that registers when a mobile device like a Bicycle enters or leaves such designated area and in which Operator is allowed to conduct certain activities as set forth in this Article.

Home Zone means one or more areas located within a Geo-Fence Zone which is approved by the City as a Home Zone for an Operator within which Operator may store, relocate or rebalance its fleet of Bikes for availability to its Customers or within which the City may relocate Bikes which fail to meet the standards under this Article.

Public Right-of-Way means public land acquired by reservation, dedication, prescription, deed, or condemnation and intended for use by the public as a street, alley, or other public way.

Sec. 8-812. Permit Required.

Only Dockless Bike Share Systems are allowed pursuant to this Article, and expressly exclude scooters, and other electronic modes of transportation systems. Dockless Bicycle Share Systems may operate in the City only in accordance with the terms of a City permit and must comply with all the provisions of this Article and applicable law. Permits shall be issued for a twelve (12) month period unless expressly provided otherwise in this Article.

Sec. 8-813. Permit Application.

A person desiring to provide a Dockless Bike Share System must first submit an application for a permit or for renewal of a permit, and may not operate such System until the permit or renewal thereof is approved by the City. The permit application shall contain the following:

- (a) The name and form of business of the Operator;
- (b) The name, phone number, and business street address (and mailing address if different) of the Operator and Operator's agent for service of legal process, if different;
- (c) The name, phone number (including cell number), street address of the local representative of the Operator to the City available and authorized to act on behalf of the Operator;
- (d) Size and location of fleet;
- (e) A photographic image or visual representation of each type of Bicycle to be deployed as part of Operator's Dockless Bike Share System;
- (f) A description of an internet-enabled mobile device application to be used by Customers to register membership to locate, use, pay for, lock, and unlock each bicycle;
- (g) The proposed Geo-Fence Zones, including any area in which Operator plans to expand its Dockless Bike Share System during the permit period;
- (h) Proposed Home Zones in the City, if any;
- (i) A plan for Operator to maintain each Bicycle in a safe and operable condition, and to recover and repair bicycles discovered or reported to be unsafe or inoperable before redeployment;
- (j) A plan for Operator to rebalance and relocate Bicycles;

(k) A plan for educating Customers on the safe use of a Bicycle, knowledge of compliance of all applicable laws and proper Bicycle parking;

(l) Proof of current coverage of insurance as required by this Article;

(m) Payment of a permit fee in the amount applicable to the Operator as specified in this Article;

(n) The provision of any other information reasonably requested by the City in making its determination; and

(o) An escrow account as required by this Article.

Sec. 8-814 Granting, Renewing Permit and Permit Terms.

(a) Granting or Renewing Permit. A person may operate a Dockless Bike Share System only with a properly granted or renewed City permit as set forth in this Article, and only in accordance with applicable law.

(b) Terms of Permit. The City may identify Geo-Fence Zones and Home Zones within which an Operator may conduct certain activities and such other reasonable terms as are necessary in order to ensure the public health, safety and welfare of the general public.

Sec. 8-815. Permit Denial and Revocation.

(a) Denial of Permit. The application shall be denied and no permit shall be issued if the City finds that:

1. Any statement made in the application is incomplete, inaccurate, misleading, or false;

2. The Operator, its partners, officers, owners, and other principals have not paid to the City all fees due under this Article; or

3. The Operator has otherwise not complied with this Article or has had a history of noncompliance with the provisions of this Article.

(b) Revocation of Permit. The City may revoke a permit due to Operator's failure to comply with its permit, this Article, or any applicable federal, state, or local law or regulation. Permits may also be revoked for one or more of the following reasons:

1. Poor Customer response or service;

2. Posing an unreasonable risk to the health, safety and welfare of the general public;

3. Having a history of violating one or more requirements of this Article; or

4. Nonpayment for monies owed City in accordance with this Article.

(c) Notice of Denial or Revocation. The City shall provide written notice within ten (10) days of the denial or revocation of a permit to Operator, which notice shall state the reason(s) for the decision and inform the Operator of its right to appeal the decision in writing including by when and to whom it must be delivered.

Sec. 8-816. Appellate Review.

An Operator may appeal the revocation, denial or terms of a permit to the City Manager or designee if it requests an appeal in writing and delivers it to the City Manager or designee not more than ten (10) business days after receiving notice of the action.

The City Manager or designee shall act as the appeal hearing officer and shall conduct a hearing as soon as practicable or within five (5) business days of receipt of notice of appeal. The hearing officer shall give the appealing party an opportunity to present information and to make argument on its behalf. The hearing officer may affirm, modify or reverse all or part of the action being appealed. If Operator is in non-compliance with this Article or other applicable law, the hearing officer may give the Operator an opportunity to correct the problem.

The decision of the hearing officer shall be rendered in writing to Operator and as soon as practicable or within five (5) business days of such hearing. The decision of the hearing officer is final.

Sec. 8-817. Dockless Bike Sharing Operating Requirements.

Each Dockless Bike Share Operator shall do the following:

(a) Customer Communication. Provide a mechanism for Customers to notify the Operator that there is a safety or maintenance issue with the Bicycle, and to include a telephone number, web address, and email address that must be properly established, maintained and available twenty-four (24) hours a day;

(b) Affix on Each Bike. Affix on each Bike the following:

1. Contact information of the Operator, including the web site address;
2. Contact information of Operator's Customer service and report incorrectly parked Dockless Bicycle, safety concerns, complaints, or questions;
3. A clearly visible name, logo, trademark, or other identifying information of the Operator; and
4. A unique identification for each deployed Bicycle, consisting of number or letters or both.

(c) Customer Notification. Notify Customers via a web site or mobile device application the following information:

1. Bicycle riders are encouraged to wear helmets;
2. Bicycle riders must follow all traffic laws;
3. Customers must park the Bicycles properly and in compliance with this Article and applicable laws; and

4. That the City is not responsible for educating users regarding bicycle laws. Neither is the City responsible for educating users on how to ride or operate a bicycle.

(d) Staffing. Maintain sufficient staff to relocate or rebalance Bicycles on a regular basis as needed, in addition to handling local issues as they arise, including timely removals, installation or maintenance of equipment and other issues arising pursuant to this Article requiring local action on the part of Operator;

(e) Contact Information to City. Provide to City contact information for Operator's staff responsible for the relocating or rebalancing Bicycles, and the handling of all local issues as they arise, including removals, installation or maintenance of equipment, and other issues arising pursuant to this Article requiring local action on the part of Operator;

(f) Repairs. Assume responsibility for the cost and all obligations associated with properly maintaining its Bikes in good, safe operating condition, including fixing, repairing, or correcting each Bicycle that is considered inoperable, unsafe, or otherwise in violation of the standards under this Article before re-deployment back into service;

(g) Repair and Reimbursement of City Costs. Be responsible for repair and payment of actual costs of repair to public infrastructure damaged by the use of Operator's Bicycles, including reimbursement to City if City makes such repair, and including payment of costs incurred by the City to remove and/or store Bicycles that have been improperly parked or otherwise are required to be removed from the Public Right-of-Way or other areas pursuant to this Article. Payment shall be due within thirty (30) days of written notice by City to Operator;

(h) Change of Information on Permit. Operator's permit must be kept current and accurate at all times. Changes in the information of the permit, including Geo-Fence Zones, Home Zones, size of fleet, change of inventory of fleet, change of address, contact person, or any other information must be approved through amending the permit before instituting such change.

(i) Geo-Fence Zones. Operators must identify the Geo-Fence Zones in which they desire to conduct operations in the City. The City shall consider approval of these areas if Operator establishes to City's satisfaction that it has an adequate plan for the Geo-Fence Zones including an overall implementation plan that ensures the orderly conduct of its System as a whole, and that includes a bike parking system such as a rack or designated area, and which addresses all traffic, safety, public nuisance, and aesthetic issues.

Dockless Bike Share Operators shall have the capability to create Geo-Fence Platform(s) operable on six (6) workstations simultaneously, compatible with the City of College Station GIS system and must keep same operational at all times when operating within the City.

(j) Escrow Accounts. The Operator must provide Five Thousand Dollars (\$5,000.00) in cash that the City will hold in escrow for the term of this Permit to cover direct costs incurred by the City due to violations of the Permit. Should the escrow account be debited and drop to an amount below Five Hundred Dollars (\$500.00), operator shall provide additional funds to raise the amount back to Five Thousand Dollars (\$5,000.00).

(k) Home Zones. One or more Home Zones may be required or requested in the permit application. In such case, the City may approve one or more Home Zones if Operator establishes to City's satisfaction that it has an adequate plan for the Home Zones including an overall implementation plan that ensures the orderly conduct of its System as a whole, and that includes a bike parking system such as a rack or designated area, a rebalancing program, and which addresses all traffic, safety, public nuisance, and aesthetic issues.

(l) Inoperable or Unsafe. Any inoperable Bicycle, or any Bicycle that is not safe to operate shall be removed from service within 24 hours after notice from a Customer, the City, or any third party, and shall be repaired before the Bicycle is returned to service.

(m) Use of Latest Technology. Operator shall use and employ the latest technology reasonably available to it in carrying out its Dockless Bike Share Operations in the City, including enhancements to safety, accountability, and precision of location of Bikes as possible.

(n) Operations Center. Operators shall maintain a staffed operations center located within the City.

Sec. 8-818 –Safety.

(a) Standards. All Bicycles deployed by an Operator shall meet the standards outlined in the following:

1. Code of Federal Regulations, Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles, as may be amended;
2. International Standards Organization 43.150 – Cycles, subsection 4210, as may be amended; and
3. Section 551.104 of the Texas Transportation Code, as may be amended, regulating the safety equipment of bicycles.

(b) Signage. All Operators shall have visible language on signs approved by the City in designated parking areas or other appropriate places that notify the user that:

1. Helmet use is encouraged while riding the Bicycle;

2. User shall yield to pedestrians on sidewalks; and
3. When riding on a street, Bicyclists must follow the rules of the road as one would in a motor vehicle.

Sec. 8-819. Bicycle Parking.

(a) Proper Parking. All Bicycles deployed by an Operator shall be parked:

- (1) In an upright position on top of a hard surface;
 - (2) In a manner that does not detrimentally impact vehicular or pedestrian traffic;
- and
- (3) Only within a Geo-Fence Zone or Home Zone.

(b) Improper Parking. Bicycles shall not be parked adjacent to or within:

1. Transit zones, including bus stops and shelters;
2. Loading zones;
3. ADA handicap parking zones;
4. Street furniture that requires pedestrian access;
5. Curb ramps;
6. Entryways and driveways;
7. Within the visibility triangle at intersections;
8. Rail road tracks and crossings;
9. Passenger loading zones or valet parking service areas; and
10. A place where the City determines poses an unreasonable risk to the health, safety, and welfare of the general public.

(c) Block Faces. City reserves the right to determine certain block faces where Dockless Bicycle parking is prohibited;

(d) Remove or Relocate. Relocate or remove from the Public Right-of-Way or anywhere within the City each Bicycle that is inoperable, unsafe, or otherwise failing to meet the standards under this Article, within the following times:

1. Within two hours of when Operator becomes aware of or receives notice between 6:00 a.m. to 6:00 p.m., seven days per week, except a holiday observed by the closure of City offices; and

2. Within twelve (12) hours of when Operator becomes aware of or receives notice during all other times.

Sec. 8-820. Survey, Records, and Data Sharing.

Dockless Bike Share Operators are required to report monthly information to the City regarding their operations, fleet, and membership. The goal of these reports is to better understand how the entire Dockless Bike Share System is being utilized and to better inform future policy changes. Operators will work with the City to provide the following information on their operations in the City:

1. Number of Bicycles in their Dockless Bike Share System;
2. Origin and destination data;
3. Usage (total trips, per timeframe, per location, per Bicycle);
4. Total number of Customers;
5. Customer survey and general demographics (if available);
6. Reported repairs, collisions;
7. Removal or relocation data including response times and locations; and
8. Any other data determined by City as necessary to ensure compliance with this Article and with applicable law.

Sec. 8-821. Relocation, Removal or Impoundment.

The City has the right to relocate, remove, or impound any obstruction or encumbrance caused by a Bicycle anytime such Bicycle poses a threat to the health, safety and welfare of the general public or anytime a Bicycle has been parked or otherwise located in violation of this Article. In such case the Operator may be assessed a fee in accordance with this Article.

8-822-Indemnity.

By making application for a permit, the Operator, its assigns, successors, and representatives agree to and shall defend, indemnify, release, and hold the City, its agents, employees, officers, volunteers, and legal representatives harmless for all claims, causes of action, liabilities, fines, and expenses (including, without limitation, attorneys' fees, court costs, and all other defense costs and interests) for injury, death, damage, or loss to personal or real property sustained in connection with or incidental to the activity related to operating a Dockless Bike Share System in the City and as may be authorized by the permit.

Sec. 8-823.-Insurance.

The following types of insurance must be procured and maintained by Operator:

(a) Commercial general liability with minimum limits of liability per occurrence of \$1,000,000 with \$2,000,000 general aggregate.

- (1) Policy shall be written by a licensed carrier authorized to do business in Texas, rated A:VI or better under the current A. M. Best Key Rating Guide.
- (2) Policy shall be endorsed to name the City of College Station as an Additional Insured, with a waiver of subrogation rights and “primary and non-contributory” language with regard to any self-insurance or insurance the City may have or obtain.
- (3) Policy shall not exclude: personal and advertising liability, contractual liability (for the indemnity provided herein), products/completed operations; independent contracts.

(b) Business Automobile Liability

1. Policy shall be written by a licensed carrier authorized to do business in Texas rated A:VI or better under the current A. M. Best Key Rating Guide.
2. Policy shall name the City of College Station as an Additional Insured, with a waiver of subrogation rights and “primary and non-contributory” language with regard to any self-insurance or insurance the City may have or obtain.
3. Minimum combined single limit of liability of \$1,000,000 for bodily injury and property damage.
4. Coverage shall include any autos, owned autos, leased or rented autos, non-owned autos and hired autos.

Workers’ Compensation Insurance

1. Statutory limits required.
2. Employer’s Liability minimum limits of liability of \$1,000,000 for each accident/each disease/each employee.
3. “Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04.”
4. Texas must appear in Item 3A of the Workers’ Compensation coverage or Item 3C must contain the following: “All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.”

Operator shall provide the City with evidence of required coverage on the most current State of Texas Department of Insurance-approved form. Carrier may be an eligible non-admitted insurer in the State of Texas.

Policy shall not be canceled, non-renewed, suspended or reduced in limits of liability until the City has received 30 days’ written notice of such change. Should policies lapse or expire, the permit shall automatically be suspended and Operator shall discontinue its Dockless Bike Share System within the City. Such permit suspension shall be in effect until Operator provides City with evidence of a replacement policy. If Operator

fails to provide evidence of replacement policies acceptable to the City within five (5) business days following the policy lapse, the permit shall terminate automatically.

8-824. Fees and Costs.

(a) The following fees are established and may be assessed by the City in the amount set forth in Section 2-117:

1. Permit Application Fee.
2. Permit Renewal Fee.
3. Removal, Impoundment and/or Relocation Fee.

Sec. 8-825. Violation. Penalties.

It shall be unlawful for a Dockless Bike Share Operator to operate, maintain or conduct within the City a Dockless Bike Share System without first securing a permit, and/or without complying with all of the provisions of this Article or any other law.
