

Memorandum



CITY OF DALLAS

DATE June 22, 2018

TO Honorable Mayor and Members of the City Council

SUBJECT **June 27, 2018 Addendum Items – Dockless Vehicles Ordinance and Motor Assisted Scooter Ordinance**

On June 27th, the City Council will take action on two addendum items from the Department of Transportation. One of the items is an ordinance amending Chapter 43, “Streets and Sidewalks”, of the Dallas City Code by adding a Dockless Vehicle Permit. The second item is an ordinance amending Chapter 28, “Motor Vehicles and Traffic”, of the Dallas City Code, to allow motor assisted scooters to be operated on City owned property, and in the public right-of-way.

The Mobility Solutions, Infrastructure and Sustainability Committee has considered these items a number of times since late 2017, and the full City Council was briefed on June 6, 2018. Several councilmembers raised concerns about these items during the briefing and staff has made every effort to address those issues. Staff responses can be seen in the attached memorandum that was sent on June 21, 2018.

If you have any questions or need additional information, please contact Michael Rogers, Director of the Department of Transportation, or myself.

A handwritten signature in blue ink, appearing to read 'Majed Al-Ghafry'.

Majed Al-Ghafry
Assistant City Manager

[Attachment]

c: T.C. Broadnax, City Manager
Larry Casto, City Attorney
Craig D. Kinton, City Auditor
Billierae Johnson, City Secretary
Daniel F. Solis, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Jo M. (Jody) Puckett, Assistant City Manager (Interim)

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Theresa O'Donnell, Chief of Resilience
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DATE June 22, 2018

TO Honorable Mayor and Members of the City Council

SUBJECT **Dockless Vehicle and Motorized Scooter Briefings and Ordinances**

On June 6, 2018 the Department of Transportation briefed the City Council on the Dockless Vehicle and Motorized Scooter Ordinances. The briefing raised several concerns by the Council Members. Those items, with Staff response are listed below.

OPERATIONAL CONCERNS

1. *Knowing the number of bikes for each operator*

Staff requested and received the number of bikes from each operator. The responses in the table are direct quotes from the operators:

Operator	Number of Current Bikes	Anticipated Number of Bikes to be Permitted
Lime	3,020	See footnote ¹
MoBike	Less than 1,000	No response received
Ofo	5,000 (exactly)	"To be determined based on regulations set forth"
Spin	250	No response received
VBike	996	1,000

2. *Knowing the number of bikes in specific zones*

We received distribution maps from three of the five operators. Please refer to Appendix A for heat maps provided in the previous briefing.

3. *Knowing the number of bikes in the city at any given time*

As a part of acquiring a permit, operators will provide access to their fleet data for assigned City staff.

4. *Requiring bikes to be deployed in designated areas*

Dockless vehicles may only be deployed:

- On sidewalks that are 8' or wider and must allow a minimum of 4' of clear passage
- In designated vehicle parking (physical or geo-fenced)
- At bike racks
- Only at trailheads

¹ "Lime uses dynamic data about user patterns to evaluate its deployment locations daily. Lime will continue to evaluate the market demand, weather, and evolving mobility climate in Dallas. Recently, Lime reduced its fleet to make room for innovative e-mobility products once the ordinance is adopted. Our multi-modal fleet will increase moderately; we anticipate deploying 500 scooters initially and will adjust deployment based on demand patterns."

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- Other designated areas as agreed upon by the City and dockless vehicle operators
5. *Requiring bikes to be parked on the sidewalk edge*
There is not language requiring the bikes to be parked on the sidewalk edge. However, bikes will be deployed as stated in Item 4. Bikes must be rebalanced every seven days unless in a residential area where they will be rebalanced every 48 hours. If the user leaves the bike in an unapproved area, operators are expected to rebalance/relocate bikes upon notification:
 - Within 2 hours during business hours
 - Within 12 hours all other times
 6. *Sidewalk bike riding in high density/high use areas*
The boundary of the sidewalk riding restriction will be expanded to include the entirety of downtown bounded by Woodall Rodgers, 345, I30, and I35E. Additional areas, such as Deep Ellum, will be included based on Council Member recommendations.
 7. *Employing the homeless to rebalance bikes*
Staff will continue to have conversations with Homeless Solutions on this matter. No other recommendations will be presented at this time.
 8. *Retrieving stolen bikes*
Operators must report theft of property to DPD. Staff will continue to have conversations with DPD and the operators on this issue. No other recommendations will be presented at this time.

REGULATORY CONCERNS

1. *Considering docked systems versus dockless systems*
The MSIS Committee was briefed in June 2016 on the costs related to a docked bike share system. Downtown Dallas Inc. developed a cost estimate of \$6.1 million over five years. These costs were deemed to be infeasible. Staff is open to considering docked and dockless systems, and the proposed ordinance allows for both.
2. *Citation enforcement and company compliance with the ordinance*
The proposed program will include enforcement staff to ensure compliance with guidelines outlined in the ordinance. There will also be a third-party audit to ensure operators are in compliance with permit requirements. Failure to comply could lead to permit revocation or the permit not being renewed. The ordinance provides several mechanisms to hold the operator accountable:
 - Operators will be billed for all costs if City staff must remove/relocate vehicles
 - Third-party audit will confirm compliance with the number of permitted vehicles
 - Operators who are repeatedly in violation of the ordinance will face revocation of their permit or will not be allowed to renew
3. *Rules related to children renting bikes*
It is legal for children to ride bikes in the City of Dallas. Operators require riders to be 18 years of age. The City cannot enforce private company's rules and regulations.

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4. *Concerns about if and when City parking enforcement staff remove/rebalance bikes*
City parking enforcement staff will remove/relocate any bikes that serve as an immediate safety hazard. For other instances, the operators will be contacted to address the situation.
5. *Accountability for companies improperly managing fleets*
The ordinance provides several mechanisms to hold the operator accountable:
 - Operators will be billed if City staff must remove/relocate vehicles
 - Third party audit to confirm compliance with the number of permitted vehicles
 - Operators who are repeatedly in violation of the ordinance will face revocation of their permit or will not be allowed to renew

COST RELATED ISSUES

1. *Increasing the amount of the Performance Bond*
The Performance Bond shall be \$10,000 per operator.
2. *Levying fines for bikes left in inappropriate places*
There is a process in place prior to levying fines. The operator will be notified of the violation. If the operator does not address the issue, the City will take the appropriate action and bill the operator for their time. Repeated violations of the ordinance upon conviction will result in a fine not to exceed \$500 per event.
3. *Consideration of a Franchise versus Permit Structure*
 - Permit option provides greater ability to enforce the ordinance
 - Permits can be issued and administered by staff
 - Franchise agreements are much more difficult to revoke
 - Please see Appendix B for additional information.
4. *Reviewing concerns about fee structure cost recovery estimate being too low*
After further reviewing the fee study, it was determined that full cost recovery for four dedicated parking enforcement staff would be \$30 per bike, as seen in Option 2. The model presented to the MSIS Committee is below as Option 1. Council Members discussed the idea of cross-training all parking enforcement staff. Staff recommends Option 1 while adding the cross-training of all parking enforcement staff.

Option 1: Two Parking Enforcement Staff (Staff's recommended option)

- Initial application fee: \$808
- Application renewal fee: \$404
- Annual per vehicle fee: \$21
- Tiered fee structure charging 100% of each range
- Performance Bond of \$10,000 per operator

Option 2: Four Parking Enforcement Staff

- Initial application fee: \$783
- Application renewal fee: \$391
- Annual per vehicle fee: \$30
- Tiered fee structure charging 100% of each range

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- Performance Bond of \$10,000 per operator
5. *Including Dallas Police Officers involvement in enforcement*
Dallas Police Department enforces City, State, and Federal law. This ordinance is City Code and is enforced by City staff.
 6. *Two parking enforcement staff not being enough*
The program will include two dedicated parking enforcement staff, and all parking enforcement staff will be trained to address Dockless Vehicle Ordinance related issues. The model presented will be evaluated for a 9-month period after implementation, and staff will present amendments, if necessary, at the one-year anniversary for adoption by the City Council.

DATA CONCERNS

1. *Proper Data Reporting by companies to the City of Dallas*
The proposed ordinance includes requirements on providing ridership data to the City on a regular basis. Failure to comply with this requirement can lead to permit revocation or not renewing the permit.
2. *Process for auditing Data received from bike companies for accuracy*
The City will hire a third-party auditor to conduct regular audits of the number of bikes permitted by the operators.

ADDITIONAL CONCERNS

1. *Bidding out to Companies, instead of an open pilot*
Dockless Vehicle sharing was introduced to the Mobility Solutions, Infrastructure and Sustainability Committee (MSIS) on August 14, 2017. Staff received direction to start pilot program to:
 - Allow dockless bike share companies to operate
 - Monitor operations to identify possible regulatory requirements
 - Review data for route planning and infrastructure needs
2. *Bilingual access to materials*
Operators will be asked to provide Spanish translation on their websites, smart phone applications, and dockless vehicles.

REGARDING MOTORIZED SCOOTERS

1. *Not allowing scooters on sidewalks*
The requirements for scooters will mirror those for dockless bikes.
2. *Regulating speed*
The operators will be asked to inform riders of safety regulations including maintaining safe operating speeds. Scooters are designed to not perform speeds over 15 mph.
3. *Comparing to speed of motorized wheelchairs*
Motorized wheelchairs can travel at 10mph.
4. *Bike Share Lane usage*
This item will be considered as the City expands its bike lane network.

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5. *Public Safety Announcement- Rider Education*

Safely sharing the road will be included in Public Safety Announcement.

6. *City identifies deployment locations*

- Dockless vehicles may only be deployed:
 - On sidewalks that are 8' or wider and must allow a minimum of 4' of clear passage
 - In designated vehicle parking (physical or geo-fenced)
 - At bike racks
 - Only at trailheads
 - Other designated areas as agreed upon by the City and dockless vehicle operators

7. *New version of ordinance and fee incorporating Motorized Scooters*

The fee has been increased to accomplish full cost recovery and motorized scooters were taken into consideration in the study and fee structure.

Thank you for your questions and valuable input. For additional questions and comments please contact me.



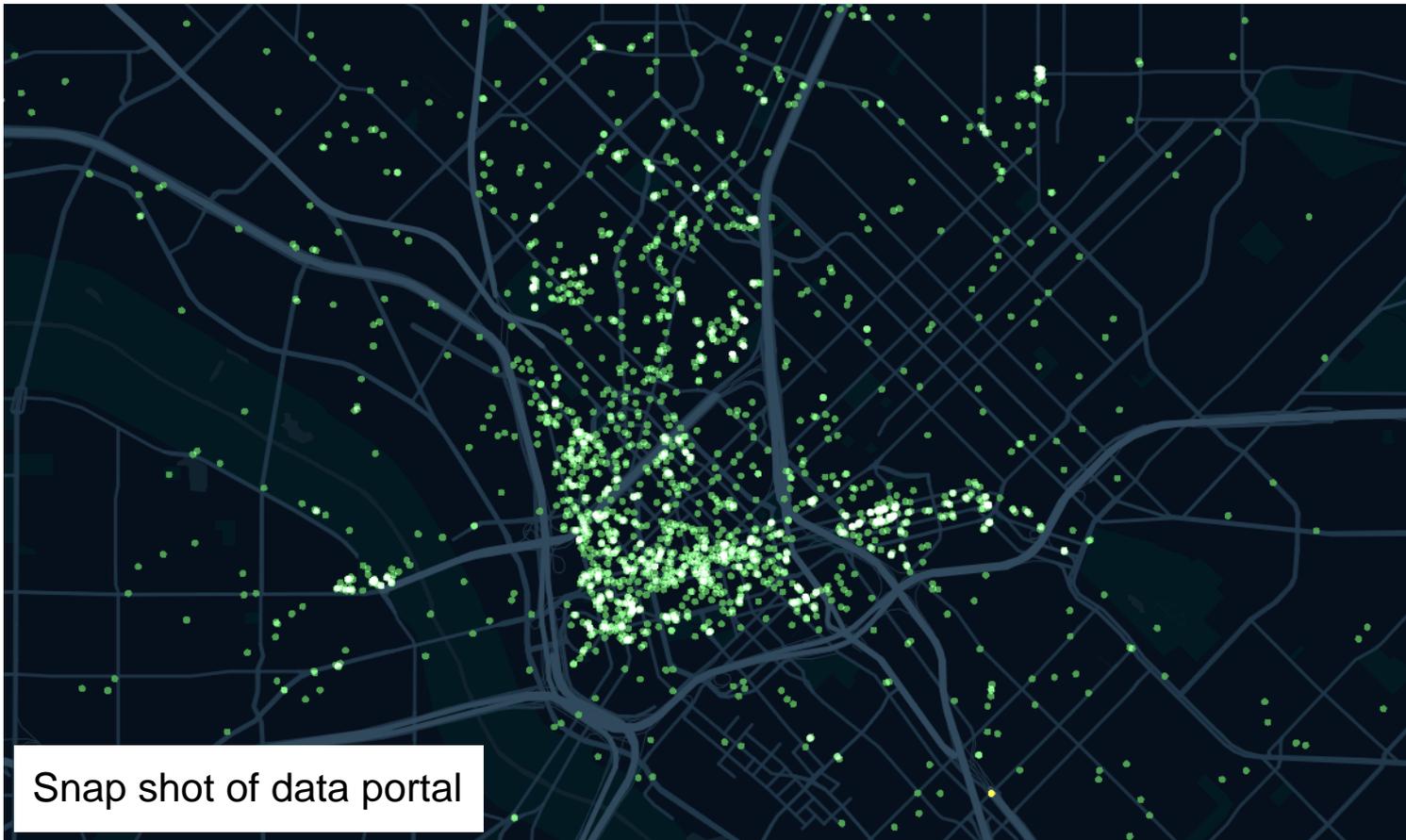
Majed Al-Ghafry
Assistant City Manager

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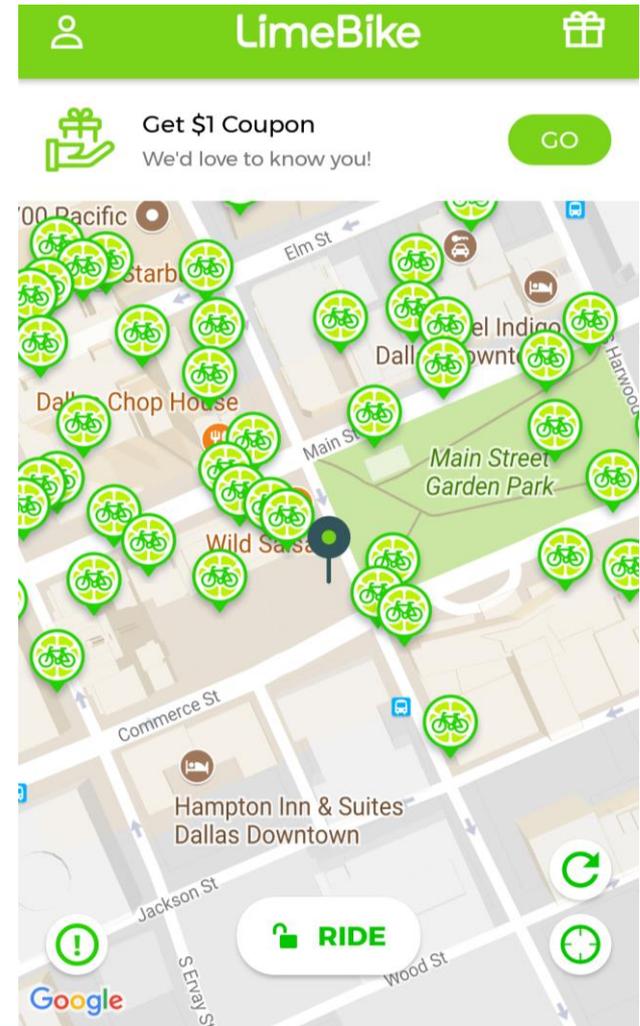
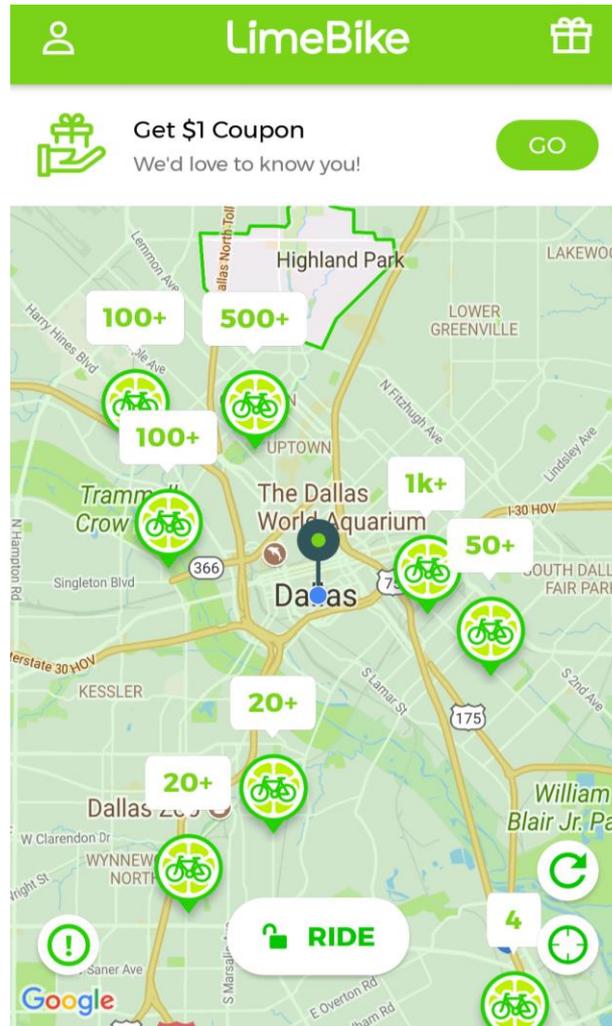
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Appendix A: Data From Operators



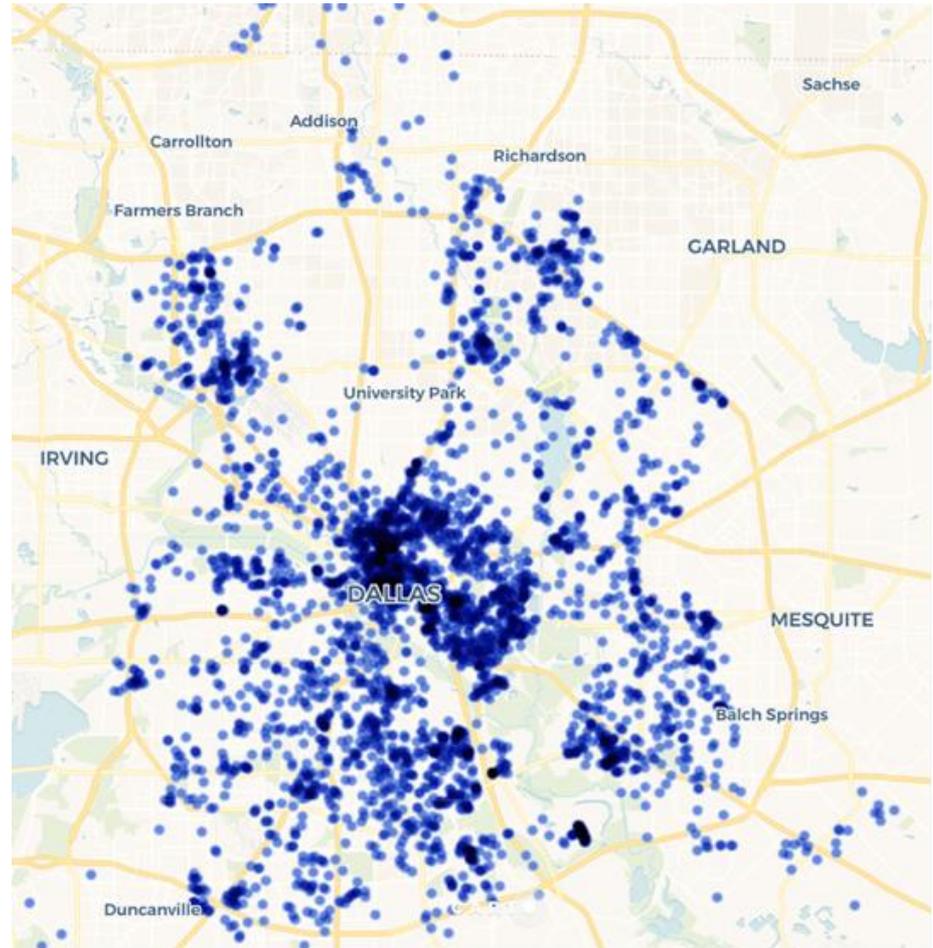
Appendix A: Data From Operators

- Application interface



Appendix A: Data From Operators

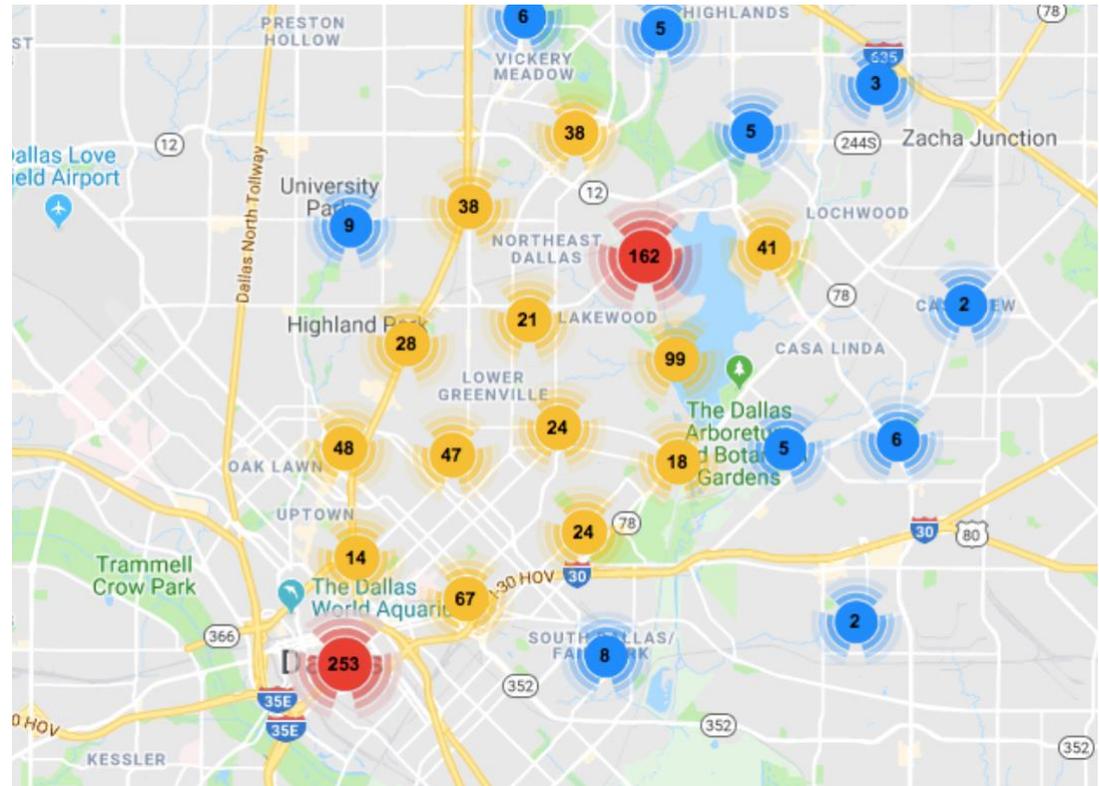
- Snap shot of bicycle distribution



Information provided by Ofo

Appendix A: Data From Operators

- Snap shot of bicycle distribution



Information provided by VBikes

Appendix B

Permitting Right-of-Way

- Texas Transportation Code § 316.021: “A municipality may permit and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for private purposes if the use does not:
 - Interfere with the public use of the street or sidewalk; or
 - Create a dangerous condition on the street or sidewalk.
- Permits can be issued administratively by staff following the guidelines in the Dallas City Code.
- Permits can be suspended or revoked by staff for noncompliance with the terms of the permit and the requirements of the Dallas City Code.
- An applicant whose permit is denied, or a permittee whose permit is suspended or revoked may appeal that decision to the permit and license appeal board within 10 days of receiving notice of the city’s decision.
- The ability to suspend or revoke a permit will likely be a much more effective enforcement tool than writing citations.

Franchising Right-of-Way

- Franchises are governed by Chapter XIV of the City Charter and Texas Civil Statutes Art. 1175.
- Each franchise must be granted by ordinance.
 - Each dockless vehicle service provided would have its own franchise ordinance.
 - The franchise can be a template agreement such as was used with the waste hauler franchises.
- Each franchisee is required to pay no less than four percent of its gross receipts to the city.
- Any changes in the rates charged by a franchisee requires a rate hearing before city council which requires the City perform an annual audit to determine franchise fees, though the City Council has the discretion to allow rates to be determined by the market.
- Courts have said that franchises create a property interest in the franchisee, which requires notice and a hearing prior to termination, such as is provided by our Charter.
- City council can order an investigation to determine if the terms of a franchise are being violated.
 - If city council determines that a franchise is being violated, it shall instruct the city attorney to take the necessary actions to bring the franchisee into compliance.
 - If the franchisee continues to fail to comply, the city attorney may take legal action, including seeking a forfeiture of the franchise.
 - Forfeiture of a franchise requires a hearing before city council.
- Failure to charge those who occupy the ROW to conduct their business undermines our arguments that the Texas Constitution requires us to charge ROW users and does not allow any city to grant free use of the ROW. This is currently being litigated in the City of McAllen v. State of Texas case to which the City of Dallas is a party. While millions of dollars a year are at stake in that litigation, our annual revenue from all ROW users is over \$100 million.