

**MEMORANDUM**

Public Works Department

DATE: February 27, 2019

TO: Bicycle/Pedestrian Advisory Committee

FROM: Ria Hutabarat Lo, Transportation Manager

SUBJECT: Mountain View City Code Chapter 19, Article VI Ordinance Update

RECOMMENDATION

It is recommended that the City Council introduce a proposed ordinance repealing, in its entirety, Article VI of Chapter 19 of the Mountain View City Code and adding a new Article VI related to Bicycles, Electric Bicycles, Motorized Scooters, and Transportation Devices (Attachment 1).

BACKGROUND

On September 5, 2017, the City Council directed staff to undertake a comprehensive rewrite of Article VI of Chapter 19 of the Mountain View City Code (MVCC) related to using bicycles, roller skates, coasters, and electric personal assistive mobility devices (EPAMDs) on City streets and sidewalks. Staff developed goals, values, and a regulatory framework for a new ordinance based on policy analysis as well as input from a community workshop, the Downtown Committee, the Youth Advisory Committee, the Senior Advisory Committee, and the Bicycle/Pedestrian Advisory Committee (B/PAC).

A proposed regulatory framework was presented to City Council on December 4, 2018. This regulatory framework is presented in Table 1 below.

Table 1: Regulatory Framework

RELEVANT DEVICE	REGULATION
Sidewalks	
<ul style="list-style-type: none"> • Bicycles • Electric bicycles • In-line and roller skates (human-powered) • Skateboards (human-powered) • EPAMDs • Electrically motorized boards 	<p>Permitted to operate on sidewalks subject to:</p> <ul style="list-style-type: none"> • Operating with due care under the circumstances or conditions • Yielding to pedestrians <p>Prohibited from riding on sidewalks in locations designated by Council and where signs are posted</p> <ul style="list-style-type: none"> • Children under 14 excepted <p>Operational requirements:</p> <ul style="list-style-type: none"> • Bicycles, electric bicycles, EPAMDs, and electrically motorized boards are subject to CVC requirements and restrictions where applicable
Bicycle, bike-car hybrids, and transportation devices with a width of 3' or more (e.g., conference bikes)	Not permitted to operate on sidewalks.
Streets	
<ul style="list-style-type: none"> • In-line and roller skates (human-powered) • Skateboards (human-powered) • EPAMDs • Electrically motorized boards • Motorized scooters 	<p>Permitted to operate only on streets with speed limit of 35 mph or less unless on a Class II or IV bikeway.</p> <p>Subject to similar requirements as CVC rules for bicycles such as equipping devices with lights and reflectors during darkness, riding in the bike lane or toward the right edge of the road, not hitching rides on motor vehicles, riding in the same direction as motor vehicles, not using earplugs in both ears, not riding under the influence of alcohol or drugs, yielding to pedestrians in crosswalks, and not parking in a manner that obstructs pedestrian access.</p>

Additional proposed changes included repeal of the Police Department's authority to seize and hold bicycles, amendment of bicycle parking requirements to account for dockless and shared bicycles or devices, and amendment of provisions for riding in City-owned parking structures to allow for bicyclists accessing parking.

The City Council generally supported the proposed regulatory framework with the following comments:

- Councilmembers suggested different age thresholds from 9 to 14 years for the exception to sidewalk riding in designated areas and requested further public input to address this issue; and
- Councilmembers recommended that ordinance changes be reinforced by appropriate education and enforcement strategies.

Community Workshop

Staff held a community workshop on February 13, 2019 to obtain input on draft ordinance sections. Prior to the meeting, staff publicized the event on the City website, yard signs in various locations, and an e-mail that was posted on NextDoor and forwarded by community organizations. Twelve (12) people attended the event and provided their feedback in addition to three people who contacted staff by e-mail.

Community members generally supported proposed provisions for operating bicycles, e-bicycles, transportation devices, and motorized scooters on streets. Community members requested clarification on allowances for making left turns when riding as close as practicable to the right-hand edge. They also requested information on whether penalties for riding under the influence would be less severe than driving under the influence. Additionally, several community members requested that a map be provided to show which streets have a speed limit in excess of 35 miles per hour and no bike lanes.

In relation to sidewalk operations, some community members preferred more specific speed limits and distances from pedestrians, while others supported the proposed requirement to exercise due care under the circumstances and conditions and yield to pedestrians. Community members also provided a range of input on the age threshold for the exception to the sidewalk riding ban in designated locations. Most respondents supported a threshold of under 12, with others supporting under 10 or 11. One community member suggested that children of no age be permitted to ride on Castro Street sidewalks due the large number of pedestrians. On San Antonio Road, however,

a higher threshold of 14 or 15 was suggested due to the faster vehicle speeds and lack of alternative routes.

Community members expressed appreciation for greater clarity on bicycle and device parking. Some, however, felt that the proposed regulations were too restrictive or confusing, and others requested that bicycles and transportation devices be permitted to park on streets as well as sidewalks. One community member suggested the use of drop zones for dockless bikes and devices, so as to not use up bike rack spaces by those who do not need them. Several community members requested that people be permitted to ride through the ground floor of City-owned parking structures in order to access destinations via Castro Street breezeways.

Regulatory Context

The California Vehicle Code (CVC) regulates traffic control on streets and highways in California, which includes pedestrian, vehicular, and other conveyance traffic such as bicycles. Cities and other local jurisdictions, such as the City of Mountain View, may only regulate traffic control where expressly authorized under the CVC. If State law is silent as to the operation of a particular device on the street or sidewalk and does not authorize the local agency to enact regulations, the City cannot enact regulations. The City's authority to regulate devices under the CVC is summarized in Attachment 2.

ANALYSIS

Based on new information and community input, staff is proposing some refinements to the regulatory framework presented at the December 2018 City Council Study Session as described below:

Temporary Use Permit (TUP)

Staff has undertaken further work to assess the existing City Code section requiring a Temporary Use Permit (TUP) for commercial use of public roadways for EPAMD tours or similar events (existing Section 19.55A(2)). Staff determined that a TUP would not be issued for this type of activity because a TUP would be inapplicable to this kind of use and, therefore, there is no mechanism for implementing this provision. Further, since this Code section was adopted in 2008, to staff's knowledge, it has never been used. As a result, this section is proposed to be repealed.

Age Threshold of Under 11

Based on input from Council and the community, a younger age threshold of under 11 years is proposed for the exception to the ban on sidewalk riding in designated areas.

Operations in City-Owned Parking Structures

Based on community input related to riding through City-owned parking structures to access destinations, staff is interested in B/PAC input on whether the parking structure provision should be broadened to allow people to ride bicycles, electric bicycles, transportation devices, and motorized scooters in City-owned parking structures for the limited purpose of accessing parking or destinations.

Resolution Designating Locations where Sidewalk Riding is Prohibited

Staff is interested in B/PAC input on whether or not the designated segment of San Antonio Road should be designated as a location where sidewalk riding is prohibited. This location has been included in anticipation of high pedestrian volumes in the coming years. If not included at this time, a future resolution designating this segment of San Anotnio Road could be adopted by the Council.

Proposed Ordinance

Based on the regulatory framework supported by the Council, the authority granted to the City to regulate under the CVC, and the changes noted above, staff has drafted the proposed ordinance language (Attachment 2). The proposed ordinance would repeal the existing MVCC Chapter 19, Article VI, which is provided in Attachment 3, and add a new Article VI of Chapter 19. More information on each proposed section is provided in the following sections.

SEC. 19.51 – Definitions.

The proposed ordinance provides definitions for key terms that are consistent with other legislation or guidelines, including the California Streets and Highways Code, CVC, and National Association of City Transportation Officials (NACTO) Urban Street Design Guide.

Under the proposed ordinance, “transportation device” is defined to include four devices to the extent the City is authorized to regulate these devices under State law:

- Human-powered roller skates (including in-line skates)

- Human-powered skateboards (including one-wheeled skateboards)
- Electric personal assistive mobility devices (EPAMDs)
- Electrically motorized boards

A number of items are omitted from this definition of transportation devices:

- Wheelchairs, power-driven mobility devices needed because of a mobility disability, and human-powered scooters are omitted because the CVC defines these devices as pedestrians and, with limited exception, does not authorize the City to regulate them.
- Motorized skateboards are also omitted from the definition because the CVC does not permit their use on sidewalks, roads, or trails.¹
- Finally, devices that the CVC does not expressly permit the City to regulate are omitted. These include single-wheel electric transporters (e.g., Solowheels), laterally propelled hubless skates (e.g., Orbit Wheels), or electric roller skates (e.g., Rocket Skates, Segway Drift).

SEC. 19.52. – Authority to Regulate.

This section makes clear that the City is regulating bicycles, electric bicycles, motorized scooters, and transportation devices to the extent the City is authorized under State law.

SEC. 19.53. – Operating Bicycles, Electric Bicycles, and Transportation Devices on Sidewalks.

In relation to sidewalk operations, the following provisions are proposed:

- Bicycles, electric bicycles, roller skates, and skateboards must be operated upon a sidewalk with due care under the circumstances and conditions and must yield the right-of-way to pedestrians not operating such a device.
- Use of a bicycle, electric bicycle, roller skates, skateboard, EPAMD, or electrically motorized board upon a sidewalk in designated locations is prohibited, with an exception for children under 11 years of age.

¹ CVC treats motorized skateboards and electrically motorized boards differently but does not define the former.

- Operation of any bicycle, electric bicycle, or transportation device that is 3' or wider is prohibited upon a sidewalk.

When combined with the provisions of the CVC, the following regulations would apply to bicycles, electric bicycles, motorized scooters, and transportation devices on sidewalks, creating cumulatively consistent regulations for these devices.²

Table 2: Summary of Proposed Requirements for Operating on Sidewalks (§19.53)

Proposed MVCC Requirement	CVC Requirement	Total Effect
Persons operating a bicycle, electric bicycle, roller skate, or skateboard on a sidewalk must exercise due care under the circumstances and conditions and yield to pedestrians.	Use of EPAMDs and electrically motorized boards must be at a reasonable, prudent speed that does not endanger people and must yield to pedestrians; electrically motorized boards may not exceed 15 mph.	People using a bicycle, electric bicycle, and transportation device on sidewalks must exercise due care under the circumstances and conditions and yield to pedestrians.
Bicycles, electric bicycles, and transportation devices may not be operated on sidewalks in locations designated by the Council, with the exception of children under 11.		Bicycles, electric bicycles, and transportation devices may not be operated on sidewalks in locations designated by the Council, with the exception of children under 11.
Use of bicycles, electric bicycles (including bike-car hybrids), and transportation devices that are 3' or wider are not permitted on sidewalks.	Use of motorized scooters on sidewalks is not permitted.	Use of motorized scooters as well as bicycles, electric bicycles, and transportation devices that are 3' or wider are not permitted on sidewalks.

² CVC §§21235g, 21281.5, 21294b-c.

Potential locations for the sidewalk riding prohibition are outlined in a proposed resolution (Attachment 4) and include Castro Street between Central Expressway and High School Way/Yosemite Avenue, and San Antonio Road between California Street and El Camino Real.

SEC. 19.54. – Operating Transportation Devices and Motorized Scooters on Roadways.

In relation to street operations, the proposed regulations aim to encourage the use of transportation devices while providing for safety and consistent treatment of bicycles, electric bicycles, transportation devices, and motorized scooters on roadways.

To achieve consistency with CVC regulations for electrically motorized boards and motorized scooters, staff proposes that the use of EPAMDs, roller skates, skateboards, and motorized scooters be limited to roadways that have a posted speed of up to 35 miles per hour unless operating within a Class II bike lane or Class IV protected bikeway (see Table 3).³ Locations with a speed limit in excess of 35 miles per hour and no bike lane or protected bikeway include:

- Central Expressway
- El Camino Real east of Grant Road/Highway 237
- Moffett Boulevard north of Middlefield Road and south of Highway 85
- Ellis Street north of Fairchild Drive

Bicycles and electric bicycles are not included in this proposed regulation since the City is only permitted by the CVC to prohibit or restrict the use of bicycles (and electric bicycles) on expressways or freeways.⁴

In terms of the operating requirements for devices on roadways, the draft ordinance would extend certain CVC requirements for bicycles, electric bicycles, motorized scooters, or specific transportation devices to other users not currently addressed. The total effect of this provision would mean that all users of transportation devices and motorized scooters would be subject to the following requirements:

- No riding under the influence of an alcoholic beverage or any drug.⁵

³ CVC §§21294, 21235b.

⁴ CVC §21960.

⁵ CVC §§21221, 21296, 21200.5, 21221.5.

- Using lights and reflectors during darkness (either on the device or operator).⁶
- Using a bicycle helmet when riding upon a roadway for users under 18 years.⁷
- Riding as close as practicable to the right-hand edge.⁸
- Riding within the bicycle lane.⁹
- Riding in the same direction as vehicles.¹⁰
- Not attaching one's self to a motor vehicle.¹¹
- Yielding right-of-way to a pedestrian in a crosswalk.¹²
- Yielding right-of-way to a totally or partially blind pedestrian.¹³
- Not wearing a headset or earplugs in both ears.¹⁴

⁶ CVC §§21293, 21281, 21290, 21220, 21201.

⁷ CVC §21212, §21235c. Note that CVC §21292 and §21213 require all users of electrically motorized boards and Class 3 (high-speed) electric bicycles to use a bicycle helmet, regardless of their age. A Class 3 electric bicycle is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and equipped with a speedometer.

⁸ CVC §§21202, 21228.

⁹ CVC §§21208, 21235.

¹⁰ CVC §21650.1.

¹¹ CVC §§21229, 21203.

¹² CVC §21950.

¹³ CVC §21963.

¹⁴ CVC §27400.

Table 3: Summary of Proposed Requirements for Operating on Streets (§19.54)

Requirement	Bikes & E-Bikes	Motorized Scooters	Skates	Skateboards	EPAMDs	E-Boards
Not permitted to operate on streets with posted speed of more than 35 mph unless in a Class II or IV bikeway.	-	MVCC (with CVC)	MVCC	MVCC	MVCC	CVC
Use lights and reflectors during darkness	CVC	CVC	MVCC	MVCC	CVC	CVC
Not ride under influence of alcohol or drugs	CVC	CVC	MVCC	MVCC	MVCC	CVC
User and passengers under 18 must use a helmet	CVC	CVC	CVC	CVC	MVCC	CVC
Not attach to a vehicle	CVC	CVC	CVC	MVCC	MVCC	MVCC
Ride close to right-hand edge	CVC	CVC	MVCC	MVCC	MVCC	MVCC
Ride within the bike lane						
Operate in same direction as vehicles						
Yield to a pedestrian in crosswalk						
Yield to a blind pedestrian						
Not wear earplugs in both ears						

SEC. 19.55.—Use of Bicycles, Electric Bicycles, Transportation Devices, and Motorized Scooters in Any City-Owned Parking Structures.

The proposed ordinance would not allow the use of bicycles, electric bicycles, transportation devices, or motorized scooters in City-owned parking structures except for the limited purpose of accessing parking.

SEC. 19.56. – Bicycle Parking Spaces.

The proposed ordinance would retain the existing authority of the City Traffic Engineer to designate and establish bicycle parking spaces, as well as the existing prohibition on parking motor vehicles in bicycle parking spaces.

Additionally, the proposed ordinance would broaden bicycle parking requirements to encompass electric bicycles, motorized scooters, and transportation devices. It would also widen the range of potential parking locations to align with improved bike share parking requirements. Under these requirements, users would be required to park bicycles, electric bicycles, motorized scooters, and transportation devices in an upright position, either at designated bicycle parking spaces or in the paved area of the furniture zone, leaving 6' clear sidewalk for pedestrians. If the sidewalk is narrower than 6', the entire sidewalk must be kept clear. Users would not be permitted to park in the following locations:

- Within 10' of street corner pedestrian ramps and Americans with Disabilities Act (ADA) ramps.
- Within 10' of a curb parallel to a bus stop, except at designated bicycle parking spaces.
- Within 10' of loading zones.
- Within 10' of an ADA accessible parking space.
- Within 5' of street furniture that requires pedestrian access such as benches, parking pay stations, and bus shelters.
- Within 5' of outdoor dining areas.
- Within a transit platform or transit waiting area except at designated bicycle parking spaces.

CONCLUSION

In preparing its recommendations to Council, the B/PAC may wish to consider the following questions:

- Does the proposed language accurately reflect the regulatory framework presented to City Council on December 4, 2018?
- Does B/PAC concur with the proposal to repeal the existing Section 19.55A(2) requiring a Temporary Use Permit (TUP) be obtained for commercial use of EPAMDs on public roadways?
- Does B/PAC concur with the proposed age threshold of under 11 years for the exception from the ban on sidewalk riding in designated areas of the City?
- Does B/PAC concur with prohibiting sidewalk riding at the proposed locations?
- Does B/PAC have a recommendation related to potentially broadening the provision prohibiting riding in any City-owned parking structure, "except for the limited purpose of accessing parking," to include accessing destinations?

NEXT STEPS

Staff will bring B/PAC's recommendations of the proposed ordinance to City Council on March 26, 2019.

RHL/NB/6/PWK
935-02-21-19M

- Attachments:
1. Proposed Ordinance
 2. Classification and Ability to Regulate Devices under the CVC
 3. Existing Ordinance (MVCC Chapter 19 Article VI)
 4. Proposed Resolution