



DATE: March 26, 2019

CATEGORY: New Business

DEPT.: Public Works

TITLE: **Ordinance Repealing Article VI of Chapter 19 of the City Code and Adding a New Article VI Related to Bicycles, Electric Bicycles, Motorized Scooters, and Transportation Devices**

RECOMMENDATION

1. Introduce an Ordinance Repealing Article VI of Chapter 19 of the Mountain View City Code in Its Entirety and Adding a New Article VI Related to Bicycles, Electric Bicycles, Motorized Scooters and Transportation Devices, to be read in title only, further reading waived, and set second reading for April 9, 2019 (Attachment 1 to the Council report).
2. Adopt a Resolution Prohibiting the Operation of a Bicycle, Electric Bicycle, or Transportation Device upon Sidewalks in Designated Locations, to be read in title only, further reading waived (Attachment 2 to the Council report).

BACKGROUND

On September 5, 2017, 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 (i.e., human-powered scooters), and electric personal assistive mobility devices (EPAMDs) on City roadways 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).

In California, the California Vehicle Code (CVC) regulates traffic control on streets and highways. Traffic control includes pedestrian, vehicular, and other conveyance traffic such as bicycles. Cities and other local jurisdictions 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 roadway 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 3.

A proposed regulatory framework was presented to [City Council on December 4, 2018](#). This regulatory framework is presented in Table 1 below:¹

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

¹ The regulatory framework presented on December 4, 2018 referred to streets and sidewalks. To be consistent with the intent of the document as well as the CVC definitions, “streets” has been replaced with “roadways.”

RELEVANT DEVICE	REGULATION
Roadways	
<ul style="list-style-type: none"> • In-line and roller skates (human-powered) • Skateboards (human-powered) • EPAMDs • Electrically motorized boards • Motorized scooters² 	<p>Permitted to operate only on roadways with speed limit of 35 mph or less unless on a Class II bike lane or Class IV protected 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 roadway, 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 proposed locations for prohibiting sidewalk operation were along Castro Street between High School Way/Yosemite Avenue and Central Expressway, and along San Antonio Road between El Camino Real and California Street.

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.

² The ordinance would regulate the use of motorized scooters in the public right-of-way to the extent permitted by the CVC, including e-scooters that are owned by individuals. Should an e-scooter share permit program be established in Mountain View, users of e-scooter share would also be subject to these regulations. In addition, companies operating an e-scooter share program would be subject to additional permit requirements, such as those that exist under the bike share permit program.

Community Workshop

On February 13, 2019, staff held a community workshop to obtain input on draft ordinance sections consistent with the regulatory framework presented at the December 4, 2018 Council Study Session. The meeting was publicized on the City website, yard signs across the City, and an e-mail that was posted on Nextdoor and forwarded by community organizations. Twelve (12) people attended the event in addition to three people who provided comments by e-mail.

Participants generally supported proposed provisions for operating bicycles, e-bicycles, motorized scooters, and transportation devices on roadways. Some requested clarification on allowances for making left turns when riding close to the right-hand edge, and some asked if penalties for riding under the influence would be less severe than driving under the influence. Several community members requested a map showing roadways with a speed limit in excess of 35 miles per hour and no bike lanes.

For sidewalk operations, some community members supported the proposed requirements while others preferred more specific speed limits and distances from pedestrians. Participants 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 age of under 12 years, with others supporting ages under 10 or 11 years. It was also suggested that no children, regardless of age, be permitted to ride on Castro Street sidewalks due to the high pedestrian volumes. On San Antonio Road, however, a higher threshold of 14 or 15 years was suggested due to the faster vehicle speed on the adjacent roadway and lack of alternative routes.

Community members expressed appreciation for greater clarity on bicycle and device parking; however, some felt that the proposed regulations were too restrictive or confusing. Others requested that bicycles and transportation devices be permitted to park on roadways as well as sidewalks. 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.

B/PAC Input

Staff brought a draft ordinance and resolution to Mountain View B/PAC on February 27, 2019. B/PAC unanimously recommended Council introduce an ordinance and adopt a resolution with some revisions to the draft proposed. Their recommended revisions are described in the Analysis section below and have been integrated into the proposed ordinance and resolution presented in Attachments 1 and 2, respectively.

In addition, B/PAC unanimously moved that staff clarify and clearly inform Council about whether contraflow riding along the sidewalks—which refers to operating a bicycle or transportation device in the opposite direction of travel to motor vehicle travel in the adjacent lane—is allowed under the CVC. B/PAC expressed their intent that contraflow riding be permitted on sidewalks to the extent that the City is authorized to regulate this.

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

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. At their meeting on February 27, 2019, B/PAC concurred with this recommendation.

Operations in City-Owned Parking Structures

Input from the community and B/PAC indicates there is support for broadening the parking structure provision to allow people to ride bicycles, electric bicycles, motorized scooters, and transportation devices in City-owned parking structures for the limited purpose of accessing parking or destinations. Staff concurs with this suggestion since it addresses the goal of preventing recreational and stunt riding in parking structures, while allowing for transportation use of the facilities.

Resolution Designating Locations where Sidewalk Riding is Prohibited

The December 2018 Study Session identified San Antonio Road between California Street and El Camino Real as one of two potential locations where sidewalk riding would be prohibited. This location had been included in anticipation of high pedestrian volumes in the coming years. Based on community and B/PAC concerns regarding

high traffic speeds on adjacent roadways and a current lack of alternative routes for young bicyclists, staff recommends that this location be omitted at this time. If new development results in higher pedestrian volumes along San Antonio Road as well as improved alternative routes for bicyclists, Council could adopt a resolution in the future to designate this segment of San Antonio Road as a location where sidewalk riding is prohibited.

Age Threshold of Six and Under

If the San Antonio Road segment is not included as a designated location where sidewalk riding is prohibited (leaving just Castro Street for now), a lower age threshold may be more appropriate for the exception from the prohibition of riding along sidewalks in designated areas. A lower age threshold would provide greater protection for pedestrians within these high-foot-traffic areas. Based on input from B/PAC and the community, a younger age threshold of six years or younger is proposed for the exception to the ban on sidewalk riding in designated areas.

Parking

B/PAC recommended broadening parking provisions to allow people to park bicycles, electric bicycles, motorized scooters, and transportation devices in paved or nonlandscaped areas of the furniture zone, subject to restrictions that ensure pedestrian access. To reflect this goal, staff recommends expanding the parking provisions to allow parking in hardscaped areas, which include areas paved with hard materials such as asphalt, concrete, bricks, pavers, stone, wood board, gravel, and decomposed stone. Hardscaped areas exclude any areas that are landscaped with grass, shrubs, or other vegetation.

Staff also recommends that bicycle, electric bicycle, motorized scooter, and transportation device parking be prohibited within 15' of any marked or unmarked crosswalk. This requirement would be more stringent than the provision presented to B/PAC on February 27, 2019, which prohibited parking within 10' of street corner pedestrian ramps and Americans with Disabilities Act (ADA) ramps. Staff recommends this change to provide greater consistency with the dockless bike share parking requirements and City Code sections regarding vehicle parking on roadways and newsrack placement within the furniture zone. Clearance of 15' provides sufficient room for maneuvering wheelchairs or mobility devices with other pedestrians present, as well as ensuring visibility of crosswalks.

Proposed Ordinance

Based on the regulatory framework supported by Council, the authority granted to the City to regulate under State law and the changes noted above, staff has drafted the proposed ordinance language (Attachment 1). The proposed ordinance would repeal in its entirety the existing MVCC Chapter 19, Article VI, which is provided in Attachment 4, and add a new Article VI to Chapter 19. More information on each proposed section is provided in the following sections.

Section 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. Key terms that are defined under the CVC include bicycle, electric bicycle, electric personal assistive mobility device (EPAMD), and motorized scooter.

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);
- EPAMDs; and
- Electrically motorized boards.

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

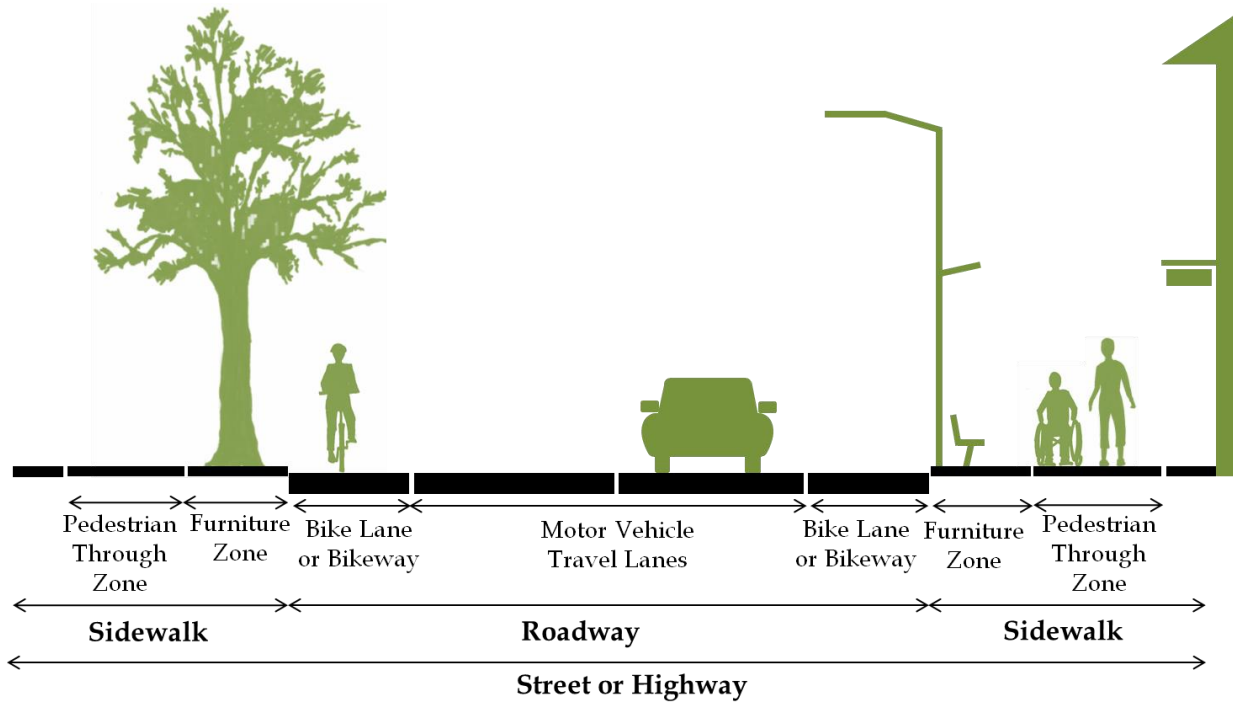
- Wheelchairs, power-driven mobility devices needed because of a mobility disability, and human-powered scooters are omitted because the CVC defines these devices as pedestrians, and with limited exception, does not authorize the City to regulate them.
- Motorized skateboards are also omitted from the definition because the CVC does not permit their use on sidewalks, roads, or trails.³

³ CVC treats motorized skateboards and electrically motorized boards differently but does not define the former.

- 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*), electric roller skates (e.g., *Rocket Skates*, *Segway Drift*), and motorized scooters with more than two wheels (e.g., *Gotcha Trike*).

Under the proposed ordinance, the “pedestrian through zone” is the portion of the sidewalk that is the primary accessible pathway for pedestrians. The “furniture zone” is the portion of the sidewalk located between the curb and the pedestrian through zone in which street furniture, public amenities, and green infrastructure are located. This is illustrated in Figure 1.

Figure 1: Sidewalks, Roadways, and Other Parts of the Street



Section 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.

Section 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 six years of age or younger. The recommended location for the sidewalk riding prohibition included in the proposed resolution (Attachment 2) is Castro Street between Central Expressway and High School Way/Yosemite Avenue.
- 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.

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, or 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 Council, with the exception of children six years of age or younger.		Bicycles, electric bicycles, and transportation devices may not be operated on sidewalks in locations designated by Council, with the exception of children six years of age or younger.
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.

In addition, B/PAC requested that staff clarify whether contraflow riding is allowed on the sidewalk, as this is their intent to the extent authorized under State law. Under the CVC, contraflow riding is allowed unless the City prohibits it. The CVC provision that requires bicycles to ride in the same direction of travel as motor vehicles only applies to roadways, which do not include sidewalks under the CVC definitions. The proposed ordinance does not prohibit contraflow riding on sidewalks and, therefore, it would be allowed.

Under the CVC, bicycles are also permitted to operate within crosswalks where they are not prohibited by the CVC or local ordinance. Neither the CVC nor the City Code prohibits riding in the crosswalk and, therefore, people may operate a bicycle, electric

bicycle, or transportation device within a crosswalk for the purpose of crossing a roadway.

Section 19.54—Operating Transportation Devices and Motorized Scooters on Roadways

In relation to roadway operations, the proposed regulations aim to encourage the use of transportation devices while providing for safety and consistent treatment of bicycles, electric bicycles, motorized scooters, and transportation devices 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). 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; and
- 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.

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 when riding along roadways:

- No riding under the influence of an alcoholic beverage or any drug;
- Using lights and reflectors during darkness (either on the device or operator);

- Using a bicycle helmet when riding upon a roadway for users under 18 years;
- Riding as close as practicable to the right-hand edge;
- Riding within the bicycle lane;
- Riding in the same direction as vehicles;
- Not attaching one’s self to a motor vehicle;
- Yielding right-of-way to a pedestrian in a crosswalk;
- Yielding right-of-way to a totally or partially blind pedestrian; and
- Not wearing a headset or earplugs in both ears.

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

Requirement	Bikes and E-Bikes	Motorized Scooters	Skates	Skate-boards	EPAMDs	E-Boards
Not permitted to operate on roadways with posted speed of more than 35 mph unless in a Class II or Class IV bikeway.	–	MVCC (with CVC)	MVCC	MVCC	MVCC	CVC
Use lights and reflectors during darkness	CVC	CVC	MVCC	MVCC	CVC	CVC
Not permitted to 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 permitted to attach to a vehicle	CVC	CVC	CVC	MVCC	MVCC	MVCC

Requirement	Bikes and E-Bikes	Motorized Scooters	Skates	Skateboards	EPAMDs	E-Boards
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 permitted to wear earplugs in both ears						

Section 19.55 – Use of Bicycles, Electric Bicycles, Motorized Scooters and Transportation Devices in Any City-Owned Parking Structures

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

Section 19.56 – Use of Bicycles, Electric Bicycles, Motorized Scooters and Transportation Devices in Parks and Other City Facilities

This section clarifies that use of bicycles, electric bicycles, motorized scooters, and transportation devices in parks and other City facilities are subject to Chapter 38, Regulating the Use of City Parks and Other City Facilities, of the City Code.

Section 19.57 – 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 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 nonlandscaped areas of the furniture zone leaving a 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 15' of any marked or unmarked crosswalk;
- 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.

FISCAL IMPACT

Adoption of the ordinance and resolution will not result in any direct fiscal impacts to the City. At the December 4, 2018 Study Session, the Council recommended that the ordinance changes be reinforced by appropriate education and enforcement strategies, which will require staff time and other costs for educational efforts. Staff will explore integrating some of this work into other efforts, such as a future Safe Routes to School program and/or Vision Zero program. No cost analysis has been undertaken to assess the fiscal impact of additional education and enforcement strategies.

CONCLUSION

Staff has prepared a proposed ordinance with the goals of ensuring pedestrian safety, and encouraging the use of bicycles, electric bicycles, motorized scooters, and transportation devices as alternatives to driving. The proposed provisions strive to provide for safe and orderly operations as well as consistency across device types, to the extent authorized under the CVC. Therefore, staff recommends that Council repeal the existing ordinance (Attachment 4), introduce the proposed ordinance (Attachment 1), and adopt the proposed resolution (Attachment 2).

ALTERNATIVES

1. Introduce the proposed ordinance or adopt the proposed resolution with amendments that could include:
 - a. A different age threshold for the ban on sidewalk in designated areas of the City;
 - b. Omission of language broadening the provision prohibiting riding in any City-owned parking structure to accessing destinations;
 - c. Only allowing bicycles, electric bicycles, motorized scooters, and transportation devices to park on paved areas when parking in the furniture zone;
 - d. Inclusion of San Antonio Road between El Camino Real and California Street in designated locations where sidewalk riding is prohibited; or
 - e. Other amendments.
2. Not introduce the proposed ordinance or adopt the proposed resolution.
3. Provide other direction to staff.

PUBLIC NOTICING

The City Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's Internet website at www.mountainview.gov. A notice of the availability of the Council Report was sent to the B/PAC, Downtown Committee,

Youth Advisory Committee, Senior Advisory Committee, and attendees of the community workshops on this topic.

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