

ORDINANCE NO. 3450

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHULA VISTA MUNICIPAL CODE CHAPTER 5.67 TO
ESTABLISH A SHARED MICRO-MOBILITY DEVICE PILOT
PROGRAM

WHEREAS, the goal of the City of Chula Vista's Shared Micro-Mobility Device Program is to:

1. Support an active, healthy lifestyle;
2. Ensure affordable and equitable service;
3. Fill mobility gaps and improve connections to transit;
4. Provide a low-carbon mobility option to reduce carbon emissions;
5. Manage public space to ensure sidewalks are organized and free from obstruction;
6. Derive insights using the data provided from the shared mobility devices to guide permanent regulation development and potential future infrastructure investments; and

WHEREAS, the Shared Micro-Mobility Device Program supports the City of Chula Vista's Climate Action Plan (CAP) by expanding device-sharing and providing "last mile" transportation options; and

WHEREAS, the Shared Micro-Mobility Device Program will assist the City to achieve CAP performance goals for citywide alternative commute rates and reducing average vehicle miles traveled; and

WHEREAS, City staff has prepared a draft ordinance to add Chapter 5.67 to establish rules and regulations for the Shared Micro-Mobility Device Pilot Program.

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

Section I.

A. Chapter 5, Section 5.67 (Shared Micro-Mobility Device Pilot Program) is added to read as follows:

5.67.010 Purpose.

In recent years, the County of San Diego region has experienced an evolution in transit options including a significant increase in the use of Shared Micro-Mobility Devices including dockless bicycles, electric-assist bicycles, and electric scooters. While Shared Micro-Mobility Devices can assist in enhancing mobility and access, easing traffic congestion, and promoting sustainability, the use of Shared Micro-Mobility Devices can impact safety and management of public rights-of-way. In an effort to mitigate any potential negative impacts from Shared Micro-Mobility Device operation and use and provide for the efficient and safe management of public rights-of-way, the City now desires to implement a pilot program to permit and regulate operation of Shared Micro-Mobility Device Businesses and the operation and use of Shared Micro-Mobility Devices within the City's rights-of-way.

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5.67.020 Definitions.

“Applicant” means the Person applying for a Permit pursuant to this Chapter.

“Bicycle” shall have the same meaning as section 231 of the California Vehicle Code.

“City” means City of Chula Vista, California.

“City Attorney” means the City Attorney of the City of Chula Vista, or his/her designee, as referred to in Chapter 2.11 of the Chula Vista Municipal Code.

“City Engineer” means the City Engineer of the City of Chula Vista, or his/her designee, as referred to in Chapter 2.06 of the Chula Vista Municipal Code.

“Electric bicycle” shall have the same meaning as section 312.5 of the California Vehicle Code.

“Operator” means any Person, including each of its employees, managers, officers, principals, directors, owners, contractors, representatives, and agents, that is issued a Permit to participate in the Program.

“Permit” means a Shared Micro-Mobility Device (Pilot Program) Permit issued by the City Manager or his/her designee.

“Person” means any individual, firm, partnership, joint venture, association, corporation, limited liability company, trust, business trust, receiver, syndicate, or any other group or combination of persons acting as a unit.

“Public Right-of-Way” means any public alley, parkway, public transportation path, roadway, sidewalk, or street that is owned, granted by easement, operated, or controlled by the City.

“Scooter” shall have the same meaning as “motorized scooter” under section 407.5(a) of the California Vehicle Code.

“Shared Micro-Mobility Device” means any transportation device by which a person can be propelled, moved, or drawn, including but not limited to dockless bicycles, electric-assist bicycles, and electric and motorized Scooters, which is rented or displayed, offered, or placed for rent in any public area or Public Right-of-Way.

“Shared Micro-Mobility Device Business” means any Person that displays, offers, or makes available for rent any Shared Micro-Mobility Device.

5.67.030 Pilot Program and Permits Authorized.

Consistent with this Chapter, the City Manager or his/her designee shall be authorized to establish and implement a Shared Micro-Mobility Device Pilot Program (“Program”) under which he/she shall be authorized to issue one or more Permits to facilitate the operation of a Shared Micro-Mobility Device Business and the operation and use of Shared Micro-Mobility Devices within the City of Chula Vista. Permits issued pursuant to this Chapter shall expire and terminate twelve (12) calendar months after the date of issuance, unless extended by the City in accordance with this Chapter.

5.67.040 City Permit and License Required.

A. No Person may:

1. Own, operate, or maintain a Shared Micro-Mobility Device Business within the City unless that Person has first obtained: (a) a Permit issued in accordance with this Chapter, and (b) a business license issued in accordance with Chapter 5.02 of the Chula Vista Municipal Code.
2. Display, offer, or make available for rent any Shared Micro-Mobility Device within the City unless that Person has first obtained: (a) a Permit issued in accordance with this Chapter, and (b) a business license issued in accordance with Chapter 5.02 of the Chula Vista Municipal Code.

B. Except as expressly authorized by this Chapter, all Shared Micro-Mobility Device Businesses and all Shared Micro-Mobility Device Business activities are prohibited within the City.

5.67.050 Promulgation of Regulations and Standards

A. In addition to any regulations and Permit requirements adopted by the City Council, the City Manager or his/her designee is authorized to promulgate regulations and standards to establish and implement the provisions of this Chapter, including but not limited to those related to: the issuance, denial, termination, revocation, or renewal of Permits; Permit application procedures; Permit standards and requirements; City oversight of Shared Micro-Mobility Device Business operations; lawful conduct of Shared Micro-Mobility Device users; public safety; data sharing and data privacy; timely removal of hazards from the Public Right-of-Way; and any other subject matter determined to be necessary or advisable to implement or further the purposes of the Program or this Chapter.

B. Regulations and standards promulgated pursuant to this Chapter shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.

C. Regulations and standards promulgated by the City Council or the City Manager shall become effective and enforceable upon date of publication on the City's website or with respect to existing Permits, upon the date specified in a written notice to the Operator.

5.67.060 Compliance With All Applicable Laws Required

A. Nothing in this Chapter shall be construed as authorizing or condoning any actions or omissions that violate federal, state, or local law with respect to the operation or use of a Shared Micro-Mobility Device or the operation of a Shared Micro-Mobility Device Business.

B. It shall be the responsibility of all Applicants, Operators, Shared Micro-Mobility Device Businesses, and Shared Micro-Mobility Device users to ensure that, at all times, they are in compliance with all applicable federal, state, and local laws and regulations, including any subsequently enacted federal, state, or local law or regulations, and any specific, additional operating procedures, standards, or requirements which may be imposed as a condition of approval of a Permit.

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C. This Chapter incorporates the requirements set forth in state laws. In the event of a conflict between the provisions of this Chapter and the provisions of any other applicable state or local law, the more restrictive provision shall control. To the extent allowed by state law, the City shall have the right, but not the obligation, to enforce all applicable state laws.

5.67.070 Prohibited Conduct; Enforcement and Penalties

A. It is unlawful to:

1. Own, operate, or maintain a Shared Micro-Mobility Device Business, or engage in conduct related to a Shared Micro-Mobility Device Business within the City unless that Person has first obtained: (a) a Permit issued in accordance with this Chapter, and (b) a business license issued in accordance with Chapter 5.02 of the Chula Vista Municipal Code.
2. Display, offer, or make available for rent any Shared Micro-Mobility Device within the City, unless that Person has first obtained (a) a Permit issued in accordance with this Chapter, and (b) a business license issued in accordance with Chapter 5.02 of the Chula Vista Municipal Code.
3. Abandon or leave a Shared Micro-Mobility Device in the Public Right-of-Way or other public area in such a way that: (a) obstructs travel upon or blocks access to a Public Right-of-Way, (b) poses an immediate public safety hazard, or (c) disrupts or interferes with any municipal functions or services.
4. Violate any term, condition, or requirement of any Permit issued in accordance with this Chapter.
5. Use, operate, ride, park, place, or locate any Shared Micro-Mobility Device in the City in violation of any federal, state, or local law or regulation, including without limitation this Chapter, regulations or standards adopted pursuant to this Chapter, or the California Vehicle Code.

B. It shall be unlawful for any person to violate any provision of, or to fail to comply with any requirement of this Chapter or any regulation or Permit requirement adopted pursuant to this Chapter. A violation of any provision of this Chapter is an infraction and may be punishable with a citation and a minimum \$100.00 fine pursuant to Chula Vista Municipal Code section 1.20.010(B). Alternatively, at the sole discretion of the City Manager, a violation of any provision of this Chapter may be punishable with an administrative citation pursuant to Chula Vista Municipal Code section 1.41.100.

C. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter, or any regulation adopted hereunder, is a public nuisance and may be abated by the City as a nuisance by means of summary abatement as provided in Chula Vista Municipal Code Chapter 1.30, restraining order, injunction, or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City may seek injunctive relief to enjoin violations of, or to compel compliance with this Chapter or seek any other relief or remedy available at law or equity, including the imposition of monetary civil penalties.

D. A Shared Micro-Mobility Device that is displayed, offered, or made available for rent, or abandoned, in the Public Right-of-Way or a public area in violation of this Chapter shall be subject to immediate impoundment by the City. The City Council may adopt impound fees by resolution, which shall reflect the City's enforcement, investigation, storage, and impound costs. No Person shall retrieve any impounded Shared Micro-Mobility Device except upon demonstrating proper proof of ownership of the Shared Micro-Mobility Device and payment of applicable impound fees.

E. In addition to any other grounds allowed in a Permit or at law, the City Engineer is authorized to deny a Permit application, or suspend, terminate, or revoke a Permit where an Applicant or Operator:

1. Makes a false or misleading statement, or material omission on a Permit application, during the Permit application process, or during the Program;
2. Fails to provide information requested or required by the City;
3. Operates or proposes to operate a Shared Micro-Mobility Device Business in a manner that endangers public health or safety; or
4. Fails to comply with any requirement imposed by: the provisions of this Chapter; any term, condition, or standard in a Permit; or any federal, state, or local law or regulation.

Upon receipt of written notice of a Permit termination or revocation, an Operator may appeal the termination or revocation by serving a written appeal stating the basis for the appeal to the attention of the City Manager by no later than five (5) calendar days after the date of City's termination or revocation notice. The City Manager will issue a written decision in response to a timely appeal and such decision shall be final.

F. The remedies specified in this Section are cumulative and in addition to any other remedies available under state or local law for a violation of the Chula Vista Municipal Code.

G. Nothing in this Section shall be construed as requiring the City to allow, permit, authorize, or otherwise regulate Shared Micro-Mobility Device Businesses or Shared Micro-Mobility Devices, or as abridging the City's police power with respect to enforcement concerning or related to Shared Micro-Mobility Device Businesses or Shared Micro-Mobility Devices.

5.67.090 Prohibited Areas of Use

A. No Person shall use, ride, or operate a bicycle, electric bicycle, or electric-assist-bicycle upon a sidewalk within a business district or upon any other sidewalk within the City which has been posted by the City Engineer with signs prohibiting such use, riding, or operation.

B. No Person shall use, ride, or operate a Scooter:

1. Upon a sidewalk.
2. Upon a roadway or highway without or outside of a striped bike lane (Class II facility) or bike boulevard (Class IV facility) where the posted speed limit is 40 miles per hour or greater.

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In accordance with section 21235(b) of the Vehicle Code, the City hereby authorizes the use and operation of motorized Scooters outside of a Class II or Class IV bikeway on a highway with a speed limit of up to 35 miles per hour.

5.67.100 Parking Zones

The City Engineer may establish Shared Micro-Mobility Device parking zones in areas adjacent to the curbs, not more than 36 feet in length, as necessary to provide facilities for the temporary parking of a Shared Micro-Mobility Device. Whenever such parking zone is so established, the City Engineer is authorized to place appropriate signs giving notice that parking of other vehicles is prohibited during such hours of such days, and no person shall stop, stand or park any vehicle other than a Shared Micro-Mobility Device in such zone when said signs are in place, contrary to the directions or provisions of such signs.

5.67.110 Administrative Fees

The City may charge reasonable administrative fees for the costs of the implementation, maintenance, enforcement, administration, and infrastructure requirements of the Program.

5.67.120 Limitations on City's Liability; Indemnity Obligations

To the maximum extent allowed by law, the City shall not incur or assume any direct or indirect liability to any Applicant, Operator, government agency, or third party as a result of having issued a Permit pursuant to this Chapter, authorizing or approving the operation of any Shared Micro-Mobility Device Business, or authorizing the operation or use of any Shared Micro-Mobility Device. As a condition to the issuance of any Permit, all Applicants shall be required to enter into and fulfill all requirements of an agreement, in a form approved by the City Attorney, whereby it agrees to (a) indemnify, protect, defend (at its sole cost and expense), and hold harmless the City, and its officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities, or losses that arise out of, or that are in any way related to the Permit or Program; and (b) provide evidence of and maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City's Risk Manager.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.


[SIGNATURES ON THE FOLLOWING PAGE]

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Presented by

Approved as to form by

DocuSigned by:

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 William S. Valle
 Director of Engineering and Capital Projects

DocuSigned by:

 CF40650850444BF...
 Glen R. Googins
 City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 5th day of February 2019, by the following vote:

AYES: Councilmembers: Diaz, Galvez, McCann, Padilla, and Casillas Salas

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

DocuSigned by:

 062BFD7C0386456...
 Mary Casillas Salas, Mayor

ATTEST:

DocuSigned by:

 3074D104EAF342E...
 Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO)
 CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3450 had its first reading at a regular meeting held on the 22nd day of January 2019 and its second reading and adoption at a regular meeting of said City Council held on the 5th day of February 2019; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

2/13/2019

 Dated

DocuSigned by:

 3074D104EAF342E...
 Kerry K. Bigelow, MMC, City Clerk