

ORDINANCE NO. –N.S

AMENDING BERKELEY MUNICIPAL CODE TO ESTABLISH CHAPTER 14.63,
AMENDING SECTION 14.68.010 DEFINING “MOTORIZED SCOOTER” AND
AMENDING SECTIONS 14.68.120 AND 14.68.180 TO INCLUDE LANGUAGE FOR
MOTORIZED SCOOTERS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Chapter 14.63
Shared Electric Micromobility

Sections:

- 14.63.010 Findings and purpose.**
- 14.63.020 Definitions.**
- 14.63.030 Term.**
- 14.63.040 Shared electric micromobility parking zone.**
- 14.63.050 Issuance of permits.**
- 14.63.060 Permit fees.**
- 14.63.070 Suspension or revocation.**
- 14.63.080 Penalties, liability and enforcement.**

14.63.010 Findings and purpose

The Council finds that the use of shared electric micromobility device sharing within Berkeley has numerous benefits, including improved mobility for residents, reduced personal vehicle ownership and vehicle miles traveled, and overall reduction in greenhouse gas emissions. The purpose of this Chapter is to facilitate shared micromobility within Berkeley by establishing a program under which permitted devices may operate within the City of Berkeley’s right-of-way, establish device parking requirements, and associated fees.

14.63.020 Definitions

A. “Shared electric micromobility device” or “device” means an electrically-powered device for short-term rental for point-to-point trips where, by design of the shared electric micromobility operator, the device is intended to remain in the public-right-of-way, even when not being rented, and is not required to be docked in a designated docking station for rental. “Devices” include electric scooters and electric-assisted bicycles.

a. “Device(s)” may include:

- i. “Electric Scooter” – any two-wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding, and is

powered by an electric motor, as defined in Section 407.5 of the California Vehicle Code.

- ii. “Electric Bicycle” – A Class 1 Electric Bicycle or Class 2 Electric Bicycle as defined in Section 312.5 of the California Vehicle Code.
 - iii. “Electric Motorized Bicycle” – A fully motorized two-wheeled device with a seat and footrest and an electric motor of no more than 750 watts.
 - iv. “Electric Tricycle” – a three-wheeled device with a seat and an electric motor of no more than 750 watts.
 - v. “Adaptive Shared Electric Micromobility Device” or “Adaptive Device” – an electric scooter, tricycle, or bicycle that is accessible to people with various physical disabilities. Adaptive Devices must include three wheels (or be self-balancing), a seat, and a basket or storage area large enough to hold a cane.
- B. “Shared electric micromobility system operator” or “operator” is an entity that owns and/or operates a Shared Electric Micromobility System in the public-right-of-way. The term includes any employee, agent, or independent contractor hired or retained by the operator.
- C. “Shared electric micromobility permittee” or “permittee” is an entity that is issued a Permit by the City to operate a Shared Electric Micromobility System in the public-right-of-way.
- D. “Shared electric micromobility permit program” or “program” means the program under which the permit system is regulated.
- E. “Shared electric micromobility system” or “system” means a system providing Devices as defined above.
- F. “Shared electric micromobility user”, “user” or “customer” is any person that uses, rents, or rides a shared electric micromobility device or is a customer of the operator.

14.63.030 Term

Reserved

14.63.040 Shared electric micromobility parking zone

The shared micromobility parking zone boundaries will be established by a shared electric micromobility operator in consultation with the Public Works Department. Current and updated maps of the operator’s parking zones will be made available

through the operator's website and cell phone application. Individual devices must be parked at locations as permissible and described in BMC 14.68.180.

14.63.050 Issuance of permits

A. Permits to operate a shared electric micromobility system within the City of Berkeley shall be issued by the Public Works Department in accordance with requirements set forth in this chapter.

B. The Public Works Department shall issue rules and regulations consistent with this Chapter governing the issuance of permits, as well as the terms and conditions that define and regulate the program.

C. A shared electric micromobility operator may apply for any amount of devices they wish to deploy; however the City retains the right to cap or reduce that number at any time. The Public Works Department will make fleet size cap and reduction decisions based on device usage data and responsiveness of the operator in maintaining the organization and clear use of the public right-of-way.

D. The Public Works Department shall issue the permits with a maximum term of one year. Permits may be granted annually through the end of the City's fiscal year.

14.63.060 Permit fees.

Fees for Permits for the implementation and administration of this Chapter may be adopted by resolution of the City Council.

14.63.070 Suspension or revocation.

A. The City may suspend or revoke the status of any qualified operator for any violation of the provisions of this Chapter or regulations promulgated to implement this Chapter. During the time that the permit is suspended or revoked, it shall be unlawful for the Operator to exercise any of the rights granted under this Chapter.

B. The permittee shall be entitled to appeal the City's decision to suspend or revoke its Permit by filing a written notice of appeal with the City Manager within ten days from the date the notice of suspension or revocation is mailed.

C. The appeal shall clearly and concisely set forth the grounds upon which it is based.

D. If the permittee files a timely request for appeal, a hearing shall be held before the City Manager or their designee. The decision of the City Manager or their designee shall be final.

E. Pending the appeal hearing it shall be unlawful for the permittee to exercise its rights under this chapter.

14.63.080 Penalties, liability, and enforcement.

A. Every person who violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28.

B. Each violation of this chapter and each day of violation of this chapter shall be considered a separate and distinct violation thereof and the imposition of a penalty shall be as set forth in subsection A of this section for each and every separate violation and each and every day of violation.

Section 2. That Berkeley Municipal Code Title 14 "Division II. Bicycles" be amended to read as follows:

Div. II Bicycles and Motorized Scooters

Section 3. That Berkeley Municipal Code Section 14.68.010 is amended to read as follows:

14.68.010 Definitions.

A. "Bicycle" means a device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, and having either two or three wheels in a tandem or tricycle arrangement.

B. "Bicycle establishment" means and includes a business operated by any person, partnership, association or corporation, wherein new or used bicycles or bicycle parts are purchased, sold, dismantled or junked

C. "Motorized bicycle" means any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor which produces less than two gross brake horsepower and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground. (Ord. 4957-NS §§ 1-3, 1976)

D. "Motorized scooter" means any two--wheeled device that has handlebars, has a floorboard that is designed to be stood upon when riding and is powered by a motor.

Section 4. That Berkeley Municipal Code Section 14.68.120 is amended to read as follows:

14.68.120 Riding motorized bicycles and motorized scooters on sidewalk prohibited.

No person shall ride or operate a motorized bicycle or motorized scooter on any sidewalk in the City. (Ord. 4957-NS § 14, 1976)

Section 5. That Berkeley Municipal Code Section 14.68.180 is amended to read as follows:

14.68.180 Parking Restrictions

No person shall park any bicycle, motorized bicycle, or motorized scooter against windows or parking meters or on the main-traveled portion of the sidewalk, nor in such manner as to constitute a hazard to pedestrians, traffic or property. (Ord. 4957-NS § 20, 1976)

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation

