



Agenda Report

20-1168

Agenda Date: 11/17/2020

REPORT TO COUNCIL

SUBJECT

Note and File Informational Report on a Proposed Shared Mobility Permit Program and Updates to State Law

COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development and Enhance Community Engagement and Transparency

BACKGROUND

The purpose of this informational report is to provide the City Council with an update on the City's proposed Shared Mobility Permit Program (Program) and to highlight recent changes in state law that will affect the Program in Santa Clara. Shared mobility is a common term used to represent the shared use of a vehicle, motorcycle, scooter, bicycle, or other travel mode. For the purposes of the Program and this report, shared mobility refers to bicycle and scooter share.

In December 2018 and January 2019, the City Council discussed and took action on the operation of shared mobility devices in Santa Clara. The Council approved emergency and regular ordinances, which prohibited the operation of shared mobility programs in Santa Clara from December 20, 2018 to December 19, 2019. The City Council also directed staff to return with a proposed permanent shared mobility program to allow the City to properly regulate the use of these new mobility options within City limits.

Staff developed and implemented a workplan to help establish a Program and provided a detailed progress update at the June 4, 2019 City Council meeting. Based on feedback from that meeting, staff updated the draft Shared Mobility Permit Administrative Regulations (Administrative Regulations) and conducted additional outreach with the public, operators, and other stakeholders. On June 20, 2019, staff posted the updated draft Administrative Regulations to the City's website.

In addition, at the June 24, 2019 Bicycle and Pedestrian Advisory Committee (BPAC) meeting, staff provided the BPAC with an update on the Program and draft Administrative Regulations. After an extensive discussion focused on data-sharing and privacy rights under the Program, the BPAC approved a recommendation that the City Council approve the draft Administrative Regulations with the following two amendments: 1) that the Administrative Regulations provide more clarity regarding which rules apply to bicycles, scooters, or both, and 2) that Operators not be allowed to share user data with third party vendors. Following the June 24, 2019 BPAC meeting, staff was preparing to return to City Council with a final proposed Program and draft Administrative Regulations (Attachment 1) in August 2019.

Temporary Moratorium Extension: In July 2019, staff was informed of Americans with Disabilities Act (ADA) litigation that had the potential to impact the Program and draft Administrative Regulations. Additionally, there were two proposed State Assembly Bills (Assembly Bill 1112 and Assembly Bill 1286) that could affect the Program. Based on this, the City Attorney's Office recommended temporarily pausing the development of the Program to allow the City sufficient time to determine how these new developments would impact the Program.

On November 5, 2019, City Council adopted Ordinance 2010 to extend the City's temporary moratorium on shared mobility programs. The temporary moratorium is set to expire on December 19, 2020. Recent discussions with the City Attorney's Office indicate that potential risk regarding ADA litigation has been addressed and that Assembly Bill 1286 has been approved.

DISCUSSION

On September 18, 2020, Governor Gavin Newsom approved Assembly Bill 1286 (Muratsuchi), Shared mobility devices; agreements (Attachment 2). AB 1286 requires that shared mobility service providers "enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use." AB 1286 also requires the following: 1) providers must maintain a specified amount of commercial general liability insurance and 2) that a city that authorizes a shared mobility device provider to operate within its jurisdiction on or after January 1, 2021, to adopt operation, parking, and maintenance rules, as provided, regarding the use of the shared mobility devices in its jurisdiction before the provider may offer shared mobility devices for rent or use. Effectively, AB 1286 requires that after January 1, 2021, shared mobility service providers in Santa Clara will be required to obtain a permit from the City prior to operation. The permit would be subject to the future rules and regulations adopted by Santa Clara.

As mentioned, the City's current temporary moratorium for operation of a shared mobility program is set to expire on December 19, 2020. Additionally, extension of the moratorium is not permitted beyond two years per California Government Code Section 65858. As AB 1286 effectively prohibits the operation of shared mobility programs until a permit is issued, the Department of Public Works and City Attorney's Office staff concluded that it is not necessary to pursue a permanent moratorium due to the limited number of days between December 19, 2020 and January 1, 2021.

In terms of next steps and based on City Council's previous direction to create a Program, staff will do the following:

1. Evaluate the latest draft of Shared Mobility Permit Administrative Regulations as changes may be needed based on changes to State Law, COVID-19 considerations, and interest by shared mobility program operators.
2. Reach out to potential shared mobility operators and coordinate on any new developments within the shared mobility industry (i.e. COVID considerations, etc.)
3. Continue to monitor and review proposed legislation related to shared mobility programs. Assembly Bill 1112 is currently being modified by the State legislature.
4. Update draft Administrative Regulations, if needed.

Staff anticipates that additional community (i.e. general public) and stakeholder (i.e. businesses, Santa Clara University) outreach may also be necessary. If there are substantial changes to the draft Administrative Regulations from 2019 an additional review by the City's Bicycle and Pedestrian

Advisory Committee may be necessary.

Ultimately, staff plans to return to City Council with a proposed Program and Administrative Regulations for review and consideration.

ENVIRONMENTAL REVIEW

This is an informational report only and no action is being taken by the City Council and no environmental review under the California Environmental Quality Act ("CEQA") is required.

FISCAL IMPACT

There is no cost to the City associated with this report other than administrative time and expense.

COORDINATION

This report has been coordinated with the City Attorney's Office

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Note and file the Informational Report on a Proposed Shared Mobility Permit Program and Updates to State Law.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Draft Shared Mobility Permit Administrative Regulations
2. Assembly Bill 1286