



## **City of Cupertino**

### **Dockless Bicycle Sharing**

### **18-Month Pilot Program Guidelines**

## **I. Policy Statement and Purpose**

The purpose of this policy is to establish rules and regulations governing the operation of bicycle sharing systems within the City of Cupertino and to ensure that such systems are consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public rights-of-way. These guidelines may be updated by Cupertino Public Works Transportation staff during the course of the 18-month pilot program should the need arise. The goal of the program is to encourage bicycle use as a transportation mode, and enhance mobility for all residents and visitors.

## **II. Scope**

This policy applies to the deployment of any human-powered bicycle or electric assist/propulsion bicycle sharing systems within the City of Cupertino's jurisdictional boundaries. No electric scooters or other e-mobility devices are permitted as part of this 18-month pilot program. The City will not restrict intercity trips originating outside of Cupertino, but vendors not permitted in Cupertino will need to retrieve bicycles and e-scooters that riders leave in the City. Non-compliance may result in a revocation of a permit, in which case all equipment must be removed by the vendor within 72 hours.

## **III. Procedures**

Any person seeking to operate a bicycle share program within the City of Cupertino shall first obtain an encroachment permit from the Public Works Department conditioned on compliance with the guidelines contained herein and any other conditions established by the City of Cupertino. No person, corporation, association or any other organization shall operate a bicycle share program within the City of Cupertino except pursuant to such permit. **Vendors may not deploy in Cupertino without a permit.** Permits issued for this program last for the duration of the 18-month pilot program, subject to section IV. h, of these guidelines, below. Permits cannot be transferred or shared among vendors. The estimated start date of the pilot program is February 1, 2019.

## **IV. Operating Regulations**

- a. All bicycles must meet the safety standards outlined in ISO 43.150 – Cycles, as well as the standards outlined in Code of Federal Regulations Title 16, Chapter II, Subchapter C, Part 1512 – Requirements for Bicycles. In addition, all bicycles shall meet the standards established in CVC section 21201, including for lighting during operation in darkness.

- b. Electric bicycles shall be “Class 1” or “Class 2” electric bicycles only, as defined in California Vehicle Code (CVC) section 312.5.
- c. Bikes must have always-on front and back lights that are visible from a distance of at least 300 feet under normal atmospheric conditions at night.
- d. Bicycles must have functioning bike bells, horns, or other audible devices for riders to use during operation.
- e. Permittees shall provide easily visible contact information, including toll-free phone number, QR code, and e-mail address, on each bicycle for members of the public to make relocation requests or to report other issues.
- f. Permittees have no maximum fleet size. Each applicant must include their overall fleet size on their application. Permittees shall notify the City of any plans to change fleet size and shall comply with any updated permit conditions prior to implementing the change.
- g. The minimum fleet size for each permittee is 100 bicycles.
- h. The City reserves the right to revoke a permit at any time during the pilot program and can require that a permittee’s fleet of bicycles be removed from the City right-of-way within 72 hours.
- i. E-scooters, drones, Vertical Take Off & Landing (VTOL) aircraft, and other aerial or terrestrial motorized mobility devices are not permitted as part of this pilot program.
- j. Helmet use is strongly encouraged but not required as part of the pilot program.

## **V. Parking & Fleet Management**

The success of a bike share program in Cupertino will hinge on participating vendors’ ability to efficiently manage their fleets, both to ensure widespread coverage of the City and also to minimize impacts to neighborhoods and businesses. Cupertino has many neighborhoods with no parkway strip, and fleet management in those neighborhoods will be critical to maintain an orderly program. Communication between the vendor and its users will be necessary to encourage positive rider behaviors.

- a. Bicycles shall be parked upright on hard surfaces in the furniture zone of the sidewalk, at a bicycle rack, or in another area specifically designated for bicycle parking.

### ***Bicycles shall not be parked in:***

- 1. the landscaped areas of furniture zones;
- 2. Transit loading areas, including bus stops, shelters, bus layover and staging zones, except at existing bicycle racks;
- 3. Loading zones;
- 4. Disabled parking zone;
- 5. Street furniture that requires pedestrian access (for example - benches, parking pay stations, bus shelters, transit information signs, etc.);

6. Curb ramps;
  7. Entryways; and
  8. Driveways.
- b. Bicycles shall not be parked in such a manner as to block the pedestrian clear zone area of the sidewalk; any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box.
  - c. Bicycles shall not be parked in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
  - d. Bicycles shall not be parked in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.
  - e. The City of Cupertino Transportation Manager reserves the right to:
    - Determine certain areas where free-floating bicycle share is prohibited (if deemed to be necessary); and
    - Create geo-fenced parking locations where bicycles shall be parked (if deemed to be necessary).
  - f. Bicycles may only be parked in on-street parking spaces when specifically designated by signage or road stenciling.
  - g. To the extent a permittee desires to park bicycles in areas other than the public right-of-way (e.g. parks, plazas, parking lots, private property, or transit stations), the permittee must first obtain the right to do so from the appropriate City department, property owner, or public agency and shall communicate this right to users through signage approved by the respective entity and/or through a mobile or web application.
  - h. Vendors shall work with city staff to minimize parking concerns in low-density residential areas.

## **VI. General Operations**

- a. Permittees shall maintain a 24-hour customer service phone number for customers to report safety concerns, complaints, or to ask questions.
- b. We encourage vendors to make their bicycles available for free in the event of an **earthquake or other significant emergency** if ordered by the Mayor.
- c. In the event a safety or maintenance issue is reported, the bicycle in question shall immediately be made unavailable to users via mobile App and then shall be physically removed for repair within the timeframes noted in Section IV, subsection h. Any inoperable or unsafe bicycle shall be repaired before it is put back into service.
- d. Permittees shall respond to requests for rebalancing (refers to the redistribution of bicycles to ensure widespread coverage while reducing bunching of bicycles in popular locations), reports of incorrectly parked bicycles, or repair requests within the following timeframes: (1.) From 6:00 am to 6:00 pm on weekdays, not including

- holidays: within two hours of receiving notice, (2.) all other times: within 10 hours of receiving notice. Bicycles flagged for repair shall be removed from service immediately via App and physically removed for repair within 72 hours of receiving notice.
- e. In the event a bicycle is not relocated, re-parked, or removed for maintenance within the timeframes specified herein, such bicycles may be removed by City of Cupertino crews and taken to a City facility for storage at the expense of the permittee. A \$25 per-bicycle fee will be assessed to vendors to recover confiscated equipment.
  - f. Permittees shall work with local businesses or other organizations to promote the use of bicycle helmets by system users through partnerships, promotional credits, and other incentives.

## **VII. Insurance Requirements**

Through the pilot program, the City shall be held harmless from liability for all operations of vendor's services. The vendor shall continuously maintain throughout the entire pilot program, at no expense to the City, the following insurance coverage and limits of liability:

1. Commercial General Liability (CGL) written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits on Liability:
  - \$1,000,000 per Occurrence;
  - \$3,000,000 General Aggregate;
  - \$3,000,000 Products-Completed Operations Aggregate; and
  - \$1,000,000 Personal/Advertising Injury Liability.

Coverage shall include: Premises and Operations; Personal Injury and Advertising Liability; Independent Contractors; Severability of Interest Clause; General Aggregate Limits of Insurance shall apply separately; "Claims Made" and "Modified Occurrence" policy forms are not acceptable.

2. Umbrella or Excess Liability "follow form" insurance over primary CGL insurance limits in the amount of \$3,000,000 per occurrence, Combined Single Limits, and \$3,000,000 in the aggregate for each annual policy period. The required total minimum limits of liability may be satisfied with primary limits or any combination of primary and umbrella/excess limits.
3. Automobile Liability insurance for owned, non-owned, leased or hired vehicles, as applicable, written on a form CA 00 01 or equivalent with minimum limits of liability of \$1,000,000 CSL.
4. Worker's Compensation. Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers' Compensation coverage, as required by State of California Department of Industrial Relations.
5. Employer's Liability or "Stop Gap" at a limit of \$1,000,000 each Occurrence and \$1,000,000 Aggregate.

6. **City as Additional Insured.** The vendor shall include the “City of Cupertino” as an additional insured to all the insurance coverage listed above, except for Worker’s Compensation, in the form of a duly issued additional insured endorsement and attached to the policy or by the appropriate blanket additional insured policy wording, and in any other manner further required by the vendor’s insurance coverage to provide the City of Cupertino additional insured coverage as set forth herein. The coverage or limits of liability maintained by the City. Additional insured status shall include Products-Completed Operations CG 20 10 11/85 or its equivalent.
7. **No Limitation of Liability.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. Nothing in the City of Cupertino’s requirements for minimum insurance coverage shall be interpreted to limit or release liability of the vendor or any of the vendor’s insurers. The City shall by an additional insured as required in the above paragraph (City as Additional Insured) regarding the total limits of liability maintained, whether such limits are primary, excess, contingent, or otherwise.
8. **Required Separation of Insured Provision; Cross-Liability Exclusion and Other Endorsements Prohibited.** The vendor’s insurance policy shall include a “separation of insureds” or “severability” clause that applies coverage to each insured and additional insured, except with respect to the limits of the insurer’s liability. The vendor’s insurance policy shall not contain any provision, exclusion, or endorsements that limits, bars, or effectively precludes the City of Cupertino from coverage or asserting a claim under the vendor’s insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. The vendor’s failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract or Permits with the City of Cupertino; or if applicable, and the discretion of the City of Cupertino, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by Operator or reduced and/or offset against the Contract.

**Notice of Cancellation.** The above checked insurance coverages shall not be cancelled by the vendor or insurer without at least 30 days’ written notice to the City, except 10 days’ notice for non-payment of premium.

**Insurer’s A.M. Best’s Rating.** Each insurance policy shall be issued by an insurer rated A-: VII or higher in the A.M. Best’s Key Rating Guide, unless a surplus lines placement by a licensed California State surplus lines broker, or as may otherwise be approved by the City.

**Evidence of Insurance.** (a) The vendor must provide the following as evidence of insurance:

1. A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein. In the “Certificate Holder” field of the certificate of insurance, write “City of Cupertino.”; and

2. An attached City of Cupertino designated additional insured endorsement or blanket additional insured wording to the required insurance policies.

(b) At any time upon the City's request, the vendor shall also cause to be timely furnished a copy of declarations pages and schedules of forms and endorsements. If the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, the vendor shall also cause a complete and certified copy of the requested policy to be timely furnished to the City of Cupertino.

## **VIII. Data Sharing & Privacy**

- a. All companies must ensure customer data privacy in company policies that are in accordance with City data privacy policies.
- b. Customers shall not be required to share personal data with 3<sup>rd</sup> parties (e.g. advertisers, investors, etc.) in order to use bicycle sharing system.
- c. Customers shall not be required to provide access to their contacts, camera, photos, files and other private data to use the bike share service. Location services may be required to use the service for the purpose of locating nearby vehicles, but not for providing trip-level data.
- d. Companies must provide clear notification about what data will be accessed (e.g. location services, camera, contacts, photos, etc.) and explain how and why data will be used. Notification must be active (e.g. affirmative confirmation-required to continue).
- e. Customers may opt-in (not opt-out) to providing access to their contacts, camera, photos, files other private data and 3<sup>rd</sup> party data sharing.
- f. All permittees shall provide anonymized data for each trip record to inform and support safe and effective management of the bicycle share system, and for transportation planning efforts.
- g. All permitted operators will provide bicycle availability data for oversight of parking compliance and bicycle distribution.
- h. The City may, at its option, require Permittees to distribute a customer survey at the end of the pilot period.
- i. Permittees shall keep a record of maintenance activities and reported safety issues and collisions, including but not limited to bicycle identification number and maintenance performed. These records shall be sent to the City monthly and at any time within three business days, if requested by the City.
- j. Permittees shall notify City of any Cal-OSHA violation notices or known data breaches.

## **IX. Application & Fees**

- a. The City of Cupertino will permit bike share vendors for this pilot via the existing Public Works Encroachment Permit process. Each vendor will be required to submit documentation showing it satisfies all City requirements and guidelines contained herein, including evidence of insurance, etc. along with a non-refundable \$1,200 application fee.
- b. In addition to this fee a \$25 per-bicycle fee will be collected by the City to participate in this pilot program. Vendors may add bicycles to the fleet after an application is approved by the City, however the permit must be amended and additional fees shall be paid to for any expansion in fleet size.

## **X. Effective Dates**

This policy shall be effective from the date of its approval by the City Manager and shall terminate within eighteen months or upon the adoption of permanent regulations of bicycle sharing systems by the Cupertino City Council.

Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Interim City Manager, Amy Chan