

ORDINANCE NO. 1732

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ADDING CHAPTER 10.54 TO TITLE 10 (VEHICLES AND TRAFFIC) OF THE SAN CLEMENTE MUNICIPAL CODE RELATING TO THE PROHIBITION ON REPAIRS, SALES, AND STORAGE OF BICYCLES AND BICYCLE PARTS ON PUBLIC PROPERTY AND FINDING THE ORDINANCE NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, the City of San Clemente, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, the City encourages the use of bicycles in daily transportation for commuting and recreational purposes; and

**WHEREAS**, reported bicycle thefts in the City between January and May of 2022 were 27, and statistics show the number of actual thefts is likely much greater; and

**WHEREAS**, many of these stolen bicycles are also dismantled in public areas ("bike chop shops") and sold within days of being stolen; and, thus, there is a narrow window for bicycles to be recovered while they are being taken apart in public spaces before being sold; and

**WHEREAS**, such open-air "bike chop shops" have been observed in the City, but confronting the illegal activities this practice supports is difficult due to the lack of ready proof that a particular bicycle or bicycle part has been stolen; and

**WHEREAS**, this Ordinance seeks to limit or reduce illegal bicycle chop shop activity by prohibiting such activity and allowing for the removal of bicycles and/or bicycle parts from the public right-of-way and public property will help clear the public right-of-way and public property, prevent unauthorized commercial activity in these areas, and, if any items are lost or stolen, restore such items to their lawful owners and deter future bicycle theft; and

**WHEREAS**, in light of the foregoing, on May 3, 2022, the City Council requested the City Attorney to draft an ordinance to prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution of bicycles and bicycle parts on public property or in the public right-of-way, under certain conditions and with certain exceptions;

**WHEREAS**, in accordance with the City Council's directive, the City Attorney's Office prepared this ordinance (the "Ordinance") in coordination with City staff and with input from the Orange County Sheriff's Department; and

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council of the City of San Clemente does ordain as follows:

**Section 1. Incorporation of Recitals.** The recitals above are true and correct and are hereby incorporated as findings as if fully set forth herein.

**Section 2. CEQA.** The City Council finds that this Ordinance is not a "project" subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The language merely prohibits, absent an applicable exception, the repair, sale, or storage on public property of certain bicycles, certain numbers of bicycles, and certain bicycle parts, as well as the falsification of any information in any documentation, proof, or other supporting evidence intended to show valid proof of ownership or possession of a bicycle(s) or bicycle part(s). In the alternative, the City Council finds that the Ordinance falls within the "common sense" exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance simply prohibits the repair, sale, or storage on public property of certain bicycles, numbers of bicycles, and bicycle part(s); the Ordinance will not result in any development or in any new activity with the potential to impact the environment.

**Section 3. Code Amendment.** Chapter 10.54 is hereby added to the San Clemente Municipal Code and shall read in its entirety as follows:

**"Chapter 10.54 – Repairs, Sales, and Storage of Bicycles on Public Property Prohibited**

10.54.010 — Repairs, sales, and storage on public property prohibited.

Subject to Section 10.54.020 (Exceptions), no person shall repair, assemble, disassemble, sell, offer to sell, rent, offer to rent, distribute, offer to distribute, or store the following items on any public street, sidewalk, alley, public passageway, public right-of-way, public beach, public park, or any other property owned, operated or managed by the City of San Clemente:

- A. A bicycle frame with the gear cables or brake cables cut;
- B. Three or more bicycles and/or bicycle frames, with or without missing parts (the term "parts" shall mean handles, handlebars, wheels, forks, pedals, cranks, seats, or chains);  
or
- C. Five or more bicycle parts that are not attached to a bicycle.

10.54.020 — Exceptions.

The prohibitions set forth in Section 10.54.010 shall not apply to any of the following:

- A. Activities performed in accordance with a valid license or permit issued by the City of San Clemente.
- B. The owner or another individual in lawful possession of a bicycle or bicycle part(s) who is present during the repair of his or her single bicycle or bicycle part, with valid documentation, proof, or supporting evidence to verify that he or she is in lawful possession of the bicycle or bicycle part(s). Supporting evidence for a claim of lawful ownership or possession may include, but is not limited to:
  - 1. Bill of sale from the original owner with the signature of the original owner, as well as the name, address, and telephone number of the original owner.
  - 2. Rental agreement or receipt.
  - 3. Video or photographic evidence demonstrating ownership.
  - 4. Whether the bicycle or any bicycle parts retain their original serial number (as opposed to being filed off, for example).
  - 5. Bicycle registration bearing the name and address of the individual claiming to be the owner or lawful possessor of the bicycle.
  - 6. Verifiable electronic communication from the previous owner to the possessor relinquishing ownership of the bicycle or bicycle parts.
  - 7. Credible testimony or facts and circumstances that would objective indicate that the individual is the lawful owner or possessor of the bicycle or bicycle parts.

10.54.030 — Falsification of records prohibited.

It is unlawful for any person to knowingly falsify or cause to be falsified any information in any documentation, proof, or other supporting evidence intended to show valid proof of ownership or possession of a bicycle or bicycle part(s).

10.54.040 — Violations.

- A. Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the San Clemente Municipal Code. Each and every bicycle or bicycle part(s) unlawfully possessed is a separate violation of this chapter.
- B. It is unlawful and a misdemeanor subject to punishment in accordance with Chapter 1.10 of Title 1 of this Code, for any person to violate any provision of this chapter.
- C. The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

10.54.050 — Severability.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 10.54, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality, or unenforceability."

**Section 4. Publication.** The City Clerk shall certify to the adoption of this ordinance by the City Council and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code, section 36933.

**Section 5. Records.** The documents and materials associated with this ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

**Section 6. Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

**Section 7. Effective Date.** This Ordinance shall become effective 30 days after its adoption.

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            ) ss.  
CITY OF SAN CLEMENTE        )

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1732 having been regularly introduced at the meeting of June 7, 2022, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_, 2022, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY