

**ORDINANCE NO. 1778**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SAN CLEMENTE MUNICIPAL CODE TITLE 10 - VEHICLES AND TRAFFIC, ADDING CHAPTER 10.62 TO ESTABLISH REGULATIONS FOR THE OPERATION AND USE OF ELECTRIC BICYCLES AND OTHER FORMS OF ELECTRIC TRANSPORTATION 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 has experienced a significant increase in the use of electric bicycles and other electric transportation devices, leading to concerns regarding public safety and the need for regulation; and

**WHEREAS**, existing municipal code provisions under San Clemente Municipal Code (SCMC) section 12.32.130 regulate the use of bicycles and electric bicycles, emphasizing safe and regulated use in public areas such as the Municipal Pier, Beach Access Road, Beach, and Beach Trail, and defines bicycles and e-bikes, including Class 1, 2, and 3 e-bikes, and sets forth areas where these can be used or are restricted; and

**WHEREAS**, the Public Safety Committee has considered the necessary components of an e-bike safety ordinance as part of the Committee’s E-bicycle/Traffic Safety Project contained in the Committee’s Fiscal Year 2023-2024 Work Plan; and

**WHEREAS**, the Public Safety Committee has determined that additional regulations are needed to adequately address the safety concerns and usage impacts of e-bikes, particularly in high-traffic and shared community spaces. The Committee reviewed and deliberated on the necessary contents of additional regulations at their meeting of March 26, 2024, and recommended that the City Council initiate an ordinance to amend the SCMC to enhance safety measures for both pedestrians and e-bike riders; and

**WHEREAS**, the City Council seeks to establish clear rules and guidelines for the operation of electric bicycles and other electric transportation devices to ensure safety and harmony within the community; and

**WHEREAS**, on May 7, 2024, the City Council directed staff to develop an ordinance regulating the operation and use of electric bicycles based on recommendations of the Public Safety Committee; and

**WHEREAS**, these regulations are designed to align with California state laws and provide a framework for enforcement and penalties for violations; 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 hereby 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(a).) The language merely modifies existing restrictions and prohibitions, absent an applicable exception, regarding the operation of electric bicycles and other forms of personal electric transportation devices on public property. In the alternative, the City Council finds that the Ordinance falls within the “common sense” exemption set forth in State CEQA Guidelines section 15061(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 modifies existing restrictions and prohibitions regarding the operation of electric bicycles and other forms of personal electric transportation devices on public property; 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 10.62 is hereby added to the San Clemente Municipal Code to read in its entirety as follows:

### **Chapter 10.62: Regulations of Electric Bicycles and Other Electric Transportation Devices**

#### **Section 10.62.010- Definitions.**

For the purposes of this Chapter, the following terms shall have the meanings ascribed to them in this Section:

A. “Bicycle” shall have the same meaning as set forth in California Vehicle Code Section 231, as amended from time to time.

B. “Electric Bicycle” or “E-Bike” shall have the same meaning as set forth in California Vehicle Code Section 312.5, as amended from time to time, and shall be categorized as follows:

1. Class 1 Electric Bicycle: An electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour.

2. Class 2 Electric Bicycle: An electric bicycle equipped with a motor that may be used exclusively to propel the bicycle and ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour.

3. Class 3 Electric Bicycle: An electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches a speed of 28 miles per hour. Such electric bicycles shall be equipped with a speedometer.

C. "Electric Personal Assistive Mobility Device" shall have the same meaning as set forth in California Vehicle Code Section 313, as amended from time to time.

D. "Electrically Motorized Boards" shall have the same meaning as set forth in California Vehicle Code Section 313.5, as amended from time to time.

E. "Electric Motorcycle" shall mean any electric-powered two- or three-wheeled vehicle with a motor of more than 750 watts and a lack of operable pedals. Such vehicles shall not be considered an electric bicycle and shall be treated as a motorcycle as defined by California Vehicle Code Sections 400(a) and 400(b).

F. "Highway" shall mean any publicly maintained way or place open to the use of the public for purposes of vehicular travel, including streets.

G. "Hours of Darkness" shall mean all times of the week that occur between thirty (30) minutes past sunset to thirty (30) minutes before sunrise.

H. "Low-Speed Vehicle" shall have the same meaning as set forth in California Vehicle Code Section 385.5, as amended from time to time.

I. "Motorized Scooter" shall have the same meaning as set forth in California Vehicle Code Section 407.5, as amended from time to time.

J. "Operator" shall mean any person who owns, operates, or controls a regulated mobility device.

K. "Public Area" shall mean any outdoor area open to the public for public use, whether owned or operated by the City or a private party.

L. "Regulated Mobility Device" shall include bicycles, electric bicycles, electric personal assistive mobility devices, electrically motorized boards, low-speed vehicles, motorized scooters, shared mobility devices and other similar vehicles.

M. "Rider" shall mean a traveler riding on a regulated mobility device who is not operating it.

N. "Shared Mobility Device" shall have the same meaning as set forth in California Civil Code Section 2505, as amended from time to time.

O. "Wheelie" shall mean an acrobatic stunt where the front tire or wheel is lifted off the ground due to extreme torque being applied to the rear wheel while in motion.

P. "Endo-Wheelie" or "Stoppie" shall mean a trick performed on a motorcycle or bicycle where the back wheel is lifted by abruptly applying the front brake, then reducing the brake pressure to ride for a short distance on the front wheel.

### **Section 10.62.020- Operation and Use of Electric Bicycles and Electric Motorcycles**

A. It shall be unlawful for any person to ride or operate any electric bicycle, motor-driven cycle, or any other electric or motorized conveyance unless such ride or operation complies with the following provisions:

1. **Unsafe Operation Prohibited.** No person shall ride or operate an electric bicycle, motor-driven cycle, or any other electric or motorized conveyance in an unsafe manner. "Unsafe manner" shall mean operating in such a way as that violates any provision of state law or the City's municipal code or constitutes a danger to the operator, a passenger, other motorists, other riders, or pedestrians in the area.

2. **Helmet Requirement.** All operators and passengers under 18 years of age shall wear a helmet properly strapped while riding or operating an electric bicycle, motor-driven cycle, or any other electric or motorized conveyance, as specified in California Vehicle Code Section 21212.

3. **Direction of Travel.** The operator of a bicycle, electric bicycle, electric scooter, or electric skateboard shall travel in the same direction as vehicles are required to be driven upon the roadway, regardless of whether or not the operator is in the roadway or in a bike lane.

4. **Passenger Restrictions.** No person riding or operating an electric bicycle, motor-driven cycle, or any other electric or motorized conveyance shall transport another person upon an electric bicycle, motor-driven cycle, or any other electric or motorized conveyance unless such passenger is seated upon a seat attached to the vehicle in a safe manner. No person shall be a passenger on an electric bicycle, motor-driven cycle, or any other electric or motorized conveyance unless such passenger is seated upon a seat attached to the vehicle in a safe manner.

5. **Requirements During Hours of Darkness.**

a. During Hours of Darkness, electric bicycles shall only be operated by persons 16 years of age or older.

b. During Hours of Darkness, electric bicycles shall only be operated with a front lamp emitting a white light visible from a distance of 300 feet and a rear solid or flashing red light with a built-in reflector visible from a distance of 500 feet.

6. Prohibited Actions.

a. It shall be unlawful to operate electric bicycles on highways, roadways, or sidewalks while performing stunts such as wheelies or endo-wheelies (stoppies).

b. It shall be unlawful to operate electric bicycles while utilizing a hand-held mobile communication device, such as using a mobile phone to text.

7. Use of Designated Lanes. E-bike operators must use designated bicycle lanes where available. In the absence of a designated bicycle lane, cyclists and e-bike riders are permitted to use sidewalks; however, e-bike operators must yield the right-of-way to all pedestrians and bicycle-riders and maintain a cautious speed that does not endanger pedestrian safety.

8. Requirements for Class 3 Electric Bicycles.

a. A person must be 16 years of age or older to operate a Class 3 electric bicycle.

b. All persons operating or riding as a passenger upon a Class 3 electric bicycle shall comply with Section 21213 of the California Vehicle Code regarding the wearing of a properly fitted and fastened bicycle helmet.

c. Class 3 E-Bikes shall not be ridden on any sidewalks or any public off-road trails within the City of San Clemente.

9. Compliance with Safety Standards. An electric bicycle shall meet the following criteria:

a. Comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. 1512.1, *et seq.*).

b. Operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied, or operate in a manner such that the motor is engaged through a switch or mechanism that, when released or activated, will cause the electric motor to disengage or cease to function.

c. A person shall not tamper with or modify an electric bicycle so as to change the speed capability of the bicycle unless he or she appropriately replaces the label indicating the classification.

10. Electric Motorcycles. Electric Motorcycles shall not be operated within the limits of the City of San Clemente without the following:

a. The operator shall have a valid motorcycle license as required by California Vehicle Code Section 12500(b); and

b. The Electric motorcycle shall have, and the operator shall carry proof of, valid registration and license plate as required by California Vehicle Code Section 4000(a)(1); and

c. All operators and riders shall wear a helmet approved by the United States Department of Transportation (DOT) as required by California Vehicle Code Section 27803(b); and

d. All operators shall have and maintain evidence of financial responsibility (Insurance) as required by California Vehicle Code Section 16028a.

#### **Section 10.62.030- Restrictions on Beach and Beach Trail**

A. The operation and use of electric bicycles, motorized scooters, electrically motorized boards, and other similar motorized recreational devices on the beach and beach trail shall be governed by Section 12.32.130 of the San Clemente Municipal Code.

#### **Section 10.62.040- Enforcement and Penalties**

A. Responsibility of Parent. Each parent or legal guardian having custody and control of a minor who violates this Chapter shall be jointly and severally liable with such minor for such violation.

B. Regulations Provided upon Retail Sale or Rental of an Electric Bicycle. Every store or business selling or renting E-bikes shall supply a copy of this Chapter (SCMC Chapter 10.62) to every person(s) purchasing or renting an E-Bike, and shall maintain proof of providing such copy for minimum of three years. Records of proof shall be provided to the City immediately upon request by the Chief of San Clemente Police Services during normal business hours of the store or business.

C. Violations and Penalties:

1. Violation of any provision of this Chapter shall be subject to enforcement as specified in Chapter 1.16 of the San Clemente Municipal Code.

2. Any person found in violation of any provision of this Chapter, or the California Vehicle Code while operating an E-Bike, may, in lieu of payment of a fine or other penalty, be required to complete a City-approved training and education class on the safe operation of electric bicycles. Payment for the costs for such class shall be the responsibility of the offender. Proof of completion must be provided to the City's Police Services Division within 90 days of the violation notice if such class is required. The violation shall not be deemed adjudicated until the offender provides such notice timely.

3. Every person violating any provisions of this Chapter shall be deemed guilty of a misdemeanor unless specifically provided otherwise in this Chapter. In no case shall the fine for violation of this Chapter exceed an amount specified by the City.

#### **Section 10.62.050- Exemptions**

A. Public Agency Personnel: Notwithstanding any other provision of this Chapter, or any other section of this code, City and public agency personnel may operate regulated mobility devices or other vehicles at any place in the City in the performance of their official duties.

B. Disability: This Chapter is not intended to apply to or otherwise restrict regulated mobility devices used in a safe manner by physically disabled persons as defined under the Americans with Disabilities Act (42 U.S.C. Sections 12101 *et seq.*).

**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.

**Section 8.** The City Clerk shall certify to the passage and adoption of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2024.

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, **LAURA CAMPAGNOLO**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1778 having been regularly introduced at the meeting of \_\_\_\_\_, 2024, 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 \_\_\_\_, 2024, 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 \_\_\_\_\_, 2024.

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

APPROVED AS TO FORM:

\_\_\_\_\_  
 Elizabeth A. Mitchell, City Attorney