

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

NOVEMBER 17, 2020

TITLE:

**ORDINANCE SECOND READING: ADOPT
ORDINANCE RELATING TO THE
PROHIBITION ON REPAIRS AND SALES OF
BICYCLES AND BICYCLE PARTS ON
PUBLIC PROPERTY**

/s/ Kristine Ridge

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

RECOMMENDED ACTION

Adopt an ordinance adding Article XIII to Chapter 10 of the Santa Ana Municipal Code (Crimes and Miscellaneous Law Enforcement Provisions) prohibiting repairs and sales of bicycles and bicycle parts on public property.

DISCUSSION

At the November 17, 2020 meeting, members of the City Council considered and approved as modified the first reading of an ordinance (Exhibit 1) adding Article XIII to Chapter 10 of the Santa Ana Municipal Code (Crimes and Miscellaneous Law Enforcement Provisions) prohibiting the repair and sale of bicycles and bicycle parts on public property.

Specifically, the proposed ordinance would prohibit the assembly, disassembly, sale, offer of sale, distribution, offer of distribution, or storage of the following items on any street, sidewalk, alley, public passageway, public right-of-way, public park, or other public property within the City:

1. Three (3) or more bicycles;
2. A bicycle frame with the gear cables or brake cables that are inoperable, cut, or missing;
3. Two (2) or more bicycles with missing parts;
4. Five (5) or more bicycle parts.

These prohibitions would not apply when an individual is operating under a valid City of Santa Ana license or permit authorizing such activities, or when the owner of a bicycle or bicycle part is present during the repair of the owner's single bicycle or bicycle part. Violations of the proposed ordinance would be deemed to be a misdemeanor and would be punishable as provided for in the Santa Ana Municipal Code, such as by administrative citation.

Pursuant to discussion during the November 17 meeting, staff revised the ordinance as follows:

- The changes to Sections 10-801(E) and 10-802(B) were made to address the concerns

expressed about proof of ownership and applicability of the ordinance.

- In summary, Section 10-801(E) clarifies that a person who was riding his or her bicycle and who has dismounted the bicycle on public property for the purpose of repairing a tire or chain or other mechanism to render the bicycle operative shall not be in violation of the ordinance.
- Additionally, Section 10-802(B) clarifies that proof of ownership of a bicycle or bicycle part may include, but not be limited to, video or photographic evidence, a bill of sale or receipt, the correct serial number or other identifying information unique to the bicycle, bicycle registration, and a bicycle license.
- Section 10-803 was revised to address concerns expressed about persons being charged with a misdemeanor on a first offense. The changes clarify that the provisions of the ordinance allow for a violation to be charged either as a misdemeanor or as an infraction.

If approved, the ordinance will take effect 30 days thereafter.

FISCAL IMPACT

There is no fiscal impact associated with this action.

Submitted By: Kristine Ridge, City Manager
Sonia Carvalho, City Attorney

Exhibit: 1. Ordinance

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SANTA ANA ADDING ARTICLE XIII TO
CHAPTER 10 OF THE SANTA ANA MUNICIPAL
CODE (CRIMES AND MISCELLANEOUS LAW
ENFORCEMENT PROVISIONS) PROHIBITING
REPAIR AND SALES OF BICYCLES AND BICYCLE
PARTS ON PUBLIC PROPERTY

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS
FOLLOWS:

WHEREAS, the City of Santa Ana is a leader in Orange County in providing bicycle infrastructure, with miles of bicycle trails and pathways throughout the City; and

WHEREAS, in November 2017, approximately 1000 bicycles were discovered in an underground drainage tunnel just south of the Santa Ana River overpass at Fairview Street. The bicycles were ultimately removed by the County of Orange Public Works Department. At the time, the Orange County Registrar reported that make shift chop shops were a common sight along the Santa Ana Riverbed encompassing portions of the City of Santa Ana.

WHEREAS, between 2016 and 2018, the Santa Ana Police Department's Civic Center detail routinely encountered bicycle chop shops, in the Civic Center, especially the Plaza of the Flags, with bicycles and bicycle parts being exchanged for illegal narcotics and other items;

WHEREAS, between 2015 and 2020, reported bicycle thefts in the City of Santa Ana averaged 261 per year for a total of 1,566 stolen bicycles. The actual number of thefts are believed to be much higher because many thefts go unreported; and

WHEREAS, many of these bicycles are also dismantled in public areas 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, prohibiting such activity and allowing 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 those items to their lawful owners and deter future bicycle theft; and

WHEREAS, in furtherance of this effort, on October 20, 2020, the City Council requested the City Attorney draft an ordinance to prohibit the repair and sale of bicycles and bicycle parts on public property; and

WHEREAS, the City Council finds and determines that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines.

SECTION 1. New Article XIII is hereby added to Chapter 10 of the Santa Ana Municipal Code (CRIMES AND MISCELLANEOUS LAW ENFORCEMENT PROVISIONS) to read in full as follows:

ARTICLE XIII. – PROHIBITION ON REPAIR AND SALES OF BICYCLES AND BICYCLE PARTS ON PUBLIC PROPERTY

Sec. 10-800. - Purpose and Intent.

The purpose and intent of this Article is to prohibit the repair or sale of bicycles or bicycle parts on public property in the City of Santa Ana in order to protect the public from obstruction of public property occurring as a result of persons utilizing public property, public sidewalks, public parks, and other public areas for the repair, dismantling, and sale of bicycles and bicycle parts. Further, the purpose and intent of this Article also includes a desire to decrease bicycle thefts and illegal or black market sales of bicycles and bicycle parts.

Sec. 10-801. – Repair and Sales of Bicycles and Bicycle Parts on Public Property Prohibited.

- A. Except where otherwise stated in this Article, no person shall assemble, disassemble, sell, offer to sell, distribute, offer to distribute or store the following items on any public property within the City:
 - 1. Three (3) or more bicycles;
 - 2. A bicycle frame with the gear cables or brake cables that are inoperable, cut, or missing;
 - 3. Two (2) or more bicycles with missing parts; or
 - 4. Five (5) or more bicycle parts.
- B. For purposes of this Article, "parts" shall mean handlebars, wheels, forks, pedals, cranks, seats, chains, or any other items or components that are attached to a bicycle that are necessary for its operation.
- C. For purposes of the Article, "public property" shall mean any City street, sidewalk, alley, public passageway, public right-of-way, public park, or other publicly owned property.

- D. For purposes of this Article, “bicycle” shall include bicycle as defined in California Vehicle Code section 231 and electric bicycle as defined in California Vehicle Code section 312.5, as these sections are periodically amended.
- E. For purposes of this Article a person who was riding his or her bicycle and who has dismounted the bicycle on public property for the purpose of repairing a tire or chain or other mechanism to render the bicycle operative shall not be in violation of this Article.

Sec. 10-802. – Exemptions.

The prohibition contained in Section 10-801 shall not apply when:

- A. An individual is operating under a valid City of Santa Ana License or Permit authorizing such activities.
- B. The owner of a bicycle or bicycle part is present during the repair of the owner’s single bicycle or bicycle part. Supporting evidence for a claim of lawful ownership may include, but is not limited to, video or photographic evidence, a bill of sale or receipt, the correct serial number or other identifying information unique to the bicycle, bicycle registration, and a bicycle license.

Sec. 10-803. – Enforcement Provisions.

Every violation of the provisions of this Article may be charged as either a misdemeanor or as an infraction in the discretion of the citing officer or City Attorney and, upon conviction thereof, shall be punishable as provided for in section 1-8 of this Code. Each day any violation of any said provision of this Chapter shall continue shall constitute a separate offense. Alternatively, violations may be addressed through the use of an administrative citation as set forth in sections 1-21.1 through 1-21.9. Use of criminal enforcement and/or administrative citations shall not prevent or preclude the City from seeking injunctive relief and civil penalties in court for violations of this Article.

SECTION 2. The City Council finds and determines that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment as there is no possibility it will have a significant effect on the environment and it is not a “project,” as defined in Section 15378 of the CEQA Guidelines.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more

sections, subsections, sentence, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 4. Neither the adoption of this ordinance nor the repeal hereby of any other ordinance shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

SECTION 5. This ordinance shall become effective thirty (30) days after its adoption.

SECTION 6. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2020.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: Laura A. Rossini
Laura A. Rossini
Acting Chief Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana

ORDINANCE NO. NS-XXX

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CITY OF SANTA ANA ADDING ARTICLE XIII TO
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CODE (CRIMES AND MISCELLANEOUS LAW
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THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS
FOLLOWS:

WHEREAS, the City of Santa Ana is a leader in Orange County in providing bicycle infrastructure, with miles of bicycle trails and pathways throughout the City; and

WHEREAS, in November 2017, approximately 1000 bicycles were discovered in an underground drainage tunnel just south of the Santa Ana River overpass at Fairview Street. The bicycles were ultimately removed by the County of Orange Public Works Department. At the time, the Orange County Registrar reported that make shift chop shops were a common sight along the Santa Ana Riverbed encompassing portions of the City of Santa Ana.

WHEREAS, between 2016 and 2018, the Santa Ana Police Department's Civic Center detail routinely encountered bicycle chop shops, in the Civic Center, especially the Plaza of the Flags, with bicycles and bicycle parts being exchanged for illegal narcotics and other items;

WHEREAS, between 2015 and 2020, reported bicycle thefts in the City of Santa Ana averaged 261 per year for a total of 1,566 stolen bicycles. The actual number of thefts are believed to be much higher because many thefts go unreported; and

WHEREAS, many of these bicycles are also dismantled in public areas 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, prohibiting such activity and allowing 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 those items to their lawful owners and deter future bicycle theft; and

WHEREAS, in furtherance of this effort, on October 20, 2020, the City Council requested the City Attorney draft an ordinance to prohibit the repair and sale of bicycles and bicycle parts on public property; and

WHEREAS, the City Council finds and determines that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines.

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Sec. 10-801. – Repair and Sales of Bicycles and Bicycle Parts on Public Property Prohibited.

A. Except where otherwise stated in this Article, no person shall assemble, disassemble, sell, offer to sell, distribute, offer to distribute or store the following items on any public property street, sidewalk, alley, public passageway, public right-of-way, public park, or other public property within the City:

1. Three (3) or more bicycles;
2. A bicycle frame with the gear cables or brake cables that are inoperable, cut, or missing;
3. Two (2) or more bicycles with missing parts; or
4. Five (5) or more bicycle parts.

B. For purposes of this Article, "parts" shall mean handlebars, wheels, forks, pedals, cranks, seats, chains, or any other items or components that are attached to a bicycle that are necessary for its operation.

~~B.C.~~ For purposes of the Article, "public property" shall mean any City street, sidewalk, alley, public passageway, public right-of-way, public park, or other publicly owned property.

D. For purposes of this Article, “bicycle” shall include bicycle as defined in California Vehicle Code section 231 and electric bicycle as defined in California Vehicle Code section 312.5, as these sections are periodically amended.

~~C.E.~~ For purposes of this Article a person who was riding his or her bicycle and who has dismounted the bicycle on public property for the purpose of repairing a tire or chain or other mechanism to render the bicycle operative shall not be in violation of this Article.

Sec. 10-802. – Exemptions.

The prohibition contained in Section 10-801 shall not apply when:

- A. An individual is operating under a valid City of Santa Ana License or Permit authorizing such activities.
- B. The owner of a bicycle or bicycle part is present during the repair of the owner's single bicycle or bicycle part. Supporting evidence for a claim of lawful ownership may include, but is not limited to, video or photographic evidence, a bill of sale or receipt, the correct serial number or other identifying information unique to the bicycle, bicycle registration, and a bicycle license.

Sec. 10-803. – Enforcement Provisions.

Every violation of the provisions of this Article ~~shall be deemed to be a~~ may be charged as either a misdemeanor or as an infraction in the discretion of the citing officer or City Attorney and, upon conviction thereof, shall be punishable as provided for in section 1-8 of this Code. Each day any violation of any said provision of this Chapter shall continue shall constitute a separate offense. Alternatively, violations may be addressed through the use of an administrative citation as set forth in sections 1-21.1 through 1-21.9. Use of criminal enforcement and/or administrative citations shall not prevent or preclude the City from seeking injunctive relief and civil penalties in court for violations of this Article.

SECTION 2. The City Council finds and determines that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment as there is no possibility it will have a significant effect on the environment and it is not a “project,” as defined in Section 15378 of the CEQA Guidelines.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection,

Ordinance No. NS-XXX
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sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentence, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 4. Neither the adoption of this ordinance nor the repeal hereby of any other ordinance shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof.

SECTION 5. This ordinance shall become effective thirty (30) days after its adoption.

SECTION 6. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2020.

Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Laura A. Rossini
Acting Chief Assistant City Attorney

AYES: Councilmembers _____

NOES: Councilmembers _____

ABSTAIN: Councilmembers _____

NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Ordinance No. NS-XXX
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Date: _____

Clerk of the Council
City of Santa Ana