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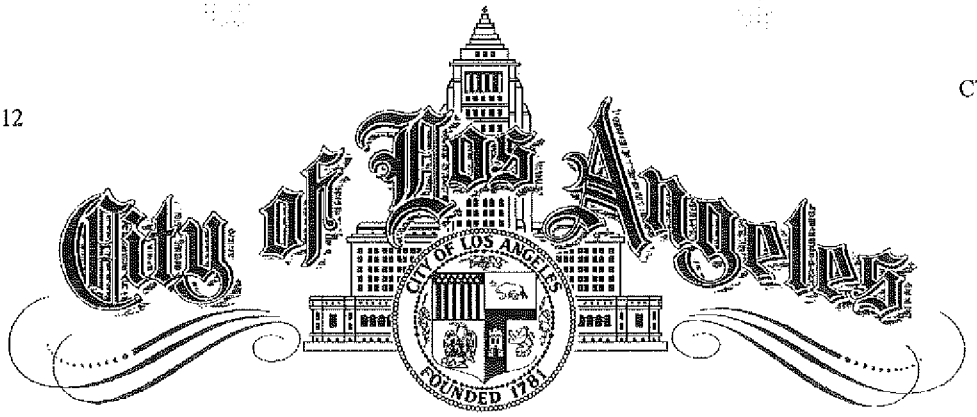

CARMEN A. TRUTANICH
City Attorney

REPORT NO. R11-0216
JUN 14 2011

REPORT RE:

REVISED DRAFT ORDINANCE ADDING ARTICLE 5.10 TO CHAPTER IV OF THE LOS ANGELES MUNICIPAL CODE TO PROHIBIT HARASSMENT OF BICYCLISTS BECAUSE OF THEIR STATUS AS BICYCLISTS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File No. 09-2895

Honorable Members:

On March 9, 2011, the Los Angeles City Council Transportation Committee requested that this Office revise a draft ordinance prohibiting the harassment of bicyclists because of their status as bicyclists by making it unlawful to intentionally force or attempt to force a bicyclist from a roadway for purposes unrelated to public safety, and by clarifying that a violator would be liable for an award of treble damages, attorneys' fees and costs of litigation. As requested, this Office has prepared and now transmits for your action the attached revised draft ordinance, approved as to form and legality.

Should you have any questions regarding this matter, please contact Deputy City Attorney Judith E. Reel at (213) 978-2021. She or another member of this Office will be present when you consider this matter and to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:JER:lee
Transmittal

ORDINANCE NO. _____

An ordinance adding Article 5.10 to Chapter IV of the Los Angeles Municipal Code to prohibit harassment of bicyclists because of their status as bicyclists.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. A new Article 5.10 is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

ARTICLE 5.10
PROHIBITION AGAINST HARASSMENT OF BICYCLISTS

SEC. 45.96.00. FINDINGS AND PURPOSE.

After public hearings and receipt of testimony, the City Council finds and declares:

That the City of Los Angeles wants to encourage people to ride bicycles rather than drive motor vehicles in order to lessen traffic congestion and improve air quality;

That harassment of bicyclists on the basis of their status as bicyclists exists in the City of Los Angeles;

That existing criminal and civil laws do not effectively prevent the unlawful harassment of bicyclists because of their status as bicyclists;

That riding a bicycle on City streets poses hazards to bicyclists, and that these hazards are amplified by the actions of persons who deliberately harass and endanger bicyclists because of their status as bicyclists; and

That because people have a right to ride a bicycle in the City of Los Angeles and should be able to do so safely on City streets, it is against the public policy of the City of Los Angeles to harass a bicyclist upon the basis of the person's status as a bicyclist.

SEC. 45.96.01. DEFINITIONS.

The following words and phrases, whenever used in this Article, shall be construed as defined in this Section. Words and phrases not defined herein shall be construed as defined in Section 12.03 of this Code, if defined therein.

A. Bicycle. A device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, and having one or more wheels.

B. **Bicyclist.** A person riding a bicycle.

SEC. 45.96.02. PROHIBITED ACTIVITIES.

A person shall not do or attempt to do any of the following:

A. Physically assault or attempt to physically assault a Bicyclist because of, in whole or in part, the Bicyclist's status as a Bicyclist.

B. Threaten to physically injure a Bicyclist because of, in whole or in part, the Bicyclist's status as a Bicyclist.

C. Intentionally injure, attempt to injure, or threaten to physically injure, either by words, vehicle, or other object, a Bicyclist because of, in whole or in part, the Bicyclist's status as a Bicyclist.

D. Intentionally distract or attempt to distract a Bicyclist because of, in whole or in part, the Bicyclist's status as a Bicyclist.

E. Intentionally force or attempt to force a Bicyclist off a street for purposes unrelated to public safety.

SEC. 45.96.03. REMEDIES.

A. Any aggrieved person may enforce the provisions of this Article by means of a civil lawsuit.

B. Any person who violates the provisions of this Article shall be liable for treble the actual damages with regard to each and every such violation, or $1,000, whichever is greater, and shall be liable for reasonable attorneys' fees and costs of litigation. In addition, a jury or a court may award punitive damages where warranted.

C. Notwithstanding Section 11.00(m) of this Code, violations of any of the provisions of this Article shall not constitute a misdemeanor or infraction, except where such actions, independently of this Article, constitute a misdemeanor or infraction.

D. The remedies provided by the provisions of this Article are in addition to all other remedies provided by law, and nothing in this Article shall preclude any aggrieved person from pursuing any other remedy provided by law.

Sec. 2. Severability. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

_____
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Judith E. Reel
JUDITH E. REEL
Deputy City Attorney

Date June 1, 2011

File No. CF 09-2895

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