

File No. 170209

Committee Item No. 2

Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date September 25, 2017

Board of Supervisors Meeting

Date October 3, 2017

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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Completed by: Erica Major Date September 22, 2017

Completed by: Erica Major Date 1/27/2017

1 [Public Works Police Code - Bicycle Chop Shops]

2
3 Ordinance amending the Public Works Police Code to prohibit the assembly, dis
4 assembly, sale, offer of sale, distribution, ~~or offer of distribution, or storage~~ on public
5 property or public rights-of-way of bicycles and bicycle parts on the public right-of-
6 ways, under certain conditions and with certain exceptions; authorize Police
7 Department (SFPD) ~~to seize Public Works to remove and seize~~ bicycles and bicycle
8 parts following issuance of a notice of violations of this prohibition; and allow either
9 the recipient of the notice or any other person who can demonstrate lawful ownership
10 to retrieve seized items from Public Works after 30 days ~~require SFPD to return seized~~
11 ~~items to their rightful owners without charging any fees, except that SFPD may charge~~
12 ~~an impound fee if the rightful owner consented to or participated in the acts that led to~~
13 ~~the seizure.~~

14
15 NOTE: Unchanged Code text and uncodified text are in plain Arial font.
16 Additions to Codes are in *single-underline italics Times New Roman font*.
17 Deletions to Codes are in *strikethrough italics Times New Roman font*.
18 Board amendment additions are in double-underlined Arial font.
19 Board amendment deletions are in ~~strikethrough Arial font~~.
20 Asterisks (* * * *) indicate the omission of unchanged Code
21 subsections or parts of tables.

22 Be it ordained by the People of the City and County of San Francisco:

23 Section 1. The Public Works Police Code is hereby amended by adding Article 5420,
24 entitled "Prohibited Bicycle Actions and Transactions," and including Sections 542000,
25 542001, 542002, and 542003, to read as follows:

ARTICLE 5420: PROHIBITED BICYCLE ACTIONS AND TRANSACTIONS

1 **SEC. 542000. PURPOSE AND FINDINGS.**

2 Countless bicycles and bicycle parts appear at are stolen in San Francisco every year, at
3 great cost to local residents, and taken to open-air "chop shops" on City streets in San
4 Franciscoe where they are disassembled, stripped of identifying information, and/or sold. Prohibiting
5 such activitythe operation of chop shops, and allowing Public Works to remove the Police
6 Department (SFPD) to seize any bicycles or bicycle parts from the public right-of-ways, from
7 persons who areoperate chop shops, will help SFPD hold chop shop operators accountable
8 and will help restore stolen bicycles to their rightful owners. Prohibiting chop shops will also
9 will help clear the public rights-of-ways, prevent unauthorized commercial activity on City
10 streets, and improve the quality of life for City residents, and if any items are lost or stolen
11 restore such items to their lawful owners.

12
13 **SEC. 542001. PROHIBITION ON SALE OF BICYCLES AND BICYCLE PARTS.**

14 (a) No person shall assemble, disassemble, sell, offer to sell, distribute, offer to distribute, or
15 store the following items on any street, sidewalk, public passageway, or other public right-of-way, or
16 on public property:

- 17 _____ (1) five or more bicycles;
18 _____ (2) a bicycle frame with the gear cables or brake cables cut;
19 _____ (3) three or more bicycles with missing parts (the term "parts" shall mean handlebars,
20 wheels, forks, pedals, cranks, seats, or chains);
21 _____ (4) five or more bicycle parts;

22 (b) This prohibition shall not apply in any of the following situations:

- 23 _____ (1) The person is operating under a valid business license or permit.
24 _____ (2) The owner of a bicycle or bicycle part is present during the repair of his or her
25 single bicycle or bicycle part.

1 ~~(3) The items are being offered for sale by their owner, along with other goods,~~
2 ~~at a one or two day location outside the owner's dwelling unit, such as at events commonly~~
3 ~~known as "garage sales," "yard sales," "moving sales," or "estate sales."~~

4 ~~(3)(4) The items are being used in connection with an event held by an organization~~
5 ~~with tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(4)a~~
6 ~~registered non-profit.~~

7 ~~(5) Application of this Section 5101 would interfere with or inhibit the exercise of~~
8 ~~the constitutionally protected right of freedom of speech or assembly.~~

9
10 **SEC. 542002. ENFORCEMENT AND APPEALS.**

11 (a) Under Section 836.5 of the Penal Code, Public Works employees designated in
12 Administrative Code Section 38 are hereby authorized to SFPD may issue a written notice of
13 violation an administrative citation to any person who is in violation of Section 542001, and may
14 delegate responsibilities to staff as appropriate to implement the removal of items taken in the
15 enforcement of this Article. Upon issuance of such notice citation, Public Works may remove and
16 seize any items that are being unlawfully assembled, disassembled, sold, distributed, offered for sale or
17 distribution, or stored. If the person to whom the notice is issued does not allow Public Works
18 to remove and seize the items, Public Works shall take no further action, but may seek
19 assistance from the Police Department (SFPD) as necessary to complete the removal and
20 seizure. Following the removal and seizure, the items may be recovered from Public Works
21 either by contesting the grounds for the notice of violation under subsection (c), or by
22 retrieving the items after 30 days under subsection (d).

23 (b) The notice of violation administrative citation shall include a reference to this Article
24 5420; a description of the violation; the date and location of the violation(s) observed; a description of
25 all seized items; a description of the process the person in possession of the items may pursue

1 to recover the items by contesting the grounds for the notice under subsection (c); a
2 description of the process to recover the items after 30 days under subsection (d); a
3 description of the process to recover the seized items and to obtain waiver of the impound
4 fees, as set forth in subsections (b) and (c); a description of the process for appealing the
5 citation or assessment of impound fees, including the deadline for filing such an appeal, as set
6 forth in subsection (d); and the name and signature of the citing officer, Public Works employee
7 who issued the notice and, if applicable, the SFPD officer who provided assistance.

8 (c) A person who has received a notice of violation may contest the grounds for the
9 notice by submitting a written request to Public Works within 30 days after the date of the
10 notice. Upon receipt of a timely request, Public Works shall assign the matter to a hearing
11 officer, who shall be someone other than the person(s) who issued the notice or who
12 witnessed the events giving rise to the notice, or the direct supervisor of such person(s). The
13 hearing officer shall fix a date, time, and place for the hearing, which shall occur within three
14 calendar days of the receipt of the hearing request unless extended in writing by mutual
15 agreement of the parties. Public Works shall have the burden in such hearing to prove by
16 clear and convincing evidence that the violation described in the notice occurred. At the
17 hearing, the reviewing officer will not be bound by the formal rules of evidence and may
18 accept information from both parties, including, but not limited to, the notice, which shall be
19 prima facie evidence of the violation. The hearing officer shall make findings based on the
20 record of the hearing and shall issue a decision as soon as possible thereafter, and no later
21 than two business days after the close of the hearing. If the hearing officer concludes that the
22 City failed to prove by clear and convincing evidence that the violation of Section 542001
23 described in the notice occurred, Public Works shall immediately rescind the notice and return
24 any seized items at no charge. If the hearing officer finds by clear and convincing evidence
25 that the violation of Section 542001 described in the notice did occur, Public Works shall

1 retain the items for at least 30 days after the date of the notice, in accordance with subsection
2 (d). The decision of the hearing officer in either case shall be the City's final action. Following
3 the decision of the hearing officer, an appeal may be filed with the superior court pursuant to
4 California Government Code Section 53069.4. Failure of any person to request a hearing in
5 accordance with the provisions of this Section 542002 or to appear at the noticed hearing
6 shall constitute a failure to exhaust administrative remedies.

7 (d) A person who has received a notice of violation may retrieve the seized items 30
8 days after the date of the notice, upon payment of an impound fee equal to the actual cost to
9 Public Works of removal and storage. After 30 days have elapsed, if the recipient of the
10 notice has not yet requested to retrieve the items, and another person requests the items on
11 the basis of their lawful ownership of the items and provides Public Works reliable supporting
12 evidence for their claim of ownership (including, but not limited to, video or photographic
13 evidence, a bill of sale, the correct serial number) that Public Works finds accurate, then
14 Public Works shall return the items to that person at no charge. If Public Works receives
15 conflicting requests from multiple persons for the same item, or if Public Works after
16 consultation with SFPD concludes that there is reasonable cause to believe that the items
17 were not in the lawful possession of the recipient of the notice at the time of seizure or that a
18 person claiming ownership has submitted a false claim, then Public Works shall refer the
19 matter to SFPD for investigation, and on SFPD's request shall deliver the items to SFPD. If
20 SFPD declines to request the items from Public Works within 30 days of the date of referral,
21 Public Works shall return the items to the recipient of the notice, or if such person has not
22 requested the items, then to the person claiming lawful ownership.

23 (e) Any unclaimed items remaining in Public Works custody 60 days after the date of
24 the notice of violation shall be deemed abandoned and may be discarded or destroyed.
25

1 ~~(b) SFPD shall return any seized items to their rightful owner upon the rightful owner's~~
2 ~~written request. A person shall be deemed the "rightful owner" if the person can demonstrate~~
3 ~~with sufficient reliability that he or she is the lawful owner of the seized item, for example, by~~
4 ~~providing video or photographic evidence indicating ownership of the seized item, by~~
5 ~~producing a bill of sale, by correctly stating the serial number, or by signing a sworn affidavit in~~
6 ~~person at an SFPD location to be determined by SFPD.~~

7 ~~(c) SFPD shall not assess monetary penalties for violations of this Article 51. SFPD~~
8 ~~may condition the return of a seized bicycle or bicycle part on the payment of an impound fee~~
9 ~~equal to the actual cost to SFPD of transporting and storing the seized item; provided,~~
10 ~~however, that SFPD shall return any seized item to its rightful owner without requiring~~
11 ~~payment of an impound fee provided that the owner did not consent to or participate in the~~
12 ~~violation of Section 5101 that led to the seizure.~~

3 ~~(d) A person who receives an administrative citation under subsection (a), or who is~~
14 ~~required to pay an impound fee pursuant to subsection (c), may file an appeal to challenge the~~
15 ~~citation or impound fee. The appeal must be filed within 15 days of the date that the person~~
16 ~~received the administrative citation or written findings requiring payment of a fee, whichever is~~
17 ~~later. The appeal must be in writing and must specify the basis for the appeal in detail, and~~
18 ~~must be filed with the SFPD as indicated in the administrative citation.~~

19 ~~(e) As soon as practicable after receiving the written appeal, the SFPD shall select~~
20 ~~an officer to review the appeal. The reviewing officer shall be someone other than the~~
21 ~~officer(s) who issued the administrative citation or who witnessed the events giving rise to the~~
22 ~~citation, or the direct supervisor of such officer(s). The reviewing officer shall fix a date, time,~~
23 ~~and place for the hearing on the appeal and provide written notice of the hearing at least 10~~
24 ~~days prior to the hearing date. If the notice is served by mail, it shall be by first class mail,~~
25 ~~and service shall be effective on the date of mailing. The hearing date shall be no later than~~

1 30 days after service of the notice of hearing, unless that time is extended by mutual
2 agreement of the parties. SFPD shall have the burden of proof in such hearing. At the
3 hearing, the reviewing officer will not be bound by the formal rules of evidence and may
4 accept information from both parties, including, but not limited to, the administrative citation,
5 which if valid shall be prima facie evidence of the violation; oral testimony; testimony by
6 declaration under penalty of perjury; and documentary information.

7 ~~—(f) The reviewing officer shall make findings based on the record of the hearing and
8 shall issue a written decision based on such findings within 15 days of the conclusion of the
9 hearing, and shall give the appellant written notice of that decision. If the reviewing officer
10 concludes that the citation was unwarranted or that SFPD should not have conditioned the
11 return of the seized items on the payment of an impound fee, SFPD shall immediately
12 withdraw the citation and return the seized items and refund the impound fees as appropriate.
13 The decision of the reviewing officer shall be final. Following the decision of the reviewing
14 officer, the appellant may file an appeal with the superior court pursuant to California
15 Government Code Section 53069.4.~~

16 ~~—(g) Failure of any person to file an administrative appeal in accordance with the
17 provisions of this Section 5102 or to appear at the noticed hearing shall constitute a failure to
18 exhaust administrative remedies.~~

19
20 **SEC. 542003. SEVERABILITY.**

21 *If any section, subsection, sentence, clause, phrase, or word of this Article 5420, or any*
22 *application thereof to any person or circumstance, is held to be invalid or unconstitutional by a*
23 *decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining*
24 *portions or applications of the Article. The Board of Supervisors hereby declares that it would have*
25 *passed the Article and each and every section, subsection, sentence, clause, phrase, and word not*

1 declared invalid or unconstitutional without regard to whether any other portion of the Article or
2 application thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: 
12 MANU PRADHAN
13 Deputy City Attorney

14 n:\legana\as2017\1600467\01211741.docx

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 9/25/2017)

[Public Works Code - Bicycle Chop Shops]

Ordinance amending the Public Works Code to prohibit the assembly, disassembly, sale, offer of sale, distribution, offer of distribution, or storage of bicycles and bicycle parts on the public right-of-ways, under certain conditions and with certain exceptions; authorize Public Works to remove and seize bicycles and bicycle parts following issuance of a notice of violation; and allow either the recipient of the notice or any other person who can demonstrate lawful ownership to retrieve the items from Public Works after 30 days.

Existing Law

Local law allows the City to prevent unauthorized obstructions and unauthorized commercial activity on the public right-of-ways, but does not define procedures specific to the assembly, disassembly, sale, distribution, or storage of bicycles and bicycle parts.

Amendments to Current Law

The ordinance would prohibit any person from assembling, disassembling, selling, offering to sell, distributing, offering to distribute, or storing the following items on any public right-of-way: (1) five or more bicycles; (2) a bicycle frame with the gear cables or brake cables cut; (3) three or more bicycles with missing bicycle "parts" (defined to mean handlebars, wheels, forks, pedals, cranks, seats, or chains); or (4) five or more bicycle parts. This prohibition would not apply to persons operating under a valid business license or permit, instances where the owner is present during the repair of his or her single bicycle or bicycle part, or events held by registered non-profits.

The Department of Public Works would enforce the ordinance by issuing a notice of violation and then removing and seizing the items in question. Public Works would be required to seek assistance from the San Francisco Police Department (SFPD) if the recipient of the notice of violation were to prevent Public Works from removing and seizing the items. Thereafter, the recipient of the notice could retrieve the items from Public Works by contesting the grounds for the notice in a hearing in which the City would bear the burden of proof to establish the violation. In the alternative, the recipient could retrieve the items from Public Works after 30 days upon payment of an impound fee equal to the actual cost to Public Works of removing and storing the items.

If a third party provided Public Works evidence that they were the lawful owner of the seized items, Public Works would first wait until 30 days after the date of the notice of violation, to allow the recipient of the notice to submit a claim to retrieve the items. If the recipient of the notice did not submit a claim by that time, Public Works would allow the third party to retrieve

the items at no charge. If the recipient of the notice were to submit a claim prior to retrieval by the third party, such that there were multiple conflicting claims for the item, then Public Works would refer the matter to SFPD for investigation and on SFPD's request would deliver the items to SFPD. If SFPD declined to request delivery of the items within 30 days of the referral, Public Works would return the items to recipient of the notice.

Any unclaimed items remaining in Public Works custody 60 days after the date of the notice of violation would be deemed abandoned and could be discarded or destroyed.

Background Information

Many bicycles and bicycle parts appear at open-air "chop shops" on City Streets, where they are disassembled, stripped of identifying information, stored, and/or sold. The ordinance is intended to prohibit the operation of chop shops on the public rights-of-way, and to facilitate the return of lost or stolen items to their lawful owners.

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SAN FRANCISCO

OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

OFFICE OF SMALL BUSINESS
REGINA DICK-ENDRIZZI, DIRECTOR

September 18, 2017

Ms. Angela Calvillo, Clerk of the Board
City Hall Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: BOS File No. 170209 [Police Code - Bicycle Chop Shops]

Small Business Commission Recommendation to the Board of Supervisors: **Approval**

Dear Ms. Calvillo,

On September 11, 2017, the Small Business Commission voted (5-0, 2 absent) to recommend that the Board of Supervisors approve BOS File No. 170209.

The Commission emphasized in its discussions that the Department of Public Works (DPW) – rather than the Police Department – should regulate bicycle chop shops. DPW is the appropriate body to be responsible for ensuring public access to sidewalks, including the relevant civil rights protections for persons with disabilities. Unpermitted bicycle sales on sidewalks constitute an unlawful encroachment on the public right-of-way away. There are existing options to obtain permission (such as the Peddler’s permit, Minor Encroachment Permit, or a Temporary Sidewalk Encroachment permit, see Table 1) to operate in a lawful manner. An individual(s) amassing bicycles and/or bicycle parts or bicycle or bicycle parts vendors should be required, like any other small business or resident, to seek the appropriate permits to operate or encroach on the public right-of-way. The Commission therefore supports this legislation, which does not ban the activity, but instead requires proper licensure and creates an appropriate mechanism to enforce existing laws pertaining to the public right of way.

Thank you for considering the Commission’s comments. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Regina Dick-Endrizzi", written in a cursive style.

Regina Dick-Endrizzi
Director, Office of Small Business

cc: Mohammed Nuru, Department of Public Works
Mawuli Tugbenyoh, Mayor’s Office
Francis Tsang, Mayor’s Office
Lisa Pagan, Office of Economic and Workforce Development
Erica Major, Land Use & Transportation Committee

OFFICE OF SMALL BUSINESS • SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110, SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408

Table 1: Permits Related to Sidewalk Usage or Blockage

Name		Description
Minor Sidewalk Encroachment		Allows an owner of property abutting any court, alley or street to install and maintain minor encroachments ¹ occupying no more than 10% of the total area of the sidewalk fronting the subject property ² and no more than 25% of the width of the sidewalk (exceptions possible).
Major Sidewalk Encroachment		A surface or subsurface encroachment in the sidewalk or street area of any public right-of-way. (Usually, more than 25% of the width.) Requires approval from other agencies (ex: SFMTA, Police, Fire, etc.).
Café Tables & Chairs (Annual)		Allows for placement of tables and chairs on the sidewalk in front of their restaurant or café.
Free Sample Merchandise		Distribution of free sample goods for the purpose of promoting any merchandise, commodity, property, trade, business, service, art or skill, on any street, sidewalk or public right-of-way. ³
Display Merchandise (Annual)		Allows retail business to display some merchandise on a portion of the sidewalk in front of the business.
Temporary Occupancy		Allows temporary occupation of a portion of the sidewalk. Usually for non-building construction activities lasting less than 7 days.
Peddler (SFPD)		Allows for peddling of non-food items.

¹ Minor encroachments include fences, retaining walls, steps or stairways and other minor structures in the sidewalk fronting such property where such encroachments are desirable or convenient in conjunction with the owner's use and enjoyment of his property, or required for the safety, convenience and comfort of the public using the sidewalk.

² From property line to property line.

³ Advertising is not allowed.

170209
SUBMITTED BY
IN COMM

Bicycle Chop Shops Police Code Amendments

Supervisor Jeff Sheehy
Land Use and Transportation Committee
July 10, 2017

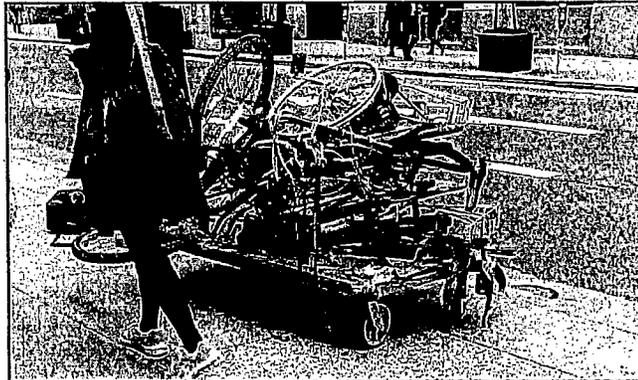
What is a "chop shop?"

- A bicycle chop shop consists of any of the following:
 - Five or more bicycles.
 - A bicycle frame with the gear cables or brake cables cut
 - Three or more bicycles with missing parts (handlebars, wheels, forks, pedals, cranks, seats or chains).
 - Five or more bicycle parts.
- A bicycle chop shop is located:
 - On any street, sidewalk, passageway, or other right-of-way, or on public property.

What is not a "chop shop?"

- A person operating under a valid business license.
- The owner that is present during the repair of his or her single bicycle or bicycle part.
- Items being offered at a garage/yard sale.
- Items are being used in connection with an event sponsored by a non-profit.
- Application would inhibit freedom of speech or assembly.

Example #1: Montgomery and Pine



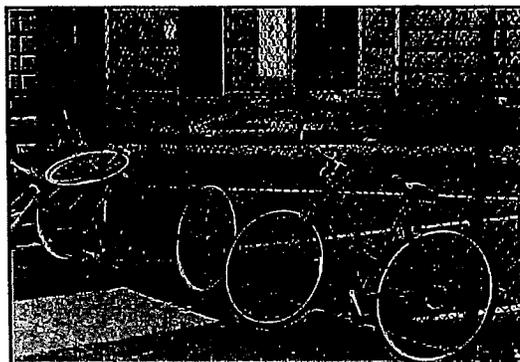
- Reported to 311 on June 9, 2016
- Referred to Recology as "Abandoned"

Example #2: Dolores Street Median



- ▣ Reported to 311 on June 11, 2016
- ▣ Referred to Public Works Operation Center

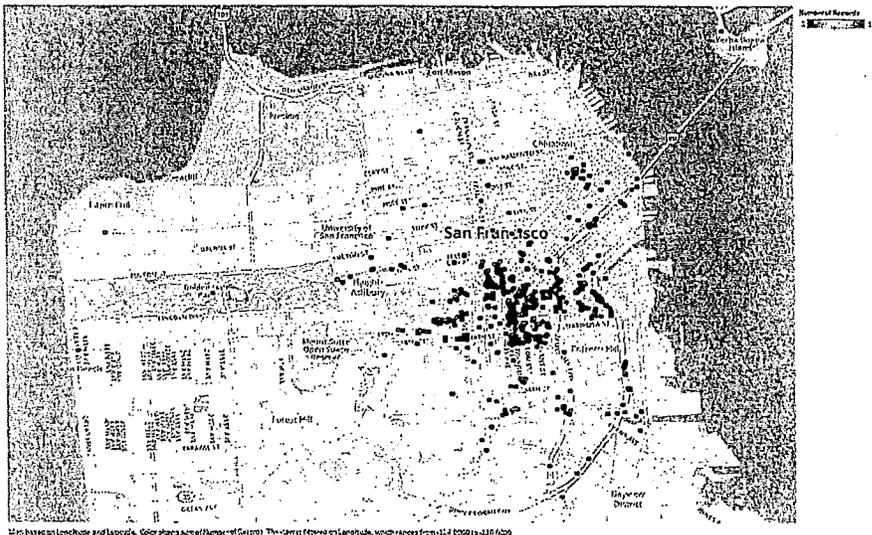
Example #3: 17th & Harrison Streets



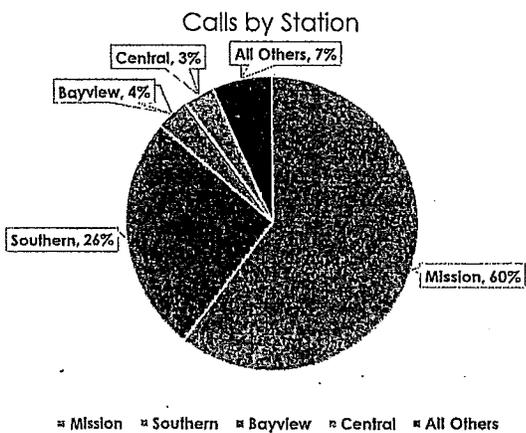
- ▣ Reported to 311 on August 15, 2016
- ▣ Referred to Police Department

Call Volume by Station

Map of Locations



Call Volume by Station



Call Volume by Station

Volume by Station

Police Distr.	Month												Count of Number of Rec.
	January	February	March	April	May	June	July	August	September	October	November	December	
Null													1
BAYVIEW													4
CENTRAL													1
INGLESIDE													1
MISSION													59
NORTHERN													1
PARK													2
RICHMOND													2
SOUTHERN													15
TARAVAL													1
TENDERLOIN													1

Count of Number of Records broken down by Month vs. Police District. Color shows count of Number of Records. The marks are labeled by count of Number of Records.

Proposed Process for Bicycle Removal

- SFPD Issues Administrative Citation; no criminal penalty.
- SFPD returns any seized item to rightful owner if the person can demonstrate ownership, including bill of sale, serial number or sworn affidavit in person at an SFPD location.
- No monetary penalty.
- Right of appeal, which must be filed within 15 days.

Questions?

170209
Received via email
07/24/2017



July 24, 2017

The Honorable London Breed
President, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: File No. 170209 Bicycle Chop Shops (Sheehy) (SUPPORT)

Dear President Breed:

The San Francisco Chamber of Commerce, representing 2,500 local businesses and over 200,000 employees, urges the Board of Supervisors to adopt Supervisor Sheehy's legislation prohibiting bicycle chop shops from operating on the city's streets and sidewalks.

In recent years on sidewalks downtown and in other neighborhoods, the demolition of what often appear to be stolen bicycles is occurring with more and more frequency. One location on Montgomery Street, between Post and Sutter, as shown in the attached photo, has been used for this purpose off and on for the last two or three years. As soon as DPW cleans the mounds of junk, the two or three people operating the chop shop return with a new set of bikes to disassemble.

Whether stolen property or not, this use of the public sidewalks should be prohibited. Allowing these chop shops to continue to operate poses a public safety risk to pedestrians, encourages theft of personal property and creates visual blight. Furthermore, many of the individuals involved with these operations are in desperate need of medical and mental health services.

The San Francisco Chamber of Commerce urges the Board of Supervisors to adopt this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Lazarus', with a long horizontal flourish extending to the right.

Jim Lazarus
Senior Vice President of Public Policy

cc: Clerk of the Board, to be distributed to all Supervisors



170209

9/25/2017

SUBMITTED PREPARED

Coalition on Homelessness, San Francisco
Policy Analysis "Open-Air" Chop Shop Ordinance (Sheehy)

Key Elements of Legislation

This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, having bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

- This piece of legislation defines a chop shop, as an open air location wherein bicycles are disassembled, stripped of identification and/or sold.
- The ordinance bans these activities when an individual has 5 or more bicycles, 3 bikes with missing parts, one frame with cut cables, or five or more bicycle components found on public property, street, sidewalk, or right of way.
- This prohibition does not apply to vendors operating under a valid business license or in cases in which the owners of the bicycles or bicycles components is present for repairs (ownership undefined).
- This prohibition does not apply to those offering items to be sold on their own property.
- Individuals in violation will get an administrative citation and may get their bike parts returned after seizure by showing proof of ownership, such as receipt, serial number, photographs or signing an affidavit.
- Ordinance allows appeal of citation and impound fees by having a hearing within 30 days with another police officer – person must file appeal, and date of hearing will be sent by mail.

Analysis of Impact:

We believe that this ordinance, if made law, will unfairly target the unhoused community – assuming that if they have bicycles or bicycle parts, there very impoverished status assumed that those parts are stolen. Unhoused people are incapable of meeting many of the exemptions from this ordinance, entirely because of the nature of their economic status. By definition, people who are homeless do not have homes in which they can legally sell their property.

This is a question of public space and who—and how—people can use it. Many avid housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their property. We believe that this ordinance will violate unhoused peoples' rights as private citizens, simply because they are destitute.

Unhoused communities reside on the fringes of our society, and they must be resourceful in order to survive. It is very common for unhoused people to trade and sell skills and items. Individuals with an entrepreneurial spirit offer their skills to other people, inadvertently making themselves targets for this ordinance.

This statute categorically authorizes the police to impound property without justification for the impoundment. California law presumes that a person who possesses an item is its rightful owner. Unless the police have probable cause to think bike items are stolen, they shouldn't be

impounding them. This ordinance violates the 4th Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005).

The loss of property is a daily issue for unhoused people, photos, documents and identification are constantly lost in the churn between the streets, service providers and state agencies. It is unreasonable to expect unhoused people to maintain receipts or serial numbers of past purchases. In addition, homeless people often receive donations, find scrap parts in various locations, and buy used parts. Therefore, we feel that it is very likely that homeless people will be unjustly cited, burdened with impound fees, and have to go through an arduous process of regaining their rightful property.

Many unhoused people participate in vending recycled goods as a means of earning extra income, even their entire income in some cases. We believe that this ordinance will target lower-income recycled bicycle vendors and further infringe upon the rights of poor people.

The appeal process would be impossible for many street campers to engage successfully, as it requires maintenance of paperwork, insertion of paperwork, receipt of a date by mail, all very difficult for unhoused individuals to navigate. This will result in rightful but impoverished owners hampered with unpaid debt, which negatively impacts future employment among other things.

Homeless people often suffer from disabilities, including mental health issues, that impact their functioning, and would make it an unfair hardship for the same rightful owners to regain their property. Travel, access to information, inability to carry belongings, all create significant barriers to regaining rightful property.

The upsurge in bike theft is a complex issue, which involves organized, disparate criminal elements. While stolen bikes may present within a given encampment of unhoused people, it is a drop in the bucket of organized crime and would unfairly target all homeless people who engage in recycled bike repair work without reducing theft.

In many cases, bicycles are unhoused person's only means of transportation, causing hardship with confiscation.

In sum, this legislation will not address bike theft, is a misguided attempt to pander to frustration with the housing crisis, and is based on a prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property.

1 [Police Code - Bicycle Chop Shops]

2

3 Ordinance amending the Police Code to prohibit the assembly, disassembly, sale, offer
 4 of sale, distribution, ~~or offer of distribution, or storage on public property or public~~
 5 ~~rights-of-way of bicycles and bicycle parts on the public right-of-ways,~~ under certain
 6 conditions and with certain exceptions; authorize the ~~Police Department (SFPD) to~~
 7 ~~seize Department Public Works to remove and seize~~ bicycles and bicycle parts
 8 following issuance of a notice of violations of this prohibition; and allow either the
 9 recipient of the notice or any other person who can demonstrate lawful ownership to
 10 retrieve seized items from Public Works after 30 days ~~require SFPD to return seized~~
 11 ~~items to their rightful owners without charging any fees, except that SFPD may charge~~
 12 ~~an impound fee if the rightful owner consented to or participated in the acts that led to~~
 13 ~~the seizure.~~

14

15 NOTE: Unchanged Code text and uncodified text are in plain Arial font.
 16 Additions to Codes are in *single-underline italics Times New Roman font*.
 17 Deletions to Codes are in *strikethrough italics Times New Roman font*.
 18 Board amendment additions are in double-underlined Arial font.
 19 Board amendment deletions are in ~~strikethrough Arial font~~.
 20 Asterisks (* * * *) indicate the omission of unchanged Code
 21 subsections or parts of tables.

19

20 Be it ordained by the People of the City and County of San Francisco:

21

22 Section 1. The Police Code is hereby amended by adding Article 51, entitled
 23 "Prohibited Bicycle Actions and Transactions," and including Sections 5100, 5101, 5102, and
 24 5103, to read as follows:

25 **ARTICLE 51: PROHIBITED BICYCLE ACTIONS AND TRANSACTIONS**

1. SEC. 5100. PURPOSE AND FINDINGS.

2 Countless bicycles and bicycle parts appear at are stolen in San Francisco every year, at
3 great cost to local residents, and taken to open-air "chop shops" on City streets in San
4 Francisco where they are disassembled, stripped of identifying information, and/or sold. Prohibiting
5 such activitythe operation of chop shops, and allowing Public Works to remove the Police
6 Department (SFPD) to seize any bicycles or bicycle parts from the public right-of-ways, from
7 persons who operate chop shops, will help SFPD hold chop shop operators accountable
8 and will help restore stolen bicycles to their rightful owners. Prohibiting chop shops will also
9 will help clear the public rights-of-ways, prevent unauthorized commercial activity on City
10 streets, and improve the quality of life for City residents, and if any items are lost or stolen
11 restore such items to their lawful owners.

12
13 SEC. 5101. PROHIBITION ON SALE OF BICYCLES AND BICYCLE PARTS.

14 (a) No person shall assemble, disassemble, sell, offer to sell, distribute, offer to distribute, or
15 store the following items on any street, sidewalk, public passageway, or other public right-of-way, or
16 on public property:

17 (1) five or more bicycles;

18 (2) a bicycle frame with the gear cables or brake cables cut;

19 (3) three or more bicycles with missing parts (the term "parts" shall mean handlebars,
20 wheels, forks, pedals, cranks, seats, or chains);

21 (4) five or more bicycle parts;

22 (b) This prohibition shall not apply in any of the following situations:

23 (1) The person is operating under a valid business license or permit

24 (2) The owner of a bicycle or bicycle part is present during the repair of his or her
25 single bicycle or bicycle part.

1 ~~(3) The items are being offered for sale by their owner, along with other goods,~~
2 ~~at a one or two day location outside the owner's dwelling unit, such as at events commonly~~
3 ~~known as "garage sales," "yard sales," "moving sales," or "estate sales."~~

4 ~~(3)(4) The items are being used in connection with an event held by an organization~~
5 ~~with tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(4)a~~
6 ~~registered non-profit~~

7 ~~(5) Application of this Section 5101 would interfere with or inhibit the exercise of~~
8 ~~the constitutionally protected right of freedom of speech or assembly.~~

9
10 **SEC. 5102. ENFORCEMENT AND APPEALS.**

11 (a) Under Section 836.5 of the Penal Code, Public Works employees designated in
12 Administrative Code Section 38 are hereby authorized to SFPD may issue a written notice of
13 violation an administrative citation to any person who is in violation of Section 5101, and may
14 delegate responsibilities to staff as appropriate to implement the removal of items taken in the
15 enforcement of this Article. Upon issuance of such notice citation, Public Works may remove and
16 seize any items that are being unlawfully assembled, disassembled, sold, distributed, offered for sale or
17 distribution, or stored. If the person to whom the notice is issued does not allow Public Works
18 to remove and seize the items, Public Works shall take no further action, but may seek
19 assistance from the Police Department (SFPD) as necessary to complete the removal and
20 seizure. Following the removal and seizure, the items may be recovered from Public Works
21 either by contesting the grounds for the notice of violation under subsection (c), or by
22 retrieving the items after 30 days under subsection (d).

23 (b) The notice of violation administrative citation shall include a reference to this Article 51;
24 a description of the violation; the date and location of the violation(s) observed; a description of all
25 seized items; a description of the process the person in possession of the items may pursue to

1 recover the items by contesting the grounds for the notice under subsection (c); a description
2 of the process to recover the items after 30 days under subsection (d); a description of the
3 process to recover the seized items and to obtain waiver of the impound fees, as set forth in
4 subsections (b) and (c); a description of the process for appealing the citation or assessment
5 of impound fees, including the deadline for filing such an appeal, as set forth in subsection (d);
6 and the name and signature of the citing officer, Public Works employee who issued the notice
7 and, if applicable, the SFPD officer who provided assistance.

8 (c) A person who has received a notice of violation may contest the grounds for the
9 notice by submitting a written request to Public Works within 30 days after the date of the
10 notice. Upon receipt of a timely request, Public Works shall assign the matter to a hearing
11 officer, who shall be someone other than the person(s) who issued the notice or who
12 witnessed the events giving rise to the notice, or the direct supervisor of such person(s). The
13 hearing officer shall fix a date, time, and place for the hearing, which shall occur within three
14 calendar days of the receipt of the hearing request unless extended in writing by mutual
15 agreement of the parties. Public Works shall have the burden in such hearing to prove by
16 clear and convincing evidence that the violation described in the notice occurred. At the
17 hearing, the reviewing officer will not be bound by the formal rules of evidence and may
18 accept information from both parties, including, but not limited to, the notice, which shall be
19 prima facie evidence of the violation. The hearing officer shall make findings based on the
20 record of the hearing and shall issue a decision as soon as possible thereafter, and no later
21 than two business days after the close of the hearing. If the hearing officer concludes that the
22 City failed to prove by clear and convincing evidence that the violation of Section 5101
23 described in the notice occurred, Public Works shall immediately rescind the notice and return
24 any seized items at no charge. If the hearing officer finds by clear and convincing evidence
25 that the violation of Section 5101 described in the notice did occur, Public Works shall retain

1 the items for at least 30 days after the date of the notice, in accordance with subsection (d).
2 The decision of the hearing officer in either case shall be the City's final action. Following the
3 decision of the hearing officer, an appeal may be filed with the superior court pursuant to
4 California Government Code Section 53069.4. Failure of any person to request a hearing in
5 accordance with the provisions of this Section 5102 or to appear at the noticed hearing shall
6 constitute a failure to exhaust administrative remedies.

7 (d) A person who has received a notice of violation may retrieve the seized items 30
8 days after the date of the notice, upon payment of an impound fee equal to the actual cost to
9 Public Works of removal and storage. After 30 days have elapsed, if the recipient of the
10 notice has not yet requested to retrieve the items, and another person requests the items on
11 the basis of their lawful ownership of the items and provides Public Works reliable supporting
12 evidence for their claim of ownership (including, but not limited to, video or photographic
13 evidence, a bill of sale, the correct serial number) that Public Works finds accurate, then
14 Public Works shall return the items to that person at no charge. If Public Works receives
15 conflicting requests from multiple persons for the same item, or if Public Works after
16 consultation with SFPD concludes that there is reasonable cause to believe that the items
17 were not in the lawful possession of the recipient of the notice at the time of seizure or that a
18 person claiming ownership has submitted a false claim, then Public Works shall refer the
19 matter to SFPD for investigation, and on SFPD's request shall deliver the items to SFPD. If
20 SFPD declines to request the items from Public Works within 30 days of the date of referral,
21 Public Works shall return the items to the recipient of the notice, or if such person has not
22 requested the items, then to the person claiming lawful ownership.

23 (e) Any unclaimed items remaining in Public Works custody 60 days after the date of
24 the notice of violation shall be deemed abandoned and may be discarded or destroyed.
25

1 ~~(b) SFPD shall return any seized items to their rightful owner upon the rightful owner's~~
2 ~~written request. A person shall be deemed the "rightful owner" if the person can demonstrate~~
3 ~~with sufficient reliability that he or she is the lawful owner of the seized item, for example, by~~
4 ~~providing video or photographic evidence indicating ownership of the seized item, by~~
5 ~~producing a bill of sale, by correctly stating the serial number, or by signing a sworn affidavit in~~
6 ~~person at an SFPD location to be determined by SFPD.~~

7 ~~(c) SFPD shall not assess monetary penalties for violations of this Article 51. SFPD~~
8 ~~may condition the return of a seized bicycle or bicycle part on the payment of an impound fee~~
9 ~~equal to the actual cost to SFPD of transporting and storing the seized item; provided,~~
10 ~~however, that SFPD shall return any seized item to its rightful owner without requiring~~
11 ~~payment of an impound fee provided that the owner did not consent to or participate in the~~
12 ~~violation of Section 5101 that led to the seizure.~~

13 ~~(d) A person who receives an administrative citation under subsection (a), or who is~~
14 ~~required to pay an impound fee pursuant to subsection (c), may file an appeal to challenge the~~
15 ~~citation or impound fee. The appeal must be filed within 15 days of the date that the person~~
16 ~~received the administrative citation or written findings requiring payment of a fee, whichever is~~
17 ~~later. The appeal must be in writing and must specify the basis for the appeal in detail, and~~
18 ~~must be filed with the SFPD as indicated in the administrative citation.~~

19 ~~(e) As soon as practicable after receiving the written appeal, the SFPD shall select~~
20 ~~an officer to review the appeal. The reviewing officer shall be someone other than the~~
21 ~~officer(s) who issued the administrative citation or who witnessed the events giving rise to the~~
22 ~~citation, or the direct supervisor of such officer(s). The reviewing officer shall fix a date, time,~~
23 ~~and place for the hearing on the appeal and provide written notice of the hearing at least 10~~
24 ~~days prior to the hearing date. If the notice is served by mail, it shall be by first class mail,~~
25 ~~and service shall be effective on the date of mailing. The hearing date shall be no later than~~

1 30 days after service of the notice of hearing, unless that time is extended by mutual
2 agreement of the parties. SFPD shall have the burden of proof in such hearing. At the
3 hearing, the reviewing officer will not be bound by the formal rules of evidence and may
4 accept information from both parties, including, but not limited to, the administrative citation,
5 which if valid shall be prima facie evidence of the violation; oral testimony; testimony by
6 declaration under penalty of perjury; and documentary information.

7 ~~—(f) The reviewing officer shall make findings based on the record of the hearing and
8 shall issue a written decision based on such findings within 15 days of the conclusion of the
9 hearing, and shall give the appellant written notice of that decision. If the reviewing officer
10 concludes that the citation was unwarranted or that SFPD should not have conditioned the
11 return of the seized items on the payment of an impound fee, SFPD shall immediately
12 withdraw the citation and return the seized items and refund the impound fees as appropriate.
13 The decision of the reviewing officer shall be final. Following the decision of the reviewing
14 officer, the appellant may file an appeal with the superior court pursuant to California
15 Government Code Section 53069.4.~~

16 ~~—(g) Failure of any person to file an administrative appeal in accordance with the
17 provisions of this Section 5102 or to appear at the noticed hearing shall constitute a failure to
18 exhaust administrative remedies.~~

19
20 **SEC. 5103. SEVERABILITY.**

21 *If any section, subsection, sentence, clause, phrase, or word of this Article 51, or any*
22 *application thereof to any person or circumstance, is held to be invalid or unconstitutional by a*
23 *decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining*
24 *portions or applications of the Article. The Board of Supervisors hereby declares that it would have*
25 *passed the Article and each and every section, subsection, sentence, clause, phrase, and word not*

1 declared invalid or unconstitutional without regard to whether any other portion of the Article or
2 application thereof would be subsequently declared invalid or unconstitutional.

3

4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it; or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11

12

By: _____
MANU PRADHAN
Deputy City Attorney

13

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July 17, 2017

Via E-Mail

City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Bicycle Chop Shops Proposed Ordinance (Sheehy) (File No. 170209)

Dear Board of Supervisors:

I am writing to convey the opposition of the American Civil Liberties Union of Northern California (“ACLU”) to the proposed “Bicycle Chop Shops” Ordinance (file no. 170209) that will be considered by the full Board at your July 18th meeting.

While the Ordinance purports to be a necessary tool for the police to fight the rise of bicycle thefts in the City, the ACLU agrees with the Bicycle Coalition, who opposes this measure because it focuses on “the most visible symptoms of the problem without addressing their cause.” As the Coalition on Homelessness and the Lawyers Committee for Civil Rights have explained, assembling and reassembling bicycle parts is one of the few viable ways that homeless persons can earn some income. Bicycle parts and even bicycles can be found in dumpsters or are donated. They are not illegal contraband *per se*. In the view of the ACLU, this proposed legislation has the intent to, and will have the impact of targeting people who are destitute, and who live on the streets and therefore must conduct their daily activities in open view. **It will be perceived as an anti-homeless measure, not an anti-bicycle theft measure – and that perception will be justified.**

As recent reports in the *Chronicle* have made plain, the inequality imbedded in our economy and the resulting housing crisis have led to a rise in the number of persons who live without housing in public spaces in this City. This problem, and the particular phenomenon of homeless persons living in tents on public sidewalks, have caused some significant problems of public health and safety that are of legitimate concern to the City. And the fact that San Francisco has done more than most cities to seek alternative forms of shelter to get people off the streets undoubtedly adds to the frustration of city officials and the public. **However, these real problems - and this frustration – must not lead this Board to pass laws that target homeless persons because of their status or because they are engaging in lawful activities in public because they have no private space to live and survive.**

This proposed law is based on the presumption that anyone who has multiple bicycles and bike parts in public is a bicycle thief, or is involved in some way with illegal activities. Persons who are actually engaged in illegal bicycle theft-related activities in their garages or other private

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA
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FAX/415.255.1478 | TTY/415.863.7832 | WWW.ACLUNC.ORG



spaces are unaffected. As the photos submitted by Supervisor Sheehy in his PowerPoint suggest, what is really at issue here is the unsightly appearance of outdoor “bicycle chop shops,” often near the tents that many persons without housing use for shelter. That purpose is indicated by Section 5100 where “clear the public right of way” and “improve the quality of life for City residents” is set forward as additional justifications for this law. While those justifications are legitimate government interests, they are also often the basis for discriminatory measures that single out homeless persons and discourage their visible presence inside city limits.

The police have tools to deal with public nuisances that obstruct sidewalks or create health and safety problems, and if they do not, the Board can adopt a narrower law that targets these problems and not the homeless. But this ordinance makes no attempt to confine its prohibition to those situations that create health and safety problems or that obstruct the sidewalks. Nor is there any attempt to create a nexus between the alleged violation and the crime of bicycle theft. Instead, the Ordinance creates an irrebutable presumption that someone who is assembling bicycles in public is a thief. This presumption that having five bicycle parts or three bicycles with missing parts is sufficient to have one treated as a suspected bicycle thief has nothing to do with remedying the problem of bicycle theft, but has everything to do with putting more police pressure on, and power over, the homeless population in this city.

While the Ordinance takes care to frame this as an administrative, and not a criminal matter, the fact that it provides for the immediate seizure and impoundment of the property imposes an immediate and serious penalty on the person who gets the citation, and thereby raises significant Fourth Amendment issues. It is clear that this impoundment amounts to a warrantless “seizure” that must be justified under the Fourth Amendment. *Soldal v. Cook County*, 506 U.S. 56, 61 (1992). The Ordinance does not require that the officer have probable cause or even reasonable suspicion that the person cited is involved in bicycle theft, or of any other criminal offense, nor that there be a nexus between the property and criminal activity. Nor does the Ordinance require any nexus between the property and any nuisance activity such as obstruction of the right of way. The Ordinance apparently leaves it to the officer’s discretion (“may issue”) whether or not to issue a citation or impound the vehicles. This does not provide much comfort for people who are living in the street or in a tent – there are no standards to guide the officer’s discretion, and the homeless know that they are the ones who will be singled out.

The case law regarding vehicle impoundment demonstrates the constitutional flaw in the Ordinance. Vehicles may be impounded consistent with the Fourth Amendment if there is probable cause to connect the property with a crime, or pursuant to the police “community caretaker function.” “In their community caretaking function, police officers may constitutionally impound vehicles that jeopardize public safety and the efficient movement of



vehicular traffic.” *People v. Williams*, 145 California App 4th 756, 761 (2006). In such cases, the police must be given guidelines, which “circumscribe the discretion of individual officers’ in a way that furthers the caretaking purpose.” *Miranda v. City of Cornelius*, 429 F. 3rd 858, 866 (2005). Yet this Ordinance authorizes impoundment under circumstances where there is no nexus to “community caretaker” concerns - unless you accept the presumption that anyone conducting this business in open air is a threat to public health or safety.

No one can be happy that so many thousands of destitute people are living and conducting their lives and their daily activities on the streets without any alternative shelter. But the temptation must be resisted to deal with this problem by “quality of life” measures that disregard the constitutional rights of homeless people. Taking away a means of livelihood, regardless of whether the conduct is criminal or has an adverse impact on health and safety, is in effect punishing people for not having a place to live. That is a line this Board should not cross.

Sincerely,

Alan L. Schlosser
Senior Counsel
ACLU of Northern California

1952



September 22, 2017

Honorable Jeff Sheehy
Member, Board of Supervisors
City Hall
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

Dear Supervisor Sheehy,

This letter is to state our opposition to proposed amended legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public sidewalks, and allows for notice of violation, impound fees, and the seizure of those parts. We do not believe the new amended version is a significant improvement.

We are deeply disturbed by this legislation, because while attempting to address the very troubling issue of bicycle theft, it instead panders to the prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property, while failing to reduce bike theft. Much like stop and frisk – it assumes guilt without cause – and relies on profiling.

We believe the real impetus of this legislation is optic frustration with tents, and related bike parts which represent an all too harsh symbol of abject poverty.

The reality is that recycling bike parts is one of the few alternative economic venues for impoverished people to make a living. Destitute people receive donated bike parts, find parts in dumpsters and various locations, trade parts and are able to use their bike skills to repair bikes, build bikes and sell them for life sustaining income. They often don't have means to sell their wares on places like Craig's List. Of course, some unhoused people engage in theft, as do some housed community members, but most of this economy is honest recycling. This legislation assumes that if you are unhoused and engaging in this element of the economy, you are presumed guilty of theft.

Similarly many avid housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their property. This ordinance allows the confiscation of property simply because the individual is both homeless (forced by destitution into "open air"), and has either 5 or more bicycle parts, 5 or more bicycles, 3 bikes with missing parts, or one frame with cut cables. We believe this ordinance will violate unhoused peoples' property rights, simply because they are destitute.

468 Turk St.
San Francisco, CA 94102
415.346.3740 TEL
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California law presumes that a person who possesses an item is its rightful owner. This proposed legislation categorically authorizes the Department of Public Works to impound property without probable cause that bike items are stolen. There is case law to this extent, and we believe this ordinance violates the 4th Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005). Penal Code 836.5 authorizes arrests, not seizures of property; the legal basis for this is not clear. DPW is not equipped to decide if one of the exceptions applies, and what the appropriate action is.

This legislation would result in the frequent confiscation of property from rightful owners, simply because they are destitute and therefore presumed to be thieves. In a truly Orwellian twist, the only way homeless rightful owners could get their property back is to either prove that they did not have multiple bike parts outdoors or to pay an impound fee, while housed people could prove ownership and have their impound fees waived. There is no means in this legislation for homeless people to prove ownership to avoid confiscation, or to get rightful property back for free.

(d) A person who has received a notice of violation may retrieve the seized items 30 days after the date of the notice, upon payment of an impound fee equal to the actual cost to Public Works of removal and storage. After 30 days have elapsed, if the recipient of the notice has not yet requested to retrieve the items, and another person requests the items on the basis of their lawful ownership of the items and provides Public Works reliable supporting evidence for their claim of ownership (including, but not limited to, video or photographic evidence, a bill of sale, the correct serial number) that Public Works finds accurate, then Public Works shall return the items to that person at no charge.

The hearing process must be requested in writing and there is no means for homeless individuals to find out when the hearing date is, all of which is very difficult for unhoused individuals to navigate. Homeless people often suffer from disabilities, including mental health issues, that impact their functioning, and would make it an unfair hardship. The hearing itself is not measuring rightful ownership but of Section 5101 or whether they violated the policy of prohibiting the taking apart or rebuilding of bikes, having bike parts, or selling bike parts in public sidewalks or rightaways. It is not a determination of ownership.

"If the hearing officer concludes that the City failed to prove by clear and convincing evidence that the violation of Section 5101 described in the notice occurred, Public Works shall immediately rescind the notice and return any seized items at no charge."

The legislation conflicts with current DPW property policy as developed by Lawyer's Committee on Civil Rights, the ACLU and the City Attorney. DPW property policy states that DPW shall not confiscate property that is claimed, and unclaimed property must be

bagged and tagged, and retrieved for free. In that policy, the notice must be given *before* property is confiscated, not at the same time. The storage time also conflicts, which should be 90, not 60 days.

There are many areas of this legislation that reveal its prejudicial nature. It targets only "open air" markets, as opposed to the exact same activity by a housed person, who is exempt. It refers to right of ways, but exempts housed people from the same law if items are sold on their own property.

In sum, the Coalition on Homelessness strongly opposes this legislation. We are concerned about bike theft, but do not believe this legislation deters theft. We feel it only punishes indigent people for daring to scrape out a living in this city and paints a powerful image of the destitute worker as thief, without ever bothering to prove their guilt.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Friedenbach". The signature is stylized and cursive.

Jennifer Friedenbach
Executive Director

March 28, 2017

Honorable Sandra Fewer
Member, Board of Supervisors
City Hall
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

**Subject: "Bicycle Chop Shops" Legislation (Sheehy)- (OPPOSE)
Public Safety and Neighborhood Services Committee**

Dear Supervisor Fewer,

As your constituent in the Outer Richmond, I write to inform you of my opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

I am deeply disturbed by this legislation, because while attempting to address the very troubling issue of bicycle theft, it instead panders to the prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property, while failing to reduce bike theft. Much like stop and frisk – it assumes guilt without cause – and relies on profiling.

As a cyclist, I am concerned about bike theft, but do not believe this legislation deters theft. I feel it only punishes indigent people for daring to scrape out a living in this city and paints a powerful image of the destitute worker as thief, without ever bothering to prove their guilt.

For these reasons, I strongly urge you to oppose this legislation.

Sincerely,

Preston Rhea
727 29th Ave
San Francisco, CA 94121



August 27, 2017

Honorable London Breed

Member, Board of Supervisors

City Hall

1 Dr. Carlton Goodlett Place

San Francisco, CA 94102

Subject: "Bicycle Chop Shops" Legislation (Sheehy)- (OPPOSE)

Dear Supervisor Breed,

The Eviction Defense Collaborative writes to inform you of our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

We are deeply disturbed by this legislation, because while attempting to address the very troubling issue of bicycle theft, it instead panders to the prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property, while failing to reduce bike theft. Much like stop and frisk – it assumes guilt without cause – and relies on profiling.

We are concerned about bike theft, but do not believe this legislation deters theft. We feel it only punishes indigent people for daring to scrape out a living in this city and paints a powerful image of the destitute worker as thief, without ever bothering to prove their guilt.

For these reasons, we strongly urge you to oppose this legislation.

Sincerely,

A handwritten signature in black ink, which appears to read 'Marcia Hodges', is written over the typed name. The signature is fluid and cursive, with a small flourish at the end.

Marcia Hodges

Interim Executive Director

April 9, 2017

Honorable Hillary Ronen
Member, Board of Supervisors
City Hall
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

**Subject: "Bicycle Chop Shops" Legislation (Sheehy)- (OPPOSE)
Public Safety and Neighborhood Services Committee**

Dear Supervisor Ronen,

We are writing to inform you of our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

As an organization working to engage white people in racial justice work, we are disturbed by this legislation. While attempting to address the troubling issue of bicycle theft, it instead specifically targets homeless people, a disproportionate number of whom are people of color. This legislation is based on the prejudicial and often racially-motivated premise that indigent people are criminal and must have stolen the property they use. Much like stop and frisk, in practice it allows officers to rely on profiling and assumes guilt without cause. We strongly oppose profiling of homeless people whether based on race or other prejudicial factors such as economic status and mental illness. We are also concerned that this ordinance would bring people living on our streets into increased contact with a police department that has been under investigation following multiple police shootings of homeless people of color.

We are concerned about bike theft, but do not believe this legislation deters theft. We feel it only punishes indigent people for daring to scrape out a living in this city and paints a powerful image of the destitute worker as thief, without ever bothering to prove their guilt.

For these reasons, we strongly urge you to oppose this legislation.

Sincerely,

Showing Up for Racial Justice (SURJ) San Francisco

Cc: Supervisor Jeff Sheehy
Supervisor Sandra Fewer



September 5, 2017

Honorable London Breed
Member, Board of Supervisors
City Hall
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

Subject: "Bicycle Chop Shops" Legislation (Sheehy)- (OPPOSE)

Dear Supervisor Breed,

People Organizing to Demand Environmental and Economic Rights (PODER) writes to inform you of our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and imposes impound fees, and the seizure of those parts.

We are deeply disturbed by this legislation. While attempting to address the very troubling issue of bicycle theft, it instead panders to the prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property, while failing to reduce bike theft. Much like Stop-and-Frisk, it assumes guilt without cause – and relies on profiling.

We are concerned about bike theft, but do not believe this legislation will deter it. We feel it only punishes indigent people for daring to scrape out a living in the City and paints a powerful, negative image of the destitute worker as thief, without ever bothering to prove their guilt.

For these reasons, we strongly urges you to oppose this legislation.

Sincerely,

A handwritten signature in black ink that reads "Antonio Diaz".

Antonio Diaz
Organizational Director

Democratic Socialists of America, San Francisco

22nd September 2017

San Francisco Board of Supervisors

Attn: Jeff Sheehy

Dear San Francisco Supervisors,

We write to you today to express our continued opposition to the proposed “chop shop” ordinance, introduced earlier this year. This bill authorizes the arbitrary confiscation of property from our most vulnerable citizens, those living on the city streets, and does nothing to stem bike theft.

The bill continues to target individuals rather than organized operations, and create an opaque bureaucracy with no real due process. Shifting the enforcement of this law from SFPD to DPW does nothing more than change the uniforms of the City employees conducting unconstitutional seizures; it does nothing to change the fundamental unfairness and cruelty of this bill. It allows the DPW to act as judge and jury of citizens’ claims to the property they possess and maintain. It creates a storage and paperwork nightmare for the already overworked department. It is a civil asset forfeiture bill that will subject our citizens to unwarranted, unconstitutional seizures.

Many San Francisco citizens, homeless or otherwise, depend on bicycles for transportation and the conduct of their work. Their use of public space to repair their vehicles infringes upon no other citizens’ rights. This ordinance would create a framework for arbitrary enforcement of a law for the convenience of the DPW, at the expense of people who are already subject to routine harassment, dispossession, and administrative citation.

The existence of illegal bicycle sales operations is not in dispute, with thousands of bicycles reported stolen in San Francisco annually. However, the city already has the means to address illegal bicycle trafficking, including the SAFE Bike serial number registry and laws prohibiting semi-permanent operations blocking public spaces.

This ordinance will have little impact on bike theft but will serve as another tool of abuse against the poorest among us. It will deepen the class divides in a city already riven by inequality and a profound housing and transportation crisis. We urge you to stand with us and continue to oppose this ordinance.

Regards,

The members of Democratic Socialists of America, San Francisco
Homelessness Working Group & Justice Committee



September 25, 2017

Honorable Malia Cohen
Member, Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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Executive Director

Kimberly Thomas Rapp

Dear Supervisor Cohen,

This letter is to state our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and permits the police to issue citations, impound fees, and the seizure of those parts.

The Lawyers' Committee for Civil Rights is a non-profit organization that works to advance, protect, and promote the legal rights of communities of color, low-income persons, immigrants, and refugees. While this legislation was drafted to address the issue of bicycle theft, it relies on assumptions about guilt that are far too prone to profiling, and would put criminal liability on prejudicial premise that all those who live outdoors and own multiple bikes or parts must have stolen that property.

The reality is that recycling bike parts is one of the few alternative economy venues available for impoverished people to make a living. Destitute people receive donated bike parts or find parts in dumpsters and various locations, trade parts, and are able to use their bike skills to repair and build bikes and sell them for life-sustaining income. They often do not have the means to sell their wares on places like Craigslist. Of course, some unhoused people engage in theft, as do some housed community members, but most of this economy is honest recycling. This legislation risks imposing criminal consequences on innocent behavior, and assumes that those who are unhoused and engaging in bicycle recycling are guilty of theft.

Many housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their rides. This legislation allows the confiscation of property simply because the individual is both homeless, and has five or more bicycles, three bikes with missing parts, one frame with cut cables, or five or more bicycle components. This legislation will violate unhoused peoples' property rights, simply because they are destitute.

This proposed legislation authorizes the police to impound property without probable cause that criminal activity has occurred. Thus, this legislation violates the Fourth Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005).

California law presumes that a person who possesses an item is its rightful owner. This legislation would result in the frequent confiscation of property from rightful owners, simply because they are destitute and therefore presumed to be thieves. The individual is then saddled with not only a citation, but impound fees equivalent to the police cost of transportation, storage, and staffing. The appeal process to overturn this

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FACEBOOK: facebook.com/LCCRSF



fee would be impossible for many street campers to engage successfully with, as it requires maintenance of paperwork, filing of paperwork, and receipt of a hearing date by mail, all of which is very difficult for unhoused individuals to navigate. This will result in rightful but impoverished owners hampered with unpaid debt, which negatively impacts future employment.

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James C. Sturdevant

Robert A. Thompson

Virginia Villegas

Homeless people often suffer from disabilities—including mental health issues—that impact their functioning, and would make it an unfair hardship for them to regain their property. Travel, access to information, and inability to carry belongings all create significant barriers to regaining rightful property in this proposed ordinance. This legislation will not only result in debt, but loss of property from rightful owners, simply because of their economic status.

In sum, the Lawyers' Committee for Civil Rights opposes this legislation. We are concerned about bike theft, but do not believe this legislation addresses that problem. This ordinance only punishes indigent people who are trying to scrape out a living in this city and paints a powerful image of the destitute worker as a thief, without any proof of guilt.

Sincerely,

Elisa Della-Piana

Legal Director

Executive Director

Kimberly Thomas Rapp

131 Steuart Street, Suite 400

San Francisco, CA 94105

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FACEBOOK: facebook.com/LCCRSF

170209

From: Jeremy Pollock <pollock.jeremy@gmail.com>
Sent: Monday, September 25, 2017 11:09 AM
To: Farrell, Mark (BOS); Peskin, Aaron (BOS); Tang, Katy (BOS); Sheehy, Jeff (BOS)
Cc: Major, Erica (BOS)
Subject: Please oppose #170209 - Bicycle Chop Shop ordinance

Supervisors Farrell, Peskin, Tang, and Sheehy,

I am a ten year member of the San Francisco Bicycle Coalition. I appreciate Supervisor Sheehy's attempt to address the unacceptable levels of bike theft in the City. I have had bikes and bike parts stolen, and earlier this year, I recovered a ghost bike from a homeless encampment. Bike theft is out of control, and I hear about it from my fellow bike riders all the time. But I cannot support Supervisor Sheehy's ordinance for the reasons I describe below.

Constitutionality of Civil Asset Forfeiture

I am concerned that the second version of the ordinance does not appear to address the serious fourth amendment issues that the ACLU raised in their letter on July 17. Shifting responsibility for the implementation of the ordinance from SFPD to DPW does not seem to address the issue of the ordinance calling for warrantless seizure of property that is not justified under the fourth amendment. Without requiring the city to establish a nexus between the seizure and any criminal or nuisance activity, it seems this ordinance is on shaky legal ground.

I am disturbed by the prospect of the San Francisco Board of Supervisors adopting this new form of civil asset forfeiture at a time when the Republican-led House of Representatives recently blocked funding for Attorney General Jeff Sessions's civil asset forfeiture program.

Concerns for DPW Employees and Resources

The DPW workers who clean and clear homeless encampments already have an incredibly challenging job. I'm concerned this ordinance will make their jobs harder and more dangerous. The ordinance anticipates that people will refuse to allow DPW workers to seize their bikes and that the workers will need assistance from SFPD to do so. How will this affect the workers' relationships with residents of homeless encampments, which I imagine are important for them to do their jobs? What policies will be put in place to ensure DPW worker safety? Has the union representing these DPW workers been consulted about this proposed change to their working conditions?

I am also concerned about how this will impact DPW's resources, which I imagine are already stretched thin. How many FTE does DPW estimate will be required to issue these violations, catalog all of the seized property, transport the property, conduct hearings, consult with SFPD, etc.? Will these resources be redirected from other priorities or will there be a budget supplemental to support the staffing needed for this ordinance?

Lack of SFPD Attention to Bike Theft

It seems clear to me that the most effective way to address bike theft is to dedicate SFPD resources to investigating and arresting bike thieves. Back in 2014, the Bicycle Coalition gave Sergeant Michael Friedman their Golden Wheel award for his work addressing bike theft, including working with the community through the [@SFPDBikeTheft](#) twitter account.

The Truckee Police Department recently busted a bike theft ring consisting of four brothers from San Francisco. They describe how the arrests were the result of "numerous hours of surveillance, bait bike operations, and crime analysis briefings."

To address bike theft, we don't need this cumbersome new administrative notice of violation, we need SFPD to focus on catching bike thieves! The 2013 Budget and Legislative Analyst report on bike theft recommended staffing a dedicated bike theft unit. I would enthusiastically support an ordinance to create such a unit.

Lack of Collaborative Process

What has been most dispiriting about the ordinance, is the rift it is has created in San Francisco's bicycling community. Bike advocates have spent hours debating this ordinance, and several bicycle coalition members have said they are canceling their memberships because the coalition did not support the original ordinance. This diverting attention and hurting the coalition's important work to make our streets safer.

I was encouraged in July when Supervisor Sheehy asked for the BLA to update their 2013 report on bike theft and said he wanted to work with the Bicycle Coalition. But as far as I know, the BLA has not yet issued their new report.

Please put this ordinance on hold until the BLA report is published, and then convene a public process to develop a more effective, less divisive, and more legally sound proposal to address bike theft.

Best,
Jeremy

P.S. Thank you, Supervisor Sheehy, for participating in the recent people-protected bike lane on Valencia. Please keep me posted if there is anything I can do to support efforts to make Valencia, and other streets, safe from double parking.

170209

From: Board of Supervisors, (BOS)
Sent: Monday, July 31, 2017 8:07 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: I SUPPORT Bicycle Chop Shops Ordinance # 170209

From: Sydnie Weiner [mailto:sweiner@freewheel.tv]
Sent: Sunday, July 30, 2017 1:26 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: I SUPPORT Bicycle Chop Shops Ordinance # 170209

As longtime homeowners in San Francisco, my husband and I strongly support the passage of Ordinance # 170209. We are appalled that law enforcement are not enabled to swiftly and effectively shut down activity on public / private property that is clearly illegal and dangerous to the neighborhood. We are stunned that the bike coalition opposes the ordinance. The city that you represent has become a cruel enabler of thieves, addicts and the mentally disturbed. Do your job and pass this ordinance.

Sydnie Weiner
3615 Market Street
SF CA 94131



File No. 170209
Received via email
7/17/2017

July 17, 2017

Via E-Mail

City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Bicycle Chop Shops Proposed Ordinance (Sheehy) (File No. 170209)

Dear Board of Supervisors:

I am writing to convey the opposition of the American Civil Liberties Union of Northern California ("ACLU") to the proposed "Bicycle Chop Shops" Ordinance (file no.170209) that will be considered by the full Board at your July 18th meeting.

While the Ordinance purports to be a necessary tool for the police to fight the rise of bicycle thefts in the City, the ACLU agrees with the Bicycle Coalition, who opposes this measure because it focuses on "the most visible symptoms of the problem without addressing their cause." As the Coalition on Homelessness and the Lawyers Committee for Civil Rights have explained, assembling and reassembling bicycle parts is one of the few viable ways that homeless persons can earn some income. Bicycle parts and even bicycles can be found in dumpsters or are donated. They are not illegal contraband per se. In the view of the ACLU, this proposed legislation has the intent to, and will have the impact of targeting people who are destitute, and who live on the streets and therefore must conduct their daily activities in open view. **It will be perceived as an anti-homeless measure, not an anti-bicycle theft measure – and that perception will be justified.**

As recent reports in the *Chronicle* have made plain, the inequality imbedded in our economy and the resulting housing crisis have led to a rise in the number of persons who live without housing in public spaces in this City. This problem, and the particular phenomenon of homeless persons living in tents on public sidewalks, have caused some significant problems of public health and safety that are of legitimate concern to the City. And the fact that San Francisco has done more than most cities to seek alternative forms of shelter to get people off the streets undoubtedly adds to the frustration of city officials and the public. **However, these real problems - and this frustration – must not lead this Board to pass laws that target homeless persons because of their status or because they are engaging in lawful activities in public because they have no private space to live and survive.**

This proposed law is based on the presumption that anyone who has multiple bicycles and bike parts in public is a bicycle thief, or is involved in some way with illegal activities. Persons who are actually engaged in illegal bicycle theft-related activities in their garages or other private

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA
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FRESNO OFFICE: P.O. BOX 188, FRESNO, CA 93707 | TEL/559.554.2794
FAX/415.255.1478 | TTY/415.863.7832 | WWW.ACLUNC.ORG



spaces are unaffected. As the photos submitted by Supervisor Sheehy in his PowerPoint suggest, what is really at issue here is the unsightly appearance of outdoor “bicycle chop shops,” often near the tents that many persons without housing use for shelter. That purpose is indicated by Section 5100 where “clear the public right of way” and “improve the quality of life for City residents” is set forward as additional justifications for this law. While those justifications are legitimate government interests, they are also often the basis for discriminatory measures that single out homeless persons and discourage their visible presence inside city limits.

The police have tools to deal with public nuisances that obstruct sidewalks or create health and safety problems, and if they do not, the Board can adopt a narrower law that targets these problems and not the homeless. But this ordinance makes no attempt to confine its prohibition to those situations that create health and safety problems or that obstruct the sidewalks. Nor is there any attempt to create a nexus between the alleged violation and the crime of bicycle theft. Instead, the Ordinance creates an irrebutable presumption that someone who is assembling bicycles in public is a thief. This presumption that having five bicycle parts or three bicycles with missing parts is sufficient to have one treated as a suspected bicycle thief has nothing to do with remedying the problem of bicycle theft, but has everything to do with putting more police pressure on, and power over, the homeless population in this city.

While the Ordinance takes care to frame this as an administrative, and not a criminal matter, the fact that it provides for the immediate seizure and impoundment of the property imposes an immediate and serious penalty on the person who gets the citation, and thereby raises significant Fourth Amendment issues. It is clear that this impoundment amounts to a warrantless “seizure” that must be justified under the Fourth Amendment. *Soldal v. Cook County*, 506 U.S. 56, 61 (1992) The Ordinance does not require that the officer have probable cause or even reasonable suspicion that the person cited is involved in bicycle theft, or of any other criminal offense, nor that there be an nexus between the property and criminal activity. Nor does the Ordinance require any nexus between the property and any nuisance activity such as obstruction of the right of way. The Ordinance apparently leaves it to the officer’s discretion (“may issue”) whether or not to issue a citation or impound the vehicles. This does not provide much comfort for people who are living in the street or in a tent – there are no standards to guide the officer’s discretion, and the homeless know that they are the ones who will be singled out.

The case law regarding vehicle impoundment demonstrates the constitutional flaw in the Ordinance. Vehicles may be impounded consistent with the Fourth Amendment if there is probable cause to connect the property with a crime, or pursuant to the police “community caretaker function.” “In their community caretaking function, police officers may constitutionally impound vehicles that jeopardize public safety and the efficient movement of



vehicular traffic.” *People v. Williams*, 145 California App 4th 756, 761 (2006). In such cases, the police must be given guidelines, which “circumscribe the discretion of individual officers’ in a way that furthers the caretaking purpose.” *Miranda v. City of Cornelius*, 429 F. 3rd 858, 866 (2005). Yet this Ordinance authorizes impoundment under circumstances where there is no nexus to “community caretaker” concerns - unless you accept the presumption that anyone conducting this business in open air is a threat to public health or safety.

No one can be happy that so many thousands of destitute people are living and conducting their lives and their daily activities on the streets without any alternative shelter. But the temptation must be resisted to deal with this problem by “quality of life” measures that disregard the constitutional rights of homeless people. Taking away a means of livelihood, regardless of whether the conduct is criminal or has an adverse impact on health and safety, is in effect punishing people for not having a place to live. That is a line this Board should not cross.

Sincerely,

Alan L. Schlosser
Senior Counsel
ACLU of Northern California

7/18/17

From: Board of Supervisors, (BOS)
Sent: Tuesday, July 18, 2017 8:59 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: bill on bike theft

From: Kathy Bradley [mailto:kathybradley540@gmail.com]
Sent: Monday, July 17, 2017 5:54 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: bill on bike theft

To whom it may concern:

I don't think the bill concerning bike theft in the city which is up for a vote tomorrow is an effective solution to the problem.

Sincerely,

Kathleen Bradley



SFCDMA

San Francisco Council of District Merchants Associations

Henry Karnilowicz
President

Maryo Mogannam
Vice President

Vas Kiniris
Secretary

Keith Goldstein
Treasurer

File No. 170209
Received via email
07/15/17

Member Associations

Balboa Village Merchants Association
Bayview Merchants Association
Castro Merchants
Chinatown Merchants Association
Clement St. Merchants Association
Dogpatch Business Association
Fillmore Merchants Association
Fishermans Wharf Merchants Assn.
Golden Gate Restaurant Association
Glen Park Merchants Association
Golden Gate Restaurant Association
Greater Geary Boulevard Merchants
& Property Owners Association
Hayes Valley Merchants Association
Japantown Merchants Association
Marina Merchants Association
Mission Creek Merchants Association
Mission Merchants Association
Noe Valley Merchants Association
North Beach Merchants Association
North East Mission Business Assn.
People of Parkside Sunset
Polk District Merchants Association
Potrero Dogpatch Merchants Assn.
Sacramento St. Merchants Association
South Beach Mission Bay Business Assn.
South of Market Business Association
The Outer Sunset Merchant
& Professional Association
Union Street Merchants
Valencia Corridor Merchants Assn.
West Portal Merchants Association

July 15, 2017

The San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re:
File No. 170209
Bicycle Chop Shops

Dear Supervisors,

On behalf of the San Francisco Council of District Merchants Associations I am writing to support the ordinance amending the Police Code to prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution on public property or public rights-of-way of bicycles and bicycle parts.

Under certain conditions and with certain exceptions, authorizing the Police Department to seize bicycles and bicycle parts following violations of this prohibition; and requiring SFPD to return seized items to their rightful owners without charging any fees, except that SFPD may charge an impound fee if the rightful owner consented to or participated in the acts that led to the seizure.

The establishing of these bicycle chop shops on public sidewalks is not only a flagrant abuse of law but impacts the access to many small businesses.

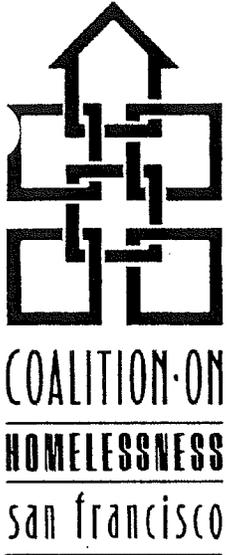
I urge you to please vote in support of this ordinance.

Thank you for your consideration.

Sincerely,

Henry Karnilowicz
President

Cc:
Ms. Regina Dick Endrizzi - Executive Director, Office of Small Business



June 10, 2017

Honorable Aaron Peskin
Member, Board of Supervisors
City Hall
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

Dear Supervisor Peskin,

This letter is to state our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

We are deeply disturbed by this legislation, because while attempting to address the very troubling issue of bicycle theft, it instead panders to the prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property, while failing to reduce bike theft. Much like stop and frisk – it assumes guilt without cause – and relies on profiling.

We believe the real impetus of this legislation is optic frustration with tents, and related bike parts which represent an all too harsh symbol of abject poverty.

The reality is that recycling bike parts is one of the few alternative economy venues for impoverished people to make a living. Destitute people receive donated bike parts, find parts in dumpsters and various locations, trade parts and are able to use their bike skills to repair bikes, build bikes and sell them for life sustaining income. They often don't have means to sell their wares on places like Craig's List. Of course, some unhoused people engage in theft, as do some housed community members, but most of this economy is honest recycling. This legislation assumes that if you are unhoused and engaging in this element of the economy, you are presumed guilty of theft.

Similarly many avid housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their property. This ordinance allows the confiscation of property simply because the individual is both homeless, and has either 5 or more bicycles, 3 bikes with missing parts, one frame with cut cables, or five or more bicycle components. We believe this ordinance will violate unhoused peoples' property rights, simply because they are destitute.

448 Turk St.
San Francisco, CA 94102
415.346.3740 TEL
415.775.5639 FAX
www.cohsf.org

170709
RECEIVED IN COMMITTEE
7/10/2017

California law presumes that a person who possesses an item is its rightful owner. This proposed legislation categorically authorizes the police to impound property without probable cause that bike items are stolen. There is case law to this extent, and we believe this ordinance violates the 4th Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005).

This legislation would result in the frequent confiscation of property from rightful owners, simply because they are destitute and therefore presumed to be thieves. The individual is then saddled with not only a citation, but impound fees equivalent to the police cost of transportation, storage and staffing. The appeal process to overturn this fee would be impossible for many street campers to engage successfully with, as it requires maintenance of paperwork, insertion of paperwork, receipt of a hearing date by mail, all of which is very difficult for unhoused individuals to navigate. This will result in rightful but impoverished owners hampered with unpaid debt, which negatively impacts future employment among other things.

Homeless people often suffer from disabilities, including mental health issues, that impact their functioning, and would make it an unfair hardship for the same rightful owners to regain their property. Travel, access to information, inability to carry belongings, all create significant barriers to regaining rightful property in this proposed ordinance. This legislation will not only result in debt, but loss of property from rightful owners simply because of their economic status.

There are many areas of this legislation that reveal its prejudicial nature. It targets only "open air" markets, as opposed to the exact same activity by a housed person, who is exempt. It refers to right of ways, but exempts housed people from the same law. It also exempts "rightful owners" who are present when their bike is being fixed from confiscation of the bicycle from police. The legislation follows California law in this instance, and assumes rightful ownership without definition if that person is having their bike fixed, but assumes stolen property for the person who is working on the bike in all other situations. The legislation as written assumes that no one would leave their bike with a destitute person for repairs, but allows confiscation of the same bike if the "owner" is not present.

In sum, the Coalition on Homelessness strongly opposes this legislation. We are concerned about bike theft, but do not believe this legislation deters theft. We feel it only punishes indigent people for daring to scrape out a living in this city and paints a powerful image of the destitute worker as thief, without ever bothering to prove their guilt. My staff will follow up shortly to schedule a meeting.

Sincerely,



Jennifer Friedenbach
Executive Director

Coalition on Homelessness, San Francisco Policy Analysis "Open-Air" Chop Shop Ordinance (Sheehy)

Key Elements of Legislation

This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, having bike parts, or selling bike parts in public spaces, and allows citations, impound fees, and the seizure of those parts.

- This piece of legislation defines a chop shop, as an open air location wherein bicycles are disassembled, stripped of identification and/or sold.
- The ordinance bans these activities when an individual has 5 or more bicycles, 3 bikes with missing parts, one frame with cut cables, or five or more bicycle components found on public property, street, sidewalk, or right of way.
- This prohibition does not apply to vendors operating under a valid business license or in cases in which the owners of the bicycles or bicycle components is present for repairs (ownership undefined).
- This prohibition does not apply to those offering items to be sold on their own property.
- Individuals in violation will get an administrative citation and may get their bike parts returned after seizure by showing proof of ownership, such as receipt, serial number, photographs or signing an affidavit.
- Ordinance allows appeal of citation and impound fees by having a hearing within 30 days with another police officer – person must file appeal, and date of hearing will be sent by mail.

Analysis of Impact:

We believe that this ordinance, if made law, will unfairly target the unhoused community – assuming that if they have bicycles or bicycle parts, there very impoverished status assumed that those parts are stolen. Unhoused people are incapable of meeting many of the exemptions from this ordinance, entirely because of the nature of their economic status. By definition, people who are homeless do not have homes in which they can legally sell their property.

This is a question of public space and who—and how—people can use it. Many avid housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their property. We believe that this ordinance will violate unhoused peoples' rights as private citizens, simply because they are destitute.

Unhoused communities reside on the fringes of our society, and they must be resourceful in order to survive. It is very common for unhoused people to trade and sell skills and items. Individuals with an entrepreneurial spirit offer their skills to other people, inadvertently making themselves targets for this ordinance.

This statute categorically authorizes the police to impound property without justification for the impoundment. California law presumes that a person who possesses an item is its rightful owner. Unless the police have probable cause to think bike items are stolen, they shouldn't be

impounding them. This ordinance violates the 4th Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005).

The loss of property is a daily issue for unhoused people, photos, documents and identification are constantly lost in the churn between the streets, service providers and state agencies. It is unreasonable to expect unhoused people to maintain receipts or serial numbers of past purchases. In addition, homeless people often receive donations, find scrap parts in various locations, and buy used parts. Therefore, we feel that it is very likely that homeless people will be unjustly cited, burdened with impound fees, and have to go through an arduous process of regaining their rightful property.

Many unhoused people participate in vending recycled goods as a means of earning extra income, even their entire income in some cases. We believe that this ordinance will target lower-income recycled bicycle vendors and further infringe upon the rights of poor people.

The appeal process would be impossible for many street campers to engage successfully, as it requires maintenance of paperwork, insertion of paperwork, receipt of a date by mail, all very difficult for unhoused individuals to navigate. This will result in rightful but impoverished owners hampered with unpaid debt, which negatively impacts future employment among other things.

Homeless people often suffer from disabilities, including mental health issues, that impact their functioning, and would make it an unfair hardship for the same rightful owners to regain their property. Travel, access to information, inability to carry belongings, all create significant barriers to regaining rightful property.

The upsurge in bike theft is a complex issue, which involves organized, disparate criminal elements. While stolen bikes may present within a given encampment of unhoused people, it is a drop in the bucket of organized crime and would unfairly target all homeless people who engage in recycled bike repair work without reducing theft.

In many cases, bicycles are unhoused person's only means of transportation, causing hardship with confiscation.

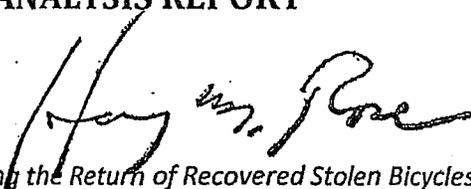
In sum, this legislation will not address bike theft, is a misguided attempt to pander to frustration with the housing crisis, and is based on a prejudicial premise that all those who live outdoors and own multiple bikes and/or parts must have stolen that property.

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

POLICY ANALYSIS REPORT

To: *Supervisor Mar*
From: *Budget and Legislative Analyst*
Date: *May 24, 2013*
Re: *Bicycle Theft Prevention and Improving the Return of Recovered Stolen Bicycles*



Summary of Requested Action

Pursuant to your request, the Budget and Legislative Analyst has: analyzed bicycle theft data occurring in the City and County of San Francisco; analyzed data on the cost of removing vandalized/abandoned bicycles; estimated the financial impact, including the costs to the City of bicycle theft from that cost data; examined existing bicycle theft policies and procedures of the San Francisco Police Department, the Bay Area Rapid Transit Police Department, and the San Francisco District Attorney's Office; and, developed recommendations that could aid in the reduction of bicycle thefts and aid in the recovery of stolen bicycles.

Executive Summary

The San Francisco Municipal Transportation Agency (SFMTA) has a goal in its Draft Bicycle Strategy for bicycles to comprise an eight to ten percent share of all transit modes in the City by 2020 as part of the SFMTA's larger goal of reaching a 50 percent reliance on sustainable modes of transit, such as bicycling, walking, public transit, and vehicle sharing. According to SFMTA, approximately 3.5 percent of all trips made in San Francisco were made by bicycle in 2011, a 75 percent increase since 2000 when bicycling was two percent of all trips.

Reported bicycle thefts increased by 70.2 percent between 2006 and 2012 in San Francisco. In 2012, there were 817 reported actual and attempted bicycle thefts. Supervisorial District 6 has disproportionately more bicycle thefts within its boundaries than other Supervisorial Districts, with approximately 40.4 percent of total reported actual and attempted bicycle thefts reported between 2006 and 2012. Supervisorial District 4 has the lowest number of reported actual and attempted bicycle thefts, with 1.4 percent of the total. Supervisorial District 1 comprised 4.8 percent of total reported actual and attempted bicycle thefts.

Given the increase in bicycle ridership in recent years, the SFMTA policy goal for increased ridership in the future and the increase in reported bicycle theft in recent years, the City should strengthen its attempts to ensure that adequate programs and policies are in place to prevent bicycle theft and to effectively assist citizens in recovering stolen bicycles.

Memo to Supervisor Mar
 May 24, 2013

Bicycle theft is typically significantly underreported because victims of bicycle theft assume that little can be done by police departments to recover their bicycle. According to the U.S. Department of Justice's Center for Problem-Oriented Policing, for every one bicycle reported stolen, another four (or more) is estimated to have occurred. Therefore, rather than 817 reported actual and attempted bicycle thefts in 2012, there were likely an estimated 4,085 actual and attempted bicycle thefts, based on the Department of Justice's multiplier. An overview of bicycle theft statistics and data is presented on the table to the right.

The Budget and Legislative Analyst's estimate of the value of bicycles stolen in San Francisco in 2012, including those unreported, is \$4.6 million.

When parts of bicycles are stolen in public places in San Francisco and then abandoned, the Department of Public Works (DPW) is responsible for removing those bicycles. DPW estimates that it expended a total of \$192,465 on these types of bicycle removals from 2006 through 2012.

Overview of Bicycle Theft in SF	
Estimated number of daily bicycle riders in SF	75,000
Bicyclists' share of all transit modes, 2011	3.5%
SFMTA goal for bicyclists' share of all transit modes by 2020	8-10%
Reported actual & attempted bicycle thefts, 2012	817
Total actual, attempted and estimated unreported bicycle thefts, 2012	4,035
Increase in Bicycle Theft from 2006 to 2012	70%
Estimated value of 2012 reported & unreported stolen bicycles	\$4.6 mn.
Number of stolen bicycles recovered by SFPD, 2012	864
Number of stolen bicycles released to owner by SFPD, 2012	142 (16.4%)

The San Francisco Police Department (SFPD) returned only 142 of the 864 stolen bicycles recovered by the Department in 2012 to the bicycles' owners, or 16.4 percent of the total bicycles taken into custody by the SFPD in 2012. The low return rate is primarily due to the inability of SFPD to reconnect bicycles with their owners because many bicycle owners do not have their bicycle serial number or other means of identifying their bicycle or, as is often the case, the bicycle's owners do not attempt to recover their bicycles from SFPD. There are currently 858 bicycles in the custody of SFPD.

The prioritization of investigating reported bicycle thefts varies by SFPD station. Multiple SFPD Station staff were interviewed by the Budget and Legislative Analyst and reported that competing priorities and staffing challenges often make it difficult to devote significant resources to bicycle theft. However, there are SFPD police stations that have SFPD staff devoted to investigating bicycle theft, including the Mission and Park Police Stations.

Bicycle thefts are handled by Bay Area Rapid Transit (BART) Police in the same manner as any other theft or crime committed on BART property or on BART transit lines. BART Police officers have a four-prong approach to helping to combat bicycle thefts in San Francisco as follows:

1. Monitoring of station cameras at bicycle racks;
2. Officers' patrolling of BART stations;
3. Community Service Officers patrolling of 16th and 24th Street Mission BART stations;

4. Educating BART passengers who lock their bicycles at BART stations on various strategies to decrease the chance of bicycle theft.

The San Francisco District Attorney's Office reports that they review each bicycle theft case independently and, based upon the case's merits, make a decision on whether or not to prosecute. A case worthy of prosecution would include evidence, such as the property (bicycle) taken as well as evidence that the perpetrator knew the property was stolen, if that can be proven beyond a reasonable doubt. The District Attorney's Office could not provide any data on bicycle theft cases that were prosecuted because the District Attorney's Office does not separately collect such caseload data for this type of crime.

There are several contributing factors to bicycle theft that, if remedied, could result in lower bicycle theft rates. These factors include:

- Lack of awareness of proper locking techniques;
- Issues establishing proof of ownership of bicycles;
- Insufficient secure bicycle parking;
- Lack of a centralized SFPD approach to bicycle theft;
- SFPD staffing challenges.

While bicycle theft is a problem that is difficult to solve entirely through government action, there are many actions that can be taken to educate the public as to how to protect themselves and deter bicycle theft through law enforcement including the options listed below which the Board of Supervisors may wish to consider:

1. Creation of a Citywide bicycle registration program;
2. Analysis of bicycle theft data consistently conducted throughout the City;
3. Bicycle-baiting, or sting operations strategically increased throughout the City;
4. Construction of increased manned/secured bicycle shelters in local MUNI stations and in City-owned parking garages;
5. Creation of more open source information available to the public on stolen and recovered bicycles;
6. Creation of a centralized SFPD bicycle theft unit to investigate and prevent bicycle theft as well as to educate the public on how to deter bicycle theft.

170209

m: Board of Supervisors, (BOS)
Sent: Wednesday, July 19, 2017 4:52 PM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Bicycle Chop Shops Ordinance # 170209 - vote Yes

From: Robert Reinhard [mailto:rjreinhard@gmail.com]
Sent: Wednesday, July 19, 2017 4:36 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Bicycle Chop Shops Ordinance # 170209 - vote Yes

Dear Board of Supervisors

Please vote in favor of the proposed ordinance when it is brought up again for consideration. I use my bike a lot for transportation. This reasonable idea is a step in the right direction.

Best regards

Robert Reinhard

68 Yukon Street

San Francisco, CA 94114

170209

To: Board of Supervisors, (BOS); BOS-Supervisors
Subject: RE: Bicycle Chop Shop Legislation

From: Rob Edwards [<mailto:robertsneddenedwards@gmail.com>]
Sent: Wednesday, July 12, 2017 8:14 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Bicycle Chop Shop Legislation

Pass the Bicycle Chop Shop Legislation please.

As a former police officer, I think this legislation will have an impact on the number of bikes stolen in this city. Drive under the freeway near 9th and Brannan and you will see the homeless encampments that have 5 bikes per tent. I doubt they BOUGHT any those. I've had so many bikes stolen in this city Ive lost count—two stolen off the ROOF RACK of my truck in broad daylight too.

Thank you, ROB

Rob Edwards, CDP
Co-chair & Treasurer, Harvard Kennedy School Alumni Network of San Francisco
RobEdwardsHKS08@post.harvard.edu
415.715.7312



170709

From: Board of Supervisors, (BOS)
Sent: Thursday, July 13, 2017 10:30 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Support for Bicycle Chop Shop Legislation

From: Rafael Burde [mailto:rafael.burde@gmail.com]
Sent: Wednesday, July 12, 2017 10:28 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Support for Bicycle Chop Shop Legislation

I'm a District 2 resident and wanted to express my support for this piece of legislation that will shortly be on your desks for review.

For too many residents fall victim to bike theft (including myself) and I believe this law, if properly enforced, will curb the market for second-hand bikes and bike parts and improve the lives of thousands every year.

Please consider supporting its passage.
Rafael Burde
155 Shipley St, San Francisco

170209

From: Board of Supervisors, (BOS)
Sent: Thursday, July 13, 2017 10:41 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Support for Bicycle Chop Shops Ordinance # 170209

From: Rich LaReau [mailto:rich@rlareau.net]
Sent: Thursday, July 13, 2017 10:37 AM
To: Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Support for Bicycle Chop Shops Ordinance # 170209

Dear Mr. Sheehy and SF Board of Supervisors,

I am writing to add my unconditional support for the passing and enforcement of Bicycle Chop Shops Ordinance # 170209. As you already know, bicycle theft and the supporting infrastructure from roaming on-street "chop shops" remain a scourge of our city. This legislation provides for a practical, enforceable method to break the cycle of these illegal and physically abusive camps. I appreciate the work and dedication your offices give to support the majority of law-abiding and tax-paying citizens who have elected you. Please do what you can to provide support and legislation that benefits ALL people of our city.

In addition to this email, I will be calling your offices to leave my support as well.

Thank you, and sincerely,

Richard LaReau
2425 Market St.
650-814-8502
rich@rlareau.net

170209

om: Board of Supervisors, (BOS)
Sent: Thursday, July 13, 2017 10:45 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Chop shop legislation

From: Market Street Cycles [mailto:marketstreetcycles@gmail.com]
Sent: Wednesday, July 12, 2017 2:34 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Chop shop legislation

To our representatives:

As a small bicycle shop owner on Market Street I urge you to pass this legislation.

These chop shops encourage bicycle theft and feed drug abuse and addiction on our streets.

Sincerely,

John McDonell, Owner

Market Street Cycles
1592 Market Street
(@ Page & Franklin)
San Francisco, CA 94102
415-ALL-BIKES (255-2453)
marketstreetcycles@gmail.com
www.marketstreetcycles.com



San Francisco Bicycle Coalition
T 415.431.BIKE
F 415.431.2468
sfbike.org

PROHIBITION OF DISCRIMINATION

July 7, 2017

San Francisco Board of Supervisors
Land Use and Transportation Committee
Supervisor Mark Farrell, Chair

Dear Chair Farrell, Supervisor Peskin and Supervisor Tang:

The problem of bicycle theft in San Francisco is a serious one. While data is incomplete, and thefts often go unreported, we do know from surveys that being the victim of bicycle theft or the fear of such theft is the second most-common reason people cite for not riding a bike in San Francisco after safety. Worse still, those most impacted by bicycle theft are those who are least able to afford a replacement bike and rely on their bicycle as transportation to work, school and beyond. For these individuals, their bike may be the last lifeline allowing them to hang on in an increasingly expensive city.

Real and urgent solutions to the problem of bike theft are needed. Unfortunately, Supervisor Sheehy's proposed ordinance (File #170209) targeting "chop shops" does not meet that bar. Instead, it focuses resources on the most visible symptoms of the problem without addressing their cause. Accordingly, the San Francisco Bicycle Coalition cannot support this proposal in its current form.

Chop shops, or assemblages of bicycles and/or bicycle parts in open view on our city streets, are without a doubt the most visible symptom of bicycle theft in our city. They are frustrating reminders of many problems that our city is facing, including homelessness, opioid addiction, displacement due to increasing costs of living and the lack of affordable transportation options.

In a 2013 memorandum to then-Supervisor Eric Mar, the City's Budget and Legislative Analyst proposed a range of options for the Board of Supervisors to consider in combating bicycle theft. Some, like the establishment of a citywide bicycle registration program, have been achieved and made an impact on the recovery of stolen bicycles. Others, such as the creation of a bicycle theft unit within San Francisco Police Department, consistent analysis of bicycle theft data, and more open source information of stolen and recovered bicycles have been halted or never implemented at all.

In addition to these ideas, we call on the City to combat bicycle theft in a manner that focuses on the market for stolen bikes: the individuals who purchase stolen bikes to resell, often online or in other jurisdictions. Other cities across our country have had success with this "bicycle theft task force" approach, and we believe it would enjoy broad support on this Board and among the community.

We also believe that prevention may be the most resource-effective method of combating bike theft, and we call on the city and the SFMTA to increase attended bike parking at

transit hubs and in City-owned parking facilities, as well recommended in the 2013 BLA report. We will continue our work to help individuals request municipal sidewalk racks and bike parking corrals as well as educating thousands of San Franciscans every year on secure locking techniques.

The San Francisco Bicycle Coalition would enthusiastically support legislation that addresses the above strategies.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Wiedenmeier", with a long horizontal flourish extending to the right.

Brian Wiedenmeier
Executive Director



170709
RECEIVED VIA EMAIL
07/10/2017 11:00 AM

July 11, 2017

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Honorable Mark Farrell
Member, Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Farrell,

This letter is to state our opposition to proposed legislation entitled "Bicycle Chop Shops" (Sheehy). This is an ordinance that would amend the Police Code to prohibit the taking apart or rebuilding of bikes, possessing bike parts, or selling bike parts in public spaces, and permits the police to issue citations, impound fees, and the seizure of those parts.

The Lawyers' Committee for Civil Rights is a non-profit organization that works to advance, protect, and promote the legal rights of communities of color, low-income persons, immigrants, and refugees. While this legislation was drafted to address the issue of bicycle theft, it relies on assumptions about guilt that are far too prone to profiling, and would put criminal liability on prejudicial premise that all those who live outdoors and own multiple bikes or parts must have stolen that property.

The reality is that recycling bike parts is one of the few alternative economy venues available for impoverished people to make a living. Destitute people receive donated bike parts or find parts in dumpsters and various locations, trade parts, and are able to use their bike skills to repair and build bikes and sell them for life-sustaining income. They often do not have the means to sell their wares on places like Craigslist. Of course, some unhoused people engage in theft, as do some housed community members, but most of this economy is honest recycling. This legislation risks imposing criminal consequences on innocent behavior, and assumes that those who are unhoused and engaging in bicycle recycling are guilty of theft.

Many housed and unhoused bicyclists own multiple bicycles that can be used for varying leisure and practical purposes. Avid cyclists collect accessories to decorate and improve their rides. This legislation allows the confiscation of property simply because the individual is both homeless, and has five or more bicycles, three bikes with missing parts, one frame with cut cables, or five or more bicycle components. This legislation will violate unhoused peoples' property rights, simply because they are destitute. This proposed legislation authorizes the police to impound property without

131 Steuart Street, Suite 400

San Francisco, CA 94105

TEL: (415) 543-9444

FAX: (415) 543-0296

EMAIL: info@lccr.com

WEBSITE: www.lccr.com

TWITTER: @lccrbayarea

FACEBOOK: facebook.com/LCCRSF

The Honorable Malia Cohen
July 11, 2017

probable cause that criminal activity has occurred. Thus, this legislation violates the Fourth Amendment under *People v. Williams*, 145 Cal. App. 4th 756, 762 (2006) and *Miranda v. City of Cornelius*, 429 F.3d 858 (9th Cir. 2005).

California law presumes that a person who possesses an item is its rightful owner. This legislation would result in the frequent confiscation of property from rightful owners, simply because they are destitute and therefore presumed to be thieves. The individual is then saddled with not only a citation, but impound fees equivalent to the police cost of transportation, storage and staffing. The appeal process to overturn this fee would be impossible for many street campers to engage successfully with, as it requires maintenance of paperwork, filing of paperwork, and receipt of a hearing date by mail, all of which is very difficult for unhoused individuals to navigate. This will result in rightful but impoverished owners hampered with unpaid debt, which negatively impacts future employment.

Homeless people often suffer from disabilities—including mental health issues—that impact their functioning, and would make it an unfair hardship for them to regain their property. Travel, access to information, and inability to carry belongings all create significant barriers to regaining rightful property in this proposed ordinance. This legislation will not only result in debt, but loss of property from rightful owners, simply because of their economic status.

In sum, the Lawyers' Committee for Civil Rights opposes this legislation. We are concerned about bike theft, but do not believe this legislation addresses that problem. This ordinance only punishes indigent people who are trying to scrape out a living in this city and paints a powerful image of the destitute worker as a thief, without any proof of guilt.

Sincerely,



Elisa Della-Piana
Legal Director

170209

To: Board of Supervisors, (BOS); BOS-Supervisors
Subject: RE: Bike Chop Shop legislation

From: R. Lucas Coe [mailto:r.lucascoe@gmail.com]
Sent: Monday, July 10, 2017 9:28 AM
To: BreedStaff, (BOS) <breedstaff@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Bike Chop Shop legislation

Dear Supervisor Breed,

I've lived in District 5 for over 9 years, minus a year in the Castro. I voted for you, and I was pleased to meet you when you were campaigning in the neighborhood in 2014. You had a great group with you and I'm pleased with your work. Thank you for representing District 5.

I'm a member of the SF Bike Coalition and a long term bike commuter. I appreciate efforts to protect bikes; I would be lost without mine, but I fear this legislation is really about homeless people. That population would be unfortunately targeted by this legislation and do little about stolen bikes in the city, as many end up in the East Bay to be sold. I don't see information (research/facts) to back up how this legislation will make any real impact on bike thefts in SF. All people in SF deserve to live and have their rights respected, and this legislation goes against true SF values.

I'm tired of seeing the constant attacks on the homeless in SF. They are human beings, not targets for politicians. Please do not support this legislation until thorough research has been done to show that it will indeed have the impact that Supervisor Sheehy has proposed.

Thank you for your time.

Sincerely,

R. Lucas Coe
338 Fillmore St. #2

 Virus-free. www.avast.com

170209

To: Board of Supervisors, (BOS); BOS-Supervisors
Subject: RE: Bicycle Chop Shops Ordinance # 170209

From: Gitanjali Bhushan [mailto:gitabee@gmail.com]
Sent: Sunday, July 09, 2017 10:59 PM
To: Ronen, Hillary <hillary.ronen@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Bicycle Chop Shops Ordinance # 170209

Dear Supervisor Ronen,

I am writing to you to express my strong support for the proposed Bicycle Chop Shops Ordinance # 170209. I would like to strongly urge you (and the rest of your Progressive colleagues) to please support this legislation wholeheartedly, and ensure that it becomes law.

As you might be aware, many parts of the Mission District have become a living hell during the past five years, with crime, filth, and violence taking over our streets and sidewalks. Problems are particularly severe in the working class areas such as the Northeast Mission, where massive criminal encampments block access to sidewalks and force residents to walk into traffic.

These people are not merely "down on their luck," but are actually thieves, prostitutes, and drug dealers who are using their tents as makeshift bicycle chop-shops, warehouses, and shooting galleries. They are violent, they attack neighbors with knives and brooms, and they defecate and urinate all over our streets and sidewalks, creating a dangerous and unsanitary environment.

Their largest source of funding? Stolen property, and especially stolen bicycles.

The police stand by and say they can do nothing, as they supposedly cannot prove that the bikes were stolen, and not "donated" - as the criminals insist. This law will allow the police to begin to do their jobs and restore order to the streets of the Mission.

I am a working-class, die-hard Progressive voter, with a huge amount of compassion for those who are struggling with poverty, mental health, or substance abuse issues. But I would like to see us put our money - and our effort - into funding treatment to help these people out of their situations, rather than enabling them to live lives of desperation and squalor.

I am also a bicycle commuter who depends upon my bike to get me to and from my low-paying service job. If my bike were stolen, it would be a severe blow to my budget to replace it.

Working-class people also cannot afford fancy security systems to protect ourselves and our property. We depend upon the police to keep us safe as we cannot afford private security guards.

Please help enact this legislation, so the police can do their jobs and protect the poor and working-class folks who are just trying to get by. If bike theft is no longer an easy and lucrative endeavor here in San Francisco, the folks may hopefully move on to greener pastures, and instead of spending millions to clean up encampments,

we can fund mental health and addiction treatment for those who truly want to get well. This would be a much better use of our public money.

Thank you for your consideration, and best regards,

Gitanjali Denley

170209

From: Board of Supervisors, (BOS)
Sent: Tuesday, July 11, 2017 9:27 AM
To: BOS-Supervisors; Major, Erica (BOS)
Subject: FW: Bicycle Chop Shops Ordinance # 170209

From: Jeff [mailto:jekegil29@comcast.net]
Sent: Sunday, July 09, 2017 6:14 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; BreedStaff, (BOS) <breedstaff@sfgov.org>
Subject: Bicycle Chop Shops Ordinance # 170209

Riding past chop shops daily, the impunity with which these thieves operate amazes me. What with car break ins and stolen bicycles, the quality of everyday life in San Francisco is at an all-time low. Please vote for this ordinance.

Jeff Gilchrist
76 Germania St
SF Ca 94117

170209

To: Board of Supervisors, (BOS); BOS-Supervisors
Subject: RE: bicycle chop shops

From: SF Carl [<mailto:sfcarl@hotmail.com>]
Sent: Saturday, July 08, 2017 8:56 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: bicycle chop shops

To the Board of Supervisors:

I urge you all to support the proposed ordinance that Supervisor Sheehy sponsors to stop chop shops, i.e. to "prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution on public property or public rights-of-way of bicycles and bicycle parts" and to require police "to return seized items to their rightful owners without charging any fees, except that SFPD may charge an impound fee if the rightful owner consented to or participated in the acts that led to the seizure."

Bicycle theft is rampant and out of control in SF. Current laws are inadequate. To date, current laws prove too weak to fix the problem. We need the strongest possible legislation to reduce bike theft and to encourage police to work to return stolen bikes to their owners. Please support this ordinance that Supervisor Sheehy sponsors, ordinance #170209, as an improvement over the current status.

Thank you.

Carl Stein
374 Guerrero Street
SF 94103

170209

From: Board of Supervisors, (BOS); BOS-Supervisors
Subject: RE: bicycle chop shop legislation #170209

-----Original Message-----

From: Board of Supervisors, (BOS)
Sent: Tuesday, July 11, 2017 9:30 AM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; Major, Erica (BOS) <erica.major@sfgov.org>
Subject: FW: bicycle chop shop legislation #170209

-----Original Message-----

From: PENNI WISNER [mailto:penniw@pacbell.net]
Sent: Friday, July 07, 2017 2:56 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: bicycle chop shop legislation #170209

I strongly support this legislation. It gives police an important tool to help keep our streets safer and to discourage crime. Since the bikes can be returned to owners upon proof, it is not an imposition on owners or the "homeless." In fact, it is not only "homeless" who engage in stealing bikes. This is legislation the city needs.

Penni Wisner
3845 17th Street
SF, CA 94114
penniw@pacbell.net
415-552-6579



July 7, 2017

The Honorable Mark Farrell, Chair
Board of Supervisors Land Use and Transportation Committee
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Support File No. 170209 Bicycle Chop Shops (Sheehy)

Dear Supervisor Farrell:

The San Francisco Chamber of Commerce, representing 2,500 local businesses and over 200,000 employees, urges the Land Use Committee to give a "Due Pass" recommendation to Supervisor Sheehy's legislation prohibiting bicycle chop shops from operating on the city's streets and sidewalks.

In recent years, on downtown sidewalks and in other neighborhoods, the demolition of what often appear to be stolen bicycles is occurring with more and more frequency. One location on Montgomery Street, between Post and Sutter, has been used for this purpose off and on for the last two or three years. As soon as the Department of Public Works cleans the mounds of junk, the two or three people operating the chop shop return with a new set of bikes to disassemble.

Allowing these chop shops to continue to operate poses a public safety risk to pedestrians, encourages theft of personal property and creates visual blight. Furthermore, many of the individuals involved with these operations are in desperate need of medical and mental health services.

The San Francisco Chamber of Commerce urges the Land Use and Transportation Committee to recommend that the Board of Supervisors to adopt this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Lazarus', with a long horizontal flourish extending to the right.

Jim Lazarus
Senior Vice President of Public Policy

cc: Clerk of the Board, to be distributed to all Supervisors





San Francisco Bicycle Coalition
T 415.431.BIKE
F 415.431.2468
sfbike.org

File No. 170209
Received via email
07/7/17 at 4:49 p.m.

July 7, 2017

San Francisco Board of Supervisors
Land Use and Transportation Committee
Supervisor Mark Farrell, Chair

Dear Chair Farrell, Supervisor Peskin and Supervisor Tang:

The problem of bicycle theft in San Francisco is a serious one. While data is incomplete, and thefts often go unreported, we do know from surveys that being the victim of bicycle theft or the fear of such theft is the second most-common reason people cite for not riding a bike in San Francisco after safety. Worse still, those most impacted by bicycle theft are those who are least able to afford a replacement bike and rely on their bicycle as transportation to work, school and beyond. For these individuals, their bike may be the last lifeline allowing them to hang on in an increasingly expensive city.

Real and urgent solutions to the problem of bike theft are needed. Unfortunately, Supervisor Sheehy's proposed ordinance (File #170209) targeting "chop shops" does not meet that bar. Instead, it focuses resources on the most visible symptoms of the problem without addressing their cause. Accordingly, the San Francisco Bicycle Coalition cannot support this proposal in its current form.

Chop shops, or assemblages of bicycles and/or bicycle parts in open view on our city streets, are without a doubt the most visible symptom of bicycle theft in our city. They are frustrating reminders of many problems that our city is facing, including homelessness, opioid addiction, displacement due to increasing costs of living and the lack of affordable transportation options.

In a 2013 memorandum to then-Supervisor Eric Mar, the City's Budget and Legislative Analyst proposed a range of options for the Board of Supervisors to consider in combating bicycle theft. Some, like the establishment of a citywide bicycle registration program, have been achieved and made an impact on the recovery of stolen bicycles. Others, such as the creation of a bicycle theft unit within San Francisco Police Department, consistent analysis of bicycle theft data, and more open source information of stolen and recovered bicycles have been halted or never implemented at all.

In addition to these ideas, we call on the City to combat bicycle theft in a manner that focuses on the market for stolen bikes: the individuals who purchase stolen bikes to resell, often online or in other jurisdictions. Other cities across our country have had success with this "bicycle theft task force" approach, and we believe it would enjoy broad support on this Board and among the community.

We also believe that prevention may be the most resource-effective method of combating bike theft, and we call on the city and the SFMTA to increase attended bike parking at

transit hubs and in City-owned parking facilities, as well recommended in the 2013 BLA report. We will continue our work to help individuals request municipal sidewalk racks and bike parking corrals as well as educating thousands of San Franciscans every year on secure locking techniques.

The San Francisco Bicycle Coalition would enthusiastically support legislation that addresses the above strategies.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Wiedenmeier". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Brian Wiedenmeier
Executive Director

170209

To: Somera, Alisa (BOS)
Subject: RE: Bicycle chop shop ordinance -_Item 5-- File 170209

-----Original Message-----

From: Bob Planthold [mailto:political_bob@att.net]
Sent: Friday, July 07, 2017 5:05 PM
To: Somera, Alisa (BOS) <alisa.somera@sfgov.org>; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>
Cc: Kelly, Margaux (BOS) <margaux.kelly@sfgov.org>; Karunaratne, Kanishka (BOS) <kanishka.karunaratne@sfgov.org>; Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; Hepner, Lee (BOS) <lee.hepner@sfgov.org>; Rubenstein, Beth (BOS) <beth.rubenstein@sfgov.org>; Summers, Ashley (BOS) <ashley.summers@sfgov.org>; Law, Ray (BOS) <ray.law@sfgov.org>; Jones, Justin (BOS) <justin.jones@sfgov.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>; Spero, David (BOS) <david.spero@sfgov.org>; Bob Planthold <political_bob@att.net>
Subject: Bicycle chop shop ordinance -_Item 5-- File 170209

I support the proposed Bicycle Chop Shop ordinance, File 170209 .

Sidewalks are often made hazardous, especially for vulnerable pedestrians,
by folks spreading out their array of spare parts, tools, and ancillary items.

Passage is sometimes narrowed to less than allowable requirements for a properly compliant path-of-travel.

Sometimes we have to try to step over metal arts strewn in the "path-of-travel";

sometimes some of us cannot step over such and

have to backtrack or go around in the street.

Sometimes people argue over these on-sidewalk bikeworks,

such that vulnerable pedestrians have to back away or go around.

This is a common-sense measure that can help make San Francisco safer for all to walk and enjoy.

Bob Planthold

170209

: Board of Supervisors, (BOS); lesmac@gmx.com
Cc: BOS-Supervisors
Subject: RE: SUPPORT Ordinance to remove motivation to steal bikes. File No. 170209

-----Original Message-----

From: Board of Supervisors, (BOS)
Sent: Friday, July 07, 2017 8:25 AM
To: lesmac@gmx.com
Cc: BOS-Supervisors <bos-supervisors@sfgov.org>; Major, Erica (BOS) <erica.major@sfgov.org>
Subject: FW: SUPPORT Ordinance to remove motivation to steal bikes. File No. 170209

Hello,

Thank you for your email. It has been sent to the Board Members and will appear in the Petitions and Communication pages of our July 18, 2017 agenda. Looping in the Land Use and Transportation Clerk to add it to the official file.

Regards,

Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102-4689
Phone: (415) 554-7703 | Fax: (415) 554-5163 Board.of.supervisors@sfgov.org | 415-554-5184

-----Original Message-----

From: Leslie MacKay [mailto:lesmac@gmx.com]
Sent: Thursday, July 06, 2017 8:29 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: SUPPORT Ordinance to remove motivation to steal bikes

As a San Franciscan whose bike has been stolen, I urge you to SUPPORT the ordinance proposed by Supervisor Sheehy that will remove motivations to steal bikes, disassemble them (via sidewalk chop shops), and sell them.

Thank you
Leslie MacKay
55 Hancock St.
San Francisco, CA 94114

Sent from my iPad

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: *ll*
for Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 7, 2017

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 170209

Ordinance amending the Police Code to prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution on public property or public rights-of-way of bicycles and bicycle parts, under certain conditions and with certain exceptions; authorize the Police Department (SFPD) to seize bicycles and bicycle parts following violations of this prohibition; and require SFPD to return seized items to their rightful owners without charging any fees, except that SFPD may charge an impound fee if the rightful owner consented to or participated in the acts that led to the seizure.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

___ No Comment

___ Recommendation Attached

Chairperson, Small Business Commission

c: Menaka Mahajan, Small Business Commission

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: William Scott, Police Chief, Police Department

FROM: *ll*
for Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: March 7, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Sheehy on February 28, 2017:

File No. 170209

Ordinance amending the Police Code to prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution on public property or public rights-of-way of bicycles and bicycle parts, under certain conditions and with certain exceptions; authorize the Police Department (SFPD) to seize bicycles and bicycle parts following violations of this prohibition; and require SFPD to return seized items to their rightful owners without charging any fees, except that SFPD may charge an impound fee if the rightful owner consented to or participated in the acts that led to the seizure.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Rowena Carr, Police Department
Kristine Demafeliz, Police Department

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 FEB 28 PM 4
Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

BY _____

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Use check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Supervisor Sheehy

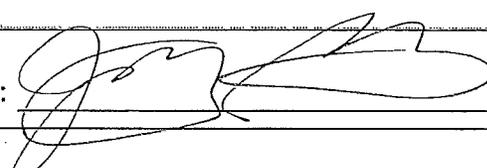
Subject:

Police Code - Bicycle Chop Shops

The text is listed below or attached:

Ordinance amending the Police Code to prohibit the assembly, disassembly, sale, offer of sale, distribution, or offer of distribution on public property or public rights-of-way of bicycles and bicycle parts, under certain conditions and with certain exceptions; authorize the Police Department (SFPD) to seize bicycles and bicycle parts following violations of this prohibition; and require SFPD to return seized items to their rightful owners without charging any fees, except that SFPD may charge an impound fee if the rightful owner consented to or participated in the acts that led to the seizure.

Signature of Sponsoring Supervisor: _____



For Clerk's Use Only:

