

BOARD of SUPERVISORS



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MEMORANDUM

TO: Ed Reiskin, Executive Director, Municipal Transportation Agency
Mohammed Nuru, Director, Public Works

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

DATE: February 13, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Peskin on February 7, 2017:

File No. 170160

Ordinance amending Division I of the Transportation Code to establish a violation for bicycles that are a part of a Stationless Bicycle Share Program, to be parked, left standing, or left unattended on any sidewalk, street, or public right-of-way under the jurisdiction of the San Francisco Municipal Transportation Agency (SFMTA) or Public Works (PW) without a permit issued by the SFMTA authorizing the bicycle to be parked, left standing, or left unattended at that location; amending the Public Works Code to authorize PW to take any necessary enforcement action to abate or remove unauthorized bicycles that are part of an unpermitted Stationless Bicycle Share Program, that are parked, left standing, or left unattended on any sidewalk, street, or public right-of-way under the jurisdiction of PW or the SFMTA in violation of the Transportation Code; and affirming the Planning Department's determination under the California Environmental Quality Act.

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: Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency

Dillon Auyoung, Municipal Transportation Agency
Viktoriya Wise, Municipal Transportation Agency
Frank Lee, Public Works
John Thomas, Public Works
Lena Liu, Public Works

1 [Transportation, Public Works Codes - Unauthorized Bicycle Violations, Stationless Bicycle
2 Share Program]

3 **Ordinance amending Division I of the Transportation Code to establish a violation for**
4 **bicycles that are a part of a Stationless Bicycle Share Program, to be parked, left**
5 **standing, or left unattended on any sidewalk, street, or public right-of-way under the**
6 **jurisdiction of the San Francisco Municipal Transportation Agency (SFMTA) or Public**
7 **Works (PW) without a permit issued by the SFMTA authorizing the bicycle to be parked,**
8 **left standing, or left unattended at that location, and amending the Public Works Code**
9 **to authorize PW to take any necessary enforcement action to abate or remove**
10 **unauthorized bicycles that are part of an unpermitted Stationless Bicycle Share**
11 **Program, that are parked, left standing, or left unattended on any sidewalk, street, or**
12 **public right-of-way under the jurisdiction of PW or the SFMTA in violation of the**
13 **Transportation Code; and affirming the Planning Department's determination under the**
14 **California Environmental Quality Act.**

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. Findings.

24 (a) The Planning Department has determined that the actions contemplated in this
25 ordinance comply with the California Environmental Quality Act (California Public Resources
Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

1 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this
2 determination.

3 (b) The San Francisco General Plan's Transit-First Policy recognizes that decisions
4 regarding the use of limited public street and sidewalk space shall encourage the use of public
5 right-of-ways by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and
6 improve public health and safety. As interest in alternative modes of transportation have
7 grown, Bay Area residents have developed greater interest in Bicycle Share Programs, some
8 of which include bicycles that can be secured without being locked to a bicycle rack. The
9 proliferation of Stationless Bicycle Share Programs has the potential to cause obstructions of
10 public right-of-ways or the displacement of existing bicycle users from parking their bicycles at
11 existing public bicycle racks. The Administrative Code defines a "public nuisance" as any
12 "thing or condition, including but not limited to violations of the Municipal Code or State law,
13 that threatens injury or damage to the health, safety, welfare, or property of members of the
14 public, that obstructs the free use of property of others or of the public right-of-way or
15 commons, or otherwise interferes with the comfortable enjoyment of life or property." Admin.
16 Code § 80.4(d)(1). The City seeks to regulate Stationless Bicycle Share Programs to ensure
17 that public right-of-ways and Public Property remain free of public nuisances, safe and
18 accessible for all users, and clear of obstructions that pose threats to public health, safety,
19 and welfare.

20 Section 2. The Transportation Code is hereby amended by adding, under the heading
21 "Bicycle Violations," Section 7.2.110, to Division I, Article 7, to read as follows:

22 **BICYCLE VIOLATIONS**

23 **SEC. 7.2.110. STATIONLESS BICYCLE SHARE PARKING RESTRICTIONS.**

24 **(a) To park, leave standing, or leave unattended a bicycle, that is part of a Stationless Bicycle**
25 **Share Program, as defined in Section 909, on any sidewalk, Street, or public right-of-way under the**

1 jurisdiction of the Municipal Transportation Agency or the Department of Public Works without a
2 permit issued by the Municipal Transportation Agency authorizing the bicycle to be parked, left
3 standing, or left unattended at that location. Bicycles parked, left standing, or left unattended in
4 violation of this Section 7.2.110 constitute a public nuisance subject to abatement and removal
5 pursuant to Article 26 of the Public Works Code, Section 1600 et seq.

6 (b) In addition to any penalty established by the Municipal Transportation Agency in
7 Transportation Code Section 302, the Municipal Transportation Agency may impose administrative
8 penalties pursuant to Transportation Code Section 909.

9 Section 3. The Public Works Code is hereby amended by revising Sections 1603,
10 1604, and 1605 to read as follows:

11 **SEC. 1603. PROHIBITED DUMPING ACTIVITY.**

12 (a) It shall be prohibited for any Person to deposit, leave, place, keep, maintain, or
13 abandon, Debris and Waste Construction Materials, industrial materials, or more than 100
14 pounds total of any other waste, refuse, or debris, or bicycles that are part of a Stationless Bicycle
15 Share Program, on any Public Property without the lawful and express written permission of the
16 City and County of San Francisco.

17 (b) Any activity or action that violates this Article 26 shall be, and is hereby declared,
18 a public nuisance.

19 (c) Nothing in this Article 26 shall be construed to authorize or allow any Person to
20 deposit, leave, place, keep, maintain, or abandon, any other property or materials, in any
21 amount, on any Public Property without the lawful and express written permission of the City
22 and County of San Francisco, other than to deposit trash in an appropriate designated
23 receptacle.

1 **SEC. 1604. ABATEMENT.**

2 (a) The Director may require or take any necessary abatement or enforcement
3 action to clean up, remove, or contain any material or prohibited items dumped on Public
4 Property, including ordering the Responsible Party to remove and appropriately dispose of the
5 material or prohibited items. The Director may ask any other City department or necessary
6 state agency for assistance in abating any nuisance pursuant to this Article 26.

7 (b) Any costs or monies expended by the Department of Public Works or any other
8 department of the City and County of San Francisco to abate a nuisance under this Article 26
9 may be recovered in a civil action as described in Section 1605.

10 **SEC. 1605. ENFORCEMENT – INJUNCTIVE RELIEF, CIVIL PENALTIES, COSTS,**
11 **AND ATTORNEYS’ FEES.**

12 * * * *

13 (c) In any civil court action brought by the City Attorney to enforce this Article in
14 which the City succeeds in obtaining any order from the Court, the City shall be entitled to
15 recover from any and all Responsible Parties all of its costs of investigation, enforcement,
16 abatement, and litigation.

17 (1) The City shall be entitled to recover civil penalties from each and every
18 Responsible Party in an amount that is not less than twice the amount it cost the City to abate
19 the nuisance. Costs to the City to abate the nuisance shall include any personnel, equipment,
20 and other charges incurred by the City related to the investigation, abatement, clean-up,
21 removal, and/or containment of Debris and Waste Construction Materials, industrial materials,
22 or more than 100 pounds of any other waste, refuse, or debris, or bicycles that are part of a
23 Stationless Bicycle Share Program, dumped on Public Property. This civil penalties provision is
24 designed to compensate the City for any costs it incurred to investigate and abate the
25 unlawful acts of any Responsible Party and for the ancillary health hazards and

1 inconveniences caused to the City and its residents, rights of way blocked, traffic delays or
2 detours, and any personal or business difficulties suffered from the maintenance of illegally
3 dumped materials on Public Property.

4 * * * *

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

9 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

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16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: 
20 JOHN I. KENNEDY
21 Deputy City Attorney

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LEGISLATIVE DIGEST

[Transportation, Public Works Codes - Unauthorized Bicycle Violations, Stationless Bicycle Share Program]

Ordinance amending Division I of the Transportation Code to establish a violation for bicycles that are a part of a Stationless Bicycle Share Program, to be parked, left standing, or left unattended on any sidewalk, street, or public right-of-way under the jurisdiction of the San Francisco Municipal Transportation Agency (SFMTA) or Public Works (PW) without a permit issued by the SFMTA authorizing the bicycle to be parked, left standing, or left unattended at that location; amending the Public Works Code to authorize PW to take any necessary enforcement action to abate or remove unauthorized bicycles that are part of an unpermitted Stationless Bicycle Share Program, that are parked, left standing, or left unattended on any sidewalk, street, or public right-of-way under the jurisdiction of PW or the SFMTA in violation of the Transportation Code; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Currently, there is no permit required to park, leave standing, or leave unattended a bicycle that is part of a Stationless Bicycle Share Program on any sidewalk, Street, or public right-of-way under the jurisdiction of the Municipal Transportation Agency or Public Works without a permit issued by the Municipal Transportation Agency.

Amendments to Current Law

This legislation would require a permit issued by the Municipal Transportation Agency to park, leave standing, or leave unattended a bicycle that is part of a Stationless Bicycle Share Program on any sidewalk, Street, or public right-of-way under the jurisdiction of the Municipal Transportation Agency or Public Works. In addition to any penalty established by the Municipal Transportation Agency, the agency may impose administrative penalties for violations. Finally, the legislation authorizes the Department of Public Works to take any necessary enforcement action to abate or remove unauthorized bicycles.

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