

## 2012 Council Study Issue

**DPW 12-01 Bicyclist Anti-Harrassment Ordinance****Lead Department** Public Works**History** 1 year ago None 2 years ago None**1. What are the key elements of the issue? What precipitated it?**

This issue was brought to the BPAC by a citizen who suggested, and the BPAC approved, that the City consider adoption of a bicyclist anti-harrassment ordinance modeled after the City of Los Angeles' recently adopted ordinance. A bicyclist anti-harrassment ordinance would make it unlawful to intentionally force or attempt to force a bicyclist from a roadway with the intent to injure or distract the bicyclist simply because they are bicycling. It would subject violators to liability for damages, fees, and litigation costs. Existing civil and criminal laws are viewed by some as difficult to enforce and lacking specificity and teeth on the issue of motorists and others not allowing bicyclists their rightful use of the road. This ordinance would provide a clear law with civil penalties. Bicyclists would be able to pursue remedy and restitution including punitive damages for intentional harassment in civil court.

**2. How does this relate to the General Plan or existing City Policy?**

Law Enforcement Sub-Element Policy A.5, Facilitate the safe movement of pedestrians, bicyclists, and vehicles.

**3. Origin of issue****Board or Commission** Bicycle and Pedestrian Advisory Commission**4. Staff effort required to conduct study** Minor**Briefly explain the level of staff effort required**

The City of Los Angeles has adopted an ordinance that would be used as a model. Staff would need to assess the proposed model ordinance and identify any potential issues before presenting it to Council for consideration.

**5. Multiple Year Project?** No **Planned Completion Year** 2012**6. Expected participation involved in the study issue process?****Does Council need to approve a work plan?** No**Does this issue require review by a Board/Commission?** Yes**If so, which?** Bicycle and Pedestrian Advisory Commission**Is a Council Study Session anticipated?** No**7. Briefly explain if a budget modification will be required to study this issue****Amount of budget modification required** 0**Explanation**

**8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts**

**Are there costs of implementation?** No

**Explanation**

Upon implementation the ordinance would become a citeable offense that could be used by the Department of Public Safety to address harrassment of bicyclists and improve safe bicycle travel.

**9. Staff Recommendation**

**Staff Recommendation** Drop

**If 'Support', 'Drop' or 'Defer', explain**

In the opinion of the Department of Public Safety, an ordinance, as described and suggested by the BPAC, would be virtually unenforcible. It would be unlikely that an officer would be able to differentiate between an intentional act or a simple driving error. Additionally, in the rare occasion where a drivers intent to steer towards a bicyclist could be determined, the penal code is far more appropriate to use as an enforcement tool. The vehicle code would cover simple driving errors that violate a bicyclist right of way.

Being a civil statute, this ordinance would potentially provide a means of remedy and restitution directly to cyclists who could meet a court's burden of proof, but staff believes that it would be as difficult for an individual cyclist as it is for the Department of Public Safety to witness and prove an intentional act of harassment. The burden of proof is lower than that of a criminal court, but some sort of proof of an intentional act would still need to be provided.

**Reviewed by**

  
Department Director

11-10-11  
Date

**Approved by**

  
City Manager

11-10-11  
Date