

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
SUBJECT: VULNERABLE USER PROTECTION
STAFF PRESENTER: PAUL J. HENRY, LIEUTENANT
POLICE DEPARTMENT

AGENDA ACTION: STUDY SESSION

ISSUE(S)

Shall City Council receive information on a Vulnerable User Protection Ordinance?



COUNCIL GOALS AND STRATEGIES

Relates to Council Goal 6: Committed to Making Santa Rosa a Community Where People Feel Safe to Live, Work, and Play. The Santa Rosa Police Department's Mission Statement is "We are committed to making Santa Rosa a safe place to live, work and play."

BACKGROUND

The Sonoma County Bicycle Coalition has prepared a draft ordinance related to the protection of bicyclists and pedestrians referred to as "vulnerable users" which it is requesting local jurisdictions to adopt. Staff has reviewed the draft ordinance and has proposed some modifications to the original draft ordinance presented by the Bicycle Coalition.

To date, the County of Sonoma, the cities of Sebastopol and Healdsburg have reviewed the draft ordinance. The proposed ordinance which staff is seeking input and direction on is similar to those approved in Sunnyvale, Berkeley and the County of Sonoma.

ANALYSIS

1. The draft ordinance lists prohibited activities such as threatening, physically assaulting, or attempting to assault someone because he/she is a pedestrian or on a bicycle (Vulnerable User).
2. Violation of the ordinance would be enforced through civil litigation.

RECOMMENDATION

It is recommended by the Police Department that the Council receive information related to the Vulnerable User Protection Ordinance and review the draft ordinance.

Author: Karen L. Weeks, Administrative Services Officer

Attachments:

- Draft Ordinance

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER
10-42 VULNERABLE USER PROTECTION

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1.

A new Chapter 10-42 is added to Title 10 of the Santa Rosa City Code to read as follows:

10-42.010 Findings and Purpose.

(A) The City of Santa Rosa encourages people to walk and ride bicycles rather than drive motor vehicles in order to lessen traffic congestion, improve air quality, and improve public health;

(B) People walking and riding bicycles are vulnerable users of the City roads, sidewalks, and/or pathways.

(C) Walking, running, and/or riding a bicycle on City roads and/or pathways poses hazards to those who choose to use public roads, and/or pathways for these purposes, and these hazards are amplified by the actions of persons who deliberately harass and endanger these vulnerable users because of their status as pedestrians and/or persons riding bicycles.

(D) People have a right to walk, run and/or ride a bicycle in the City of Santa Rosa and should be able to do so safely on City roads and/or pathways where allowed. It is against the public policy of the City of Santa Rosa to permit harassment of these vulnerable users due to a person's status as a pedestrian and/or person riding a bicycle.

10-42.020 Definitions.

For the purposes of this chapter, the following words are defined as follows:

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

(B) "Pedestrian" means a person who is afoot or who is using a means of conveyance propelled by human power other than a bicycle, or an electric personal assistive mobility device. "Pedestrian" includes a person who is operating a self-propelled wheelchair, motorized tricycle, or motorized quadricycle and, by reason of physical disability, is otherwise unable to move about as a pedestrian.

(C) "Vulnerable User" means pedestrians and people riding bicycles using any public road, and/or pathway that allows use by persons riding bicycles and/or pedestrians.

10-42.030 Prohibited activities.

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

(A) Physically assault or attempt to physically assault a Vulnerable User because of, in whole or in part, a Vulnerable User's status as a pedestrian and/or person riding a bicycle.

(B) Threaten to physically injure a Vulnerable User because of, in whole or in part, a Vulnerable User's status as a pedestrian and/or person riding a bicycle.

(C) Intentionally injure, attempt to injure, or threaten to physically injure, either by words, vehicle, or other object, a Vulnerable User because of, in whole or in part, a Vulnerable User's status as a pedestrian and/or person riding a bicycle.

(D) Intentionally distract or attempt to distract a Vulnerable User because of, in whole or in part, a Vulnerable User's status as a pedestrian and/or person riding a bicycle.

(E) Intentionally force or attempt to force a Vulnerable User off a street for purposes unrelated to public safety.

(F) Intentionally fail to yield to a pedestrian walking or running along a road, crossing the roadway, or using a public sidewalk or pathway in order to intimidate or intentionally injure the pedestrian.

10-42.040 Civil remedies.

(A) Any aggrieved person may enforce the provisions of this chapter by means of a civil proceeding for money damages, and for whatever other or additional relief the court deems appropriate. In any action brought pursuant to this chapter, the prevailing party shall be entitled to reasonable attorney's fees and costs of litigation. In addition, the remedies available under this chapter shall be in addition to, and shall not in any way restrict, any other rights or remedies available under law.

(B) Violations of any of the provisions of this chapter shall not constitute a misdemeanor or infraction, except where such actions, independently of this chapter, constitute a misdemeanor or infraction.

(C) The remedies provided by the provisions of this chapter are in addition to all other remedies provided by law, and nothing in this chapter shall preclude any aggrieved person from pursuing any other remedy provided by law and do not supersede or limit any and all other remedies. The remedies provided in this chapter shall be cumulative and not exclusive. Nothing in this chapter shall preclude any aggrieved person from pursuing any other remedy provided by law.

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IN COUNCIL DULY PASSED this ____ day of _____, 2013.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney