

## ORDINANCE NO. 7,221–N.S.

ADDING CHAPTER 14.26 TO THE BERKELEY MUNICIPAL CODE, PROHIBITING  
HARASSMENT OF BICYCLISTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Chapter 14.26 of the Berkeley Municipal Code is added to read as follows:

**Chapter 14.26****Prohibiting Harassment of Bicyclists****Section 14.26.010 Findings and Purpose.****Section 14.26.020 Definitions.****Section 14.26.030 Prohibited Conduct.****Section 14.26.040 Remedies.****Section 14.26.010 Findings and Purpose.**

Harassment of bicyclists in Berkeley occurs solely based on their status as bicyclists. Persons who harass bicyclists solely based on their status as bicyclists endanger bicyclists and discourage bicyclists from using bicycles for transportation.

**Section 14.26.020 Definitions.**

“Bicycle” shall have the same definition as set forth in Vehicle Code section 231.

“Bicyclist” shall mean a person riding a Bicycle.

**Section 14.26.030 Prohibited Conduct.**

A person is prohibited by this Section from doing or attempting to do the following:

A. Physically assaulting a Bicyclist because of, in whole or in part, the Bicyclist’s status as a Bicyclist.

B. Threatening to physically assault or injure a Bicyclist because of, in whole or in part, the Bicyclist’s status as a Bicyclist.

C. Intentionally injuring a Bicyclist because of, in whole or in part, the Bicyclist’s status as a Bicyclist.

D. Intentionally distracting a Bicyclist because of, in whole or in part, the Bicyclist’s status as a Bicyclist.

E. Intentionally forcing a Bicyclist off a roadway for a purpose unrelated to public safety.

**Section 14.26.040 Remedies.**

A. An aggrieved Bicyclist may bring a civil lawsuit, including a small claims court action, against a person who violates this Chapter.

B. A person who violates this Chapter shall be liable for (1) treble compensatory damages for each violation, or \$1,000, whichever is greater, and (2) attorney's fees and costs of suit. Additionally, a jury or court may award punitive damages, if warranted.

C. Violations of this Chapter shall not be considered a criminal offense, except where the underlying act independent of this Chapter constitutes a criminal offense.

D. The remedies provided in this Section are in addition to other remedies that may be provided by law. Nothing in this Chapter is intended to preclude a Bicyclist from pursuing any other remedy at law in addition to the remedies provided here.

Section 2. If any provision of this Ordinance is found to be invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance that can be implemented without the invalid provision, and to this end, the provisions in this Ordinance are declared to be severable.

Section 3. Copies of this Ordinance shall be posted for two (2) days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen (15) days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on December 13, 2011, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Arreguin, Capitelli, Maio, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: Anderson and Moore.