ORDINANCE NO. 2013.38

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 7, ARTICLE I, TEMPE CITY CODE, RELATING TO DEFINITIONS, PENALTIES AND APPLICATION BY AMENDING SECTIONS 7-1 AND 7-2; AMENDING CHAPTER 7, ARTICLE II, RELATING TO REGISTRATION BY AMENDING SECTIONS 7-11, 7-12, 7-14, 7-15, 7-16 AND 7-19, AND REPEALING SECTIONS 7-17, 7-18 AND 7-20; AMENDING CHAPTER 7, ARTICLE III, RELATING TO BICYCLE DEALERS BY REPEALING SECTION 7-31; AMENDING CHAPTER 7, ARTICLE IV, RELATING TO ABANDONED BYCYCLES BY AMENDING SECTIONS 7-43, 7-44 AND 7-45, AND REPEALING SECTION 7-47.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 7, Article I of the Tempe City Code is hereby amended by amending Section 7-1 as follows:

Sec. 7-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

~~*Authorized agent:* The chief of police or his designee, or any person or business granted authority by the chief of police to register a bicycle.~~

Bicycle: A device propelled by human power which any person may ride, having two (2) tandem wheels ~~either of which is more than sixteen inches (16) in diameter~~ or having three (3) wheels in contact with the ground ~~any of which is more than sixteen (16) inches in diameter~~.

Bicycle lane: Any portion of a roadway designated for bicycle use and defined by pavement markings, curbs, signs or other traffic-control devices.

Dealer: A retail distributor of new or secondhand bicycles ~~with sales of fifty (50) or more bicycles per month who has not been designated as an authorized agent by the chief of police~~.

Section 2. That Chapter 7, Article I of the Tempe City Code is hereby amended by amending Section 7-3 as follows:

Sec. 7-3. Application of provisions.

The regulations of this chapter in their application to bicycles shall apply when a bicycle is operated upon any highway, ROADWAY, bicycle path or side walk subject to those exceptions stated in this article.

Section 3. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-11 as follows:

Sec. 7-11. Registration requirements.

(a) Every owner of a bicycle WHO RESIDES WITHIN THE CITY~~, before the same shall be operated on any of the streets, alleys, sidewalks or public highways in the city,~~ ~~shall~~ MAY register the bicycle with ~~an authorized agent of the city~~ THE TEMPE POLICE DEPARTMENT.

(b) This article shall apply to every bicycle owner who has resided in the city for thirty (30) days or longer regardless of whether they are a part-time or full-time resident. ~~In the event that Arizona State University requires registration of bicycles, any bicycle so registered shall be exempt from the registration requirements of this article.~~

~~(c) It shall be unlawful for any person to operate a bicycle requiring registration and not registered pursuant to this article on any street, alley, sidewalk or public highway in the city.~~

~~(d) Every authorized agent shall, prior to selling a new or secondhand bicycle to anyone residing within the city, ensure that the bicycle is registered pursuant to this chapter. Dealers of new or secondhand bicycles who have not been designated as "authorized agents" shall, prior to selling same to anyone residing within the city, inform the purchaser of the requirements of this chapter.~~

~~(e)~~(C) This article shall in no way interfere with the secondhand dealer's responsibility pursuant to chapter 16, Tempe City Code.

Section 4. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-12 as follows:

Sec. 7-12. Bicycle registration ~~cards~~—Required information.

The bicycle registration ~~cards~~ will contain the following information:

(a) Name, ~~and~~ address, PHONE NUMBER, AND EMAIL ADDRESS of owner;

(b) Make, model, serial number, ~~license tag number,~~ color and general description of bicycle;

(c) Date ~~issued~~ OF REGISTRATION~~;~~.

~~(d) Change of address and new owner information.~~

Section 5. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-14 as follows:

Sec. 7-14. Fees.

~~The fee for registration of each bicycle shall be set by council (See Appendix A) and be collected and retained by the authorized agent of the city to defray the costs of registration. This fee may be waived by the police or fire chief or their designees for registrations made pursuant to a city-sponsored bicycle registration program.~~ THERE IS NO FEE TO REGISTER A BICYCLE.

Section 6. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-15 as follows:

Sec. 7-15. Duration.

(a) The registration provided for in this article shall be valid for the life of the bicycle. All bicycle registrations shall be appurtenant to the specific bicycle for which issued, and no other, and shall not be transferred to or used on any other bicycle.

(b) ~~It shall be the duty of every person who sells or transfers ownership of any bicycle to report such sale or transfer by returning to the police department the registration card issued to such person, together with the name and address of the person to whom the bicycle was sold or transferred. Such report shall be made within five (5) days of the date of the sale or transfer. It shall be the duty of the purchaser or transferee of such bicycle~~ EVERY PERSON WHO RESIDES WITHIN THE CITY AND WHO PURCHASES OR OBTAINS A BICYCLE FROM A PRIVATE OWNER MAY ADVISE THE TEMPE POLICE DEPARTMENT OF SUCH PURCHASE OR TRANSFER ~~to apply for a transfer of registration therefor~~ within ~~five (5)~~ THIRTY (30) days-of the sale or transfer. ~~The original registration tag, which has no expiration date, shall remain on the bicycle and the number reassigned to the new registered owner.~~

Section 7. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-16 as follows:

Sec. 7-16. Applications for registration.

~~Application for bicycle registration shall be made by the owner of the bicycle, or upon his written authorization, to the authorized agent.~~ BICYCLES MAY BE REGISTERED IN-PERSON AT THE TEMPE POLICE DEPARTMENT OR VIA THE TEMPE POLICE DEPARTMENT WEBSITE.

Section 8. That Chapter 7, Article II of the Tempe City Code is hereby amended by repealing Section 7-17 as follows:

Sec. 7-17. ~~Registration tags and cards.~~ REPEALED.

~~(a) The city shall provide to authorized agents the registration tags or dies for use in registering bicycles, together with registration cards.~~

~~(b) It shall be the duty of the authorized agents to maintain, repair or replace damaged dies as necessary.~~

Section 9. That Chapter 7, Article II of the Tempe City Code is hereby amended by repealing Section 7-18 as follows:

Sec. 7-18. ~~Destruction.~~ REPEALED.

~~No person shall remove, destroy, mutilate or alter any registration tag, seal or registration card. Nothing in this section shall prohibit the authorized agent from stamping identifying symbols, letters or numbers on the frame or removable parts of licensed bicycle as in their discretion is practicable. The police chief or his designee may authorize an applicant's engraving of the frame in lieu of a stamp. Such engraving must be approved by the chief or his designee.~~

Section 10. That Chapter 7, Article II of the Tempe City Code is hereby amended by amending Section 7-19 as follows:

Sec. 7-19. Removal, etc., of frame numbers.

No person shall ~~willfully or maliciously~~ KNOWINGLY remove, destroy, mutilate or alter the SERIAL number of any bicycle frame OR OTHER IDENTIFYING NUMBER OF ANY BICYCLE. NO PERSON SHALL OPERATE OR POSSESS A BICYCLE ON PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY WHICH HAS A SERIAL NUMBER, OR OTHER IDENTIFYING NUMBER THAT HAS BEEN REMOVED, DESTROYED, MUTILATED OR ALTERED.

Section 11. That Chapter 7, Article II of the Tempe City Code is hereby amended by repealing Section 7-20 as follows:

Sec. 7-20. ~~Reissuing tags.~~ REPEALED.

~~In the event any bicycle registration tag is lost, destroyed or mutilated so as not to be legible, the owner of such registration tag shall immediately make application to an authorized agent, and shall be issued another tag upon approval of such application by the police chief or his designee upon payment of a fee, if any, set by the council (Appendix A Fee Schedule).~~

Section 12. That Chapter 7, Article III of the Tempe City Code is hereby amended by repealing Section 7-31 as follows:

Sec. 7-31. ~~Report of purchase by secondhand dealers.~~ REPEALED.

~~Persons engaged in the business of buying or trading secondhand bicycles are hereby required to make a weekly report to the police department:~~

~~(1) A complete description of the property, including brand name, serial number and registration tag, if any.~~

~~(2) The date and time when the property was received.~~

~~(3) The signature of the person from whom the property was received.~~

~~(4) The name (printed), address and date of birth of such person. The reporting party shall require each person to show proof of his name, address and age by exhibiting a valid driver's license, State of Arizona identification card, armed forces identification card or selective services registration certificate, and the number of such identification certificate shall be recorded.~~

~~(5) The dealer's name and the name of the person receiving the property.~~

~~(6) A description of such person, consisting of height, sex, weight, race, complexion, hair color and identifying marks, scars or tattoos.~~

~~The report shall be made upon sheets furnished by the police department. Each sheet shall contain the above-listed information for each bicycle received. Sheets will be available through the police department pawn detail, located within the criminal investigations bureau.~~

Section 13. That Chapter 7, Article IV of the Tempe City Code is hereby amended by amending Section 7-43 as follows:

Sec. 7-43. Sales.

(a) In the event that the owner of an abandoned bicycle cannot be found or does not claim such bicycle, the chief of police shall proceed to sell such bicycle at public auction; and such sale shall be held in the manner set forth in this chapter. However, the finder of such bicycle shall be notified prior to the auction and allowed to make claim to said bicycle.

(b) From time to time the ~~city council~~ CHIEF OF POLICE may decide to exempt certain bicycles from the above sale procedure and give such exempted bicycles to nonprofit organizations~~, as approved by the city council,~~ for disbursement. The nonprofit organizations shall request the bicycles in writing directed to the ~~city council~~ CHIEF OF POLICE. The organization shall provide a specific statement as to the proposed use of the bicycles in its request.

Section 14. That Chapter 7, Article IV of the Tempe City Code is hereby amended by amending Section 7-44 as follows:

Sec. 7-44. Notice of sale.

After no less than ~~twenty (20)~~ THIRTY (30) days from the date of the taking of possession of an abandoned bicycle OR A BICYCLE WHERE THE OWNER IS UNKNOWN, the police department shall publish in the official newspaper of the city OR POST ON THE POLICE DEPARTMENT WEBSITE a notice of sale of such bicycle. ~~and shall post a copy of such notice in three (3) public places in the city. A copy of such notice shall be mailed to the owner, if known, at his last known address. This copy may be mailed by ordinary mail.~~ Such notice shall be published~~,~~ OR posted ~~and mailed~~ at least thirty (30) days before the date of the sale. Such notice shall contain a brief description of the bicycle, ~~if known;~~ its number, if known; ~~and its last registration number, if known;~~ and shall also state the hour, date and place of sale and the place where the bicycle may be seen.

Section 15. That Chapter 7, Article IV of the Tempe City Code is hereby amended by amending Section 7-45 as follows:

Sec. 7-45. Auction, disposition of funds.

The sale shall be a public auction to the highest bidder for cash, ~~but in no event shall any bicycle be sold to any person for less than the cost of advertising and sale~~. All money received from such sale over and above the cost of advertising and sale shall be paid over to the finance and technology director and retained in a separate fund for at least six (6) months. Upon the expiration of such time, unless sooner claimed as provided in this article, such money shall be paid over into the general fund.

Section 16. That Chapter 7, Article IV of the Tempe City Code is hereby amended by repealed Section 7-47 as follows:

Sec. 7-47. ~~Certificates of sale.~~ REPEALED.

~~On delivery to any purchaser of any bicycle sold under the provisions of this chapter, the chief of police shall execute to such purchaser a certificate of sale of such bicycle, which certificate shall describe the bicycle in the same manner as in the advertisement of sale and shall recite the date of possession of the police department and the date of sale. Such certificate shall pass the title to the bicycle to the purchaser.~~

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 30th day of July, 2013.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney