



CITY OF NEWPORT BEACH

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August 27, 2024

Honorable Maria Hernandez
Presiding Judge
Superior Court of California, Orange County
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response to Grand Jury Report, "E-bikes: Friend or Foe"

Dear Honorable Judge Hernandez:

In accordance with Penal Code 933.05 (a) & (b), the City of Newport Beach and the Newport Beach Police Department (NBPD) respond as follows in regard to "Findings" F1, F2, and F3, and "Recommendations" R1, R2, and R3 as detailed in the 2023-2024 Orange County Grand Jury report, "E-bikes: Friend or Foe."

FINDING

F1. The majority of Orange County's 34 cities do not have ordinances or policies in place, which makes it difficult to address the safe operation and regulation of E-bikes leading to confusion.

RESPONSE

The City of Newport Beach partially disagrees with this finding. Although state laws are being outpaced by technology, there are clear guidelines for E-bikes. E-bicyclists are obligated to follow the same road rules as any bicyclist; all vehicle and municipal codes that apply to bicycles also apply to E-bike operation. The City of Newport Beach has several municipal codes that directly enforce laws for E-bikes and relate directly to the boardwalk referenced in the Grand Jury report. Several of the municipal codes that provide guidelines for the safe operation of E-bikes are listed below.

12.54.025 Motorized Scooters- No person(s) shall operate or ride a motorized scooter upon the boardwalk. (Ord. 2020-24 § 1 (part), 2020: Ord. 2001-7 § 2 (part), 2001)

12.54.030 Speed Limit- No person using the boardwalk shall exceed eight miles per hour while on the boardwalk. (Ord. 2020-24 § 1 (part), 2020: Ord. 2001-16 § 3, 2001: Ord. 2001-10 § 2, 2001: Ord. 2001-7 § 2 (part), 2001: Ord. 91-53 § 2 (part), 1991)

12.54.040 Unsafe Operation- No person using the boardwalk shall engage in any activity on the boardwalk that creates an unreasonable risk of injury to any person. (Ord. 2020-24 § 1 (part), 2020: Ord. 2001-16 § 4, 2001: Ord. 2001-10 § 3, 2001: Ord. 2001-7 § 2 (part), 2001: Ord. 91-53 § 2 (part), 1991)

Newport Beach Municipal Code 12.56.010 contains several municipal codes specifically regulating bicycles and their operation on roads and sidewalks.

California Vehicle Code section 312.5, which is referenced in the municipal code, provides a guideline as well definitions of E-bikes.

CVC 312.5.

(a) An "electric bicycle" is a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts.

(1) A "class 1 electric bicycle," or "low-speed pedal-assisted electric bicycle," is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) A "class 2 electric bicycle," or "low-speed throttle-assisted electric bicycle," is a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(3) A "class 3 electric bicycle," or "speed pedal-assisted electric bicycle," is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour, and equipped with a speedometer.

(b) A person riding an electric bicycle, as defined in this section, is subject to Article 4 (commencing with Section 21200) of Chapter 1 of Division 11.

(c) On and after January 1, 2017, manufacturers and distributors of electric bicycles shall apply a label that is permanently affixed, in a prominent location, to each electric bicycle. The label shall contain the classification number, top assisted speed, and motor wattage of the electric bicycle, and shall be printed in Arial font in at least 9-point type.

Additional vehicle code sections assist in the enforcement and legal standing related to a variety of out-of-class E-bikes. Many of these out-of-class E-bikes are technically electric motorcycles, which requires them to be registered and operated by a licensed rider. These out-of-class E-bikes aren't permitted in areas utilized by normal bicycle traffic.

FINDING

F2. Due to the increasing incidence of E-bike injuries and deaths, there is a need for consistent and accurate tracking by law enforcement and first responders, which does not exist.

RESPONSE

The City of Newport disagrees partially as this statement is inaccurate as it relates to the City of Newport Beach. The NBPD uses the CentralSquare Records Management System (RMS) and report writing system, which has been configured to specifically address E-bike documentation. In the traffic accident module, a specific section indicates if an E-bike was involved. Our RMS module compiles crash data related to E-bike accidents.

FINDING

F3. Training and education on E-bike use and safety varies from city to city causing confusion amongst bike riders.

RESPONSE

The City of Newport Beach disagrees partially. In 2014, the City of Newport Beach implemented the citywide Bicycle Master Plan. This document is a testament to the City's commitment to developing a comprehensive bicycle network, defining bicycle improvements, creating bicycle education programs, and identifying funding opportunities for future projects.

The City has adopted the three E's (Engineering, Education and Enforcement) and is working with its residents and schools to educate the community on the importance of safely using roadways, bike lanes, crosswalks and sidewalks for all users. The City has placed a great deal of information on its website related to bicycle safety efforts:

<https://www.newportbeachca.gov/trending/projects-issues/other-important-issues/bicycle-master-plan/same-road-same-rules>

The Newport Beach Police Department has provided presentations on the topic of bike and E-bike safety to thousands of residents of Newport Beach and students in the Newport-Mesa Unified School District. The NBPD has also given these presentations to private schools, organizations, community event participants, and the Newport Beach Junior Lifeguard Program.

During these safety presentations, NBPD officers give an interactive PowerPoint presentation, allow time for a Q&A period, and provide reading material at the end of the presentation. The PowerPoint presentation covers the California Vehicle Codes related to bicycle and E-bike riders, such as: road rules, proper use of bicycle helmets, stopping for red lights and stop signs, and traveling in the same direction as vehicle travel. NBPD officers provide real-life examples to students and encourage intelligent and mature riding behavior, such as: riding as a solo rider, not using their cell phones while the bicycle is in motion and wearing closed-toed shoes when riding their bikes. At the end of the presentations, the officers give the attendees a "pop quiz" to ensure that the information has been received appropriately. The NBPD has also teamed up with Ensign Middle School, which requires its students to attend this presentation and pass the provided test before they are allowed to ride their bicycles to school.

The NBPD Traffic Division works with community centers to provide the same education outside school hours to reach a greater audience. The PowerPoint presentations are continuously updated to reflect the most up-to-date information, rules and data.

The NBPD Traffic Division has taken a proactive approach to creating a program that addresses the common issues regarding bicycles and E-bikes within Newport Beach. Most of these educational presentations are funded by grants through the California Office of Traffic Safety.

RECOMMENDATION

R1. Each Orange County city should have specific policies that define the rules of the road for use of E-bikes in their communities by December 1, 2024.

RESPONSE

The City of Newport Beach has implemented this recommendation. As previously described, the State of California has defined an E-bike, designated three specific classes of E-bike, and set rules as to who may operate them. E-bikes, by definition, are still bicycles, and therefore, they need to adhere to all of the same rules. The City of Newport Beach has very definitive rules relating to bicycle operations on streets, sidewalks and the boardwalk. The City utilizes the California Vehicle Code and City of Newport Beach Municipal Code to conduct enforcement.

RECOMMENDATION

R2. Each Orange County city should have a mechanism in place to report accidents, injuries and death involving E-bikes by December 1, 2024.

RESPONSE

The City of Newport Beach has implemented this recommendation. As previously described, the Newport Beach Police Department utilizes the CentralSquare RMS and report writing systems for record keeping. CentralSquare's accident reporting feature has a specific portion that documents E-bikes. NBPD can access CentralSquare to pull statistics related to E-bike accidents. It allows the department's personnel to access the primary collision factor, which party was at fault, the age of all involved parties, and numerous other statistics. Recently, the State Assembly asked the NBPD to share these statistics, due to how effective the NBPD's system is at collecting that information.

RECOMMENDATION

R3. Each Orange County city should research and develop outreach and education programs regarding the safe operation of E-bikes for their residents by December 1, 2024.

RESPONSE

The City of Newport Beach has implemented this recommendation. As previously described, the NBPD has been conducting extensive education throughout the community related to E-bike safety. Our police department's Traffic Division conducts mandated training with all of the schools within Newport Beach. We also provide several presentations each year at community events throughout the city. The City of Newport Beach has a comprehensive bicycle master plan, which is available online through its website. The website provides volumes of information and resources to our community:

<https://www.newportbeachca.gov/home/showpublisheddocument/18599/635682493202100000>

Should you or any members of the Grand Jury have questions about our response, please contact Police Chief Joe Cartwright at jcartwright@nbpd.org or 949-644-3701.

Sincerely,



Will O'Neill
Mayor