

**SUBMISSIONS TO
THE CITY OF SASKATOON STANDING
COMMITTEE ON TRANSPORTATION**

BYLAW NO. 6884

“The Bicycle Bylaw”



**SUBMITTED BY THE BOARD OF
SASKATOON CYCLES INC**

November 2016

Table of Contents

I.	Acknowledgements	2
II.	Introduction	3
III.	Provisions of Concern	4
A.	Use of horn or bell (paragraph 6).....	4
B.	Position on street (paragraph 8).....	6
C.	Prohibition against cycling on sidewalks (paragraph 8).....	9
D.	Stunting (paragraph 10)	12
E.	Passengers (paragraph 11)	13
F.	Loads (paragraph 12)	13
G.	Obligatory use of cycling lanes (paragraph 13).....	14
H.	Dismounting to pass pedestrians (paragraph 21(c)).....	16
IV.	Summary of recommendations.....	18
V.	References.....	19

I. Acknowledgements

Saskatoon Cycles would like to acknowledge the University of Saskatchewan Branch of Pro Bono Students Canada for making this submission possible through partnering us with Scott Silver, BA, MA, JD candidate (2017) who worked in collaboration with and under the supervision of Benjamin Ralston, BA, JD, LL.M, a former board member of Saskatoon Cycles. Saskatoon Cycles would also like to acknowledge board members Lee Smith, BA (Hons), RPP and Jeannine Paul, BSc, MSc for their helpful guidance and contributions to this submission. Notably, Lee Smith was also a member of the now defunct City of Saskatoon Cycling Advisory Group that previously sought to reform and update city’s cycling bylaws. Finally, we would like to acknowledge the rest of the board of Saskatoon Cycles for their helpful input and feedback on this document.

II. Introduction

Founded in 2010, Saskatoon Cycles is a registered non-profit that advocates for a city in which cycling is a viable, year-round mode of transportation that is safe and convenient for all ages. Our vision for the City of Saskatoon includes a city where residents of all ages feel safe and welcome to cycle year-round and mutual respect and tolerance exists for all modes of transportation. In keeping with our organization's objectives and vision, we request that the City of Saskatoon reconsiders and revises Bylaw No. 6884 ("the Bicycle Bylaw") to remove potentially dangerous, confusing and outdated provisions and bring this bylaw in line with current best practices.

We frequently hear concerns from our members over several existing provisions in the Bicycle Bylaw and the city's attempts at enforcing these against them. In 2012, we polled our members to hear their concerns directly and the product of that polling was provided to the city for review. We also understand that the now defunct Cycling Advisory Group was working on seeking reform of uncontroversial items in collaboration with the city's administrative staff. Furthermore, we note that the City of Saskatoon's Active Transportation Plan expressly calls on the city to review and update the Bicycle Bylaw to ensure that it reflects best practices and emerging technologies and equipment.ⁱ For these reasons, we decided to build on our earlier work by making a submission directly to the Standing Committee on Transportation to facilitate an informed discussion of the bylaw by members of city council.

We note that a municipal corporation such as the City of Saskatoon exists to fulfill such purposes as developing and maintaining a safe and viable community and fostering the economic, social and environmental well-being of that community.ⁱⁱ These purposes must guide city council's exercise of its bylaw-making powers.ⁱⁱⁱ While we recognize that the city has wide discretion in regulating transportation through bylaws,^{iv} we further note that there are limits to the city's ability to impose dangerous conditions on cycling.^v We also question whether there might be limits to the city's ability to restrict people's access to and movement through public space by way of bicycle.^{vi} Furthermore, we note that there may be certain legal restrictions on the city's ability to discriminate between people traveling by bicycles and other modes of transportation with respect to access to public spaces such as roads and sidewalks.^{vii} We ask

that the city bear these legal principles in mind when reviewing this submission and reconsidering provisions in the current Bicycle Bylaw.

We also recognize that the fulfillment of the city's obligations in terms of providing safe and equitable transportation options will require more than mere bylaw reforms. Greater investment in cycling infrastructure in the city is a priority for our organization and we acknowledge the significant steps that the city is taking in this regard, particularly by way of the Active Transportation Plan. Nevertheless, we believe that the Bicycle Bylaw must be reformed as part of a comprehensive approach to ensuring the safety and comfort of people traveling by bicycle in Saskatoon.

Finally, we note that the Saskatoon has unique considerations for our northern climate and for this reason we have tried to include examples of best practices from jurisdictions with broadly comparable winters in terms of sub-zero temperatures and substantial snowfall.

III. Provisions of Concern

A. Use of horn or bell (section 6)

Our members have raised concerns with this provision being unwieldy, impractical, unnecessary and impossible to fully enforce. We strongly recommend that this section of the Bicycle Bylaw be removed in its entirety.

No empirical support for mandating use of bells or horns

In the preparation of this submission for reform to the Bicycle Bylaw we reviewed numerous studies of cyclist/motorist and cyclist/pedestrian collisions, including collision reports for the cities of Boston, Chicago, Denver, and Vancouver and coroner's reports from Ontario, Toronto, and New Zealand.^{viii} In spite of the number and variety of collisions analyzed in these reports and the number and variety of prescriptive recommendations for improved laws, education and enforcement coming out of these reports, it is notable that not one single report we found

identified the failure to use bike bells or horns as a contributing factor in the crashes they analyzed. Likewise, not one single report we found recommended making the use of such devices mandatory, or even recommended greater education or enforcement with respect to use of such devices in preventing future collisions. In fact, we were unable to find any empirical support whatsoever for the use of bike bells or horns as a safety device to protect either cyclists or pedestrians. On this basis alone, legally mandating the use of such devices is hard to support.

Practical issues

Many people in the city use road bikes or triathlon bikes for competitions, exercise and training and these bikes are generally designed in such a way that their handlebars will not accommodate ordinary bells or horns. Furthermore, road and triathlon cyclists generally do not wish to further encumber their bikes with bells or horns when these bikes are designed to be as light as possible, are very fast moving and almost exclusively used on roads where bells and horns are of limited utility. We do not anticipate that many road or triathlon cyclists in the city comply with this section of the bylaw, nor do we believe that they should be mandated to.

It is also worth noting that there are many different types of bicycles used for many different types of legitimate purposes in Saskatoon, some of which do not involve commuting or regular interactions with pedestrians. We do not anticipate that a mandatory requirement for a bike bell or horn ought to apply to bicycles such as BMXs, fixed gears or certain types of mountain bikes when these are used solely for recreational purposes that do not give rise to any pedestrian/cyclist interactions, such as when used in skate parks or arenas for polo.

We also urge the city to consider how a requirement for bicycles to be outfitted with bells or horns that are audible at a distance of not less than 35 metres away could possibly be enforced. The audibility of a horn or bell would vary greatly depending on such factors as ambient noise levels and weather conditions, for example. It is also hard to imagine how one could determine whether a particular bell or horn met this requirement before issuing a ticket for an infraction of this bylaw.

The “Bell or Yell” Debate

Some cyclists choose to simply slow down before passing another cyclist or pedestrian and say to that person that they are “(passing) on your left” before overtaking. We are not aware of any reason why doing so should be any less effective or more startling than the use of a bell or horn to alert pedestrians or other cyclists of one’s intention to overtake. We recognize differing views on whether use of a bell is more or less courteous than the use of one’s own voice (the so-called “bell or yell” debate). However, such subjective preferences do not provide defensible support for legally mandating use of a device that has not been empirically shown to improve safety for either cyclists or pedestrians.

Preferable provisions from other jurisdictions

It would be preferable for there to be no requirement for a bell or horn, as appears to be the case in many of the jurisdictions we examined for the purposes of this submission. By way of example, Ohio law no longer requires a bell or horn for cyclists,^{ix} nor does British Columbia’s *Motor Vehicle Act*.^x Oregon law has created a more practical and flexible provision by requiring cyclists to “give an audible warning before overtaking and passing a pedestrian” without attempting to constrain how that audible warning might be given.^{xi} We also found numerous other states had either no requirement whatsoever for a bell or horn,^{xii} or had taken a similar approach to Oregon in allowing the use of one’s voice as a suitable alternative to a bell.^{xiii} We strongly suggest that this provision be removed in its entirety. However, in the alternative, we suggest that the city not try to constrain how “audible warnings” are given so as to not impose impractical restrictions on certain types of cyclists.

B. Position on street (section 8)

As currently drafted, the bylaw requires people on bikes to be positioned on the street so “as to be as close as is reasonably practicable to the right hand curb” unless they are approaching an intersection and indicating an intention to turn. We submit that this requirement should either be removed in its entirety or further clarified with respect to additional justifiable exceptions to a general rule to stay right.

Hazardous conditions adjacent to curbs

This provision is of significant concern to our members due to ambiguity around the meaning of being “as close as is reasonably practical to the right hand curb”. This could be interpreted as requiring cyclists to make room for motor vehicles to pass by hugging the curb, even though this part of the street is often poorly maintained, pot-holed and full of gravel and other hazards. This provision could also be interpreted as negating a cyclist’s right to “take the lane” when they are concerned that it would be unsafe for a motor vehicle to try to pass them due to the presence of hazards such as these. The city also ought to consider how such an ambiguous requirement could interact negatively with any duty of care it may owe to people on bikes in terms of proper maintenance of roads.^{xiv}

Inconsistency with cycling best practices

The city ought to consider how such an ambiguous requirement might inadvertently encourage people on bikes to engage in dangerous behaviour such as riding within a door’s length of parked cars or weaving in and out between parked cars in order to stay as far to the right as possible. The Saskatchewan Prevention Institute recommends that people ride their bikes in a straight line one metre away from parked cars to ensure they remain visible to motorists and out of danger from car doors suddenly opening or parked cars suddenly pulling into traffic.^{xv} The Prevention Institute also recommends that people ride bicycles one metre away from the curb in order to maintain visibility and avoid holes, debris, grates and other hazardous objects often found directly adjacent to the curb.^{xvi} The City of Saskatoon’s own Cycling Rules of the Road likewise acknowledge the right to ride one’s bike in the centre of any traffic lane, and advise people to always ride in a straight line, not weave in and out of parked vehicles, and allow room on both one’s right and left to get around hazards or to move aside if you are passed too closely.^{xvii} It is hard to square the city’s own understanding of the rules of the road and cycling best practices with a bylaw provision that says little more than ‘keep right except when turning’.

Unfavourable treatment of bicycles compared to other vehicles

It is also worth considering whether this provision might unduly discriminate between bicycles and other motor vehicles. Bicycles are lumped in with other vehicles for the purposes of provincial traffic safety laws,^{xviii} yet this provision of the bylaw singles bicycles out in mandating cyclists to keep to the right of any traffic lane in which they find themselves (as opposed to keeping to the right lane on multi-lane routes). This is particularly concerning since a considerable proportion of fatal bicycle-motor vehicle collisions occur when motorists attempt to pass cyclists from behind without waiting for a gap in traffic to ensure they are passing at a safe distance.^{xix} It is also concerning in light of the significant number of bicycle-motor vehicle collisions that involve “doorings” from parked cars, especially on major streets with parked cars and no cycling infrastructure.^{xx} The city may wish to consider whether such unfavourable discrimination against bicycles in terms of where they ought to be positioned on the street is necessary in light of the hazards it may create for cyclists.

Preferable provisions from other jurisdictions

Several American jurisdictions have a similar requirement for bicycles to be “as close as reasonably practicable to the right hand of the curb” but have set out a greater number of exceptions to this general rule that favour the safety of cyclists. Relevant exceptions to staying right in these jurisdictions include: when overtaking or passing another vehicle; when reasonably necessary to avoid other vehicles or obstructions; where there are narrow lane widths or other hazards; where there are three lanes of traffic; and where there is one way traffic.^{xxi}

Ontario’s *Highway Traffic Act* provides for several similar exceptions to those set out in American jurisdictions.^{xxii} British Columbia’s *Motor Vehicle Act* also has a noteworthy exception that none of its restrictions on cyclists “require a person to ride a cycle on any part of a highway that is not paved”.^{xxiii}

We also strongly recommend a ‘catch all’ exception to the requirement to staying right where doing so would compromise a cyclist’s safety. For example, consider the following exception language from Ohio’s traffic laws with respect to vehicles staying to the right of lanes: “Nothing in [...] this section requires a driver of a slower vehicle to compromise the driver’s safety to allow overtaking by a faster vehicle”.^{xxiv} While that language is drafted for a law that impacts

bicycles and other vehicles equally, it could easily be adapted for inclusion in the Bicycle Bylaw, which we strongly recommend if the city is to continue to have any rule for staying right in the Bicycle Bylaw.

One metre minimum passing distance requirement

Several jurisdictions across the world have implemented requirements for motor vehicles to provide at least one metre of space to cyclists when overtaking them, which ensures that motorists have countervailing obligations towards cyclists in these circumstances rather than putting the onus solely on the more vulnerable road user. Twenty-six American states have already enacted requirements for motorists to provide cyclists with at least three feet of space when passing, and two additional states have implemented even greater space requirements for passing cyclists.^{xxv} Either 1 metre or 1.5 metre minimum passing distances are also required in various other jurisdictions including the Netherlands, France, Portugal, Belgium, Spain, and the Western Cape Province of South Africa.^{xxvi} In Australia, the state of South Australia requires one metre passing distance on roads with speeds up to 60km/h and 1.5 metres on roads with higher speeds. Similar minimum passing distances are also being trialed in the states of Queensland, New South Wales and the Australian Capital Territory, and a parliamentary inquiry is currently investigating minimum passing distances for Victoria.^{xxvii} Here in Canada a one metre passing distance is required in both Ontario and Nova Scotia.^{xxviii}

The city ought to consider whether setting a one metre minimum passing distance within Saskatoon by bylaw is feasible and desirable. While it would be ideal for such a restriction to apply across the province through an amendment to the *Highway Traffic Act*, it may be possible for the city to take the lead on this through its more localized jurisdiction.

C. Prohibition against cycling on sidewalks (section 8)

As currently drafted, the bylaw also requires cyclists to “utilize only that portion of the street as is intended for the passage of motor vehicles”, which we interpret to prohibit usage of bicycles on sidewalks in the city, except where otherwise provided for. We suggest that this section of

the bylaw ought to be carefully revised to allow for cycling on the sidewalks in certain circumstances.

Hazardous conditions on roads

First and foremost, we are concerned that a blanket restriction on cycling on sidewalks is not equally practical in all neighbourhoods and areas of the city, nor is it necessarily practical during all seasons. For example, in areas of the city that are frequented by industrial vehicles it can be intimidating and dangerous for cyclists to ride on the road during periods of heavy traffic. To the extent that some of these same roads have sidewalks, we strongly encourage the city to recognize the need for an exception for the use of bicycles on those sidewalks to avoid such hazardous and intimidating roadways. We are also aware that many of our members refuse to cycle on highly trafficked roadways during the winter and opt for riding on the sidewalks in order to avoid snow and ice on roads where a significant amount of motor vehicle traffic is present. Again, we strongly suggest that the city consider how a blanket prohibition on cycling on sidewalks could interact negatively with any duty of care it may owe to people on bikes in terms of proper maintenance of roads.^{xxix} We strongly advocate against the city mandating people to ride their bikes in such a manner as might put them in danger.

Inconsistency of application

We are also concerned that this blanket prohibition against cycling on sidewalks is paired with various *ad hoc* exceptions that make it difficult to know where this restriction applies and where it might not apply. For example, the bylaw currently exempts cycling on the sidewalk portions of bridges in the city from this prohibition at section 21(c). We are also aware that sections of the sidewalks that link to the bridges provide for a similar exemption, having been designated for 'shared use'. In practice, however, we are aware of conflicts between pedestrians and cyclists on these shared use sidewalks based on the general presumption of certain pedestrians that cyclists never have a right to ride on sidewalks. We are also aware of confusion that cyclists face in determining where sidewalks cease to be recognized for shared use, which can lead to further pedestrian-cyclist conflict. While we advocate that the city pursues the ultimate goal of having adequate cycling infrastructure throughout the city so that cycling on sidewalks is never necessary, the status quo in Saskatoon involves a complex patchwork of exceptions to the general prohibition against riding on sidewalks that makes it confusing and difficult to conform to this rule in all instances.

Application to children of all ages

Furthermore, we have concerns over the broad application of the prohibition against cycling on sidewalks so as to include children of all ages within its ambit. Bearing in mind differences in terms of overall vulnerability, level of awareness and control, level of speed and agility, and matters of size and visibility as between young children and adults, as well as the types of bicycles designed for them, we strongly suggest that the city consider exempting children under a certain age from this prohibition's application. We strongly discourage the city from mandating that children operate their bicycles in such a manner as might put them in mortal danger.

Preferable provisions from other jurisdictions

We suggest that the city consider whether it would be appropriate to generally allow cycling on sidewalks subject to explicit restrictions, as is the case in Oregon.^{xxx} Oregon law provides cyclists riding on sidewalks with the same rights and duties as pedestrians, subject to various restrictions that constitute "unsafe operation of a bicycle on a sidewalk".^{xxxii} The restrictions on cycling on sidewalks are limited to prohibitions against: (a) suddenly leaving the curb and entering the path of vehicle that is close enough to constitute an immediate hazard; (b) not giving an audible warning before overtaking or passing a pedestrian and not yielding the right of way to all pedestrians on a sidewalk; (c) cycling in a careless manner that is likely to endanger a person or property; (d) cycling at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a curb or pedestrian ramp when a motor vehicle is approaching; or (e) operating an electric assisted bicycle on a sidewalk. We submit that these restrictions on cycling on sidewalks may obviate the need for a blanket prohibition against cycling on sidewalks.

If necessary, these prohibitions could also be paired with area restrictions against cycling on sidewalks along designated streets where there is a high likelihood of pedestrian-cyclist collisions, especially where pedestrians are regularly entering and exiting buildings (for example, along Broadway, 20th or in the downtown core).

In the alternative, we suggest that the city considers adding further exemptions such as those set out in Finland's *Road Traffic Act*, which allows children under 12 to ride their bikes on the sidewalk so long as they do not unduly interfere with pedestrian traffic.^{xxxiii} It also allows all

cyclists temporary use of the sidewalks where they have “special reasons” for doing so, so long as this use does not cause danger or considerable inconvenience to pedestrians. These exemptions could help address some of the concerns set out above with impracticalities around the current status quo in this regard.

One final point would be that however the city chooses to proceed with the issue of cycling on sidewalks, it is important that adequate direction is provided for the benefit of cyclists, pedestrians and motorists alike in terms of clarifying what is allowed and what is not. We strongly encourage the city to provide clear road paint or signage for this purpose, especially where there is currently an unclear transition between shared paths and sidewalks that are intended to be exclusively used by pedestrians.

D. Stunting (section 10)

While our members have not yet raised any particular concerns over this provision and we have not given it priority in this review of the Bicycle Bylaw, we do encourage the city to consider whether a provision prohibiting cyclists from engaging in “any acrobatic or other stunt” is consistent with the city funding the construction and maintenance of numerous skateboard parks that may be reasonably expected to be used by individuals on BMX and freestyle fixed gear bicycles, among other types of bicycles. Such a restriction can also be seen as conflicting with recreational trails throughout the city used by individuals on mountain bikes. We also encourage the city to consider how a general prohibition on stunting might discriminate between bicycles and other recreational modes of transportation such as skateboards or roller skates or blades that might reasonably be expected to be used for “stunting” purposes.

The city ought to consider simplifying this paragraph so that it maintains a requirement for cyclists to keep at least one hand on the handlebars at all times (see discussion of “loads” below), but removing the remainder of the provision.

E. Passengers (section 11)

Our members have raised concerns with this provision being obsolete and unnecessary due to the proliferation of types of bicycles that are purpose built for carrying more than one passenger, most of which would not be caught by the overly specific and obscure exception for bicycles with “a properly constructed pillion seat securely fastened over the rear wheel”. We strongly recommend that this section of the Bicycle Bylaw be removed in its entirety.

Preferable provisions from other jurisdictions

If the city insists on having an alternative provision in place that prohibits ‘doubling’ on bicycles not built for more than one passenger—an objective that we neither endorse nor encourage absent more data to suggest that such a prohibition is necessary and advisable—then the city ought to at least consider using simpler and more effective language to accomplish this goal. For example, Ontario’s *Highway Traffic Act* simply states that “[p]assengers are not allowed on a bicycle designed for one person”,^{xxxiii} which ensures that multi-passenger bicycles designed for that purpose are not inadvertently caught by this section of the bylaw. A similar provision is found in British Columbia’s *Motor Vehicle Act*, where it is stated that a cyclist “must not use the cycle to carry more persons at one time than the number for which it is designed and equipped”.^{xxxiv}

F. Loads (paragraph 12)

Our members have raised concerns with this provision being unnecessary as we are not aware of any data or evidence to suggest that over-loading of bicycles has been causing accidents in the city or elsewhere in the province. We recommend that this section of the Bicycle Bylaw also be removed in its entirety.

Preferable provisions from other jurisdictions

We further note that many other jurisdictions have not found load restrictions necessary in light of requirements for cyclists to be able to keep at least one hand on their handlebars at all times. For example, in Oregon a cyclist “commits the offense of having an unlawful load on a bicycle if the person is operating a bicycle and the person carries a package, bundle or article which prevents the person from keeping at least one hand upon the handlebar and having full control at all times”,^{xxxv} effectively tying these two restrictions together. California law has similarly created a load restriction that is only engaged where a package “prevents the operator [of a bicycle] from keeping at least one hand upon the handlebars”.^{xxxvi} Load restrictions are also notably absent from the restrictions on cyclists set out in Ontario’s *Highway Traffic Act* and British Columbia’s *Motor Vehicle Act*.

Practical issues

We also wish to highlight the difficulty that the city would have in enforcing this section of the Bicycle Bylaw as currently drafted since it sets out precise dimensions and weight in terms of the restrictions that it imposes. Further still, the city ought to consider how this provision might conflict with the use of bicycles that have been specifically designed for carrying very large loads, as there are bicycles designed for transportation of large packages as well as bicycles designed for touring purposes that are engineered so as to accommodate large weights that other bicycles may not safely and comfortably accommodate.

G. Obligatory use of cycling lanes (section 13)

Our members have raised concerns with this provision being unnecessary, unwieldy and, where cycling lanes are not properly designed or maintained, dangerous. We recommend that this section of the Bicycle Bylaw also be removed in its entirety.

Hazardous conditions in cycling lanes

Of greatest concern is that this provision could require cyclists to use cycling lanes even where these are often poorly maintained and full of gravel and other hazards, especially in winter. While we are strongly in support of protected cycling lanes and believe that these lanes are well-used by cyclists when properly designed and maintained, we commonly hear concerns from our members over gravel, dirt and debris accumulating in ‘painted on’ cycling lanes, and we believe that the city is already well aware of issues that the protected cycling lanes on 23rd Avenue have faced with accumulated rainwater, snow and ice during the winter, which can render these dangerous during certain periods of time. Again, we submit that the city ought to consider how mandating the use of cycling lanes where available might negatively interact with any duty of care the city may owe to people on bikes in terms of proper maintenance of roads.^{xxxvii}

Unfavourable treatment of bicycles compared to other vehicles

We also submit that the city ought to consider whether this provision might unduly discriminate between bicycles and other motor vehicles. Again, while bicycles are lumped in with other vehicles for the purposes of provincial traffic safety laws,^{xxxviii} this provision of the bylaw singles bicycles out in mandating the use of cycling lanes with only a limited exception for turning. We did not find analogous restrictions in other jurisdictions that we investigated. In fact, we found that similar restrictions were notably absent from the relevant provincial laws in Ontario and British Columbia.

Preferable provisions from other jurisdictions

British Columbia’s *Motor Vehicle Act* explicitly reiterates that aside from the exceptions that it explicitly sets out, which do not mandate use of cycling lanes, “a person operating a cycle on a highway has the same rights and duties as a driver of a vehicle”.^{xxxix} We suggest that the city should take a similar non-discriminatory position on cycling, allowing people travelling by bicycle to choose whether or not to use cycling infrastructure depending on the conditions in which they find that infrastructure.

In the alternative, we suggest that the city provide for more explicit exceptions to a general requirement for use of cycling lanes. For example, in Oregon use of cycling infrastructure is not obligatory when: (a) overtaking another bicycle; (b) preparing to execute a left turn; (c) avoiding debris or other hazardous conditions; (d) preparing to execute a right turn; (e) continuing straight at an intersection where the bicycle lane is to the right of the lane from which a motor vehicle must turn right.^{xi} There are very important practical reasons for including such exceptions, as discussed below.

Practical issues

Where cycle lanes are protected, there is a further issue around making left turns. A cyclist might choose not to enter the cycling lane on 23rd Avenue, for example, so as to safely and easily make a left turn onto a perpendicular road. Forcing cyclists to use the cycling lane at all times would make for overly burdensome restrictions when it would be easier and safer to make the turn from the traffic lane itself.

We are also concerned with the potential for this section to encourage conflicts between motorists and cyclists where the latter users of road infrastructure are non-compliant due to concerns over safety and practicality. As cyclists are the more vulnerable user group between the two, we strongly recommend against provisions that further entitle motorists to use of roads at the expense of the safety and practicality of cycling in the city.

H. Dismounting to pass pedestrians (section 21(c))

Our members have raised concerns with this provision being unnecessary and impractical. We strongly suggest that the city remove this provision in its entirety.

Practical issues

First and foremost, the provision is simply illogical. If a cyclist is forced to dismount their bicycle in order to pass a pedestrian on foot, a practical issue then arises as to how they can walk

faster, while pushing their bike, so as to still pass that pedestrian once dismounted. Furthermore, the question arises as to how they can still comfortably pass that pedestrian once dismounted, as you then have a person and their bike, side-by-side, attempting to pass another person. If anything, dismounting the bike to pass should only make the experience more uncomfortable and inconvenient for the pedestrian who might otherwise be seen to benefit from this rule but is now crowded out in the small sidewalks that traverse our main downtown bridges. The situation becomes even more unwieldy where a cyclist might be carrying a load, elderly or otherwise less physically capable of pushing their bikes across the bridges, which both involve notable inclines.

We encourage the city to consider whether there is any merit or benefit from this restriction when the Bicycle Bylaw already otherwise provides pedestrians with a right of way that cyclists must yield to, among other restrictions. It is unclear to us what further benefit might be obtained by this confusing and impractical restriction.

DRAFT

IV. Summary of recommendations

- 1) **Either remove the requirement for a horn or bell or replace this with a requirement that an audible warning be given before pedestrians are overtaken and passed**
- 2) **Either remove the requirement for cyclists to stay close to the right curb or revise this requirement to include a greater number of exceptions**
- 3) **Consider implementing a one metre minimum passing distance for motor vehicles overtaking cyclists within city limits**
- 4) **Remove the blanket prohibition against cycling on sidewalks and replace this with either area and behavioural restrictions as to where and how cycling on sidewalks can be safely conducted or provide exemptions for children under 12 and temporary use of sidewalks to avoid hazardous conditions**
- 5) **Remove the prohibition against stunts and acrobatics on bicycles**
- 6) **Remove or substantially revise the prohibition against passengers on bicycles to accommodate the full variety of bicycles designed for such purposes**
- 7) **Remove the load restrictions on cyclists**
- 8) **Remove the requirement for cyclists to use cycling lanes or revise this requirement to include a greater number of exceptions**
- 9) **Remove the requirement for cyclists to dismount before passing pedestrians while crossing bridges in the city**

V. References

ⁱ City of Saskatoon, *Active Transportation Plan: Final Report* (Urban Systems Ltd: June 2016) at 86.

ⁱⁱ *The Cities Act*, SS 2002, c C-11.1, ss 4(2)(c) & (d).

ⁱⁱⁱ See, for example, *Halifax (Regional Municipality) v Canada (Public Works and Government Services)*, 2012 SCC 29 at [55], and *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 at [25].

^{iv} *Ibid*, s 8(1)(e).

^v See, for example, *Canada (AG) v Bedford*, 2013 SCC 72 for a discussion of the circumstances in which a government's imposition of dangerous conditions on an otherwise legal activity might unjustifiably infringe an individual's right to life, liberty and security of the person under section 7 of the *Canadian Charter of Rights and Freedoms*. Coincidentally, the Supreme Court of Canada raised a hypothetical example of a law making cycling more dangerous in its discussion of the causal connection required in order to find such a law unconstitutional under section 7 of the *Charter* ([87]).

^{vi} See, for example, *R v Heywood*, [1994] 3 SCR 761, *R v Budreo*, (2000) 46 OR (3d) 481 (ONCA) and *Baril v Obelnicki*, 2007 MBCA 40 for discussions of how restrictions on an individual's freedom of movement or to roam in places where the rest of the public is free to roam can engage that individual's liberty under section 7 of the *Charter*. See also *R v SA*, 2014 ABCA 191: While a majority of the Alberta Court of Appeal expressed significant doubt that section 7 could extend to protect an individual's right to access and use public transportation, it is worth noting that they relied in part on the possibility of the appellant purchasing a secondhand bicycle in concluding that her poverty did not mean that a ban from public transit infringed her section 7 rights. In dissent, Bielby JA concluded that a ban from public transportation did engage the appellant's section 7 rights as it was necessary for her to access goods and services in the City of Edmonton. It is therefore at least worth considering whether some economically marginalized residents of the City of Saskatoon might have their section 7 rights engaged by extensively prohibitive restrictions on cycling.

^{vii} See for example *Elbow Valley Cycle Club v Rockyview (Municipal District No 44)*, (1997) 50 Alta LR (3d) 150 (ABQB) where the Court quashed a bylaw that prohibited cyclists from riding on a particular public roadway on the basis that this bylaw discriminated between motor vehicles and bicycles in a way that was not expressly authorized by Alberta's *Highway Traffic Act*, RSA 1980, c H-7. Note that discrimination in this administrative law sense is different than the forms of discrimination prohibited under the *Charter* or domestic human rights legislation. For further discussion of this limit on bylaw-making powers see for example: *Montréal v Arcade Amusements Inc*, [1985] 1 SCR 368, *R v Sharma*, [1993] 1 SCR 650, and *Greater Victoria School District No 61 v Oak Bay (District)*, 2006 BCCA 28.

^{viii} City of Boston, *Cyclist Safety Report* (2013); City of Chicago, *2012 Bicycle Crash Analysis: Summary Report and Recommendations* (2012); City of Toronto, *Bicycle/Motor Vehicle Collision Study* (2003); Denver Public Works, *Bicycle Crash Analysis: Understanding and Reducing Bicycle & Motor Vehicle Crashes* (2016); Dr. Koorey, *New Zealand Chief Coroner's Inquiry Into Cycling Deaths* (2013); Office of the Chief Coroner for Ontario, *Cycling Death Review* (2012); Urban Systems, *Cycling Safety Study: Final Report for City of Vancouver* (2015).

^{ix} Section 4511.56, *Ohio Revised Code* (2006).

^x Section 183, *Motor Vehicle Act*, RSBC 1996, c 318.

^{xi} Section 814.410(1)(b), *Oregon Revised Statutes*, vol 15, c 814 (2015).

^{xii} See for further examples: section 42-4-221, *Colorado Revised Statutes*, c 42; section 46.61.780, *Revised Code of Washington*, c 46.61; section 21201, *California Vehicle Code*, c 479; section 169.222, *Minnesota Statutes*, c 169; section 347.89, *Wisconsin Statutes*, c 347; section 9-21-11-8, *Indiana Code 2016*, c 11.

^{xiii} See for further examples: section 316.2065(10), *Florida Statutes*, c 316; section 61-8-608, *Montana Code Annotated 2015*, c 450; section 11B, *Massachusetts General Laws*, c 85.

^{xiv} See for example *Johnson v Milton (Town)*, 2008 ONCA 440 and *Wong v Vancouver (City)*, 2001 BCSC 693.

^{xv} See Saskatchewan Prevention Institute, Bike and Wheel Safety/Bicycle Safety Week, Rules of the Road <online: [http://www.skprevention.ca/bike-and-wheel-safety/#Rules of the Road](http://www.skprevention.ca/bike-and-wheel-safety/#Rules%20of%20the%20Road) – accessed 26/03/16>.

^{xvi} *Ibid.*

^{xvii} See City of Saskatoon, Information for Cyclists, Cycling Rules of the Road <online: https://www.saskatoon.ca/sites/default/files/documents/cycling_guide_web.pdf - accessed 26/03/16>.

^{xviii} See *The Highway Traffic Act*, SS 1986, c H-3.1, s 2(1)(hh) and *The Traffic Safety Act*, SS 2004, c T-18.1, s 2(1)(ccc). See also *Jones v Falconer*, (1993) 114 Sask R 121 (SKQB).

^{xix} See for example Office of the Chief Coroner for Ontario, *Cycling Death Review* (2012) at 24. The Office of the Chief Coroner of Ontario found that the majority of the 129 cyclist deaths that occurred in Ontario between January 1, 2006 and December 31, 2010 were caused by motorists passing cyclists from behind at unsafe distances, leading the Office to recommend the introduction of a one meter/three foot passing rule. See also the City of Toronto Works and Emergency Services Department, *Bicycle/Motor Vehicle Collision Study*, 2003, which involved the review of 2,572 car/bike collisions that occurred between 1997 and 1998. The study found that 11.9% of all collisions occurred when cyclists were overtaken by motorists and these collisions were more likely to be either minimal or fatal, with fewer 'in-between' injuries than other types of collisions (p 95). In 13.4% of these collisions motorists were found to have

misjudged how much space was available to pass. See also W.W. Hunter et al, “Bicycle Crash Types: A 1990s Informational Guide”, US Dept of Transportation (1997), which studied 3,000 bicycle-motor vehicle crashes in six states, finding 8.6% of crashes occurred when motor vehicles overtook cyclists and 28% of cyclists involved in such crashes sustained serious or fatal injuries.

^{xx} See for example Kay Teschke et al, “Bicycling crash circumstances vary by route type: a cross-sectional analysis”, BMC Public Health 2015, 24:1205. The authors examined data from 690 cycling crashes reported in Vancouver and Toronto between May 2008 and November 2009, finding that 9.2% of these crashes involved vehicles doors, with the majority occurring on major streets with parked cars and no cycling infrastructure. See also the City of Toronto *Bicycle/Motor Vehicle Collision Study*, 2003, referenced above. The study found that 11.9% of car/bicycle collisions between 1997 and 1998 involved vehicles doors and these collisions resulted in injuries that were more severe than average (p 83).

^{xxi} See for example 2015 Minnesota Statutes, 169.222 Operation of Bicycle, subd. 4 Riding Rules, which provides exceptions for overtaking and passing another vehicle, preparing for a left turn, avoiding hazards, and when riding on a shoulder or in a bicycle lane. See also the California Vehicle Code 21202(a), which provides similar exceptions and only requires bicycles to keep right where they are being operated at a speed less than the normal speed of traffic moving in the same direction. See also Ohio Bill 389, 4511.55 for similar exceptions to a general rule that bicycles should keep right. See also Nova Scotia’s *Motor Vehicle Act*, RSNS 1989, c 293, section 171(4).

^{xxii} Section 147(2), *Highway Traffic Act*, RSO 1990, c H.8.

^{xxiii} Section 183(3), *Motor Vehicle Act*, RSBC 1996, c 318.

^{xxiv} Section A(2), *Ohio Revised Code*, Chapter 4511.25 (2016).

^{xxv} See National Conference of State Legislatures, Safely Passing Bicyclists Chart (12/17/2015) <online: <http://www.ncsl.org/research/transportation/safely-passing-bicyclists.aspx> - accessed 03/26/16>, which lists Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Louisiana, Maine, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, Oklahoma, Tennessee, Virginia, Utah, West Virginia, Wisconsin, Wyoming and the District of Columbia as having 3ft passing laws. It also lists Pennsylvania as having a four foot passing law and South Dakota having a two-tiered passing law with a 3ft requirement on roads with speed limits less than 35mph and a 6ft requirement on roads where any greater speed is allowed.

^{xxvi} N Haworth & A Schramm “The safety of bicycles being overtaken by cars: What do we know and what do we need to know?” Proceedings of the 2014 Australasian Road Safety Research, Policing & Education Conference.

^{xxvii} Amy Gillett Foundation, A Metre Matters – National update, March 2016 <online: <http://www.amygillett.org.au/wp-content/uploads/2016/03/1.-A-metre-matters-national-update-March-2016.pdf> - accessed 03/26/15>.

^{xxviii} See Ontario's *Highway Traffic Act*, RSO 1990, c H.8, section 148(6.1). See also Nova Scotia's *Motor Vehicle Act*, RSNS 1989, c 293, section 171B(1)(b).

^{xxix} See for example *Johnson v Milton (Town)*, 2008 ONCA 440 and *Wong v Vancouver (City)*, 2001 BCSC 693.

^{xxx} Section 814.450, *Oregon Revised Statutes*, vol 15, c 814 (2015).

^{xxxi} Sections 814.450 (1) & (2), *Oregon Revised Statutes*, vol 15, c 814 (2015).

^{xxxii} Section 8, *Road Traffic Act 1981/267* (Finland).

^{xxxiii} Section 178(2), *Highway Traffic Act*, RSO 1990, c H.8.

^{xxxiv} Section 183(2)(g), *Motor Vehicle Act*, RSBC 1996, c 318.

^{xxxv} Section 814.410, *Oregon Revised Statutes*, vol 15, c 814.

^{xxxvi} Section 21205, *California Vehicle Code*, c 479.

^{xxxvii} Again, see for example *Johnson v Milton (Town)*, 2008 ONCA 440 and *Wong v Vancouver (City)*, 2001 BCSC 693.

^{xxxviii} See *The Highway Traffic Act*, SS 1986, c H-3.1, s 2(1)(hh) and *The Traffic Safety Act*, SS 2004, c T-18.1, s 2(1)(ccc). See also *Jones v Falconer*, (1993) 114 Sask R 121 (SKQB).

^{xxxix} Section 183(1), *Motor Vehicle Act*, RSBC 1996, c 318.

^{xl} Section 814.420(3), *Oregon Revised Statutes*, vol 15, c 814 (2015).