

2-11-08
2-25-08

ORDINANCE NO. _____

AN ORDINANCE requiring helmets be used by all people when operating or riding on bicycles, skateboards, roller blades, roller skates, unicycles and scooters in a public area within the City of Vancouver; providing for severability and an effective date.

WHEREAS, as reflected in SR _____, the City of Vancouver is currently one of few jurisdictions in Washington State that does not have an ordinance requiring the use of helmets for at least bicycles if not other human powered vehicles; and

WHEREAS, this ordinance is an exercise of the city of Vancouver's police and legislative authority derived from Wash. Const. art. XI, § 11 and is consistent with RCW 35.22.280 to pass ordinances to protect the public's health, safety and welfare.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new Chapter designated as VMC 9.62 is hereby added to read as follows -

VMC 9.62 NON-MOTORIZED VEHICLES - HELMET REQUIRED:

VMC 9.62.010 PURPOSE AND POLICY

VMC 9.62.020 DEFINITIONS

VMC 9.62.030 HELMET REQUIRED

VMC 9.62.040 BICYCLE RACES AND EVENTS-HELMET REQUIRED

VMC 9.62.050 BICYCLE RENTAL, LEASE OR LOAN-HELMET REQUIRED

VMC 9.62.060 HELMET SALES-SAFETY STANDARDS

VMC 9.62.070 PENALTIES –CIVIL INFRACTION

VMC 9.62.080 ENFORCEMENT

VMC 9.62.090 IMPLEMENTATION PROGRAMS

VMC 9.62.010 PURPOSE AND POLICY

This Chapter is enacted as an exercise of the police power of the City of Vancouver to protect and preserve public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

It is the express purpose of this Chapter to provide for and to promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Chapter.

Nothing contained in this Chapter is intended to be, or shall be, construed to create or to form the basis for liability on the part of the City of Vancouver or its officers, employees or agents for any injury or damage resulting from the failure of any person to comply with this Chapter.

VMC 9.62.020 DEFINITIONS

The following words and phrases when used in this Chapter shall have the meanings indicated, unless the context clearly requires otherwise:

“Bicycle” means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels of any diameter or three wheels, any one of which is more than 20 inches in diameter and within this chapter shall include any attached trailers, sidecars and/or device being towed by a bicycle.

“Bicycle Lane” means a portion of the roadway which has been designated by traffic-control devices for preferential or exclusive use by bicycles.

“Guardian” means a parent, legal guardian, adult with custody or temporary custody, who maintains responsibility whether voluntary or otherwise for the safety and welfare of a person under the age of 18 years.

“Helmet” means a head covering designed for safety that meets or exceeds safety standards adopted by the Consumer Product Safety Commission (CPSC) or such subsequently nationally recognized standards for helmet performance. In the absence of an applicable CPSC standard, the head covering must meet or exceed the current standards adopted by either the American Society for Testing Materials (ASTM) or the Snell Foundation until such applicable CPSC standard exists or such subsequently nationally recognized standards for helmet performance is adopted. The helmet must be equipped with either a neck or chinstrap that shall be fastened securely while the wheeled-vehicle is in motion.

“In-line skates and roller skates” means every device which is attached to the rider much like a pair of shoes or boots and which has two or more wheels attached inline or next to each other.

“Public area” means public roadways, paths, parks, trails, bicycle lanes or any right-of-way publicly owned facility or publicly owned property within the city of Vancouver.

“Scooter” means every device with a platform having two or more wheels beneath it and balancing handpost or steering device, which the rider balances on top of, and which is propelled solely by human power.

“Skateboard” means every device with a platform having two or more sets of wheels beneath it, which the rider balances on top of, and which is propelled solely by human power.

“Unicycle” means every device with a frame mounted over a single wheel propelled by pedals.

VMC 9.62.030 HELMET REQUIRED

A. No person shall operate or be a passenger on a bicycle, in-line skates, roller skates, scooter, unicycle or skateboard on in or upon any public area within the city unless he or she is wearing a protective helmet. The helmet shall have either a neck or chin-strap which is securely fastened while the bicycle, in-line skates, roller skates, scooter, unicycle or skateboard is in motion.

B. A parent or guardian shall be responsible for requiring that a child under the age of 18 years wears a helmet, the neck or chin-strap of which must be fastened securely, while that child is on a bicycle, in-line skates, roller skates, scooter, unicycle or skateboard in any public area of the city.

C. A police officer observing a person operating or riding as a passenger on a bicycle, in-line skates, roller skates, scooter, unicycle or skateboard without the required helmet, in violation of this section, may stop and detain such person for the purpose of establishing identity and issuing an appropriate warning or citation.

D. A person is exempt from the requirements to wear a helmet under this Chapter, if wearing the helmet would violate a religious belief or practice of the person.

VMC 9.62.040 BICYCLE RACES AND EVENTS-HELMET REQUIRED

A. Any person or organization managing a bicycle race, an organized event involving bicycling or a bicycle tour, which will take place in whole or in part in any public area, shall notify participants of the requirement to wear a helmet during the event, race or tour, and such persons and organizations shall reject participants who fail to comply with the provisions of this Chapter.

B. The person or organization managing any such event, race or tour shall include helmet requirements in any promotional brochures and on registration materials.

VMC 9.62.050 BICYCLE RENTAL, LEASE OR LOAN-HELMET REQUIRED

A. Any person engaging in the business of renting, leasing or loaning any bicycle, in-line skates, roller skates, scooter, unicycle or skateboard for use in any public area shall offer to the person(s) renting, leasing or using such bicycle, in-line skates, roller skates, scooter, unicycle or skateboard a helmet and further shall notify such person of the requirements under this Chapter to wear a helmet.

B. The rental or lease documents (contract, agreement, brochure or receipt) of any person engaging in the business of renting or loaning any bicycle, in-line skates, roller skates, scooter, unicycle or skateboard in the city must advise the person renting or leasing the bicycle, in-line skates, roller skates, scooter, unicycle or skateboard of the helmet requirement of this Chapter.

9.62.060 HELMET SALES-SAFETY STANDARDS

A. No person shall sell or offer for sale a helmet that does not meet or exceed the safety standards set forth in this Chapter.

B. It is an affirmative defense that the sale or offering for sale was an isolated sale of used merchandise made by an individual who was not engaged in the business of selling or repairing recreational equipment such as a seller at a garage or rummage sale.

VMC 9.62.070 PENALTIES – CIVIL INFRACTION

A. Any person, including a parent or guardian, violating any of the provisions of this Chapter shall have committed a civil infraction and shall be subject to a monetary penalty not to exceed \$50.00.

1. If a child in violation of this Chapter is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian, or adult with custody or temporary custody, rather than to the child.

2. If a child in violation of this Chapter is at least 12 years of age and is under 16 years of age, a citation may be issued to the child or to the parent, legal guardian, or adult with custody or temporary custody.

B. The court may waive, reduce or suspend the civil penalty and clear the civil infraction as a warning for a person who has not been cited under this Chapter within the previous one year period from the date of the current infraction and provides proof that he or she has acquired an approved helmet at the time of appearance in court.

C. Each person not meeting the requirement of Section 9.62.030 shall represent a separate violation.

D. Each rental and each event under sections 9.62.040 or 9.62.050 shall represent a separate violation.

VMC 9.62.080 ENFORCEMENT

A. The City of Vancouver police department shall be responsible for the enforcement of the provisions of this Chapter and is authorized to issue infractions to persons who fail to comply with this Chapter.

B. For the purpose of this Chapter, law enforcement officers may at their discretion stop a bicycle race, an organized event involving bicycling or a bicycle tour that takes place in a public area when there is conspicuous disregard for the requirements of this chapter, involving multiple infractions.

VMC 9.62.090 IMPLEMENTATION PROGRAMS

A. The City encourages any person engaging in the business of selling bicycles, in-line skates, roller skates, scooters, unicycles or skateboards to include information on helmet safety and the requirements of this Chapter with each bicycle, in-line skates, roller skates, scooter, unicycle or skateboard sold.

B. The City encourages any person engaging in the selling of helmets to include information on safe helmet usage with each helmet sold.

Section 2. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any

parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 3. Effective date. This ordinance shall become effective thirty (30) days following the date of final adoption.

Read first time:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

Read second time:

PASSED by the following vote:

Ayes: Councilmembers

Nays: Councilmembers

Absent: Councilmembers

SIGNED this _____ day of _____, 2008.

Royce E. Pollard, Mayor

Attest:

Approved as to form:

Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Ted H. Gathe, City Attorney

SUMMARY

ORDINANCE NO. _____

AN ORDINANCE requiring helmets be used by all people when operating or riding on bicycles, skateboards, roller blades, roller skates, unicycles and scooters in a public area within the City of Vancouver; providing for severability and an effective date thirty (30) days following the date of final adoption.