

ORDINANCE NO. C33452

An ordinance relating to helmet safety; and adding a new chapter 10.17 to Title 10 of the Spokane Municipal Code and amending SMC 1.05.210.

The City of Spokane does ordain:

SECTION 1. That there is added a new chapter 10.17 to title 11 of the Spokane Municipal Code to read as follows:

10.17.010 Purpose and Policy

- A. This chapter is enacted as an exercise of the authority of the City of Spokane to protect and preserve the public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.
- B. 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.
- C. It is the specific intent of this chapter to place the obligation of complying with its requirements upon any person included within its scope, and no provision of, or term used in, this chapter is intended to impose any duty whatsoever upon the City of Spokane or any of its officers or employees for whom the implementation or enforcement of this chapter shall be discretionary and not mandatory.
- D. Nothing contained in this chapter is intended to be, nor shall be construed to create or to form the basis for, a liability on the part of the City of Spokane or its officers, employees, or agents, for any injury or damage resulting from the failure of any person subject to this chapter to comply with this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City of Spokane by its officers, employees or agents.

10.17.020 Definitions

As used in this chapter, the following terms shall have the meanings indicated, unless the context clearly requires otherwise:

"Approved helmet" means a head covering designed for safety that shall meet or exceed the requirements safety of standards adopted by the U.S. Consumer Product Safety Commission (CPSC) 15 USCS 6004, or Z-00.4 set by the American National Standards Institute (ANSI), the Snell Foundation, the ASTM (American Society for Testing and Materials), or such subsequent nationally recognized standard for helmet

performance as the city may adopt. The helmet must be equipped with either a neck or chinstrap that shall be fastened securely while the wheeled-vehicle is in motion.

"Bicycle" means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is eleven inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter. Within this chapter, the term "bicycle" shall include any attached trailers, side cars, and/or other device being towed by a bicycle.

"Electric-assisted bicycle" means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor.

"Electric personal assistive mobility device" (EPAMD) means any device meeting the design characteristics as defined in SMC section 16.04.168.

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

"In-line skates, roller skate, and skate shoes" 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 beneath, and footwear which has internal or external wheels incorporated as a part the footwear, which wheels are incorporated either inline or next to each other on the bottom of the footwear.

"Motorized Foot Scooter" means a device with no more than two ten- inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. For purposes of this section, a motor-driven cycle, a moped, an electric- assisted bicycle, or a motorcycle is not a motorized foot scooter.

"Public area" means public roadways, sidewalk, bicycle paths, parks, or any right-of-way, publicly owned facility, or publicly-owned property within the city.

"Scooter" means every device with a platform having two or more of wheels beneath it and a 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 either propelled solely by human power, or propelled by an attached or auxiliary electric or gasoline motor.

10.17.030 Helmet Required

- A. Any person riding or otherwise operating any bicycle, electric assisted bicycle, electric personal assistive mobility device, in-line skates, roller skate(s), skate shoe(s), motorized foot scooter, scooter or skateboard, including any passenger thereon and / or person being towed thereby, on any public area in the city shall wear an approved helmet, and shall have either the neck or chin strap of the helmet fastened securely while the device is in motion.
- B. No person shall transport another person on or tow another person on a device listed in SMC section 10.17.030.A upon any public area in the jurisdiction of the city, unless the passenger is wearing an approved helmet.
- C. A guardian is responsible for requiring that a child under the age of sixteen years who is under the guardian's care wears an approved helmet, the neck or chin strap of which is fastened securely, while upon a device listed in SMC section 10.17.030.A in motion, or riding as a passenger on a device listed SMC section 10.17.030.A in any public area in the city.
- D. It is an affirmative defense to a violation of this section that the guardian responsible for child under the age of sixteen did require the child to wear an approved helmet at all time that the child was in the guardian's presence.
- E. It is an affirmative defense to a violation of this section for a person wearing an unapproved helmet that the helmet was furnished in conjunction with his or her rental, lease, or use of a device listed in SMC section 10.17.030.A by a person or organization engaged in the business of renting, leasing, or loaning such devices, and that the helmet was fastened securely while riding.
- F. Provisions of chapter 10.17 shall not apply to any wheeled devices such as, but not limited to, electronic scooters or wheel chairs that are designed and utilized for medically related reasons.

10.17.040 Special Events, including but not limited to Races, Exhibitions, Demonstrations, Parades and Events – Helmet Required

- A. Any person or organization managing a race, an organized event involving bicycling, a bicycle tour, or devices listed in SMC section 10.17.030.A in which will take place in whole or in part in any public area in the city, shall require that all participants riding on or in tow wear approved helmets, 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 the requirement to wear approved helmets in any promotional brochures and on registration materials.

- C. It is an affirmative defense to a violation of this section for a person or organization managing an event, race, or tour that all participants were wearing approved helmets at the start of the event, race, or tour and were instructed to discontinue their participation by a person responsible for management of the event, race, or tour at any point where the participant failed to comply with the requirement of wearing an approved helmet.

10.17.050 Rent, Lease or Loan of a Bicycle, Electric-Assisted Bicycle, Electric Personal Assistive Mobility Device, Skateboard, Roller blade, Roller Skate, Skate Shoes, Motorized Foot Scooter or Scooter – Helmet Required

- A. Any person engaging in the business of renting, leasing or loaning (e.g., "test ride") any of the devices listed in SMC 10.17.030.A for use in any public area in the city shall supply the person(s) renting, leasing or using any of the devices with approved helmet(s), along with the devices unless the riders and passengers possess approved helmets of their own, and offer proof thereof, for use with the device and further shall notify such persons of the requirements of this chapter to wear a helmet meeting the safety standards described in SMC section 10.17.020.
- B. The rental, lease or loan documents (contract, agreement, brochure or receipt) shall advise the person renting, leasing or using any of the devices listed in SMC section 10.17.030.A of the helmet requirements of this chapter.

10.17.060 Helmet Sales – Safety Standards

- A. No person shall sell or offer for sale a helmet that does not meet or exceed the safety standards described in SMC Section 10.17.020.
- B. It is an affirmative defense to a violation of this section that the sale or offer 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.

10.17.080 Penalties – Civil Infraction

- A. Any person violating SMC 10.17.030.A, SMC 10.17.040.A, SMC 10.17.050.A or SMC 10.17.060.A shall have committed a class 4 civil infraction and shall be liable for monetary penalties as set forth in SMC section 1.05.210.
- 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 one year and provides proof that he or she has acquired an approved helmet at the time of appearance in court or has taken class on helmet safety sponsored by the Spokane Regional Health District.

- C. A guardian may be cited for a separate violation of this chapter for each child under sixteen years of age riding on or in tow of a device listed in SMC 10.17.030.A not wearing an approved helmet.
- D. Each rental and each event under subsection A of this section shall be a separate violation.

10.17.090 Enforcement

- A. The City of Spokane police department shall be responsible for enforcement of the provisions of this chapter.
- B. For the purpose of this chapter, law enforcement officers may at their discretion:
 - 1. Enter, during business hours, the premises of a business selling, repairing, leasing, loaning or renting bicycles or selling sporting or recreation equipment, to determine compliance with this chapter;
 - 2. Post outside the premises of a business that offers for sale, rent, lease, loan or other public purpose a list of helmets that do not meet the safety standards of this chapter, so that the public is informed; and
 - 3. Stop a participant in a race, or organized event involving any of the devices listed in SMC in 10.17.030.A or a tour that takes place in a public area, when there is a violation of the requirements of this chapter.

10.17.100 Information and Education

- A. Information about the need for helmets, safe helmet use, traffic safety education and helmet safety programs are available at the City of Spokane police department and the Spokane Regional Health District.
- B. The city encourages any person engaging in the business of selling bicycles or any of the devices listed SMC 10.17.030.A to include information on helmet safety and the helmet requirements of this chapter with each bicycle or devices sold.
- C. The city encourages any person engaging in the business of selling helmets to include information on safe helmet usage with each helmet sold.

SECTION 2. That SMC section 1.05.210 is amended to read as follows:

1.05.210 Penalty Schedule – Personal Conduct

- A. For each subsequent violation, excluding continuing violations, by a person the classification of infraction advances by one class.

B.

Violation	Infraction Class
Ex Parte Contact with Adjudicative Officer – 11.02.0120	2
Attempt to Influence or Interfere with Adjudicative Officer – 11.02.0130	1
Littering, Unlawful Disposal of Rubbish – 10.08.010	1
Deposit of Tobacco Product Capable of Being Lit – 10.08.010	\$500
Purchase, Possession of Tobacco by Minor – 10.08.055	3
Liquor Purchase by Apparently Intoxicated Person – 10.08.246	\$500
Harbor Dog or Cat without License – 10.24.010	3
Permit Animal to Run at Large – 10.24.020	3
Rabies – 10.24.040	3
Property Damage by Animal – 10.24.060	3
Allow Animal in Riverfront Park or Special Permitted Event Area when Banned – 10.03.110	3
Sell, Use, Discharge Fireworks – 10.33A.055	3
Open Burning – UFC 11.203	1
Disposal of Liquid Waste in Unapproved Place or Manner – 11.09.070	1

Offending Peace and Order in Public Park – 10.10.040, 12.06.050, 060, 070, 080	1
Not Having or Displaying Concealed Pistol License – 10.11.042	1
Selling or Giving Drug Paraphernalia – 10.15.115	1
Act of Discrimination – 1.06.040	1
Barking Dog – 10.03.060	1
Offenses Relating to Safety and Sanitation – 10.03.100	4
Failure to Respond - Chronic Nuisance – 10.08A.040(4)	1
Destroy, Injure Street Tree or Other Violations – 12.02.914	1
<u>Failure to Wear Approved Helmet - Helmet Safety – 10.17.030</u>	<u>4</u>
<u>Failure to Require Wearing of Approved Helmets at Special Events - Helmet Safety – 10.17.040</u>	<u>4</u>
<u>Failure to Rent, Lease or Loan Approved Helmet - Helmet Safety – 10.17.050</u>	<u>4</u>
<u>Failure to Sell or Offer to Sell Approved Helmet - Helmet Safety – 10.17.060</u>	<u>4</u>

PASSED by the City Council on June 28, 2004.

VETOED by Mayor July 12, 2004.

VETO OVERTURNED by City Council July 12, 2004.

EFFECTIVE August 11, 2004.