

## Bryant, Shellie

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**From:** Benjamin Ralston [REDACTED]  
**Sent:** November 14, 2019 6:29 PM  
**To:** City Council  
**Subject:** Form submission from: Write a Letter to Council  
**Attachments:** ltr\_ralston\_2019-11-14.pdf

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Submitted values are:

Date Thursday, November 14, 2019

To His Worship the Mayor and Members of City Council

First Name Benjamin

Last Name Ralston

Email [REDACTED]

Address [REDACTED] Avenue E South

City Saskatoon

Province Saskatchewan

Postal Code [REDACTED]

Name of the organization or agency you are representing (if applicable)

Subject Bicycle Bylaw Update - Proposed Revisions

Meeting (if known) City Council Meeting on Monday, November 18th

Comments

I am asking City Council to consider my attached letter but not requesting to speak.

Attachments

ltr\_ralston\_2019-11-14.pdf <[https://www.saskatoon.ca/sites/default/files/webform/ltr\\_ralston\\_2019-11-14.pdf](https://www.saskatoon.ca/sites/default/files/webform/ltr_ralston_2019-11-14.pdf)>

The results of this submission may be viewed at:

<https://www.saskatoon.ca/node/398/submission/349254>

Benjamin Ralston  
[REDACTED] Avenue E South  
Saskatoon SK [REDACTED]

**November 14, 2019**

Office of the City Clerk  
222 3<sup>rd</sup> Avenue North  
Saskatoon SK S7K 0J5

Re: November 18<sup>th</sup> Agenda Item: Bicycle Bylaw Update – Proposed Revisions

Dear Members of City Council:

I write to express my enthusiastic and unqualified support for the recommendations set out within the August 2019 Project Report prepared by Ms. Marina Melchiorre regarding an update to the City of Saskatoon's Cycling Bylaw.

I assisted Saskatoon Cycles with its own submissions in support of reform to the existing Cycling Bylaw. Among other things, I supervised the initial research of a law student (Scott Silver) on this project, I then supplemented Mr. Silver's work and prepared a full draft of the submission from it, and assisted during a consultation process with the members of Saskatoon Cycles to elicit further input for a final draft. The final report has been included as an attachment to Ms. Melchiorre's own report.

I do note that several of Saskatoon Cycles' recommendations are *not* reflected in Ms. Melchiorre's report and I still stand behind all the recommendations made on behalf of Saskatoon Cycles and the painstaking research on which they were based. Nevertheless, I wish to wholly endorse Ms. Melchiorre's own report as it proposes balanced and politically feasible recommendations for updates to a bylaw that is out-of-date, confusing, and illogical in many respects.

Saskatoon Cycles has been advocating for the administration to amend the 1988 Cycling Bylaw since at least 2012 and the City of Saskatoon's now defunct Cycling Advisory Group put extensive work into this too. Likewise, the submissions I helped prepare for Saskatoon Cycles were circulated to the city administration well over two years ago and they have been followed by submissions from a diverse range of other local organizations that also weighed in on amendments to the 1988 Cycling Bylaw. Ms. Melchiorre's report is a reasoned and thoughtful response. I urge City Council not to let perfection remain the enemy of progress when it comes to bringing the 1988 Cycling Bylaw into the 21<sup>st</sup> century.

The length of Ms. Melchiorre's report reflects the depth of reflection, research, and community engagement that went into its preparation. The vast majority of its proposed amendments are dictated by basic common sense and should provoke very little controversy from the public. However, three of its proposals do appear to

have elicited some level of public controversy so I wish to address them in detail with the remainder of this submission.

### ***One-meter minimum passing distance***

The inclusion of a one-meter passing distance in the proposed amendments appears to be one of its more controversial recommendations. Yet this clearly falls in line with the best practices that have emerged in North America and internationally. In Saskatoon Cycles' submission it was pointed out that a majority of states in the US (28) had put in place legislated minimum passing distances of two feet or greater at the time of writing (2016). It appears that minimum passing distances of three feet or greater are now legislated in at least 32 states: Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Virginia, Utah, West Virginia, Wisconsin, Wyoming, and DC.

The Saskatoon Cycles submission also pointed out that either the same (one-meter) or a greater minimum passing distance had been legislated by most states in Australia, as well as several countries in Europe at that time. However, in Canada, only Ontario and Nova Scotia had legislated minimum passing distances when the Saskatoon Cycles submission was researched and first drafted in 2016. Since that time a legislated minimum passing distance of one meter or more has been implemented in several other Canadian jurisdictions. In fact, there is now a one-meter minimum passing distance in a majority of all Canadian provinces: namely, Ontario, Quebec, Nova Scotia, Prince Edward Island, New Brunswick, and Newfoundland and Labrador. The City of Calgary has also very recently implemented the same minimum passing distance by way of municipal bylaw.

There is good reason for such a rapid adoption of a standard minimum passing distance across the globe. Motorists have been found to be at fault in the majority of bicycle-motor vehicle crashes (57%), passing too closely is the most common incident type (40.7%), and studies in the UK and Australia have found that 13-15% of all fatal bicycle crashes involved motorist sideswipes (see Debnath et al, "Factors influencing noncompliance with bicycle passing distance laws" (2018) 115 *Accident Analysis and Prevention* 137 at 137). The City of Saskatoon can feel confident that this amendment not only reflects a best practice, it could very well save lives.

It is also important to bear in mind that this amendment is best characterized as a *clarification* of the law rather than the imposition of some radical new requirement on those operating motor vehicles in Saskatoon. Provincial law already prohibits driving a vehicle "without reasonable consideration for other persons" (see section 44(2) of *The Highway Traffic Act, 1996*). Motorists can already be charged if they overtake a cyclist at an unsafe distance on the basis that doing so amounts to driving without reasonable consideration for others (see for example *R v Perret*, 2016-12-01SCPPerretJ (Sask. Prov. Ct.) [unreported]). And in jurisdictions where a minimum

passing distance has yet to be legislated, insurance bodies still often refer to this same distance in their guidance to drivers (see for example, Manitoba Public Insurance, “Motorists encouraged to leave one-meter distance when passing a cyclist” (22 June 2017): <<https://www.mpi.mb.ca/Pages/nr2017june22.aspx>>). At this time, it cannot be said with any certainty that overtaking cyclists with less than one-meter of clearance in Saskatoon is legal. Legislating a minimum one-meter passing distance will now make it clear for all road users that it is *not*.

### ***No mandatory helmet provision***

Another aspect of Ms. Melchiorre’s report that may be controversial is the absence of any recommendation in support of making helmet use mandatory for adults. I wish to quickly outline a few key reasons why I think the City of Saskatoon ought to accept this position and not make helmet use mandatory in this bylaw.

First of all, several studies have indicated that mandatory helmet laws may not be effective at reducing head injuries (see for example: Kay Teschke et al, “Bicycling injury hospitalisation rates in Canadian jurisdictions: Analyses examining associations with helmet legislation and mode share” (2015) *BMJ Open* 5; Jessica Dennis et al, “Helmet legislation and admissions to hospital for cycling related head injuries in Canadian provinces and territories: Interrupted time series analysis” (2013) *BMJ Open* 346; Sara Markowitz & Pinka Chatterji, “Effects of bicycle helmet laws on children’s injuries” (2015) *Health Economics* 24).

Second, there is evidence to suggest that mandatory helmet laws can discourage cycling (see Christopher Carpenter & Mark Stehr, “Intended and unintended consequences of youth bicycle helmet laws” (2011) 54:2 *Journal of Law and Economics* 305). These laws may promote an unjustified impression that cycling is dangerous when we may face a greater statistical risk of injury when climbing a ladder or getting into a bath (see Elizabeth Rosenthal, “To Encourage Biking, Cities Lose the Helmets” (29 September 2012) *New York Times*). This in turn can mean that even if such a law were to decrease rates of head injuries, it could also decrease physical activity levels so as to eliminate any net public health benefit (see Piet de Jong, “The Health Impact of Mandatory Bicycle Helmet Laws” (2012) *Risk Analysis* 32).

Third, an emphasis on helmet use can be seen as a form of “victim-blaming” and a distraction from more cycling supportive approaches to improving safety such as the creation of integrated networks of cycling infrastructure. In making this argument, one recent publication likened the “helmet fixation” in North America to a debate over whether making bullet-proof vests mandatory for city-dwellers would reduce the severity of gun violence in US cities. While a mandatory vest law could very well reduce deaths and injuries, “this would implicitly accept gun violence as inevitable, rather than seeking to stop people from being shot in the first place” (Greg Culver, “Bike helmets – a dangerous fixation? On the bike helmet’s place in the cycling safety discourse in the United States” (2018) *Applied Mobilities*).

Fourth, there is some evidence to suggest that helmet use communicates a false sense of security to cyclists and drivers alike, causing the former to engage in riskier behaviours on their bikes and the latter to engage in riskier behaviour when overtaking cyclists on the road. According to one researcher, this could explain why a compulsory helmet policy in Australia (which has apparently since been abandoned) led to a significant *increase* in cycling injury rates rather than an anticipated decrease (see David Pimentel, “Cycling, Safety, and Victim-Blaming: Towards a Coherent Public Policy for Bicycling in 21<sup>st</sup> Century America (2018) 85 *Tennessee Law Review* 753 [“Pimentel”] at 784-785).

Finally, mandatory helmet laws create financial and practical barriers to cycling in general, as well as to specific cycling programs like the bike-sharing facilities now available in major cities across the globe (see Pimentel at 783). This financial and practical barrier will be of particular concern to low income residents of Saskatoon who rely on bicycles as a form of safe and affordable transportation.

Many researchers and commentators also point more anecdotally to the fact that the countries best known for high rates of cycling as a regular form of transportation, such as Denmark and the Netherlands, are jurisdictions where cycling infrastructure is prioritized and helmets have not been made mandatory. With all due respect to those holding contrary views, I believe that Ms. Melchiorre’s report strikes the right balance by recommending that helmet use be encouraged by the City rather than employing a punitive approach to helmet use by making it mandatory through an amendment to the 1988 Cycling Bylaw.

### ***Allowing children to ride their bicycles on sidewalks***

More recently, some controversy has arisen around the recommendation in Ms. Melchiorre’s report for children under 14 to be exempted from the existing blanket prohibition against riding bicycles on sidewalks. This proposed recommendation would bring Saskatoon’s bylaw in line with the recently revamped cycling bylaws in Calgary and Toronto where similar exemptions have been made for children under 14. An exemption for children should be common sense as forcing children to ride their bicycles on the road will also oblige them to follow the rules of the road at an age when they are not yet eligible to obtain a learner’s permit for driving.

Current research does suggest that cycling on sidewalks is objectively more dangerous than cycling in dedicated infrastructure like bike lanes or even on some roads shared with motor vehicles—namely those where no parked cars are present (see Meghan Winters et al, “Safe Cycling: How Do Risk Perceptions Compare With Observed Risk?” (2012) 103 *Can J Public Health* 42 [“Winters et al”]). However, this will not necessarily accord with the perceptions of cyclists, which will have a considerable impact on their compliance with a blanket ban. It appears that cyclists generally perceive separated routes as safest and will generally prefer routes (even sidewalks) that keep them away from motor vehicles when these are available (Winters et al).

While there may be very legitimate concerns over the risks to safety posed by people cycling on streets with high pedestrian activity like 20<sup>th</sup> Street, 2<sup>nd</sup> Ave, or Broadway, I would urge City Council to recognize these as exceptional and geographically unique examples rather than ones that are representative of the risk of pedestrian/cyclist conflicts on sidewalks elsewhere in the city. For example, City Council should consider the actual and perceived risks to safety for individuals who might be trying to make their way along 8<sup>th</sup> Street or College Drive by biking on the road alongside motor vehicles.

Area-specific sidewalk cycling prohibitions are possible. For example, sidewalk cycling is generally allowed in the State of Oregon (subject to certain rules) whereas the City of Portland in Oregon has implemented an area-specific prohibition against sidewalk cycling within the four corners of its downtown core. The 1988 Cycling Bylaw already designates certain roadways like Circle Drive where cycling is entirely prohibited so a similar approach could be feasible. However, this should not be pursued at the expense of other long overdue changes to the 1988 Cycling Bylaw.

In any event, it would come as a great surprise to hear that there is even anecdotal evidence of there being a problem specifically with children under 14 injuring pedestrians on the busiest sidewalks of our core neighbourhoods. And the fact that such accidents occasionally occur already in spite of an existing and long-standing prohibition against sidewalk cycling in the 1988 Cycling Bylaw demonstrates the practical limits to preventing this by bylaw alone, as opposed to providing more appropriate and desirable infrastructure options for those on bikes.

***Increasing cycling safety is best accomplished by increasing safety in numbers***

This brings me to a more general point. While amendments to the 1988 Cycling Bylaw are an important step in clarifying and regularizing the respective rights and duties of those commuting by bicycle and those commuting by motor vehicles, they do not promise a panacea. Existing research strongly suggests that the “safety in numbers effect” is the best guide for cities looking to improve cycling safety. If rules, infrastructure, and perceptions of risk lead to more residents commuting by motor vehicles instead of active transportation, this feeds a vicious circle in term of adding to road danger through increased traffic volume and congestion. This is borne out by the fact that bicycling injury rates are inversely proportionate to cycling mode share—that is to say, injury rates are significantly higher in places where cycling for transportation is less common (see John Pucher & Ralph Buehler, “Making Cycling Irresistible: Lessons from the Netherlands, Denmark and Germany” (2008) 28:4 *Transport Reviews* 495).

On the other hand, the safety in numbers effect suggests that a virtuous circle is also possible. Encouraging more people to cycle should reduce road danger and the risk of collisions with motor vehicles with bicycles (Beth Sonkin et al, “Walking, cycling and transport safety: an analysis of child road deaths” (2006) 99:4 *Journal of the Royal Society of Medicine* 402 at 405). Increasing residents’ uptake of cycling as a

form of transportation also brings with it a range of individual and public health benefits (see Pekka Oja et al, “Health benefits of cycling: a systematic review” (2011) 21:4 *Scand J Med Sci Sports* 496).

It is worth noting that by North American standards, Saskatoon has a relatively high proportion of residents who rely on bicycles as their main mode of commuting. According to data from the 2016 Census, 2% of Saskatoon residents rely on cycling as their main mode of transportation, which is a significantly greater proportion than the other prairie cities and the majority of similar sized cities elsewhere in Canada. For example, it is significantly higher than the mode shares for cycling in Regina (1.1%), Calgary (1.5%), Winnipeg (1.7%), Edmonton (1.0%), Halifax (1.0%), Windsor (1.0%) or London, Ontario (1.1%) (Statistics Canada, “Commuters using sustainable transportation in census metropolitan areas” (29 November 2017)).

Saskatoon also boasts a comparatively high Bike Score—a metric capturing environmental characteristics associated with cycling—in comparison to cities with higher current mode shares for cycling such as Victoria and Vancouver in British Columbia. This suggests that the city is particularly well-positioned to increase its cycling mode share in the future (Meghan Winters et al, “Bike Score®: Associations between urban bikeability and cycling behaviour in 24 cities” (2016) 13 *International Journal of Behavioural Nutrition and Physical Activity* 18).

And it should also be clear that our climate does not pose a barrier to increasing mode share and safety in numbers for cyclists in Saskatoon so long as appropriate and desirable infrastructure is provided. This can be seen by way of comparison with northern cities that have taken measures to encourage more cycling. For example, the city of Whitehorse, Yukon boasts a 3.2% mode share for cycling (City of Whitehorse, *Bicycle Network Plan 2018*). And the city of Oulu in northern Finland boasts a 33% cycling mode share during summer and a 9% mode share during winters (Cara Fisher, “Cycling Through Winter”(2014) *Plan Canada*).

In closing, I would like to once more encourage the members of City Council to accept the recommendations in Ms. Melchiorre’s report as reasonable, evidence-based, and common sense proposals for amendments to the 1988 Cycling Bylaw. And if the members of City Council are truly concerned about the safety of residents who choose to cycle, I would also encourage you to manifest these good intentions by investing in improvements to cycling infrastructure rather than punitive rules.

Thank you in advance for your consideration.

Sincerely,



Benjamin Ralston, BA, JD, LLM, PhD (candidate)