CITY OF BOISE

To: Mayor and Council

FROM: Ralph Blount, Assistant City Attorney

ORDINANCE NUMBER: O-68-09

DATE: Wednesday, December 09, 2009

SUBJECT: A Request for Approval: An ordinance amending Boise City Code Title 10, Chapter 14, pertaining to the definition of bicycle, the operation of a bicycle on the roadway, sidewalks and crosswalks, defining the misdemeanor offense of reckless operation of a bicycle, providing for voluntary bicycle registration and licensing and defining the misdemeanor offense of willful removal or defacing of a bicycle identification tag by a person other than the owner of the bicycle, and providing that the penalty for a violation of the City of Boise bicycle ordinances, unless another penalty is specified, shall be the infraction penalty specified in the Idaho Infraction Rules for a bicycle offense.

ACTION REQUIRED: Approval of Amendment of Boise City Code Title 10, Chapter 14, pertaining to the definition of bicycle, the operation of a bicycle on the roadway, sidewalk and crosswalk, defining the misdemeanor offense of reckless operation of a bicycle, providing for voluntary bicycle registration and licensing and defining the misdemeanor offense of willful removal or defacing of a bicycle identification tag by a person other than the owner of the bicycle, and providing that the penalty for a violation of the City of Boise bicycle ordinances, unless another penalty is specified, shall be the infraction penalty specified in the Idaho Infraction Rules for a bicycle offense.

RECOMMENDATION: Approve the Ordinance

FISCAL IMPACT/BUDGET IMPLICATIONS: None

BACKGROUND: At the request of the Mayor, the Bicycle Safety Taskforce and the Legal Department have reviewed Title 10, Chapter 14, pertaining to the definition of bicycle and the lawful operation of a bicycle. The ordinance amends section 10-14-01, pertaining to the definition of bicycle, to include tricycles and other exclusively human powered multi-cycles used for transportation and recreation on the streets and roadways of the City of Boise. The ordinance amends section 10-14-06B, pertaining to operation of a bicycle on roadways without a designated bike lane, authorizes bicycling with the flow of traffic in any lane appropriate for the destination, including a designated bus lane, but requires the bicyclist to take a position that does not further impede traffic when safe to do so. The ordinance adds a subpart D to 10-14-06 authorizing a bicyclist in a right turn only lane at an intersection to proceed straight if a bus would be permitted to proceed
straight. The ordinance amends section 10-14-08A, pertaining to riding on sidewalks and crosswalks, requiring a bicyclist riding on a sidewalk to dismount when the number of pedestrians is unsafe for riding due to the risk of colliding with any pedestrian and 10-14-08B requires a bicyclist to issue an audible warning when overtaking a pedestrian. The ordinance adds a subpart D to 10-14-08 prohibiting a bicyclist from suddenly leaving the sidewalk and into the path of a vehicle. The ordinance amends 10-14-17 by striking the penalty language and creating a new misdemeanor offense of reckless operation of a bicycle. The ordinance adds a new section 10-14-18, providing for voluntary bicycle registration and licensing and defining the misdemeanor offense of willful removal or defacing of a bicycle identification tag by a person other than the owner of the bicycle. The ordinance adds a new section 10-14-19, providing that the penalty for a violation of the City of Boise bicycle ordinances, unless another penalty is specified, shall be the infraction penalty specified in the Idaho Infraction Rules for a bicycle offense. The Legal Department recommends adoption of the attached ordinance as a part of a three piece ordinance package designed to address bicycle, motorist, and pedestrian safety.
ORDINANCE NO. _____________

BY THE COUNCIL: BISTERFELDT, CLEGG, EBERLE, JORDAN, SHEALY AND THOMSON

AN ORDINANCE AMENDING TITLE 10, CHAPTER 14, BOISE CITY CODE, ENTITLED BICYCLES, AMENDING SECTION 01, DEFINITIONS, REGARDING THE DEFINITION OF BICYCLE; AMENDING SECTION 06, RIDING ON ROADWAYS, TO PERMIT USE OF DESIGNATED BUS LANES; AMENDING SECTION 08, RIDING ON SIDEWALKS AND CROSSWALKS; AMENDING SECTION 17 TO REPEAL PENALTIES AND CREATE A NEW PROVISION REGARDING RECKLESS BICYCLING; ADDING A NEW SECTION 18 REGARDING VOLUNTARY BICYCLE LICENSING AND REGISTRATION; ADDING A NEW SECTION 19 REGARDING VIOLATIONS; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. That Title 10, Chapter 14, Section 01, Boise City Code, be and the same is hereby amended to read as follows:

Section 10-14-01 DEFINITIONS.

The following words and phrases when used in this Chapter shall have the meanings herein ascribed to them:

A. BICYCLE: Every vehicle having wheels any two (2) of which are not less than twelve (12) inches in diameter propelled exclusively by human power upon which any person may ride, having two (2) tandem wheels, including tricycles and other multicycles, excluding scooters and similar devices.

B. BIKE LANE: A portion of a roadway designated for preferential or exclusive use by bicycles which is distinguished from that portion of the roadway to be used by motor vehicles by a painted strip and other pavement markings.

C. BIKE PATH: A completely separate right-of-way designated primarily for use by bicycles. Conflicts with pedestrians are kept to a minimum while cross-flows by motor vehicles are discouraged.

As used herein, this term shall include both the paved surface and a minimum of two feet (2') on either side.

D. BIKE PATH APPROACH: That area where a transition is made between a roadway, parking lot, sidewalk or other facility and a bike path. This area is generally identified by wooden bollards, pavement markings and a parking prohibition.
E. BIKE/PEDESTRIAN CURB RAMP: A break in a curb designated to facilitate movement by a bicyclist, pedestrian or handicapped person from a street or parking lot to a sidewalk or bicycle facility.

F. BIKE ROUTE: Any roadway specifically signed for shared use by bicycles and motor vehicles.

Section 2. That Title 10, Chapter 14, Section 06, Boise City Code, be and the same is hereby amended to read as follows:

Section 10-14-06 RIDING ON ROADWAYS

A. No person shall operate a bicycle on a roadway against the flow of motorized traffic, except where permitted by official signs or pavement markings.

B. Every person operating a bicycle upon a two-way roadway which does not contain a bike lane shall be entitled to use the lane appropriate for the intended destination, including the right-hand lane, and any designated bus lane. The bicycle rider shall proceed in the same direction of travel as other vehicles authorized to use that lane. On one-way roadways a bicycle may be operated in any existing lane.

C. The operator of a bicycle traveling at a rate of speed which delays a vehicle or vehicles following in the same lane shall be required, when it is unlawful or unsafe for the following vehicle to pass, to move as far to the right of the traveled roadway, or to the left where the bicycle is in the left lane of a one-way roadway, as is safe under the conditions then existing; provided, however, that when the bicyclist is within fifty feet (50') of an intersection, he shall not be required to move to the right or left until he has moved through the intersection.

D. In right turn only lanes where traffic signs or signals indicate a bus, trolley or street car is permitted to go straight rather than turn right, a bicycle operator shall be permitted to go straight rather than turn right.

Section 3. That Title 10, Chapter 14, Section 08, Boise City Code, be and the same is hereby amended to read as follows:

Section 10-14-08 RIDING ON SIDEWALKS AND CROSSWALKS

A. A bicycle may be operated upon a sidewalk and upon and with a crosswalk, except where prohibited by official traffic control devices, except when the number of pedestrians using the sidewalk renders bicycle riding on the sidewalk unsafe because of the risk of colliding with one of the pedestrians, in which case the bicycle rider must dismount and walk the bicycle to an area where safe riding may resume.

B. Any bicyclist riding upon a sidewalk, or across a roadway upon and within a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible warning before overtaking and passing such pedestrian. The audible warning may be given by the voice
or by a bell or other lawful device capable of giving an audible signal to the person or persons being overtaken and passed.

C. A bicyclist riding upon a sidewalk, or across a roadway upon or within a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

D. A bicyclist riding on the sidewalk shall not suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

Section 4. That Title 10, Chapter 14, Section 17, Boise City Code, be and the same is hereby amended to read as follows:

Section 10-14-17 VIOLATION
Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor.

Section 10-14-17 RECKLESS OPERATION
A person who uses or rides a bicycle on a sidewalk, street, roadway, highway or any public or private property open to public use, carelessly and heedlessly, or without due caution and circumspection, or at such speed or in any other manner as to endanger or be likely to endanger any person or property shall be guilty of reckless bicycling and, upon conviction may be sentencing to jail for not more than six (6) months or may be fined not more than one thousand dollars ($1,000.00) or may be punished by both fine and imprisonment.

Section 5. That Title 10, Chapter 14, Section 18, Boise City Code, be and the same is hereby added and enacted to read as follows:

Section 10-14-18 BICYCLE LICENSES:

A. License Recommended. The City of Boise City, as a matter of public policy, recommends that all residents of Boise who own a bicycle have such bicycle registered with and tagged by the Boise Police Department or its designated agents. The purpose of a bicycle license is to assist the bicycle owner, the Boise Police Department, or other public safety agencies in recovering said bicycle should the bicycle be stolen or otherwise misplaced.

B. Registration. A bicycle may be registered by filing with the Boise Police Department the name and address of the owner together with a complete description of the bicycle on forms provided by or made available through the Boise Police Department. The fee for said registration may be established by resolution of the Boise City Council. The registration fee applies for the entire period the license registrant owns the licensed bicycle. Registration shall be serially numbered and kept on file by the Boise Police Department. Upon such registration, the Boise Police Department or its designee shall cause an identification tag to be affixed to the registered bicycle which shall be serially numbered to correspond with the registration number. Such tag shall remain affixed to the bicycle unless removed by the said Department for cause or for re-tagging upon re-registration.
C. Any person who willfully removes, defaces, or destroys any bicycle identification tag issued by the City of Boise on a bicycle not owned by the person shall be guilty of a misdemeanor and upon conviction may be sentenced to jail for not more than six (6) months or may be fined not more than one thousand dollars ($1,000.00) or may be punished by both fine and imprisonment.

D. Transfer or Non-Use. Within ten (10) days after any bicycle registered hereunder shall have changed ownership or have been dismantled or taken out of operation, the person whose name the bicycle has been registered is encouraged to report such information to the Boise Police Department. In case of change of ownership, upon payment of the registration fee and production of a bill of sale signed by the previous registered owner, the registration shall be changed to show the name of the new owner or reregistered with a new number and cancellation of the former.

E. Revenue from sale of bicycle registration and licenses shall be used to benefit the bicycle community through safety education and infrastructure improvements.

Section 6. That Title 10, Chapter 14, Section 19, Boise City Code, be and the same is hereby added and enacted to read as follows:

Section 10-14-19 VIOLATION

Unless otherwise specified within this chapter, any person violating any of the moving or traffic provisions of an ordinance in this chapter shall be an infraction, the penalty for which shall be as specified in the Idaho Infraction Rules for bicycle offenses. An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding one hundred dollars ($100.00) and for which no period of incarceration may be imposed. There is no right to trial by jury of a citation or complaint for an infraction and such trials shall be held before the court without a jury.

Section 7. That the Summary of the ordinance, attached hereto as Exhibit A and incorporated herein by reference, be, and is hereby approved as to both form and content.

Section 8. That this Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the Council of the City of Boise, Idaho, this ___ day of ______________, 2010.

APPROVED by the Mayor of the City of Boise, Idaho this ___ day of ______________, 2010.

APPROVED: ATTEST:

_________________________________  __________________________________
MAYOR                        CITY CLERK
EXHIBIT A

STATEMENT OF BOISE CITY ATTORNEY
AS TO ADEQUACY OF SUMMARY
OF ORDINANCE NO. __________

The undersigned, Ralph R. Blount, in his capacity as Assistant City Attorney of the City of Boise City, Idaho, hereby certifies that he is a legal advisor of the City and has reviewed a copy of the attached Summary of Ordinance No. __________ of the City of Boise City, Idaho, and has found the same to be true and complete and provides adequate notice to the public pursuant to Idaho Code § 50-901A(3).

DATED this ______ day of December 2010.

Ralph R. Blount
Assistant Boise City Attorney

SUMMARY OF ORDINANCE NO. __________
OF THE CITY OF BOISE CITY, IDAHO

PUBLIC NOTICE IS HEREBY GIVEN that the City of Boise City, Idaho, adopted at its regular meeting of _________________________, 2010, that Ordinance No. __________
entitled:

AN ORDINANCE AMENDING TITLE 10, CHAPTER 14, BOISE CITY CODE, ENTITLED BICYCLES, AMENDING SECTION 01, DEFINITIONS, REGARDING THE DEFINITION OF BICYCLE; AMENDING SECTION 06, RIDING ON ROADWAYS TO PERMIT USE OF DESIGNATED BUS LANES; AMENDING SECTION 08, RIDING ON SIDEWALKS AND CROSSWALKS; AMENDING SECTION 17 TO REPEAL PENALTIES AND CREATE A NEW PROVISION REGARDING RECKLESS BICYCLING; ADDING A NEW SECTION 18 REGARDING VOLUNTARY BICYCLE LICENSING AND REGISTRATION; ADDING A NEW SECTION 19 REGARDING VIOLATIONS; APPROVING A SUMMARY OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

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a designated bus lane, but requires the bicyclist to take a position that does not impede traffic when safe to do so. The ordinance adds a subpart D to 10-14-06 authorizing a bicyclist in a right turn only lane at an intersection to proceed straight if a bus would be permitted to proceed straight. The ordinance amends section 10-14-08A, pertaining to riding on sidewalks and crosswalks, requiring a bicyclist riding on a sidewalk to dismount when the number of pedestrians is unsafe for riding due to the risk of colliding with any pedestrian and 10-14-08B requires a bicyclist to issue an audible warning when overtaking a pedestrian. The ordinance adds a subpart D to 10-14-08 prohibiting a bicyclist from suddenly leaving the sidewalk and into the path of a vehicle. The ordinance amends 10-14-17 by striking the penalty language and creating a new misdemeanor offense of reckless operation of a bicycle. The ordinance adds a new section 10-14-18, providing for voluntary bicycle registration and licensing and defining the misdemeanor offense of willful removal or defacing of a bicycle identification tag by a person other than the owner of the bicycle. The ordinance adds a new section 10-14-19, providing that the penalty for a violation of the City of Boise bicycle ordinances, unless another penalty is specified, shall be the infraction penalty specified in the Idaho Infraction Rules for a bicycle offense.

The effective date of the Ordinance is the date of its passage, approval and publication. A copy of the full text of the Ordinance is available at City Hall, 150 North Capitol Boulevard, in Boise, Idaho, in the City Clerk's Office, 1st floor. Examination or copies may be requested in writing or in person during regular business hours of the City Clerk, from 8:00 a.m. to 5:00 p.m. pursuant to the Open Records Act, Idaho Code Title 9, Chapter 3.

DATED this _____ day of __________________, 2010

City of Boise City, Idaho

By:   DAVID H. BIETER
      MAYOR

ATTEST:

By:  CITY CLERK