

AGENDA ITEM NO: VIII.A.

CITY OF STARKVILLE AGENDA DATE: 04-20-10

RECOMMENDATION FOR BOARD ACTION PAGE: 1

SUBJECT: Third public hearing on the proposed ordinance to require Protective Safety Helmets on all users and passengers traveling on bicycles and alternative transportation devices/vehicles.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: N/A

REQUESTING DIRECTOR'S

DEPARTMENT: Board of Aldermen **AUTHORIZATION:** Alderman Vaughn

FOR MORE INFORMATION CONTACT: Mayor Wiseman @ 323-2525 or Alderman Vaughn 323-2004

PRIOR BOARD ACTION: The Board of Aldermen held the first public hearing for the proposed ordinance on March 16, 2010. The second public hearing was held on April 13.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

DEADLINE: N/A

AUTHORIZATION HISTORY:

AMOUNT DATE – DESCRIPTION

STAFF RECOMMENDATION: N/A

ADDITIONAL INFORMATION: The first ordinance proposed was designed to require the helmets for children 16 years of age and under. The Police Chief has recommended to the Mayor and Board of Aldermen that the ordinance include all operators of these methods of transportation. The research from accident reconstruction experts indicates that most of the injuries occur to the population not covered under the proposed ordinance.

ORDINANCE 2010 - _____

AN ORDINANCE CREATING THE REQUIREMENT FOR THE USE OF PROTECTIVE SAFETY HELMET WHEN OPERATING OR RIDING AS A PASSENGER ON BICYCLES OR ALTERNATIVE TRANSPORTATION DEVICES

WHEREAS, The Board of Aldermen of the City of Starkville hereby finds and declares that disability and death resulting from injuries sustained in bicycling and related alternative transportation crashes are a serious threat to the public health, welfare, and safety of the people of the City of Starkville; and

WHEREAS, the prevention of such disability and death is a goal of the enactment of such an ordinance; and

WHEREAS, head injuries are the leading cause of disability and death from bicycling and alternative transportation crashes; and

WHEREAS, the risk of head injury from such crashes is significantly reduced for participants who wear proper protective helmets; and

WHEREAS, the risk of head injury or of any other injury to a passenger on a bicycle or alternative transportation vehicle operated by another person would be significantly reduced if any such adult or child-passenger sat in a separate seat, such as a saddle seat on a tandem bicycle or a child passenger seat designed for a bicycle, or alternative transportation vehicle;

NOW, THEREFORE be it ordained that the following is enacted by the Board of Aldermen for the City of Starkville,

Section 1. Short Title.

This Ordinance shall be known as the "Safety Helmet Ordinance."

Section 2. Purpose.

The purpose of this Act is to reduce the incidence of disability and death resulting from injuries incurred in bicycling or alternative transportation device crashes by requiring that while riding on such devices on the public roads, public bicycle paths, public areas and other public rights-of-way in the City of Starkville, all such operators and passengers wear protective safety helmets approved by the US Consumer Product Safety Commission; that all passengers who weigh less than forty (40) lbs or are less than forty inches (40") in height be seated in separate child passenger seats; and that no person who is unable to maintain an erect, seated position or is less than one year of age shall be a passenger on a restraining seat and all other passengers shall be seated on saddle seats.

Section 3. Definitions.

As used in this Act, the following terms have the following meanings:

- (a) "Alternative transportation" includes in-line skates, roller skates, Segways, skateboards, unicycles, motorcycles and ATVs
- (b) "Bicycle" means a human-powered vehicle designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a humanpowered vehicle designed to transport by pedaling which has two or more wheels where the vehicle is used on a public roadway, public bicycle path, public area or other public right-of-way.
- (c) "Child Passenger seat" means a seat, separate from that of the operator of a bicycle or alternative transportation, that is fastened securely to the frame of the means of transport and is adequately equipped to protect such passenger from the moving parts of the equipment.
- (d) "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
- (e) "Operator" means a person who travels on a bicycle or alternative transportation standing or

seated on a saddle seat from which that person is intended to and can pedal and control the device.

(f) "Other public right-of-way" means any right-of-way other than a public roadway, public area or public bicycle path that is under the jurisdiction and control of the City of Starkville and is designed for use and used by vehicular and/or pedestrian traffic.

(g) "Passenger" means any person who travels on a bicycle or alternative transportation in any manner except as an operator.

(h) "Protective safety helmet" means a piece of headgear which meets or exceeds the impact standards for protective safety helmets set by:

(i) the U.S. Consumer Product Safety Commission for headgear purchased on or after March 10, 1999, or

(ii) the American National Standards Institute (ANSI), the American Society of Testing and Materials (ASTM), or the Snell Memorial Foundation for headgear purchased before March 10, 1999.

(i) "Public Area" includes public roadways, paths, parks, trails, bicycle lanes or any right-of-way publicly owned facility or publicly owned property within the City of Starkville.

(j) "Public roadway" means a right-of-way under the jurisdiction and control of the City of Starkville for use primarily by motor vehicles.

(k) "Public bicycle path" means a right-of-way under the jurisdiction and control of the City of Starkville for use primarily by bicycles and pedestrians.

(l) "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.

(m) "Unicycle" means every device with a frame mounted over a single wheel propelled by pedals.

Section 4. Requirements for Helmet and Restraining Seat Use.

With regard to any bicycle or alternative transportation used on a public roadway, public bicycle path, or other public right-of-way or area:

(a) It shall be unlawful for any person to operate or be a passenger on a bicycle or alternative transportation device unless at all times when the person is so-engaged he or she wears a protective safety helmet of good fit fastened securely upon the head with the straps of the helmet.

(b) It shall be unlawful for any person to be a passenger on a bicycle or alternative transportation device unless all of the following conditions are met:

(i) the person is able to maintain an erect, seated position on the device and is at least one year of age;

(ii) except as provided in paragraph (iii), the person is properly seated alone on a saddle seat (as on a tandem bicycle); and

(iii) with respect to any person who weighs fewer than forty (40) pounds, or is less than forty inches (40") in height, the person can be and is properly seated in and adequately secured to a child passenger seat.

(c) It shall be unlawful for any parent or legal guardian of a person below the age of sixteen (16) to permit such person to operate or be a passenger on a bicycle or alternative transportation device in violation of subsection (a) or (b) of this section.

(d) It shall be unlawful to rent or lease any bicycle or alternative transportation device to or for the use of any person unless:

(i) the person is in possession of a protective safety helmet of good fit at the time of such rental or lease; or

(ii) the rental or lease includes a protective safety helmet of good fit, and the person intends to wear the helmet, as required by subsection (a), at all times while operating or being a passenger on the bicycle or alternative transportation device.

Section 5. Civil Penalties.

(a) Violation of this ordinance shall be subject to the jurisdiction of the Administrative Hearing

Officer of the City of Starkville. Violation of the ordinance shall result in a civil penalty as imposed by the Administrative Hearing Officer in accordance with the most current schedule to be published and maintained by the Code Compliance division of the Building, Codes and Planning Department and approved by the Board of Aldermen.

(b) Upon the issuance of a citation to an offender and where necessary a positive identification of the parent or legal guardian of any child, except as provided in subsection (b) below, any parent or guardian violating the requirement set forth in Section 4(c) shall be guilty of an administrative violation and upon conviction sentenced to pay an administrative fine of \$15, inclusive of all penalty assessments and court costs for the first violation, or shall have the opportunity to purchase an approved helmet as described in the ordinance above. Proof of such purchase shall be presented at the time of the hearing.

(c) In the case of a second and third conviction within a six month period the court may waive the fine inclusive of administrative court costs and upon a show of satisfactory proof that the convicted person has since the date of the first violation purchased or otherwise obtained, as appropriate, a protective safety helmet.

(d) Upon the finding of a third conviction and the passage of six months from the date of passage, the full fine schedule and administrative costs as published shall be applied in accordance with the findings of the Administrative Hearing Officer.

Section 6. Enforcement.

There shall be a six month period after the date of passage of the ordinance in which there will be issued two warning citations prior to the requirement for an administrative hearing process per Section 5 of this ordinance. A warning citation and when applicable, a regular citation may be written by any uniformed police officer or the uniformed code enforcement officer as authorized agents for the City of Starkville.

Section 7. Effective Date.

This Act shall be effective thirty (30) days from the date of enactment.

NOW THEREFORE, be it ordained by the Mayor and Board of Aldermen of the City of Starkville Mississippi, that this ordinance be adopted to preserve the general public health, safety, and welfare of the people of the City of Starkville Mississippi as stated above

UPON MOTION of _____, duly seconded by _____, the aforesaid Ordinance was put to a roll call vote with the Aldermen voting as follows:

Ben Carver voted: _____

Sandra Sistrunk, voted: _____

Eric Parker voted: _____

Richard Corey, voted: _____

Jeremiah Dumas voted: _____

Roy A'. Perkins, voted: _____

Henry Vaughn, voted: _____

ORDAINED AND ADOPTED, this the ___ day of _____, A.D., **2010** at the Regular Meeting of the Mayor and Board of Aldermen of the City of Starkville, Mississippi.

PARKER Y. WISEMAN, Mayor
MARKEETA OUTLAW, City Clerk
City of Starkville, Mississippi City of Starkville, Mississippi
(SEAL)