

99-O-12

AN ORDINANCE

**Amending Title 10, Chapter 9 of the City Code,
Relating to Bicycle Use in Alleys in the City of Evanston**

WHEREAS, Article VII, § 6 of the Illinois Constitution sets forth the powers of home rule units of government, and the City of Evanston is a home rule unit of government. Namely, a home rule unit may:

... exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals, and welfare; to license; to tax; and to incur debt.

; and

WHEREAS, the powers of a home rule unit such as the City are to be construed liberally pursuant to Article VII, § 6(m) of the Illinois Constitution, and the City's powers as a home rule authority are: "...to be given the broadest powers possible" *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992). A city's power to regulate and license for the protection of public health and safety is drawn directly from the Constitution, and any such power may only be expressly limited by the General Assembly. Article VII, § 6(i) of the Illinois Constitution; 131 Ill.2d at 230; and

WHEREAS, the expansive grant of the home rule mandate in Article VII of the Illinois Constitution is: "broad and imprecise in order to allow for great flexibility..." *City of Evanston v. Create, Inc.*, 85 Ill.2d 101 (1981)(Evanston's broadly construed home rule powers confirmed that Evanston's residential landlord tenant ordinance was constitutional). Indeed, the Supreme Court opined:

The city of Evanston is a densely populated and highly urbanized community... In accordance with the goals attempted to be achieved by the creation of home rule, the local governing body can create an ordinance specifically suited for the unique needs of its residents and is keenly and uniquely aware of the needs of the community it serves.

Id. at 113; and

WHEREAS, statutes are presumed constitutional and the burden of rebutting that presumption is on the party challenging the validity of the statute to clearly demonstrate a constitutional violation. *Napleton v. Village of Hinsdale*, 229 Ill.2d 296, 306 (2008); and

WHEREAS, a court has a duty to uphold the constitutionality of a statute/ordinance when reasonably possible, and if a statute's/ordinance's construction is doubtful, the court will resolve the doubt in favor the statute's/ordinance's validity. *Id.* citing to *People ex rel. Sherman v. Cryns*, 203 Ill.2d 264, 291 (2003); and

WHEREAS, the Illinois Supreme Court has long established that the unconditional repeal of a statute without a savings clause stops all pending actions where the repeal finds them. *Atkins v. Deere and Company*, 177 Ill.2d 222 (1997); and

WHEREAS, the City has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens; and

WHEREAS, pursuant to 65 ILCS 5/11-80-2 and -8, the City may regulate the use of alleys; and

WHEREAS, pursuant to the Local Government and Governmental Employees Tort Immunity Act, 745 ILCS 10/3-102(a), the City is immune for liability for

injuries sustained by any bicyclist that is not an intended and permitted user of certain City property, see also *Khalil v. City of Chicago*, 283 Ill.App.3d 161 (1st Dist. 1996); and

WHEREAS, pursuant to *Boub v. Township of Wayne*, 183 Ill.2d 520, 529 (1998), the legislative intent and judgment of the City of Evanston, as expressed in this Ordinance amending Title 10 of the City Code, is to state that bicyclists are not intended users of an alley, such expression which is controlling; and

WHEREAS, due to the 41.5 miles of paved alleys and 28.25 miles of unpaved alleys in the City of Evanston, it would be fiscally impracticable to upgrade and maintain all alleys to meet the special requirements of bicyclists operating bicycles in alleys; and

WHEREAS, it is necessary to clarify the City Code concerning bicycle use in City alleys; and

WHEREAS, the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*, specifically defines and ascribes different meanings to the words "bicycle," 625 ILCS 5/1-106, and "vehicle," 625 ILCS 5/1-217, such that the definition of vehicle excludes bicycles, and therefore as a matter of Illinois law, for many years individuals operating bicycles in Evanston have not and are not intended users of alleys; and

WHEREAS, the City of Evanston distinguishes between bicycles and vehicles in the City Code, and this Ordinance codifies the distinctions between bicycles and vehicles; and

WHEREAS, the City Council considered and adopted this Ordinance pursuant to its home rule, regulatory, and police powers, and, following its deliberations, adopted this Ordinance that is rationally related to legitimate government purposes; and

WHEREAS, it is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid, see *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: That the foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: That Title 10, Chapter 9 of the City Code is hereby amended as follows:

10-9-1: - DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this chapter:

ADULT:	Anyone seventeen (17) years of age or older.
BICYCLE:	Every device, other than a vehicle, propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than sixteen inches (16") in diameter, except scooters and similar devices.
FAMILY:	A unit which conforms to any of the definitions set forth in section 6-18-3 of this code.
JUVENILE:	Anyone under the age of sixteen (16) years of age.
ROADWAY:	The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

10-9-2: - REGISTRATION REQUIRED; ISSUANCE:

Persons who reside within the city and operate their bicycles on the public way shall register their bicycles by making application to the chief of police on a form provided by the city and shall pay a fee of fifty cents (\$0.50), and shall receive a license upon approval by the licensing authority. The license shall be permanently affixed to the left side of the vertical section of the frame under the seat. Licenses expire upon transfer of ownership, except when the transfer occurs within a family.

No person shall willfully remove, destroy or alter the manufacturer's serial number or any number used for registration or any bicycle license on any bicycle frame.

10-9-3: - UNREGISTERED BICYCLES:

The chief of police or his designee shall ticket unregistered bicycles. Upon receipt of proof of ownership and evidence of payment of the registration fee, a permanent registration plate shall be affixed to the bicycles and the ticket may be voided. Bicycles unclaimed by owner may be disposed of pursuant to section 9-7-3 of this code.

10-9-4: - OPERATION:

- (A) Every person operating a bicycle upon a roadway shall be granted all the rights and be subject to all of the duties applicable to the operator of a vehicle by the laws of this state except as to special regulations in this chapter and those provisions which by their nature have no application.
- (B) Every person operating a bicycle upon the roadway at less than normal speed of traffic shall ride as close as practicable to the right hand curb or edge of the roadway except when passing another vehicle proceeding in the same direction, when preparing for a turn, or when reasonably necessary to avoid conditions that make it unsafe to continue along the right hand curb or edge.
- (C) No bicycle riding on sidewalks is permitted in the central business district designated as D1, D2 and D3 districts in the proposed Evanston zoning ordinance or in any other district where signs prohibiting sidewalk riding are posted. When riding on sidewalks where permitted, such person shall yield the right of way to any pedestrian, shall give an audible signal before overtaking and passing such pedestrian, and shall have the bicycle under control at all times.
- (D) The operator of a bicycle shall not suddenly stop, slow down or turn without giving a legal arm signal. A continuous arm signal need not be given if the hand is needed in the control or continuous operation of the bicycle.
- (E) No bicycle shall be operated if its mechanical condition shall impair the safe operation of the bicycle.
- (F) No person shall operate a bicycle at a speed or in a reckless manner such that the safety of others is endangered.
- (G) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (H) No person operating a bicycle shall carry any package, bundle or article which prevents the use of both hands upon the handlebars or obstructs the operator's vision.

- (I) No person while operating a bicycle shall cling or attach himself or the bicycle to any other moving vehicle or object.
- (J) No bicycles shall be operated on a public roadway so as to obstruct motor vehicle traffic.
- (K) No person shall ride a bicycle on a public roadway or sidewalk while using any device which would impede awareness of auditory or visual warning signals.
- (L) No person shall ride a bicycle on a public roadway or sidewalk in a reckless manner, such as riding on one wheel or performing any other stunts.
- (M) Any person operating or riding a bicycle in any alley in the City of Evanston assumes the risk of operating that bicycle in any alley as that person shall not be considered to be an intended user of an alley. The City shall have no duty to upgrade and maintain alleys for purposes of bicyclists operating bicycles in alleys. Persons operating or riding a bicycle as an unintended user in an alley will not be liable for any fine under this subsection.

10-9-5: - EQUIPMENT:

- (A) Brakes: Every bicycle shall be equipped with a brake or brakes in good working order which will enable the operator to stop the bicycle within twenty five feet (25') from a speed of ten (10) miles per hour on dry, level, clean pavement.
- (B) Lamp; Reflector: No person may operate a bicycle on a public roadway, bicycle lane, or sidewalk during hours of darkness unless such bicycle is equipped with, or the operator is wearing, a lamp emitting a white light visible at least five hundred feet (500') to the front; and such bicycle shall also be equipped with a red reflector visible from a distance of five hundred feet (500') to the rear.
- (C) Siren Or Whistle Prohibited: A bicycle shall not be equipped with, nor shall any person use upon a bicycle, any siren or whistle.
- (D) Helmets: Every person under the age of eighteen (18) years shall wear a protective helmet that meets the standards promulgated by either the American National Standards Institute, the American Society for Testing, or the Snell Memorial Foundation, Inc., whenever that person is upon a public highway, sidewalk, bicycle path or other public right of way within the corporate limits of the city and is riding or being carried on any bicycle or any carrier attached to or pulled by a bicycle.

10-9-6: - PARKING:

No person shall park any bicycle in such a manner as to constitute a hazard to pedestrians, traffic or property.

10-9-7: - BICYCLE ROUTES:

The traffic engineer, by and with the consent of the city council, is authorized to designate certain streets or portions thereof as bicycle routes and/or may prohibit bicycle traffic. Upon such designation, signs shall be erected giving notice thereof. No person may ride upon a street, roadway or sidewalk upon which is posted a sign prohibiting bicycle traffic. Bicyclists operating or riding bicycles in an alley are not intended users of the alley.

10-9-8: - RENTAL AGENCIES:

A rental agency shall not rent or offer any bicycle for rent unless the rental agency properly registers the bicycle, attaches a license thereto, and such bicycle is equipped with the equipment required for safe operation.

10-9-9: - RESPONSIBILITY OF PARENT:

The parent or guardian of any juvenile shall not permit said juvenile to violate any of the provisions of this chapter. The parent shall cooperate with the police department in achieving compliancy with bicycle safety rules with said juvenile violator in his care.

10-9-10: - PENALTIES:

Any person who violates any of the provisions of this chapter shall be subject to the following penalties:

- (A) The violator will be given a leaflet on bicycle safety and asked to comply with bicycle regulations, or
- (B) For violators under the age of seventeen (17), a letter of reprimand shall be addressed to the offender and the parents/guardian of the offender. In addition, a warning or a ticket may be issued, if appropriate, or
- (C) Offenders may be subject to a fine in accordance with motor vehicle laws, provided that said fines are not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00) for each violation, or
- (D) For violations of subsections 10-9-4(A), (B), (D), (E) and (G) through (L) of this chapter which the issuing officer determines that a court appearance is not required, fine is ten dollars (\$10.00), with an additional penalty of five dollars (\$5.00) if paid after the expiration of ten (10) days from the day the ticket was

issued. If the officer determines that a court appearance is in order, e.g., because of the particular circumstances and/or because of the offender's history of bicycle related violations, the minimum fine shall be twenty five dollars (\$25.00) and the maximum shall be five hundred dollars (\$500.00).

- (E) For violation of subsection 10-9-4(C) of this chapter, in which the issuing officer determines that a court appearance is not required, the fine is fifteen dollars (\$15.00), with an additional ten dollars (\$10.00) if paid after the expiration of ten (10) days from the day the ticket was issued. If the officer determines that a court appearance is in order, e.g., because of the particular circumstances and/or because of the offender's history or bicycle related violations, the minimum fine shall be thirty five dollars (\$35.00) and the maximum shall be five hundred dollars (\$500.00).
- (F) For violation of subsection 10-9-4(F) of this chapter, in which the issuing officer determines that a court appearance is not required, the fine is twenty five dollars (\$25.00) with an additional ten dollars (\$10.00), if paid after the expiration of ten (10) days from the day the ticket was issued. If the officer determines that a court appearance is in order, the minimum fine shall be fifty dollars (\$50.00) and the maximum shall be five hundred dollars (\$500.00).

10-9-11: - ENFORCEMENT:

The chief of police and/or his designee has the power and responsibility for the enforcement of bicycle regulations.

SECTION 3: That Title 10, Chapter 1, Section 3 of the City Code is

hereby amended as follows:

10-1-3: - DEFINITIONS:

The following words and phrases when used in this title shall, for the purposes of this title, have the meanings respectively ascribed to them in this section, except when the context otherwise requires; in the event that no definition is provided herein for a word or phrase used in this title, the meaning shall be determined by reference to the Illinois Motor Vehicle Code, 625 ILCS 5/ et seq., as amended.

ALLEY:	A public way within a block, generally giving access to the rear of lots or buildings and not used for general traffic circulation.
BICYCLE:	Every device, other than a vehicle, propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than sixteen inches (16") in diameter, except scooters and similar devices.
BUSINESS	The territory contiguous to and including a street when within any six

DISTRICT:	hundred feet (600') along such street there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred feet (300') of frontage on one side or three hundred feet (300') collectively on both sides of the street.
COMMERCIAL VEHICLE:	Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for hire or not for hire, not including, however, a recreational vehicle not being used commercially.
CONTROLLED ACCESS HIGHWAY:	Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.
CROSSWALK:	(A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
	(B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface placed in accordance with the provisions in the manual adopted by the Illinois Department of Transportation, as authorized in ILCS 5/11-301 of the vehicle code.
DEALER:	Every person engaged in the business of buying, selling or exchanging vehicles and who has an established place of business for such purpose in this state.
DRIVER OR OPERATOR:	Every person who drives or is in actual physical control of a vehicle.
HIGHWAY:	The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
INTERSECTION:	(A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.
	(B) Where a highway includes two (2) roadways forty feet (40') or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection.
	(C) The junction of an alley with a street or highway does not constitute an intersection.
LANED ROADWAY:	A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.
LOADING ZONE:	The space adjacent to a curb reserved for the exclusive use of vehicles

	during the loading or unloading of passengers or material.
MERGING TRAFFIC:	A maneuver executed by the drivers of vehicles on converging roadways to permit entry into the junction thereof, wherein the driver of each vehicle involved is required to adjust his vehicular speed and lateral position so as to avoid a collision with any other vehicle.
MOTOR ASSISTED:	A device capable of being propelled by human and motorized power.
MOTOR ASSISTED BICYCLE:	A device capable of being propelled by both human and motorized power upon which any person may ride, having two (2) tandem wheels.
MOTOR ASSISTED PEDICYCLE:	A pedal driven device capable of being propelled by human and motorized power upon which any person may ride, having two (2) tandem wheels.
MOTOR VEHICLE:	Every vehicle which is self-propelled, but not operated upon rails.
MOTORCYCLE:	Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.
MOTORIZED ROLLER-SKATES:	Devices worn on the feet with a combination of wheels which are motorized. This definition includes devices commonly known as in-line skates.
MOTORIZED SCOOTER:	Any electric or gas driven wheeled scooter, motor driven cycle, or other similar motor driven vehicle for which the state of Illinois does not issue a title document, and does not issue license plates or registration documents.
MOTORIZED SKATE-BOARDS:	Devices with two (2) or more tandem axles and a combination of wheels connected by a platform designed for standing which are motorized.
NATIONAL HOLIDAY:	January 1, the third Monday in January (Martin Luther King Day), the last Monday in May (Memorial Day), July 4, the first Monday in September (Labor Day), the fourth Thursday in November (Thanksgiving Day) and December 25. When a holiday falls on a Saturday it shall be observed on the previous Friday. When a holiday falls on a Sunday it shall be observed on the following Monday.
NEGLIGENT:	Without due care and caution, or without due regard to the width, grade, curves, corners, traffic and other attendant conditions of streets, highways, roads or other ways used for vehicular traffic within the city limits.
OWNER:	A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this title.

PARK OR PARKING:	The standing of a vehicle, whether occupied or not, otherwise than when temporarily and actually engaged in loading or unloading merchandise or passengers.
PASSENGER VEHICLE:	A motor vehicle, not a truck or recreational vehicle, designed for the carrying of not more than ten (10) persons.
PEDESTRIAN:	Any person afoot.
PERSON:	Every natural person, firm, copartnership, association or corporation.
POLICE OFFICER:	Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
PRINCIPAL PLACE OF BUSINESS:	The place where any person transacts his principal business, or where he makes up and approves his payroll, maintains a central file of records and maintains his principal executive offices. In the event that not all of these functions are performed in one place, then that place where a majority of such functions are performed or the place where such person does in fact principally transact and control his business affairs.
PRIVATE ROAD OR DRIVEWAY:	Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons.
RAILROAD:	A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
RAILROAD SIGN OR SIGNAL:	Any sign, signal or device other than an official traffic control device erected in accordance with the laws governing same and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
RAILROAD TRAIN:	A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.
RECKLESSNESS:	A person is reckless or acts recklessly when he consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. Actual damage to person or property is not a prerequisite to a determination that a person acted "recklessly".
RECREATIONAL VEHICLE:	Every vehicle originally designed or permanently converted and used for living quarters or for human habitation and not used as a commercial vehicle, including any house car, house trailer, camper or private living coach.
RESIDENCE DISTRICT:	The territory contiguous to and including a street not comprising a business district when the property on such street for a distance of three hundred feet (300') or more is in the main improved with residences or residences and buildings in use for business.
RIGHT OF WAY:	The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

ROAD TRACTOR:	Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.
ROADWAY:	That portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.
SAFETY ZONE:	The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
SCHOOL BUS:	Every motor vehicle owned or operated by or for a public or governmental agency or by or for a private or religious organization for the transportation of pupils in connection with any school activity.
SEMITRAILER:	Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
SIDEWALK:	That portion of a street between the curb line, or the lateral lines of roadway, and the adjacent property line intended for the use of pedestrians.
STAND OR STANDING:	Halting of a vehicle, whether occupied or not, otherwise than when temporarily and actually engaged in receiving or discharging passengers.
STOP:	When required, means complete cessation from movement.
STREET:	The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
TAXICAB:	Any public passenger vehicle transporting passengers for hire on a trip basis to or from a destination as directed by the passenger. The vehicle must be equipped with a taximeter.
THROUGH STREET OR HIGHWAY:	Every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to either a stop sign or a yield sign, when such signs are erected as provided in this title.
TRAFFIC:	Pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purposes of travel.
TRAFFIC CONTROL DEVICE:	Any sign or marking erected, installed, painted or affixed to or adjacent to a roadway or entries to roadways giving notice to vehicle operators of the existence of restrictions on the use, movement, parking or standing of any motor vehicle, pursuant to the provisions of this title or the Illinois vehicle code ^[247] .

TRAFFIC CONTROL SIGNAL:	Any device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.
TRAILER:	Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
TRUCK:	Every motor vehicle designed, used or maintained primarily for the transportation of property.
TRUCK TRACTOR:	Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
VEHICLE:	Every device in, upon or by which any person or property is or may be transported or drawn upon a street, except devices moved by human power or used exclusively upon stationary rails or tracks.
YIELD RIGHT OF WAY:	When required by an official sign, means the act of granting the privilege of the immediate use of the intersecting roadway to traffic within the intersection and to vehicles approaching from the right or left, but when the roadway is clear, may proceed into the intersection.

SECTION 4: That if any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable. The terms and provisions of this Chapter shall be liberally construed so as to effectuate the purposes set forth in this Ordinance. Each and every recital and legislative finding regarding this Chapter is to be construed and interpreted severally.

SECTION 5: That all ordinances or parts of ordinances in conflict herewith are hereby unconditionally repealed in their entirety. It is the intent of the City of Evanston City Council that this repeal of all prior ordinances shall operate as a bar to any action accruing on or after the effective date of this Ordinance. No action accruing after the effective date of this Ordinance may be maintained.

SECTION 6: That this Ordinance 99-O-12 shall be in full force and effective as of June 1, 2010, *nunc pro tunc*.

SECTION 7: That in accordance with the Tort Immunity Act, 745 ILCS 10/3-102(b), the City shall not be deemed to have constructive notice of a condition in an alley as it pertains to unintended bicyclists in alleys, because the City does not maintain an inspection system to discover a condition which may affect unintended bicyclists in alleys.

SECTION 8: That the findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: September 24, 2012


Adopted: October 8, 2012

Approved:

October 11, 2012


Elizabeth B. Tisdahl, Mayor

Attest:


Rodney Greene, City Clerk

Approved as to form:


W. Grant Farrar, Corporation Counsel