

Robert J. La Trémouille

ATTORNEY AT LAW

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November 17, 1996

Commissioner of Police
City of Cambridge

RE: Deadly Missiles Flying Next to Human Bodies in Cambridge
My letter of November 14, 1996

Mr. Commissioner:

I strongly apologize to you for the tone of my letter of November 14.

The letter has been construed as attacking you. I very strongly regret that my letter gives this impression because it most definitely was not intended to do so. What it was intended to do was correct a rather clearly incorrect communication to you as to the status of the law concerning bicycle savages trying to kill people on sidewalks.

The situation in Cambridge on a number of issues tends to be a lot better understood by newcomers who come into the town fresh than by people immersed in the process. Those with the best understanding are people who see the bizarre goings-on without having somebody who is deeply involved loudly stating that the abnormal and even bizarre situation in our city is normal. Problem issues include development, landlord-tenant relations, bicycles and "good government"

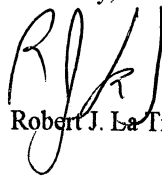
With regard to bicycles, it appears that one bureaucrat has looked at the city's traffic regulations (the green book) and come up with an interpretation which pleases pro-development types. The interpretation does not seem to have basis in reality. This is a fact which key individuals find irrelevant.

This bizarre, apparently baseless position is repeatedly stated as **THE TRUTH**. It does not matter how false **THE TRUTH** sure appears to be, the apparent falsity of **THE TRUTH** is irrelevant.

The purpose of my letter was to communicate reality to you. The tone of my letter came from the fact that proponents of **THE TRUTH** tend to scare everyone around them away from reality. It tends to be necessary to adopt a strong tone in response because the bizarre position would otherwise be the only one heard.

Once again, welcome to Cambridge. Look out for the purveyors of **THE TRUTH**. Find out the truth yourself.

Sincerely,



Robert J. La Trémouille

cc: City Council, individually and official copy

Addendum / Further Corrections::

1. The Cambridge woman who was laid up for six months was hit on the sidewalk.
2. The following appears on page 64 of the green book, quoting Section 9 of Chapter 455 of the Acts of 1961, giving the Traffic Director his powers:

At any time after the expiration of four years from the date of acceptance of this act, such acceptance may be revoked by a two thirds vote of the city council. . . .

3. Hey, I got that letter in to you and to the city clerk at 7:45 AM on Thursday after a 3 PM Wednesday meeting I didn't even attend.

16
RECEIVED BY
OFFICE OF CITY CLERK

96 NOV 14 AM 7:47

CAMBRIDGE MA.

1.41 STREET OR 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 traffic.

1.50 VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power or used exclusively upon stationary rails or tracks.

The above indicates to me that, if we had responsible city employees in charge, people would not have to fear for their lives while walking on sidewalks. We are talking about silent, deadly missiles flying through the air within inches of unsuspecting human beings. We are talking about bicycles.

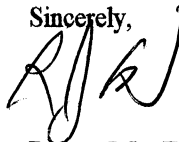
Also enclosed is a copy of General Laws chapter 85, §11B, 11C and 11D, with a blowup of the important provisions of section 11B, which rather clearly prohibits sidewalk bicycling in all business districts (as bicycles are subject to the same laws as all vehicles). That provision also allows the Cambridge regulation which extends the general prohibition of vehicles on sidewalks to prohibit all vehicles including bicycles on all sidewalks.

Among other problems at last night's meeting, there was confusion as to fines possible for bicycle infractions. The fine comes from the last paragraph of §11B.

Review of the fine print in the back of the Green Book (traffic regulations) indicates that the Traffic Commissioner's powers under law are stated there. The Traffic Commission, clearly, has no power to promulgate laws which violate state law.

Once again, bicycle savagery is treated as a development issue in Cambridge. We have a severe problem with our city government, as you can see in the apparently false statements on bicycle law, in that our city government has a rather clear lack of respect for inconvenient laws (and ethics) on development issues.

Sincerely,



Robert J. La Trémouille

P.S. Also enclosed, for your information is a list of statutory improvements I have in mind. These are based on a package given to the city council on October 21. They differ only in that I have done further work on a possible exemption for small children.

cc: City Council

16
Robert J. La Trémouille

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November 14, 1996

Commissioner of Police
City of Cambridge

Mr. Commissioner:

RE: Deadly Missiles Flying Next to Human Bodies in Cambridge

It is my understanding that, last evening, you demonstrated a lack of understanding as to bicycle law in the City of Cambridge. You should be aware that bicyclists attacking pedestrians and others is a matter treated by some as a development issue in Cambridge. We have a severe problem on development issues. Statements and actions are common from our government on any number of issues which are at severe variance with law. Part of the problem is demonstrated in the repeated false statements made as to bicycle law.

Last night you repeated the position of city bureaucrats that it is legal to propel silent, deadly missiles, bicycles, within inches of people's bodies on sidewalks except in Harvard and Central Square. A bicyclist, of course, killed a woman in Portland, ME in August and one woman who lives within three blocks of city hall was laid up for six months by another savage on a bicycle. The latter struck her in the street. She was one of the people who spoke at the Senior Center last night. I have also been hearing rumors of another killing in Florida.

City bureaucrats base their support for bicyclists trying to kill pedestrians on sidewalks on the appearance of certain definitions in the traffic regulations. Those definitions define Harvard and Central Square.

There certainly are definitions in the traffic regulations with regard to Harvard and Central Square. Those definitions are sections 1.8 and 1.20. Nowhere in the Traffic Regulations do those definitions appear to be used. In particular, they are not used in Article XII, Bicycle Regulations, copy enclosed. Definitions which are not used have no meaning. In particular, the appearance of those definitions gives no support whatsoever for the claim that it is acceptable for bicyclists to try to kill pedestrians on sidewalks outside of Central and Harvard Squares.

Please also note the following sections:

12.1 TRAFFIC LAWS APPLY TO PERSONS RIDING BICYCLES

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic regulations of this city applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and regulations which by their nature can have no application.

9.19 VEHICLE SHALL NOT BE DRIVEN ON A SIDEWALK

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

1.37 SIDEWALK

That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

**ARTICLE XII
REGULATIONS FOR BICYCLES**

**Sec. 12.1 TRAFFIC LAWS APPLY TO PERSONS
RIDING BICYCLES**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic regulations of this city applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and regulations which by their nature can have no application.

Sec. 12.2 OBEDIENCE TO TRAFFIC-CONTROL DEVICES

- (a) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (b) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

Sec. 12.3 RIDING ON BICYCLES

- (a) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Sec. 12.4 RIDING ON ROADWAYS AND BICYCLE PATHS

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

Sec. 12.5 EMERGING FROM ALLEY OR DRIVEWAY

The driver of a bicycle emerging from an alley, driveway or building shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

Sec. 12.6 CARRYING ARTICLES

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

Sec. 12.7 PARKING

No person shall park a bicycle upon a street other than upon the roadway against the curb; or upon the sidewalk, in a rack to support the bicycle, against a building, or at the curb, in such manner as to afford the least obstruction to pedestrian traffic.

Sec. 12.8 LAMPS AND OTHER EQUIPMENT ON BICYCLES

- (a) Every bicycle when in use during the period from one half an hour after sunset to one half an hour before sunrise, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

Massachusetts General Laws,
Chapter 85, Section 11B:

Every person operating a bicycle . . . shall be subject to the traffic laws and regulations of the commonwealth . . . except that: (1) the bicycle operator may keep to the right when passing a motor vehicle which is moving in the travel lane of the way, (2) the bicycle operator shall signal by either hand his intention to stop or turn, and (3) bicycles may be ridden on sidewalks outside business districts when necessary in the interest of safety, unless otherwise directed by local ordinance. A person operating a bicycle shall yield the right of way to pedestrians and give an audible signal before overtaking and passing any pedestrian. . . .

Taken from my flier at the Police Meeting,
Enlarged for Lavonne's convenience.

district court having jurisdiction, at any time during office hours, not later than twenty-one days after the date of such violation. If the offender is under sixteen years of age, the officer may give such notice to the parent or guardian of the offender. All tags shall be prepared in triplicate and shall be prenumbered.

Said tag shall contain but shall not be limited to the following information: the registration number of the bicycle, if any; the name and address of the offender, if served with notice in hand at the time of such violation; the date, time, place and nature of the violation; the amount of the fine; instructions for the return of the tag; and a notice which reads as follows: This notice may be returned by mail, personally, or by an authorized person, and if property returned shall be deemed non-criminal. A court hearing may be obtained upon the written request of the offender. Failure to obey this notice within twenty-one days after the date of the violation will result in the offender's appearance in court on a criminal complaint. Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall, if possible, deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of violation, said copy shall be mailed or delivered by the officer, or by his commanding officer or any person authorized by said commanding officer to the offender's last known address. The mailing of such notice by the officer, his commanding officer or the person so authorized, to the said offender shall be deemed a sufficient notice, and a certificate of the officer or person stating that such notice has been mailed in accordance with this section shall be deemed prima facie evidence thereof, and shall be admissible in any court of the commonwealth as to the facts contained therein.

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such a violation taken cognizance of during such tour. Said commanding officer shall retain and safely preserve one of such copies and shall at a time no later than the beginning of the next court day after receipt of such notice deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court, as provided herein, may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the clerk of the court. Returning the notice to the clerk of court and payment of the fine established shall operate as a final disposition of the case. Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the benefits of the procedure established by this section, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint against the offender and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the mailing of such notice, a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the mailing of such notice the court shall issue a warrant for his arrest. The notice to appear, provided herein, shall be printed in such form as the chief justice for the Boston municipal court department and the chief justice for the district court department may prescribe for their respective departments; provided, however, that any city or town may request that the notice prepared for said city or town pursuant to section twenty A or section twenty C of chapter ninety be so revised or adapted that said notice may also be used for the notice provided for in this section.

All fines collected pursuant to this section shall be used by the respective cities and towns for the development and implementation of bicycle programs.

§ 11D. Bicycle helmets; display of sign requiring use

Every person engaged in the retail business of selling or renting bicycles shall display in an area conspicuous to customers of such business a sign containing the following statement: "Massachusetts law requires that a bicycle helmet be worn by persons twelve years of age and under who are operators or passengers on a bicycle."

By posting such a sign, such retail business shall be deemed to be in full compliance with this act, and no liability shall be incurred in the event that said helmet is not worn.

16

(9) During the period from one-half hour after sunset to one-half hour before sunrise, the operator shall display on each pedal of his bicycle a reflector, or around each of his ankles reflective material visible from the front and rear for a distance of six hundred feet, and reflectors or reflective material, either on said bicycle or on the person of the operator, visible on each side for a distance of six hundred feet, when directly in front of lawful lower beams of headlamps of a motor vehicle. This clause shall not prohibit a bicycle or its operator to be equipped with lights or reflectors in addition to those required by clauses (8) and (9).

(10) No bicycle shall be operated upon a way with handlebars so raised that the operator's hands are above his shoulders while gripping them. Any alteration to extend the fork of a bicycle from the original design and construction of the bicycle manufacturer is prohibited.

(11) The operator of a bicycle shall report any accident involving either personal injury or property damage in excess of one hundred dollars, or both, to the police department in the city or town in which the accident occurred.

Any federal product safety standards relating to bicycles which are more stringent than the requirements of clauses (7) through (10), inclusive, shall supersede said requirements.

Competitive bicycle races may be held on public ways, provided that such races are sponsored by or in cooperation with recognized bicycle organizations and, provided further, that the sponsoring organization shall have obtained the approval of the appropriate police department or departments. Special regulations regarding the movement of bicycles during such races, or in training for races, including, but not limited to, permission to ride abreast, may be established by agreement between the police department and the sponsoring organization.

Violations of any provision of this section except violations of subclause (iii) of clause (2) shall be punished by a fine of not more than twenty dollars. The parent or guardian of any person under age eighteen shall not authorize or knowingly permit any such person to violate any of the provisions of this section. A bicycle operated by a person under the age of eighteen in violation of this section may be impounded by the police department, or in a town which has no police department, by the selectmen, for a period not to exceed fifteen days. A violation of any provision of this section by a minor under the age of eighteen shall not affect any civil right or liability nor shall such violation be considered a criminal offense.

§ 11C. Bicycle law violations; civil disposition; notice

Every city and town shall, pursuant to clause (16B) of section twenty-one of chapter forty, provide a non-criminal ticketing procedure against violators of the provisions of sections eleven A and eleven B and of any rule, regulation, ordinance or by-law of the city or town regulating the registration, equipment and operation of bicycles. Cities and towns shall print notices of such violations in tag form in the same manner as notices pursuant to section twenty A or twenty C of chapter ninety are printed for such cities and towns.

A police officer taking cognizance of any such violation may request the offender to state his true name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than twenty nor more than fifty dollars. Any such offender so refusing to state his name and address may be arrested without a warrant, but no person shall be arrested without a warrant for any other such violation.

Every police officer who takes cognizance of such violations may give the offender a notice, which shall be in tag form, as provided in this section, to appear before the clerk of the

REGULATIONS AND BY-LAWS RELATIVE TO WAYS AND BRIDGES

§ 11B. Bicycles; operation and equipment; regulations; federal product safety standards, effect; races; violations; penalties

Every person operating a bicycle upon a way, as defined in section one of chapter ninety, shall have the right to use all public ways in the commonwealth except limited access or express state highways where signs specifically prohibiting bicycles have been posted, and shall be subject to the traffic laws and regulations of the commonwealth and the special regulations contained in this section, except that: (1) the bicycle operator may keep to the right when passing a motor vehicle which is moving in the travel lane of the way, (2) the bicycle operator shall signal by either hand his intention to stop or turn, and (3) bicycles may be ridden on sidewalks outside business districts when necessary in the interest of safety, unless otherwise directed by local ordinance. A person operating a bicycle on the sidewalk shall yield the right of way to pedestrians and give an audible signal before overtaking and passing any pedestrian.

Operators of bicycles shall be subject to the following regulations:

(1) The operator shall ride single file on any way except when passing.

(2)(i) The operator shall ride only upon or astride a permanent and regular seat attached to the bicycle; a passenger shall ride only upon or astride a permanent and regular seat attached to the bicycle or to a trailer towed by the bicycle.

(ii) The operator shall not transport another person between the ages of one to four years, or weighing forty pounds or less, on a bicycle, except in a "baby seat", so-called, attached to the bicycle, in which such other person shall be able to sit upright; provided, however, that such seat is equipped with a harness to hold such other person securely in the seat and that protection is provided against the feet or hands of such person hitting the spokes of the wheel of the bicycle; or upon or astride a seat of a tandem bicycle equipped so that the other person can comfortably reach the handlebars and pedals. The operator shall not transport any person under the age of one year on said bicycle.

(iii) Any person twelve years of age or younger operating a bicycle or being carried as a passenger on a bicycle on a public way, bicycle path or on any other public right-of-way shall wear a helmet. Said helmet shall fit the person's head, shall be secured to the person's head by straps while the bicycle is being operated, and shall meet the standards for helmets established by the American National Standards Institute (ANSI Z 90.4) or subsequent standards or the Snell Memorial Foundation's nineteen hundred and eighty-four standard for use in bicycling or subsequent standards. These requirements shall not apply to a passenger if the passenger is in an enclosed trailer or other device which adequately holds the passenger in place and protects the passenger's head from impact in an accident.

(iv) A violation of clause (ii) or (iii) shall not be used as evidence of contributory negligence in any civil action.

(3) The operator shall give an audible warning whenever necessary to insure safe operation of the bicycle; provided, however, the use of a siren or whistle is prohibited.

(4) The operator shall park his bicycle upon a way or a sidewalk in such a manner as not to obstruct vehicular or pedestrian traffic.

(5) The operator shall not permit the bicycle to be drawn by any other moving vehicle. The operator shall not tow any other vehicle or person, except that bicycle trailers properly attached to the bicycle which allow for firm control and braking may be used.

(6) The operator shall not carry any package, bundle or article except in or on a basket, rack, trailer or other device designed for such purposes. The operator shall keep at least one hand upon the handlebars at all times.

(7) Every bicycle operated upon a way shall be equipped with a braking system to enable the operator to bring the bicycle traveling at a speed of fifteen miles per hour to a smooth, safe stop within thirty feet on a dry, clean, hard, level surface.

(8) During the period from one-half hour after sunset to one-half hour before sunrise, the operator shall display to the front of his bicycle a lamp emitting a white light visible from a distance of at least five hundred feet, and to the rear of said bicycle either a lamp emitting a red light, or a red reflector visible for not less than six hundred feet when directly in front of lawful lower beams of headlamps on a motor vehicle. A generator powered lamp which emits light only when the bicycle is moving shall meet the requirements of this clause.

Proposals for Home Rule Petition to Respond to Bicycle Lawlessness on the Streets and Sidewalks of the City of Cambridge.

16

Robert J. La Trémouille to the Cambridge City Council
October 21, 1996, modified November 14, 1996

1. Require registry photo identification to be carried by bicyclists over ____ years old. Identification would be checked only if pulled over for other reasons, as is the situation for seat belts.
2. Allow bicycles to be impounded if vehicle or operator is not capable of safe operation, in the same manner as an automobile. Require impounding if operator not carrying identification when checked or if bicycle is being operated at night without a light.
3. Prohibit riding on all Cambridge sidewalks, on walkways in parks and on private land in accordance with the wishes of the owner. Possibly allow relaxation of prohibition by vote of the city council, not delegable, for children under six years of age on sidewalks in specified residential areas zoned C-1 or more restrictive, if said children are under the direct supervision and control of a person 18 years of age or older. If City Council exercises relaxation, City Council would be required to make specific findings supporting the action.
4. Allow the Court to prohibit bicycle use for specified periods for violations of law, plus monetary fines, plus jail time for repeated offenses, particularly for riding during a prohibition.
5. Make monetary fines same as for automobiles.

I repeat my willingness to do the legal drafting.

Consent Communication #16

S-Jeb

Communication was received from Robert J.
LaTremouille, regarding sidewalk bicycling in the
City of Cambridge.

In City Council November 18, 1996

PLACED ON FILE