



COTTAGE GROVE PARKS, RECREATION AND
NATURAL RESOURCES COMMISSION

September 11, 2023

1. Call to Order
2. Roll Call
3. Approval of the Agenda
4. Action Items
 - 4.A Adult Use Cannabis Regulations
 - 4.B Recreational Electronic Vehicle Usage
 - 4.C Mississippi Dunes Park Naming (Parks Only)
5. Adjournment



To: Parks Commission and Public Safety Commission
From: Kori Land, City Attorney
Date: September 11, 2023
Subject: Adult Use Cannabis Regulations – Prohibition on Public Property
Penalties for underage use

BACKGROUND

The City enacted CBD regulations for licensing and zoning in 2022, which authorized retail establishments to sell CBD products (now identified as “low potency cannabis”) in certain zoning districts (B3, PB, and MU). CBD products are hemp-derived and can contain no more than .3% THC. These products are typically being sold as THC beverages and edibles. It is illegal for anyone under 21 to use CBD products. The City has issued only one license to a CBD retail establishment, which is located in the MU district near Target/Cub. There are no other businesses licensed or authorized to sell CBD products in the City.

In 2023, the legislature enacted a law legalizing Adult Use Cannabis (over .3% THC), which also includes regulations for CBD products. However, the Office of Cannabis Management (“OCM”), which will be the regulatory agency responsible for licensing all levels of cannabis, will not be ready to issue licenses for *any* cannabis businesses until approximately January 2025. The legislation is a 320-page document and contains many confusing authorizations, prohibitions and effective dates. One of the sections that is causing some consternation involves the use of cannabis, which while legal to use, is not legal to sell. The law provides specific locations where it is legal to use/consume cannabis. But again, to cause confusion, there is no penalty for violating that law. Similarly, it is illegal for anyone under 21 to use/consume cannabis. However, there is no penalty for violating that part of the law either. Cities are now being faced with questions as to whether they want to impose penalties.

When asked if they wanted to adopt ordinances for these specific areas of the legislation, the City Council requested that the Commissions weigh in and provide a recommendation to the Council for consideration.

Prohibition on Use in Public Places

The new law authorizes the use of Adult Use Cannabis by anyone 21 and older, but only in the following places:

1. A private residence
2. Private property with permission of the owner (not a place open and accessible to the public)
3. A business licensed by the OCM for on-site consumption. (will not happen until 2025)

But since the new law has no penalty for using adult cannabis outside of these approved locations, that means we have no mechanism to enforce it, except by request. If we adopt an ordinance, the penalty can be no more than a petty misdemeanor.

The language proposed to the Council was similar to this:

Prohibition. No person shall vaporize or smoke cannabis flower, cannabis products, artificially derived cannabinoids, or hemp-derived consumer products on public property or in a public place.

DISCUSSION – PUBLIC USE

Your discussion regarding the prohibition in public places should involve the following:

- Should the City adopt an ordinance at all? If yes,
 - What does “public place” include; and
 - What is the recommended fine?

Public Place

I prepared the following language to distinguish between “public place” and “public property:”

PUBLIC PLACE: Property that is generally open to or accessible by the public, and includes public property, but does not include those premises licensed by the State of Minnesota to permit on-site consumption.

PUBLIC PROPERTY: Property, real and personal, that is owned, managed, or controlled by the City, including, but not limited to: City buildings and all the land thereon, parking lots, parks, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles and city equipment.

A “public place” is open and accessible to the general public, such as a commercial parking lot or private sidewalk around a shopping center. It is private property, because it is not owned by the City, but it is under private ownership that gives the public access. This definition of “public place” includes “public property” as a subset of “public place.” It should be noted that public use of cannabis is prohibited in any area where the Clean Indoor Air Act applies, so if you cannot smoke tobacco in a building, you cannot smoke cannabis either.

“Public property” is owned by the City or controlled by the City, such as City-owned unimproved land, sidewalks, parks, City buildings as well as areas surrounding them.

Discuss whether the ordinance is needed, then discuss the definitions and provide feedback on any suggested language changes.

Penalty

The legislature specifically stated that the penalty for use in public could be no more than a petty misdemeanor. A petty misdemeanor is an “offense” under the law, not a crime. It carries no long-

term criminal record or criminal history implications. It is similar to getting a parking ticket. A petty is punishable by a maximum \$300 fine.

If you decided the ordinance is recommended, then discuss the appropriate fine for use in public places.

DISCUSSION – Penalty for Underage Use (under 21)

While it is illegal for anyone under 21 to use cannabis (CBD or Adult), the new legislation again, does not include a penalty. This means there is no way to enforce violations for anyone under 21 unless the city adopts an ordinance. Proposed language:

CANNABIS USE BY ANYONE UNDER 21. Use of a cannabis flower, cannabis product, lower-potency hemp edibles and hemp-derived consumer products by anyone under 21 years of age is prohibited. A violation is a [petty misdemeanor] [misdemeanor].

It should be noted that under state law, underage consumption of alcohol is a *Misdemeanor* with a mandatory minimum fine of \$100. A misdemeanor is a crime and does create a criminal history for the violator. A misdemeanor is punishable by a maximum of \$1,000 fine and/or 1 year in jail. It should be noted that all ordinance violations (trash, junk cars, building permit violations) are a misdemeanor unless they are specifically designated as a petty misdemeanor.

Discuss:

- Should there be a penalty for underage use of cannabis? If yes,
 - Should it be a petty misdemeanor or misdemeanor; and
 - What is the recommended fine?

I will be available for questions at the meeting.



To: Parks, Recreation and Natural Resources Commission
Public Services Commission

From: Zac Dockter, Parks and Recreation Director

CC: Ryan Burfeind, Public Works Director
Pete Koerner, Public Safety Director
Jennifer Levitt, City Administrator
Greg Rinzel, Public Safety Captain
Kori Land, City Attorney

Date: September 8, 2023

Subject: Recreational Electronic Vehicle Usage Workshop

Introduction

Staff has been studying the increased popularity of recreational electronic vehicle usage within the City's parks, trails, and public right of ways. As such, it is an opportune time for staff to discuss with Commissioners an ordinance review to assure recreational and safety goals are achieved for Cottage Grove. The workshop is designed to provide context and explore the topic between the Parks and Public Services Commission. Based on feedback from the workshop, staff will work with Administration and our Attorney to draft potential ordinance changes. This memo aims to educate Commissioners on:

1. Providing context on why this is an important issue to discuss (arguments from all sides)
2. Defining recreational electronic vehicle types
3. Current City Ordinance
4. Public Safety overview of current laws across multiple jurisdictions
5. Differentiating between recreational trails, transportation trails and public right of way designs

Ultimately, we want to use the workshop to engage with the Commissioner to understand issues or concerns being experienced in the community. This is an issue that will likely have pros and cons from all angles depending on how the decisions (or lack thereof) impacts their daily use of recreational equipment, parks, trails, and roads. We anticipate this discussion to take at least a few meetings with multiple stakeholders working towards the end-goal of developing a draft ordinance for City Council to consider that aptly manages this emerging trend. Staff will give a presentation highlighting this information at the joint workshop and the City Attorney will also be in attendance to help answer legal questions.

A list of links below highlights some of the challenges and conversations regarding this recent trend and why it is a good time for Cottage Grove to begin its' discussion on the topic:

<https://www.fortunebusinessinsights.com/electric-e-bike-market-102022>

https://wsd-pfb-sparkinfluence.s3.amazonaws.com/uploads/2020/05/E-Bike-Law-Handouts_MN_2020.pdf

<https://www.federalregister.gov/documents/2020/11/02/2020-22239/increasing-recreational-opportunities-through-the-use-of-electric-bikes>

<https://www.kpcw.org/park-city/2023-07-28/park-city-mayor-no-plans-to-reverse-e-bike-rule-for-seniors>

<https://www.motorbiscuit.com/why-most-americans-are-fed-up-with-e-scooters-in-their-cities/>

Recreational Electronic Vehicle Types

The market for recreational electronic vehicles is constantly changing. For the most part, bicycles, scooters, segways and other such can be categorized under “Electric Micromobility Devices”. Micromobility devices are defined as any small, low-speed, electric-powered transportation device, including electric-assist bicycles (e-bikes), electric scooters (e-scooters), and other small, lightweight, wheeled electric-powered conveyances. Further, vehicles such as golf carts and All-Terrain Vehicles may warrant discussion beyond micromobility devices due to their increasing popularity in metropolitan areas. Below are more detailed descriptions on the most popular recreational units today. Staff invites the Commission to explore other devices that may be of current or future concerns at the workshop as well.

Electric Bicycles – Two or three wheels with saddle seat and pedals and electric motor (less than 750 watts) for power. These units typically do not have signaling devices for safety. There are three typical classifications for Electric bicycles referenced in many laws and regulations:

- “Class 1 electric-assisted bicycle” means an electric-assisted bicycle equipped with an electric motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.
- “Class 2 electric-assisted bicycle” means an electric-assisted bicycle equipped with an electric motor that is capable of propelling the bicycle without the rider pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.
- “Class 3 electric-assisted bicycle” means an electric-assisted bicycle equipped with an electric motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Electric Scooters - a device with two or three wheels, handlebars and a floorboard that can be stood upon while riding, which is solely powered by an electric motor and/or human power. Speeds can range up to 30mph but are typically 15-20mph. These units typically do not have signaling devices for safety.

Segway - a motorized personal vehicle consisting of two wheels mounted side by side beneath a platform that the rider stands on while holding on to handlebars, controlled by the way the rider distributes their weight. Standard segway speed is 15-20mph. These units typically do not have signaling devices for safety.

Golf Cart - a small, battery-powered or gas-powered, three- or four-wheel vehicle typically used for transporting one or two golfers and their equipment around a golf course. These vehicles are becoming more popular beyond golf for recreational use. Usually travel about 15mph but can get as high as 30mph on specialty designs. May or may not have signaling devices for safety.

All-Terrain Vehicle (ATV) - a small open motor vehicle with one or more seats and three or more wheels fitted with large tires, designed for use on rough ground. Most ATV's have a maximum speed of about 40mph but may reach speeds up to 60mph. ATV's are typically equipped with signaling devices for safety.

Cottage Grove Current Regulations

Current Cottage Grove ordinance as it pertains to motorized recreational equipment:

§ 6-5-1: DEFINITIONS:

The following words, terms, and phrases when used in this Chapter shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning:

PRIVATE PROPERTY: All lands other than public property.

PUBLIC PROPERTY: Lands owned by the United States, the State, or any political subdivision thereof.

RECREATIONAL MOTOR VEHICLE: Any motor vehicle designed for, used or capable of use for sport, amusement or recreation, whether or not eligible to be licensed for use upon streets and highways, including, but not limited to electric or liquid fuel powered scooters, minibikes, motorcycles, go-carts, hovercraft, snowmobiles converted to use with wheels, all-terrain vehicles or dune buggies, but not including motor vehicles designed for commercial, industrial or agricultural use, motorized foot scooters as defined by Minnesota Statutes Section 169.011, subdivision 46, electric-assisted bicycles as defined by Minnesota Statutes Section 169.011, subdivision 27, electric personal assistive mobility devices as defined by Minnesota Statutes Section 169.011, subdivision 26, and snowmobiles propelled by tracks.

§ 6-5-2: OPERATION RESTRICTIONS:

A. It shall be unlawful to operate a recreational motor vehicle within the City:

1. Upon private property without the written permission of the owner or person entitled to possession thereof. This restriction shall not apply to motor vehicles registered under Minnesota Statutes, Chapter 168 when operated by a driver licensed under Minnesota Statutes, Chapter 171 upon private driveways, roadways, lanes, ways, or parking lots where the operation of licensed motor vehicles is not expressly prohibited by posted notice.

2. Upon any school grounds, public park, playground, recreational area, golf course, or other public property, except at such times and places as the proper authorities may authorize or designate and subject to conditions imposed by such authorities. No operation whatsoever shall be allowed on the foregoing areas or places described in this subsection when the recreational motor vehicle does not bear a license plate evidencing registration as required under Minnesota Statutes, Chapter 168.

3. Upon any public sidewalk, walkway, or boulevard.

4. Upon the right of way of any public street or highway unless:

- a. The recreational motor vehicle is licensed under Minnesota Statutes, Chapter 168; and
- b. The operator is licensed under Minnesota Statutes, Chapter 171; and
- c. The vehicle is operated upon the improved portion of the right of way.

B. Exceptions: Recreational motor vehicles or other electric or motorized vehicles may be operated by a City employee or contractor in the performance of official duties.

C. It shall be unlawful to operate a motorized foot scooter within the City in locations identified in City Code 6-5-2.A.2 and 3. These devices may be operated upon any public right of way of any street or highway, in accordance with state law.

D. Electric personal assistive mobility devices are allowed on any public right of way or public property and must be operated in accordance with Minnesota Statutes Section 169.212

State of MN Current Regulations

State Statute Related to Electronic Personal Assistive Mobility Devices:

169.212 OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

Subdivision 1. Rights and responsibilities of pedestrians.

Except as otherwise provided by law, a person operating an electric personal assistive mobility device has the rights and responsibilities of a pedestrian.

Subd. 2. Operation.

(a) An electric personal assistive mobility device may be operated on a bicycle path.

(b) No person may operate an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path at a rate of speed that is not reasonable and prudent under the conditions. Every person operating an electric personal assistive mobility device on a roadway, sidewalk, or bicycle path is responsible for becoming and remaining aware of the actual and potential hazards then existing on the roadway or sidewalk and must use due care in operating the device.

(c) An electric personal assistive mobility device may be operated on a roadway only:

(1) while making a direct crossing of a roadway in a marked or unmarked crosswalk;

(2) where no sidewalk is available;

(3) where a sidewalk is so obstructed as to prevent safe use;

(4) when so directed by a traffic-control device or by a peace officer; or

(5) temporarily in order to gain access to a motor vehicle.

(d) An electric personal assistive mobility device may not be operated at any time on a roadway with a speed limit of more than 35 miles per hour except to make a direct crossing of the roadway in a marked crosswalk.

(e) An electric personal assistive mobility device may not be operated at any time while carrying more than one person.

(f) A person operating an electric personal assistive mobility device on a sidewalk must yield the right-of-way to pedestrians at all times. A person operating an electric personal assistive mobility device on a bicycle path must yield the right-of-way to bicycles at all times.

Subd. 3. Reflectors.

An electric personal assistive mobility device may not be operated unless the device bears reflectorized material on the front, back, and wheels, visible at night from 600 feet when illuminated by the lower beams of headlamps of a motor vehicle.

100

Subd. 4. Local regulation.

A local road authority may not further regulate the operation of electric personal assistive mobility devices, except that a local road authority may allow and regulate the operation of these devices on roadways within its jurisdiction that have a speed limit of more than 35 miles per hour.

MN Department of Natural Resources State Trails Regulations:

The following section contains the regulations the DNR has placed on its trails. This is not state law, but is included to provide you with an example as to how a state agency has addressed these types of vehicles on its trails.

E-bikes, Segways, and other uses on state trails

Note: these rules pertain to uses on Minnesota state trails. State forests, wildlife management areas, and other DNR-managed public lands may have different rules.

Electric-assist/pedal-assist bicycles

- Electric-assist or pedal-assist bicycles are allowed on state trails, or wherever normal bicycles are allowed, if they meet the following definition in [Minnesota Statutes 169.011, Subdivision 27](#) opens in a new browser tab.
 - 2 or 3 wheels
 - A saddle and fully operable pedals for human propulsion
 - Equipped with an electric motor that has a power output of not more than 750 watts; and
 - Meets the requirements of a class 1, class 2, or class 3 electric-assisted bicycle:
 - "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with an electric motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.
 - "Class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with an electric motor that is capable of propelling the bicycle without the rider pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.
 - "Class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with an electric motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.
 - Note that the law does not permit anyone under the age of 15 years to operate any electric-assist bike.
- A motorized bicycle that does not meet the definition of an electric-assist bicycle is not allowed on state trails where motorized vehicles are prohibited.
- When riding on state trails, remember to yield to pedestrians and slower trail users, and give an audible signal if passing.

Segways or electric personal assistive mobility devices

- Segways are allowed on state trails, or wherever pedestrians are allowed, but must be operated at a speed that is reasonable and prudent under the conditions.
- Segways or electric personal assistive mobility devices are defined in [Minnesota Statutes 169.011, Subdivision 26](#) opens in a new browser tab as “a self-balancing device with two non-tandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour.”
- When on a Segway on state trails, remember to yield to pedestrians and slower trail users, and give an audible signal if passing.
- For more information on operation of Segways, see [Minnesota Statutes 169.212](#) opens in a new browser tab.

Dogsledding, mushing or skijoring

- Dogsledding or mushing is not allowed on state trails, except by special use permit.
- Skijoring is not allowed on groomed ski trails.

Winter fat biking

- Fat biking is strongly discouraged on state trails that are groomed for snowmobiling in the winter due to safety concerns.
- Fat biking is not allowed on groomed and tracked cross-country ski trails, unless specifically opened as a multi-use winter trail.
- For more information see [winter fat biking](#).
- During the summer season, fat bikes are allowed anywhere normal bicycles are allowed.

Vehicles and uses that are not allowed on state trails

- Golf carts
- Motorized bicycles
- Motorized foot scooters
- Motorized vehicles, such as all-terrain vehicles, off-highway motorcycles, or off-highway vehicles, except when specifically permitted, such as on the [Matthew Lourey State Trail](#).
- Any vehicle that is larger than half of the width of the trail treadway, as all users of state trails must stay on the right half of the treadway when meeting or passing other trail users.

Accessibility and other power-driven mobility devices

- Single-user electric devices, such as electric wheelchairs are allowed on state trails.
- [More information about power-driven mobility devices on DNR lands and facilities](#).

Transportation vs Recreational Trail Comparison

When considering the speeds that certain micromobility devices can travel at, it is important to take into account how trails are designed. Trails in the city fall into two categories, transportation and recreation. Transportation trails are generally located in the road right-of-way and follow adjacent to the roadway. The City follows the MnDOT Bikeway Facility Design Manual when designing and constructing transportation trails. This process takes into account items such as trail grade, curve design, sightlines, and clear zones along the trail. By doing this, the trail is designed to a 20-mph speed. Finally, these trails are plowed throughout the winter, to ensure they are usable year-round.

Recreational trails are generally located throughout our park and open space areas. Quite often these areas are heavily wooded. While bikeway design standards are followed as much as possible, other considerations such as general tree loss, saving specific desirable trees, and avoiding wetlands come into account. Due to this, the trails will not always have a 20-mph rating. Most micromobility devices have maximum speed ratings of 20-mph, with the exception of class 3 E-bikes, which can travel at 28-mph. Finally, while many high use trails are plowed, not all recreational trails are plowed in the winter due to safety concerns.

A final consideration is speed differential among trail users. When considering roadway safety, high variability in traffic speed will often lead to greater accidents than traffic that consistently travels at similar speeds. The same applies to our trails. If there is high variability in speeds on our trails, for example a person pushing a stroller and a rider on a class 3 E-bike, this will introduce a potential safety hazard when they meet. While trail separation through striping is an option, this would be extremely costly to introduce. Currently all city trails are 8 feet wide, the minimum width to separate foot and bicycle traffic is 15 feet. This is only typically done on extremely high use, regional trails, and would not be cost effective on typical city trails. Trail design, speed ratings, and speed differential are all important to consider when discussing where the use of micromobility devices is appropriate.

Recommendation

Receive presentation and discuss future of micromobility devices, golf carts, ATV's and/or other trending recreational vehicles for Cottage Grove parks, trails, sidewalks and roads.



To: Parks, Recreation and Natural Resources Commission
From: Zac Dockter, Parks and Recreation Director
Cc:
Date: September 6, 2023
Subject: Park Naming Request – Mississippi Dunes Reserve

Introduction/Background

The City acquired a portion of the former Mississippi Dunes Golf Course and is recommending to start the process of officially naming the park. The City's Park Naming Policy is included with this report to aid Commissioners in processing the request.

The Park Naming Policy advises that the Parks, Recreation and Natural Resources Commission discuss the merit of naming applications or a list of names as prepared by staff. No formal application for this site has been made. Staff presents the following two names which have been the most common naming reference to the site:

1. Mississippi Dunes Park Reserve
2. Mississippi Landing Park Reserve

At the August meeting, Commissioners reviewed the two names and made no formal recommendation. The naming process will sequence as follows:

August – Initial naming review
September – Secondary review of name options
November – Commission park naming recommendation to City Council
December – Council resolution approving name

If the Commission desires to add to or delete from the list, those recommendations may be made at this meeting in preparation for final recommendation in November.

Action Requested

Provide direction on park naming request.