

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Ordinance No. 480 modifying the penalty for possessing open containers of liquor in a public place; Ordinance No. 481 prohibiting electric powered motorized foot scooters on the Interurban Trail
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Flannary P. Collins, Assistant City Attorney

PROBLEM/ISSUE STATEMENT:

With the Interurban Trail nearing completion, the City Attorney's Office has worked with the Shoreline Police to review crimes and civil infractions which apply to the trail. In compiling this list, one error and one omission were discovered: (1) the penalty provided in state law for possessing an open container of liquor in a public place is a civil infraction, not a misdemeanor as provided in the Shoreline Municipal Code; and (2) federal law prohibits operation of electric powered foot scooters on trails built with federal funds but our ordinance does not provide for this prohibition. Ordinance Nos. 480 and 481 correct the error and fill the omission in the City of Shoreline Municipal Code.

ANALYSIS:

Open Container Law

In 1996, the City of Shoreline adopted an ordinance making it a misdemeanor to possess an open container of liquor in a public place. In 1999, the violation under state law for opening a package containing liquor or consuming liquor in a public place changed from a misdemeanor to a class 3 civil infraction (\$50.00 or less). *Attachment A*. In order to ensure consistency with state law, the city ordinance needs to be amended to reflect the correct punishment.

Electric Powered Motorized Foot Scooters

In receiving the federal funding for the Aurora Corridor Project from the Washington State Department of Transportation, the City agreed to comply with the terms in Title 23 of the U.S. Code (*Highway*). 23 U.S.C. 217(h) indicates that if federal funds are used to build trails and walkways, then motorized vehicles must be prohibited from accessing the trails and walkways. *Attachment B*. Proposed Ordinance No. 821 modifies the Shoreline Municipal Code chapter regulating motorized foot scooters to prohibit electric powered foot scooters from accessing the Interurban Trail. Electric powered *bikes* are expressly permitted on the trail, consistent with federal law, which makes an exception for electric bikes on the trail so long as state or local regulations permit.

RECOMMENDATION

Staff recommends that Council adopt Ordinance No. 480 modifying the penalty for possession of open containers of liquor in a public place and Ordinance No. 481 prohibiting electric powered motorized foot scooters on the Interurban Trail.

Approved By: City Manager  City Attorney 

ATTACHMENTS

Attachment A: RCW 66.44.100 regarding open containers
Attachment B: U.S.C. Title 23, Section 217

ATTACHMENT A

RCW 66.44.100

Opening or consuming liquor in public place -- Penalty.

Except as permitted by this title, no person shall open the package containing liquor or consume liquor in a public place. Every person who violates any provision of this section shall be guilty of a class 3 civil infraction under chapter 7.80 RCW.

[1999 c 189 § 3; 1981 1st ex.s. c 5 § 21; 1933 ex.s. c 62 § 34; RRS § 7306-34.]

NOTES:

Application -- 1999 c 189: See note following RCW 66.28.230.

Severability -- Effective date -- 1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

ATTACHMENT B

FindLaw | For the Public | For Business | For Corporate Counsel

Register/login to My FindLaw

View your competition's legal record
Start your competitive intelligence today!

Search by Experience

Published Articles

Search

[Home](#)[Resources by Practice Area](#)[Resources by Jurisdiction](#)[Cases & Codes](#)[News & Analysis](#)[Research a Lawyer](#)[Federal Law](#)[State Law](#)[Case Summaries Search](#)[U.S. Code](#)[U.S. Supreme Court](#)My current location: [Seattle, WA](#) | [Change Location](#)**Laws: Cases and Codes : U.S. Code : Title 23 : Section 217**

Search

- [United States Code](#)
 - [TITLE 23 - HIGHWAYS](#)
 - [CHAPTER 2 - OTHER HIGHWAYS](#)

*U.S. Code as of: 01/22/02***Section 217. Bicycle transportation and pedestrian walkways**

Related F

(a) Use of STP and Congestion Mitigation Program Funds. - Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

(b) Use of National Highway System Funds. - Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of pedestrian walkways and bicycle transportation facilities on land adjacent to any highway on the National Highway System.

(c) Use of Federal Lands Highway Funds. - Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

(d) State Bicycle and Pedestrian Coordinators. - Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

(e) Bridges. - In any case where a highway bridge deck being

[Depart
Transport](#)[Transporta
and Do](#)[Transportati](#)

replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

(f) Federal Share. - For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

(g) Planning and Design. -

(1) In general. - Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

(2) Safety considerations. - Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.

★ (h) Use of Motorized Vehicles. - Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for -

- (1) maintenance purposes;
 - (2) when snow conditions and State or local regulations permit, snowmobiles;
 - (3) motorized wheelchairs;
 - (4) when State or local regulations permit, electric bicycles;
- and
- (5) such other circumstances as the Secretary deems appropriate.

(i) Transportation Purpose. - No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

(j) Definitions. - In this section, the following definitions apply:

(1) Bicycle transportation facility. - The term "bicycle transportation facility" means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

(2) Electric bicycle. - The term "electric bicycle" means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

(3) Pedestrian. - The term "pedestrian" means any person traveling by foot and any mobility-impaired person using a wheelchair.

(4) Wheelchair. - The term "wheelchair" means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.

ORDINANCE NO. 480

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
MODIFYING THE PENALTY FOR OPEN CONTAINERS OF LIQUOR IN A
PUBLIC PLACE AND AMENDING SHORELINE MUNICIPAL CODE SECTION
9.10.160**

WHEREAS SMC 9.10.160, adopted in 1996, provides that possession of an open container of liquor in a public place is punishable by a misdemeanor; and

WHEREAS RCW 66.44.100 was amended in 1999 to change the penalty for possession of open containers of liquor in a public place from a misdemeanor to a class 3 civil infraction;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO
ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code Section 9.10.160, *Alcoholic beverage control – Opening or consuming liquor or possessing open container of liquor in a public place*, is amended to read as follows:

9.10.160 Alcoholic beverage control –Opening or consuming liquor or possessing open container of liquor in public place.

Except as provided by RCW Title 66 or SMC 8.12.500, relating to park rules, any person who possesses an open container of liquor in a public place shall be subject to a civil fine not to exceed \$50.00 ~~is guilty of a misdemeanor and shall be fined not more than \$100.00~~; provided, that this provision shall not apply to containers kept in the trunk of a vehicle or in an area of the vehicle not normally occupied by the driver or passengers. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers

Section 2. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 10, 2007.

Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

ORDINANCE NO. 481

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON PROHIBITING ELECTRIC POWERED MOTORIZED FOOT SCOOTERS ON THE INTERURBAN TRAIL AND AMENDING SHORELINE MUNICIPAL CODE SECTION 10.07.040

WHEREAS a state may obligate funds from the federal government for construction of pedestrian walkways and bicycle transportation facilities;

WHEREAS, under United States Code Title 23, Section 217, all motorized vehicles, including electric powered motorized foot scooters, are prohibited from accessing any trails or pedestrian walkways built with the federal funds; and

WHEREAS, the Washington State Department of Transportation provided federal funds to the City for construction of the Interurban Trail.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE DO
ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code Section 10.07.040, Prohibited areas, is amended to read as follows:

10.07.040 Prohibited areas.

A. It is unlawful for any person to operate or ride a gas or electric powered motorized foot scooter or similar device in any of the following areas:

1. Streets with a maximum speed limit above 25 miles per hour; and
2. Sidewalks, with the exception of electric powered motorized foot scooters.

B. Electric powered motorized foot scooters may be operated or ridden upon sidewalks, subject to the following:

1. The electric foot scooters may not be operated on sidewalks in a business district, on the Interurban Trail, or as otherwise prohibited by traffic control devices;
2. Operators have all the rights and are subject to all of the duties applicable to a pedestrian; and
3. Operators must yield the right-of-way to any pedestrian.

Section 2. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 10, 2007.

Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

This page intentionally left blank.