



Le Sueur County, MN

Tuesday, June 2, 2015

Board Meeting

Item 10

10:45 am Darrell Pettis, Administrator/Engineer

RE: Discussion on County Wide ATV Ordinance

RE: OTHER

RE: June 30 possible Board of Equalization reconvene

Staff Contact:

COUNTY ATTORNEY

Brent Christian

ASSISTANT COUNTY ATTORNEYS

Michael T. Keogh

Jason L. Moran

Benjamin J. King

**OFFICE OF THE
LE SUEUR COUNTY ATTORNEY**

65 South Park Avenue, P. O. Box 156
Le Center, Minnesota 56057-0156

TELEPHONE
507-357-2278
507-357-2251, Ext. 312
FAX: 507-357-2270

August 18, 2009

✓ **Mr. Darrell Pettis**
Le Sueur County Highway Engineer
88 South Park Avenue
Le Center, MN 56057

Mr. Ron Germscheid
Le Sueur County Auditor
88 South Park Avenue
Le Center, MN 56057

Mr. Tom Doherty, Chief Deputy
Le Sueur County Sheriff's Dept.
88 South Park Avenue
Le Center, MN 56057

Re: Proposed Le Sueur County Golf Cart Ordinance

Gentlemen:

Enclosed herewith please find copy of my correspondence dated August 17, 2009, addressed to the Le Sueur County Board of Commissioners in regard to the above entitled matter. Please feel free to contact me with any questions.

Sincerely,

OFFICE OF THE COUNTY ATTORNEY



By: **BRENT CHRISTIAN**
Le Sueur County Attorney

BC:bjr
Enclosure

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August 17, 2009

Commissioner Joseph Connolly
Le Sueur County Courthouse
Le Center, MN 56057

Commissioner John Grimm
Le Sueur County Courthouse
Le Center, MN 56057

Commissioner Robert Culhane
Le Sueur County Courthouse
Le Center, MN 56057

Commissioner William Stangler
Le Sueur County Courthouse
Le Center, MN 56057

Commissioner Joseph Doherty
Le Sueur County Courthouse
Le Center, MN 56057

Re: Proposed Le Sueur County Golf Cart Ordinance

Dear Commissioners:

This letter is written in response to a request made by the Le Sueur County Board of Commissioners on Tuesday, August 2, 2009, wherein the Board asked for input from affected departments regarding the passage of a Golf Cart Ordinance. Pursuant to Minnesota Statutes §169.045, the State has granted local counties and municipalities authority to pass ordinances to allow for the operation of golf carts on city and county roads. In doing some research, it appears that the City of Elysian and the City of Le Center have both passed ordinances pursuant to this statute. These two ordinances are very similar, however, the City of Le Center's ordinance does not require that the golf cart be equipped with headlights, rear lights, brake lights, and a rear view mirror. Both ordinances also do not permit the operation of a golf cart on any State or County road.

I have also been advised that the City of Waterville does not have a golf cart ordinance, but that there are a few persons who operate those within the city limits of Waterville. It is my understanding that the occasion of that operation is infrequent and law enforcement is not ticketing those operators because they are operating in a safe manner. To my knowledge, this is not occurring on County roads.

I have discussed this matter with Le Sueur County Sheriff Chief Deputy Tom Doherty and am enclosing his letter dated August 13, 2009, which indicates his thoughts. I echo the concerns stated in Chief Deputy Doherty's letter in that I believe that golf carts would cause a serious road hazard. As a matter of public policy, and keeping the health and welfare of the citizens of

Le Sueur County Board of Commissioners
August 17, 2009
Page 2

Le Sueur County in mind, including golf cart operators, it is the opinion of this office that the operation of golf carts on County roads creates a serious road hazard. The very nature of a golf cart being lower to the ground and traveling at a slower speed creates an inherent danger when approached by a motorized vehicle traveling at an excessively greater rate of speed.

Having this stated, be advised that I find no legal reason why Le Sueur County could not pass such an ordinance. It is clearly authorized by State statute and I do not see any increased civil liability by the County. Assuming an ordinance was prepared and enforced for the operation of a golf cart within the authority of Minnesota Statutes §169.045, liability for Le Sueur County would not be a concern.

Regardless, the bottom line decision is that of a public policy concern and not a legal concern. And thus the ultimate decision is up to you as a Board. Please feel free to contact me should you wish to discuss the matter further.

Sincerely,

OFFICE OF THE COUNTY ATTORNEY

By: BRENT CHRISTIAN
Le Sueur County Attorney

BC:bjr
Enclosure



August 13, 2009

Brent Christian
LeSueur County Attorney
65 South Park Ave.
LeCenter, MN. 56057

Dear Brent.

This letter is in response to the LeSueur County Board meeting on Tuesday, August 2, 2009, where representatives of the City of Elysian were present and speaking of implementing a City ordinance that would allow Golf Carts and ATV's to drive in the City of Elysian.

MN State Statute 169.045 allows a municipality to draft a city ordinance to allow the use of Golf Carts and ATV's to drive only on city streets which are not considered county state aid roads or state highways. The statute also allows the diagonal crossing of county state aid highways and state highways to reach their destination.


All Golf Carts and ATV's do need proper registered with the municipality. They also need to meet requirements of registration, insurance, equipment compliance and each municipality is required to issue permits documenting that compliance of this statute is met.

I am not opposed to a municipality passing an ordinance to allow travel of golf carts and ATV's on designated roadways described by statute. My concern is that if I understood the Elysian City Officials correctly, they were asking the County Board to draft a County Ordinance allowing them to operate on county roads within their jurisdiction. I would be very concerned of this because if it were passed it would allow the use of CR#11 to reach to the north housing edition which I believe could cause a serious road hazard and potential civil liability.

If such an ordinance is passed by the City of Elysian, I believe that they should stay with in the scope of the statute. My opinion is that the county should stay silent on the issue of a county ordinance or any amendment to allow any travel on county state aid roads other than diagonal crossing.

Please contact me with any questions or concerns.

Sincerely,


Tom Doherty



SHERIFF
David P. Gliszinski

FELONY INVESTIGATOR
David Tietz
Bruce Collins
Todd Waldron
Robert Vollmer

PHONE 507 357-4440 or
507-357-4441 Day or Night
Fax 507 357-4627

Office of

Thomas P. Doherty

Chief Deputy Sheriff of Le Sueur County

88 South Park Avenue

Le Center, MN 56057

**BLUE EARTH COUNTY ORDINANCE
Chapter 18 Article IV Section 18-170
FOR THE MANAGEMENT OF ALL-TERRAIN VEHICLES AND MINI TRUCKS
IN THE PUBLIC RIGHT-OF-WAY ON CERTAIN ROADS
WITHIN THE COUNTY'S JURISDICTION**

THE COUNTY OF BLUE EARTH DOES ORDAIN:

Subdivision 1. Findings, Purpose and Intent.

Minnesota Statutes § 84.92 - 84.928 generally regulate the use of all-terrain vehicles within the right-of-way for trunk highways, county state aid highways, county roads and township roads. Consistent with these statutes, and to provide for the health, safety and welfare of its citizens and to ensure the integrity of roads falling under the jurisdiction of Blue Earth County, this ordinance is enacted to regulate the use of all-terrain vehicles and mini trucks on county state aid highways and county roads within the county.

Pursuant to Minnesota Statute § 84.928, subd. 6(c), the County makes the following findings:

1. That all of Blue Earth County is in a portion of the state which is designated as the "agricultural zone." The "agricultural zone" is that part of the state south of a line starting at the Minnesota-North Dakota Border and running east along U.S. Highway 10 to State Highway 23, then following Highway 23 east to State Highway 95 to the Wisconsin-Minnesota border.

Subdivision 2. Definitions.

The following definitions apply to this ordinance:

1. **"All-terrain vehicle" or "vehicle" or "ATV"** means a motorized floatation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited to engine displacement of less than 1,000 cubic centimeters and includes class 1 all-terrain vehicles and class 2 all-terrain vehicles. The definition of ATV does not include golf carts (as defined in Minnesota Statute §169.011 subd. 40a).
2. **"Mini Truck"** means a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 1,000 cubic centimeters or less; has a total dry weight of 900 to 2,300 pounds, contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements. A mini truck does not include; a neighborhood electric vehicle or a medium-speed electric vehicle; or a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

3. **County** means the County of Blue Earth, Minnesota.
4. **County State Aid Highway** or **CSAH** means all County State Aid Highways located in Blue Earth County and outside of cities and towns.

Subdivision 3. Permitted Operation of ATV's on Roads in Blue Earth County.

1. Except as provided below and in Minnesota Statute §84.928, Subd. 1(e), it shall be unlawful for any person to operate an all-terrain vehicle on the roadway, shoulder or inside bank or slope of any County State Aid Highway or county road within Blue Earth County.
2. It shall be permissible to operate an all-terrain vehicle or mini truck on the roadway and shoulders on County State Aid Highways and county roads within Blue Earth County.
3. Every person operating an ATV or mini truck on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of Chapter 169 of the Minnesota Statutes, except when those provisions cannot reasonably be applied to ATV's and mini trucks or as defined or limited herein.
4. ATV's and mini trucks operating on designated roadways shall have a functioning headlight and taillight in use at all times. ATV's and mini trucks may be operated on designated roadways from sunrise to sunset only.
5. ATV's and mini trucks operating on designated roadways shall have a rearview mirror installed on the left hand side (driver's side).
6. Persons operating ATV's or mini trucks on designated roadways must operate the vehicle on the extreme right-hand side of the road, making left turns across the road only if it is safe to do so under prevailing conditions.
7. Persons operating ATV's or mini trucks on designated roadways shall not operate their vehicle on the inside slope, ditch bottom or outside slope of the right-of-way, between April 1 and August 1, unless such operation is otherwise permitted by an appropriate trail designation or signage.
8. Except as otherwise provided in this ordinance, all operation of ATV's shall be in compliance with Minnesota Statutes §84.92 through §84.928, as well as any other federal, state, or local rule or regulation. The same applies to mini truck operation. No provision of this ordinance shall be construed to negate any State law concerning the operation of ATV's or mini trucks. The regulation of roads and highways in this ordinance shall not serve to limit the use of ATV's licensed for agricultural use.

Subdivision 4. Violation, penalties and enforcement.

1. *Enforcement.* The enforcement of this article shall be the primary responsibility of the peace officers of the county sheriff's department. Other licensed peace officers, including conservation officers of the state department of natural resources, are also authorized to enforce this article.

3. *Penalties.* Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine or by imprisonment as provided by law.

Subdivision 5. Permit Establishment.

Requirements for a permit – M.S. § 169.045.

No ATV or mini truck shall be driven, operated or controlled on the roadways or shoulders of roadways under the jurisdiction of Blue Earth County unless the driver, operator or person in control has in possession a valid, current and unrevoked permit from Blue Earth County for such driving, operation or control of an ATV or mini truck.

Permits shall be issued by the Blue Earth County Sheriff's Office, or authorized designee, upon compliance with this section.

Application for a permit shall include the full name and address of the applicant; the applicant's date of birth; the state of issuance of the applicant's current driver's license, the number of the driver's license; the date of application and applicant's signature, the name of applicant's insurance company; the number of applicant's insurance policy; and the date of expiration of insurance coverage for the ATV or mini truck. The make, model number, registration number and year of the ATV or mini truck are also required. As a condition to obtaining an individual permit, the Sheriff may require an applicant to submit a certificate signed by a physician to the effect that the applicant is able to safely operate an ATV or mini truck on the roadways or shoulders under the jurisdiction of Blue Earth County.

A permit may be revoked by the Sheriff if there is any material misrepresentation made in the permit application, insurance is no longer in effect, if there is evidence that the permittee cannot safely operate the ATV or mini truck, or there is a violation of or noncompliance with any other federal, state, or local rule or regulation as required by this ordinance. The Sheriff shall issue a notice of revocation of a permit in writing and either personally serve the notice to the permit holder or send the notice by certified mail to the address on the application. The revocation shall be in effect immediately after personal service or 3 days after the mailing.

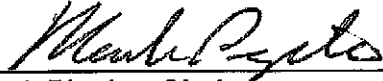
A permit fee shall be established by Board Resolution. Permits shall be renewed every three years.

Subdivision 6. Adoption of Ordinance.

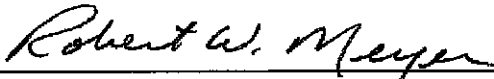
Passed by the County Board of Commissioners the 7th day of August, 2012.

Amended by the County Board of Commissioners this 25th day of September, 2012.

By:



Mark Piepho, Chair
Blue Earth County Board of Commissioners



Robert W. Meyer, County Administrator

Drafted by Blue Earth County Administration
Blue Earth County
204 S. Fifth Street
Mankato MN 56001
(507)304-4284

B.E. Co. Admin
ATTN: J. Beyer
4 pgs
NIC

521CR070
CERTIFIED, FILED AND/OR RECORDED ON
10/05/2012 04:55:01PM
BLUE EARTH COUNTY, MN
PATTY O'CONNOR COUNTY RECORDER
TAXPAYER SERVICES DIRECTOR
REC FEE: 0.00 EXEMPT: N/A
DELINQ TX: N/A /TRANS ENTER: N/A
eCREV/CREV: N/A
eWELL/WELL CERT: N/A
SPLIT-CURRENT TX PD: N/A
PAGES: 4 /



Blue Earth County Sheriff's Office
401 Carver Road
Mankato, MN 56001
(507) 304-4800

ATV/MINI TRUCK PERMIT APPLICATION

Permit Fee \$15.00

Permit No: _____

Permit Expiration Date: _____

Name: _____ D.O.B.: _____

Address: _____

Phone: _____ E-mail (opt.) _____

Driver's License No.: _____ State: _____

Do you have any medical conditions that restrict you from driving a motor vehicle on public roadways? Yes No

If yes, explain: _____

Insurance Agency: _____ Policy No.: _____

Expiration Date for ATV or Mini Truck Insurance Policy: _____

Make: _____ Model No.: _____

Year: _____ Serial Number: _____ State Registration No.: _____

Form of Payment Cash Check Credit Card

*****Please note: The permit sticker provided must be affixed to a license plate**

Applicant Signature

Date

JB/, 10-12, N:\ATV. APP

A public hearing was opened at 10:00 a.m. for comment on an Ordinance for the Management of All Terrain Vehicles in the Public Right of Way on Certain Roads within County Jurisdiction. Brad Milbrath, Chief Deputy Sheriff presented an Ordinance for the Management of All Terrain Vehicles to the board. Discussion ensued. Public hearing closed at 10:04 a.m.

Androli moved and Kuhns seconded the motion to approve the adoption of said ordinance. Motion carried by a unanimous vote of all members.

**WASECA COUNTY ORDINANCE
FOR THE MANAGEMENT OF ALL TERRAIN VEHICLES
IN THE PUBLIC RIGHT OF WAY ON CERTAIN ROADS
WITHIN THE COUNTY'S JURISDICTION**

THE COUNTY OF WASECA DOES ORDAIN:

Subdivision 1. Findings, purpose and intent.

Minnesota Statutes § 84.82-84.928 generally regulate the use of all-terrain vehicles within the right of way for trunk highways, county state aid highways, county roads and township roads. Consistent with these statutes, and to provide for the health, safety and welfare of its citizens, and to ensure the integrity of roads falling under the jurisdiction of Waseca County, this Ordinance is enacted to regulate the use of all-terrain vehicles on county state aid highways and county roads within the County.

Pursuant to Minnesota Statute § 84.928, subd. 6(c), the County makes the following findings:

1. That all of Waseca County is in a portion of the state which is designated as the agricultural zone.

2. That the following County State Aid Highways and County Roads exist throughout Waseca County:

- County State Aid Highway 1
- County State Aid Highway 2
- County State Aid Highway 3
- County State Aid Highway 4
- County State Aid Highway 5
- County State Aid Highway 6
- County State Aid Highway 7
- County State Aid Highway 8
- County State Aid Highway 9
- County State Aid Highway 10

- County State Aid Highway 11
- County State Aid Highway 12
- County State Aid Highway 13
- County State Aid Highway 14
- County State Aid Highway 15
- County State Aid Highway 16
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- County State Aid Highway 31
- County State Aid Highway 32
- County State Aid Highway 33
- County State Aid Highway 35
- County State Aid Highway 37
- County Road 51
- County Road 52
- County Road 53
- County Road 54
- County Road 55
- County Road 56
- County Road 57
- County Road 58
- County Road 59
- County Road 60
- County Road 61
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- County Road 63
- County Road 64
- County Road 65
- County Road 66
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- County Road 68
- County Road 70
- County Road 71
- County Road 72
- County Road 73

- County Road 74
- County Road 75
- County Road 76
- County Road 77
- County Road 78
- County Road 79
- County Road 101
- County Road 102
- County Road 103
- County Road 115

Subdivision 2. Definitions.

The following definitions apply to this Ordinance.

1. **“All-terrain vehicle” or “vehicle” or “ATV”** means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 960 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

2. **County** means the County of Waseca, Minnesota.

3. **County State Aid Highway or CSAH** means the following roads located in Waseca County:

- County State Aid Highway 1
- County State Aid Highway 2
- County State Aid Highway 3
- County State Aid Highway 4
- County State Aid Highway 5
- County State Aid Highway 6
- County State Aid Highway 7
- County State Aid Highway 8
- County State Aid Highway 9
- County State Aid Highway 10
- County State Aid Highway 11
- County State Aid Highway 12
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- County State Aid Highway 28
- County State Aid Highway 29
- County State Aid Highway 31
- County State Aid Highway 32
- County State Aid Highway 33
- County State Aid Highway 35
- County State Aid Highway 37

4. County Road means the following roads located in Waseca County:

- County Road 51
- County Road 52
- County Road 53
- County Road 54
- County Road 55
- County Road 56
- County Road 57
- County Road 58
- County Road 59
- County Road 60
- County Road 61
- County Road 62
- County Road 63
- County Road 64
- County Road 65
- County Road 66
- County Road 67
- County Road 68
- County Road 70
- County Road 71
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- County Road 73
- County Road 74
- County Road 75
- County Road 76
- County Road 77
- County Road 78
- County Road 79
- County Road 101
- County Road 102

- County Road 103
- County Road 115

Subdivision 3. Permitted Operation of ATVs on roads in Waseca County.

1. Except as provided below and in Minnesota Statute § 84.928, subd. 1(e), it shall be unlawful for any person to operate an all-terrain vehicle on the roadway, shoulder or inside bank or slope of any County State Aid Highway or county road within Waseca County.

2. It shall be permissible to operate an all-terrain vehicle on the roadway on the following County State Aid Highways and County Roads within Waseca County:

- County State Aid Highway 1
- County State Aid Highway 2
- County State Aid Highway 3
- County State Aid Highway 4
- County State Aid Highway 5
- County State Aid Highway 6
- County State Aid Highway 7
- County State Aid Highway 8
- County State Aid Highway 9
- County State Aid Highway 10
- County State Aid Highway 11
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- County Road 73
- County Road 74
- County Road 75
- County Road 76
- County Road 77
- County Road 78
- County Road 79
- County Road 101
- County Road 102
- County Road 103
- County Road 115

3. Persons operating all-terrain vehicles on any of the roadways listed above must operate the all-terrain vehicle on the extreme right hand side of the road, making left turns across the road only if it is safe to do so under prevailing conditions.

4. Persons operating all-terrain vehicles within the right of way of any of the roadways listed above shall not operate their ATV on the inside slope, ditch bottom or outside slope of the right of way, between April 1 and August 1,

unless such operation is otherwise permitted by appropriate trail designation or signage.

5. Except as otherwise provided in this Ordinance, all operation of all-terrain vehicles shall be in compliance with Minnesota Statutes § 84.92-84.928, as well as any other federal, state, or local rule or regulation.

Subdivision 4. Adoption of Ordinance.

Passed by the County Board of Commissioners this 6th day of April, 2010.

Passed:	Yes
AYES:	5
NAYS:	0
ABSENT:	0

Mark Leiferman, Planning & Zoning Director, introduced a request for a conditional use permit from Scott Singlestad and Ulland Brothers, Inc., to expand gravel pit operations to include material processing in Otisco Township, Section 12, Zoned A-1 Agricultural Protection District. Said permit has 41 attached recommended conditions. Paul Dressler, County Attorney, advised the board as to their options to approve or deny this permit. Discussion ensued.

Valerie Raverty, representing Ulland Brothers, addressed the board concerning dust control.

Morris moved and Kuhns seconded the motion to change condition #22 to read as follows with the modified sentence being underlined:

Road Issues

22. The expansion of the requested mining activity shall utilize hard surfaced (gravel, blacktop or concrete) public roads for materials hauled to and from the Highway 14 project. Waseca County 305th Avenue is approved and allowed as a transportation route for the proposed mining use if authorized by Otisco Township. Since 305th Avenue is a gravel township road and is narrow, hilly and has the ability to produce dust, this in turn has the potential to contribute to nuisance issues and safety concerns. Trucks shall not park on the roadway in such a manner as to prohibit the movement of vehicles on 305th Avenue. The start times for trucks waiting to load and haul from the pit shall be staggered to limit the number of trucks stacked on the roadway waiting to be filled. Hauling materials to