



City of North Port

Office of the City Attorney

Memorandum

To: Amber L. Slayton, City Attorney

From: Michael Golen, Assistant City Attorney ^{MG}

Date: October 26, 2020

Re: Use of Golf Carts and Low Speed Vehicles on City Roads

On March 5, 2020, the City Commission directed the drafting of an ordinance related to the use of golf carts, low speed vehicles (“LSV”), and personal transportation vehicles (“PTV”) on City roads. No legal review was requested or conducted prior to the Commission’s consideration of or direction on this item. As further explained below, some Commission direction is preempted by State law.

The following provides a full analysis and summary of the Florida law related to the City’s authority to regulate a golf cart, LSV, and PTV on City roads. Following your review, please let me know if you have any questions.

I. SUMMARY

1. City’s Lack of Authority to Regulate PTV: Florida Statutes controls what laws municipalities can create and enforce in the municipality’s regulation of vehicles on its roads. A municipality’s laws cannot conflict with the provisions provided under Florida law. “PTV” is not a legal term in the Florida Statutes; as described by the Commission, this type of vehicle would fall somewhere between the definition of a golf cart and an LSV. The City does not have the statutory authority to create a new category for PTV and related regulations. However, the City is authorized to limit the use of golf carts and LSV to certain City roads.
2. Recommended Amendments: As an alternative to creating a PTV category of vehicle, the Commission can prohibit the use of LSVs on roads where it determines that such prohibition is necessary in the interest of safety. Additionally, the City’s existing regulations on golf carts should be amended to remove restatements of law and to perform general cleanup of the Code language.

II. CITY’S LACK OF AUTHORITY TO REGULATE PTV

In an attempt to have uniform regulations control traffic laws throughout the state, the Florida Legislature enacted Chapter 316 Florida Statutes, which controls what laws municipalities can create and enforce in the regulation of vehicles on municipal roads.¹ Pursuant to Florida law, “it is unlawful for any local authority to pass or to attempt to enforce any ordinance in conflict with the provisions of

¹ See § 316.002, Fla. Stat.

[Chapter 316 Florida Statutes].”² Additionally, Florida law limits a municipality’s authority to regulate streets and highways under its jurisdiction to within a reasonable exercise of the municipality’s police power.³

No Authority to Create a PTV Category

Commission direction is to provide a definition of PTV, and to allow PTVs to utilize multi-modal and multi-use pathways.⁴ This direction creates a new category of vehicle for use on City roads. Florida law provides definitions for both golf carts⁵ and LSV,⁶ establishing their top speeds and setting safety equipment requirements.⁷ Because the definition of PTV is not provided in Florida law, and pursuant to the limited statutory authority granted to municipalities, the City is prohibited from creating or enforcing regulations on a category of vehicle using its roads not already authorized under Florida law.⁸ Therefore, a definition and regulation of PTV use on City roads cannot be included in an ordinance as directed. Further, the PTV category discussed by the Commission most closely resembles the definition of an LSV under the law.

Authority to Regulate LSV

Florida law defines an LSV as “any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles,” where such vehicle complies with required safety standards.⁹ The operation of an LSV is authorized “on any road” in the state, with the following restrictions:

1. An LSV may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit an LSV from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.
2. An LSV must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
3. An LSV must be registered, insured, and titled in accordance with Florida law.
4. Any person operating an LSV must have a valid driver license in their possession.¹⁰

² § 316.002, Fla. Stat.

³ See § 316.008, Fla. Stat.

⁴ See City Comm’n Special Meeting Minutes, § 4.B. 20-1847 (March 5, 2020).

⁵ See §§ 316.003(27) and 320.01(22), Fla. Stat.

⁶ See § 320.01(41), Fla. Stat.

⁷ See § 320.01, Fla. Stat.

⁸ The creation of a new category of vehicle could be interpreted as the City legislating something that it is not “within the provisions” of Chapter 316, Florida Statutes; see § 316.002, Fla. Stat., “It is unlawful for any local authority to pass or to attempt to enforce any ordinance in conflict with the provisions of this chapter;” see also, 2002-11, Fla. Op. Atty. Gen. (2002) (prohibiting the City of Cedar Key from imposing more restrictive age requirements on operators of golf carts than that allowed by state law, nor requiring a golf cart operator to have a valid Florida driver’s license).

⁹ § 320.01(41), Fla. Stat. This definition also requires all LSV to comply with the safety standards found in 49 C.F.R. Section 571.500 and Florida Statutes Section 316.2122.

¹⁰ See § 316.2122, Fla. Stat. (The regulations in this section also apply to mini trucks, as defined in Florida Statutes Section 320.01.)

Although the City is prohibited from regulating the use of an LSV beyond these regulations, Florida law authorizes the City to prohibit the operation of an LSV “on any road under its jurisdiction if the governing body of the [City] determines that such prohibition is necessary in the interest of safety.”¹¹

RECOMMENDED AMENDMENTS

Regulation of LSV

Commission direction is to allow PTVs to operate on City roads, to cross certain intersections and crosswalks, but to be prohibited from arterial and connector roads.¹² Because such regulation is prohibited, as an alternative the Commission can prohibit the use of LSVs on those roads where it determines that such prohibition is necessary in the interest of safety. Such a determination can be made as part of the ordinance creating the regulations.

Additional Amendments

In June 2011, the City adopted Ordinance No. 2011-13, enacting the City’s regulations for golf carts operating on City streets.¹³ This portion of City Code has not been amended since its adoption and restates much of the statutory language. Best practices for code drafting is to avoid restatements of law where possible.

Because Commission direction is to amend the City’s golf cart regulations to limit the use of golf carts to only operating on golf courses, and to eliminate the prohibition on golf cart rentals in the City, an ordinance should be drafted as directed on these points and to include the elimination of restatements of law.¹⁴ The ordinance should also regulate the operation of LSV, and not PTV, as discussed above.

¹¹ § 316.2122(5), Fla. Stat; *see also* § 316.2122(6), Fla. Stat., providing, “The Department of Transportation may prohibit the operation of low-speed vehicles or mini trucks on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.”

¹² *See* City Comm’n Special Meeting Minutes, § 4.B. 20-1847 (March 5, 2020).

¹³ *See* Ch. 74, Art. VI., Code of the City of North Port, FL.

¹⁴ *See* City Comm’n Special Meeting Minutes, § 4.B. 20-1847 (March 5, 2020).