



TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM

To: Mayor Tokunaga and Town Board of Trustees	Meeting Date:
From: Linda Michow, Town Attorney	Monday, November 23, 2015
Via: Kent Brown, Town Administrator	

Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Ordinance No. 721			
Attachments: (1) Excerpts from Model Traffic Code			

PURPOSE:

For Board consideration on the November 23, 2015 agenda is Ordinance No. 721 regulating the operation of low-speed electric vehicles (“LSEVs”) and golf cars on Town roads and streets. The purpose of this ordinance is to specifically authorize the operation of golf cars and to adopt specific requirements governing the operation of LSEVs and golf cars as set forth in the ordinance. This issue is presented, in part, in response to requests by residents for the ability to operate golf cars on Town roads.

BACKGROUND:

The Town Board adopted Ordinance No. 641, which adopted by reference the 2010 Edition of the Model Traffic Code (“MTC”) with no amendments. The MTC is set forth in Article I of Chapter 8 of the Municipal Code.

Low Speed electric vehicles. Under the 2010 MTC, “low-speed electric vehicles” (also referred to as neighborhood electric vehicles or NEVs) are authorized to travel on local roads posted for lower speed limits. Under state law, low speed electric vehicles are defined as:

- being self-propelled utilizing electricity as the primary propulsion method;
- having at least three wheels in contact with the ground;
- not requiring handlebars to steer; and
- exhibiting the manufacturer’s compliance with federal regulations or displaying a vehicle identification number (VIN) in compliance with federal law.¹

Because the Town Board of Trustees adopted these provisions through its enactment of Ordinance No. 641, the Town already permits the operation of LSEVs on its local roads, subject to the following state regulations.

¹ C.R.S. § 42-1-102 (48.6).

Section 42-4-109.5, C.R.S. provides the following additional requirements:

(1) A low-speed electric vehicle may be operated only on a roadway that has a speed limit equal to or less than thirty-five miles per hour; except that it may be operated to directly cross a roadway that has a speed limit greater than thirty-five miles per hour at an at-grade crossing to continue traveling along a roadway with a speed limit equal to or less than thirty-five miles per hour.

(2) No person shall operate a low-speed electric vehicle on a limited-access highway.²

According to these provisions, low-speed electric vehicles may only be used on a roadway with a posted speed limit of 35 miles per hour (“mph”) or less. The only exception to this rule allows a low-speed electric vehicle to cross a roadway with a speed limit over 35 mph at an at-grade crossing when traveling upon a roadway of 35 mph or less. A low-speed vehicle is also prohibited from operating on a state highway.

State law mandates certain safety equipment on LSEVs that are operated on public streets including tail lights and turn signals, and requires that a triangular slow-moving emblem be displayed on the rear of all low-speed electric vehicles driven under 25 mph.³

Finally, under the MTC, LSEVs must comply with applicable federal manufacturing equipment standards.⁴ Low-speed electric vehicles must exhibit the manufacturer’s compliance with the Code of Federal Regulations or display a seventeen character vehicle identification number (VIN) as provided in the Federal Regulations. The VIN for low-speed electric vehicles shall be located inside the passenger compartment and shall be readable in daylight conditions by an observer with 20/20 vision.⁵

Golf cars. Under state law, C.R.S. Section 42-4-111(1)(bb), the Town may authorize and regulate the operation of golf cars by resolution or ordinance, subject to the following restrictions:

- (1) an unlicensed driver of a golf car may not carry a passenger who is under twenty-one years of age;
- (2) operators must be at least sixteen years of age; and
- (3) golf cars must not be allowed to operate on a state highway.

Currently, the Town does not authorize the operation of golf cars on public streets (as the MTC does not specifically authorize such vehicles but rather leaves it to a local authority’s determination). Thus, it is within the Board’s legislative discretion whether to allow golf cars in addition to LSEVs.

² C.R.S. § 42-4-109.5 (1),(2).

³ The Department of Revenue oversees the issuance of these emblems for low-speed electric vehicles C.R.S. § 42-4-234(b).

⁴ 49 CFR § 565.

⁵ 49 CFR § 565.13(f).

Under the MTC, a “golf car” means a self-propelled vehicle not designed for operation on roadways and that has:

- a. A design speed of less than twenty five (25) miles per hour;
- b. At least three wheels in contact with the ground;
- c. An empty weight of not more than one thousand three hundred pounds; and
- d. A carrying capacity of not more than four persons.

PROPOSED ORDINANCE:

Based on the parameters set forth under state law, proposed Ordinance No. 721 authorizes both LSEVs and golf cars on local roads, subject to the following restrictions:

1. A low speed electric vehicle may be operated only on Town streets and roads that have speed limits equal to or less than twenty-five (25) miles per hour.
2. No Golf Car or low speed electric vehicle may be operated on any state highway within the Town limits, except that Golf Cars and low speed electric vehicles may directly cross a state highway at a street intersection to continue traveling along a Town street or road.
3. Golf Car and low speed electric vehicle operators must comply with all provisions of the Model Traffic Code, the Milliken Municipal Code and C.R.S. Title 42 related to traffic rules and regulations.
4. Operators of Golf Cars and low speed electric vehicles must possess liability insurance.
5. The speed of any Golf Car or low speed electric vehicle shall not exceed 25 miles per hour.
6. Golf Cars and low speed electric vehicles shall display the emblem “slow moving vehicle” to be visible from a distance of twenty-five yards from the back of the Golf Car or low speed electric vehicle.
7. No owner or operator of a Golf Car or low speed electric vehicle shall carry a greater number of persons or a greater load than that specified by the manufacturer. The operator and all passengers must be seated in the seat(s) designed and intended for such purpose.
8. Any person age 18 or younger must be secured by at least a two-point safety harness (seat belt) at all times while operating or riding in a low speed electric vehicle or Golf Car on Town streets or roads.
9. No person shall operate a Golf Car or low speed electric vehicle on a Town-owned or maintained trail, sidewalk, or in a Town park, except as expressly permitted and posted by the Town.

10. The operator of a Golf Car or low speed electric vehicle must hold a valid driver's license.

The proposed regulations generally align with state law and are consistent with other municipal ordinances regulating such vehicles. The Board may wish to consider additional limitations, such as restricting the use of such vehicles within certain areas of Town, or the Board may wish to modify the proposed regulations.

BUDGET IMPLICATONS:

None identified.

STAFF RECOMMENDATION:

If the Board determines, as a policy matter, to allow golf cars on local streets and to regulate LSEVs and golf cars, the Town Attorney and staff recommend adoption of Ordinance No. 721. Specifically, I have shared the proposed Ordinance with Chief Garcia, who also supports the proposed Ordinance.

SUGGESTED MOTION:

"I move to approve Ordinance No. 721, Amending Section 8-1-30 of the Municipal Code concerning Changes to the Model Traffic Code to address the operation of Low Speed Electric Vehicles and Golf Cars on Town Streets and Rights-of-Way."

ORDINANCE NO. 721

**AN ORDINANCE OF THE TOWN OF MILLIKEN AMENDING
SECTION 8-1-30 OF THE MUNICIPAL CODE CONCERNING
CHANGES TO THE MODEL TRAFFIC CODE TO ADDRESS THE
OPERATION OF LOW SPEED ELECTRIC VEHICLES AND GOLF
CARS ON TOWN STREETS AND RIGHTS-OF-WAY**

WHEREAS, in 2010, by Ordinance 641 as codified in Chapter 8 of the Municipal Code, the Board adopted the 2010 Edition of the Model Traffic Code; and

WHEREAS, the 2010 Model Traffic Code authorizes the Town's regulation of low speed electric vehicles on local streets subject to certain restrictions; and

WHEREAS, C.R.S. Section 42-4-111(1)(bb) authorizes the Town's regulation of the operation of golf cars on local streets subject to certain restrictions; and

WHEREAS, the Board desires to amend Chapter 8 to allow the operation of golf cars and to establish regulations for the operation of golf cars and low-speed electric vehicles; and

WHEREAS, the Town is authorized by C.R.S. Section 42-4-111 to adopt regulations governing the operation of such vehicles as long as the regulations are not in conflict with state law.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, THAT:

Section 1: Section 8-1-30, titled *Additions or modifications*, of the Municipal Code is amended to read as follows:

8-1-30: Additions or Modifications.

The adopted Model Traffic Code is amended with the following additions or modifications:

(1) Section 109.5 of the Model Traffic Code, titled *Low-speed electric vehicles*, is amended to read as follows:

109.5 Operation of Golf Cars, Low-Speed Electric Vehicles.

(1) A low speed electric vehicle may be operated only on Town streets and roads that have speed limits equal to or less than twenty-five (25) miles per hour.

(2) No Golf Car or low speed electric vehicle may be operated on any state highway within the Town limits, except that Golf Cars and low speed electric vehicles may directly cross a state highway at a street intersection to continue traveling along a Town street or road.

- (3) Golf Car and low speed electric vehicle operators must comply with all provisions of the Model Traffic Code, the Milliken Municipal Code and C.R.S. Title 42 related to traffic rules and regulations.
- (4) Operators of Golf Cars and low speed electric vehicles must possess liability insurance.
- (5) The speed of any Golf Car or low speed electric vehicle shall not exceed 25 miles per hour.
- (6) Golf Cars and low speed electric vehicles shall display the emblem "slow moving vehicle" to be visible from a distance of twenty-five yards from the back of the Golf Car or low speed electric vehicle.
- (7) No owner or operator of a Golf Car or low speed electric vehicle shall carry a greater number of persons or a greater load than that specified by the manufacturer. The operator and all passengers must be seated in the seat(s) designed and intended for such purpose.
- (8) Any person age 18 or younger must be secured by at least a two-point safety harness (seat belt) at all times while operating or riding in a low speed electric vehicle or Golf Car on Town streets or roads.
- (9) No person shall operate a Golf Car or low speed electric vehicle on a Town-owned or maintained trail, sidewalk, or in a Town park, except as expressly permitted and posted by the Town.
- (10) The operator of a Golf Car or low speed electric vehicle must hold a valid driver's license.

(2) Definitions (Appendices to the Model Traffic Code):

The following definition is added:

- (39.5) "Golf Car" means a self-propelled vehicle generally not designed for operation on roadways and that has:
- a. A design speed of less than twenty five (25) miles per hour;
 - b. At least three wheels in contact with the ground;
 - c. An empty weight of not more than one thousand three hundred pounds; and
 - d. A carrying capacity of not more than four persons.

Section 2: Codification

The Town Clerk is hereby directed to work with the Town's Municipal Code codifier to ensure that the provisions of this Ordinance are included in the next codification of the Milliken Municipal Code.

Section 3: Severability.

If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 4: Repeal.

Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5: Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.

Introduced, read, adopted, signed and ordered published in full by the Board of Trustees of the Town of Milliken this ___ day of _____, 2015.

TOWN OF MILLIKEN

Milt Tokunaga, Mayor

ATTEST:

APPROVED AS TO FORM:

Cheryl Powell, Town Clerk

Linda Michow, Town Attorney

Published: _____