



Board of County Commissioners Agenda Request

6A

Agenda Item #

Requested Meeting Date: 7-27-21

Title of Item: All Terrain Vehicle Ordinance Revision

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input checked="" type="checkbox"/> Hold Public Hearing* <small>*provide copy of hearing notice that was published</small>
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Submitted by: John Welle	Department: Highway Department
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Presenter (Name and Title): Aitkin County All Terrain Vehicle Committee	Estimated Time Needed: 45 minutes (11:00)
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Summary of Issue:
 A public hearing has been scheduled for 11:00 am to receive public input on the proposed revisions to the Aitkin County All Terrain Vehicle Ordinance. The primary revisions being proposed include the following:

1. Allow Class 1 all-terrain vehicle operation on the shoulder and inside slope of all paved county highways.
2. Allow Class 1 all-terrain vehicle operation on the extreme right-hand side of the traffic lane on paved county highways within municipal city limits and in other areas with inadequate shoulder width.
3. Eliminate reference to the Corridor Access Permit program.
4. Eliminate reference to statutory requirements for hours of operation on highway right of way and youth riding.

The full text of the proposed revised ordinance is attached.

The public hearing was advertised in the July 14, 2021 and July 21, 2021 issues of the Aitkin Age and on the Aitkin County website. The full text of the proposed revised ordinance was available at the Aitkin County Highway Department, the Aitkin County Auditor's Office, and on the Aitkin County website.

This public hearing is for public input and discussion only. Action on the proposed ordinance by the Aitkin County Board of Commissioners will be considered at a future Board of Commissioners meeting.

Alternatives, Options, Effects on Others/Comments:

Recommended Action/Motion:

Financial Impact:
 Is there a cost associated with this request? Yes No
 What is the total cost, with tax and shipping? \$
 Is this budgeted? Yes No Please Explain:

Notice of Public Hearing

The Aitkin County Board of Commissioners will hold a public hearing at 11:00 am on Tuesday, July 27, 2021 at the Board of Commissioners Meeting Room located in the Aitkin County Government Center at 307 Second Street Northwest, Aitkin, MN. The purpose of the hearing is to receive public input on proposed changes to the Aitkin County All-Terrain Vehicle Ordinance.

A summary of proposed changes to the Ordinance includes the following:

1. Allow Class 1 all-terrain vehicle operation on the shoulder and inside slope of all paved county highways.
2. Allow Class 1 all-terrain vehicle operation on the extreme right-hand side of the traffic lane on paved county highways within municipal city limits and in other areas with inadequate shoulder width.
3. Eliminate reference to the Corridor Access Permit program.
4. Eliminate reference to statutory requirements for hours of operation on highway right of way and youth riding.

The proposed Ordinance is available for viewing at the following locations:

1. Aitkin County Highway Department – 1211 Airpark Drive – Aitkin, MN 56431
2. Aitkin County Auditor's Office - 307 2nd Street Northwest – Aitkin, MN56431
3. Aitkin County website - www.co.aitkin.mn.us.

Comments can be submitted in writing to the Aitkin County Highway Department at the address above or by email to highway@co.aitkin.mn.us. Please include a full name and complete mailing address with all comments.

Aitkin County

All-Terrain Vehicle Ordinance

Regulating the use of Class 1 All-Terrain Vehicles within the Right of Way of Aitkin County Highways

Article 1 Statutory Authority

1. Minnesota Statutes 84.92 – 84.928 regulate the operation of all-terrain vehicles, including the operation of all-terrain vehicles within public road rights of way.
2. Minnesota Statute 84.928 Subdivision 1 generally restricts Class 1 all-terrain vehicles from using the roadway, shoulder, and inside bank or slope of a county state-aid or county highway.
3. Minnesota Statute 84.928 Subdivision 1(k) authorizes a County Board by ordinance to allow the operation of all-terrain vehicles on a public road or street to access businesses and residences and to make trail connections.
4. Minnesota Statute 84.928 Subdivision 6(c) authorizes a County Board by ordinance to allow the operation of all-terrain vehicles on the road shoulder and inside bank or slope of the county state-aid or county highway if safe operation in the ditch or outside slope is impossible.

Article 2 Purpose and Intent

The purpose and intent of this Ordinance is as follows:

1. Pursuant to Minnesota Statute 84.928 Subdivision 6(c), to allow the legal use of class 1 all-terrain vehicles on the extreme right hand side of all gravel-surfaced county highways for the purpose of enhanced all-terrain vehicle operator safety and to prevent damage to road ditches and slopes.
2. Pursuant to Minnesota Statute 84.928 Subdivision 6(c), to allow the legal use of class 1 all-terrain vehicles on the shoulder and inside slope of all paved county highways for the purpose of enhanced all-terrain vehicle operator safety and to prevent damage to road ditches and slopes, and
3. Pursuant to Minnesota Statute 84.928 Subdivision 1(k) and in compliance with Minnesota Statute 84.928 Subdivision 1a(b), to further allow legal use of class 1 all-terrain vehicles on the extreme right-hand side of the adjacent traffic lane within municipal city limits and in areas where obstructions or inadequate

shoulder width prohibits safe all-terrain vehicle use entirely on the shoulder and slope area.

Article 3 Definitions

The following definitions apply to this ordinance:

1. **All-Terrain Vehicle Committee** means the committee appointed by the Aitkin County Board of Commissioners.
2. **County** means the County of Aitkin, Minnesota.
3. **County Highway** means county state-aid highways and county roads under the jurisdiction of Aitkin County.
4. **Gravel-surfaced County Highway** means those county highways whose full-width driving surface consists only of loose aggregate material.
5. **Paved County Highway** means those county highways with a bituminous or concrete driving lane surface.
6. **Shoulder** means that portion of a paved highway outside of the white line used to delineate the edge of the traffic lane.

Article 4 Operation

1. Class 1 all-terrain vehicles may be operated on the extreme right-hand side of all gravel-surfaced county highways except for any segment of county highway closed to all-terrain vehicle use. Operation shall be in compliance with the regulations contained in Article 5 of this Ordinance.
2. Class 1 all-terrain vehicles may be operated on the shoulder and inside slope of all paved county highways except for any segment of county highway closed to all-terrain vehicle use. Within municipal city limits and in areas where obstructions or inadequate shoulder width prohibits safe all-terrain vehicle use entirely on the shoulder and slope area, class 1 all-terrain vehicles may be operated on the extreme right-hand side of the adjacent traffic lane. Operation shall be in compliance with the regulations contained in Article 5 of this Ordinance.
3. The Aitkin County All-Terrain Vehicle Committee may close any segment of county highway authorized for all-terrain vehicle use under this article for non-compliance of the regulations listed in Article 5 and/or safety concerns created by ATV use.

Article 5 General Provisions

For operation of Class 1 all-terrain vehicles under this Ordinance, the following regulations shall apply:

1. The maximum speed of operation shall be 30 miles per hour.
2. Direction of travel shall be in the same direction as vehicular traffic.
3. Left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.
4. Operation shall not result in the spinning of tires or displacement of aggregate or soil material
5. Multiple riders shall be in single-file formation.

Article 6 Prohibitions and Enforcement

1. It shall be unlawful for any person to violate any of the provisions of this Ordinance, or to fail, resist, or refuse to comply with the provisions of this Ordinance.
2. It shall be unlawful for the owner of an all-terrain vehicle, or any person, to allow, permit, or require the operation of such vehicle by another in any manner that would be in violation of this Ordinance.
3. Penalty.
 - a. Any person found to have violated this Ordinance, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.
 - b. Any person who refuses or fails to comply with the Order of the County Sheriff is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.
 - c. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any provisions of this Ordinance shall be guilty of a misdemeanor, punishable by up to a \$1000 fine and/or 90 days in jail.

4. The Aitkin County Attorney's Office shall have the authority to prosecute any and all violations of this Ordinance.

Article 7 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

Article 8 Incorporation

This Ordinance expressly adopts and incorporates the provisions of Minnesota Statutes sections 84.92 to 84.928. When the provisions of this Ordinance impose greater restrictions than those of any other statute, ordinance, rule, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any other statute, ordinance, rule, or regulation impose greater restrictions than this Ordinance, the provision of such statute, ordinance, rule, or regulation shall be controlling.

Article 9 Severability

If any article, section, clause, provision, or portion of this Ordinance is adjudged unconstitutional, void, unenforceable, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected hereby.

Article 10 Effective Date

This Ordinance shall be effective and enforceable on _____, 2021, and shall be published in the official newspaper(s) of Aitkin County as provided by Minnesota Statutes.

Adopted: _____, 2021

_____, Chairperson
Aitkin County Board of Commissioners

Attest: _____

Jessica Seibert
Aitkin County Administrator

Aitkin County

All-Terrain Vehicle Ordinance

Regulating the use of Class 1 All-Terrain Vehicles within the Right of Way of Aitkin County Highways

Article 1 Statutory Authority

1. Minnesota Statutes 84.92 – 84.928 regulate the operation of all-terrain vehicles, including the operation of all-terrain vehicles within public road rights of way.
2. Minnesota Statute 84.928 Subdivision 1 generally restricts Class 1 all-terrain vehicles from using the roadway, shoulder, and inside bank or slope of a county state-aid or county highway.
3. Minnesota Statute 84.928 Subdivision 1(k) authorizes a County Board by ordinance to allow the operation of all-terrain vehicles on a public road or street to access businesses and residences and to make trail connections.
4. ~~Minnesota Statute 84.928 Subdivision 1a(h) authorizes a road authority by permit to designate corridor access trails on public road right of way for purposes of accessing established all-terrain vehicle trails.~~
5. Minnesota Statute 84.928 Subdivision 6(c) authorizes a County Board by ordinance to allow the operation of all-terrain vehicles on the road shoulder and inside bank or slope of the county state-aid or county highway if safe operation in the ditch or outside slope is impossible.

Article 2 Purpose and Intent

The purpose and intent of this Ordinance is as follows:

1. ~~Pursuant to Minnesota Statute 84.928 Subdivision 1(k), to allow the legal use of class 1 all-terrain vehicles on the extreme right hand side of the traffic lanes of specific county highways for the purpose of accessing businesses that provide services such as food, fuel, and lodging.~~
21. Pursuant to Minnesota Statute 84.928 Subdivision 6(c), to allow the legal use of class 1 all-terrain vehicles on the extreme right hand side of all gravel-surfaced county highways for the purpose of enhanced all-terrain vehicle operator safety and to prevent damage to road ditches and slopes.

~~3. Pursuant to Minnesota Statute 84.928 Subdivision 1a(h), to allow for a corridor access permit process to allow the legal use of class 1 all-terrain vehicles on the traffic lanes/shoulders of specific county highways for the purpose of accessing established all-terrain vehicle trails.~~

2. Pursuant to Minnesota Statute 84.928 Subdivision 6(c), to allow the legal use of class 1 all-terrain vehicles on the shoulder and inside slope of all paved county highways for the purpose of enhanced all-terrain vehicle operator safety and to prevent damage to road ditches and slopes, and

3. Pursuant to Minnesota Statute 84.928 Subdivision 1(k) and in compliance with Minnesota Statute 84.928 Subdivision 1a(b), to further allow legal use of class 1 all-terrain vehicles on the extreme right-hand side of the adjacent traffic lane within municipal city limits and in areas where obstructions or inadequate shoulder width prohibits safe all-terrain vehicle use entirely on the shoulder and slope area.

Article 3 Definitions

The following definitions apply to this ordinance:

1. **All-Terrain Vehicle Committee** means the committee appointed by the Aitkin County Board of Commissioners.
2. **County** means the County of Aitkin, Minnesota.
3. **County Highway** means county state-aid highways and county roads under the jurisdiction of Aitkin County.
4. **Gravel-surfaced County Highway** means those county highways whose full-width driving surface consists only of loose aggregate material.
5. **Paved County Highway** means those county highways ~~that consist of paved traffic lanes and paved and/or gravel surfaced shoulders~~ with a bituminous or concrete driving lane surface.
6. **Shoulder** means that portion of a paved highway outside of the white line used to delineate the edge of the traffic lane.

Article 4 Operation

- ~~1. Class 1 all-terrain vehicles may be operated on the extreme right hand side of the traffic lane on the segments listed in Appendix A for the purpose of accessing businesses that provide services such as food, fuel, and lodging.~~

~~Operation shall be in compliance with the regulations contained in Article 6 of this Ordinance.~~

21. Class 1 all-terrain vehicles may be operated on the extreme right-hand side of all gravel-surfaced county highways except for any segment of county highway closed to all-terrain vehicle use. Operation shall be in compliance with the regulations contained in Article 65 of this Ordinance.

32. ~~Operation of class 1 all-terrain vehicles on paved county highways shall remain as restricted in Minnesota Statute 84.928 Subdivision 1. Class 1 all-terrain vehicles may be operated on the shoulder and inside slope of all paved county highways except for any segment of county highway closed to all-terrain vehicle use. Within municipal city limits and in areas where obstructions or inadequate shoulder width prohibits safe all-terrain vehicle use entirely on the shoulder and slope area, class 1 all-terrain vehicles may be operated on the extreme right-hand side of the adjacent traffic lane. Operation shall be in compliance with the regulations contained in Article 5 of this Ordinance.~~

43. The Aitkin County All-Terrain Vehicle Committee may close any segment of county highway authorized for all-terrain vehicle use under this article for non-compliance of the regulations listed in Article 65 and/or safety concerns created by ATV use.

Article 5 Corridor Access Permit

1. ~~A Corridor Access Permit is available under this Ordinance to allow legal all-terrain vehicle operation on the traffic lanes/shoulders of permitted paved county highways.~~

2. ~~The applicant for this permit must be the city council and/or township board(s) in which the corridor is located. The permit application form is shown in Appendix B of this Ordinance.~~

3. ~~Operation on approved corridor access routes shall be in compliance with the regulations contained in Article 6 of this Ordinance.~~

4. ~~The Aitkin County All-Terrain Vehicle Committee shall make a recommendation to the Aitkin County Board of Commissioners for approval or denial of a permit application request based on factors including, but not limited to, the following: corridor length, vehicle traffic count, shoulder width, road design speed, and trail connectivity.~~

~~5. — Signage shall be placed by the Aitkin County Highway Department to indicate the location of corridor access permit routes. All costs of signage are to be reimbursed to the Aitkin County Highway Department by the permit applicant.~~

~~6. — Permits may be revoked by the Aitkin County Board of Commissioners for non-compliance with permit regulations and/or safety concerns created by the all-terrain vehicle use.~~

Article 65 General Provisions

For operation of Class 1 all-terrain vehicles under this Ordinance, the following regulations shall apply:

1. The maximum speed of operation shall be 30 miles per hour.
2. Direction of travel shall be in the same direction as vehicular traffic.
3. Left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.
4. Operation shall not result in the spinning of tires or displacement of aggregate or soil material
5. Multiple riders shall be in single-file formation.
- ~~6. — Hours of operation shall be limited to ½ hour before sunrise to ½ hour after sunset.~~
- ~~7. — A person 12 years of age but less than 16 years must possess a valid all-terrain safety certificate issued by the commissioner of natural resources and must be accompanied by a person 18 year of age or older who is in possession of a valid driver's license.~~

Article 76 Prohibitions and Enforcement

1. It shall be unlawful for any person to violate any of the provisions of this Ordinance, or to fail, resist, or refuse to comply with the provisions of this Ordinance.
2. It shall be unlawful for the owner of an all-terrain vehicle, or any person, to allow, permit, or require the operation of such vehicle by another in any manner that would be in violation of this Ordinance.

3. Penalty.
 - a. Any person found to have violated this Ordinance, is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.
 - b. Any person who refuses or fails to comply with the Order of the County Sheriff is guilty of a misdemeanor, punishable by up to a \$1,000 fine and/or 90 days in jail.
 - c. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any provisions of this Ordinance shall be guilty of a misdemeanor, punishable by up to a \$1000 fine and/or 90 days in jail.
4. The Aitkin County Attorney's Office shall have the authority to prosecute any and all violations of this Ordinance.

Article 87 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

Article 98 Incorporation

This Ordinance expressly adopts and incorporates the provisions of Minnesota Statutes sections 84.92 to 84.928. When the provisions of this Ordinance impose greater restrictions than those of any other statute, ordinance, rule, or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any other statute, ordinance, rule, or regulation impose greater restrictions than this Ordinance, the provision of such statute, ordinance, rule, or regulation shall be controlling.

Article 109 Severability

If any article, section, clause, provision, or portion of this Ordinance is adjudged unconstitutional, void, unenforceable, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected hereby.

Article 110 Effective Date

This Ordinance shall be effective and enforceable on _____, 2021, and shall be published in the official newspaper(s) of Aitkin County as provided by Minnesota Statutes.

Adopted: _____, 2021

_____, Chairperson
Aitkin County Board of Commissioners

Attest: _____
Jessica Seibert
Aitkin County Administrator

Appendix A

1. ~~County Highway 3 from the Soo Line Recreation Trail to 5th Avenue in Palisade~~
2. ~~County Highway 7 from the Hill City Connector Trail to US Highway 169~~
3. ~~County Highway 8 from the Soo Line Recreation Trail to Trunk Highway 210 in McGregor~~
4. ~~County Highway 9 from County Highway 79 to south jet. Trunk Highway 65 in McGrath~~
5. ~~County Highway 10 from the Soo Line Recreation Trail to 5th Avenue in Palisade~~
6. ~~County Highway 16 from the Soo Line Recreation Trail to 363rd Street in Lawler~~

7. — ~~County Highway 33 from US Highway 169 to Park Avenue in Hill City~~
8. — ~~County Highway 66 from US Highway 169 to Water Street in Hill City~~
9. — ~~County Highway 70 from the north jet. Trunk Highway 65 to the south jet. Trunk Highway 65 in Jacobson~~
10. — ~~County Highway 79 from County Highway 9 to 4th Street in McGrath~~
11. — ~~County Highway 82 from Airport Road to east termini of County Highway 82~~

~~Appendix B~~

~~Corridor Access Permit Application~~

~~**Applicant Name(s)** — The City and/or Township(s) in which the segment is located must be listed as applicants. Permit application to be accompanied by authorizing resolution(s) from each applicant.~~

Roadway Segment — Provide County Highway number and/or name with specific begin and ending point.

County Highway No. _____

From: _____

To: _____

Applicant Signature(s) — By signing this application, the applicant(s) acknowledge that they have read the Corridor Access Permit Requirements and Regulations in the Aitkin County All-Terrain Vehicle Ordinance. If approved, the applicants acknowledge that they will be responsible for cost of signage for the corridor access route.

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Aitkin County All-Terrain Vehicle Committee Recommendation

Approve _____ Deny _____ Date: _____

Aitkin County Board of Commissioners Action

Approve _____ Deny _____ Date: _____

Additional Permit Provisions: _____

County Administrator Signature: _____ Date: _____