

Subject: Golf Cart & ATV Operation on the Streets in the Rivers Edge Community

Rivers Edge held its mid-year homeowners association meeting in May 2016, and the subject of operating golf carts and ATVs on the streets in the neighborhood came up.

The HOA Board agreed to research this topic and get back to the homeowners with an answer.

We contacted the Rivers Edge HOA's legal counsel; Hatch, Little & Bunn, LLP, with the following questions:

1. What is the legal status of the road network in the Rivers Edge development?
2. What is North Carolina State law regarding the operation of ATVs and golf carts on public access roads like the ones in Rivers Edge?
3. What does NC State law say regarding anyone who is underage and/or unlicensed operating ATVs and golf carts on public access roads?

Answers to the questions:

Question 1: According to legal counsel at Hatch, Little & Bunn, LLP a public road or street in NC is defined as follows:

§ 153A-238. Public road defined for counties: A "public road" or "road" means any road, street, highway, thoroughfare, or other way of passage that has been irrevocably dedicated to the public or in which the public has acquired rights by prescription, without regard to whether it is open for travel, except that in G.S. 153A-239.1, the word "road" means both private roads and public roads.

When Denmark Corp. filed the Rivers Edge development's plat with the NCDOT and allowed the public drive on them, the roads in Rivers Edge were "dedicated" to the public.

Question 2: It is illegal for any person to operate an ATV on a public street, except for the sole purpose of crossing the street. N.C.G.S. 20-171.19.

As to whether a golf cart can be driven on a public street (like the ones in Rivers Edge), it depends on whether it is licensed. **A golf cart that can go no more than 20 miles per hour cannot be licensed and if it cannot be licensed, it cannot be driven on a public street.** Street legal golf carts are also known as LSV's (Low Speed Vehicles) and must meet NC State safety regulations. They come from their manufacturer with a 17-digit VIN # and a title, just like an automobile. LSV's hold the same requirements as automobiles in terms of insurance, tags, title, and taxes. LSV's are limited to 25 mph and also require state safety inspections in states that require automobile inspections.

Street-legal golf carts that are licensed can be driven on a public street by a licensed operator. However, if a golf cart is unlicensed, it cannot be driven on a public street. Period.

Question 3: It is illegal for anyone less than 16 years of age to operate a golf cart on a public street. Anyone who is 16 years or age or older must also have a drivers license in order to legally operate a golf cart on the street. N.C.G.S. 153A-245.

So, what's the bottom line?

1. The Rivers Edge Homeowners Association does not have the authority to usurp NC State Law and authorize or grant permission to homeowners to operate golf carts or ATVs on the streets of the neighborhood. Any reference found in the Declaration of Covenants, Conditions, & Restrictions For Rivers Edge Subdivision that appears to authorize the operation of golf carts and ATVs on the streets of the subdivision by the Rivers Edge HOA should be disregarded.

According to our legal counsel's research, if you drive an ATV on the street, you're operating that vehicle in violation of NC State law. If a golf cart is operated by an unlicensed/underage person, that's a violation of NC State law. If an unlicensed golf cart is driven on the streets, that's a violation of NC State law.

If a homeowner drives, or allows someone else to drive, your golf cart or ATV on the streets in Rivers Edge subdivision then you -the homeowner- do so at your own risk and without the permission/approval of the Rivers Edge Homeowner's Association.

2. The Rivers Edge Board of Directors does not have the authority to enforce NC State law. If you see someone driving a golf cart or ATV on the streets in the neighborhood in an irresponsible (illegal) or unsafe manner and choose to take action, you should call 911 and report the incident to the Franklin County Sheriff's Department or NC State Police, not the Rivers Edge Board, since we do not have law enforcement authority.