



ALAN WILSON  
ATTORNEY GENERAL

June 12, 2018

Chief Andrew Gilreath  
Department of Public Safety  
City of Folly Beach  
PO Box 48  
Folly Beach, SC 29439

Dear Chief Gilreath:

We received your opinion request regarding the enforcement of a local city ordinance regarding golf cart operation. The following opinion sets out our understanding of your question and our response.

**Issue (as quoted from your letter):**

I am requesting clarification as to whether it is acceptable to allow a city ordinance officer, certified to the level of LE3 by the SCCJA, to issue a local city ordinance ticket for a violation of operating a golf cart after dark. We have a local city ordinance [Folly Beach Code of Ordinances § 73(A)(4)] that states a golf cart may only be operated during daylight hours. The citation would be made on a local ordinance ticket (not a state blue ticket) and processed through municipal court.

**Law/Analysis:**

At the outset, we note that we understand your question to be whether it would be proper for the particular ordinance discussed here to be enforced by issuing a local city ordinance ticket as opposed to a Uniform Traffic Ticket (UTT) established by Section 56-7-10 of the South Carolina Code. We have addressed that question in this opinion, but if you have additional specific questions, we invite you to contact us for further clarification. We also understand that you not are seeking any opinion on the constitutionality of the underlying ordinance, which is presumed constitutional until held otherwise by a court. *See Op. S.C. Att'y Gen.*, 2014 WL 5303044 (October 1, 2014).

As you no doubt are aware, Section 56-7-10 of the South Carolina Code of Laws establishes the Uniform Traffic Ticket and provides that such tickets "will be . . . used by all law enforcement officers in arrests for traffic offenses." S.C. Code Ann. § 56-7-10(A) (2018) (emphasis added). That section also mandates that "[n]o other ticket may be used for these offenses." § 56-7-10(C). Similarly, Section 56-7-80 establishes the county or municipal ordinance summons which may be used "for the enforcement of county and municipal

ordinances," except that the same section also expressly provides that "[n]o county or municipal ordinance which regulates the use of motor vehicles on the public roads of this State may be enforced using an ordinance summons." S.C. Code Ann. § 56-7-80 (A)&(C) (2018) (emphasis added).

Our Office has previously interpreted these code sections and opined on the use of municipal ordinance tickets as opposed to UTTs for motor vehicle violations in the past. *See, e.g., Op. S.C. Att'y Gen.*, 2011 WL 2648722 (June 15, 2011). For example, a 2011 opinion addressed the practice in New Ellington, SC which was described as follows:

When a driver is stopped for speeding the officer offers the violator a choice: accept the Uniform Traffic Citation "with points on your license" or be given a ticket for violating a local ordinance "with no points." It is my understanding that most opt for the local ordinance violation with its \$185 penalty.

*Id.* In that opinion we reviewed and affirmed several prior opinions on similar questions, such as a 2006 opinion that concluded that "a municipality is required to use the uniform traffic ticket when citing for municipal ordinance violations dealing with traffic offenses, such as careless operation." *Id.* (citing *Op. S.C. Att'y Gen.*, 2006 WL 3522438 (November 14, 2006)). Consistent with those prior opinions, our 2011 opinion relied upon Sections 56-7-10 and 56-7-40 to conclude "that a municipality is required to use a uniform traffic ticket when citing for municipal ordinance violations dealing with traffic offenses. It may not use a municipal ordinance summons in such situation." *Id.*, *see also Op. S.C. Att'y Gen.*, 2003 WL 22682947 (October 15, 2003)).

Conversely, our Office also has concluded previously that a particular transportation of refuse ordinance may properly be cited with a municipal ordinance ticket. *Op. S.C. Att'y Gen.*, 2008 WL 5476549 (December 2, 2008). A 2008 opinion of this Office considered a Richland County ordinance which read, in relevant part:

It shall be unlawful for any person to haul, convey or cause to be conveyed any refuse upon or along the public streets and roadways except when the material transported is adequately secured in such a manner as to prevent it from falling, leaking or being blown from transporting vehicles. The owner or driver of the offending vehicle shall be personally responsible for any violation of this section.

*Id.* That opinion noted our prior opinions related to Section 56-7-80 but ultimately concluded that the ordinance "is not a traffic offense and does not regulate the use of a motor vehicle on the public roads of this State." *Id.* The distinction in that circumstance was that "the Richland County ordinance regulating the transportation of refuse deals with the manner in which the load transported has been secured, and is irrelevant to how safely or unsafely a motorist operates the vehicle itself which carries the load." *Id.*

Turning to the Folly Beach ordinance in your question, we observe that Ordinance 73 of the Folly Beach Code of Ordinances (referred to in this opinion as the "Ordinance") is found in

Title VII, which is titled "Traffic Offenses." Subsection (A) of Ordinance 73 addresses golf carts, and reads in full:

(1) During daylight hours only, a permitted golf cart may be operated within four miles of the address on the registration certificate, and only on a secondary highway or street for which the posted speed limit is 35 miles per hour or less. Golf carts may cross Center Street or Folly Road, but may not drive on Center Street or Folly Road. (See S.C. Code § 56-2-105(B)(1) and (3).)

(2) A person operating a golf cart must be at least 16 years of age and hold a valid driver's license. The operator of a permitted golf cart being operated on a highway or street must have in his or her possession:

- (a) The registration certificate issued by the State of South Carolina;
- (b) Proof of liability insurance for the golf cart; and
- (c) His or her driver's license. (See S.C. Code § 56-2-105(C).)

(3) Golf carts may not be operated at any time when windshield wipers are in use as a result of rain, sleet or snow, or when inclement weather or environmental factors severely reduce the ability to clearly discern persons and vehicles on the street or highway at a distance of 500 feet ahead. Any person who violates this division is guilty of a misdemeanor and, upon conviction, may be fined up to \$25. (See S.C. Code §§ 56-5-4450.)

(4) Golf carts may only operate during daylight hours. Any person violating the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$200 or imprisoned for not more than 60 days or both. (See S.C. Code § 56-5-4470.)

(5) A golf cart must be equipped with a rear vision mirror.

(6) The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart, and no part of the body of the operator or any occupant shall extend outside the perimeter of the golf cart while it is in motion.

(7) The driver of a golf cart shall use hand signals when turning or stopping unless the golf cart is equipped with turn signals.

(8) Golf carts are subject to all traffic rules and regulations and parking laws governing the operation of motor vehicles.

Folly Beach Code of Ordinances § 73(A). We understand that your question specifically refers to Subsection 73(A)(4), which only allows the operation of a golf cart "during daylight hours." § 73(A)(4). That subsection expressly references S.C. Code § 56-5-4470, which specifies that certain vehicles "need to be equipped with . . . lighting equipment" and regulates the operation of motor vehicles not equipped with lighted lamps. *Cf.* S.C. Code Ann. § 56-5-4470 (2018).

The prohibition on nighttime operation of golf carts also appears at the beginning of Ordinance 73, which reads: "[d]uring daylight hours only, a permitted golf cart may be operated within four miles of the address on the registration certificate, and only on a secondary highway or street for which the posted speed limit is 35 miles per hour or less." Folly Beach Code of Ordinances § 73(A)(1). This ordinance language unambiguously tracks the language of Section 56-2-105(C) of the South Carolina Code, which reads in part: "[d]uring daylight hours only: [a] permitted golf cart may be operated within four miles of the address on the registration certificate and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less." S.C. Code Ann. § 56-2-105(C)(1) (2018). We also observe that the Ordinance contains numerous references to the proper operation of golf carts on these streets, such as hand signaling and being equipped with a rearview mirror, in addition to being generally "subject to all traffic rules and regulations and parking laws governing the operation of motor vehicles." Folly Beach Code of Ordinances § 73(A).

It is the opinion of this Office that a court faced with this question would conclude that Folly Beach Ordinance 73, including the restriction in 73.04 to use "during daylight hours," is an ordinance which "regulates the use of motor vehicles on the public roads in this State," and therefore should be enforced with a Uniform Traffic Ticket and not a municipal ordinance citation. *Cf.* S.C. Code Ann. §§ 56-7-10 & 56-7-80 (2018). If Ordinance subsection 73.04 were read in isolation as a stand-alone prohibition or in some other context this conclusion might be more open to question. But in fact the prohibition appears in the portion of the Folly Beach Code of Ordinances titled "Traffic Offenses," and along with the other provisions of Ordinance 73 it directly and unambiguously regulates the operation of a motor vehicle on a public road. *Cf. Op. SC. Att'y Gen.*, 1998 WL 940253 (October 6, 1998) (discussing the operation of golf carts as motor vehicles crossing public roads). As our Office has previously opined,

[A] municipal ordinance summons may be used to cite for violations of municipal ordinances. However, as to any municipal ordinance pertaining to traffic or motor vehicle offenses, such as careless operation of a vehicle, such must be cited using a uniform traffic ticket. A municipal ordinance summons would not be used in such circumstances.

*Op. S.C. Att'y Gen.*, 2003 WL 22682947 (October 15, 2003). Consistent with our prior opinions, we advise that "a municipality is required to use a uniform traffic ticket when citing for municipal ordinance violations dealing with traffic offenses," just as the Ordinance here does. *See Op. S.C. Att'y Gen.*, 2011 WL 2648722 (June 15, 2011).

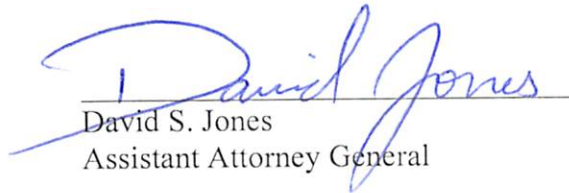
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**Conclusion:**

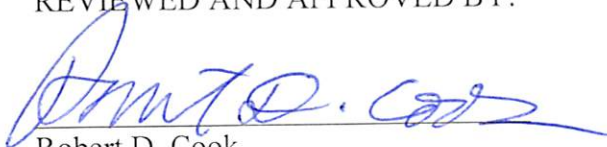
Accordingly, it is the opinion of this Office that a court most likely would conclude that Folly Beach Ordinance 73, including the restriction in 73.04 to use "during daylight hours," should be enforced with a Uniform Traffic Ticket and not a municipal ordinance citation. *Cf.* S.C Code Ann. §§ 56-7-10 & 56-7-80 (2018). If you need any further clarification on other questions related to that ordinance, we invite you to contact us again.

We note finally that this opinion should not be seen as a comment on any particular civil case or criminal proceeding.

Sincerely,

  
David S. Jones  
Assistant Attorney General

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Solicitor General