

|                      | Identification                                                                           |                            | Regulation       |                      |                                                                              |
|----------------------|------------------------------------------------------------------------------------------|----------------------------|------------------|----------------------|------------------------------------------------------------------------------|
| Vehicle              | Top Speed With Assistance                                                                | Motor Type                 | Driver's License | Vehicle Registration | Rules of the Road                                                            |
| <b>E-Bike</b>        | Class 1: 20mph pedal assist<br>Class 2: 20mph motor alone<br>Class 3: 28mph pedal assist | Electric, 750 watt or less | None             | None                 | Treated as a bicycle. Barred from expressways/freeways with posted signs     |
| <b>Motor Bicycle</b> | 30mph under statutory test conditions                                                    | Motor NOT integral         | Required         | None                 | Like an e-bike except at crosswalks and on bicycle ways                      |
| <b>Moped</b>         | 30mph under statutory test conditions                                                    | Motor IS integral          | Required         | Required             | Like a motorcycle, except barred from expressways/freeways with posted signs |
| <b>Motorcycle</b>    | No top speed                                                                             | No specific limit          | Required         | Required             | Normal motor vehicle rules, with some special rules                          |

## The Limits on Local Power

Municipalities have the power to add regulations beyond what the state has prescribed. However, what a municipality can do in the area of traffic enforcement depends on what state law already does. If state law already regulates a given area, a municipality could pass an ordinance that essentially restates the state rule (called a “conforming” ordinance) to allow for enforcement in local municipal court, but that’s all. Municipalities are prohibited from passing a local ordinance that prohibits any conduct that state law specifically allows or allows any conduct that state law specifically prohibits.<sup>18</sup>

In *Janesville v. Walker*, 50 Wis. 2d 35 (1971), a city prohibited anyone, of any age, from possessing beer in a vehicle when a minor was present. The parallel state statute applied only to persons under 21 and required knowing possession. Because the ordinance regulated the same conduct as the statute but swept in more people and dropped the intent requirement, it was stricter than state law and, therefore, invalid.

However, if state law is silent on the conduct, the municipality has room to fill the gap, so long as the ordinance is consistent with the rest of the statutory framework. In *Janesville v. Garthwaite*, 83 Wis. 2d 866 (1978), a city prohibited unnecessary and annoying noise from squealing tires and excessive engine acceleration. State law regulated vehicle noise from horns and mufflers but said nothing about tires or acceleration. Because the ordinance addressed conduct the legislature had not regulated, and was consistent with the statute, it was valid.

## What Municipalities Can Do and Have Done

Though these limits may seem restrictive, municipalities still have a wide variety of options to address concerns about e-bikes in their communities.

**Target unsafe riding.** Neenah, Fox Crossing, and Menasha recently enacted coordinated ordinances prohibiting unsafe e-bike operation, including clinging to moving vehicles; towing other riders; and stunt, trick, and race riding. Some of these provisions mirror existing state rules, such as the prohibition on attaching a bicycle to a vehicle on the roadway in Wis. Stat. § 346.79(4). Others, like the stunt and trick riding prohibitions, address conduct the vehicle code does not regulate.

**Decide where e-bikes belong.** Several statutes expressly give municipalities the power to decide where e-bikes can operate. For example, state statute prohibits riding on sidewalks unless the municipality permits it.<sup>19</sup> A municipality may prohibit operating an e-bike with the motor engaged on bikeways under its jurisdiction.<sup>20</sup> And municipalities may prohibit bicycle traffic on designated portions of roadways where official signs are erected.<sup>21</sup>

**Register e-bikes.** A city, town, or village may by ordinance regulate the operation of bicycles and require registration of bicycles owned by residents, including a registration fee.<sup>22</sup> Because an electric bicycle is by definition a bicycle, that registration authority covers e-bikes. Some municipalities require registration primarily as a theft protection measure, since a registered bike is far easier to identify and return.<sup>23</sup>

18. Wis. Stat. § 349.03(1); compare *Janesville v. Walker*, 50 Wis. 2d 35 (1971) and *Janesville v. Garthwaite*, 83 Wis. 2d 866 (1978).

19. Wis. Stat. § 346.94(1).

20. Wis. Stat. § 349.18(4)(a).

21. Wis. Stat. § 346.80(4).

22. Wis. Stat. § 349.18(2).

23. See, e.g., the City of Greenfield: [https://library.municode.com/wi/greenfield/codes/code\\_of\\_ordinances?nodeId=CH8TRCO\\_8.18REOPBJ](https://library.municode.com/wi/greenfield/codes/code_of_ordinances?nodeId=CH8TRCO_8.18REOPBJ).