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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2009-10**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Transportation, Tourism,  
Forestry, and Natural Resources (SC-TTFNR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (June/2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Transportation, Tourism, Forestry, and Natural Resources**

##### **Senate Bill 321**

Relating to: operation of neighborhood electric vehicles.

By Senators Vinehout, Holperin, Lazich, Erpenbach, Cowles, Ellis, Schultz and Taylor; cosponsored by Representatives Danou, Jorgensen, Radcliffe, Wood, Zigmunt, Ballweg, Van Akkeren, Berceau, Kaufert, Pope-Roberts and Zepnick.

September 30, 2009 Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

October 15, 2009 **EXECUTIVE SESSION HELD**

Present: (7) Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

Absent: (0) None.

Moved by Senator Grothman, seconded by Senator Sullivan that **Senate Bill 321** be recommended for passage.

Ayes: (7) Senators Holperin, Sullivan, Plale, Hansen, Leibham, Kedzie and Grothman.

Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 7, Noes 0

Elizabeth Novak  
Committee Clerk





# City of Eagle River

525 E. Maple Street • P.O. Box 1269 • Eagle River • WI 54521  
Phone: (715) 479-8682 • Fax: (715) 479-9674

**City Administrator**

[www.eagleriver.govoffice2.com](http://www.eagleriver.govoffice2.com)

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To: Senate Committee on Transportation, Tourism, Forestry, and Natural Resources  
From: Joe Laux, Eagle River City Administrator  
Date: September 29, 2009  
Re: Support for LRB 0721, Neighborhood Electric Vehicles

The City of Eagle River supports LRB 0721, which expands municipal authority to allow the use of neighborhood electric vehicles (NEVs) on all roads with speed limits of 35 mph within the community, including state and county highways.

Eagle River is split by the river (Eagle River) and four major highways that run throughout – Highways 17, 32, 45 and 70. In effect, Eagle River is broken into five separate areas due to the highways and river.

In 2008 Eagle River adopted an enabling ordinance allowing the use of NEV's throughout the community. Our ordinance would have allowed NEV's to cross the highways at all intersections and the snowmobile bridge across the river.

The Department of Transportation (DOT District 7) objected to the ordinance. They denied crossings at all intersections except those with signals and will not allow NEV's to cross the snowmobile bridge. NEV's cannot be used as an alternative transportation method in Eagle River due to this decision.

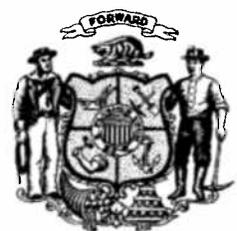
This decision is not consistent with other communities. I am aware that the Town of Lake Tomahawk in District 7 is allowed to cross at any intersection that crosses Highway 47 – signalized or not. I am also aware that City of Washburn is allowed to cross at any intersection that crosses Highway 13 – signalized or not.

Further, NEV's are capable of sustaining speeds at least 35 mph for extended periods of time. In Eagle River, all the highway corridors are 35 mph or less. To encourage alternative transportation methods and reduce our dependency on foreign oil, we urge the legislature to allow NEV's on state highways and county roads that are 35 mph or less. This would allow the use of NEV's in Eagle River and many other communities in Wisconsin.

We urge you to recommend passage of LRB 0721. Thanks for considering our comments.



# WISCONSIN STATE LEGISLATURE



# MEUW

MUNICIPAL  
ELECTRIC  
UTILITIES OF  
WISCONSIN

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725 Lois Drive  
Sun Prairie, WI 53590  
(608) 837-2263  
fax: (608) 837-0206  
www.meuw.org

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Wisconsin Dells  
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To: Members of the Senate Committee on Transportation, Tourism, Forestry, and Natural Resources

From: Scott Meske, Associate Director

Date: September 30, 2009

**RE: MEUW Supports LRB 0721/1; Please Support Clean up of Statutes Pertaining to Operation of Neighborhood Electric Vehicles (NEV's):**

MEUW is pleased to join with the League of Wisconsin Municipalities and others to support LRB 0721/1, which Sen. Vinehout and Rep. Danou are presenting for your consideration today.

The bill would clear up all problems in the current enabling law that make it difficult for NEVs to be used in many communities that have adopted an NEV ordinance. It expands municipal authority to allow operation of NEVs on state and county as well as municipal roads within the municipality. Under the bill, a municipal ordinance may allow the use of NEVs on any roadway within the municipality that has a speed limit of 35 miles per hour or less, regardless of whether the municipality has jurisdiction over the roadway.

If Wisconsin is to continue to be a leader in green energy practices and reducing greenhouse gas emission (including those from vehicles), this legislation would be a positive step toward that end.

We urge you to support the provisions of LRB 0721/1.

Feel free to contact us if there are questions about the issue.





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# KATHLEEN VINEHOUT

## STATE SENATOR

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**Testimony in support of SB 321 (LRB 0721)**  
**Committee on Transportation, Tourism, Forestry and Natural Resources**  
**Wednesday, September 30, 2009**

Good morning Chairman Holperin and members of the Committee. Thank you for the hearing today on SB 321 relating to the operation of Neighborhood Electric Vehicles. I want to thank Chairman Holperin for his work on this bill, as well as Rep. Chris Danou.

We came together to work on this bill because each of us heard from municipalities within our districts and the problems they encountered with the use of Neighborhood Electric Vehicles.

Neighborhood Electric Vehicles are low speed, electrically propelled vehicles that meet federal safety standards. Since 2006, municipalities have had the option of adopting an enabling ordinance that allows the use of these vehicles on local roads. A growing number of municipalities have purchased Neighborhood Electric Vehicles as a cleaner and more economical alternative to gas powered vehicles.

Current law does not allow Neighborhood Electric Vehicles to travel along connecting highways or to cross state trunk highways within municipalities without DOT authorization. A number of municipalities contacted our offices with concerns that current law is too restrictive. Not being able to travel along or across highways without DOT authorization greatly hinders the use of Neighborhood Electric Vehicles within their communities.

In many small towns throughout the state, a highway is also "Main Street" within municipal borders. Although the highway effectively serves as a municipal roadway, current law greatly restricts municipalities from fully using their Neighborhood Electric Vehicles. Essentially, these municipal vehicles are not permitted to travel on certain streets or pass through certain intersections within the municipality simply because a roadway is designated as a highway.

This bill remedies this problem by expanding municipal authority to allow the operation of Neighborhood Electric Vehicles on any roadway within the municipality that has a speed limit of 35 miles per hour or less. It gives municipal officials the discretion to adopt a Neighborhood Electric Vehicle ordinance that fits their community. The bill does not allow Neighborhood Electric Vehicles to be operated on high-speed roads nor does it give municipalities the authority to operate a Neighborhood Electric Vehicle outside municipal borders.

This is a common sense change that comes at the request of communities throughout the state. It will allow communities to fully enjoy the environmental and economic benefits of Neighborhood Electric Vehicles in a safe and responsible manner.

Thank you for your time and attention to this matter.



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Testimony from

Mayor Rod Moen, City of Whitehall

Date?

On the operation of Neighborhood Electric Vehicles (NEC)

Thank you Mr. Chairman, and committee members, for this opportunity to appear before you in support of a change in state law to allow neighborhood electric vehicles to operate on state and federal highways within Wisconsin cities and villages.

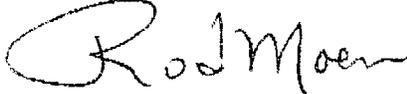
The City of Whitehall purchased a NEV in February of 2008. The major reason for this purchase was to use it for work associated with city streets, and utilities, at a much lower cost than the use of other city vehicles. On April 8, 2008, the city adopted an ordinance that included a number of requirements, including limiting the operation of NEV's in the city only on those streets having a posted speed limit of 35 miles per hour or less.

After this ordinance was adopted it was brought to our attention that our NEV could not be on certain city streets unless a change in state law was adopted to allow full use of these vehicles on all of the aforementioned municipal streets. It is interesting to note that under current law mopeds are allowed to operate on these streets.

Mopeds are titled and licensed with the state Department of Transportation. So are neighborhood electric vehicles. It seems, to me, that allowing NEV's to operate on the same streets as mopeds makes good sense.

In early July, of this year, I requested that Senator Vinehout introduce a bill that corrects this quirk in state law. That bill is before you today and it is my hope that this committee would act favorably on it.

Thank you.



Rodney C. Moen, Mayor, City of Whitehall





SB 321 folder  
Date ?

STATE REPRESENTATIVE  
**CHRIS DANOU**

WISCONSIN STATE ASSEMBLY

91ST DISTRICT

Rep. Danou's Testimony on LRB 0721

Good Morning, thank you for the opportunity to address the committee regarding an important issue in rural Wisconsin that I believe you will find to be of great interest. I am very pleased to be working with Sen. Vinehout's office on this issue and I would also like to thank Chairman Jim Holperin for his work on this bill.

Before I jump in to this issue I want everyone to understand what a Neighborhood Electric Vehicle is and what it does. These vehicles are electronically propelled, low speed and meet federal safety standards. Around the State of Wisconsin, different municipalities have exercised their option to adopt an enabling ordinance allowing use of these vehicles. Many municipalities have found these vehicles to be more economical and efficient. As a result electronically propelled vehicles have grown in popularity.

Current law does not allow for the use of neighborhood electric vehicles along state highways within the limits of a municipality. DOT authorization is also required for such vehicles to even cross state trunk highways. Several local municipalities within the 91<sup>st</sup> assembly district have contacted me expressing their view that current policy is overly restrictive. With so many limitations on the use of these vehicles, their actual use under the current policy is very limited. What has been happening in some communities is that these municipal vehicles are not able to travel on particular streets or pass through certain intersections.

This bill authored by Sen. Vinehout and myself remedies the problem by expanding local control and allowing the municipality to permit the operation of a Neighborhood Electric Vehicle on any local roadway which has a speed limit of 35 miles per hour or less. Our bill restores local control and gives the local municipal officials the discretion that they need in order to adopt a Neighborhood Electric Vehicle ordinance.

It is important to understand that this bill does not allow such vehicles to be operated outside the boundaries of a municipality nor does it allow for operation on a high speed road. This is a common sense change that will enhance local control in all of our communities.

I would appreciate the committee's support on this matter.





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director*  
*Laura D. Rose, Deputy Director*

TO: SENATOR ROGER BRESKE  
FROM: Larry A. Konopacki, Staff Attorney  
RE: Neighborhood Electric Vehicle Use on County Roads  
DATE: March 25, 2008

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You have asked whether state statutes provide local governments with authority to allow the use of neighborhood electric vehicles (NEVs) on county highways. Counties cannot authorize such use, and the statutes are unclear about whether cities, villages, and towns have the authority to do so, as explained in more detail below.

### NEV Statute

Section 349.26, Stats., provides as follows:

Authority to allow the operation of neighborhood electric vehicles.

(2) Subject to sub. (3), the governing body of any city, town, or village may by ordinance allow the use of a neighborhood electric vehicle on a roadway that has a speed limit of 35 miles per hour or less and over which the city, town, or village **has jurisdiction**.

(3) (a) An ordinance under sub. (2) may apply to a connecting highway, or to an intersection where the roadway crosses a state trunk highway, within the city, town, or village only if all of the following apply:

1. The city, town, or village provides written notice to the department of the ordinance, including identification of any connecting highway or state trunk highway intersection to which the ordinance will apply.

2. Within 21 days of receiving the notice under subd. 1., the department has provided written or oral consent to the use of neighborhood electric vehicles on the connecting highway or through the intersection crossing

the state trunk highway or has failed to object to the use of neighborhood electric vehicles on the connecting highway or through the intersection crossing the state trunk highway.

(b) If the department makes a timely objection under par. (a) 2., no ordinance enacted under this section is valid for that connecting highway or that intersection crossing the state trunk highway.

[Emphasis added.]

### Discussion

Only cities, villages, and towns (municipalities), *not counties*, are provided with authority to authorize operation of NEVs under s. 349.26, Stats. Therefore, the threshold question is whether a municipality can authorize NEV use on a *county* roadway that is within its geographical boundaries. The statute is not clear on this issue, so it would be up to a reviewing court to determine the scope of this authority.

Section 349.26 (2), Stats., quoted above, authorizes the governing body of a municipality to permit the use of NEVs on certain roadways over which the municipality “has jurisdiction.” Therefore, a reviewing court would have to decide whether, under this statute, a municipality “has jurisdiction” over county roadways within the geographical boundaries of the municipality.

Various statutes related to motor vehicles and highways use the word “jurisdiction” to only mean the roadways owned and maintained by the municipality. This interpretation is consistent with the scope of jurisdiction for multiple statutory provisions, including for example, the designation of vehicle weight limits. This interpretation is also consistent with the way that the Department of Transportation generally interprets this term.

However, the term “jurisdiction” is also used in multiple statutes in a broader context to include all of the roadways within a municipality’s geographical boundaries. For instance, a municipality’s jurisdiction for the purpose of certain parking regulations and the provision of general law enforcement services extends to all roadways within the political subdivision. If the term “jurisdiction” is interpreted in this way, county and state roadways within the geographical boundaries of a municipality would be under the jurisdiction of the municipality, and therefore the municipality would have the authority to authorize NEV use on those roadways.

In support of this broader interpretation, this statute appears to treat connecting highways and state trunk highways inside the geographical boundaries of a municipality as roadways over which the municipality has “jurisdiction.” Specifically, s. 349.26 (2), Stats., authorizes the governing body of a municipality to permit the use of NEVs on certain roadways over which the municipality has jurisdiction, but only subject to sub. (3). Sub. (3) provides for how a municipality can authorize NEV use on a connecting highway or an intersection crossing a state trunk highway. This could be interpreted to mean that connecting highways and state highway crossings are considered a subset of the roadways that are under that municipality’s jurisdiction under this statute. If this interpretation is correct, county roadways within the municipality should also be considered to be under the municipality’s jurisdiction and subject to NEV use when authorized by the municipality.

A reviewing court may also find it unreasonable to interpret this statute to allow authorization of NEV use on or across all types of roadways *except* county roadways that are not connecting highways, even though connecting highways and state highways are generally considered to be higher-volume, and therefore more of a safety risk for slower, smaller vehicles, than these other county roadways. In other words, a court might conclude that it would not be logical to interpret this statute to carve out only this “middle tier” of roadway from NEV authorization.

When statutes are ambiguous, courts sometimes look to the legislative history to try to determine legislative intent to instruct their interpretations. There is some discussion of NEV use on county roadways in communications in the Legislative Reference Bureau’s drafting file which indicate that the intent was *not* to allow NEV use to be authorized *along* county roadways. The drafting file also shows that the drafting attorney interpreted the language used in this statute to allow municipalities to authorize the *crossing* of county roadways with a NEV. However, it is not clear what weight that these communications would be given by a reviewing court attempting to determine legislative intent.

In conclusion, there is nothing in this statute that expressly prohibits a municipality from authorizing NEV use along or across qualified county roadways within its boundaries, but there is also no clear authority to do so. It is up to each individual municipality to assess its own benefits and risks associated with authorizing such use under this statute. If a municipality decides to authorize NEV use on a particular county highway, it may be helpful for the municipality to seek a resolution from the county ceding to the municipality any jurisdiction over that highway for the purpose of authorizing NEV use. This may strengthen the municipality’s argument that it has jurisdiction over that roadway for the purposes of this statute.

Ultimately though, it is not possible to predict with any certainty whether a reviewing court would uphold a municipal ordinance authorizing the use of NEVs on a county roadway. If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

LAK:ksm



State of California—Business, Transportation and Housing Agency

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

P. O. Box 342898  
 Sacramento, CA 94298-0001  
 (916) 375-2850  
 (800) 735-2929 (TDD)  
 (800) 735-2922 (Voice)



October 9, 2008

File No: 042 A14526.801215

SB 321  
 folder

Tom Thompson  
 Green Autos  
 P.O. Box 1859  
 Janesville, WI 53547

Dear Mr. Thompson:

Enclosed is an 18 page listing of collisions occurring statewide involving low speed vehicles as requested by e-mail dated September 24, 2008. The time period covered was from 1998 through available 2008. Any year missing information had no reported collisions for the specified data.

Should there be any questions, please contact Dawn Roe at (916) 375-2850.

Sincerely,

*Roberta Tinger for*  
 A. W. PIERCE  
 Commander  
 Support Services Section

Enclosures



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## Low Speed Vehicle (LSV/NEV) Accident Statistics State of California, 1998 to 2008

The California Highway Patrol collects accident information on any accident involving a low speed vehicle, commonly referred to as a LSV or NEV. The State of California has authorized the use of LSVs since 1998 and has approximately 19,000 LSVs registered statewide. California LSV regulations are similar to Wisconsin in regards to speed and safety equipment requirements.

The statistics below reflect the total number of accidents reported to the California Highway Patrol for the period 1998 to 2008. Data incorrectly coded as a LSV have been edited from these statistics.

California Highway patrol accident statistics 1998 to 2008\*:

Number of reported accidents involving a LSV/NEV	35
Fatal accidents	0
Total number of injuries	14
Injuries listed as severe	1
Accidents involving a pedestrian and LSV/NEV	1

\*Information provided by CHP on October 9, 2008





# Traffic Guidelines Manual

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ORIGINATOR Director, Bureau of Highway Operations		INTERIM 13-3-1
CHAPTER 13	Traffic Regulation	
SECTION 3	Neighborhood Electric Vehicles (NEVs)	
SUBJECT 1	Agreements with Local Governments	

This is interim guidance for use by Regions until policy is put in place. For questions contact Phil DeCabooter ([phil.decabooter@dot.state.wi.us](mailto:phil.decabooter@dot.state.wi.us)), WisDOT Bureau of Highway Operations.

## A. Background

Wisconsin law (s. 349.26, Stats.) provides town, village and city governments with the authority to allow by ordinance operation of neighborhood electric vehicles (NEVs) on public roadways under their maintenance jurisdiction within the local governments boundaries, subject to objections to such use by WisDOT regarding connecting highways and crossings of state highways.

Under s. 349.26(3), local municipalities must notify WisDOT of their intent to allow NEVs on connecting highways or to cross State highways. Unless WisDOT objects within 21 days of receiving notice, WisDOT cannot prevent the operation of those vehicles on the highways or at the intersections described in the notice.

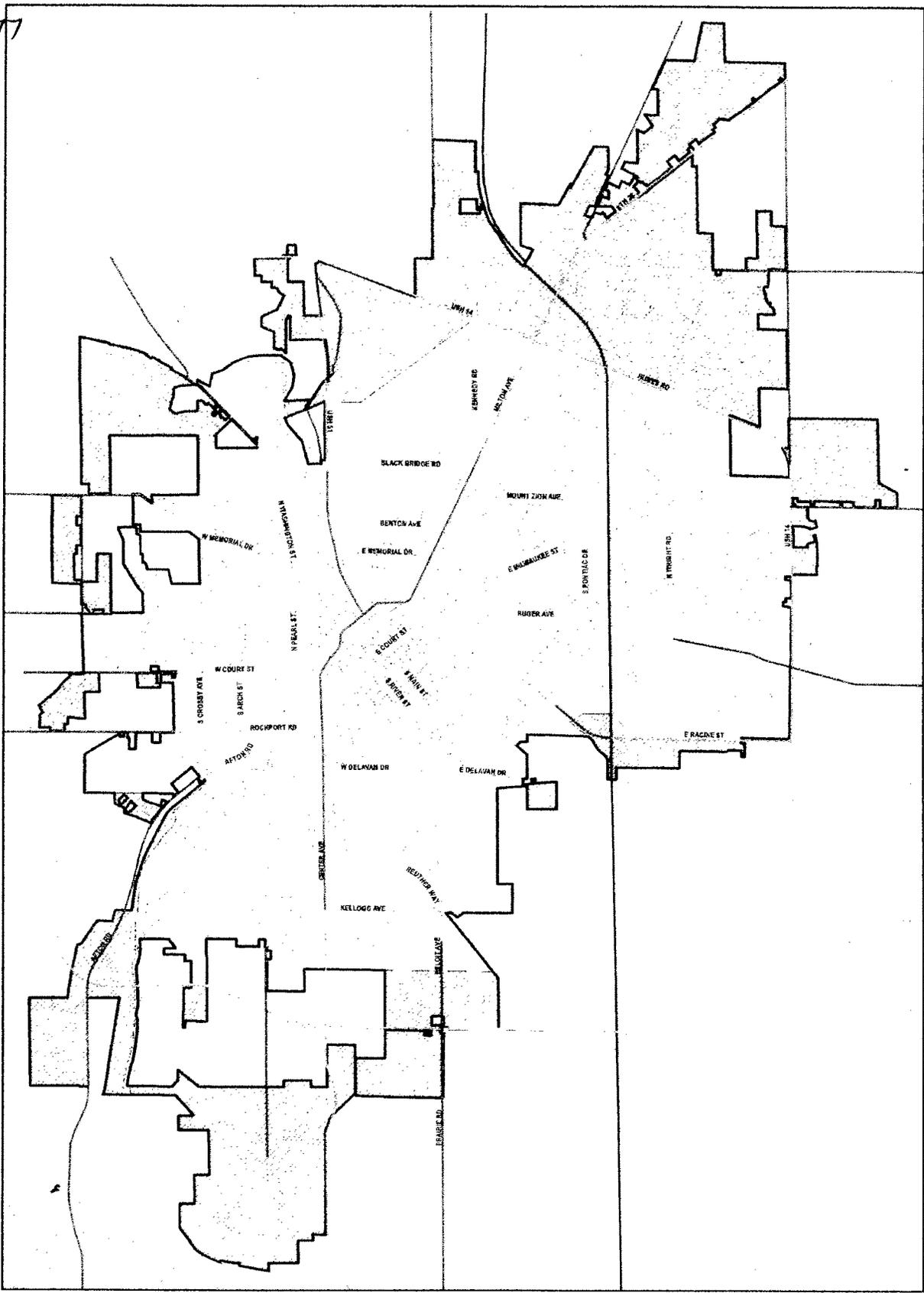
The law does not provide municipalities authority (through local ordinances) to allow NEVs to operate on the state highway system, other than certain connecting highways. WisDOT does not have authority to allow operation of NEVs on state highways nor to agree to local ordinances that allow operation of NEVs on state highways.

- 
1. The Department *may* agree to allow NEVs to cross a state trunk highway only at intersections with other roads. For purposes of this interim policy do not approve crossings of state highways where the state highway speed limit exceeds 35 MPH. Approval of crossings of state highways *should* consider crash history, operational conflicts, sight distance at the intersection, and other opportunities for providing a safe crossing of the state highway.



TIM THOMPSON

608-754-7677

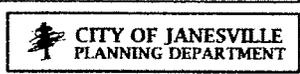


Legend		PROHIBITED STREETS	APPROVED HIGHWAYS	
—	County/Township Road	—	Connecting Highway	City of Janesville
—	State Highway	—		City of Janesville Limited NEV Areas
—	Interstate 90			

Date: 1-30-08  
Scale: 1"=4000'

# NEIGHBORHOOD ELECTRIC VEHICLE USAGE AREA

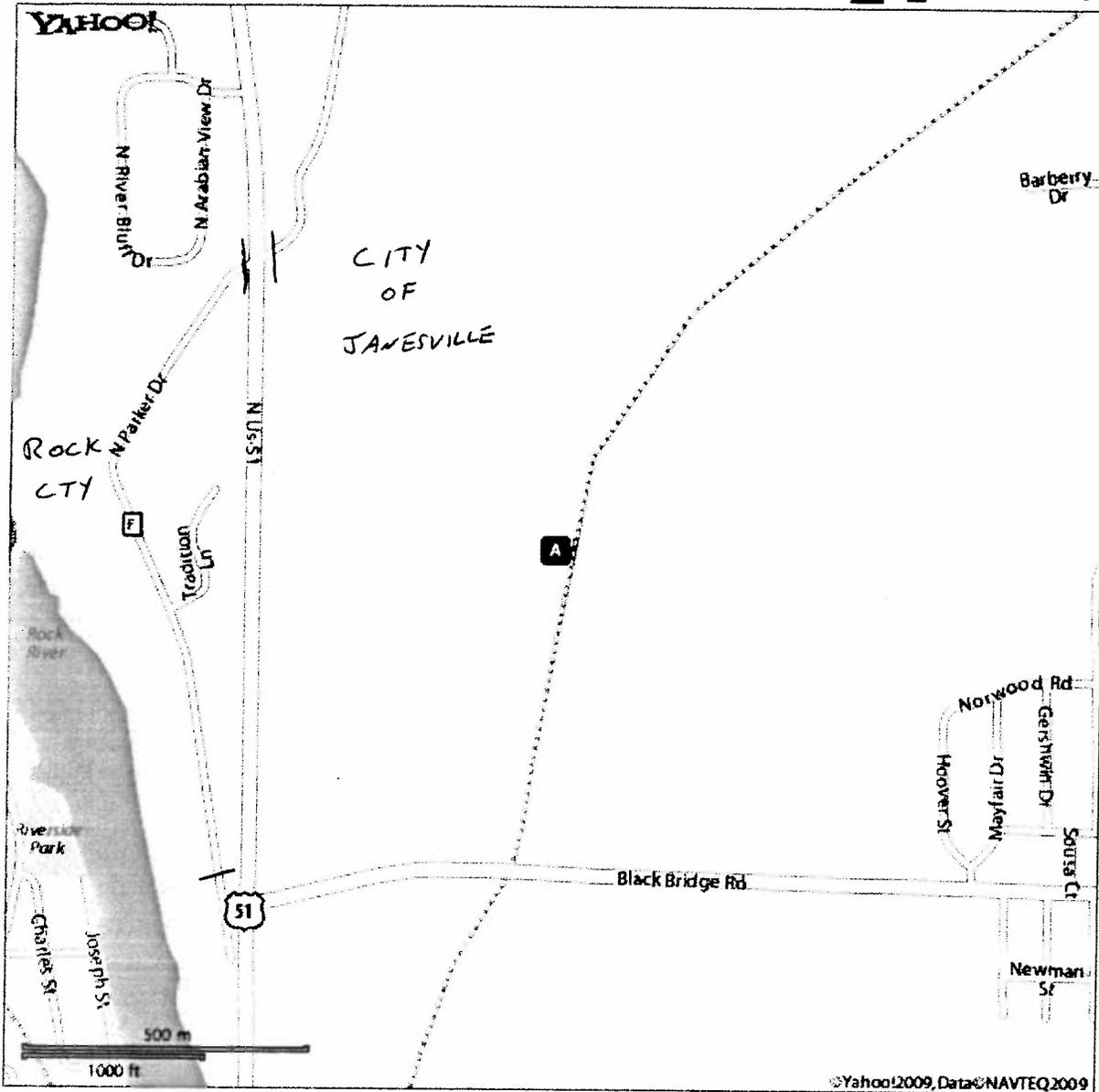
MAP 1



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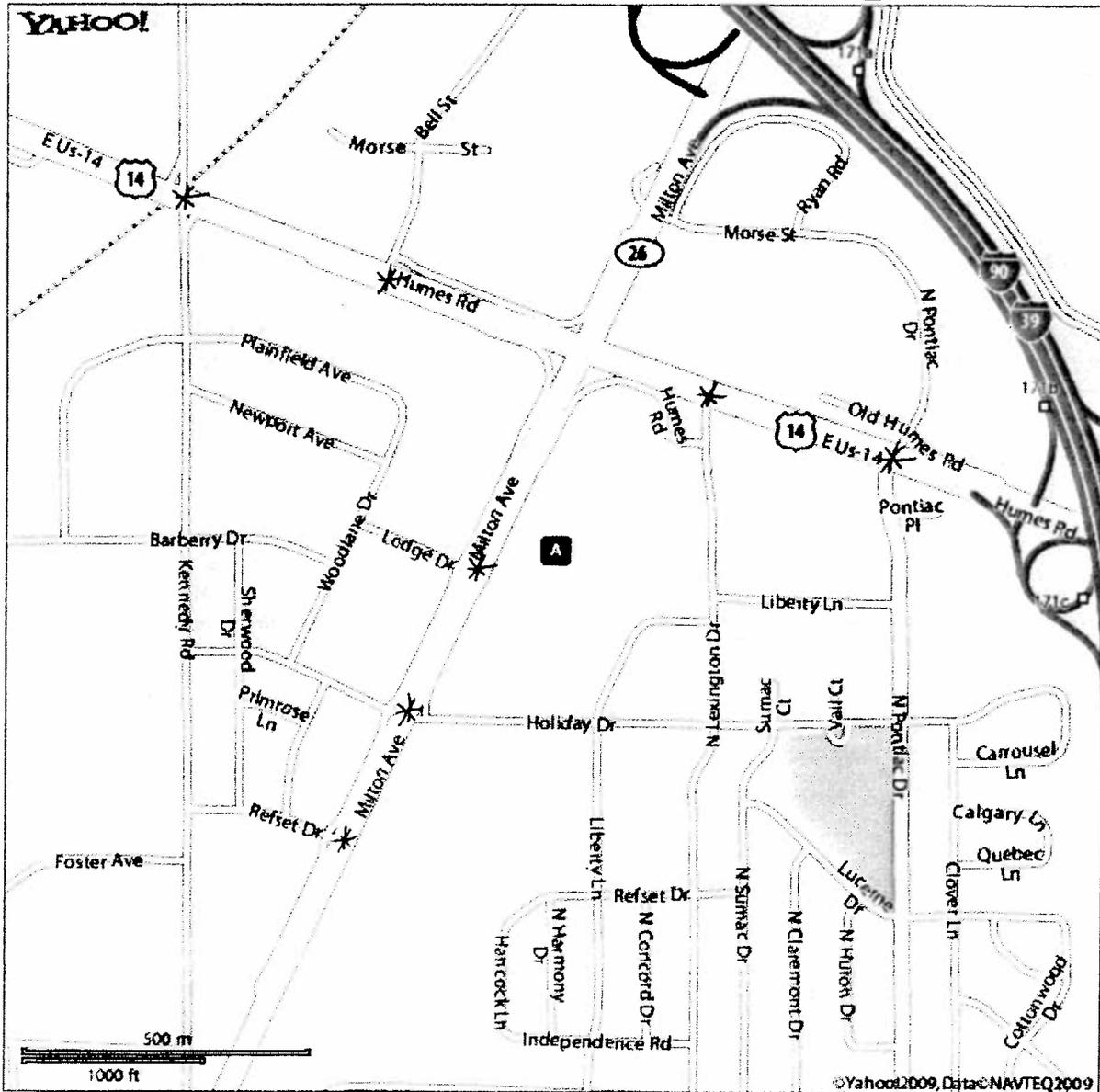


Map of 42.71038,-89.02375



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.

Map of 42.71667,-88.997314



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.