

ORDINANCE NO. 20-11

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, ADOPTING A NEW ARTICLE V OF CHAPTER 30 OF THE CITY CODE AUTHORIZING THE USE OF GOLF CARTS WITHIN CERTAIN COMMUNITIES AND ON STREETS DESIGNATED IN RESOLUTIONS ADOPTED BY THE CITY COMMISSION; AUTHORIZING USE OF GOLF CARTS ON CERTAIN SIDEWALKS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGULATION OF GOLF CARTS, INCLUDING THE HOURS OF OPERATION; PROVIDING FOR THE ESTABLISHMENT OF AN APPLICATION PROCESS, AGE REGULATIONS, REQUIRED SIGNAGE, VIOLATIONS AND PENALTIES, AND APPEALS TO THE HEARING BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission has the authority to authorize the operation of golf carts and regulate such operation within its jurisdictional boundaries pursuant to Article VIII, § 2(b) of the Florida Constitution and Section 166.221 and Section 316.212, Florida Statutes; and

WHEREAS, citizens of the City have expressed an interest in allowing golf carts to be driven upon certain streets subject to City jurisdiction; and

WHEREAS, the operation of golf carts upon streets subject to City jurisdiction is ordinarily prohibited unless otherwise authorized by the City pursuant to Section 316.212 and Section 316.008, Florida Statutes; and

WHEREAS, the City Commission desires to add a new Article V of Chapter 30 of the City's Code of Ordinances to allow for the City Commission to consider and approve resolutions authorizing the operation of golf carts within specified residential communities and roadways meeting safety requirements under state and municipal law; and

WHEREAS, pursuant to Section 316.212(7), Florida Statutes the City has undertaken to pass additional regulations pertaining to unlicensed drivers who desire to operate golf carts upon City roadways and sidewalks; and

WHEREAS, pursuant to Section 316.212(8)(b)(1) the City Commission has determined that, after considering the condition and current use of the sidewalks and the character of the area, that golf carts, bicycles, and pedestrians may safely share the sidewalk in areas where the sidewalks are at least 8 feet in width; and

WHEREAS, the City recognizes that Section 316.212(8)(b)(2), Florida Statutes requires the City to consult with the Florida Department of Transportation before adopting any ordinance permitting operation of golf carts on sidewalks; and

WHEREAS, the City has consulted with and received approval from the Florida Department of Transportation before adopting this ordinance; and

WHEREAS, to protect the health, safety, and welfare of its citizens, the City desires to prohibit the operation of golf carts along roads and thoroughfares incompatible with such operation and regulate the manner and times of the operation of golf carts upon streets subject to City jurisdiction where such operation is authorized; and

WHEREAS, the City is cognizant of the provisions of Article III, Section 3.12, of the City Charter, which requires that all grants, renewals, or extensions of franchises requires passage of an ordinance relating to same; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of Belle Isle, Florida as follows:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct, shall constitute the legislative findings of the City, and are hereby made a part of this ordinance.

SECTION 2. City Code Amendment. Sections 30-163, 30-170, 30-171, 30-172, 30-173, 30-174, 30-175, 30-176, 30-177, 30-178 and 30-179 are hereby created as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; and all other provisions shall remain unchanged):

ARTICLE IV. – IV. TOWING AND IMMOBILIZATION OF VEHICLES

Section 30-163 – 169. Reserved.

ARTICLE V. – GOLF CARTS ON PUBLIC STREETS

Section 30-170. – Title; Authority.

(a) This ordinance shall be known and may be cited as the “Belle Isle Golf Cart Ordinance.”

(b) The City has the authority to adopt this article pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes and Section 316.212, Florida Statutes.

Section 30-171. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Golf Cart means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty (20) miles per hour.

Golf Cart Community means a subdivision or community within the corporate limits of the city within which the Belle Isle City Commission has by resolution authorized the operation of golf carts on designated municipal streets within such subdivision or community.

Golf Cart Permitted Street means a municipal street within the corporate limits of the city which has been designated by resolution of the Belle Isle City Commission for use by golf carts.

Applicant means a person or entity, including a homeowner's or community association, that is requesting that the Belle Isle City Commission adopt a resolution designating one or more Golf Cart Communities and/or one or more Golf Cart Permitted Streets.

Section 30-172. Golf Cart Operation.

(a) It shall be unlawful to operate a golf cart on any street or sidewalk within the corporate limits of the City unless expressly authorized by this article or Florida law.

(b) Golf carts may be operated on city roadways within the defined boundaries of residential communities when such communities are approved by resolution as “golf cart communities. Golf carts may also be operated between golf cart communities that are adjacent, if such provision is specifically included by the city commission in the approving resolution. Golf carts may also be operated on streets meeting the requirements of this section once such street has been approved by resolution as a “golf cart permitted street.”

(c) “Golf cart permitted streets” and “golf cart communities” are subject to the following requirements:

- (1) Unless otherwise expressly authorized pursuant to Florida law or by enabling resolution upon a showing of good cause, golf carts shall not be permitted operate upon a street with a posted speed limit in excess of thirty-five (35) miles per hour.
- (2) Unless otherwise expressly authorized pursuant to Florida law or by enabling resolution upon a showing of good cause, golf carts may not be operated across street with a posted speed limit of thirty-five (35) miles per hour or greater.
- (3) Notwithstanding subsection (c)(2), golf carts traveling along a designated golf cart permitted street may be permitted cross an intersecting street with a speed limit of thirty-five (35) miles per hour or less at an intersection that governed by a traffic control device or at a designated crosswalk if such use complies with the requirements of this article and Florida law.

(d) Golf carts may be operated upon the sidewalks within the jurisdictional territory of the City subject to the following restrictions and requirements:

- (1) The maximum speed for golf carts on sidewalks is fifteen (15) miles per hour.
- (2) Golf carts operated upon sidewalks must meet the equipment requirements of Section 172(e)(2) and (3).
- (3) Golf carts may only be operated on the sidewalks which are at least eight (8) feet wide.

(e) It shall be unlawful to operate a golf cart upon any City street or City sidewalk unless said golf cart is equipped with efficient brakes, reliable steering apparatus, horn, safe tires, a rearview mirror, and reflective warning devices in both the front and rear as required by Section 316.212(6), Florida Statutes.

(f) Except as provided in Section 30-172 (f)(1), it shall be unlawful to operate a golf cart upon any City street or sidewalk after sunset and before sunrise.

- (1) Golf carts equipped with headlights, brake lights, turn signals and a windshield may be operated upon City streets and upon City sidewalks at any time.
- (g) This article is in addition to and not in lieu of the Florida Uniform Traffic Control Law, Chapter 316 of the Florida Statutes. Golf carts shall comply with all applicable state traffic laws and provisions of this Code and may be ticketed for traffic violations in the same manner as motor vehicles.

Section 30-173. Application for Approval of a Golf Cart Community and/or Golf Cart Permitted Streets.

- (a) The City Commission may, upon its own initiative or upon petition of an Applicant, direct City staff to create a map or other diagram delineating the boundaries of a Golf Cart Community and/or Golf Cart Permitted Streets and to prepare the appropriate resolution to be presented to the City Commission. Any such resolution shall be acted upon only following an advertised public hearing preceded by at least seven (7) days' notice thereof.
- (b) To receive approval, any resolution proposed under this Article must be include the requisite legislative findings as required by Section 316.212, Florida Statutes, and a plan for the placement of the requisite signage within the Golf Cart Community and the Golf Cart Permitted Streets.
- (c) The City Commission may approve or disapprove any resolution presented under this article based upon its legislative determination as to whether golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume and character of motor vehicles using the road or street and such other factors as the City Commission may deem appropriate, including input received at any public hearing.
- (d) The City Commission may by resolution rescind a previously adopted resolution if the City Commission determines that the operation of golf carts within any such Golf Cart Community and/or Golf Cart Permitted Streets would constitute or has become a danger or detriment to the health, safety, welfare, or character of the community or the surrounding area. Any such resolution shall be acted upon only following an advertised public hearing preceded by at least seven (7) days' notice thereof.

Section 30-174. Age Regulations.

- (a) It shall be unlawful for an unlicensed driver under eighteen (18) years of age to operate a golf cart within the City.
- (b) Notwithstanding subsection (a), an unlicensed driver under eighteen (18) years of age who possesses a valid state-issued learner's permit may operate a golf cart shall be permitted to operate a golf cart within the City subject to the following requirements:
- (1) The unlicensed driver under eighteen (18) years of age must be accompanied by another person who is at least 21 years of age and who holds a valid state-issued driver's license.
 - (2) The person accompanying the unlicensed driver under eighteen (18) years of age must occupy seat immediately to the right of the unlicensed driver.
 - (3) Except for the licensed occupant described in section 30-174(b)(1), an unlicensed driver shall not operate a golf cart occupied by passengers.
 - (4) An unlicensed driver shall not operate a golf cart between sunset and sunrise.

Section 30-175. Signage.

- (a) The City shall provide proper signage pursuant to Section 316.212(1), Florida Statutes, within thirty (30) days of approval of a resolution to allow golf carts to be operated within a Golf Cart Community or on a Golf Cart Permitted Street.

Section 30-176. Parking of Golf Carts.

- (a) It shall be unlawful to park or leave unattended a golf cart in or upon a city street, right-of-way, sidewalk, or public park. Golf carts may not be parked upon private property that is not owned or leased by the owner of such golf cart without the permission of such private property owner.
- (b) Golf carts shall comply with all parking regulations set forth in this Chapter 30.

Sec. 30-177. Indemnification

- (a) Each person operating or riding on a golf cart on city streets and all person who are passengers in such golf carts does so at his own risk and must operate such vehicle with due regard for the safety and convenience of other motor vehicles, bicyclists and pedestrians.

(b) The City in so designating certain City streets for the operation of the golf carts extends such operating privileges on the express condition that the operator of such golf carts undertakes such operation at his own risk and assumes sole liability for operating the vehicle on City streets and by such operation shall be deemed to agree to defend, release, indemnify and hold harmless the City of Belle Isle, its officials and employees for and regarding any and all claims, demands or damages of any nature whatsoever arising from such operation by any person against the City of Belle Isle.

Section 30-178. Compliance; Enforcement.

(a) The City of Belle Isle Police Department shall have power and authority to enforce the provisions of this article. Any person found in violation of this article shall be issued a City of Belle Isle Civil Citation (or notice of violation).

(b) In addition to any fine levied under this article, the city may bring civil suit to restrain, enjoin or otherwise prevent the violation of this article in a court of competent jurisdiction. If the city brings suit to restrain or enjoin or to otherwise prevent the violation of this article, the city is entitled to recover its reasonable attorneys' fees and court costs from the named defendant in the action.

Section 30-179. Violations; Penalties.

(a) With the exception of Section 30-176, violations of this article shall constitute a non-criminal infraction punishable pursuant to the provisions of §316.212(9), Florida Statutes. The use of a golf cart resulting in violations of the Florida "Uniform Traffic Control" statute and the Florida "Uniform Disposition of Traffic Infractions Act" are punishable pursuant to chapters 316, 318, and 319, Florida Statutes, as applicable.

(b) Violations.

(1) Violations of Section 172(a), (d), and (f) shall be a noncriminal traffic violation, punishable pursuant to Chapter 318, Florida Statutes, as a moving violation.

(2) Violations of Section 172(e) shall be a noncriminal traffic violation punishable pursuant to Chapter 318, Florida Statutes, as a nonmoving violation.

(3) Violations of Section 30-174 shall be punishable by a \$100 fine.

(4) Violations of Section 30-176 shall be punishable in accordance with the provisions Article III of Chapter 30 of the Belle Isle Code in the same manner as motor vehicle parking violations.

(c) Unless specifically provided otherwise by Florida law or this code, a violation of this article shall be punishable by a fine in the amount of \$100.

(d) Any person receiving civil citation pursuant to this article shall, within 21 days of the date of the notice of violation, pay the assessed civil penalty pursuant to instructions on the notice of violation contest (or appeal) the notice of violation pursuant to the procedures set forth in the notice of violation.

Section 30-180. Appeals.

(a) The Chief of Police may void or dismiss the notice of violation being appealed if the Chief of Police or his designee determines based on a review of the appeal that there does not exist probable cause to believe that the appellant committed a violation of this Article.

(b) If the Chief of Police voids or dismisses the notice of violation as aforesaid, then written notice of such action shall be provided to the person filing the appeal.

(c) If the decision of the Chief is appealed, the appeal will follow the procedures pursuant to Sec. 30-76.

SECTION 3. Codification. This Ordinance shall be codified into the Belle Isle City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance or the Belle Isle City Code may be freely made.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict to the maximum extent allowable under the law.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2020

SECOND READING: _____, 2020

ADOPTED this ____ day of _____, 2020, by the City Council of the City of Belle Isle, Florida.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Karl Shuck	_____	_____	_____
Mike Sims	_____	_____	_____
Harvey Readey	_____	_____	_____
Jim Partin	_____	_____	_____
Sue Nielsen	_____	_____	_____

ATTEST:

Yolanda Quiceno, CMC

City Clerk

Nicholas Fouraker, Mayor

Approved as to form and legality

For use and reliance by the City

Kurt Ardaman, City Attorney

STATE OF FLORIDA

COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 20-11 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____, 20____, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk