

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 86 "TRAFFIC AND VEHICLES" OF ARTICLE VI "OPERATION OF GOLF CARTS ON PUBLIC STREETS" OF THE CITY CODE OF ORDINANCES; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Montgomery, Texas (the "City Council") desires to safeguard the health, safety and general welfare of the City of Montgomery, Texas (the "City") and its citizens; and

WHEREAS, the City Council has reviewed the Police Chief's recommendations and has determined it is desirable to regulate the operation of a golf cart on a public street to ensure public safety, and pursuant to the Texas Transportation Code; and

WHEREAS, Texas Transportation Code Section 551.4031, authorizes the governing body of a municipality to regulate and control the operation of golf carts within the City's legal boundaries and on its public streets to ensure the public safety of the community; and

WHEREAS, pursuant to the Texas Local Government Code Chapter 51.001, the City Council may adopt, publish, amend or repeal an ordinance, rule, or police regulation that is for the good government, peace, and order of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT:

SECTION 1. The City Council adopts the findings and recitals above as true and correct.

SECTION 2. Article VI "Operation of Golf Carts on Public Streets" of Chapter 86 "Traffic and Vehicles" is hereby amended and restated in its entirety to read as follows:

"ARTICLE VI. - OPERATION OF GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES, AND OFF-HIGHWAY VEHICLES ON PUBLIC STREETS.

Sec. 86-200. - Purpose.

The purpose of this section is to protect the public health, safety, and welfare of all residents and visitors of the City of Montgomery by regulating the operation of golf carts, neighborhood electric vehicles, and off-highway vehicles on public streets.

Sec. 86-205. - 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:

Daytime means the period beginning one-half hour before sunrise and ending one-half hour after sunset as defined by Section 541.401 of the Texas Transportation Code.

Golf cart means a motor vehicle designed by the manufacturer primarily for use on a golf course as defined by Section 551.401 of the Texas Transportation Code.

Highway means the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel as defined by Section 541.302 of the Texas Transportation Code.

Municipality means the City of Montgomery, Texas.

Neighborhood electric vehicle means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and other complies with Federal Motor Vehicle Safety Standards 500 (49 CFR Section 571.500) as defined by Section 551.301 of the Texas Transportation Code.

Off-highway vehicle means an all-terrain vehicle, recreational off-highway vehicle, or utility vehicle as defined by Section 551A.001(1-d) of the Texas Transportation Code.

Public street means a publicly-owned or dedicated road, street, drive, or other right-of-way for the use of vehicles within the corporate boundaries of the city.

Residential subdivision means a subdivision, planned unit development, townhouse regime, or similar planned development in which all land has been divided into two or more parts and is subject to restrictions that: (a) limit a majority of the land subject to the dedicatory instruments, excluding streets, common areas, and public areas, to residential use for single-family homes, townhomes, or duplexes only; (b) are recorded in the real property records of the county in which the residential subdivision is located; and (c) require membership in a property owners' association that has authority to impose regular or special assessments on the property in the subdivision.

Sec. 86-206. - License Plates.

A person may operate a golf cart or an unregistered off-highway vehicle on a highway in a manner authorized by this section only if the vehicle displays a license plate issued by the Texas Department of Motor Vehicles.

The Texas Department of Motor Vehicles may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles. Per

Transportation Code Section 551.304(b), a person is not required to register a neighborhood electric vehicle operated in compliance with Section 551.304(a).

Sec. 86-207. - Operation authorized in certain areas.

An operator may operate a golf cart or an unregistered off highway vehicle or a neighborhood electric vehicle:

- (1) in a master planned community:
 - (A) that (for golf carts in a residential subdivision or) has in place a uniform set of restrictive covenants; and
 - (B) for which a municipality has approved a plat (for golf carts - one or more plats);
- (2) on a public or private beach that is open to vehicular traffic (except off-highway vehicle operation on public land or beach; safety certificate required Sec. 551A.031 Texas Transportation Code); or
- (3) on a highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart or off-highway vehicle or neighborhood electric vehicle is operated:
 - (A) during the daytime; and
 - (B) not more than two miles (for golf carts - five miles) from the location where the golf cart or off-highway vehicle or neighborhood electric vehicle is usually parked and for transportation to or from a golf course.

Notwithstanding Sec. 86-206, a person may operate a golf cart in a master planned community described by Sec. 86-207(1) without a golf cart license plate on a highway for which the posted speed limit is not more than 35 miles per hour, including through an intersection of a highway for which the posted speed limit is more than 35 miles per hour.

A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 45 miles per hour or less. A neighborhood electric vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than 45 miles per hour. A neighborhood electric vehicle may not be operated on a street or highway at a speed that exceeds the lesser of (1) the posted speed limit; or (2) 35 miles per hour.

Sec. 86-208. - Prohibition of operation in certain areas by a municipality.

A municipality may prohibit the operation of a golf cart or an unregistered off-highway vehicle on a highway under Section 86-207 if the governing body of the municipality determines that the prohibition is necessary in the interest of safety.

A municipality may prohibit the operation of a neighborhood electric vehicle on a street or highway if the governing body of the municipality determines that the prohibition is necessary in the interest of safety.

Sec. 86-209. - Operation on highway authorized by municipality.

In addition to the operation authorized by Sec. 86-207, the governing body of a municipality may allow an operator to operate a golf cart or an unregistered off highway vehicle on all or part of a highway that:

- (1) is in the corporate boundaries of the municipality; and
- (2) has a posted speed limit of not more than 35 miles per hour.

Sec. 86-210. - Crossing intersections.

A golf cart or an unregistered off-highway vehicle may cross a highway at an intersection, including an intersection with a highway that has a posted speed limit of more than 35 miles per hour.

Sec. 86-211. - Crossing highway at point other than intersection.

The operator of an off-highway vehicle may drive the vehicle across a highway that is not an interstate or limited access highway at a point other than an intersection if the operator:

- (1) brings the vehicle to a complete stop before crossing the shoulder or main traveled way of the roadway;
- (2) yield the right-of-way to oncoming traffic that is an immediate hazard; and
- (3) makes the crossing:
 - (A) at an angle of approximately 90 degrees to the roadway;
 - (B) at a place where no obstruction prevents a quick and safe crossing; and
 - (C) with the vehicle's headlights and taillights lighted.

Notwithstanding, the operator of an off-highway vehicle may drive the vehicle across a divided highway other than an interstate or limited access highway only at an intersection of the highway with another highway.

Sec. 86-212. - Equipment.

A golf cart operated under Sec. 86-209 must have the following equipment:

- (1) headlamps
- (2) taillamps;
- (3) reflectors;
- (4) parking brake; and
- (5) mirrors.

Sec. 86-213. - Equipment and safety requirements.

An off-highway vehicle that is operated on a highway must be equipped per Transportation Code Chapter 551A.071.

Sec. 86-214. - Additional equipment requirements for slow-moving vehicles.

A golf cart, neighborhood electric vehicle, or off-highway vehicle that is operated at a speed of not more than 25 miles per hour is required to display a slow-moving vehicle emblem when it is operated on a highway. (Transportation Code 547.703(d))

Sec. 86-215. - Driver's license requirement.

An operator of a golf cart or off-highway vehicle must possess a valid driver's license (or learner's permit with adult present) to operate either vehicle on a public roadway.

Sec. 86-216. - Exception to financial responsibility requirement.

Texas Transportation Code Section 601.051 states that a person may not operate a motor vehicle in this state unless financial responsibility is established for that vehicle. Texas Transportation Code Section 601.052 states that Section 601.051 does not apply to:

- (1) a neighborhood electric vehicle that is operated only as authorized by Texas Transportation Code Section 551.304;
- (2) a golf cart that is operated only as authorized by Section 551.403;
- (3) an off-highway vehicle that is operated only as authorized by Subchapter C, of the Texas Transportation Code Section 551A or Chapter 29 Parks and Wildlife Code.

Secs. 86-217 – 86-235. - Reserved."

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. All other ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance on all ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

SECTION 5. It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas on the ____ day of _____, 2023.

CITY OF MONTGOMERY, TEXAS

Byron Sanford, Mayor

ATTEST:

Nicola Browe, City Secretary

APPROVED AS TO FORM:

Alan P. Petrov, City Attorney