

ORDINANCE NO. 459

AN ORDINANCE OF THE CITY OF WEST ORANGE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 10 – MOTOR VEHICLES AND TRAFFIC REGARDING THE OPERATION OF GOLF CARTS AND OFF-HIGHWAY VEHICLES ON PUBLIC HIGHWAYS WITHIN THE CITY; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in accordance with the Charter of the City of West Orange, Texas, the City has the power to make and enforce police, health, sanitary and other regulations, may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, may provide suitable penalties for the violation of any ordinance enacted by the City, and may exercise all municipal powers, functions, rights, privileges and immunities;

WHEREAS, under Section 51.001 of the Texas Local Government Code, the City Council may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality;

WHEREAS, Chapter 551 of the Texas Transportation Code permits a municipality to allow and regulate the operation of a golf cart on all or part of a public highway and/or public street;

WHEREAS, Section 551A of the Texas Transportation Code permits a municipality to allow and regulate the operation of an off-highway vehicle on all or part of a public highway and/or public street;

WHEREAS, the City Council desires to provide for regulation of golf carts and off-highway vehicles within the City, upon certain conditions and requirements; and

WHEREAS, the City Council affirmatively finds that the amendments to the ordinances provided herein are for a valid public purpose and are in the best interests of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEST ORANGE:

Section 1. Amendment. Chapter 10 – Motor Vehicles and Traffic of the Code of Ordinances here hereby amended as follows:

Article V. – Traffic Schedules, Division 3. – Parking is hereby amended to add the following:

Secs. 10-160 – 10-169. – Reserved.

Chapter 10 – Motor Vehicles and Traffic is hereby amended to create and include Article VI. – Golf Carts and Off-Highway Vehicles, as follows:

ARTICLE VI. – GOLF CARTS AND OFF-HIGHWAY VEHICLES

Sec. 10-170. – Definitions

As used in this article, the following words, terms, and phrases shall have the following meanings, except where the context clearly indicates a different meaning:

All-terrain vehicle. A motor vehicle that is equipped with a seat for the use of a rider and a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger. Is designed to propel itself with three or more tires in contact with the ground. Designed by the manufacturer for off-highway use. The vehicle is not designed by the manufacturer primarily for farming or lawn care, and not more than 50 inches wide.

Driver. The person driving and having physical control over any vehicle, including golf carts and off-highway vehicles.

Driver license. An authorization issued by a state for the operation of a motor vehicle, including but not limited to a temporary license, instruction permit or an occupational license.

Exhaust system. All piping in a gasoline or liquid fuel powered vehicle leading from the flange of the exhaust manifold to, and including, the muffler and exhaust pipes and any associated parts specified by the manufacturer to route the spent exhaust fuel out of the vehicle's engine.

Golf cart. A motor vehicle with three or more wheels and an attainable top speed not greater than 25 miles per hour on a paved level surface which is manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as all-terrain vehicles ("ATVs"), off-road vehicles, four-wheelers, three-wheelers, utility vehicles, and design-altered golf carts with attainable speeds greater than 25 miles per hour.

Motor vehicle. A vehicle that is self-propelled.

Off-highway vehicle. An all-terrain vehicle or recreational off-highway vehicle, as those terms are defined by section 502.001 Texas Transportation Code, a sand rail or a utility vehicle.

Owner. The person holding title or legal proof of purchase to any motor vehicle, including golf carts and off-highway vehicles.

Parking area. Any area accessible to motor vehicular traffic and designated for temporary parking of such vehicles.

Public safety personnel. Any employee or officer of a governmental law enforcement agency, fire department personnel or employees acting in a capacity of public safety for the City.

Public street. Any roadway within the City by whatever name that is not designated as part of either the state or federal highway system that is not privately owned or controlled and over which the City has legislative jurisdiction under its police power.

Recreational off-highway vehicle. A motor vehicle that is equipped with a seat or seats for the use of the rider, a passenger or passengers and is designed to propel itself with four or more tires in contact with the ground. Is designed by the manufacturer for off-highway use by the operator only and not designed by the manufacturer primarily for farming or lawn care.

Sand rail. A vehicle, as defined by section 502.001 Texas Transportation Code that is designed or built primarily for off-highway use in sandy terrains including for use on sand dunes. Has a tubular frame, an integrated roll cage, and an engine that is rear-mounted or placed midway between the front and rear axles of the vehicle and has a gross weight as defined by section 541.401 Texas Transportation Code of not less than 700 pounds and not more than 2,000 pounds.

Sidewalk. The portion of a public right-of-way that is between a roadway and the adjacent property line and intended for pedestrian use.

Slow-moving-vehicle-emblem. A triangular emblem that conforms to standards and specifications adopted by the Director of the Texas Department of Transportation under section 547.104 of the Texas Transportation Code and is displayed in accordance with section 547.703 of the Texas Transportation Code.

Traffic way. Any corridor open to the public as a matter of right or custom for moving persons or property from one place to another, including all improved and unimproved property within the property lines of a roadway system.

Utility vehicle. A motor vehicle that is not a golf cart, as defined by section 551.401 Texas Transportation Code, or lawn mower and is: equipped with side by side seating for the use of the operator and a passenger; designed to propel itself with at least four tires in contact with the ground; designed by the manufacturer for off-highway use only; and designed primarily for utility work and not for recreational purposes.

Vehicle. A device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

Sec. 10-171. – License Plate and Proof of Financial Responsibility Required

Effective September 1, 2021, no golf cart or off-highway vehicle shall be operated on any public street, parking area and/or traffic way in the City without:

- (1) A valid license plate issued by the Texas Department of Motor Vehicles and affixed in accordance with the Texas Transportation Code, section 551.402(b); and
- (2) Proof of established financial responsibility for the motor vehicle in accordance with section 601.051 of the Texas Transportation Code.

Sec. 10-172. – Golf Cart and Off-Highway Vehicle Operation

The driver of a golf cart or off-highway vehicle shall comply with all federal, state and local traffic regulations while the vehicle is in operation on any public street, parking area and/or traffic way in the City, and specifically:

- (1) No driver shall operate a golf cart or off-highway vehicle on a public street, parking area and/or traffic way in the City without a valid driver license.
- (2) No driver shall operate a golf cart or off-highway vehicle in a reckless or negligent manner;
- (3) The driver and all passengers shall remain seated in a designated seat while the golf cart or off-highway vehicle is in operation;
- (4) The number of occupants in a golf cart or off-highway vehicle shall be limited to the number of persons for whom factory seating is installed and provided on the vehicle; and
- (5) No person under the age six (6) years shall be transported in a golf cart unless restrained by a safety belt restraint.
- (6) Hours of operation shall be in the daytime hours only, specifically operation of golf carts or off-highway vehicles on a public street, parking area and/or traffic way in the City shall only be authorized thirty (30) minutes after sunrise until thirty (30) minutes prior to sunset. Nighttime operation is prohibited.

Sec. 10-173. – Exemption for Public Safety Personnel

Public safety personnel in the performance of official business of the City, including, but not limited to, emergency management, parades, festivals and other special events, may operate a golf cart or off-highway vehicle on any sidewalk, walkway, path, trail, street, parking area, traffic way or on any City-owned or -leased property.

Sec. 10-174. – Exemption for Holiday Parcel Delivery

An employee or agent of an entity whose primary business is the delivery of parcels, in the performance of delivering parcels for that entity, between November 15th and December 31st shall be exempt from Sections 10.175 and 10-176(5) of this Article; however, only one trailer of safe size, weight and design may be in tow at any given time.

Sec. 10-175. – Golf Carts and Off-Highway Vehicles Prohibited on Sidewalks and Certain Streets

Except as exempted in Sections 10-173 and 10-174 of this Article:

- (1) No golf cart or off-highway vehicle shall be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic;
- (2) No golf cart or off-highway vehicle shall be operated on any street with a speed limit exceeding thirty miles per hour (30 mph).

Sec. 10-176. – Traffic Regulations

The driver of a golf cart or any motorized vehicle, including an off-highway vehicle, operating on any public street, parking area and/or traffic way in the City shall comply with the following traffic regulations:

- (1) No motor vehicle shall be driven in such a manner as to deprive any golf cart or other motor vehicle of the full use of a lane;
- (2) No motor vehicle shall overtake and pass another motor vehicle in the lane occupied by the vehicle being overtaken;
- (3) No motor vehicle shall be operated between lanes of traffic or between adjacent lines or rows of vehicles;
- (4) No golf cart or off-highway vehicle shall tow another motor vehicle of any kind, or any person, including those on roller skates, skateboard, bicycle or any other device;
- (5) Except as specified in Sections 10-173 and 10-174 of this Article, no golf cart shall tow a trailer of any kind; and
- (6) Except as specified in Sections 10-173 and 10-174 of this Article, no golf cart shall be operated during inclement weather or when visibility is impaired by weather, smoke, fog, or other condition, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of five hundred feet (500').

Sec. 10-177. – Safety Devices Required

No golf cart or off-highway vehicle shall be operated on a public street, parking area and/or traffic way in the City without all standard safety features in working order, including, but not limited to the following:

- (1) Headlamps;
- (2) Tail lamps;
- (3) Reflectors (two (2) front, amber in color and two (2) rear, red in color)
- (4) Parking brake;
- (5) Rearview mirror(s), capable of a clear, unobstructed view of at least two hundred feet (200') to the rear; and
- (6) Slow-moving vehicle emblem(s) having a reflective surface designed to be clearly visible in daylight or at night from the light of standard headlamps at a distance of at least 500 feet and shall be mounted base down on the rear of the vehicle at a height from three to five feet above the road surface and shall be maintained in a clean reflective condition.

Sec. 10-178. – Gasoline and Liquid Fuel Powered Golf Carts and Off-Highway Vehicles

No vehicle powered by gasoline or liquid fuel shall be operated on a public street, parking area and/or traffic way in the City without a functioning exhaust system in working order, including, but not limited to the following:

- (1) The exhaust system and all associated elements shall be securely fastened at all times with brackets or hangers designed for fastening exhaust systems.
- (2) The engine and powered mechanism of every golf cart and off-highway vehicle shall be so equipped, adjusted and tuned so that the exhaust is in good working order; and shall not emit a number of decibels to be a nuisance.
- (3) No devices for controlling or abating atmospheric emissions placed on a golf cart by the manufacturer shall be rendered unserviceable by removal, alteration or interference with its operation.

Sec. 10-179. – Liability

Nothing in this article shall be construed as an assumption of liability by the City for any injuries (including death) to persons or pets or any damage to property which may result from the operation of a golf cart or an off-highway vehicle by an authorized driver.

Sec. 10-180. – Offense; Penalty

Any person who violates any provision of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount not exceeding Five Hundred and No/100 Dollars (\$500.00)

Section 2. Severability It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.


Section 3. Proper Notice and Meeting It is hereby officially found and determined that the meeting at which this Ordinance was passed 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

Section 4. Conflicting Ordinances All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. Publication and Effective Date This Ordinance shall take effect from and after its passage by the City Council and publication. The City Secretary is hereby directed to give notice hereof by causing the caption of this Ordinance to be published in the official newspaper of the City of West Orange.

PASSED AND APPROVED on the 9th day of August, 2021.

CITY OF WEST ORANGE, TEXAS



Randy Branch, Mayor

ATTEST:



Theresa Van Meter, City Secretary

APPROVED:


Christopher D. Leavins, City Attorney

