

ORDINANCE #004-16

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS ESTABLISHING REGULATIONS FOR THE USE OF GOLF CARTS ON PUBLIC STREETS WITHIN THE CITY; PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY AND REPEALING CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of De Leon, Texas finds that it is in the best interest of the citizens of the City that golf carts be allowed on certain public streets within the City; and

WHEREAS, the City may regulate golf carts on public streets within the City pursuant to Section 551.404 of the Transportation Code;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS that:

I. **Enactment.** The following provisions shall be and are, hereby, enacted and adopted as the Golf Cart Ordinance of the City of De Leon.

Section 1. **Definitions.** The following words, terms, and phrases, when used in this Ordinance, shall have the meaning described in this section except where the context clearly indicates a different meaning:

- (a) "All-terrain vehicle" means a motor vehicle that is:
 - (1) equipped with a seat or seats for the use of:
 - (A) the rider; and
 - (B) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
 - (2) designed to propel itself with three or more tires in contact with the ground;
 - (3) designed by the manufacturer for off-highway use;
 - (4) not designed by the manufacturer primarily for farming or lawn care; and
 - (5) not more than 50 inches wide.

- (b) "Golf cart" means a motor vehicle designed by the manufacturer primarily for use on a golf course.

- (c) "Public highway" includes a road, street, way, thoroughfare, or bridge:
 - (1) that is in this state;
 - (2) that is for the use of vehicles;
 - (3) that is not privately owned or controlled; and
 - (4) over which the state has legislative jurisdiction under its police power.

Section 2. Use of Golf Carts Generally. State law currently allows for golf carts to be operated:

- (a) in a master planned community that has in place a uniform set of restrictive covenants and for which a county or municipality has approved a plat;
- (b) on a public or private beach; or
- (c) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated during the daytime and not more than two (2) miles from the location where the golf cart is usually parked and for transportation to and from a golf course.

State law reference – V.T.C.A., Transportation Code, §551.403, Limited Operation.

Section 3. Use of Golf Carts in the City of De Leon.

- (a) In addition to the general rules above, Section 551.404 of the Transportation Code gives municipalities the authority to allow a person to operate a golf cart on all or part of a public highway that is in the corporate boundaries of the municipality and has a posted speed limit of not more than 35 miles per hour.
- (b) Pursuant to this authority, the City Council of the City of De Leon hereby declares that golf carts may be operated on public highways and streets located within the City of De Leon that have a posted speed limit of not more than 35 miles per hour.
- (c) A golf cart may cross intersections, including a road or street that has a posted speed limit of more than 35 miles per hour.

State law reference – V.T.C.A., Transportation Code, §551.404(a), Operation in Municipalities and Certain Counties, and V.T.C.A., Transportation Code, §551.405, Crossing Certain Roadways.

Section 4. Golf Carts Prohibited on Certain Highways and Streets. In the interest of safety, golf carts may not be used to travel on State Highway 6, State Highway 16 (including South Texas Street and North Fannin Street), Farm and Market Road 587, and on Reynosa Avenue. However, these highways and streets may be crossed according to Section 3(c), above.

State law reference – V.T.C.A., Transportation Code, §551.403(b) (when cities may prohibit the operation of a golf cart on a public highway)

Section 5. Insurance; Required Equipment. A golf cart operated under Section 3 of this Ordinance must be:

- (a) insured as required by Section 601.051 of the Transportation Code; and
- (b) must have the following equipment:
 - (1) head lamps;
 - (2) tail lamps;

- (3) reflectors;
- (4) parking brakes; and
- (5) mirrors.

State law reference – V.T.C.A., Transportation Code, §551.404(b), Operation in Municipalities and Certain Counties

Section 6. All-terrain vehicles excluded.

(a) This Ordinance applies only to golf carts and not to all-terrain vehicles.

(b) The operation of all-terrain vehicles on public streets and highways is regulated under Section 663.037 of the Transportation Code. That section currently provides that members of the public may operate all-terrain vehicles on public streets and highways only as follows:

(1) The operator of an all-terrain vehicle may drive the vehicle across a public street, road, or highway that is not an interstate or limited-access highway, if the operator:

(A) brings the vehicle to a complete stop before crossing the shoulder or main traveled way of the roadway;

(B) yields the right-of-way to oncoming traffic that is an immediate hazard; and

(C) makes the crossing:

(i) at an angle of approximately 90 degrees to the roadway;

(ii) at a place where no obstruction prevents a quick and safe crossing; and

(iii) with the vehicle's headlights and taillights lighted.

(2) The operator of an all-terrain 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 public street, road, or highway.

(3) The operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an interstate or limited-access highway if:

(A) the transportation is in connection with:

(i) the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Agriculture Code; or

(ii) utility work performed by a utility;

- (B) the operator attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;
- (C) the vehicle's headlights and taillights are illuminated;
- (D) the operator holds a driver's license, as defined by Section 521.001, Transportation Code;
- (E) the operation of the all-terrain vehicle occurs in the daytime; and
- (F) the operation of the all-terrain vehicle does not exceed a distance of 25 miles from the point of origin to the destination.

Section 7. Violations and Penalties. Any person violating the provisions of this Ordinance shall be charged with a Class C misdemeanor and, upon conviction, shall be fined an amount not to exceed two hundred dollars (\$200.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense.


II. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstances thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

III. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is 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, Texas Govt. Code, Chapt. 551.*

IV. Effective Date. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the City Charter or the Texas Local Government Code.


PASSED AND APPROVED on this 8th day of August, 2016.

PASSED, APPROVED AND ADOPTED on this 22nd day of August, 2016.



Jim Adams, Mayor

ATTEST:


 Melenda K. Harbour, City Secretary