

ORDINANCE NO. 552

AN ORDINANCE OF THE CITY OF ABERNATHY, TEXAS, REGULATING THE OPERATION OF GOLF CARTS ON PUBLIC STREETS; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR PUBLICATION.

WHEREAS, golf cart use can help to reduce overall emissions and their use is an eco-friendly or ‘green’ alternative to traditional passenger vehicles; and,

WHEREAS, Chapter 551, Subchapter F, of the Texas Transportation Code, allows for the operation of golf carts within municipalities under certain conditions; and

WHEREAS, the Texas Transportation Code grants to municipalities the authority to control the operations of motor vehicles using its streets and to prescribe reasonable and safe restrictions related to the stopping, standing and parking of vehicles; and

WHEREAS, the Texas Transportation Code also permits municipalities to prohibit the operation of golf carts on a public highway if the governing body of the municipality determines that the prohibition is necessary in the interest of safety; and

WHEREAS, golf carts are not normally equipped with many of the traditional safety features that customarily required or found on more commonly-used motor vehicles; and,

WHEREAS, passenger ejection and injuries can be reduced in an urban setting by requiring additional safety equipment and providing rules of operation; and,

WHEREAS, golf carts, unlike more traditional motor vehicles, have identification numbering which is easily removed, such that establishing a golf cart registration permitting program would promote return of such property to rightful owners in the event of loss or theft and subsequent recovery; and,

WHEREAS, the City Council of the City of Abernathy, Texas (“City Council”) has investigated and determined that the prohibitions set forth in this Ordinance are necessary in the interest of safety; and

WHEREAS, the City Council has further investigated and determined that it would be advantageous and beneficial to the citizens of the City of Abernathy, Texas (“Abernathy”) and in the best interest of the public health, safety and welfare of the citizens and the public to establish regulations for the operation of golf carts as set forth below.

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

SECTION 1:
OPERATION OF GOLF CARTS ON PUBLIC STREETS

§ 1.01 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:

Driver means the person driving and having physical control over the golf cart.

Driver's License means an authorization issued by a State for the operation of a motor vehicle. The term includes: (1) a temporary license or instruction permit; and (2) an occupational license.

Golf cart shall have the meaning assigned by the Texas Transportation Code §502.001(7), as amended, and means a motor vehicle commonly referred to as a golf cart, which must have an attainable top speed not greater than 25 miles per hour on a paved level surface and 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, Mules, Gators and design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

Motorized Cart means those electric and gasoline powered carts, commonly referred to as golf carts, but which must have a minimum of three wheels and which have an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured 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 ATV's, four-wheelers, mules, and gators.

Golf cart registration permit shall mean a privilege granted, upon compliance with the terms of this ordinance, to legally operate a golf cart upon a public street or roadway within the corporate boundaries of the City of Abernathy during the period when granted.

Golf cart registration permit decal shall mean a certificate for attachment to a golf cart carrying a serial number corresponding to the number of the golf cart license for such golf cart and showing the month and-calendar year the license shall expire.

Golf cart registration permit fee shall mean an administrative charge imposed as specified in this chapter for the granting of a golf cart registration permit and the issuance of a golf cart registration permit decal.

Owner means the person holding title to the golf cart.

Park or parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

Parking Area means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

Permit means a certificate/decals of authorization issued to the applicant by the City authorizing the operation of the golf cart for which the permit was issued. The decal will display the month and year of expiration.

Permit Holder means the person to whom a golf cart permit has been issued.

Public Safety Personnel means any employee or officer of a governmental law enforcement agency or the City of Abernathy or its Department(s).

Public Street means the public roadways of the City of Abernathy by whatever name, e.g. road, alley, avenue, highway, route, boulevard, etc. within the corporate boundaries of Abernathy that:

- a) Has a speed limit of 35 miles per hour or less;
- b) Provides for no more than one lane of vehicular traffic per direction;
- c) Is not designated as part of either the State or Federal highway system.

Sidewalk means the portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Slow-Moving-Vehicle-Emblem means 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.

Texas Transportation Code means the code as it currently exists or may be amended.

Traffic Way is any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

§ 1.02 Golf Carts Permitted and Restricted

A person, other than Public Safety Personnel, may operate a golf cart on a public street, parking area and/or traffic way if the person obtains a registration permit, affixes a registration decal, and meets the following requirements:

- (a) The Maximum speed limit on the public street is thirty-five (35) miles per hour or less;
- (b) The person has a valid driver's license;
- (c) The person maintains current financial responsibility for the golf cart, as required of other passenger vehicles in Section 601.051 of the Texas Transportation Code;
- (d) The person complies with all applicable federal, state and local laws and ordinances;
- (e) The golf cart has the following equipment, which must continuously remain in good working and operational order:
 - (1) Two (2) headlamps;
 - (2) Two (2) tail lamps;
 - (3) Side 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;
 - (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;
- (f) While the golf cart is in motion, the driver and every passenger in a golf cart is seated in a seat designed to hold passengers. No person may stand or ride in the lap of the driver and/or other passenger of a golf cart while it is moving.
- (g) The equipment described herein meets the Texas and Federal Motor Vehicle Safety Standards, as they exist or may be amended; and

§ 1.03 Additional Requirements for Golf Carts Powered By Gasoline

In addition to the requirements set forth herein, every golf cart powered by gasoline shall at all times be equipped with an exhaust system in good working order and in constant operation and meet the following specifications:

- (a) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or including any and all parts specified by the manufacturer;
- (b) The exhaust system and its elements shall be securely fastened with brackets or hangers, which are designed for the particular purpose of fastening golf cart exhaust systems;
- (c) The engine and powered mechanism of every golf cart shall be so equipped, adjusted and tuned so that the exhaust is in good working order; and
- (d) It shall be unlawful for the Owner of any golf cart to operate or permit the operation of such golf cart on which any device controlling or abating atmospheric emissions which is placed on a golf cart by the manufacturer is rendered unserviceable by removal, alteration or which interferes with its operation.

§ 1.04 Additional Operational Regulations For All Golf Carts

- (a) Except for Public Safety Personnel, golf carts shall not be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic;
- (b) All golf carts are entitled to a full use of a lane on the authorized public streets, parking areas and traffic ways of Abernathy, and no motor vehicle shall be driven in such a manner as to deprive any golf cart of the full use of a lane;
- (c) The driver of a golf cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken;
- (d) No driver shall operate a golf cart between lanes of traffic or between adjacent lines or rows of vehicles;
- (e) The driver of a golf cart operating the golf cart on a public street may only cross a multi-lane federal, county or state route at an intersection controlled by an official traffic control device which stops traffic from all directions. The driver of a golf cart may cross a multi-lane road, other than a federal, state, or county route, if it is required to cross from one portion of a golf course to another portion of the same golf course. If a golf cart crossing path is provided for transition between one section of a golf course to another section of the same golf course across a multi-lane road, the operator shall cross at and within the golf cart crossing path;
- (f) The number of occupants in a golf cart shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart;

- (g) Children must be properly seated while a golf cart is in motion and may not be transported in a reckless or negligent manner. No person younger than six (6) years of age may be transported in a golf cart unless restrained by a safety belt restraint;
- (h) Golf carts may not be used for the purpose of towing another golf cart, trailer or vehicle of any kind including, without limitation, a person on roller skates, skateboard or bicycle. A person employed by a golf course may tow a golf cart(s) for the purpose of relocating the cart(s) from one portion of a golf course to another portion of the same golf course; and
- (i) Golf carts shall not 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').

§ 1.05 Liability

- (a) Nothing in this Article shall be construed as an assumption of liability by the City of Abernathy for any injuries (including death) to persons, pets or property which may result from the operation of a golf cart by an authorized driver; and
- (b) Owners are fully liable and accountable for the action of any individual that they provide permission to operate and drive said golf cart, both on personal and/or any authorized public streets, parking areas and traffic ways. This described liability responsibility especially applies to personal injuries (including death) or property damage resulting from golf cart drivers who are minors under the age of twenty-one (21) with or without a current and valid driver's license.

§ 1.06 Registration Permit Required

- (a) No person shall operate, cause to be operated or allow the operation of a golf cart on any authorized public streets, parking areas and traffic ways unless a valid registration permit has been issued for the golf cart or otherwise allowed by law.
- (b) Application for a permit authorizing the operation of a golf cart shall be made by a person who owns, leases or otherwise uses a golf cart. Such application shall be made in writing to the City on a form designated for that purpose. On such application shall be set forth the following:
 - (1) The name, address, telephone number and state driver's license number, if applicable, of the permit holder;
 - (2) The street address where the golf cart is kept, including the particular suite or apartment number, if applicable;
 - (3) The business name used for the premises where the golf cart is kept, if applicable;

- (4) The year, make, model, color, vehicle identification number or serial number if no vehicle identification number has been issued to the golf cart, electric or gasoline; and
 - (5) The person(s) and location, designated by the City, that inspected the golf cart, including a certification by said inspector that the golf cart complies with the requirements of this Ordinance before the issuance of a permit;
 - (6) Statement that all operators are required to be licensed pursuant to Texas Transportation Code §§521.001(3) and 521.021, as amended, and that all equipment required herein is installed and will be kept operational during the permit period.
 - (7) Statement that the registration permit holder and any user shall indemnify and hold harmless the City of Abernathy, Texas for any and all civil liability associated with said registration waives any and all rights to sue or allow subrogation by insurance company.
 - (8) Other information which the City may require.
- (c) The registration permit decal shall be permanently affixed on the left side of the golf cart in such a manner that it is clearly visible from fifty feet (50'). The permit must not be damaged, altered, obstructed or otherwise made illegible. The permit holder shall apply for replacement permit and pay all applicable cost associated with the issuance and inspection of the golf cart;
 - (d) The registration permit decal shall only be placed upon the golf cart for which it was issued;
 - (e) A permit issued to a golf cart shall become invalid if the golf cart is altered in a manner that fails to comply with any requirement of this Ordinance;
 - (f) Registration Permits/Decals are valid for a period of (2) two years and each shall expire on December 31st of odd numbered years. The registration permit fee shall be prorated to the number of yearly quarters remaining in the permit period. The following fee shall apply:
 - 1. Registration Permit - \$48.00 (includes Inspection and Decal)
 - 2. Re-inspection if a cart fails the initial inspection - \$20.00
 - 3. Governmental entities applying for a Registration Permit are exempt from any fees.
 - (g) The permit holder shall notify the City within ten (10) working days if the golf cart transfers ownership or the address of the normal storage location has changed. The information shall be submitted on a form designated by the City;

- (h) Lost or stolen Permit/Decals are the responsibility of the Owner. A police report must be filed in the event of a lost or stolen Permit/Decal. If no record can be found of a previous application, or the receipt of a Permit/Decal, the City may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Decal is issued;
- (i) Any person who operates a golf cart and fails to receive and properly display a City Permit/Decal will be subject to all applicable state laws, in addition to being in violation of this Ordinance; and
- (j) A permit may be revoked at any time by the City, or its designee(s), if:
 1. there is any evidence that the permit holder cannot safely operate a golf cart on any authorized public streets, parking areas and traffic ways of the City in compliance with this Ordinance.
 2. The owner or driver fails to abide by the rules and regulations of this ordinance
 3. The owner fails to maintain proof of financial responsibility during the entire permit registration period.
- (k) The commission of any of the violations described herein constitutes evidence that the permit holder cannot safely operate a motorized golf cart on the street within the City of Abernathy.
- (l) The permit is not transferable. Upon transfer of ownership of the golf cart to a person who intends to operate it over authorized streets and parking areas, the new owner must register the golf cart and pay the registration permit fee as outlined hereinabove.

§ 1.07 Public Safety Personnel

Public Safety Personnel may operate a golf cart on any public street, parking area and traffic way without any further restrictions when the golf cart is used in the performance of his/her duties or on official business of the City or on City owned property and City leased property, including but not limited to, a parade, a festival or other special events.

SECTION 2. Penalty Provision.

§ 2.01 Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City of Abernathy from filing suit to enjoin the violation. Abernathy retains all legal rights and remedies available to it pursuant to local, state, and federal law.

§ 2.02 In addition to the misdemeanor for traffic violations of the driver of the motorized cart may be subject to pursuant to Texas Law, the owner and/or permit holder of the motorized cart shall be subject to the following civil penalties:

- (a) For the first offense, a fine of not less than \$25.00;
- (b) For the second and any subsequent offense, a fine of not less than \$50.00.

SECTION 3. Savings/Repealing Clause.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4. Severability.

Should any section, subsection, clause or phrase of this ordinance be declared unconstitutional or invalid by any court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full for force and effect.

SECTION 5. Effective Date.

This Ordinance shall be effective January 1, 2014 and publication as required by law.

PASSED AND APPROVED on this the 14th day of October, 2013.