

ORDINANCE NO. 2021-003

AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS, THAT PROVIDES REGULATIONS FOR THE OPERATION AND MAINTENANCE OF GOLF CARTS AND PACKAGE DELIVERY VEHICLES WITHIN THE CITY; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, in 2019, the Texas Legislature passed HB1548, which authorizes the use of golf carts and package delivery vehicles on certain public roads; and

WHEREAS, HB1548 also allows for municipalities to regulate use of golf carts in the interest of safety; and

WHEREAS, municipalities around the State have taken the opportunity to craft ordinances that fit their individual communities and balance the convenience of golf cart usage with safety and traffic control priorities; and

WHEREAS, the Board of Aldermen of the City of East Bernard previously enacted an ordinance to provide for the regulation of golf carts within the City of East Bernard; and

WHEREAS, the Texas Department of Transportation now issues license plates for golf carts; and

WHEREAS, the Board of Aldermen of the City of East Bernard desires to amend its previously enacted ordinance to provide for the regulation of golf cars within the City of East Bernard; **NOW THEREFORE**,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF EAST BERNARD, TEXAS:

SECTION 1. The facts, purpose, and recitations contained in the preamble of this Ordinance are found to be true and correct.

SECTION 2. REGULATION OF GOLF CARTS, UTILITY VEHICLES, AND PACKAGE DELIVERY VEHICLES

2-1. Definitions. The following words, terms and phrases when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

All-terrain vehicle (ATV) means a vehicle that is equipped with a seat or seats for the use of the ride and passenger (if the motor vehicle is designed by the manufacturer to transport a passenger) designed to propel itself with three or more tires in contact with the ground, designed by the manufacturer for off-highway use, not designed by the manufacturer for farming, lawn care, or use on a golf course, and not more than fifty (50") inches wide. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code §551A.001, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter. The term, as used in this Ordinance, hereby specifically excludes utility vehicles (UTVs), neighborhood electric vehicles (NEVs), golf carts, sand rails, and any other types of motorized conveyances that are not manufactured primarily for recreational use.

Golf cart means a motor vehicle designed by the manufacturer primarily for use on a golf course. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code §551.401, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter. The term, as used in this article, hereby specifically excludes all-terrain vehicles (ATVs), neighborhood electric vehicles (NEVs), four-wheelers, mules, gators, sand rails, utility vehicles (UTVs), and any other types of motorized conveyances that are not manufactured primarily for use on a golf course.

License plate means a license plate issued by the Texas Department of Motor Vehicles as authorized by Texas Transportation Code Chapter 551, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter.

Neighborhood electric vehicle (NEV) means a vehicle operated by a motor carrier that can attain a maximum speed of thirty-five miles per hour (35 mph) on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).

Motor carrier means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code §643.001, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter.

Off-highway vehicle means an all-terrain vehicle (ATV), a recreational off-highway vehicle, or a utility vehicle (UTV), as those terms are defined by Texas Transportation Code §551A.001; as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter, or a sand rail.

Operator means the person operating and having physical control over a golf cart or package delivery vehicle. An operator must carry a valid Texas Drivers' License and be sixteen (16) years of age or older.

Owner means the person who has legal title to a golf cart or package delivery vehicle, has the legal right of possession of a golf cart, or has the legal right of control of a golf cart. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code §541.001, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter. The owner is the person required to register the golf cart with the City of East Bernard.

Package delivery vehicle means a golf cart, neighborhood electric vehicle (NEV), or off-highway vehicle that is operated by a motor carrier for the purpose of picking up and delivering mail, parcels, and packages.

Park or *parking* means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of, and while actually engaged in, loading or unloading passengers, packages, or merchandise.

Parking area means those areas assessable 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.

Public cart path means a path or paved level surface designated for the operation of golf carts. Public cart paths do not include sidewalks or hike-and-bike trails.

Public highway includes a road, street, way, thoroughfare, or bridge that is in the state, that is for the use of vehicles; that is not privately owned or controlled, and, over which the state has legislative jurisdiction under its police power. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code §502.001, as it exists at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter.

Sand rail means a vehicle that is designed or built primarily for off-highway use in sandy terrains, have a tubular frame, an integrated roll cage, an engine that is rear-mounted or placed midway between the front and rear axles of the vehicle, and has a gross weight of between seven hundred (700) pounds and two thousand (2,000) pounds. The term, as used in the Ordinance, hereby specifically excludes all-terrain vehicles (ATVs), utility vehicles (UTVs), neighborhood electric vehicles (NEVs), golf carts, sand rails, and any other types of motorized conveyances that are not manufactured primarily for utility work.

Utility vehicle (UTV or mule) means a motor vehicle equipped with side-by-side seating for the use of the operator and a passenger that is designed to propel itself with at least four tire in contact with the ground, designed by the manufacturer for off-highway use only, and designed by the manufacturer primarily for utility work and not for recreational purposes. This term as used in this Ordinance shall not be in conflict with the meaning assigned to this term by Texas Transportation Code 502.001 or 551A.0001, as they exist at the time of the adoption of this Ordinance or as it may be amended or renumbered thereafter. The term, as used in this Ordinance, hereby specifically excludes all-terrain vehicles (ATVs), neighborhood electric vehicles (NEVs), golf carts, sand rails, and any other types of motorized conveyances that are not manufactured primarily for utility work.

2-2. - Required equipment regulations.

- A. Every golf cart operated within the city, including a golf cart or NEV operated by a motor carrier, shall be equipped with all the following equipment which shall be operational at all times:
 - (1) Headlights,
 - (2) tail lamps (two (2) required),
 - (3) reflectors (two (2) red in color in the rear),
 - (4) parking brakes,
 - (5) rearview mirrors (capable of a clear unobstructed view of at least two hundred feet (200') to the rear),
 - (6) horn (must be audible for a distance of two hundred feet (200') in compliance with section 547.501 of the Texas Transportation Code),
 - (7) a slow moving vehicle emblem as provided for in Texas Transportation Code §547.104, as it exists at the time of the adoption of this article or as it may be amended thereafter;
 - (8) any other equipment required by law.
- B. Every golf cart or package delivery vehicle in operation within the city on a highway or public cart path shall be subject to inspection by a peace officer to determine compliance with the equipment requirements of this Ordinance.

- C. Every golf cart or package delivery vehicle powered by gasoline shall at all times be equipped with an exhaust system in good working order and shall comply with all federal, state, and city regulations.

2-3. - Operation regulations.

- A. Every operator shall be licensed to operate a motor vehicle as provided by the Texas Transportation §§521.021 and 521.025, as they exist at the time of the adoption of this Ordinance or as they may be amended thereafter, and shall carry a valid Texas drivers' license while operating the golf cart or NEV.
- B. Every operator shall abide by all traffic regulations applicable to vehicular traffic when operating a golf cart or package delivery vehicle on any public highway in the city.
- C. The use of golf carts or package delivery vehicles on public streets and roads within the city is permitted subject to the conditions and limitations below.
- (1) No golf cart or package delivery vehicle may be operated within the city at a speed exceeding thirty-five miles per hour (35 mph).
 - (2) No person shall operate a golf cart or package delivery vehicle on any sidewalk or hike and bike trail within the city.
 - (3) A golf cart or package delivery vehicle may only be operated on a public highway with a posted speed limit of not more than thirty-five miles per hour (35 mph), or on a posted public cart path unless otherwise restricted.
 - (4) At no time shall a person operate a golf cart or package delivery vehicle on a street with a posted limit of more than thirty-five miles per hour (35 mph).
 - (5) At no time shall a person operate a golf cart or package delivery vehicle on the following streets, except to cross at a perpendicular intersection to immediately access a public highway of a posted speed limit of thirty-five miles per hour (35 mph) or less:
 - a. Leveridge Street
 - (6) A golf cart or package delivery is prohibited on any public highway or public cart path while such public highway or public cart path is under construction or repair.

- (7) An operator shall not overtake and pass a vehicle in the same lane occupied by the vehicle being overtaken.
- (8) A golf cart or package delivery vehicle shall not be operated between lanes of traffic, on medians, or between adjacent lines of rows of vehicles.
- (9) A golf cart or package delivery vehicle shall move to the right and yield the right-of-way to faster moving vehicles.
- (10) The operator and every occupant of a golf cart or package delivery vehicle shall be limited to the seating capacity as designed by the manufacturer. All occupants shall remain seated in a seat designed to hold passengers while the golf cart or package delivery vehicle is in motion. The operator shall not transport a person on a part of the golf cart or package delivery vehicle not designed or intended to transport a passenger.
- (11) No operator shall allow a person to ride in the lap of the operator or any other person being transported.
- (12) All occupants under shall be restrained by a seatbelt.
- (13) No part of the body of the operator or any occupant shall extend outside the perimeter of the golf cart or package delivery vehicle while the golf cart or package delivery vehicle is moving.
- (14) No operator shall use a wireless communication device in a school zone during restricted school hours.
- (15) Golf carts and package delivery vehicles may only be parked in the same manner and at the same places designated for the parking of motor vehicles. The stopping, standing, or parking of golf carts in areas where parking is not allowed or in any place that impedes the flow of traffic, pedestrian walkways or a passage way is prohibited. Golf carts and package delivery vehicles shall not park in any space designated for disabled persons unless a current disabled parking placard is displayed and the person to whom the placard was issued is operating or being transported by the golf cart or package delivery vehicle.
- (16) 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').

2-4. – Registration and License Plates Required, Golf Carts, Neighborhood Electric Vehicles (NEVs) and Utility Vehicles (UTVs). No person shall operate, cause to be operated, or allow the operation of a golf cart, neighborhood electric vehicle, or utility vehicle on a public roadway unless the vehicle displays a license plate for golf carts, neighborhood electric vehicles (NEVs), or off-highway vehicles issued by the Texas Department of Motor Vehicles pursuant to Texas Transportation Code §§551.302, 551.402, or 551A.052. A person who becomes the owner of a golf cart, neighborhood electric vehicle (NEV), or utility vehicle for which the previous owner obtained a license plate may not use the previous owner's license plate.

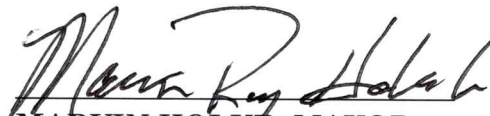
2-5. - Exceptions and affirmative defenses.

- A. A golf cart or utility vehicle owned or operated for official government purposes by the city or any other governmental entity is exempt from the regulations provided by this Ordinance.
- B. It shall be an affirmative defense to prosecution for a violation of this Ordinance that the operator was operating the golf cart or utility vehicle to evacuate persons during a declared city emergency and for seventy-two (72) hours after the declared city emergency ends, unless otherwise ordered by the city.
- C. It shall be an affirmative defense to prosecution for a violation of this Ordinance that the golf cart or utility vehicle was operated in a city-approved parade route for the purpose of participating in a parade pursuant to a valid permit issued by the city for such purpose.
- D. It shall be an affirmative defense to prosecution for a violation of this Ordinance that the operator was crossing a public highway with a posted limit of more than thirty-five miles per hour (35 mph) at a perpendicular intersection to immediately access a public highway with a posted speed limit of thirty-five miles per hour (35 mph) or less.

2-6. – Penalties. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars (\$100), with each day of violation constituting a separate offense.

2-7. – Severability. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of this Ordinance to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and, the Board of Alderman declares that it would have passed each and every part of this Ordinance notwithstanding the omission of any such part declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED THIS 10th DAY OF MAY, 2021.


MARVIN HOLUB, MAYOR

ATTEST:


AUDREY SCEARCE, CITY SECRETARY