

**CITY OF SEABROOK
ORDINANCE 2019-29**

REGULATION OF GOLF CARTS

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SEABROOK, CHAPTER 90 "TRAFFIC AND VEHICLES", BY REVISING AND UPDATING ARTICLE VII, "REGULATION OF GOLF CARTS," REGULATING THE USE OF GOLF CARTS ON PUBLIC STREETS OR HIGHWAYS WITHIN THE CITY LIMITS; PROVIDING FOR A PENALTY IN AN AMOUNT OF NOT MORE THAN TWO HUNDRED DOLLARS (\$200.00) FOR VIOLATION OF ANY PROVISIONS HEREOF BY INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR NOTICE.

WHEREAS, the Texas Transportation Code, Section 551.403 provides limited areas for operation of golf carts in: (1) in a master planned community; (2) on a public or private beach that is open to vehicular traffic; or (3) on a highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated: (a) during the daytime; and (b) not more than two miles from the location where the golf cart is usually parked and for transportation to or from a golf course; and

WHEREAS, the Texas Attorney General, in opinion GA-0966 has concluded that the purpose of driving the golf cart on the highway under 551.403(a)(3)(B) must be to transport a person only to and from a golf course; and

WHEREAS, the Transportation Code, Section 551.4031 provides that a municipality may prohibit the operation of a golf cart on a highway under Section 551.404 if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety; and

WHEREAS, Section 551.404 provides that the governing body of a municipality may allow an operator to operate a golf cart on all or part of a highway that is (1) in the corporate boundaries of the municipality and (2) has a posted speed limit of not more than 35 miles per; and

WHEREAS, the City Council has determined that in the interest of safety, it is necessary to regulate the operation of golf carts on public streets and highways in the corporate limits of Seabrook, Texas; and

WHEREAS, after receiving input from the public, staff and reviewing the current ordinance, the City Council now desires to revise and update City golf cart regulations in the interest of public safety:

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

SECTION 1. FINDINGS OF FACT.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct. The City Council specifically finds that pursuant to Transportation Code Sections 551.4031 and 551.404 that in the interest of safety, it is necessary to regulate the operation of golf carts on public streets and highways in the corporate limits of Seabrook, Texas in the interest of public safety as set forth in this Ordinance.

SECTION 2. AMENDMENT TO THE CODE.

The Seabrook City Code, Chapter 90 "Traffic and Vehicles", is hereby amended by revising and updating Article VII "Regulation of Golf Carts" in its entirety as follows:

“CHAPTER 90

ARTICLE VII. - REGULATION OF GOLF CARTS

Sec. 90-201. - 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.

Golf cart as referenced hereafter, shall have the meaning assigned by the V.T.C.A., Transportation Code § [~~502.001(7)~~] **551.401**, as it exists or may be amended, and includes a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course. The term, as used herein, shall include a specific restriction that a permitted golf cart shall have an attainable top speed of not greater than 25 mph. Specifically excluded from this definition are those motorized conveyances commonly referred to as ATVs, NEVs, four-wheelers, mules and gators.

Golf cart registration permit shall mean a privilege granted upon compliance with terms of this article to legally operate a golf cart upon a public highway, or parking area within the corporate boundaries of the City of Seabrook for the term that the permit was issued.

Golf cart registration permit decal shall mean a certificate for attachment to a golf cart identifying the golf cart as permitted by the city and giving an expiration date.

Operator shall mean the person operating and having physical control over the golf cart. An operator must carry a valid Texas Drivers' License.

Owner shall have the meaning assigned by the V.T.C.A., Transportation Code § [~~502.001~~] **502.001(31)**, and shall mean the person who has legal title to the golf cart, has the legal right of possession of the golf cart, or has the legal right of control of it.

“Public Cart Path” shall mean an improved or unimproved path designated by sign for the movement of a golf cart which is available for use by the general public.

Public highway shall have the meaning assigned by the V.T.C.A., Transportation Code § 502.001([48]35), as it exists or may be amended, and includes a road, street, way, thoroughfare, or bridge:

- (1) That is in the 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.

Sec. 90-202. Required equipment regulations.

- (a) Every golf cart operated within the City of Seabrook shall be equipped with **all** the following equipment which shall be operational at all times: **(1)** headlights, **(2)** tail lamps, **(3)** reflectors, **(4)** parking brakes, **(5)** rearview mirror(s) and **(6)** a slow moving vehicle emblem clearly visible in daylight or at night from the light of standard automobile headlamps at a distance of at least 500 feet as provided for in §§ 551.404 and 547.703, respectively of the V.T.C.A., Transportation Code. **Every golf cart 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 herein.**
- (b) Every golf cart powered by gasoline shall at all times be equipped with an exhaust system in good working order and shall comply with all state, federal and city regulations, specifically section 55-21 et seq. ("Noise") of the City Code.
- (c) Golf carts which have been altered to allow them to travel at speeds greater than 25 mph are prohibited.

Sec. 90-203. - Operation regulations.

- (a) All operators of golf carts shall be licensed to operate a motor vehicle as provided by the Texas Transportation Code and shall carry a valid Texas drivers' license while operating the golf cart.
- (b) All operators of golf carts shall abide by all traffic regulations applicable to vehicular traffic when using any public highway in the city.

- (c) ~~[Golf carts shall not be operated on public sidewalks at any time.]~~ **No person shall at any time operate a golf cart on any sidewalk or hike and bike trail within the city limits.**
- (d) Golf carts may only be operated ~~[up]~~ on a public street/highway with a posted speed limit of not more than ~~[25]~~ **30 mph** **or on a posted public cart path,** unless otherwise restricted. **No person shall operate a** ~~[G]~~ golf cart ~~[may not operate]~~ at a speed greater than 15 mph at any time in the city.
- (e) ~~[A golf cart may cross a street/highway with a posted speed limit of more than [25] 30 mph [if said crossing occurs at an intersection and said crossing is perpendicular to the street or highway with a posted speed limit of more than 25 mph]~~ **At no time shall a person operate a golf cart on a street with a posted limit of more than 30 mph. It shall be an affirmative defense to prosecution that the golf cart operator was only crossing a street/highway with a posted limit of more than 30 mph at a perpendicular intersection to immediately access a street/highway of a posted speed limit of 30 mph or less.**
- ~~[(f) The operator of a golf cart on a public highway may cross a multi-lane or a county or state route only at a signalized intersection.]~~
- ~~[(g)]~~ **[All golf carts are entitled to a full use of a lane on the public highway and no motor vehicle shall be operated in such a manner as to deprive any golf cart of the full use of a lane.] Golf carts are prohibited on any public highway or public cart path, regardless of the speed limit, on that portion of the public highway or public cart path, while under construction or repair.**
- ~~[(h)]~~ **g**) The operator of a golf cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- ~~[(i)]~~ **h**) No operator shall operate a golf cart between lanes of traffic, **medians,** or between adjacent lines of rows of vehicles.
- ~~[(j)]~~ **i**) Golf carts shall move to the right and yield the right-of-way to faster moving vehicles.
- ~~[(k)]~~ **j**) The operator and every occupant of a golf cart shall be limited to the seating capacity as designed by the manufacturer and all occupants shall remain seated in a seat designed to hold passengers while the golf cart is in motion. **The operator shall not transport a person on a part of the golf cart not designed or intended to transport a passenger.**
- ~~[(H)]~~ **k**) **No operator shall allow a person** ~~[may]~~ **to** ride in the lap of the ~~[driver]~~ **operator** or any other **person being transported** ~~[occupant]~~.

~~([m])~~ **No operator of a golf cart shall transport a child** ~~[Children]~~ under the age of ~~[ten]~~ ~~[6]~~ **5** years ~~[may not ride on a golf cart at any time]~~ **except during the applicable posted school zone hours or when school zone lights are active.**

(m) No operator shall use a wireless communication device in a school zone during restricted school hours.

Sec. 90-204. – Exceptions and Affirmative Defenses.

(a) Golf carts owned and/or operated for official government purposes by the City of Seabrook or any other governmental entity are exempt from regulation by this Code.

(b) **It shall be an affirmative defense to prosecution that the operator was operating the** ~~[G]~~ golf cart ~~[used while]~~ to evacuate~~[ing]~~ persons during a declared city emergency ~~[are exempt from regulation by this Code during the declared emergency]~~ and for 72 hours after the emergency unless otherwise ordered by the city.

(c) Parades. It shall be an affirmative defense to prosecution that the golf cart 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.

Sec. 90-205. Registration permit.

No person shall operate a ~~[Before any]~~ golf cart ~~[may be operated]~~ on **a** ~~[the]~~ highway/street **or public cart path** ~~[and highways]~~ of the city, **prior to city registration** ~~[it must be registered with]~~ and **display of a current registration permit decal affixed to the golf cart. The permit shall be available** ~~[provided a permit]~~ **through** ~~[by]~~ the City of Seabrook Police Department. The first time registration fee is \$50.00 and bi-annual renewal is \$25.00 which covers administrative and inspection costs. The city registration permit process includes ~~[the following]~~ **(1) through (5) below:**

- (1) The applicant shall complete the city-supplied registration permit application which shall contain the **following:**
 - a. Name and physical and mailing address of the applicant owner.
 - b. Location where the vehicle is regularly stored overnight.
 - c. Model, make and golf cart ID number.
 - d. Current driver's license information of owner.

- e. A statement that the applicant has been furnished a copy of this article and that s/he agrees to comply with all conditions contained in this article and to any local, state or federal laws governing the use of golf carts.
 - f. A statement that the registration permit holder and any ~~user~~ **operator** shall indemnify and hold harmless the City of Seabrook, Texas for any and all civil liability associated with said registration and that the permit holder, **operator**, and user waive any and all rights to sue or allow subrogation by insurance company. **Owners and operators of golf carts shall be fully liable, responsible and accountable for the action of any individual that they provide permission to operate, drive and use a golf cart on all city public highways/streets, public cart path, and public parking areas. This personal liability shall extend, but not be limited to all personal injuries (including death), property damage, or related damage claims resulting from the operation of a golf cart on the streets/highways and public cart paths in the City of Seabrook. Nothing herein shall limit liability for a person's operation or use of a golf cart as provided by law.**
 - g. Any other information that the city may reasonably require.
- (2) The registration permit application shall be:
- a. Accompanied by the permit fee of \$50.00 for first time applicants and \$25.00 for **bi**-annual renewals thereafter.
 - b. Accompanied by proof of financial responsibility consistent with the minimum requirements of the Texas Transportation Code for the operation of motor vehicles. A copy of the certificate of insurance shall be attached to the application.
 - c. Accompanied by a copy of the applicant's Texas Driver's license.
 - d. Signed by the applicant/owner.
- (3) Upon receipt of the completed application and permit fee, a member of the police department shall make arrangements to inspect the golf cart for adherence to this article.
- (4) When the inspector has approved the vehicle, the **bi**-annual permit decal shall be issued to the owner. The decal shall be immediately affixed to the front panel of the driver's side of the golf cart so as to be clearly visible.
- (5) The registration permit shall be effective for ~~one~~ **two** years from the date of issuance or until such time as revoked for noncompliance or when the golf cart is transferred to a new owner.

Sec. 90-206. - Revocation of the registration permit.

The registration permit may be revoked **and the golf cart registration permit decal ordered surrendered or removed** if:

- (1) The owner or operator of the golf cart fails to abide by the rules and regulations of this article, including failure to maintain liability insurance.
- (2) The owner or [~~driver~~] **operator** of the golf cart fails to abide by all traffic laws, and/or operates the **golf** cart in an unauthorized area.
~~, [specifically including the use of a wireless communication device in a school zone during restricted school hours].~~

Sec. 90-207. - Registration permit is not transferrable.

The city **golf cart** registration permit is not transferable. Upon transfer of ownership **of a golf cart** to another person who intends to operate the golf cart in Seabrook, the new owner/**transferee** must register the golf cart in his/her name and pay the required permit fee as **provided herein for operation of the golf cart on city highways, streets and public cart paths** [~~outlined in this article~~].”

Secs. 90-208—90-224. - Reserved.”

SECTION 3. PENALTY CLAUSE; INCLUSION INTO THE CODE.

This Ordinance is hereby incorporated into and made a part of the Seabrook City Code. 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 more than Two Hundred Dollars (\$200.00) per offense. Each day of violation shall constitute a separate offense.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 5. SEVERABILITY.

In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the application of the same 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 City Council of the City of Seabrook, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 6. NOTICE BY PUBLICATION

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 15TH day of October, 2019.

PASSED, APPROVED, AND ADOPTED on final reading with a quorum present, by an affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on this 5th day of November, 2019.

DocuSigned by:
Thomas G. Kolupski
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BY: _____
Thomas G. Kolupski
Mayor

ATTEST:
By: _____
Robin Lenio, TRMC
City Secretary

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Robin Lenio
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APPROVED AS TO FORM:
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Steven L. Weathered
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Steven L. Weathered
City Attorney