

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE CITY OF AZLE, TEXAS, ADDING ARTICLE 12.08 “GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES” TO CHAPTER 12 “TRAFFIC AND VEHICLES” OF THE CODE OF ORDINANCES, CITY OF AZLE, TEXAS TO REGULATE THE USE OF CERTAIN VEHICLES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Azle is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City has observed an increased use of golf carts, neighborhood electric vehicles and other recreational off-highway vehicles within the City limits; and

WHEREAS, the City Council believes it prudent to implement regulations regarding the use of such vehicles within the City in order to protect the health, safety and welfare of all of its citizens,

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

SECTION 1.

Chapter 12 “Traffic and Vehicles” of the Code of Ordinances, City of Azle, Texas shall be amended to add Article 12.08 “Golf Carts, Neighborhood Electric Vehicles and Other Types of Recreational Off-Highway Vehicles” to read as follows:

ARTICLE 12.08 GOLF CARTS, NEIGHBORHOOD ELECTRIC VEHICLES AND OTHER TYPES OF RECREATIONAL OFF-HIGHWAY VEHICLES

Sec. 12.08.001 Definitions

For the purposes of this Article, the following terms shall have the following meanings:

All-terrain vehicle or ATV 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.

City means the City of Azle, Texas.

Daytime means the period beginning one-half hour before sunrise and ending one-half hour after sunset.

Driver means a person driving or having physical control over a vehicle, including but not limited to a motorized cart.

Driver's license means an authorization issued by the Department of Public Safety for operation of a motor vehicle. The term includes a temporary license or instruction permit and an occupational license.

Golf cart shall have the meaning assigned by Texas Transportation Code § 551.401, as amended, which currently defines it as a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course. It must have a minimum of four wheels and has 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 the definition of golf cart are off-highway vehicles, including those motorized conveyances commonly referred to as ATVs, off-road vehicles (also known as ORVs), 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.

Low speed vehicle (LSV) means a conveyance or vehicle which is a neighborhood electric vehicle, a golf cart, or an off-highway vehicle.

Neighborhood electric vehicle (NEV) means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500). See Texas Transportation Code § 551.301, as amended.

Specifically excluded from the definition of NEV are off-highway vehicles, including those motorized conveyances commonly referred to as ATVs, off-road vehicles (also known as ORVs), 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.

Nighttime means the period beginning one-half hour after sunset and ending one-half hour before sunrise.

Off-highway vehicle means an all-terrain vehicle, a recreational off-highway vehicle, a sand rail, or a utility vehicle.

Operate shall mean to drive or have physical control over a vehicle on a street or in a public area designated for motor vehicle use.

Operator means any person driving and having physical control over a vehicle on a street or in a public area designated for motor vehicle use.

Park or parking means the standing or stopping of a vehicle, whether occupied or not, other 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.

Recreational off-highway 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 or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
- (2) Designed to propel itself with four or more tires in contact with the ground;
- (3) Designed by the manufacturer for off-highway use by the operator only; and
- (4) Not designed by the manufacturer primarily for farming or lawn care.

Sand Rail means a vehicle that is designed or built primarily for off-highway use in sandy terrains, including for use on sand dunes, that has a tubular frame, an integrated roll cage, and an engine that is rear-mounted or placed midway between the front axles of the vehicle, and that has a gross vehicle weight of not less than 700 and not more than 2,000 pounds.

Street means a public roadway in the City of Azle, Texas by whatever name (e.g., road, alley, avenue, highway, route, boulevard, etc.) that is open to vehicular traffic.

Utility vehicle means a motor vehicle that is not a golf cart 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 by the manufacturer primarily for utility work and not for recreational purposes.

Sec. 12.08.002 Limited operation

- (a) The operation of a golf cart or NEV shall be prohibited on any street in the state highway system, regardless of the speed limit, including Farm-to-Market Roads located within the corporate boundaries of the city. The state highway system includes, but is not limited to State Highway 199 (Jacksboro Highway) and Farm-to-Market Road 730 (Boyd Road). For the purposes of this ordinance, Loop 344 (Main St.) is not included in the prohibition.

(b) A golf cart may not be driven across intersections where the cross street does not have electronic traffic controls and has a posted speed limit of more than 35 miles per hour.

(c) An NEV may drive across intersections where the cross street has a posted speed limit of more than 45 miles per hour even if the cross street is otherwise a prohibited street under this article.

(d) Nothing in this section shall apply to vehicles operating as permitted under Section 12.08.008 herein.

Sec. 12.08.003 Required equipment - Golf cart

(a) A golf cart operated under this article must be equipped at a minimum, with the following equipment as mandated by the Texas Transportation Code § 551.404(b), as amended, and/or required by the city to operate on permitted locations:

- (1) Operational headlamps;
- (2) Operational tail lamps;
- (3) Side reflectors;
- (4) Seat belts;
- (5) Operational parking brake; and
- (6) Rearview mirror(s).
- (7) "slow-moving-vehicle emblem" as defined by Texas Transportation Code § 547.703.

(b) A golf cart may be operated at a speed of not more than 25 miles per hour.

(c) Equipment and its installation and maintenance must meet standards provided by the Texas Transportation Code or this ordinance, as amended.

Sec. 12.08.004 Required equipment - NEV

(a) A neighborhood electric vehicle (NEV) must be equipped with the following equipment as mandated by Texas Transportation Code § 551.301, as amended, and/or required by the city, to operate on permitted locations:

- (1) Operational headlamps;
- (2) Operational tail lamps;
- (3) Side reflectors;
- (4) Operational parking brake;
- (5) Rearview mirror(s);
- (6) Turn signals;
- (7) Horn;
- (8) Brake lights;

- (9) Seat belts;
- (10) Windshield; and
- (11) Vehicle identification number.

(b) An NEV may be operated at a speed of not more than 35 miles per hour.

(c) Equipment and its installation and maintenance must meet standards provided by the Texas Transportation Code or this ordinance, as amended.

Sec. 12.08.005 Required equipment - off-highway vehicle

(a) An off-highway vehicle must be equipped with the following equipment as mandated by Texas Transportation Code § 551A.071, as amended, and/or required by the city, to operate on permitted locations:

- (1) a brake system maintained in good operating condition;
- (2) an adequate muffler system in good working condition;
- (3) a United States Forest Service Qualified spark arrester.

(b) An off-highway vehicle may be operated at a speed of not more than 35 miles per hour.

(c) Equipment and its installation and maintenance must meet standards provided by the Texas Transportation Code or this ordinance, as amended.

Sec. 12.08.006 Operator regulations

(a) All operators of golf carts, NEVs or off-highway vehicles shall:

- (1) Be licensed to operate a motor vehicle as provided by Texas Transportation Code § 521.021, as amended, and carry a valid driver's license as provided by Texas Transportation Code § 521.025. All state law driver's license permissions and restrictions shall apply to the operation of a golf cart, NEV or off-highway vehicle;
- (2) Abide by all state and local traffic regulations applicable to vehicular traffic;
- (3) Use standard hand signals for turning if the operator's vehicle is not equipped with turn signals;
- (4) Not operate or park on a sidewalk, hike and bike trails, or areas not designated for vehicle use within City Parks;
- (5) Not use the vehicle to pull any object or person at any time;
- (6) Not exceed the seating capacity of the vehicle as designed by the manufacturer;
- (7) Remain seated at all times while the vehicle is in motion and ensure the same for passengers. Passengers can be issued a citation for not remaining seated while vehicle is moving;
- (8) Not have or permit a passenger younger than eight years of age, or smaller than 4' 10" tall, without using an appropriate child safety seat system as defined by Texas Transportation Code § 545.412 (f)(1), *except* that children allowed to use a booster

seat in a passenger vehicle may be a passenger without a child restraint system (no booster seat required);

(9) Maintain financial responsibility as defined in Texas Transportation Code § 601.051; and

(10) Not intentionally or knowingly allow an unlicensed operator to operate the vehicle.

(b) While operating a golf cart, NEV or off-highway vehicle upon a street in the City, a driver shall comply with all laws applicable to motor vehicles as set forth in this article, the Texas Transportation Code, as amended, and other state and local laws. Such compliance shall include, without limitation, compliance with applicable parking laws and regulations. A driver shall be subject to a citation for all violations of this article, the Texas Transportation Code, and other applicable state law.

(c) A golf cart, NEV or off-highway vehicle is entitled to full use of a lane on the authorized streets and parking areas of the City and no motor vehicle shall be driven in such a manner as to deprive any golf cart, NEV or off-highway vehicle of the full use of a lane. A driver shall not operate a golf cart, NEV or off-highway vehicle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) A golf cart, NEV or off-highway vehicle shall not be used for the purpose of towing a trailer or vehicle of any kind, or a person, including without limitation a person on roller skates, skateboard, bicycle, or other wheeled device.

Sec. 12.08.007 Off-highway vehicles permitted

(a) Off-highway vehicles are permitted in accordance with Texas Transportation Code §551A.053(a)1 and (a) 2 to be operated on streets with a posted speed limit of not more than 35 miles per hour.

(b) In accordance with Texas Transportation Code §551A.072 (a) and (b) a person may not operate, ride, or be carried on an off-highway vehicle upon a street in the City unless the person wears seat belts, if the vehicle is equipped with seat belts.

(c) Subsection (b) does not apply to a motor vehicle that has four wheels, is equipped with bench or bucket seats and seat belts, and includes a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of rollover. Subsection (b) also does not apply to a motor vehicle that is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the vehicle.

Sec. 12.08.008 Off-highway vehicles used in agriculture or for law enforcement

(a) An operator of an off-highway vehicle may operate the vehicle on a public roadway on which the posted speed limit is 35 miles per hour or less, if:

(1) said operation is in connection with the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing,

selling, or use of agricultural products, or for utility work performed by a utility company;

(2) the operator attaches to the back of the vehicle a triangular, orange flag that is at least six feet above ground level;

(3) the vehicle's headlights and taillights are illuminated;

(4) the operation is in the daytime; and

(5) the operation does not exceed a distance of 25 miles from the point of origin to the destination.

(b) A Peace Officer or another person who provides law enforcement, firefighting, ambulance, medical, or other emergency services, including a volunteer firefighter, may operate an off-highway vehicle on a public roadway on which the posted speed limit is 35 miles per hour or less if:

(1) the transportation is in connection with the performance of the operator's official duty;

(2) the operator attaches to the back of the vehicle a triangular, orange flag that is at least six feet above ground level;

(3) the vehicle's headlights and taillights are illuminated; and

(4) the operation of the vehicle does not exceed 10 miles from the point of origin to the destination.

Sec. 12.08.009 Penalties

(a) Only warning citations may be issued for the first 60 days following the effective date of this article so that an educational effort by the City may be conducted to inform the public about the importance and requirements of this article.

(b) In addition to state law traffic violations for which the owner or driver of the LSV may be subject to, any person who violates this article shall be guilty of a misdemeanor punishable by a fine as follows:

(1) First offense shall have a minimum fine of \$100.00 and a maximum fine of \$500.00;

(2) Second offense shall have a minimum fine of \$200.00 and a maximum fine of \$500.00; and

(3) Third and subsequent offenses shall have a minimum fine of \$500.00.

Each day's violations shall constitute a separate and distinct offense. Any prior conviction under this article will count towards a second and third charge regardless of when it occurred.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, City of Azle, Texas, as amended, except where the provisions are in direct conflict

with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are 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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm or corporation who violates, disobeys, omits, neglects, refuses or fails to comply with, or who resists the enforcement of any provision of this ordinance shall be fined not more than Five Hundred dollars (\$500.00) for each offence. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Azle are expressly saved as to any and all violations of the provisions of the Code of Ordinances, City of Azle, Texas, as amended, which have accrued at the time of the effective date of this ordinance; and, as such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this ordinance but may be prosecuted until final disposition by the court.

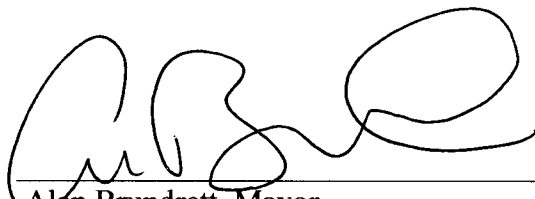
SECTION 6.

The City Secretary of the City of Azle is hereby directed to publish the caption, the penalty clause and effective date clause in the official newspaper at least once within ten (10) days after the passage of this ordinance.

SECTION 7.


This ordinance shall be in full force and effect from and after its passage as provided by law, and it is so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Azle, Texas, on this the 23 day of March, 2021.



Alan Brundrett, Mayor

ATTEST:



Yael Forgey, City Secretary