

ORDINANCE NUMBER 975

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 75: GOLF CARTS FOR CHRISTMAS PARCEL DELIVERY; REGULATING THE OPERATION OF OFF-HIGHWAY VEHICLES WITHIN THE CITY LIMITS OF BURKBURNETT; REPEALING OF ALL PORTIONS OF THE CODE OF ORDINANCES IN CONFLICT; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, in addition to golf carts, off-highway vehicles are currently being operated on City of Burkburnett streets; and

WHEREAS, the Texas Legislature has authorized municipalities to regulate the operation of off-highway vehicles within their city limits; and

WHEREAS, the Board of Commissioners finds the regulation of off-highway vehicles on certain roads as set forth in this Ordinance is necessary for the interest of safety; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the citizens and visitors to the City of Burkburnett to regulate the use of golf carts within the city limits of Burkburnett.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, THAT:

PART I: ENACTED

THAT the Code of Ordinances for the City of Burkburnett is hereby revised by amending Chapter 75: Golf Carts for Christmas Parcel Delivery and replacing it with the following:

CHAPTER 75: GOLF CARTS AND OFF-HIGHWAY VEHICLES

SUBCHAPTER A: GOLF CARTS

§ 75.01 DEFINITIONS.

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

“Golf cart.” The meaning assigned by the Texas Transportation Code section 502.001, as it exists or may be amended and includes a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

“Daytime.” The period beginning one-half hour before sunrise and ending one-half hour after sunset.

“Public highway.” The meaning assigned by the Texas Transportation Code section 502.001(35), as it exists or may be amended and 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.

§ 75.02 LICENSE PLATES.

A person may operate a golf cart on a highway in a manner authorized by Texas Transportation Code, Subchapter F. Golf Carts, only if the golf cart displays a license plate issued by the state of Texas.

§ 75.03 OPERATION AUTHORIZED.

An operator may operate a golf cart if all of the following conditions are met:

(A) on all or part of a highway that is in the Burkburnett city limits and has a posted speed limit of not more than 35 miles per hour;

(B) if the operator has a valid driver license and is 18 years of age or older, or the operator possesses a valid driver license and is accompanied by a person of 18 years of age or older in the golf cart with a valid driver license;

(C) if the owner or operator maintains current financial responsibility for the golf cart, as required of other passenger vehicles in the V.T.C.A., Texas Transportation Code section 601.051; and

(D) if the golf cart has the following equipment:

- (1) Headlamps;
- (2) Tail lamps;
- (3) Reflectors;
- (4) Parking brake;
- (5) Rearview mirror(s); and

(6) A slow-moving vehicle emblem that is mounted base-down on the rear of the vehicle at a height from three to five feet above the road surface

§75.04 PARADE.

An operator may operate a golf cart in a City sanctioned parade as approved by the Chief of Police.

§75.05 GOLF CARTS PROHIBITED.

(A) Golf carts may not be operated upon any public sidewalks, pedestrian walkways, playgrounds, public parks, or other public recreational areas, not designated for motor vehicle traffic.

(B) Golf carts shall not carry more passengers than for which the golf cart was designed by the manufacturer.

§75.06 CROSSING INTERSECTIONS.

A golf cart may cross a highway at an intersection, including an intersection with a highway that has a posted speed limit of more than 35 miles per hour.

§75.07 - §75.09 [RESERVED.]

SUBCHAPTER B: OFF-HIGHWAY VEHICLES

§ 75.10 DEFINITIONS.

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

“Off-highway vehicles” (OHV) include All-Terrain Vehicles (ATVs), Recreational Off-Highway Vehicles (ROVs), Utility Vehicles (UTVs), and Sand Rails.

“All-Terrain Vehicle” (ATV) is a motor vehicle that:

- (1) has a seat or seats for the rider and one passenger;
- (2) has three or more tires;
- (3) is not more than 50 inches wide;
- (4) is designed for off-highway use; and
- (5) is not designed by the manufacturer for farm or lawn care.

“Recreational Off-Highway Vehicle” (ROV) is a motor vehicle that:

- (1) has a seat or seats for the rider and one or more passengers;
- (2) has four or more tires;
- (3) is designed for off-highway use; and
- (4) is not designed by the manufacturer for farm or lawn care.

“Utility Vehicle” (UTV) is a motor vehicle that:

- (1) has side by side seating for the operator and passenger;
- (2) has four or more tires;
- (3) is designed for off-highway use; and
- (4) is designed by the manufacturer for utility work and not for recreational purposes.

“Sand Rail” is a motor vehicle that:

- (1) is designed or built for off-highway use in sandy terrains;
- (2) has a tubular frame;
- (3) has an integrated roll cage;
- (4) has an engine that is rear-mounted or placed midway between the front and rear axles; and
- (5) has a gross vehicle weight between 700 and 2,000 pounds.

“Beach” means a beach area, publicly or privately owned, that borders the seaward shore of the Gulf of Mexico.

“Operate” means to be in actual physical control of an off-highway vehicle.

“Operator” means the person who is in actual physical control of an off-highway vehicle.

“Owner” means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

“Public off-highway vehicle land” means land on which off-highway recreation is authorized under Chapter 29 of the Texas Parks and Wildlife Code.

§ 75.11 LICENSE PLATES.

Off-highway vehicles are eligible to receive an Off-Highway Vehicle license plate which may be obtained from the Wichita County tax assessor collector’s office according to the rules established by the Texas Department of Motor Vehicles procedure to issue license plates for unregistered off-highway vehicles; and

§ 75.12 EXCEPTION TO LICENSE PLATES.

(A) Off-Highway Vehicles may be operated on roads without the issuance of a license plate if the vehicle is:

- (1) owned by a state, county, or municipality and operated on a highway to maintain public safety and welfare;
- (2) operated by a farmer or a rancher during the daytime and traveling no more than 25 miles from the point of origin to the destination and used in connection with the production, cultivation, harvesting, etc., of agricultural products;

(3) operated by a public utility worker during the daytime for utility work and traveling no more than 25 miles from the point of origin to the destination; or

(4) operated by a law enforcement officer, or other person who provides firefighting, ambulance, medical, or other emergency services, and traveling no more than 10 miles from the point of origin to the destination.

(B) An OHV operated on a road without an Off-Highway Vehicle license plate requires a triangular orange flag (slow-moving emblem) mounted to the back of the vehicle at least six feet above ground level and the vehicle's headlights and taillights to be illuminated.

§ 75.13 OPERATION ON PUBLIC LAND; SAFETY CERTIFICATE REQUIRED.

(A) A person may not operate an off-highway vehicle on land owned or leased by the state or a political subdivision of the state that is not open to vehicular traffic unless:

(1) the land is public off-highway vehicle land; and

(2) the operation is in compliance with this Chapter of the Texas Transportation Code § 551A and Chapter 29, Parks and Wildlife Code.

(B) A person may not operate an off-highway vehicle on public off-highway vehicle land unless the person:

(1) holds a safety certificate issued by the state or under the authority of another state;

(2) is taking a safety training course under the direct supervision of a certified off-highway vehicle safety instructor; or

(3) is under the direct supervision of an adult who holds a safety certificate issued by the state or under the authority of another state.

(C) A person to whom a safety certificate has been issued shall:

(1) carry the certificate when the person operates an off-highway vehicle on public off-highway vehicle land; and

(2) display the certificate at the request of any law enforcement officer.

§75.14 OFF-HIGHWAY VEHICLE PROHIBITED.

(A) An OHV may not be operated upon any public sidewalks, pedestrian walkways, playgrounds, public parks, or other public recreational areas, not designated for motor vehicle traffic.

(B) OHV shall not carry more passengers than for which the OHV was designed by the manufacturer.

§75.15 CROSSING INTERSECTIONS.

An OHV may cross a highway at an intersection, including an intersection with a highway that has a posted speed limit of more than 35 miles per hour.

§75.16 OPERATION ON HIGHWAYS.

An operator may operate an unregistered OHV on all or part of a highway that:

- (A) is in the Burkburnett city limits; and
- (B) has a posted speed limit of not more than 35 miles per hour.

§75.17 REQUIRED EQUIPMENT; DISPLAY OF LIGHTS.

(A) An off-highway vehicle that is operated on public off-highway vehicle land or a highway must be equipped with:

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

(B) An off-highway vehicle that is operated on public off-highway vehicle land or a highway must display a lighted headlight and taillight:

- (1) during the period from one-half hour after sunset to one-half hour before sunrise; and
- (2) at any time when visibility is reduced because of insufficient light or atmospheric conditions.

(C) A person may not operate an off-highway vehicle on public off-highway vehicle land or a highway if:

- (1) the vehicle has an exhaust system that has been modified with a cutout, bypass, or similar device; or
- (2) the spark arrester has been removed or modified, unless the vehicle is being operated in a closed-course competition event.

§75.18 SAFETY APPAREL REQUIRED.

(A) A person may not operate, ride, or be carried on an off-highway vehicle on public off-highway vehicle land or a highway unless the person wears:

(1) a safety helmet that complies with the United States Department of Transportation standards;

(2) eye protection; and

(3) seat belts, if the vehicle is equipped with seat belts.

(B) Subsections (A)(1) and (2) do 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 vehicle rollover.

(C) This section 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.

§75.19 FINANCIAL RESPONSIBILITY REQUIRED

The owner or operator must maintain current financial responsibility for the OHV to be operated on City highway, as required of other passenger vehicles in the V.T.C.A., Texas Transportation Code section 601.051; and

§75.99 PENALTY.

Any person, firm, or corporation who violates this Chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined a sum of not less than \$25 and not more than \$200 for each offense and each day's continuance of failure to comply therewith shall constitute a separate and distinct offense for each day.

PART II: REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective, which are inconsistent or are in conflict with the terms and provisions contained in this Ordinance, are hereby repealed only to the extent of any such conflict.

PART III: SEVERABILITY

It is hereby declared to be the intention of the Board of Commissioners that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

PART IV: COMPLIANCE WITH TEXAS OPEN MEETINGS ACT

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PART V: PUBLICATION

The City Clerk is authorized and directed to publish the caption and penalty prescribed by this Ordinance in accordance with State law.

PART VI: EFFECTIVE DATE

This Ordinance shall take effect after publication in accordance with State law.

PASSED AND APPROVED THIS 15TH DAY OF JUNE 2020.

Carl Law, Mayor

ATTEST:

Margie Poole, City Clerk