

ORDINANCE NO. 2019-____(O)

AN ORDINANCE REPEALING ARTICLE IV OF CHAPTER 32 OF THE WINDCREST CODE OF ORDINANCES AND ADOPTING ARTICLE IV ENTITLED GOLF CARTS AND NEIGHBORHOOD ELECTRIC VEHICLES (NEVS) OF THE CITY OF WINDCREST'S CODE OF ORDINANCES TO REGULATE THE OPERATION OF GOLF CARTS WITHIN THE CITY AND IMPOSING CRIMINAL PENALTIES.

WHEREAS, H.B. No. 2553, and Texas Transportation Code §§ 547.703 and 551.404 authorizes the governing body of a municipality to regulate and control the operation of motorized carts (golf carts only) within the City's legal boundaries and on its public streets to ensure the public safety of the community; and

WHEREAS, the City Council for the City of Windcrest, Texas deems it to be in the best interest and safety of the citizens to regulate and control the operation of motorized carts within the City's legal boundaries and on its public streets; and

WHEREAS, the City Council for the City of Windcrest finds the regulation of golf carts on public streets is necessary to prevent safety hazards on public roadways and the City Council finds these regulations and prohibitions are necessary in the interest of safety; and

WHEREAS, the Texas Legislature amended the laws, effective September 1, 2019 regarding the City's ability to regulate such vehicles, requiring the City to update its code of ordinances; and

WHEREAS, the City Council for the City of Windcrest finds it is in the best interest of the public and the citizens of Windcrest to adopt these regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that Article IV. of Chapter 32 of the City of Windcrest Code of Ordinances is hereby repealed and the below Article IV. of Chapter 32 entitled GOLF CARTS AND NEIGHBORHOOD ELECTRIC VEHICLES (NEVS) is hereby adopted and shall read as follows:

Sec. 32-206 Definitions.

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

Alley means, a subordinate right-of-way dedicated or deeded to public use, not intended to provide the primary means of access to abutting lots. It is used primarily for vehicle access to back or sides of properties fronting on a street.

Driver's License means, for purposes of this article, 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 same definition utilized in Texas Transportation Code §551.401. The term “golf carts” specifically exclude go-carts, neighborhood electric vehicles, off road vehicles, utility vehicles, Surry-type assisted bikes, and all-terrain vehicles, as defined by the Texas Transportation Code.

Motor-assisted scooter means, a vehicle as defined in V.T.C.A., Transportation Code § 551.351.

Neighborhood electric vehicle means, a vehicle as defined in V.T.C.A., Transportation Code § 551.301(1).

Park means, any portion of the city's park system, including any park owned by another entity and managed by the city.

Pocketbike or mini-motorbike means, a vehicle as defined in V.T.C.A., Transportation Code § 551.301(3).

Street is defined for purpose of this article as a public right-of-way, however designated, which affords the principal means of vehicular access to abutting property.

Sec. 32-207 Regulations.

- (a) The City of Windcrest has determined that the unregulated operation of a golf cart or NEVs on a public street or highway has inherent dangers and safety concerns. Pursuant to Texas Transportation Code §§ 551.403, 551.4031, and 551.404, the operation of a golf cart or NEV on any public street or highway is prohibited except as permitted under the Texas Transportation Code and this article.
- (b) So long as the operator of a golf cart or NEV complies with the rules and regulations for licensing, operation, and registration needed to operate a golf cart or NEV on public streets and highways under Chapter 551 of the Texas Transportation Code, the operator may operate a golf cart or NEV on any public street or highway within the corporate limits of the City with a speed limit of 35 mph or less.
- (c) A violation of any rules or regulations for licensing, operation, and registration found under the Texas Transportation Code required for operating a golf cart or NEV on any public street or highway within the corporate limits of the City shall also be a violation of this ordinance, to the extent allowed by law.
- (d) No person may operate a golf cart upon any public street or highway within the corporate boundaries of the City of Windcrest unless said golf cart displays a license plate issued by the State of Texas pursuant to Texas Transportation Code § 551.402.
- (e) No person may operate a golf cart or NEV without a valid Texas- or other state-issued operator's permit and/or driver's license.

- (f) Golf carts and NEVs must move to the right and yield the right-of-way to faster moving vehicles while on any public street or highway.
- (g) Golf carts and NEVs may not be operated upon any public sidewalk, pedestrian walkway, playground, public park, school ground, or other public recreational areas, not designated for motor vehicle traffic.
- (h) All golf carts and NEVs must be equipped with operational headlamps, tail lamps, reflectors, parking brakes, rearview mirrors, seatbelts and a slow-moving vehicle emblem as required by Chapter 551 of the Texas Transportation Code when operated on any public street or highway.
- (i) The driver and every occupant of a golf cart and NEV must remain seated in a seat designed to hold passengers, while the golf cart or NEV is in motion on any public street or highway.
- (j) No person may ride in the lap of the driver or any other occupant of a golf cart or NEV while operated on any public street or highway.
- (k) These regulations and licenses are valid only within the corporate limits of the City of Windcrest and do not address operation outside of the City's jurisdiction.

Sec. 32-208 Penalties.

- (a) Any person, or entity violating any provision of this article shall be guilty of a Class C misdemeanor and shall, upon conviction, be subject to a fine of not less than \$1.00, nor more than \$500.00.
- (b) It is a separate offense for each point of operation performed on a public street or highway in violation of this article.
- (c) A violation of any provision of this article shall be subject to the general penalty provision in §1-5 of this Code of Ordinances.

**II.
CUMULATIVE CLAUSE**

That this Ordinance shall be cumulative of all provisions of the City of Windcrest except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

**III.
SEVERABILITY**

That it is hereby declared to be the intent of the City of Windcrest 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 should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

**IV.
PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was adopted 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

**V.
EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

DULY PASSED ON FIRST READING, on the _____ day of _____, 2019 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

DULY PASSED AND APPROVED, on the _____ day of _____, 2019 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

Dan Reese, Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney