

TOWN OF HICKORY CREEK
ORDINANCE 2020-01- 841

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, AMENDING THE TOWN'S CODE OF ORDINANCES, CHAPTER 12: TRAFFIC AND VEHICLES: ARTICLE 12.06 MOTORIZED CARTS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Hickory Creek is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council finds it to be necessary for the protection of public safety to prohibit the operation of motorized carts on public streets within the Town in the absence of regulations that promote the safe use and operation of such vehicles upon public streets; and

WHEREAS, the Town Council finds it to be in the public interest to amend the Town of Hickory Creek Code of Ordinances to provide to the regulation of the operation of motorized carts on public streets within the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:

SECTION 1
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interests of the Town of Hickory Creek, Texas, and of the public health, safety and welfare.

SECTION 3
AMENDMENT

3.01 That the Code of Ordinances of the Town of Hickory Creek, Texas, Chapter 12 Traffic and Vehicles: Article 12.6 Motorized Carts is hereby amended to read:

“MOTORIZED CARTS

Section 1: Applicability/exemptions.

(a) Applicability

(1) Motorized carts. Except as expressly provided herein, the provisions of this article shall apply to all motorized carts operated within the corporate limits of the Town of Hickory Creek.

(2) ATV and similar vehicles. Nothing in this article permits the operation of those motorized conveyances commonly referred to as ATVs, four-wheelers, mules, gators, go-carts, and any similar gas-powered conveyance on a public roadway within the Town, except when utilized by authorized Town personnel for Town business.

(b) Exemptions. The following use or operation of a motorized cart shall be exempt from the regulations of this article:

(1) Official Town business. A motorized cart is used or operated by personnel for the Town on official police business or official business of the Town on property owned by or leased to the Town;

(2) Parade, festival, or special event. The operation of a motorized cart when the cart is used in connection with a parade, festival, or other Town authorized or sponsored special occasion, the written consent of the sponsor is obtained, and the cart is only used as part of such parade, festival or special event. Further, a motorized cart used in connection with such parade, festival, or special event shall comply with all requirements outlined in the Town issued special event permit for the parade, festival, or other special events.

Section 2: Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings provided below, except where the context clearly indicates a different meaning.

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

Driver's license. An authorization issued by a state for the operation of a motor vehicle, including but not limited to a temporary license, provisional license, instructional permit, and an occupational license.

Low-speed vehicle (LSV). A motor vehicle that is four (4) wheeled and has an attainable top speed of more than twenty (20) miles per hour and not more than twenty-five (25) miles per hour on a paved level surface, which is manufactured or retrofitted in compliance with those federal motor vehicle safety standards for low-speed vehicles, and has a weight of less than 3,000 pounds.

Motorized cart or cart. Those electric or gasoline-powered motor vehicles, commonly referred to as golf carts, but which must have a minimum of four (4) wheels, which have an attainable top speed of less than twenty (20) miles per hour on a paved level surface. Expressly excluded from

this definition are those motorized conveyances commonly referred to as low-speed vehicles (LSV's), neighborhood electric vehicles (NEV's), all-terrain vehicles (ATV's), four-wheelers, mules, gators, and go-carts.

Owner. A person who holds title to or who leases a motorized cart for their personal use or the use of a third party, whether for private or for commercial retail purposes.

Parking area. Those areas accessible to the public by vehicular motor traffic and which are designated for temporary parking of motor vehicles, usually in place referred to as parking lots.

Person. An individual, corporation, partnership, joint venture, or any other business entity.

Sidewalk. The portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Slow-moving-vehicle-emblem. A triangular emblem that conforms to standards and specifications and displayed per chapter 547 of the Texas Transportation Code, as amended.

Street(s). The public roadways of the Town and the private roadways for which the Texas Transportation Code has been applied by council action regardless of its designation as a road, alley, avenue, highway, route, boulevard, etc. that:

- (1) Has a posted speed limit of thirty-five (35) miles per hour or less;
- (2) Provides for no more than two (2) lanes of vehicular traffic per direction; and
- (3) Is not designated as part of either the state or federal highway system.

Traffic way. Any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

Section 3: Operational Regulations.

(a) Operation of cart/compliance with traffic laws. A driver may operate a motorized cart on streets within the Town limits. Except as provided herein, while operating a motorized cart upon street(s) of the Town, a driver shall comply with all laws applicable to carts and other motor vehicles as outlined in this article, the Texas Transportation Code, as amended, and other state laws. A driver shall be subject to citation for all violations of this article, the Texas Transportation Code, and other applicable state law.

(b) Driver's license required. A driver of a motorized cart shall be at least sixteen (16) years of age, hold a valid Texas driver's license, and shall abide by all state and local traffic regulations applicable to vehicular traffic when operating a motorized cart upon the streets and parking areas of the Town.

(c) Sidewalk or pedestrian way. A driver shall not operate a motorized cart on any sidewalk, pedestrian walkway, jogging path, park trail, or any location normally used for pedestrian traffic,

unless such operation is by police or other authorized Town personnel acting in an official capacity and performing an official duty, or specifically authorized by another section in this code.

(d) Crossing intersections. A driver shall not operate a motorized cart upon any portion of a street or traffic way having a posted speed greater than thirty-five (35) miles per hour; provided however, that a person may cross an intersection, including a road or street that has a posted speed limit of more than thirty-five (35) miles per hour as authorized by the Texas Transportation Code, as amended. A driver of a motorized cart may cross a multi-lane or a federal, county, or state route only at an intersection controlled by a traffic-control device which stops traffic from all directions.

(e) Lane usage. A motorized cart is entitled to full use of a lane on the streets and parking areas of the Town, and no motor vehicle shall be driven in such a manner as to deprive any motorized cart of the full use of a lane. A driver shall not operate a motorized cart between 1) another moving motorized cart or moving vehicle operated on a street in the rightmost lane and 2) a parked motorized cart or vehicle. The driver of a cart shall move the cart to the right of the public street and yield the right-of-way to faster-moving vehicles.

(f) Passing. A driver of a motorized cart shall not overtake and pass in the same lane occupied by the vehicle being overtaken. While being overtaken and passed, the driver of a motorized cart shall yield to the right side of the lane and allow the passing vehicle the right-of-way.

(g) Maximum number of occupants. The number of occupants in a motorized cart shall be limited to the number of persons for whom seating capacity is provided on the vehicle. The operator and all occupants shall be seated upon the seat of the cart, and no part of the body of the operator or occupant shall extend outside the perimeter of the cart while the cart is being operated except while signaling turns or stops. A driver shall not permit any occupant of a cart to ride in the lap of any occupant or stand on the rear of the cart while the cart is in motion.

(h) Parking. A driver of a motorized cart may park a cart only in the same manner and at the same places designated for the parking of motor vehicles or motorized carts. The stopping, standing, or parking of motorized carts in an area where parking is not allowed or in any place or manner that impedes the flow of traffic, pedestrian walkways, or a passageway is prohibited. A driver shall not park a motorized cart within a space designated for disabled persons unless a current disabled parking placard is displayed on the cart and the person to whom the placard was issued is operating or being transported in the motorized cart. Notwithstanding the foregoing, a property owner may designate an area specifically for parking of motorized carts, provided that the area is marked with appropriate signage and that the parking of a cart in that area does not obstruct a fire lane, ingress or egress to a building, and does not interfere with the flow of vehicular traffic in a parking area.

(i) Towing prohibited. Except as expressly allowed in this article, motorized carts shall not be used to tow another cart, trailer, vehicle of any kind, or a person, including without limitation a person on roller skates, skateboard, bicycle, or other wheeled devices.

(j) Hours. Motorized carts may be operated in the Town on a Street only between the hours of 6:00 AM and 11:00 PM.

Section 4: Equipment.

(a) General. It shall be unlawful for a person to operate a motorized cart on the streets of the Town or anywhere authorized by this code if the motorized cart does not meet all minimum equipment standards, if required liability insurance for the cart is not maintained, without first obtaining a registration permit from the Town and affixing the decal to the cart, or if a person fails to comply with any other requirement of this article.

(b) The owner of a cart being operated on a public street must:

- (1) obtain a registration permit from the Town;
- (2) affix a registration decal to the cart;
- (3) maintain current financial responsibility for the cart as required by Section 601.051 Texas Transportation Code; and
- (4) ensure the cart has all required equipment in good operational condition.

(c) Required equipment.

(1) Motorized cart operation. Except as expressly exempted from this article, each motorized cart operating upon a street(s) within the Town shall be required to meet the minimum equipment standards specified in this article:

- (A) Operational headlamps (2 required);
- (B) Operational tail lamps (2 required);
- (C) Side reflectors (2 front: amber in color and 2 rear: red in color);
- (D) Stop lamps (2 required);
- (E) Operational parking brake;
- (F) An exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror (capable of a clear, unobstructed view of at least two hundred (200) feet to the rear);
- (G) Slow-moving-vehicle-emblem on the rear;
- (H) Seat belts in numbers equal to the number of passengers for which the vehicle is rated by the vehicle's manufacturer; and
- (I) Turn signals visible from both the front and rear of the vehicle.

All required equipment for a motorized cart shall meet state and federal motor vehicle safety standards.

(d) Exhaust system for gasoline-powered motorized carts. In addition to the above-listed equipment, every motorized cart powered by gasoline shall at all times be equipped with an exhaust system in good working order, in constant operation and meeting the following specifications:

(1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or including any and all parts specified by the manufacturer.

(2) The exhaust system and its elements shall be securely fastened with brackets or hangers, which are designed for the particular purpose of fastening motorized cart exhaust systems.

Section 5: Registration Required

- (a) No person shall operate, cause to be operated or allow the operation of a cart on any public streets, parking areas, and traffic ways unless a valid registration permit has been issued for the cart or otherwise allowed by law.
- (b) Application for a permit authorizing the operation of a cart shall be made in writing and filed with the Town Administrator or his/her designee by a person who owns, leases, or otherwise uses a cart. Said application shall set forth the following:
 - (1) The name, address, telephone number, and state driver's license number of the applicant;
 - (2) The street address where the cart is kept, including specific suite or apartment number, if applicable;
 - (3) The year, make, model, color, VIN, or serial number of the cart.
- (c) The Town Administrator or his/her designee may issue a registration permit for the use of a cart on Town streets when (1) an applicant submits the completed written application, (2) the police department approves the cart after conducting an inspection of the cart to verify compliance with the requirements of this article, and (3) the Town Administrator or his/her designee concludes that use of the cart will not interfere with public safety and will provide the operator and potential passengers with a safe and convenient means of travel for a specified purpose.
- (d) If a registration permit application is approved by the Town Administrator or his/her designee, the permit fee identified on the master fee schedule must be submitted prior to the registration decal being issued.
- (e) The registration permit decal shall be affixed on the left side of the cart; it may not be damaged, altered, obstructed, or otherwise made illegible and may only be placed upon the cart for which it was issued.
- (f) A permit issued to a cart shall become invalid if the cart is altered in a manner that fails to comply with any requirement of this Ordinance.
- (g) Lost or stolen Permit/Decals are the responsibility of the Owner. If no record can be found of a previous application or the receipt of a Permit/Decal, the Town may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Decal is issued.
- (h) A permit may be revoked at any time by the Town, or its designee(s), if there is any evidence that the permit holder cannot safely operate a cart on any authorized public streets, parking areas and traffic ways of the Town in compliance with this Ordinance.

- (i) Failure to comply with any of the requirements or regulations described herein constitutes evidence that the permit holder cannot safely operate a motorized cart on the street within the Town of Hickory Creek.
- (j) A permit issued under this section shall expire on December 31 of the calendar year following its issuance.

Section 6: Liability

Nothing in this Article shall be construed as an assumption of liability by the Town of Hickory Creek for any injuries (including death) to persons, pets or property which may result from the operation of a cart by an authorized driver; and

Section 7: Public Safety Personnel

Public Safety Personnel may operate a cart on any public street, parking area and traffic way without any further restrictions when the cart is used in the performance of his/her duties or on official business of the Town or on Town-owned property and Town leased property , including but not limited to, a parade, a festival or other special events.

Section 8: Criminal Offense

Any person, firm, entity or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day 's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the Town of Hickory Creek from filing suit to enjoin the violation. Hickory Creek retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 9: Reciprocity

A resident of the Town of Shady Shores, the City of Lake Dallas, or the City of Corinth who has received from the person's city of residence a permit to operate a cart on a public street within the city in which the person resides may operate a cart on the public streets within the City in accordance with the provisions of this Article without having first obtained a Town of Hickory Creek permit if:

- (a) The city issuing the permit has adopted an ordinance regulating the equipping of a cart being operated on a public street, and
- (b) The municipality where the person resides has adopted an ordinance exempting a resident of the Town of Hickory Creek who has received a permit pursuant to this Article from any requirement to obtain a permit to operate a cart on the public streets within such other municipality to the same extent as provided in this Section."

3.02 All other articles, chapters, sections, subsections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4
CUMULATIVE REPEALER CLAUSE

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 5
SAVINGS CLAUSE

All rights and remedies of the Town of Hickory Creek, Texas are expressly saved as to any all violations of the provisions the Town's Code of Ordinances or of any other ordinance affecting subdivision regulations, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 6
SEVERABILITY

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the Town shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

SECTION 7
ENGROSSMENT AND ENROLLMENT

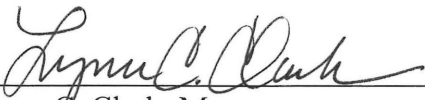
The Town Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance records of the Town.

SECTION 8
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

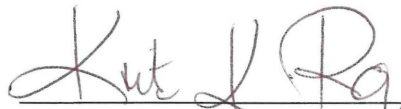
AND IT IS SO ORDAINED

PASSED AND APPROVED by the Town Council of the Town of Hickory Creek, Texas,
this 27th day January, 2020.



Lynn C. Clark, Mayor
Town of Hickory Creek, Texas


ATTEST:



Kristi Rogers, Town Secretary
Town of Hickory Creek, Texas



APPROVED AS TO FORM:



Dorwin L. Sargent, III, Town Attorney
Town of Hickory Creek, Texas