

ORDINANCE NO. 550

AN ORDINANCE OF THE CITY OF PORT ST. JOE, FLORIDA AUTHORIZING THE USE OF GOLF CARTS UPON DESIGNATED MUNICIPAL STREETS SUBJECT TO SPECIFIED RESTRICTIONS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR REPEAL OF ALL PREVIOUS ORDINANCES RELATED TO GOLF CART USE UPON DESIGNATED STREETS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 316.212, Florida Statutes, permits municipalities to allow golf carts to be operated upon municipal streets provided that the local government first determine that golf carts may safely travel on or across such public roads or streets upon considering such factors as the speed, volume, and character of motor vehicle traffic using those roads or streets in question; and

WHEREAS, Section 316.212, Florida Statutes, requires that golf carts may only be operated on such public roads or streets during the hours between sunrise and sunset, unless the governmental agency specifically determines that such golf carts may also operate during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals and windshield; and

WHEREAS, the City of Port St. Joe has determined that golf carts may safely be operated on or across certain roads or streets within the city limits, after the consideration of the speed, volume, and the character of motor vehicle traffic on the relevant roads or streets; and

WHEREAS, the City desires to provide additional regulations for the operation of golf carts on designated roads and streets in Port St. Joe, Florida; and

WHEREAS, the City believes that regulations proposed in this ordinance promote and enhance the health, safety and welfare of its citizens.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF PORT ST. JOE, FLORIDA, AS FOLLOWS;

SECTION 1. AUTHORITY. The City of Port St. Joe has authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Section 316.212, Florida Statutes.

SECTION 2. A new Article III of Chapter 66, Traffic and Vehicles, of the Code of Ordinances of the City of Port St. Joe, Florida, is hereby adopted as follows:

ARTICLE III

GOLF CARTS ON PUBLIC CITY STREETS

Sec. 66-62. TITLE; AUTHORITY.

- A. This Article shall be known and may be cited as the “City of Port St. Joe Golf Cart Ordinance.”
- B. The city has the authority to adopt this article pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes and Section 316.212, Florida Statutes.

Sec. 66-63. DEFINITIONS.

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

- A. *Golf cart* as defined in F.S. §320.01, means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.
- B. *Designated roadways* mean those roads identified by the City as being safe for operation of golf carts in accordance with all requirements for operation set forth in this division.
- C. *Driver’s license* means a valid license issued to operate a motor vehicle issued by the State of Florida or any other state.
- D. *Inspection* shall mean a safety evaluation of each registered golf cart by the City of Port St. Joe Police Department confirming that the golf cart meets the minimum requirements of this division.

Sec. 66-64 USE OF GOLF CARTS ON DESIGNATED ROADWAYS.

Golf carts meeting all requirements of this division may be operated as follow:

- A. Golf Carts shall be allowed to legally travel on all City roads with the exception of Garrison Avenue and Long Avenue unless, such travel is done to access the next side street but, at no time, shall travel on Garrison Avenue and Long Avenue be for more than two (2) City blocks.
- B. It shall be unlawful to operate a golf cart upon a state highway unless otherwise authorized pursuant to Section 316.212(s), Florida Statutes, or any other applicable State statute.
- C. Golf carts shall not be operated on private property, unless authorized by the property owner, or on sidewalks, bicycle paths, swales, or trails. Golf carts shall not be operated on any roadway where the designated speed limit is greater than

thirty (30) miles per hour, or on any state or county roadway, except to cross at designated intersections for immediately reaching the next designated roadway.

Sec. 66-65 GOLF CART OPERATION.

Golf carts operating on designated roadways shall be subject to the following restrictions:

- A. *Hours of operation.* Golf carts may be operated on designated roadways only during the hours between sunrise and sunset.
- B. *Driving after Sunset:* Golf carts which are properly equipped pursuant to Florida Statute 316.212 and this Ordinance shall be allowed to operate from sunset until midnight. The City Commission may, by resolution, temporarily authorize the operating of golf carts on designated roadways between midnight and sunrise.
- C. *Licensed driver.* Golf carts operating on designated roadways must be operated by a person who is at least sixteen (16) years of age, and who possesses a valid driver's license. Persons who possess a valid learner's permit may operate a golf cart on designated roadways when accompanied by a licensed driver of at least eighteen (18) years of age.
- D. Pursuant to Florida Statute 316.212(7), a golf cart may not be operated on public roads or streets by any person under the age of 14.
- E. *Maximum speed.* Golf carts operating on designated roadways shall not exceed twenty (20) miles per hour.
- F. *Compliance with traffic laws.* Golf carts shall be operated in accordance with all applicable local and state traffic regulations. Golf carts shall stay to the far right of any designated roadway and shall yield the right-of-way to overtaking drivers. Golf carts shall not obstruct or impede normal traffic flow.
- G. *Occupants.* The number of occupants in a golf cart operated on designated roadways shall be limited to the number of seats on the golf cart. No occupants of a golf cart shall stand at any time while the golf cart is in motion.
- H. Consistent with Florida Statute 316.613, children aged through three (3) years shall be restrained in a properly attached and separate federally approved child restraint device and children aged four (4) through five (5) years must be restrained with a seat belt.
- I. *Alcohol.* All state regulations governing the use and possession of alcoholic beverages while operating a motor vehicle shall apply to the operation of golf carts on designated roadways.

- J. Any person operating a golf cart on any town street does so at his own risk and must operate such vehicle with due regard for the safety and convenience of other motor vehicles, bicyclists and pedestrians. The city in so designating certain city streets for the operation of the golf carts extends such operating privileges on the express condition that the operator of such golf cart undertakes such operation at his own risk and assumes total liability for operating the vehicle on city streets. The registered owner of the golf cart agrees to defend, release, indemnify and hold harmless the City of Port St. Joe, its officials and employees for any and all claims, demand, damages or losses, including reasonable attorney's fees and all costs of defending any claims, demand, or damages arising from the operation of said golf cart.

Sec. 66-66 GOLF CART REQUIRED EQUIPMENT

All golf carts operated on designated roadways shall be in compliance with Florida Statute 316.212(6) and maintain the following equipment in good working order:

- A. Efficient brakes;
- B. Reliable steering apparatus;
- C. Safe tires;
- D. Rearview mirrors;
- E. Red reflectorized warning devices, both in the front and rear;
- F. Headlights;
- G. Brake lights;
- H. Turn Signals; and
- I. Windshield.

Sec.66-67 INSPECTION AND REGISTRATION OF GOLF CARTS

All golf carts operating on designated roadways in the City of Port St. Joe shall be registered and inspected as follows:

- A. Golf carts shall be registered by the owner of the golf cart on a form prescribed by the police chief or the police chief's designee. The owner shall pay an annual registration fee of ten dollars (\$10.00) and shall be issued a registration decal which shall be affixed to the golf cart. Decals shall be issued annually and are valid for one year after issuance. Owners who are age sixty-five (65) or older shall pay a

one-time registration fee and thereafter shall not be required to pay the annual fee as set forth herein upon submission of proof of payment of the one-time fee.

- B. Prior to issuance of a registration decal, golf cart owners shall be required to provide (i) proof of ownership and (ii) a valid driver's license.
- C. At the time a golf cart owner registers a particular golf cart, the police department, or the police chief's designee, shall inspect the golf cart to ensure the required equipment is installed and working properly. In the event the golf cart fails inspection, each additional inspection shall be five dollars (\$5.00).
- D. At such time the owner of the golf cart seeks to apply for or, renew the annual registration the golf cart owner shall be required to execute and submit an affidavit of compliance attesting that the equipment required by this Ordinance is installed and working properly. The affidavit shall be required as a condition to the issuance of the annual registration decal. Such affidavit of compliance shall be on a form prescribed by the police chief or the police chief's designee.
- E. Lost or stolen registration decals are the responsibility of the golf cart owner. A police report shall be filed in the event of a lost or stolen decal. The police chief or the police chief's designee shall have the discretion to determine whether a replacement decal may be issued. If no existing registration information is available, the police chief may direct the golf cart owner to reapply and to repay any required fees prior to a replacement decal being issued.
- F. Proof of registration shall be kept on the golf cart at all times when being operated within the jurisdiction of the City.
- G. Operation of a golf cart without complying with this section shall be a violation of this Ordinance and the penalty shall be as follows;
 - I. Driving a golf cart without current City registration:
 - 1. First Offense: WARNING
 - 2. Second Offense: \$100.00
 - 3. Third Offense: \$200.00, and registration revoked for 1 year.
 - II. Driving a golf cart with a revoked registration shall result in a fine of \$250.00, and permanent revocation of the owner's registration.

Sec. 66-68 ENFORCEMENT.

Violations of this Ordinance shall be enforced by the officers of the Police Department pursuant to Florida Statute 316.640 as well as those duly employed by the City as Code Enforcement Officers.

Sec. 66-69 VIOLETIONS AND PENALTIES.

A. Any person violating Section 2(a) and (e), Section 3(b)-(c), and Section 5 hereof, except where a penalty is specifically prescribed for that particular violation, shall be issued a City of Port St. Joe Civil Citation (or notice of violation) with the following fine amount;

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| I. | First Violation | WARNING |
| II. | First Violation after Warning | \$100.00 |
| III. | Second Violation within eighteen (18) months | \$200.00 |
| IV. | Third Violation within twenty-four (24) months | \$300.00 |
| V. | More than 3 violations within twenty-four (24) months shall result in revocation of registration. | |

B. All other violations of this Ordinance shall be considered non-criminal infraction, punishable pursuant to Chapter 318, Florida Statute or other applicable Florida Statute.

C. The use of a golf cart resulting in violations of the state "uniform traffic control" statute and the state "uniform disposition of traffic infractions act" are enforceable according to Florida Statute Chapter 316 and 318.

D. In addition to any fine levied under this section, the City may bring civil suit to restrain, enjoin, or otherwise prevent the violation of this Article in a court of competent jurisdiction. If the City brings suit to restrain or enjoin or to otherwise prevent the violation of this article, the City is entitled to recover its reasonable attorneys' fees and court costs from the named defendant in the action.

E. Any person receiving a civil citation pursuant to this Article may, within thirty (30) days of the date of the notice of violation;

- I. Pay the assessed civil penalty pursuant to instructions on the notice of violation; or
- II. Contest (or appeal) the notice of violation and request a hearing thereon within thirty (30) days of receiving a notice of violation of this ordinance. Should the trier of fact determine that this ordinance has been violated, said person shall be subject to a fine of up to the maximum allowed by law along with being required to pay all costs incurred by the City in the prosecution of such violation.

- F. Upon receipt of an appeal, the City shall schedule a hearing before the Special Magistrate to occur not less than 60 days after the City's receipt of the appeal request; provided, however, that the Chief of Police or his designee may void or dismiss the notice of violation being appealed if the Chief of Police or his designee determines based on a review of the appeal that there does not exist probable cause to believe that the appellant committed a violation of this Article. Written notice of a dismissal shall be provided to the appellant. Otherwise, the City shall mail notice of the hearing to the appellant no less than fourteen (14) days prior to the date of the hearing, and such notice shall be sent by first class U.S. mail. After such hearing, the Special Magistrate shall issue a written order granting or denying the appeal and a copy of such order shall be hand delivered to the appellant at the hearing or sent within three (3) days thereafter by First class U.S. mail to the appellant. If the appeal is denied, the applicable civil penalty and administrative charges determined by the Special Magistrate shall be due and payable within ten (10) days after the Hearing Board's issuance of its order.
- G. If a person who has received a notice of violation fails to pay the assessed civil penalty or request a hearing within thirty (30) days, they shall be adjudged to have violated this article and the appropriate civil penalty shall be imposed. The City Manager is hereby authorized to pursue all necessary collection methods in furtherance of this section.
- H. The City staff is hereby authorized to pursue collection activities relative to fines imposed against those who violate this ordinance in such manner, and using such processes, as may be in the best interests of the City and may authorize collection agencies and the City Attorney to pursue collections in a manner consistent with controlling law. This shall include, but is not limited to, the methods outlined within Florida Statute Chapter 28.

SECTION 3. CODIFICATION. It is the intention of the City Commission of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 4. CONFLICTS AND REPEALER. This Ordinance shall be cumulative of all provisions of the Ordinances of the City of Port St. Joe, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event all Ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict. The City hereby specifically repeals all previously adopted Ordinances related to the use and operation of Golf Carts upon city streets which include, but are not limited to those which are listed in Article III, Section 66-51 through 66-61.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective on the 4th day of June, 2019.

This Ordinance shall become effective on the date prescribed above upon its adoption by the City of Port St. Joe, Florida, City Council.

PASSED on First Reading April 16, 2019

NOTICE published on May 9, 2019

PASSED on Second and Final Reading June 4, 2019

ATTEST:

CITY OF PORT ST. JOE

Charlotte M. Pierce
CITY CLERK

James B. Post
MAYOR

APPROVED AS TO FORM AND CONTENT:

J. Adam Albritton
ADAM ALBRITTON, CITY ATTORNEY

Approved as to form for the
Reliance of the City of Port St. Joe
only:

J. Adam Albritton
J. Adam Albritton, City Attorney