

**ORDINANCE 2011-011**

**AN ORDINANCE OF THE CITY OF OCOEE, FLORIDA, ADOPTING A NEW ARTICLE III OF CHAPTER 153 OF THE CITY CODE AUTHORIZING THE USE OF GOLF CARTS ON WITHIN CERTAIN COMMUNITIES AND STREETS DESIGNATED IN RESOLUTIONS ADOPTED BY THE CITY COMMISSION; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGULATION OF GOLF CARTS, INCLUDING THE HOURS OF OPERATION; PROVIDING FOR THE ESTABLISHMENT OF AN APPLICATION PROCESS, AGE REGULATIONS FOR THE OPERATION OF GOLF CARTS, REQUIRED SIGNAGE, VIOLATIONS AND PENALTIES, AND APPEALS TO THE HEARING BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, citizens of the City have expressed an interest in allowing golf carts to be driven upon certain streets subject to City jurisdiction; and

**WHEREAS**, the operation of golf carts upon streets subject to City jurisdiction is ordinarily prohibited unless otherwise authorized by the City pursuant to Section 316.212, Florida Statutes; and

**WHEREAS**, the City Commission desires to amend the City's Code of Ordinances to allow for the City Commission to consider and approve resolutions authorizing the operation of golf carts within specified residential communities and on roadways meeting threshold safety requirement under State and Municipal law; and

**WHEREAS**, to protect the health, safety, and welfare of its citizens, the City desires to prohibit the operation of golf carts along roads and thoroughfares incompatible with such operation and regulate the manner and times of the operation of golf carts upon streets subject to City jurisdiction where such operation is authorized.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF OCOEE, FLORIDA,  
AS FOLLOWS:**

**SECTION 1. Authority.** The City of Ocoee has the 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 153, Streets and Sidewalks, of the Code of Ordinances of the City of Ocoee Code, Florida, is hereby adopted as follows:

**ARTICLE III**

**GOLF CARTS ON PUBLIC STREETS**

**§ 153-17. TITLE; AUTHORITY.**

- A. This Article shall be known and may be cited as the “Ocoee 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.

**§ 153-18. DEFINITIONS.**

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

- A. “Golf cart” 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 twenty (20) miles per hour.
- B. “Golf Cart Community” means a subdivision or community within the corporate limits of the city within which the Ocoee City Commission has by resolution authorized the operation of golf carts on designated municipal streets within such subdivision or community.
- C. “Golf Cart Permitted Street” means a municipal street within the corporate limits of the city which has been designated by resolution of the Ocoee City Commission for use by golf carts.

- D. “Applicant”, for the purposes of this article, means a person or entity (including a homeowner’s association) who is requesting that the Ocoee City Commission adopt a resolution designating one or more Golf Cart Communities and/or one or more Golf Cart Permitted Streets.
- E. “Hearing Board” means the Ocoee Police Infraction Hearing Board established pursuant to Section 168-8 of this Code.

**§ 153-19. GOLF CART OPERATION.**

- A. It shall be unlawful to operate a golf cart on any street within the corporate limits of the City, except for a golf cart which may, subject to the provisions of this article, be operated on Golf Cart Permitted Streets and municipal streets within a Golf Cart Community.
- B. It shall be unlawful to operate a golf cart upon a state highway unless otherwise authorized pursuant to Section 316.212(2), Florida Statutes, or any other applicable State statute.
- C. A golf cart may be operated between Golf Cart Communities that are adjacent, only if such provision is specifically included by the Ocoee City Commission in the resolution approving the Golf Cart Community.
- D. A golf cart being operated on a Golf Cart Permitted Street with a posted speed limit of twenty-five (25) miles per hour or less may, for the sole purpose of continuing travel along such street, be operated across an intersecting street with a posted speed limit in excess of twenty-five (25) miles per hour but not to exceed thirty-five (35) miles per hour only if such intersection is governed by a 4-way stop sign or traffic signal; otherwise, a golf cart may not be operated across any intersecting street with a posted speed limit in excess of twenty-five (25) miles per hour.
- E. Unless otherwise expressly authorized pursuant to general law or the enabling resolution, it shall be unlawful to operate a golf cart upon a street with a posted speed limit in excess of twenty-five miles per hour.
- F. Except as provided in Section 153-19(G) below, golf carts shall only be permitted to operate within a Golf Cart Community or on a Golf Cart Permitted Street during the hours between sunrise and sunset.
- G. A golf cart which is equipped with headlights, brake lights, turn signals and a windshield may also be operated within a Golf Cart Community or on a Golf Cart Permitted Street during the hours between sunset and sunrise.
- H. All golf carts operated within a Golf Cart Community or on a Golf Cart Permitted Street shall have efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and reflective warning devices in both the front and rear as required by Section 316.212(6), Florida Statutes.

- I. The Florida Uniform Traffic Control Law, Chapter 316 of the Florida Statutes, as amended and as it may be amended in the future, is applicable within the City. The operation of golf carts shall comply with all applicable traffic laws as provided in the Florida Statutes.

**§ 153-20. APPLICATION FOR APPROVAL OF A GOLF CART COMMUNITY AND/OR GOLF CART PERMITTED STREETS.**

- A. The City Commission may, upon its own initiative or upon petition of an Applicant, direct City staff to create a map or other diagram delineating the boundaries of a Golf Cart Community and/or Golf Cart Permitted Streets and to prepare the appropriate resolution to be presented to the City Commission. Any such resolution shall be acted upon only following an advertised public hearing preceded by at least seven (7) days notice thereof.
- B. Any resolution adopted under this Article must include the requisite legislative findings as required by Section 316.212, Florida Statutes, and a plan for the placement of the requisite signage within the Golf Cart Community and the Golf Cart Permitted Streets.
- C. The City Commission may approve or disapprove any resolution presented under this article based upon its legislative determination as to whether golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume and character of motor vehicles using the road or street and such other factors as the City Commission may deem appropriate, including input received at any public hearing.
- D. The City Commission may by resolution rescind a previously adopted resolution if the City Commission determines that the operation of golf carts within any such Golf Cart Community and/or Golf Cart Permitted Streets would constitute or has become a danger or detriment to the health, safety, welfare, or character of the community or the surrounding area. Any such resolution shall be acted upon only following an advertised public hearing preceded by at least seven (7) days notice thereof.

**§ 153-21. AGE REGULATION.**

- A. Any unlicensed driver operating a golf cart within a Golf Cart Community or on a Golf Cart Permitted Street must be at least eighteen (18) years of age.
- B. As provided in Section 316.212(7), Florida Statutes, a golf cart may not be operated on public roads or streets by any person under the age of 14.

**§ 153-22. REQUIRED SIGNAGE.**

The City will provide proper signage pursuant to Section 316.212(1), Florida Statutes, within thirty (30) days of approval of a resolution to allow golf carts to be operated within a Golf Cart Community or on a Golf Cart Permitted Street.

**§ 153-23. VIOLATIONS AND PENALTIES.**

- A. The City of Ocoee Police Department shall enforce the provisions of this article.
- B. Any person violating Section 153-21(A) hereof, except where a penalty is specifically prescribed for that particular violation, shall be issued a City of Ocoee Civil Citation (or notice of violation) with a fine in the amount of \$100.00.
- C. A violation of Section 153-19(A) through (F), inclusive, and Section 153-21(B) hereof shall be a noncriminal traffic infraction, punishable pursuant to Chapter 318, Florida Statutes, as a moving violation.
- D. A violation of Section 153-19(G) and (H) hereof shall be a noncriminal traffic infraction, punishable pursuant to Chapter 318, Florida Statutes, as a nonmoving violation.
- E. 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.
- F. Any person receiving civil citation pursuant to this article shall, within 21 days of the date of the notice of violation:
  - 1. Pay the assessed civil penalty pursuant to instructions on the notice of violation; or
  - 2. Contest (or appeal) the notice of violation pursuant to the procedures set forth in the notice of violation.
- G. The failure to timely comply with the provisions of Section 153-23(D) shall constitute a waiver of the right to contest the notice of violation and will be considered an admission of liability.
- H. A late fee in the amount of \$25.00 will be imposed upon any person not complying with the provisions of Section 153-23(D).

**§ 153-24. APPEALS TO HEARING BOARD.**

- A. Pursuant to Section 168-8(A)(2) of this Code, the Hearing Board is expressly authorized to hear contests to citations issued by the City of Ocoee Police Department for violations of this article and to receive and evaluate evidence in connection therewith.

- B. Upon receipt of an appeal, the City shall schedule a hearing before the Hearing Board 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. If the Chief of Police or his designee voids or dismisses the notice of violation as aforesaid, then written notice of such action shall be provided to the person filing the appeal. Otherwise, the City shall mail notice of the hearing to the appellant no less than fourteen (14) days prior to date of the hearing, and such notice shall be sent by first class U.S. mail. After such hearing, the Hearing Board 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 Hearing Board shall be due and payable within ten (10) days after the Hearing Board's issuance of its order.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

**SECTION 4. 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 relettered 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 relettered 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 recodified copy of same with the City Clerk.

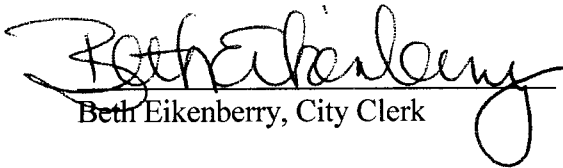
**SECTION 5. Effective Date.** This Ordinance shall become effective ten (10) days after its passage and adoption.

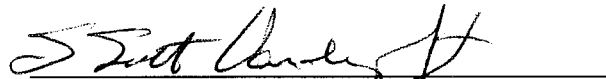
PASSED AND ADOPTED this 16 day of August, 2011.

APPROVED:

CITY OF OCOEE, FLORIDA

ATTEST:

  
Beth Eikenberry, City Clerk

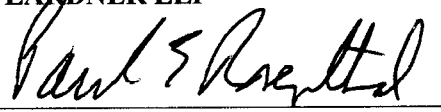
  
S. Scott Vandergrift, Mayor

(SEAL)

ADVERTISED July 9, 2011  
READ FIRST TIME June 21, 2011  
READ SECOND TIME AND ADOPTED  
August 16, 2011  
UNDER AGENDA ITEM NO. 8

FOR USE AND RELIANCE ONLY BY  
THE CITY OF OCOEE, FLORIDA;  
APPROVED AS TO FORM AND LEGALITY  
this 16 day of August, 2011.

FOLEY & LARDNER LLP

By:   
City Attorney