

ORDINANCE NO. 10-2022

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ARTICLE III OF CHAPTER 50 OF THE CITY OF DEBARY CODE OF ORDINANCES; MODIFYING THE CITY'S REGULATIONS PERTAINING TO THE OPERATION AND PERMITTING OF GOLF CARTS UPON CERTAIN STREETS, ROADS, AND SIDEWALKS WITHIN THE CITY; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, § 316.212(1), Florida Statutes, permits municipalities to allow golf carts to be operated on municipal roads, streets, and sidewalks provided that they first determine that such carts may safely travel on or cross such public roads, streets and sidewalks upon considering the speed, volume, and character of motor vehicle traffic using those roads or streets; and

WHEREAS, § 316.212(5), Florida Statutes, states that golf carts may be operated only on such public roads or streets during the hours between official sunrise and official sunset, unless the governmental agency specifically determines that such golf carts may also be operated during the hours between official sunset and official sunrise and that golf carts being operated at such times possess headlights, brake lights, turn signals, and windshields; and

WHEREAS, § 316.212(8), Florida Statutes, allows municipalities to enact restrictions and regulations regarding golf cart operations that are more restrictive than those contained in the State Statutes as long as appropriate signage is installed as may be specifically required in accordance with the requirements of controlling law or the residents are otherwise informed that the regulation of golf cart operation in the designated area will be in accordance with a stricter local ordinance; and

WHEREAS, the DeBary City Council appointed a Golf Cart Citizen Advisory Committee, which conducted a study, evaluated the actions of other local governments with regard to the authorization and regulation of golf carts, and presented a business case with recommendations determining that golf carts may safely travel on or cross municipal roads, streets, and sidewalks considering the following factors: speed, volume, and the character of motor vehicle traffic using the relevant roads or streets; and

WHEREAS, the city council determined that golf carts are a valid form of transportation and are commonly used as a mode of mobility from place-to-place and for utility purposes; and

WHEREAS, the city council has evaluated numerous materials developed by other local governments during the course of considering the enactment of this ordinance; and

WHEREAS, the city council determined that the use of golf carts is an environmentally friendly mode of transportation; and

WHEREAS, the city council found that golf carts generally operate at low speeds and are generally operated safely when driven properly and fitted with properly installed safety equipment; and

WHEREAS, the city council found that the City of DeBary is a community that is well suited and will be benefitted by the appropriate use of golf carts for the purpose of transportation within appropriate areas of the city; and

WHEREAS, the city council determined that golf carts may safely be operated on certain city roads, streets and sidewalks; and

WHEREAS, pursuant to such and other legislative findings, the city council enacted Ordinance 04-2022 on December 15, 2021, authorizing the operation of golf carts upon certain designated streets, roads, and sidewalks within the City; and

WHEREAS, the City has continued to monitor and evaluate the regulations contained in such ordinance and the implementation thereof; and

WHEREAS, the City has determined that additional adjustments and modifications to Ordinance 04-2022 are necessary; and

WHEREAS, the City of DeBary has complied with all requirements and procedures of Florida law in processing and advertising this ordinance; and

WHEREAS, the city council believes that modifications proposed in this ordinance promote and enhance the health, safety and welfare of its citizens; and

WHEREAS, § 2(b), Art. VIII of the Florida Constitution and § 166.021(1), Florida Statutes, establishes the home rule powers of Florida cities and provides that municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, this Ordinance implements and is enacted under the home rule powers vested in Florida cities by the Constitution of the State of Florida.

NOW THEREFORE, it is hereby ordained by the City of DeBary as follows:

SECTION 1. Legislative Purposes, Findings and Intent. The foregoing recitals (whereas clauses) to this ordinance are hereby adopted as the legislative findings of the DeBary City Council and are incorporated into this ordinance as if set fully set forth herein.

SECTION 2. City Code Amendment. Certain portions of Article III of Chapter 50 of the City of DeBary Code of Ordinances pertaining to the use of golf carts within the City of DeBary are hereby amended (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

ARTICLE III. – GOLF CARTS

Sec. 50-100. Definitions. The following terms shall have the following meanings in the application and enforcement of this Ordinance:

- (1) The term “ATV” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (2) The term “bicycle path” means that part of any road or street that has been designated or physically separated from the area used by motor vehicles by striping, signing, or pavement markings for the preferential and exclusive use of bicyclists.
- (3) The term “city manager” shall mean and refer to the chief administrative officer of the city as appointed pursuant to Article VI of the Charter of the City of DeBary.
- (4) The term “county” shall mean and refer to Volusia County, Florida.
- (5) The term “county road” shall mean and refer to roads and streets over which the county has original jurisdiction pursuant to § 316.006, Florida Statutes, or that are part of the “county road system” as defined in § 316.003, Florida Statutes.
- (6) The terms “designated municipal street, road, sidewalk, or trail” refer to the paved area of an improved street, road, sidewalk, or trail, as applicable, which has been determined by the city council as a street, road, sidewalk, or trail on which golf carts may be operated under the provisions of this ordinance.
- (7) The term “golf cart” shall have the same definition as set forth for such term in § 320.01, Florida Statutes. Golf carts operating within the City of DeBary must meet minimum equipment standards as set forth in controlling law and may not be modified to have increased power, wheel base, or tire modifications from a standard manufactured gas or electric golf cart.
- (8) The terms “low speed vehicle” and “LSV” shall have the same definition as set forth for such terms in § 320.01, Florida Statutes.
- (9) The term “municipal road” shall mean and refer to those roads and streets over which the city has original jurisdiction pursuant to § 316.006, Florida Statutes, including any private roads and streets over which the city or its proxy has been granted municipal traffic enforcement authority, whether by easement or other contractual arrangement.

- (10) The terms “off-highway motorcycle” and “OHM” shall have the same definition as set forth for such terms in § 317.0003, Florida Statutes.
- (11) The term “off-highway vehicle” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (12) The term “operator” means the person registering a golf cart with the City of DeBary for use within the city or any person who is using a golf cart within the city.
- (13) The term “ROV” shall have the same definition as set forth for such term in § 317.0003, Florida Statutes.
- (14) The term “sidewalk” shall have the same definition as set forth for such term in § 316.003, Florida Statutes.
- (15) The term “state” shall mean and refer to the State of Florida.
- (16) The term “state road” shall have the same definition as set forth for such term in § 316.003, Florida Statutes.
- (17) The term “trailer” shall mean and refer to a trailer or cart towed behind a golf cart that is designed to carry material, equipment, fill, tools, or other items.
- (18) The definitions set forth in § 334.03, Florida Statutes, are incorporated herein by reference and are be applicable to the extent applicable in the context of the provisions of this Ordinance.

Sec. 50-101. Authorized Use of Golf Carts on Municipal Roads, Streets and Sidewalks.

- (1) Golf carts may be operated on all municipal roads, streets and sidewalks in accordance with § 316.212, Florida Statutes, but only as implemented and permitted by the provisions of this article.
- (2) In addition to the requirements of § 316,212, Florida Statutes, which is applicable to the operation of golf carts on the aforementioned designated roads, streets, and sidewalks, the following restrictions shall also apply:
 - a. Golf carts are the only motorized vehicles that may travel on designated municipal sidewalks and trails.
 - b. LSVs and ROVs are prohibited from traveling on municipal sidewalks and trails, regardless of designation for golf cart use.

- c. ATVs and other off-highway vehicles and off-highway motorcycles are prohibited from traveling on municipal roads, sidewalks, and trails, regardless of designation for golf cart use.
- (3) This article applies to the operation of golf carts and other motorized vehicles on municipal roads, streets, and sidewalks and does not otherwise apply to:
- a. The operation of any golf carts or other motorized vehicles on lands owned, controlled, or otherwise managed by the state or county, which operation, if any is permitted, will be governed by applicable state or county laws, rules, or policies pertaining to same;
 - b. The operation of any golf carts or other motorized vehicles when operated solely on private property, which property does not meet the definition of a municipal road or sidewalk adjacent thereto, such as private golf courses and other privately owned lands; or
 - c. The operation of any golf carts or other motorized vehicles owned by the city when operated by city employees, contractors, or agents on city owned, controlled, or managed lands in connection with the conduct of city business.

Sec. 50-102. Designation of Municipal Roads, Streets and Sidewalks for Golf Cart Use.

- (1) Highway 17/92, also known as Charles Richard Beall Boulevard is a state road. Until such time as the state grants authorization to the city and the city approves same via adoption of a resolution, all golf carts are prohibited from being operated on such road or the sidewalk(s) adjacent thereto.
- (2) Upon review and approval by the Florida Department of Transportation and upon adoption of a resolution by the city approving same, golf carts are permitted to cross Highway 17/92 at a 90-degree angle only at those intersections and locations designated and equipped for such purposes in accordance with § 316.212(2), Florida Statutes, as amended or transferred. A person crossing in such a manner must comply with any signaling and signage posted or installed at such intersections.
- (3) Saxon Boulevard, Enterprise Road, and Dirksen Drive are county roads. Until such time as the county permits the city to authorize the use of golf carts upon or adjacent to such roads and the city adopts a resolution approving same, all golf carts are prohibited from being operated on such county roads or on the sidewalk(s) adjacent thereto.

(4) All other roads within the city limits are municipal roads. There are two types of municipal road designations:

a. *Arterial Roads.* Arterial roads are roads or streets designated by the city as high-traffic designated roads. Golf carts are not authorized to travel on arterial roads. Instead, golf carts are authorized to travel on the adjacent sidewalks and trails of designated arterial roads as defined herein.

i. Arterial roads are identified as having center lane striping.

ii. Sidewalks and trails on arterial roads are shared sidewalks with pedestrians, bicycles and golf carts. Right-of-way on these sidewalks and trails is prioritized as follows, with (1) being highest priority and (3) being lowest priority: (1) pedestrians, (2) bicycles, and (3) golf carts. Lower priority users must yield to higher priority users.

iii. Golf carts are not permitted to be operated on the shoulder of or adjacent to arterial roads without adjacent sidewalk(s) or trails.

iv. By this Ordinance, golf carts are authorized to travel on the sidewalks and trails adjacent to the following designated arterial roads within the DeBary city limits:

1. DeBary Plantation Blvd.
2. Donald E. Smith Blvd.
3. East Highbanks Road
4. West Highbanks Road
5. Ft. Florida Road
6. North Shell Road
7. South Shell Road, including the future portion known as Main Street
8. Colomba Road, including that portion of Alicante Road running between Colomba Road west of Alicante Road and Colomba Road east of Alicante Road.
9. DeBary Drive
10. Spring Vista Road between Highway 17-92 and South Shell Road.
11. Benson Junction Road.
12. North Pine Meadow Road
13. South Pine Meadow Road.
14. Alexandra Woods Road
15. Barwick Road

- 16. Palm Drive
- 17. Mansion Blvd
- ~~18. Matanzas Road~~
- ~~19.~~18. Amigos Road between East Highbanks Road and Plumosa Road
- ~~20.~~19. Dogwood Trail
- ~~21.~~20. Columbine Trail
- ~~22.~~21. Sunrise Road between Dirksen Drive and Palm Drive
- ~~23.~~22. Summerhaven Drive

- b. *Residential Roads.* Residential roads are roads and streets designated by the city as low traffic roads and lack centerline striping. All municipal roads and streets, whether public or private and which are not arterial roads, are designated as residential roads. The city hereby authorizes the operation of golf carts on residential roads within the city limits of DeBary.

Sec. 50-103. Golf Cart Equipment Regulations.

- (1) For safety, golf carts operated on designated municipal streets, roads, sidewalks, or trails must be appropriately equipped with the following properly functioning items that are in usable and operable condition:
 - a. A clear windshield mounted at the front of the vehicle so as to reasonably protect the face of the golf cart operator from wind and debris while the golf cart is underway. Such windshield must be in good repair, free of cracks, and not be covered, marred, stained, or painted over so as to obstruct the operator's field of vision when operating the golf cart.
 - b. Driver's side exterior mirror.
 - c. Either an interior rear view mirror or a passenger's side exterior mirror.
 - d. Two headlamps mounted on the front of the golf cart and facing forward, which show a white light. An object, material, or covering that alters the headlamp's light color may not be placed, displayed, installed, affixed, or applied over a headlamp. Light bars are prohibited.
 - e. Two tail lamps mounted on the rear of the golf cart facing rearward, which must emit a red light plainly visible from a distance of 1,000 feet to the rear of the vehicle. Such tail lamps must be enabled to additionally function as brake lamps so that they automatically emit

a distinctively brighter red light when the brakes of the golf cart are applied.

- f. Brakes and parking brake.
 - g. Front and rear turn signals. When signaling, front turn signals must emit a flashing amber light while rear facing turn signals must emit a flashing light that is either amber or red in color.
 - h. A reliable steering apparatus.
 - i. Rear and side reflex reflectors.
 - j. A horn installed into the golf cart so as to be easily operated by the operator of the golf cart and that is plainly audible when activated.
 - k. Golf carts may be equipped with a trailer, the dimensions of which may not exceed 40" wide and 60" long. The total weight of the material or other items hauled in the trailer may not exceed the weight limit specified by the manufacturer of the trailer or the manufacturer's towing capacity for the golf cart to which the trailer is attached. Golf carts equipped with trailers must be equipped with a properly installed trailer hitch or hitch pin accessibly that is appropriate to the linkage used by the attached trailer. Golf cart trailers may not be used to transport or otherwise carry (i) passengers or (ii) vehicles such as boats, ATVs, and other motorized vehicles, including additional golf carts. Trailers not otherwise designed to be towed by a golf cart are not permitted.
- (5) The number of occupants in any golf cart operated pursuant to this article is restricted to the number of seats on the golf cart. For the purposes of this provision, both pets and persons qualify as "occupants," and a standard golf cart bench seat is deemed to allow seating for three occupants. No occupants of a golf cart may stand at any time while the golf cart is in motion.

Sec. 50-104. Age Restrictions and Insurance.

- (1) Operators of golf carts on designated streets, roads, sidewalks, and trails within the city must meet the following requirements:
 - a. Operators must be at least 16 years of age and have a valid driver's license.

- b. Operators with a learner's permit may drive a golf cart if accompanied by a passenger of at least 21 years of age with a valid driver's license.
- (2) Owners of golf carts are required to carry and maintain a personal injury and property damage insurance policy covering operation of such carts in the minimum amounts of \$10,000 per occurrence, \$10,000 in the aggregate. Upon registration and permitting, owners must show proof of insurance.

Sec. 50-105. Registration and Permitting.

- (1) Prior to operating a golf cart on designated municipal streets, roads, sidewalks, or trails, an owner of a golf cart must register such cart with the city and obtain a permit as set forth herein.
- (2) Golf carts must be registered prior to use in the City of DeBary pursuant to this article. Registration is required on an annual basis. The manager, or his/her designee, shall implement a registration program and the city manager is hereby authorized to adopt administrative rules and promulgate forms in order to implement the provisions of this article. The city shall charge a registration fee in an amount determined by resolution adopted by the city council as amended from time-to-time.
- (3) Before any golf cart can drive on designated municipal roads, streets, sidewalks, or trails the owner of the golf cart must register and apply for a city permit. The following are the requirements of registration:
- a. The golf cart permit is a permit issued on an ~~annual~~biennial basis running from January 1st through December 31st of each 2-year municipal registration period~~year~~.
 - b. All golf cart permits must be renewed at the commencement of each 2-year municipal registration period~~every 2 years~~.
 - c. All golf cart permits are ~~annual~~biennial permits, per golf cart with no prorated or partial pricing, which will remain in effect through the end of the current two-year cycle in during which such permit is issued, unless otherwise suspended or revoked. The city council may establish or amend the permit fee by resolution at any time; however, if no such resolution is adopted, such fee shall be \$25.00.
 - d. Each owner, upon approved registration, will receive an ~~annual~~a permit sticker for the current two-year municipal registration cycle to be placed on the windshield of the golf cart on the driver's side, lower corner, and facing outward.

- e. As a requirement of registration, the owner must sign an affidavit certifying that such person is the owner of the golf cart, has read and understood the city's ordinances, Florida Statutes, and general guidelines governing the usage and operation of golf carts on designated municipal streets, roads, sidewalks, and trails of the City of DeBary, and acknowledges and certifies that the golf cart is properly equipped with the equipment required by this article.
 - f. The golf cart owner must provide proof of insurance at the time of each ~~annual~~ registration that such owner is carrying personal injury and property damage insurance for the operation of such golf cart in the minimum per occurrence and aggregate amounts of \$10,000. Insurance must be maintained at all times, and failure to maintain such insurance shall be grounds for revocation of a permit issued hereunder.
 - g. The owner must provide a valid driver license and up to date contact information which includes, but is not limited to, the owner's legal name, physical and mailing addresses, telephone number, and email address.
 - h. For permit renewals and regardless of whether a golf cart owner continues to own a previously permitted and registered golf cart, the owner must complete a new application, execute the requisite affidavit, and provide proof of insurance.
- (4) Driving a golf cart on municipal roads, streets, sidewalks, or trails without a permit or an expired permit will subject the owner to a \$150 fine per incident.
- (5) The city has the right to reject or not renew any permit registration application if the application is incomplete, all of the minimum requirements are not met, or if the applicant has been found in violation of this article two (2) or more times within the past twelve months of the date of his/her annual application.
- (6) The City Manager may revoke a registration via a written revocation letter at any time for the following reasons:
- a. Operating a golf cart in a reckless manner or in such a manner so as to cause injury to pedestrians, other golf cart operators, or bicyclists;
 - b. Operating a golf cart in such a manner so as to result in damage to public or private property;

- c. Operating a golf cart with general disregard of the rules resulting in two or more moving violations involving the operation of a golf cart within a single twelve (12) month period; or
 - d. The person registering a golf cart or applying for a permit falsifies his/her registration of same or affidavit pertaining to such.
- (7) The city manager may issue a revocation letter to the owner of a golf cart. The golf cart owner may appeal the revocation within 30 days of the date of the letter to the city council. Such appeal must be in writing and set forth the specific legal and factual basis as to why the city manager's revocation should not be upheld. The city council will consider the appeal at its next regular city council meeting occurring 30 days or more following the filing of such appeal with the city manager's office.
- (8) Revocation will become final if the golf owner fails to timely file an appeal or the Council upholds the revocation. Upon revocation, a person may not apply for or register a golf cart for a period of one (1) calendar year following revocation.

Sec. 50-106 Moving Violations.

- (1) Golf cart operators shall ensure that their golf carts are maintained and operated in accordance with all applicable local and state traffic laws and may be ticketed or otherwise cited for traffic violations in the same manner as operators of motor vehicles.
- (2) Golf cart operators must comply with all traffic control signs, signals, and applicable laws when operating a golf cart at or across intersections, and it is unlawful for the operator to fail to abide by such signs, signals and laws.
- (3) Golf carts operating subject to this article may be operated only during the hours between sunrise and sunset, unless the golf cart is equipped with 24 hours per day, seven days each week if possessing operational headlights, brake lights, tail lights, turn signals, and windshields, in which case, the golf cart may be operated during the hours between sunset and sunrise. Golf cart operators utilizing their golf carts during the hours between sunset and sunrise shall ensure that the headlights of such golf carts are activated and that they are using turn and braking signals appropriately.
- (4) Golf carts may not be operated on state bike trails or within any other areas where such vehicles are prohibited from operating by law, rule, ordinance, or duly adopted policy.
- (5) Golf carts may be used to cross state and county roads only at crosswalks where there are functioning traffic lights and pedestrian signals equipped.

Any golf cart crossing a state or county road may cross only when indicated by a walk signal and while operating within the designated crosswalk.

- (6) It is a violation of this article to operate a golf cart at a speed in excess of the posted speed or speed mandated by this article.
- (7) It is a violation to operate a golf cart in a reckless manner so as to endanger or cause injury to pedestrians, other golf cart operators or riders, or private or public property.

Sec. 50-107. Signage Related to Golf Carts.

- (1) The city manager or his or her designee shall post signs and other postings as may be required by controlling law to implement the provisions of this article, and all signage installed by the city must be in a form and installed as may be required in accordance with the controlling provisions of law and sound and generally accepted engineering practices and principles as determined by the city; provided, however, that it is not the intent of this article to require the city to install or maintain any signage that is not required by applicable state law.
- (2) Regardless of the foregoing, it is not be a defense to any enforcement action under statute or the provisions of this article, in any forum of any type or nature, that signage was not in place or was not noticed or understood by an operator of a golf cart.
- (3) The posting or failure to post signage under the provisions of this article may not serve as the basis for any liability of any type or nature against the city or any of its officials, officers, or employees.

Section 10. Penalties/Enforcement/Collections.

- (1) Any person determined to be in violation of this article is subject to fines and code enforcement proceedings and citations to the maximum extent permitted by state law, and the City of DeBary may take any enforcement action and seek any legal remedy available under controlling Florida law.
- (2) Under certain circumstances, it is a violation of state law for a person to refuse to take action at the time a citation is issues, and the city shall enforce those laws and pursue statutory violations in accordance with controlling Florida law.
- (3) Without in any way limiting the generality of the provisions of subsections (1) and (2) of this section, a violation of this article constitutes a non-criminal infraction enforceable pursuant to the provisions of § 316.212(9), Florida Statutes (2021), as such may be amended or transferred. The use of

a golf cart resulting in violations of the Florida "Uniform Traffic Control" statute and the Florida "Uniform Disposition of Traffic Infractions Act" are enforceable as provided in Chapters 316 and 318, Florida Statutes. All other city ordinances pertaining to the use of motor vehicles are also applicable to the operation of golf carts to the extent that such may be applied. The city may enforce the provisions of this article in any manner authorized in accordance with applicable law and may seek any legal remedy as may be authorized by applicable law.

- (4) The city manager is hereby authorized to pursue collection activities relative to fines imposed against code violators in such manner, and using such processes, as may be in the best interests of the city and may authorize collection agencies and/or the city attorney to pursue collections in a manner consistent with applicable law.

SECTION 3. Codification. Section 2 of this ordinance is incorporated into the Code of Ordinances of the City of DeBary, Florida. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the substance, construction, or meaning of this ordinance or the city's Code of Ordinances may be freely made.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion will be deemed a separate, distinct, and independent provision, and such holding will not affect the validity of the remaining portions of this ordinance.

SECTION 7. Conflicts. In the event of a conflict or conflicts between this ordinance and any other ordinance or provision of law, this ordinance governs and controls to the extent of such conflict.


SECTION 8. Effective Date. This ordinance will take effect immediately upon adoption, except that to allow for the sunset of the annual permitting regime, the amendments to § 50-105. Registration and Permitting under the City's Code of Ordinances will not take effect until January 1, 2023.

FIRST READING: August 17, 2022

SECOND READING: September 21, 2022

ADOPTED this 21ST day of September, 2022.

CITY COUNCIL
CITY OF DEBARY



Karen Chasez, Mayor

ATTEST:



Annette Hatch, CMC, City Clerk

Date: September 21, 2022

SEAL