

Ordinance No. 2019-___

TOWN OF BEECH MOUNTAIN

AN ORDINANCE TO AMEND CHAPTER 72 ‘GOLF CARTS AND UTILITY VEHICLES

WHEREAS, the Town of Beech Mountain is a resort and family oriented which has a number of residents, property owners, and renters; and

WHEREAS, the Town of Beech Mountain desires to maintain a high standard for the quality life for its citizens, visitors, and guests; and

WHEREAS, N.C. Gen. Stat. §160A-296(a) provides “A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation,” and

WHEREAS, on June 2, 2003, the North Carolina General Assembly enacted Session Law 2003-124, which stated in part: “Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Town of Beech Mountain may, by ordinance, regulate the operation of golf carts and utility vehicles, specify the persons authorized to operate golf carts and utility vehicles, and specify required equipment, load limits, and the hours and methods of operation of the golf carts and utility vehicles; and

WHEREAS, this Session Law was amended and reaffirmed to include other municipalities, including the enactments of Session Law 2004-58, Session Law 2007-204, Session Law 2007-259, Session Law 2009-459, Session Law 2011-171, and Session Law 2013-172; and

WHEREAS, on August 11, 2003, the Town of Beech Mountain Town Council passed an Ordinance codified as §72.01 and §72.02 of the Town of Beech Mountain Code of Ordinances established public policy for the Town of Beech Mountain, as well as Rules and Regulations for the operation of golf carts and utility vehicles; and

WHEREAS, in 2018 the Town of Beech Mountain updated Chapter 72 to address safety and noise concerns related to the operation of these vehicles upon the municipal roadways of the Town of Beech Mountain; and

WHEREAS, North Carolina General Statute 160A-300.6 allows cities and towns to regulate the operation of golf carts upon public streets within the municipality; and

WHEREAS, the Town of Beech Mountain has established a Golf Cart Committee to further explore and investigate balancing the public safety concerns previously expressed by the Town

Council with the utility and convenience for its citizens; and

WHEREAS, the Town of Beech Mountain finds that the use of utility vehicles on town-maintained streets and trails constitutes a public safety concern and the benefit of allowing their use for this purpose is outweighed by the safety concerns; and

WHEREAS, the mountainous and winding nature of the road system on the Town of Beech Mountain is incompatible with general utility vehicle use on the road system; and

WHEREAS, utility vehicle travel, except as limited to certain streets, is not compatible with the master development plan for the Town of Beech Mountain, including the need to protect the beauty, charm, and lifestyle of Beech Mountain as a retirement community; and

WHEREAS, the State of North Carolina defines a Utility Vehicle in 20-4.01(48c) as: “Utility Vehicle. – A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower;” and

WHEREAS, the State of North Carolina defines a Golf Cart in 20-4.01(12a) as: “A vehicle 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;” and

WHEREAS, the Town of Beech Mountain must appropriately tailor the regulations for golf carts and utility vehicles consistent with the terms of Session Law 2003-124, the findings set forth herein, the nature and condition of the town owned roads, and the safety risks related to the interaction of motor vehicles, pedestrian, utility vehicles and golf carts; and

WHEREAS, the Town of Beech Mountain is mindful of the rights of private property owners to utilize their own property as they deem appropriate, consistent with the rights and interests of the community, and the following ordinance amendments would not affect the use of golf carts or utility vehicles on private property; and

WHEREAS, the Town Council for the Town of Beech Mountain has considered public input on this issue at a duly noticed and advertised public hearing on this issue, and in weighing the respective interests of all interested parties on this issue hereby enacts the following ordinance amendment for the health, safety, and general welfare of the Town of Beech Mountain.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BEECH MOUNTAIN, NORTH CAROLINA, THAT:

SECTION I. CHAPTER 72 of the Town of Beech Mountain Code of Ordinances is hereby restated and amended as follows:

§72.01 POLICY STATEMENT.

(A) This chapter is adopted to promote the health, safety, and welfare of the general public.

(B)(1) Golf Carts and Utility Vehicles are not designed or manufactured to be used on the public streets, and the town in no way advocates or endorses their operation on public roads.

(2) The town, by regulating the operation, is merely trying to address obvious safety issues, and the adoption of this chapter is not to be relied upon as a determination that operation on public streets is safe or advisable if done in accordance with this chapter.

(C) All persons who operate or ride upon carts on public streets or roads do so at their own risk and peril, and must be observant of, and attentive to, the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians.

(D) The town has no liability under any theory of liability, for permitting Golf Carts or Utility Vehicles to be operated on the public streets and roads under the special legislation granted by the state's legislature.

(E) Any person who operates a Golf Cart or Utility Vehicle is responsible for procuring liability insurance sufficient to cover the risk involved in using a cart on the public streets and roads.

(F) The Town Council must exercise its judgment concerning what roads to allow carts to be driven upon. In exercising its judgment, the Town Council has considered the following factors:

(1) The town is a resort community, and the Beech Mountain Golf Course is an important recreational facility in the community;

(2) Golf Carts and Utility Vehicles being driven upon roads that are main traffic arteries create a greater public safety concern;

(3) The greater the distance a Golf Cart or Utility Vehicle must be driven to reach its destination, the greater the public safety concern; and

(4) Adopting rules and regulations concerning the operation of Golf Carts and Utility Vehicles upon public roads within the town promotes public safety.

§72.02 DEFINITIONS.

As used in this Chapter, the following Definitions shall apply:

Golf Cart. A vehicle 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.

Utility Vehicle. A motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.

Other terms used within this Chapter shall have the same meaning as that assigned to them in North Carolina General Statute 20-4.01.

§72.03 REGULATION OF GOLF CARTS.

Golf Carts shall not be operated on any public road within the town except in accordance with the following rules and regulations:

(A) Golf Carts may be operated upon all town-maintained roads, consistent with all other rules and regulations adopted by the Town of Beech Mountain. Highway 184 is not a town-maintained road.

(B) Golf Carts must be equipped with rear vision mirrors.

(C) Drivers of Golf Carts must have a valid drivers' license.

(D) Drivers of Golf Carts shall stay to the far right of the traveled portion of the road and yield the right-of-way to overtaking vehicles.

(E) Proof of liability insurance, specifically providing for coverage of a Golf Cart operated off the premises of an individual property, must be provided prior to registration of a Golf Cart as set forth herein.

(F) Brake lights must operate independently from the tail lights while operating a Golf Cart on a Town street or roadway.

(G) Golf Carts shall be equipped with a mechanically operated horn capable of emitting a sound between 75 decibels and 95 decibels in loudness at twenty feet.

(H) Golf Carts shall be equipped with reflectors permanently affixed to each side of the Golf Cart, which shall be yellow/amber near the front bumper and red near the rear bumper. Each reflector shall be a minimum of three-quarters inch in height and two inches in length.

(I) A Golf Cart shall operate by electrical/battery power only, and not through use of an internal combustion engine.

(J) All Golf Carts must be inspected by the Beech Mountain Police Department annually before traveling on the public roads. The Department shall charge a fee established by Town Council per inspection and issue visible proof of compliance that can be attached to the cart. The master schedule of fees is maintained in the Clerk's office.

(K) No Golf Cart may be operated upon a public street or right of way unless it has first been inspected by the Town of Beech Mountain Police Department and conspicuously bears a current and valid decal issued by the Police Department.

(L) The maximum occupancy of a Golf Cart traveling on town roads shall be one person per seat.

(M) All applicable state laws will be adhered to, including the possession and use of alcoholic beverages. Alcoholic beverages shall not be consumed while a Golf Cart is in motion. No open containers shall be possessed on a Golf Cart while the Golf Cart is in motion.

(N) No Golf Cart shall exceed a maximum speed of fifteen miles per hour (15) while being operated on any town-maintained road. In the event a lower speed limit is posted by the Town of Beech Mountain, that lower speed limit shall prevail.

(O) Head lights and tail lights shall be turned on at all times while operating a Golf Cart on a Town street or roadway.

(P) Golf Carts may only be driven on town roads or streets during daylight hours. For purposes of this section, "daylight hours" means ½ hour before sunrise and ½ hour before sunset.

(Q) Golf Carts may only be operated upon town roads or streets from March 15 through November 30.

(R) No individual shall operate a Golf Cart upon a public street or right of way with an occupant in a rear-facing seat. No individual under the age of eighteen (18) shall operate a Golf Cart upon a public street or right of way.

(S) Use of Golf Carts by governmental or emergency management agencies are exempt from these regulations.

§72.04 REGULATION OF UTILITY VEHICLES.

Utility Vehicles shall not be operated on any public road within the town except in accordance with the following rules and regulations:

(A) Utility Vehicles can be driven only upon the following town-maintained roads:
Chestnut Way

Grassy Gap Loop
Lake Road
Lakeledge Road

- (B) Utility Vehicles must be equipped with rear vision mirrors.
- (C) Drivers of Utility Vehicles must have a valid drivers' license.
- (D) Drivers of Utility Vehicles shall stay to the far right of the traveled portion of the road and yield the right-of-way to overtaking vehicles.
- (E) Proof of liability insurance, specifically providing for coverage of a Utility Vehicle operated off the premises of an individual property, must be provided prior to registration of a Utility Vehicle as set forth herein.
- (F) Brake lights must operate independently from the tail lights while operating a Utility Vehicle on a Town street or roadway.
- (G) Utility Vehicles shall be equipped with a mechanically operated horn capable of emitting a sound between 75 decibels and 95 decibels in loudness at twenty feet.
- (H) Utility Vehicles shall be equipped with reflectors permanently affixed to each side of the Utility Vehicle, which shall be yellow/amber near the front bumper and red near the rear bumper. Each reflector shall be a minimum of three-quarters inch in height and two inches in length.
- (I) All Utility Vehicles must be inspected by the Beech Mountain Police Department annually before traveling on the public roads. The Department shall charge a fee established by Town Council per inspection and issue visible proof of compliance that can be attached to the cart. The master schedule of fees is maintained in the Clerk's office.
- (J) No Utility Vehicle may be operated upon a public street or right of way unless it has first been inspected by the Town of Beech Mountain Police Department and conspicuously bears a current and valid decal issued by the Police Department.
- (K) The maximum occupancy of a Utility Vehicle traveling on town roads shall be one person per seat.
- (L) All applicable state laws will be adhered to, including the possession and use of alcoholic beverages. Alcoholic beverages shall not be consumed while any Utility Vehicle is in motion. No open containers shall be possessed on a Utility Vehicle while the Utility Vehicle is in motion.
- (M) No Utility Vehicle shall exceed a maximum speed of fifteen miles per hour (15 mph) while being operated on any town-maintained road.
- (N) Head lights and tail lights shall be turned on at all times while operating a Utility Vehicle on a Town street or roadway.
- (O) Utility Vehicles may only be driven on town roads or streets during daylight hours. For purposes of this section, "daylight hours" means ½ hour before sunrise and ½ hour before sunset.
- (P) No individual shall operate a Utility Vehicle upon a public street or right of way with an occupant in a rear-facing seat.
- (Q) No individual under the age of eighteen (18) shall operate a Utility Vehicle upon a public street or right of way.
- (R) Utility Vehicles may only be operated upon town roads or streets from March 15 through November 30.
- (S) Use of Utility Vehicles by governmental or emergency management agencies are exempt from these regulations.

§ 72.05 PENALTY. The Penalty for violation of this Chapter shall be as set forth in Section 11.01. In addition to this penalty, any violation of this Chapter may be punishable as an Infraction as provided in N.C. Gen. Stat. §14-4.

SECTION II. CODIFICATION. The provisions of Sections I of this Ordinance shall be published as appropriate in the Town of Beech Mountain Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Town Council in passing this Ordinance that its parts shall be severable and all other parts of the Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect at 12:01 a.m. on May 8, 2019.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Beech Mountain, North Carolina, at which a quorum was present and which was held on the 7th day of May, 2019.

This Ordinance adopted the 7th day of May, 2019.

Renee D. Castiglione, Mayor

Attest:

Tamara Mercer
Town Clerk