

ORDINANCE NO. 2020-584

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS AMENDING CHAPTER 12 TRAFFIC AND VEHICLES, CITY OF SMITHVILLE CODE OF ORDINANCES, BY ADDING ARTICLE 12.1200 PROHIBITING THE OPERATION OF OFF-HIGHWAY VEHICLES; PROVIDING FOR FINDINGS OF FACT; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, off-highway vehicles, as defined in the Texas Transportation Code Section 551A.001(1-b) (until September 1, 2020) and (1-d) (effective September 1, 2020) and amendments thereto, such as vehicles commonly referred to as ATVs, side-by-sides and utility vehicles, are being operated on the public streets and roadways of the City of Smithville (“City”); and

WHEREAS, Texas Transportation Code Section 551A.051 prohibits the operation of off-highway vehicles on a public street, road or highway with limited exceptions set forth in Texas Transportation Code Section 551A.055 for master planned communities and for travel to and from a golf course; and

WHEREAS, the reckless or careless operation of off-highway vehicles can result in endangerment, injury or damage to any person or property and can be detrimental to the safety of the citizens of the City and to the integrity of areas in the City; and

WHEREAS, the City Council of the City of Smithville finds it necessary in the interest of safety to prohibit the operation of off-highway vehicles on city streets and roadways, including those roadways permitted under Section 551A.055, Texas Transportation Code, in the interest of public safety and welfare; and

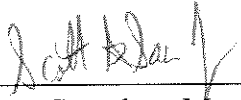
WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and that is necessary or proper for carrying out a power granted by law to the City;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Smithville:

1. **FINDINGS OF FACT.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact and are adopted fully herein.
2. **ENACTMENT.** The City Council hereby amends Chapter 12, Code of Ordinances of the City of Smithville, Texas to add Article 12.1200 as set forth in Exhibit A.
3. **REPEALER.** All ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.
4. **SEVERABILITY.** Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.
5. **EFFECTIVE DATE.** This Ordinance shall be effective as of the date of adoption.

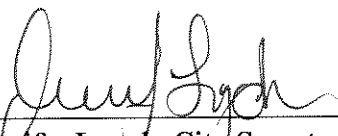
PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF APRIL, 2020.

APPROVED:



Scott Saunders, Mayor

ATTEST:



Jennifer Lynch, City Secretary

EXHIBIT A

ARTICLE 12.1200 OFF-HIGHWAY VEHICLES

Sec. 12.1201 Definitions, Interpretation

In this article, the following terms have that meaning ascribed to them in this section. All references to statutes, rules, regulations, or ordinances refer to them as the same may be amended, restated, revised, or otherwise modified from time to time and includes any successor statute, rule, regulation or ordinance thereto. When the context and construction require, words used in the singular are used in the plural and vice versa. The word “includes” and its variants means without limitation, and the word “or” is not exclusive. Words defined in the Texas Transportation Code but not defined in this article shall have that meaning ascribed to them in the Texas Transportation Code.

“All-terrain vehicle” means a motor vehicle that is:

- (A) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
- (B) designed to propel itself with three or more tires in contact with the ground;
- (C) designed by the manufacturer for off-highway use;
- (D) not designed by the manufacturer primarily for farming or lawn care; and
- (E) not more than 50 inches wide.

“Highway” means the width between the boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel, and includes any sidewalk, shoulder, or berm.

“Off-highway vehicle” means an all-terrain vehicle, a recreational off-highway vehicle, or a utility vehicle, but does not include a golf cart, as that term is defined by Section 551.401, Texas Transportation Code, or a vehicle owned by the State of Texas, a county, or a municipality for operation on a public beach or highway to maintain public safety and welfare.

“Recreational off-highway vehicle” means a motor vehicle that is

- (A) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
- (B) designed to propel itself with four or more tires in contact with the ground;
- (C) designed by the manufacturer for off-highway use by the operator only; and
- (D) not designed by the manufacturer primarily for farming or lawn care.

“Utility vehicle” means a motor vehicle that is not a golf cart, as that term is defined by Section 551.401, Texas Transportation Code, or lawn mower and is:

- (A) equipped with side-by-side seating for the use of the operator and a passenger;
- (B) designed to propel itself with at least four tires in contact with the ground;
- (C) designed by the manufacturer for off-highway use only; and
- (D) designed by the manufacturer primarily for utility work and not for recreational purposes.

Sec. 12.1202 Operation of Off-highway Vehicle on Public Streets Prohibited

Operation of an off-highway vehicle on a highway or public street is prohibited.

Sec. 12.903 Exceptions

The operator of an off-highway vehicle may operate the vehicle on a highway that is not an interstate or limited access highway if:

- (1) the transportation is in connection with:
 - (A) the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Texas Agriculture Code; or

- (B) utility work performed by a utility;
- (2) the operator attaches to the back of the vehicle a triangular orange flag that is at least six feet above ground level;
- (3) the vehicle's headlights and taillights are illuminated;
- (4) the operation of the vehicle occurs in the daytime; and
- (5) the operation of the vehicle does not exceed a distance of 25 miles from the point of origin to the destination.