ORDINANCE NO. 0120-2

AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, REPEALING THE SECTION ENTITLED "GOLF CARTS AND UTILITY VEHICLES" OF CHAPTER 72 "RECREATIONAL VEHICLES" OF THE CODE OF LINDSAY AND REPLACING IT IN ITS ENTIRETY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lindsay, Texas, is a Type A general law municipality located in Cooke County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council of the City of Lindsay previously adopted regulations codified in Chapter 72 of the Code of Lindsay regulating golf cart and utility vehicles; and

WHEREAS, the City Council now desires to amend those regulations in the best interest of the public health, safety and welfare of the citizens and the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINDSAY, TEXAS:

SECTION 1:

The section entitled "Golf Carts and Utility Vehicles" of Chapter 72 "Recreational Vehicles" of the Code of Lindsay is hereby replaced in its entirety with the following:

"GENERAL PROVISIONS

§ 72.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL USE. Use in connection with 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, as it currently exists or as amended.

ALL-TERRAIN VEHICLE. A self-propelled vehicle that is:

(1) Equipped with a seat or seats for use of the rider and a passenger, if designed to transport a passenger;

(2) Designed to propel itself with three or more tires in contact with the ground;

(3) Designed by the manufacturer for use off a public highway;

(4) Not designed by the manufacturer primarily for farming or lawn care; and

(5) Not more than 50 inches wide.

DAYTIME. The period beginning one-half hour before sunrise and ending one-half hour after sunset.

DRIVER. The person driving and having physical control over the golf cart or off-highway vehicle.

DRIVER'S LICENSE. The authorization issued by a State for the operation of a motor vehicle. The term includes: (1) a temporary license or instruction permit; and (2) an occupational license.

GOLF CART. A motor vehicle designed by the manufacturer primarily for use on a golf course.

REGISTRATION PERMIT. A privilege granted, upon compliance with the terms of this chapter, to legally operate a golf cart or off-highway vehicle upon a public street or roadway within the corporate boundaries of the City of Lindsay during the period when granted.

REGISTRATION PERMIT DECAL. A certificate for attachment to a golf cart or off-highway vehicle carrying a serial number corresponding to the number of the registration permit for such golf cart or off-highway vehicle and showing the month and calendar year the permit shall expire.

REGISTRATION PERMIT FEE. The administrative charge imposed as specified in this chapter for the granting of a registration permit and the issuance of a registration permit decal for a golf cart or off-highway vehicle.

OFF-HIGHWAY VEHICLE. A recreational off-highway vehicle or a utility vehicle.

OWNER. The person holding title to the golf cart or off-highway vehicle.

PARK or PARKING. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

PARKING AREA. Areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of vehicles, usually in places referred to as parking lots.

PERMIT HOLDER. The person to whom a golf cart or off-highway vehicle permit has been issued.

PUBLIC HIGHWAY. Any road, street, way, thoroughfare, right-of-way or bridge within the corporate limits of the city that is used for vehicles, that is not privately owned or controlled, and over which the city, the county, the state or the United States government has jurisdiction.

PUBLIC SAFETY PERSONNEL. Any employee or officer of a governmental law enforcement agency or the City of Lindsay or its Department(s).

PUBLIC STREET. The public roadways of the City of Lindsay by whatever name, e.g. road, alley, avenue, highway, route, boulevard, etc. within the corporate boundaries of Lindsay that:

(1) Has a speed limit of 35 miles per hour or less;

(2) Provides for no more than one lane of vehicular traffic per direction;

(3) Is not designated as part of either the State or Federal highway system.

RECREATIONAL OFF-HIGHWAY VEHICLE. A vehicle that is:

(1) Equipped with a seat or seats for the use of the ride and a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;

(2) Designed to propel itself with four or more tires in contact with the ground;

(3) Designed by the manufacturer for off-highway use by the operator only; and

(4) Not designed by the manufacturer primarily for farming or lawn care.

SIDEWALK. The portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

SLOW-MOVING-VEHICLE-EMBLEM. A triangular emblem that conforms to standards and specifications adopted by the Director of the Texas Department of Transportation under Section 547.104 of the Texas Transportation Code and is displayed in accordance with Section 547.703 of the Texas Transportation Code.

TEXAS TRANSPORTATION CODE. The code as it currently exists or as it may be amended.

TRAFFIC WAY. Any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

UTILITY VEHICLE. A self-propelled vehicle that is not a golf cart or lawn mower and is:

(1) Equipped with side-by-side seating for the use of the operator and a passenger;

(2) Designed to propel itself with at least four tires in contact with the ground;

(3) Designed by the manufacturer for use off a public highway; and

(4) Designed by the manufacturer primarily for utility work and not for recreational purposes.

VEHICLE. A device in or by which a person or property is or may be transported or drawn on a public highway, other than a device used exclusively on stationary rails or tracks.

GOLF CARTS AND OFF-HIGHWAY VEHICLES

§ 72.02 PERMITTED AND RESTRICTED.

A person, other than public safety personnel, shall not operate a golf cart or an off-highway vehicle on a public street, parking area and/or traffic way unless the person obtains a registration permit, affixes a registration decal, and meets the following requirements:

(1) The maximum speed limit on the public street is thirty-five (35) miles per hour or less;

(2) The person has a valid driver's license;

(3) The person maintains current financial responsibility for the golf cart or off-highway vehicle, as required of other passenger vehicles in Section 601.051 of the Texas Transportation Code;

(4) The person complies with all applicable federal, state and local laws and ordinances;

(5) The golf cart or off-highway vehicle has the following equipment, which must continuously remain in good working and operational order:

(a) Two (2) headlamps;

(b) Two (2) tail lamps;

(c) Side reflectors (two (2) front, amber in color and two (2) rear, red in color);

(d) Parking brake;

(e) Rearview mirror(s), capable of a clear, unobstructed view of at least two hundred feet (200') to the rear;

(6) Slow-moving vehicle emblem(s) shall be mounted base down on the rear of the vehicle and shall be maintained in a clean reflective condition;

(7) While the golf cart or off-highway vehicle is in motion, the driver and every passenger in the vehicle is seated in a seat designed to hold passengers. No person may stand or ride in the lap of the driver and/or other passenger of a golf cart or off-highway vehicle while it is moving; and

(8) The equipment described herein meets the Texas and Federal Motor Vehicle Safety Standards, as they exist or may be amended.

§ 72.03 ADDITIONAL REQUIREMENTS FOR GASOLINE POWERED VEHICLES.

(A) In addition to the requirements set forth herein, every golf cart or off-highway vehicle powered by gasoline shall at all times be equipped with an exhaust system in good working order and in constant operation and meet the following specifications:

(1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or including any and all parts specified by the manufacturer;

(2) The exhaust system and its elements shall be securely fastened with brackets or hangers, which are designed for the particular purpose of fastening golf cart exhaust systems;

(3) The engine and powered mechanism of every golf cart or off-highway vehicle shall be so equipped, adjusted and tuned so that the exhaust is in good working order.

(B) It shall be unlawful for the owner of any golf cart or off-highway vehicle to operate or permit the operation of such vehicle on which any device controlling or abating atmospheric emissions which is placed on a golf cart or off-highway vehicle by the manufacturer is rendered unserviceable by removal, alteration or any other method that interferes with its operation.

§ 72.04 ADDITIONAL OPERATIONAL REGULATIONS.

(A) Except when operated by public safety personnel or park maintenance personnel, golf carts or off-highway vehicles shall not be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic.

(B) All golf carts or off-highway vehicles are entitled to the full use of a lane on the authorized public streets, parking areas and traffic ways of the City of Lindsay, and no vehicle shall be driven in such a manner as to deprive any golf cart or off-highway vehicle of the full use of a lane.

(C) The driver of a golf cart or off-highway vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(D) No driver shall operate a golf cart or off-highway vehicle between lanes of traffic or between adjacent lines or rows of vehicles.

(E) The driver of a golf cart or off-highway vehicle operating the vehicle on a public street may only cross a multi-lane federal, county or state route at an intersection controlled by an official traffic control device which stops traffic from all directions. The driver of a golf cart or off-highway vehicle may cross a multi-lane road, other than a federal, state, or county route, if it is required to cross from one portion of a golf course to another portion of the same golf course. If a golf cart crossing path is provided for transition between one section of a golf course to another section of the same golf course across a multi-lane road, the operator shall cross at and within the golf cart crossing path.

(F) The number of occupants in a golf cart or off-highway vehicle shall be limited to the number of persons for whom factory seating is installed and provided on the vehicle.

(G) Children must be properly seated while a golf cart or off-highway vehicle is in motion and may not be transported in a reckless or negligent manner.

(H) Except as specifically authorized in this subsection, golf carts or off-highway vehicles may not be used for the purpose of towing another golf cart, off-highway vehicle, trailer or vehicle of any kind including, without limitation, a person on roller skates, skateboard or bicycle. A person employed by a golf course may tow a golf cart(s) for the purpose of relocating the cart(s) from one portion of a golf course to another portion of the same golf course. A person may use an off-highway vehicle permitted under this chapter for the purpose of towing a trailer for a hayride on Halloween.

(I) Golf cart or off-highway vehicles shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog, or other condition, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of five hundred feet (500').

§ 72.05 LIABILITY.

(A) Nothing in this chapter shall be construed as an assumption of liability by the City of Lindsay for any injuries (including death) to persons, pets or property which may result from the operation of a golf cart or off-highway vehicle by an authorized driver.

(B) Owners are fully liable and accountable for the action of any individual that they provide permission to operate and drive a golf cart or off-highway vehicle, both on personal and/or any authorized public streets, parking areas and traffic ways. This described liability responsibility especially applies to personal injuries (including death) or property damage resulting from golf cart or off-highway vehicle drivers who are minors under the age of twenty-one (21) with or without a current and valid driver's license.

§ 72.06 REGISTRATION PERMIT REQUIRED.

(A) No person shall operate, cause to be operated or allow the operation of a golf cart or off-highway vehicle on any public streets, parking areas and traffic ways unless a valid registration

permit has been issued for the golf cart or off-highway vehicle or the operation is otherwise allowed by law.

(B) Application for a permit authorizing the operation of a golf cart or off-highway vehicle shall be made by a person who owns, leases or otherwise uses the vehicle. Such application shall be made in writing to the City on a form designated for that purpose. On such application shall be set forth the following:

(1) The name, address, telephone number and state driver's license number, if applicable, of the permit holder;

(2) The street address where the golf cart or off-highway vehicle is kept, including the particular suite or apartment number, if applicable;

(3) The business name used for the premises where the golf cart or off-highway vehicle is kept, if applicable;

(4) The year, make, model, color, vehicle identification number or serial number if no vehicle identification number has been issued to the vehicle, and electric or gasoline;

(5) The person(s) and location, designated by the City, that inspected the golf cart or off-highway vehicle, including a certification by said inspector that the golf cart or off-highway vehicle was inspected and whether the golf cart or off-highway vehicle complies with the requirements of this chapter;

(6) Statement that all operators are required to be licensed pursuant to Texas Transportation Code §§521.001(3) and 521.021, as amended, and that all equipment required herein is installed and will be kept operational during the permit period;

(7) Statement that the registration permit holder and any user shall indemnify and hold harmless the City of Lindsay, Texas for any and all civil liability associated with said registration and that the registration permit holder and any user waives any and all rights to sue the City of Lindsay or allow subrogation by an insurance company; and

(8) Other information which the City may require.

(C) The registration permit decal shall be permanently affixed on the left side of the golf cart or off-highway vehicle in such a manner that it is clearly visible from fifty feet (50'). The permit decal must not be damaged, altered, obstructed or otherwise made illegible. If the permit decal is damaged, altered, obstructed or otherwise made illegible, the permit holder shall apply for a replacement decal permit and pay the fee for a replacement permit decal provided in the City Fee Schedule.

(D) The registration permit decal shall only be placed upon the golf cart or off-highway vehicle for which it was issued.

(E) A permit issued to a golf cart or off-highway vehicle shall become invalid if the golf cart or off-highway vehicle is altered in a manner that fails to comply with any requirement of this chapter.

(F) Registration Permits/Decals are valid for a period of (2) two years and each shall expire on December 31st of odd numbered years. The registration permit fee shall be prorated to the number of yearly quarters remaining in the permit period. The registration and inspection fees for a registration permit and decal shall be those fees provided in the City Fee Schedule. Governmental entities applying for a Registration Permit are exempt from any fees.

(G) The permit holder shall notify the City if the golf cart or off-highway vehicle transfers ownership or the address of the normal storage location of the golf cart or off-highway vehicle has changed within ten (10) working days of the change. The information shall be submitted on a form designated by the City.

(H) Lost or stolen Permit/Decals are the responsibility of the Owner. A police report must be filed in the event of a lost or stolen Permit/Decal. If no record can be found of a previous application, or the receipt of a Permit/Decal, the City may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Decal is issued.

(I) Any person who operates a golf cart or off-highway vehicle without a permit or who fails to properly display a City Permit/Decal will be subject to all applicable state laws, in addition to being in violation of this chapter.

(J) A permit may be revoked at any time by the City, or its designee(s), if:

(1) There is any evidence that the permit holder cannot safely operate a golf cart or off-highway vehicle on any authorized public streets, parking areas and traffic ways of the City of Lindsay in compliance with this chapter;

(2) The owner or driver fails to abide by the rules and regulations of this chapter; or

(3) The owner fails to maintain proof of financial responsibility during the entire permit registration period.

(K) The commission of any of the violations described herein constitutes evidence that the permit holder cannot safely operate a golf cart or off-highway vehicle on the street within the City of Lindsay.

(L) The permit is not transferable. Upon transfer of ownership of the golf cart or off-highway vehicle to a person who intends to operate it over authorized public streets, parking areas and traffic ways, the new owner must register the golf cart or off-highway vehicle and pay the registration permit fee as provided in the City Fee Schedule.

§ 72.07 INSPECTION REQUIRED.

When an application is filed for the registration or issuance of a permit for a golf cart or off-highway vehicle, the golf cart or off-highway vehicle must be inspected by the agent that is designated by the City to ensure that the golf cart is in compliance with the requirements of this chapter. If the golf cart or off-highway vehicle is not in compliance with all of the applicable requirements of this chapter, a permit shall not be issued for the vehicle.

§ 72.08 PUBLIC SAFETY AND PARK MAINTENANCE PERSONNEL.

Public safety personnel and park maintenance personnel may operate a golf cart or off-highway vehicle on any public street, parking area and traffic way without any further restrictions when the golf cart or off-highway vehicle is used in the performance of his/her duties or on official business of the City or on City owned property and City leased property, including but not limited to, a parade, a festival or other special events.

§ 72.09 AGRICULTURAL USE OF OFF-HIGHWAY VEHICLES.

An off-highway vehicle or an all-terrain vehicle used solely in connection with an agricultural use is exempt from the registration, inspection, and equipment requirements of this chapter, except as provided in this section. An off-highway vehicle used solely for agricultural use may be operated on a public street, a parking area and/or a traffic way in the city so long as:

(1) the use is in connection an agricultural use;

(2) the maximum speed limit on the public street is thirty-five (35) miles per hour or less;

(3) the person has a valid driver's license;

(4) the operator attaches to the back of the vehicle a triangular orange flag that is at least six feet above ground level;

(5) the operation of the vehicle occurs in the daytime; and

(6) the operation does not exceed a distance of 25 miles from the point of origin to the destination.

§ 72.10 OPERATION OF ALL-TERRAIN VEHICLES PROHIBITED.

Except as specifically provided in section 72.09, all-terrain vehicles shall not be operated on a public street, a parking area, and/or a traffic way in the city.

§§ 72.11-72.98 RESERVED.

PENALTY

§ 72.99 PENALTY PROVISION.

(A) Any person, firm, entity or corporation who violates any provision of this chapter, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars ($500.00). Each continuing day's violation under this chapter shall constitute a separate offense. The penal provisions imposed under this chapter shall not preclude the City of Lindsay from filing suit to enjoin the violation. The City of Lindsay retains all legal rights and remedies available to it pursuant to local, state, and federal law.

(B) Neither allegation or evidence of culpable mental state is required for the proof of an offense defined by this chapter."

SECTION 2.

The City of Lindsay Fee Schedule is hereby amended to add the following fees under Other Permit Fees:

Permit	Fee
Golf Cart/Off Highway Vehicle Registration Permit/Deca. (Governmental Entities are exempt from this fee)	$50.00
Golf Cart/Off Highway Vehicle Re-Inspection (if it fails initial inspection) (Governmental Entities are exempt from this fee)	$25.00
Replacement Permit/Decal (Governmental Entities are exempt from this fee)	$25.00

SECTION 3.
CUMULATIVE

This Ordinance shall be cumulative of all provisions of ordinances of the City of Lindsay, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4.
SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect

any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.
PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $500.00.

SECTION 6.
SAVINGS

All rights and remedies of the City of Lindsay are expressly saved as to any and all violations of the ordinances of the City of Lindsay related to operating mobile food units within the City that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7.
PUBLICATION

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clauses of this ordinance as provided by law.

SECTION 8.
EFFECTIVE DATE

This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 10 DAY OF FEBRUARY , 2020.

Scott Neu, Mayor

ATTEST:

Monica Laux, City Secretary