

ORDINANCE NO. 26-07

AN ORDINANCE OF ELK RIDGE CITY, UTAH, AMENDING TITLE 6, CHAPTER 2 OF THE ELK RIDGE CITY CODE RELATING TO OFF-HIGHWAY VEHICLES AND DESIGNATING CITY STREETS FOR GENERAL OFF-HIGHWAY USE.

WHEREAS, the Elk Ridge City is a municipal corporation and political subdivision of the State of Utah authorized to exercise those powers granted to municipalities under Utah law; and

WHEREAS, Utah Code Section 41-22-10.5 authorizes municipalities to designate certain streets and highways under their jurisdiction for general off-highway vehicle use; and

WHEREAS, Elk Ridge City has historically permitted the operation of off-highway vehicles upon public streets within the City; and

WHEREAS, the City's existing regulations governing off-highway vehicles were adopted in 2008 and contain sections based upon Utah law existing at that time; and

WHEREAS, Utah law governing off-highway vehicles and street-legal all-terrain vehicles has subsequently been amended, and the City Council desires to update Chapter 6-2 of the Elk Ridge City Code to better conform with current Utah law; and

WHEREAS, the City Council desires to expressly designate all public streets and highways under the jurisdiction of Elk Ridge City as open for general off-highway vehicle use and to clarify that such use is not limited solely to travel necessary to access an area otherwise open to off-highway vehicle use; and

WHEREAS, the City Council finds that updating the City's off-highway vehicle regulations and permitting the responsible operation of off-highway vehicles within the City promotes the public health, safety, and welfare of Elk Ridge City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ELK RIDGE CITY, UTAH, AS FOLLOWS:

SECTION 1. AMENDMENT OF TITLE 6, CHAPTER 2

Title 6, Chapter 2 of the Elk Ridge City Code, entitled "Off Road Vehicles," is hereby amended as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

The amendments shown in Exhibit A shall constitute the official amendments to Chapter 6-2 upon the effective date of this Ordinance.

SECTION 2. CITYWIDE GENERAL OFF-HIGHWAY VEHICLE DESIGNATION

Pursuant to Utah Code Section 41-22-10.5, as amended, the Elk Ridge City Council hereby expressly designates all public streets and highways under the jurisdiction of Elk Ridge City as open for general off-highway vehicle use, subject to Chapter 6-2 of the Elk Ridge City Code and applicable state law.

This designation authorizes general off-highway vehicle use and is not limited solely to travel necessary to gain access to or from private property, public lands, trails, or other areas otherwise open to off-highway vehicle use.

Nothing in this Ordinance shall be construed to designate any interstate freeway, state highway or other roadway not under the jurisdiction of Elk Ridge City, private road, sidewalk, trail, park, open space, or other property over which Elk Ridge City lacks legal authority to designate off-highway vehicle use.

SECTION 3. STREET-LEGAL ALL-TERRAIN VEHICLES

Nothing in this ordinance shall prohibit or restrict the lawful operation of a street-legal all-terrain vehicle upon a street or highway where such operation is authorized by Utah law.

Street-legal all-terrain vehicles shall be governed by Utah Code Section 41-6a-1509, as amended, and other applicable provisions of Utah law.

The City's designation of streets for general off-highway vehicle use does not require an otherwise lawful off-highway vehicle to qualify as a street-legal all-terrain vehicle as a condition of operation upon a City street when the vehicle and operator otherwise meet the requirements applicable to operation on a street designated for general off-highway vehicle use.

SECTION 4. INCORPORATION AND INTERPRETATION OF STATE LAW

References in Chapter 6-2 of the Elk Ridge City Code to provisions of the Utah Code shall include those provisions as subsequently amended, renumbered, or replaced, unless the context clearly requires otherwise.

Chapter 6-2 shall be interpreted and applied in a manner consistent with applicable Utah law.

Nothing in this Ordinance or Chapter 6-2 shall be construed to authorize Elk Ridge City to regulate an activity preempted by state law or to prohibit or restrict an activity that state law expressly prohibits a municipality from restricting.

SECTION 5. REPEAL OF CONFLICTING PROVISIONS

All ordinances, resolutions, policies, and provisions of the Elk Ridge City Code, or portions thereof, that conflict with the provisions of this Ordinance are hereby repealed or superseded to the extent of such conflict.

SECTION 6. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or Exhibit A is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this Ordinance or Exhibit A.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect upon passage and posting or publication as required by law.

PASSED AND ADOPTED by the City Council of Elk Ridge City, Utah, this ____ day of _____,
20 ____.

Approved by the Mayor:

Mayor – Robert Haddock

Councilmember Jared Peterson	Voted _____
Councilmember Tanya Willis	Voted _____
Councilmember Cory Thompson	Voted _____
Councilmember Melanie Paxton	Voted _____
Councilmember Charles Wixom	Voted _____

ATTEST

Spencer Foster - City Recorder

EXHIBIT A

CHAPTER 2

OFF ROAD HIGHWAY VEHICLES AND ALL-TERRAIN VEHICLES

SECTION:

6-2-1: Purpose and Intent

6-2-~~1~~2: Definitions

6-2-~~2~~3: Operator Age and Limitations

6-2-~~3~~4: State Statute Regulations

6-2-~~4~~5: Age Limitations Under Sixteen Years

6-2-~~5~~6: Permissions And Limitations

6-2-~~6~~7: Standards

6-2-~~7~~8: Helmet Law

6-2-~~8~~9: Vehicle Registration

6-2-~~9~~10: Speed Limits

6-2-~~10~~11: Private Property

6-2-~~11~~12: Husbandry Equipment

6-2-~~12~~13: Penalties

6-2-1: PURPOSE AND INTENT

- A. The purpose of this Chapter is to regulate the operation of off-highway vehicles and street-legal all-terrain vehicles within Elk Ridge City in a manner consistent with Utah law while preserving reasonable recreational and transportation use of such vehicles within the City.
- B. It is the express policy and intent of Elk Ridge City to permit both:
 - 1. Ordinary off-highway vehicles that are not registered or equipped as street-legal all-terrain vehicles; and
 - 2. Street-legal all-terrain vehicles meeting the requirements of Utah law; to operate upon City streets as provided by this Chapter and applicable state law.
- C. Qualification of an off-highway vehicle as a street-legal ATV shall not be required for operation upon a City street when the vehicle and operator otherwise satisfy the requirements applicable to ordinary OHV operation upon a street designated for general OHV use.
- D. Nothing in this Chapter authorizes operation contrary to applicable state law.

6-2-~~1~~2: DEFINITIONS:

As used in this ~~section~~ chapter:

~~ALL-TERRAIN TYPE I VEHICLE: Any motor vehicle fifty two inches (52") or less in width, having an unladen weight of eight hundred (800) pounds or less, traveling on three (3) or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.~~

~~ALL-TERRAIN TYPE II VEHICLE: Any other motor vehicle, not defined in the definitions of All-Terrain Type I Vehicle and Motorcycle of this section, designed for or capable of travel over unimproved terrain. This term does not include golf carts, any vehicle designed to carry a disabled person, and vehicle not specifically designed for recreation use, or farm tractors as defined by state law.~~

ALL-TERRAIN TYPE I, II, and III VEHICLE: Has the meaning established by Utah Code Section 41-22-2, as amended.

CITY STREET: A street, road, or highway under the jurisdiction of Elk Ridge City and open to public vehicular travel.

LOW PRESSURE TIRE: **Has the meaning established by Utah Code Section 41-22-2, as amended**
~~Any pneumatic tire six inches (6") or more in width designed for use on wheels with rim diameter of twelve inches (12") or less and utilizing an operating pressure of ten (10) pounds per square inch or less as recommended by the vehicle manufacturer.~~

MANUFACTURER: A person engaged in the business of manufacturing off highway **or all-terrain** vehicles.

MOTOR VEHICLE: Every vehicle which is self-propelled.

MOTORCYCLE: Every motor vehicle having a saddle for use of the operator and designed to travel on not more than two (2) tires.

OFF-HIGHWAY IMPLEMENT OF HUSBANDRY: Every **OHV** ~~or all-terrain type I vehicle, motorcycle, or snowmobile~~ which is used by the owner or his agent for agricultural operations.

OFF-HIGHWAY VEHICLE **or OHV:** ~~Any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle.~~ Has the meaning established by Utah Code Section 41-22-2, as amended.

OPERATE: To control the movement of or otherwise use an ~~off-highway vehicle~~ **OHV or all-terrain vehicle.**

OPERATOR: The person who is in actual physical control of an ~~off-highway vehicle~~ **OHV or all-terrain vehicle.**

ORDINARY OFF-HIGHWAY VEHICLE or ORDINARY OHV: An OHV being operated pursuant to the City's designation of City streets for general OHV use rather than being operated as a street-legal ATV under Utah Code Section 41-6a-1509.

ROADWAY: That portion of a public street improved, designed or ordinarily used for vehicular traffic, exclusive of the sidewalk, berm or shoulder, even though any of them are used by persons riding bicycles or other human powered vehicles.

STREET: The entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

STREET-LEGAL ALL-TERRAIN VEHICLE or STREET-LEGAL ATV: An all-terrain Type I, Type II, or Type III vehicle or off-highway motorcycle meeting the applicable requirements of Utah law for operation as a street-legal ATV.

Terms not specifically defined herein shall have the meanings established by applicable Utah law.

6-2-23: OPERATOR AGE AND LIMITATIONS:

~~Any licensed driver (16 years old and older) may operate an all-terrain vehicle. Any operator under the age of sixteen (16) must have a permit obtained from the state of Utah showing completion of the Utah OHV education course. This course is offered through the Utah division of parks and recreation. Operators under the age of eight (8) are not allowed to operate any off highway vehicle on public roadways within the city limits. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)~~

- A. An operator of an ordinary OHV shall comply with the applicable operator requirements of Utah Code Title 41, Chapter 22, including Utah Code Section 41-22-30, as amended. The operator shall possess any safety certificate or driver's license, be physically capable of safely operating the vehicle controls, and be under direct supervision to the extent required by state law.
- B. An individual operating a street-legal ATV upon a roadway shall possess a valid driver's license and shall comply with Utah Code Section 41-6a-1509 and other applicable provisions of state law, as amended.
- C. Qualification as a street-legal ATV is not required for an ordinary OHV to operate upon a City street designated for general OHV use under Section 6-2-3, provided that the vehicle and operator otherwise comply with the requirements applicable to ordinary OHV operation under state law and this chapter.

6-2-34: STATE STATUTE REGULATIONS:

~~As provided by Utah Code Annotated 1953 section 41-22-10.5~~ Pursuant to Utah Code Section 41-22-10.5, as amended:

A. ~~As amended,~~ All public streets and highways under the jurisdiction of Elk Ridge City in the city are hereby designated as **open for general off-highway vehicle OHV use** for the specific purpose of allowing off highway vehicle operators to gain direct access to or from a private or public area open for off highway vehicle use.

B. ~~A person may operate an off highway vehicle on any public street for any purpose including gaining direct access to or from a private or public area open for off highway vehicle use.~~ An ordinary OHV may be operated upon a City street for any lawful purpose, including transportation, recreational travel, access to a residence or other private property, access to public lands, or access to trails or other areas lawfully open to OHV use, Ordinary OHV operation upon City streets is not limited solely to direct access to or from an OHV recreation area.

C. ~~Subsection B of this section does not apply to off highway implements of husbandry used in accordance with section 6-2-11 of this chapter. (Ord. 08-16, 11-25-2008, eff. 12-31-2008).~~ An ordinary OHV need not qualify as a street-legal ATV solely because it is operated upon a City street designated under this section, provided that the vehicle and operator comply with all requirements applicable to ordinary OHV operation under Utah law.

D. A street-legal ATV meeting the requirements of Utah Code Section 41-6a-1509, as amended, may operate upon City streets as authorized by Utah law. This authorization is separate and independent from the City's designation of City streets for general OHV use.

E. The designation in this section applies only to streets and highways over which Elk Ridge City possesses authority to make the designation. Nothing in this section designates an interstate freeway, a state or federal highway not under City jurisdiction, a private road, a sidewalk, a park, a trail, or other property that the City lacks authority to designate for general OHV use.

F. References to Utah Code in this chapter include subsequent amendments and renumbering unless the context clearly requires otherwise. Where state law establishes a more specific requirement applicable to a particular vehicle or operator, the state requirement shall govern.

G. The City may temporarily close a City street or portion thereof to ordinary OHV use when reasonably necessary due to construction, road maintenance, emergency conditions, fire or wildfire conditions, public safety hazard, or another temporary condition making ordinary OHV operation unsafe or impracticable. A temporary closure shall be appropriately posted or otherwise communicated when reasonably practicable.

H. Nothing in Subsection G authorizes the City to prohibit or restrict street-legal ATV operation where such restriction is prohibited by state law.

6-2-45: AGE LIMITATIONS UNDER SIXTEEN YEARS:

~~Persons eight (8) through fifteen (15)~~ A person under sixteen (16) years of age shall not operate operating an ordinary OHV off highway vehicle upon a City street designated under Section 6-2-3 shall be on any public street unless the person is under the direct visual supervision; as defined in Utah code section 41-22-30 which means oversight at a distance of not more than three hundred feet (300'), within which visual contact is maintained; and advice and assistance can be given and maintained of an adult at least eighteen (18) years of age. (Ord. 08-16, 11-25-2008, eff. 12-31-2008) Nothing in this section reduces any additional supervision, safety certificate, or operator requirement imposed by state law.

6-2-56: PERMISSIONS AND LIMITATIONS:

A. A person may not operate and an owner, parent, guardian, or other person may not knowingly give that person permission to operate an off highway vehicle OHV or street-legal ATV on any public street unless the person: 1) is under the direct supervision of a certified off highway vehicle safety instructor during a scheduled training course; 2) has in his- their possession the appropriate safety certificate issued by the Utah division of parks and recreation; or 3) has in his their immediate possession a valid motor vehicle operators license issued pursuant to the Utah uniform driver license act.

B. Violation of subsection A of this section is an infraction for which the punishment shall be a fine of not more than fifty dollars (\$50.00) per offense.

C. It is a defense to a charge under subsection A of this section, if the person charged produces in court a license or appropriate safety certificate that was: 1) valid at the time of citation or arrest, and 2) issued to the person operating the off-highway vehicle OHV or street-legal ATV.

D. Operators under the age of sixteen (16) must obtain permission only from their parents or legal guardians. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

E. Designation of City streets for general OHV use does not independently designate sidewalks, pedestrian paths, landscaped areas, parks, trails, open space, or other City property for motorized use. OHVs may operate upon City trails, parks, open space, or other City property only where such use is expressly designated or otherwise authorized by the City and is permitted by applicable state law.

F. Nothing in this section prohibits the lawful crossing of a sidewalk or similar area at a driveway or other lawful access point when reasonably necessary to enter or leave a property.

6-2-67: STANDARDS:

~~A. A person may not operate an off highway vehicle in the city unless the vehicle is equipped with: 1) brakes adequate to control the movement of and stop and hold the vehicle under normal operating conditions; 2) headlights and taillights when operated between sunset and sunrise; and 3) a noise control device and, except for a snowmobile, a spark arrestor device.~~ An ordinary OHV operated upon a City street shall comply with the equipment requirements established by Utah Code Title 41, Chapter 22, including Utah Code Section 41-22-10.7, and applicable administrative rules, as amended.

~~B. The standards for equipment required in subsection A of this section shall be the standards established by the Utah board of parks and recreation pursuant to Utah Code Annotated 1953 section 41-22-10.7(2), as amended.~~

~~C.~~ B. Nothing in this section shall authorize a person to operate an off highway vehicle in violation of any other ordinance limiting noise levels or prohibiting disturbing the peace.

~~D.~~ C. An off-highway implement of husbandry used only in agricultural operations and not operated on a public street is exempt from the provisions of subsections A and B of this section shall be subject to the requirements and exemptions established by Utah Code Section 41-22-5.5 and other applicable state law, as amended.

~~E. D. Any all-terrain vehicle that is street legal as defined in the Utah code section 41-6a-1509; may be operated day or night and shall be equipped with the following:~~ A street-legal ATV shall satisfy the applicable equipment and operating requirements of Utah Code Section 41-6a-1509, as amended.

~~—1. One or more headlamps that meet the requirements of section 41-6a-1603;~~

~~—2. One or more taillamps;~~

~~—3. A taillamp or other lamp constructed and placed to illuminate the registration plate with a white light;~~

~~—4. One or more red reflectors on the rear;~~

~~—5. One or more stop lamps on the rear;~~

~~—6. Amber electric turn signals, one on each side of the front and the rear;~~

- ~~—7. A braking system, other than a parking brake, that meets the requirements of section 41-6a-1623;~~
- ~~—8. A horn or other warning device that meets the requirements of section 41-6a-1625;~~
- ~~—9. A muffler and emission control system that meets the requirements of section 41-6a-1626;~~
- ~~—10. Rearview mirrors on the right and left side of the driver in accordance with section 41-6a-1627;~~
- ~~—11. A windshield, unless the operator wears eye protection while operating the vehicle;~~
- ~~—12. A speedometer, illuminated for nighttime operation;~~
- ~~—13. For vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger; and~~
- ~~—14. For vehicles with side by side seating, seatbelts for each vehicle occupant. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)~~

6-2-78: HELMET LAW:

A. ~~A person under the age of eighteen (18) years may not operate or ride on all-terrain type-l vehicles, snowmobiles, or motorcycles on any public street unless the person is wearing a properly fitted and fastened United States department of transportation safety rated protective headgear designed for motorized vehicle use.~~ Operators and passengers shall wear protective headgear whenever required by Utah Code Section 41-22-10.8 and other applicable state law, as amended. Protective headgear required under this section shall satisfy applicable state standards.

B. The owner of an ~~off-highway vehicle~~ OHV or any other ~~parent, guardian, or~~ person may not knowingly give permission to a ~~minor person who is under eighteen (18) years of age~~ to operate or ride on an ~~off-highway vehicle~~ OHV in violation of subsection A of this section.

C. An operator and passengers of off highway implements of husbandry operated in the manner prescribed in section 6-2-11 of this chapter are exempt from the requirements of this section.

D. Violation of this section is an infraction for which the punishment shall be a fine of not more than fifty dollars (\$50.00) per offense. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

6-2-89: VEHICLE REGISTRATION:

Unless exempted by state law, a person may not operate, and an owner may not give another person permission to operate any ~~off-highway vehicle~~ OHV unless the ~~off-highway vehicle~~ OHV has been registered as required by state law and the decals provided by state law are properly displayed on the vehicle. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

A street-legal ATV shall satisfy all applicable state registration, license plate, driver licensing insurance, and related requirements, including the requirements of Utah Code Section 41-6a-1509, as amended.

6-2-~~9~~10: SPEED LIMITS:

When operating an ~~off-highway vehicle~~ OHV on a public street as permitted by this section, the operator shall obey all rules and regulations applicable to conventional motor vehicles using the public street as posted except that the speed limit for all ~~and all-terrain vehicles~~ OHVs must not exceed twenty (20) miles per hour. Any ~~all-terrain vehicle~~ OHV traveling more than twenty (20) miles per hour will be in violation of this provision and will be cited with a speed infraction consistent with and punishable according to the general motor vehicle rules. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

A street-legal ATV shall comply with the posted speed limit and the speed limitations established by Utah Code Section 41-6a-1509, as amended.

6-2-~~10~~11: PRIVATE PROPERTY:

A. No person shall operate or accompany a person operating an ~~off-highway vehicle~~ OHV upon privately owned land of any other person, firm, or corporation without permission from the owner or person in charge.

B. It is unlawful for any person operating or accompanying a person operating an ~~off-highway vehicle~~ OHV to refuse to immediately leave private land upon request of the owner or person in charge of such land.

C. Subsections A and B of this section shall not apply to prescriptive easements on privately owned land.

D. No person operating or accompanying a person operating an ~~off-highway vehicle~~ OHV shall obstruct any entrance to or exit from private property without the property owner's permission. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

6-2-~~11~~12: HUSBANDRY EQUIPMENT:

A person may operate an off-highway implement of husbandry adjacent to the roadway on a public street as provided by state law. If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care toward conventional motor vehicle traffic. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)

6-2-~~12~~13: PENALTIES:

~~Unless another penalty is provided for violation of a specific section of this chapter, any person who violates any provision of this chapter is guilty of a class C misdemeanor and may be punished by a fine of not to exceed seven hundred fifty dollars (\$750.00), or by imprisonment for a term not to exceed ninety (90) days, or by both such fine and imprisonment. (Ord. 08-16, 11-25-2008, eff. 12-31-2008)~~

A violation of this chapter may be enforced in accordance with Elk Ridge City Code and applicable state law. Where state law establishes a specific offense classification, fine, or other penalty for the underlying conduct, the applicable state-law provision shall govern. Unless a different classification is provided by state law or another applicable provision of City Code, a violation of a City-specific provision of this chapter shall constitute an infraction and shall be punishable as provided by Utah law. Each separate violation may constitute a separate offense.