

ORDINANCE NO. 844

An Ordinance creating Title 7, Chapter 6 entitled "Off-Highway Vehicles" and establishing rules for operation of off-highway vehicles within the municipal boundaries of the City of Elko, established routes for ingress and egress from the City of Elko to public and private lands where off-highway vehicle use is authorized, and establishing the penalties for violations.

WHEREAS, NRS 490.100 provides that the City may designate any portion of a highway within its municipal boundaries as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles.; and

WHEREAS, the City wishes to encourage tourism and use of the outdoor spaces within and in the vicinity of the City and recognizes that visitors to the Elko area routinely lodge in its hotels; and

WHEREAS, encouraging tourism by outdoor enthusiasts, including those accessing public lands with off-highway vehicles, will increase room stays and restaurant usage, and generally enhance the local economy.

Section 1: Title 7, Chapter 6 is hereby added to read as follows:

Chapter 6

USE OF ~~RECREATIONAL~~ OFF-HIGHWAY VEHICLES

~~7-6-1: PURPOSE AND INTENT:~~

~~7-6-2: DEFINITION:~~

~~7-6-3: OPERATION:~~

~~7-6-4: EXCEPTIONS:~~

~~7-6-5: PENALTY:~~

~~**7-6-1: PURPOSE AND INTENT:**~~

~~The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on publicly owned land. "Public land" is all land owned in fee by a political subdivision of the state within the city limits and under the jurisdiction of the city, excluding therefrom public streets and alleys. This chapter is not intended to allow what state law prohibits nor to prohibit what state law expressly allows. It is intended to prevent a public nuisance. (Ord. 486, 6-10-1997)~~

~~**7-6-2: DEFINITION:**~~

~~"Recreational motor vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including a trail bike or other all terrain vehicle, or motor vehicle licensed for highway operation which is being used for off road recreational purposes. (Ord. 486, 6-10-1997)~~

~~**7-6-3: OPERATION:**~~

No person shall:

- A. Operate a recreational motor vehicle on public streets or alleys carelessly or recklessly in disregard of the rights or the safety of others or in any manner which endangers or is likely to endanger a person or property.
- B. Operate a recreational motor vehicle on public land within three hundred feet (300') of any inhabited residential, commercial or industrial structure, except in those areas designated in section 7-6-4 of this chapter.
- C. Alter, mutilate or remove any notice or sign relating to recreational motor vehicles on property in which he has no legal interest. (Ord. 486, 6-10-1997)

7-6-4: EXCEPTIONS:

Notwithstanding the foregoing restrictions, a recreational motor vehicle may be operated on public lands under the jurisdiction of the city if any of the following exceptions apply:

- A. Recreational motor vehicles may be operated by governmental entities for official use.
- B. Recreational motor vehicles may be operated on public land owned by the city in any area officially designated by the city council for use of recreational motor vehicles. If any area is so designated, it shall be depicted on a city map to be kept on file in the office of the city clerk. A copy of the map, together with any applicable rules and regulations governing the use of recreational motor vehicles, shall be provided to any person requesting the information. (Ord. 486, 6-10-1997)

7-6-5: PENALTY:

Any person convicted of violating any provisions of this chapter shall be penalized in accordance with the provisions of title 1, chapter 3 of this code. (Ord. 486, 6-10-1997)

7-6-1 DEFINITIONS

7-6-2 OPERATOR REQUIREMENTS

7-6-3 ADDITIONAL RESTRICTIONS REGARDING DRIVING OR OPERATING OFF-HIGHWAY VEHICLES

7-6-4 GENERAL RULES AND REGULATIONS

7-6-5 DESIGNATED OFF-HIGHWAY VEHICLE ROUTES

7-6-6 ENFORCEMENT

7-6-7 TOWING AND STORAGE OF OFF-HIGHWAY VEHICLES

7-6-1: DEFINITIONS:

The following words, terms, and phrases, and their derivations, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates different meaning:

HIGHWAY: The entire width between the boundary lines of every way maintained by a public authority when any part of such way is open to the use of the public for purposes of vehicular traffic.

LARGE ALL-TERRAIN VEHICLE: Any all-terrain vehicle that includes seating capacity for at least two people abreast and either:

1. At least two additional back seats such that there is a total seating capacity for at least four people; or
2. A truck bed located behind the two front seats.

OFF HIGHWAY VEHICLE: A motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle, including, without limitation, a large all-terrain vehicle without regard to whether that large all-terrain vehicle is registered by the Department of Motor Vehicles in accordance with NRS 490.0825 as a motor vehicle intended to be operated upon the highways of this State;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; and

(e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) A motor vehicle that is registered by the Department of Motor Vehicles in accordance with Chapter 482 of NRS;

(c) A low-speed vehicle as defined in NRS 484B.637; or

(d) Special mobile equipment, as defined in NRS 482.123.

TOW: To transport an off-highway vehicle to a storage facility using a truck or other vehicle suitable for such purpose.

TRAIL: An unpaved path or track across unimproved land that is authorized for use by off-highway vehicles.

TRAIL CONNECTOR: A route not more than 2 miles in length and designated by resolution that permits off-highway vehicles to travel to and from one or more trails.

7-6-2 OPERATOR REQUIREMENTS:

A. Except as otherwise provided in this Chapter or under State law, a person may operate an off-highway vehicle on a highway that is designated as an off-highway vehicle route by resolution of the City Council for the purpose of reaching a private or public area that is open for use by off-highway vehicles.

B. No person under the age of sixteen (16) shall operate an off-highway vehicle on any highway.

C. No person shall operate an off-highway vehicle on any highway unless:

1. The person possesses a valid motor vehicle operator's license in compliance with State law;

2. The person possesses evidence of liability insurance coverage for the off-highway vehicle to the extent such insurance coverage and evidence of coverage are required by NRS Chapter 490;

3. A certificate of registration is attached to the off-highway vehicle; provided, a certificate of registration is not required for an off-highway vehicle which:

a. Is owned and operated by:

(1) A federal agency;

(2) An agency of this state; or

(3) A county, incorporated city or unincorporated town in this state;

b. Is part of the inventory of a dealer of off highway vehicles;

c. Is registered or certified in another state and is located in this state for not more than ninety (90) days;

d. Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

e. Is used for work conducted by or at the direction of a public or private utility.

D. No person shall operate an off-highway vehicle on a highway for a distance of more than two (2) miles.

E. Except as otherwise provided in subsection E.2 and in addition to the requirements set forth in NRS 490.070, a person shall not operate an off-highway vehicle on a highway unless the off-highway vehicle has:

1. At least one headlamp that illuminates objects at least 500 feet ahead of the vehicle;

2. At least one tail lamp that is visible from at least 500 feet behind the vehicle;

3. At least one red reflector on the rear of the vehicle, unless the tail lamp is red and reflective;

4. A stop lamp on the rear of the vehicle; and

5. A muffler which is in working order and which is in constant operation when the vehicle is running.

F. A person shall not, except as otherwise provided in this Subsection F, operate an off-highway vehicle on a highway that is not otherwise designated for use by off-highway vehicles. A person may operate an off-highway vehicle on a highway that is not otherwise designated for use by off-highway vehicles:

1. If the off-highway vehicle is operated on the highway for the purpose of crossing the highway, comes to a complete stop before crossing and crosses as close as practicable to perpendicular to the direction of travel on the highway;

2. If the off-highway vehicle is operated on the highway for the purpose of loading or unloading the off-highway vehicle onto or off of another vehicle or trailer, if the loading or unloading is as close as practicable to the place of operation of the off-highway vehicle; or
3. During an emergency if it is impossible or impracticable to use another vehicle or if a peace officer directs the operation of the off-highway vehicle.
4. If the off-highway vehicle is operated on a portion of highway that is designated as a trail connector for a trail authorized for use by off-highway vehicles for not more than 2 miles.

7-6-3 ADDITIONAL RESTRICTIONS REGARDING DRIVING OR OPERATING OFF-HIGHWAY VEHICLES:

- A. No person who is sixteen (16) years of age or older who owns or possesses an off-highway vehicle may give another person who is under sixteen (16) years of age permission to operate the off-highway vehicle on any highway without regard to whether the highway is designated as an off-highway vehicle route.
- B. The operator and each occupant of an off-highway vehicle that is being driven on a highway shall wear a helmet.
- C. The operator of an off-highway vehicle shall comply with the Elko Traffic Code (Title 7, Chapter 2).

7-6-4 GENERAL RULES AND REGULATIONS:

- A. No person shall leave or allow any off-highway vehicle to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
- B. It shall be unlawful for any person operating an off-highway vehicle to make, permit, continue or cause to be made or to create any unreasonably loud, disturbing and unnecessary noise that is audible to a person with ordinary hearing within three hundred feet (300) of any district zoned residential.

7-6-5 DESIGNATED OFF-HIGHWAY VEHICLE ROUTES:

- A. Off-highway vehicles shall only be used and operated on highways and trails that are designated as off-highway vehicle routes or trail connectors by resolution of the City Council.
- B. The City may post signs establishing designated crossing routes over streets, roads and highways whether or not designated as off-highway vehicle routes.
- C. No person shall operate an off-highway vehicle on a sidewalk.

7-6-6 ENFORCEMENT:

- A. A violation of this Chapter shall constitute a criminal offense. Any person violating any provision of this Chapter shall, upon conviction therefor, be punished as provided in Title 1, Chapter 3 of this Code.

B. Conviction of three (3) violations of this Chapter by an owner or operator of an off-highway vehicle within a three (3) year period shall constitute prima facie evidence of a nuisance and the Court may make such orders as it deems necessary to abate such nuisance, including, without limitation, an order prohibiting the owner or operator from operating or permitting others to operate an off-highway vehicle on highways within the City.

C. The responsibility for compliance with the provisions of this Chapter shall rest with:

(1) the operator of the off-highway vehicle, and

(2) the owner of the off-highway vehicle who contributes to a violation, or who enables or induces an operator to commit a violation, in which event the operator and owner may be jointly or severally prosecuted for the violation.

D. It shall not be a defense to an alleged violation of this Chapter that the owner or operator of the off-highway vehicle is a minor.

E. A parent or guardian who fails to properly supervise a minor and thereby permits the minor to violate this Chapter may be held liable for the violation committed by the minor.

7-6-7 TOWING AND STORAGE OF OFF-HIGHWAY VEHICLES:

A. Off-highway vehicles may be towed and stored by the City subject to this Section.

B. The City may tow an off-highway vehicle under the following circumstances:

(1) The off-highway vehicle is subject to towing pursuant to Section 7-2-19 of this Code.

(2) The off-highway vehicle constitutes a nuisance pursuant to Title 5, Chapter 1 of this Code, subject to the provisions of that Chapter.

(3) The City is authorized to tow the off-highway vehicle pursuant to state law, subject to all applicable statutory requirements.

C. Off-highway vehicles towed pursuant to this Section shall be stored in a safe place and shall be restored to the owner or operator of such vehicle upon payment of a fee as set by resolution of the City Council, within twenty four (24) hours after the time such off-highway vehicle was removed, plus a fee as set by resolution of the City Council for each additional twenty-four (24) hours or fraction thereof, plus all costs incurred for towing and storing such off-highway vehicle.

D. No off-highway vehicle shall remain parked at the same location within a public right-of-way for more than twenty-four (24) consecutive hours.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict

Section 3: If any section, paragraph, clause or provision of this ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, the invalidity, unenforceability or provision shall not affect any remaining provisions of this ordinance.

Section 4: Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilmember voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

Section 5: This Ordinance shall be effective upon the publication mentioned in Section 4 (November 1, 2019) **PASSED AND ADOPTED** this 8th day of October, 2019 by the following vote of the Elko City Council.

VOTES

AYES: Mayor Reece Keener, Councilman Robert Schmittlein, Councilman Chip Stone, Councilwoman Mandy Simons, Councilman Bill Hance

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED this 8th day of October, 2019.

CITY OF ELKO

BY:



REECE KEENER, Mayor

ATTEST:


KELLY WOOLDRIDGE, City Clerk