

ORDINANCE NO. 236

AN ORDINANCE AUTHORIZING THE OPERATION OF CLASS I AND CLASS IV ALL-TERRAIN VEHICLES ON CERTAIN STREETS LOCATED WITHIN THE BOUNDARIES OF THE CITY OF DETROIT, OREGON.

WHEREAS, THE City of Detroit (the "City") desires to adopt an ordinance authorizing the operation of all-terrain vehicles on certain streets located within the boundaries of the City; and

WHEREAS, the City has determined that it is necessary to impose certain restrictions on the operation of all-terrain vehicles on such streets in order to protect the interest and safety of the general public.

NOW, THEREFORE, THE CITY OF DETROIT ORDAINS AS FOLLOWS:

1. Incorporation. The above-stated findings are hereby adopted.
2. Short Title. This Ordinance No. 236 (this "Ordinance") may be referred to and cited as the "ATV Ordinance".
3. Definitions. As used in this Ordinance, the following capitalized terms have the meanings assigned to them below:

"All-Terrain Vehicle(s)" and "ATV(s)" mean Class I All-Terrain Vehicles, and/or Class IV All-Terrain Vehicles.

"ATV Operator Permit" has the meaning given that term under OAR 736-004-0015(10). OAR 736-004-0015(10) defines an ATV Operator Permit as the ATV Safety Education Card issued upon completion of an Oregon Parks and Recreation Department-approved ATV Safety Education course and passage of the minimum standards test of ATV Safety Education competency as established by the Oregon Parks and Recreation Department.

"Class I All-Terrain Vehicle(s)" has the meaning given that term under ORS 801.190. ORS 801.190 defines a Class I All-Terrain Vehicle as a motorized, off-highway recreational vehicle that (a) is 50 inches or less in width, (b) has a dry weight of 1,200 pounds or less, (c) travels on three or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (d) uses handlebars for steering, (e) has a seat designed to be straddled for the operator, and (f) is designed for a capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain. Class I All-Terrain Vehicles may also be known as quads, three-wheelers, or four-wheelers.

"Class IV All-Terrain Vehicle(s)" has the meaning given that term under ORS 801.194(2). ORS 801.194(2) defines a Class IV All-Terrain Vehicle as any motorized vehicle that (a) travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (b) is designed for or capable of cross-country

travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, (c) has non-straddle seating, (d) has a steering wheel for steering control, (e) has a dry weight of 1,800 pounds or less, and (f) is 65 inches wide or less at its widest point. Class IV All-Terrain Vehicles may also be known as Side-by-sides.

“Driver License” has the meaning given that term under ORS 801.245.

“Motorcycle Helmet” has the meaning given that term under ORS 801.366. ORS 801.366 defines a Motorcycle Helmet as a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell and a chin-strap type retention system with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation.

“Traffic Law(s)” means any and all Oregon statutes and regulations relating in any way to the operation or use of motorized vehicles, including, without limitation, the Oregon Vehicle Code (ORS Chapters 801 to 826) and any regulations promulgated thereunder.

“Street(s)” means all highways, roads, streets, and alleys, other than State of Oregon highways and two-lane gravel roads, within the boundaries of the City that are open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

4. Operation of All-Terrain Vehicles on Streets Authorized. Subject to the provisions of this Ordinance, ATVs may be operated on Streets subject to the conditions and restrictions set forth under ORS 821.200. All-Terrain Vehicles are prohibited from operating under this Ordinance on any State of Oregon highway within the boundaries of the City, including, without limitation, Highway 22, except that a person may, while operating an ATV, cross a State of Oregon highway to the extent permitted under applicable Oregon law, including, without limitation, ORS 821.200(1), for which a copy thereof is attached and incorporated.
5. Regulations for Operation of All-Terrain Vehicles. All-Terrain Vehicles operated under this Ordinance must be operated in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including, without limitation, all applicable Traffic Law requirements (including, without limitation, ORS 811.255) and all posted speed limits, and in a manner comporting with the public health, safety, and general welfare.
6. All-Terrain Vehicle Operator Permit Required. A person operating an ATV under this Ordinance must be 16 years of age or older and hold a valid Driver License, and a valid ATV Safety Education Card.
7. Safety Equipment Requirements. All-Terrain Vehicles operated under this Ordinance must be equipped with the safety equipment required under all applicable Traffic Laws, including without limitation, ORS 821.030, ORS 821.040, ORS 821.220, ORS 821.230, and OAR 735-116-000.
8. Helmet Requirement. Any person operating or riding as passenger must wear a Motorcycle Helmet with a fastened chin strap while on an ATV operated under this Ordinance.

9. Safety Belt Requirement. A person must be properly secured with a safety belt or safety harness while operating or riding as a passenger on an ATV operated under this Ordinance if such ATV was required to be equipped with safety belts or safety harnesses at the time the ATV was manufactured or safety belts or safety harnesses have been installed on the ATV.
10. Speed Limits. All-Terrain Vehicles operated under this Ordinance may not be operated (a) at a rate of speed greater than 20 MPH on city streets, or (b) in a negligent manner so as to endanger or cause injury, death, and/or damage to the operator or person or property of another.
11. Prohibition on Operating All-Terrain Vehicles While Driving Privileges Suspended. A person may not operate an ATV under this Ordinance while the person's driving privileges (i.e., Driver License) are suspended or revoked.
12. Financial Requirements. All-Terrain Vehicles operated under this Ordinance must meet the financial responsibility requirements under ORS 806.060. For purpose of this Section 13, "financial responsibility requirements" means the ability to respond in damages for liability, on account of accidents arising out of the ownership, operation, maintenance, and/or use of an ATV, in a manner provided under ORS 806.060.
13. Posting. The City will post signs giving notice that the operation of ATVs is permitted upon Streets under the provisions of this Ordinance. The City will post such signs at locations necessary to inform the public that ATVs are permitted upon Streets, which sign locations will be determined by the City in its sole discretion.
14. Liability. The operation of an ATV will be undertaken at the sole risk and responsibility of the owner and/or operator. The City, by passing this Ordinance, assumes no responsibility for the operation of such ATVs and will be held harmless in any action arising from the operation of such ATVs on or off any public way within the City, including, without limitation, Streets.
15. Penalties. Violation of, or failure to comply with any provisions of this Ordinance, including without limitation the operation of an ATV where such ATV is prohibited, or failure to comply with the city's Nuisance Ordinance No. 213 Section 15, is punishable by a fine not to exceed \$250.00 per day/per violation. Each violation of this Ordinance will constitute a separate offense. The penalties imposed by this Section 16 are not exclusive and are in addition to any other remedies, civil or criminal, available to the City under applicable law.

16. Miscellaneous. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include", "includes", and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable,

and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

17. Effective Date. This Ordinance will become effective 30 days after its passage by the City Council.

First read before the City Council of the City of Detroit on April 14, 2015.

Second reading by title before the City Council of the City of Detroit on May 12, 2015.


Passed by the Common Council of the City of Detroit, Oregon, this 12th day of May, 2015.

Ayes 7 Nays 0 Absent 0

Signed:


Sharyl Flanders, Mayor

Attest:


Christine Pavoni, City Recorder

Approved as to form:


Wallace W. Lien, City Attorney

§ 821.200¹

Exemptions from general prohibition on operating on highway or railroad

This section establishes exemptions from the limitations placed on the use of snowmobiles and all-terrain vehicles under ORS 821.190 (Unlawful operation of snowmobile or all-terrain vehicle on highway or railroad). The prohibitions and penalties under ORS 821.190 (Unlawful operation of snowmobile or all-terrain vehicle on highway or railroad) do not apply when a snowmobile or all-terrain vehicle that qualifies for the exemption from equipment requirements under ORS 821.010 (Exemptions from equipment requirements for off-road vehicles) is being operated as described under any of the following:

- (1) A person may lawfully cross a highway or railroad right of way while operating a snowmobile or all-terrain vehicle if the person complies with all of the following:
 - (a) The crossing must be made at an angle of approximately 90 degrees to the direction of the highway or railroad right of way.
 - (b) The crossing must be made at a place where no obstruction prevents a quick and safe crossing.
 - (c) The vehicle must be brought to a complete stop before entering the highway or railroad right of way.
 - (d) The operator of the vehicle must yield the right of way to vehicles using the highway or equipment using the railroad tracks.
 - (e) The crossing of a railroad right of way must be made at an established public railroad crossing.
 - (f) The crossing of a highway must be made at a place that is more than 100 feet from any highway intersection.
 - (g) If the operator of a snowmobile is under 12 years of age, a person who is 18 years of age or older must accompany the operator either as a passenger or as the operator of another snowmobile that is in proximity to the younger operator.
- (2) A snowmobile or all-terrain vehicle may be lawfully operated upon a highway under any of the following circumstances:
 - (a)

Where the highway is completely covered with snow or ice and has been closed to motor vehicle traffic during winter months.

- (b) For purposes of loading or unloading when such operation is performed with safety and without causing a hazard to vehicular traffic approaching from either direction on the highway.
 - (c) Where the highway is posted to permit snowmobiles or all-terrain vehicles.
 - (d) In an emergency during the period of time when and at locations where snow upon the highway renders travel by automobile impractical.
 - (e) When traveling along a designated snowmobile or all-terrain vehicle trail.
- (3) It shall be lawful to operate a snowmobile or all-terrain vehicle upon a railroad right of way under any of the following circumstances:
- (a) Where the right of way is posted to permit the operation.
 - (b) In an emergency.
 - (c) When the snowmobile or all-terrain vehicle is operated by an officer or employee or authorized contractor or agent of a railroad. [1983 c.338 §727; 1985 c.72 §3; 1985 c.459 §29; 1989 c.991 §13; 1999 c.372 §2; 1999 c.565 §5; 2007 c.887 §3]