

ORDINANCE NO. 681

AN ORDINANCE, AS ORDINANCE NO. 634 HAS BEEN RESCINDED, AMENDING OMC CHAPTER 10.28 AND SETTING FORTH THE OPERATION OF OFF-ROAD VEHICLES WITHIN THE CORPORATE TOWN LIMITS OF THE TOWN OF ODESSA, LINCOLN COUNTY, STATE OF WASHINGTON ON, AND PROHIBITING CERTAIN CONDUCT THEREON, AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, Ordinance No. 634 has been rescinded, per Section 13, Sunset Clause in ordinance No. 634; and

WHEREAS, The Odessa Town Council wishes to again set forth the operation of off-road vehicles within the corporate Town Limits of the Town of Odessa, while also prohibiting certain conduct thereon, and providing penalties for violations; and

WHEREAS, the Revised Code of Washington State (RCW) 46.09.360 authorizes the legislative body of a city with a population of less than three thousand persons, by ordinance, to designate a street or highway within its boundaries to be suitable for use by off-road vehicles; and

WHEREAS, Washington State House Bill 2617, allowing local jurisdictions to allow off-road vehicles to operate on designated city or county roads was effective June 7, 2006; and

WHEREAS, Washington State House Bill 2617, authorizes the legislative body of a county, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of less than three thousand persons and an off-road vehicle recreation facility.; and

WHEREAS, Washington State House Bill 2617, allows a local jurisdiction or state agency to regulate the operation of off-road vehicles on land and roads within its jurisdiction, provided such regulations are not less stringent than state statute; and

WHEREAS, the Town of Odessa Town Council held a public meeting on March 13, 2017 to provide information and receive questions and comments regarding street designation for off-road vehicle use within the corporate Town limits; and

WHEREAS, the Town of Odessa Town Council continues to strive for the economic benefit of the Town;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ODESSA, LINCOLN COUNTY, WASHINGTON, AS FOLLOWS, TO WIT:

Section 1. Definitions.

In construing the provisions of this Ordinance, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

“**Designated Street**” means those streets selected by the Town of Odessa Town Council for ORV travel.

“Highway roads” means the entire width between the boundary lines of every roadway publicly maintained when any part thereof is open to the use of the public for the purpose of vehicular travel.

“Nonhighway Roads” means roads that are owned or managed by a public agency who has granted an easement for public use, and that do not receive funds from the Motor Vehicle Account.

“Nonhighway vehicle” means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Nonhighway vehicles do not include (a) any vehicle designed primarily for travel on, over, or in the water; (b) snowmobiles or any military vehicles; (c) any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

“Off-Road Vehicle” or **“ORV”** means any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

“Operator” means each person who operates, or is in physical control of, any non-highway vehicle.

“ORV recreational facility” include, but are not limited to, ORV trails, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

“ORV use permit” means a permit issued for operation of an off-road vehicle.

“Owner” means the person other than the lien holder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

“Person” means any individual, firm, partnership, association, or corporation.

“RCW” means Revised Code of Washington.

Section 2. ORV Use Permit

No person shall operate any off-road vehicle within the corporate limits of the Town of Odessa without a use permit decal, issued by the Department of Licensing and displays a current ORV tag in accordance with current Washington State RCWs.

ORV Use Permits and ORV Tags shall be required under the provisions of this chapter, except for the following exemptions:

- a. ORVs owned and operated by the United States, another state, or political subdivision thereof;
- b. ORVs owned and operated by this state, or by any municipality or political subdivision thereof;

- c. ORVs owned by a resident of another state, which have a valid ORV permit or license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state.
- d. ORVs being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

Section 3. Use for the good of the Community

The use of ORV's shall be permitted on town sidewalks for plowing snow or other approved operations as designated by the public works director. ORV's are allowed to plow snow in front of the owner's residences, or business, as well as other persons' residences, or business, upon request. At no time, shall an owner of an ORV charge for such service or hire out for commercial snow plowing or other work involving the use of an ORV, on any public property or public property under the control of a private property owner.

Section 4. Operation of ORV

It shall be unlawful for a person to operate an ORV:

- A. In such a manner, as to endanger the property of another, or at a rate of speed greater than twenty-five (25) miles per hour, or the posted speed limit, whichever is lower.
- B. In violation of the rules of the road which apply to motor vehicles.
- C. On lands not owned by the operator or owner of the nonhighway vehicle, without a lighted headlight and taillight from one-half hour after sunset to one-half hour before sunrise, or when otherwise required for the safety of others, regardless of ownership.
- D. On lands not owned by the operator or owner of the nonhighway vehicle without adequate braking device, to include brake light, or when otherwise required for the safety of others, regardless of ownership.
- E. Without a spark arrester approved by the Department of Natural Resources.
- F. Without a muffler and other equipment that complies with RCW 46.09.120.
- G. On lands not owned by the operator or owner of the nonhighway vehicle in any area, or in such a manner, as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage or destroy trees, growing crops or other vegetation.
- H. To operate a nonhighway vehicle abreast of another vehicle or in any other manner, except single file on the right-hand side of the roadway.
- I. While under the influence of intoxicating liquor and/or drug, which is a misdemeanor. (RCW 46.09.120(2))

J. Except for an ORV equipped with seat belts and roll bars or an enclosed passenger compartment, without wearing upon his or her head a motorcycle helmet fastened securely while in motion. "Motorcycle helmet" has the same meaning as provided in RCW 46.37.530.

K. In a manner that may endanger human or animal life or property.

L. In violation of any state or local laws.

M. Except it shall be lawful to operate an ORV on lands not owned by the operator or owner of the ORV with written authorization to do so from the property owner or their authorized agent.

Section 5. Rescinding, amendments and changes to the chapter

The town council and mayor hold the right to rescind or make amendments or changes to this chapter as deemed necessary at any time in the future.

Section 6. Towing

ORV operators shall abide by the manufacturer's guidelines or specifications when towing approved devices. It will be unlawful for any ORV to pull any sled, toboggan, trailer or any other device except by means of a rigid tow bar connecting the same to such device. No person shall be pulled in any fashion by an ORV.

Section 7. Age/License Requirement

No person under the age of sixteen (16) or without a valid driver's license shall operate an ORV within the corporate limits of the Town of Odessa.

Section 8. Trespassing

Nothing in this ordinance authorizes trespass on private property.

Section 9. Street Designation and hours of operation

A. All streets within the corporate limits of the Town of Odessa are open for use by ORV's as defined in this chapter.

B. No ORV shall be operated in the Town of Odessa between sunset and sunrise, unless special circumstances warrant their use, as approved by the Town of Odessa.

Section 10. Civil Liabilities

In addition to the penalties provided in this chapter, the owner and/or operator of any non-highway vehicle, traveling within the corporate limits of the Town of Odessa, shall be liable for any damage to property. The owner of such property may recover from the person(s) responsible the amount of damage.

Section 11. Accident Reports

The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person or persons, or property damage to another, must file an accident report with the Odessa Police Department immediately.

Section 12. Violation-Penalties

Any Person or persons violating the provisions of this chapter shall be found to have committed an infraction, and thereof shall be subject to the following penalties, plus those amounts a court is required to assess as costs, plus state assessments: one hundred dollars for the first offense within twelve months; one hundred fifty dollars for the second offense within twelve months; and two hundred dollars for the third and each subsequent offense within twelve months. as set forth in Chapter 1.06.

Section 13. Severability.

Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 14. Effective Date.

That this ordinance shall be effective five (5) days after its passage, approval and publication.

PASSED AND ADOPTED BY THE ODESSA TOWN COUNCIL THIS 13th DAY OF MARCH, 2017.

ATTEST:

Lois Hubbard, Mayor

Gail Kiesz, Clerk-Treasurer

