

City of St. Helens
ORDINANCE NO. 3XXX

AN ORDINANCE AUTHORIZING THE OPERATION OF CLASS IV ALL-TERRAIN VEHICLES ON STREETS LOCATED WITHIN THE CITY OF ST. HELENS, OREGON, AND PROVIDING A PENALTY FOR THE VIOLATION THEREOF

WHEREAS, the City of St. Helens desires to authorize Class IV All-Terrain Vehicles (ATVs), including side-by-side (SxS) vehicles, on designated city streets;

WHEREAS, the City of St. Helens Chater authorizes the City to have all powers which the constitutions, statutes, and common laws of the United States and of Oregon expressly or impliedly grant or allow the City, as fully as though this charter specifically enumerated each of those powers, which include the powers to manage the right-of-way;

WHEREAS, ORS 810.010(3) provides that the governing body of an incorporated city is the road authority for all highways, roads, streets and alleys, other than state highways, within the boundaries of the incorporated city;

WHEREAS, ORS 810.200(2)(c) establishes an exemption from the general prohibition on operating all-terrain vehicles on highways and provides that an all-terrain vehicle may be lawfully operated on a highway where posted to permit all-terrain vehicles;

WHEREAS, the City desires to establish a city ordinance to allow Class IV All-Terrain vehicles to operate on City streets in accordance with Oregon law, including to establish a bi-annual permit fee structure and clear regulations for safe and responsible Class IV ATV usage; and

WHEREAS, the St. Helens City Council has determined that it is necessary and proper public purpose to impose certain restrictions on the operation of all-terrain vehicles on such City streets for the purpose of protecting the interest and safety of the general public.

NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:

Section 1. Recitations. The above recitations are true and correct and are incorporated herein by this reference.

Section 2. Chapter 10.24 of the City of St. Helens Municipal Code is hereby added to be read as follows:

Chapter 10.24: Class IV All-Terrain Vehicles

10.24.010 Title

This chapter shall be known as the "Class IV All-Terrain Vehicles" for the City of St. Helens.

10.24.020 Purpose

The purpose of Chapter is to authorize the operation of Class IV All-Terrain Vehicles on City Streets, as defined, within the City of St. Helens subject to the terms, provisions, rights and responsibilities as set forth in this Chapter.

10.24.030 Definitions

For the purpose of this Chapter, the following definitions are hereby established:

- (1) *Class I All-Terrain Vehicles (Class I ATVs)*. As defined by ORS 801.190, 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 or 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.
- (2) *Class II All-Terrain Vehicles (Class II ATVs)*. As defined by ORS 801.193, any motor vehicle that (a) weighs more than or is wider than a Class I All-Terrain Vehicle, (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) is not a Class IV All-Terrain Vehicle, and (d) is street-legal, is registered under ORS 803.420, and has a roof or roll bar. Class II All-Terrain Vehicles may also be known as four-by-fours, pickups,) jeeps, sand rails, dune buggies, and SUV's.
- (3) *Class III All-Terrain Vehicle (Class III ATVs)*. As defined by ORS 801.194. Class III All-Terrain Vehicle, means a motorcycle that travels on two tires and that is actually being operated off highway. Class III All - Terrain Vehicles may also be known as off-road motorcycles.
- (4) *Class IV All-Terrain Vehicle (Class IV ATVs)*. As defined in ORS 801.194, 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, 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, or current manufacturing standards of width and weight from the factory. Class IV ATVs may also be known as side-by-sides (SXS).

(5) *Motorcycle Helmet.* As defined in ORS 801.366, a Motorcycle Helmet is 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.

(6) *Traffic Law(s).* 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 or administrative rules promulgated thereunder.

(7) *Street(s).* All roads, streets, and alleys, other than Highway 30 as located within the boundaries of the City of St. Helens that are open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

10.24.040 Class IV All-Terrain Vehicles on Streets Authorized With City Permit

(1) Subject to the provisions of this Chapter, Class IV ATVs may be operated on Streets subject to the conditions and restriction set forth under ORS 821.200, with a valid City of St. Helens Class IV ATV Operator Permit and as set forth in this Chapter.

(2) Class I, II, and III ATVs are prohibited from operating on the Streets in the City of St. Helens.

10.24.050 Regulations for Operation of Class IV All-Terrain Vehicles.

(1) **Compliance with all laws.** Class IV ATVs operating under this Chapter 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.

(2) **State of Oregon Permit issued under ORS 390.577 Required.** A person operating a Class IV All-Terrain Vehicle under this Chapter must hold a valid Class IV ATV Operator Permit issued under ORS 390.577 and an ATV Safety Education Card issued upon completion of an Oregon Parks and Recreation Departments 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 as set forth in OAR 736-004-0015(10).

(3) **Financial Responsibility Requirements.** All-terrain vehicles operated under this chapter must meet the financial responsibility requirements under ORS Chapter 806. For purposes of this section, Financial Responsibility Requirements means maintaining liability insurance that meets or exceeds the minimum financial responsibility requirements set forth in ORS 806.010 and ORS 806.070 and the ability to respond to 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. The exemption in 806.020 does not apply to this chapter.

(4) **Licensed Driver 18 Years or Older.** A person operating a Class IV ATV must be 18 years of age or older and hold a valid Driver License.

(5) Safety Equipment Requirements.

- i. All Class IV ATV's must be equipped with a rear facing mirror.
- ii. All Class IV ATV's operated shall be equipped with the safety equipment required under all applicable Traffic Laws, including, without limitation, ORS 821.030 and OAR 735-116-000.
- iii. Class IV ATV's must be equipped with brake lights as required in ORS 816.100.

(6) Personal Protection

- i. **Helmets:** All persons riding in a Class IV ATV must wear a Motorcycle Helmet with a fastened chin strap.
- ii. **Eye Protection:** Eye protection is required for operators or passengers in Class IV ATV without a windshield.

(7) Safety Belt Requirements. A person must be properly secured with a safety belt or safety harness while operating or riding as a passenger in an ATV in the same manner required in ORS 811.210. The exemption provided in ORS 811.215(2) **DOES OR DOES NOT** apply.

(8) Location of Operation.

- i. Class IV ATV's are prohibited from operating on Highway 30 except that a person may, while operating a Class IV ATV, cross the above highways to the extent permitted under applicable Oregon law, including, without limitation, ORS 821.200.
- ii. In addition to all requirements applicable under Oregon law, the crossing must be made at an angle of approximately 90 degrees to the direction of the highway or railroad right of way; the crossing must be made at a place where no obstruction prevents a quick and safe crossing; and the vehicle must be brought to a complete stop before entering the highway or railroad right of way.

(9) Hours of Operation.

- i. Class IV ATVs may be operated during daylight hours, which are one hour before sunrise to one hour after sunset.
- ii. Class IV ATVs may be operated during hours of darkness, which commence one hour after sunset through one hour before sunrise, and when limited visibility conditions exist, if equipped with lighting equipment required for a motor vehicle under ORS 816.320 (including but not limited to high and low beam headlights, taillights, turn signals, and brake lights). Class IV ATVs shall not be operated during hours of darkness if the vehicle does not comply with ORS 819.320.

(10) Speed Limits. Class IV ATVs operated under this Chapter must be operated in compliance with all posted speed limits and may not be operated (a) at a rate of speed greater than reasonable and proper under the existing conditions, 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 While Driving Privileges Suspended.** A person may not operate an ATV under this Chapter while the person's driving privileges (i.e., Driver License) are suspended or revoked.

(12) **Snowmobiles.** Nothing contained in this Chapter applies to the operation of snowmobiles as that term is defined by ORS 801.490.

10.24.060 City of St. Helens Class VI ATV Operator Permit Required

(1) No person shall operate a Class IV All-Terrain Vehicle in the City unless the person has been issued a City of St. Helens Class IV ATV Operator Permit.

(2) The amount of the Permit fee shall be set by City Council resolution.

10.24.070 Application and Issuance of City of St. Helens Class VI ATV Operator Permit

(1) A City of St. Helens Class IV ATV Operator Permit shall be for a 6-month term.

(2) Application for a Class VI ATV Operator Permit shall be made on a form approved by the City Administrator, signed by the Applicant, and shall include, but not be limited to the following information:

- i. Proof of a valid Oregon driver's license;
- ii. Proof of liability insurance as required by this Chapter;
- iii. Proof of the State of Oregon Class IV Operator Permit;
- iv. Proof of ownership;
- v. Payment of the Class VI Operator Permit Fee; and
- vi. Any other information determined to be required.

(3) The City shall issue the Permit when the application has been reviewed and approved by the City Administrator. Permits will be issued with a St. Helens Class IV ATV (SxS) Sticker which shall be affixed in a designated highly visible location on the vehicle.

(4) A Permit application may be denied under the following circumstances:

- i. The application is incomplete or contains false, fraudulent, or misleading statements;
- ii. The applicant does not have a valid Oregon drivers' license;
- iii. The applicant has not demonstrated that it has liability insurance as required;
- iv. The applicant does not otherwise meet the qualifications set forth in this Chapter.
- v. The applicant has had its Permit previously revoked.

(5) An applicant whose application is denied or a person whose license has been revoked or suspended may, within ten business days after the notice of the revocation is received by them, appeal said action to an Independent Hearings Officer designated by the City.

(6) The appeal shall be in writing and received by the City Recorder's office not later than the tenth business day after the notice is shown to have been received by the person and shall set out the following:

- i. The name and address of the appellant;
- ii. The determination being appealed;
- iii. The reason the determination is being appealed; and
- iv. What the correct determination should be and why.

(7) Failure to timely submit the appeal will lead to a waiver of the appeal rights and a summary dismissal of the appeal.

(8) The independent hearings officer shall review the appeal information provided, may request additional information from the City, and shall provide a response to the appeal in writing. Copies of the response shall be submitted to both the City and the person appealing. The independent hearing officer's decision is final.

10.24.080 Posting.

The City of St. Helens will post signs giving notice that the operation of ATVs is permitted upon Streets under the provisions of this Chapter. The City of St. Helens 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 of St. Helens in its sole discretion.

10.24.090 Liability.

The operation of a Class IV ATV will be undertaken at the sole risk and responsibility of the owner and/or operator. The City of St. Helens, assumes no responsibility for the operation of Class IV ATVs and the owner/operator agrees to hold the City harmless in any action arising from the operation of such ATVs on or off any public way within the City limits, including, without limitation, Streets.

10.24.100 Enforcement

(1) Any violation of this Chapter that constitutes a violation of a Traffic Law, the enforcement shall be the same as provided for by Oregon statute. Any other violation of this Chapter shall be enforced by the issuance of a citation and shall be prosecuted in the St. Helens Municipal Court as a City Violation as now in effect or as may be amended from time to time.

(2) City Violations shall be subject to a fine of not less than \$150.00 nor more than \$500.00, unless superseded by state law. For a third or any subsequent separate judgment of violation of the same offense by the same person shall be no less than \$1,000, unless superseded by state law.

(3) A Permit may be suspended at any time a Permit holder does not meet the requirements set forth in this Chapter or if a Permit holder has received three citations for violations of this Chapter. The suspension is effective immediately and may be appealed as

set forth in this Chapter. The suspension shall remain in effect for a minimum of thirty (30) days and until the requirements of the Chapter are satisfied and all amounts owing under the citations have been paid.

(4) A Permit may be revoked in the event of an imminent threat to public health and safety and in circumstances in which it is necessary to take immediate action to prevent serious harm. Revocation under this section is effective immediately upon the date the suspension notice is issued, which may be appealed pursuant to the procedures set forth in this Chapter.

10.24.110 Reference Statutes and Rules.

All reference to particular laws, statutes, or rules include that law, statute, or rule as now in effect or as may be amended from time to time.

10.24.120 Modifications.

The Chief of Police of the City of St. Helens has the authority to modify the provisions of this Chapter as a result of the occurrence of special events. Such modifications shall be temporary in nature and shall not violate Traffic Laws.

Section 3. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article," "section," or other word, and the sections of this Ordinance may be renumbered, or relettered provided however that Section 3 and 4 need not be codified.

Read the first time:

Read the second time:

APPROVED AND ADOPTED by the City Council this ____ day of ____, 20____, by the following vote:

Ayes:

Nays:

Abstains:

Jennifer Massey, Mayor

ATTEST:

Kathy Payne, City Recorder