

ORDINANCE NO. 668

AN ORDINANCE SETTING FORTH THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES WITHIN THE CORPORATE TOWN LIMITS OF THE TOWN OF ODESSA, LINCOLN COUNTY, STATE OF WASHINGTON ON DESIGNATED STREETS, AND PROHIBITING CERTAIN CONDUCT THEREON, AND PROVIDING PENALTIES OF VIOLATIONS AND AMENDING OMC TITLE 10, VEHICLES AND TRAFFIC TO INCLUDE A CHAPTER TITLE WHEELED ALL-TERRAIN VEHICLES

WHEREAS, Washington State House Bill 1632, allowing local jurisdictions to allow wheeled all-terrain vehicles to operate on designated town, city, or county roads was effective July 28, 2013; and

WHEREAS, Washington State House Bill 1632, allows local jurisdictions to allow wheeled all-terrain vehicles to operate on public roadway within the boundaries of a city or town, not including nonhighway roads and trails, if the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways, not including nonhighway roads and trails; and

WHEREAS, the Revised Code of Washington State (RCW) 46.09.455 authorizes the legislative body of a city or town, by ordinance to approve the operation of wheeled all-terrain vehicles on city or town roadways, not including nonhighway roads and trails; 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 constructing the provisions of this Ordinance, except when otherwise declared or clearly apparent from the context, the following definitions shall be applied:

“Emergency Management” means the carrying out of emergency functions related to responding and recovering from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations from persons and property in distress.

“Highway” means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

“Nonhighway road” means any road owned or managed by a public agency, a primitive road, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

“Nonhighway road recreation facilities” mean recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

“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 82.38 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

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

“**Rules of the road**” mean all the rules that apply to vehicle or pedestrian traffic as set forth in RCW 46.61.

“**RCW**” means Revised Code of Washington.

“**Town**” means the town of Odessa, within corporate limits.

“**Wheeled all-terrain vehicle**” means (a) any motorized nonhighway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less, or (b) a utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a maximum width less than seventy-four inches, has a maximum weight less than two thousand pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following: (i) Has a minimum width of fifty inches; (ii) has a minimum weight of at least nine hundred pounds; or (iii) has a wheelbase of over sixty-one inches.

Section 2. Registrations and Use Permits

Any wheeled all-terrain vehicle operated with this state must display a metal tag to be affixed to the rear of the wheeled all-terrain vehicle in accordance with current Washington State RCWs. (RCW 46.09.442)

A person who operates a wheeled all-terrain vehicle upon a public roadway must have a current and proper on-road vehicle registration, with the appropriate, bright colored, on-road tab.

A person who operates a wheeled all-terrain vehicle must have a current and proper off-road vehicle registration, with the appropriate off-road tab.

A wheeled all-terrain vehicle may not be registered for commercial use.

Section 3. Driver’s License Requirement

Subject to the restrictions and requirements set forth in this ordinance, no person under the age of sixteen (16) or without a valid, non-intermediate, driver’s license shall operate a wheeled all-terrain vehicle within the corporate limits of the Town of Odessa.

A person may not operate a wheeled all-terrain vehicle upon a public roadway of this state, not including nonhighway roads and trails, without (a) first obtaining a valid driver’s license issued to Washington residents in compliance with RCW 46.20 or (b) possessing a valid driver’s license issued by the state of the person’s residence if the person is a nonresident.

Section 4. Operations of Wheeled All-Terrain Vehicle

A person may operate a wheeled all terrain vehicle upon any public roadway, not including nonhighways and trails, having a speed limit of thirty-five mph or less, subject to the following restrictions and requirements:

A person may operate a wheeled all-terrain vehicle upon any public roadway, trail, nonhighway road, or highway within the state while being used under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency’s official duties.

Unless a police officer directs otherwise, a person operating a wheeled all-terrain must obey all rules of the road that apply to vehicle or pedestrian traffic and obey the instructions of official traffic control signals, signs or other control devices applicable to vehicles.

A person who operates a wheeled all-terrain vehicle under this section is granted all rights and is subject to all duties applicable to the operator of a motorcycle under RCW 46.37.530 and chapter 46.61 (Rules of the Road), unless otherwise stated in Chapter 23, Laws of 2013 2nd sp.sess., except that wheeled all-terrain vehicles may not be operated side-by-side in a single lane of traffic.

A person may not operate a wheeled all-terrain vehicle upon state highways that listed in chapter 47.17 RCW; however a person may operate a wheeled all-terrain vehicle upon a segment of a state highway listed in chapter 47.17 RCW, if the segment is within the limits of a city or town and the speed limit on the segment is thirty-five mph or less. The state highways within the corporate limits of Odessa are SR 21 and SR 28, which are listed in chapter 47.17 RCW.

A person operating a wheeled all-terrain vehicle may not cross a public roadway, not including nonhighway roads and trails, with a speed limit in excess of thirty-five mph, unless the crossing begins and ends on a public roadway, not including nonhighway roads and trails, or an ORV trail, with a speed limit of thirty-five mph or less and occurs at an intersection of approximately ninety degrees, except that the operator of a wheeled all-terrain vehicle may not cross at an uncontrolled intersection of a public highway listed under chapter 47.17 RCW;

It shall be unlawful to travel on lands not owned by the operator or owner of the non-highway vehicle without a lighted head-light and taillight between the hours of dusk and dawn, or when otherwise required for the safety or others, regardless of ownership.

It shall be unlawful for a person to operate a wheeled all-terrain vehicle in such a manner as to endanger the property of another, or at a rate of speed greater than reasonable, and prudent under existing conditions or at a rate of speed greater than posted within the Town of Odessa. Unposted speed limit within the corporate limits of the Town of Odessa shall be 25 mph.

It is unlawful to operate a wheeled all-terrain vehicle on a sidewalk or other area where it is unlawful to operate a motor vehicle.

It is unlawful to operate a wheeled all-terrain in a park, bicycle trail, any walking path or in any marked bicycle lane.

It is a misdemeanor for any person to operate any nonhighway vehicles while under the influence of intoxicating liquor or a controlled substance.

Wheeled all-terrain vehicles are subject to chapter 46.55 RCW (Towing and Impoundment)

Section 5. Equipment

Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion upon a highway;

One tail lamp meeting the requirements of 46.37.525 and used at all times when the vehicle is in motion upon a highway; however a utility-type vehicle, as described under RCW 46.09.310, must have two tail lamps meeting the requirements of RCW 46.37.070 (1) and to be used at all times when the vehicle is in motion upon a highway;

A stop lamp meeting the requirements of RCW.37.200;

Reflectors meeting the requirements of RCW 46.37.060;

During the hours of darkness, as defined in RCW 04.200, turn signals must meet the requirements of RCW 46.37.200;

Outside of hours of darkness, turn signals must meet the requirements of RCW 46.37.200 or 46.61.310;

A mirror attached to either the right or left handlebar, which must be located to give the operator a complete view of the highway for a distance of at least two hundred feet to the rear of the vehicle; however, a utility-type vehicle, as described under RCW 46.09.310 (19), must have two mirrors meeting the requirements of RCW 46.37.400;

A windshield meeting the requirements of RCW 46.37.430, unless the operator wears glasses, goggles, or a face shield while operating the vehicle, of a type conforming to rules adopted by the Washington State Patrol;

A horn or warning device meeting the requirement of RCW 46.37.380;

Brakes in working order;

A spark arrester and muffling device meeting the requirements of RCW 46.09.470; and

For utility-type vehicles, as described under RCW 46.09.310 (19), seatbelts meeting the requirements of RCW 46.37.510;

Must have an individual seat, designed to seat a person, for each occupant.

Except for an off-road vehicle equipped with seat belts and roll bars or an enclosed passenger compartment, it is a traffic infraction for any person to operate or ride an off-road vehicle/all wheeled-terrain vehicle on a nonhighway road without wearing upon his or her head a motorcycle helmet fastened securely while in motion. For purposes of this section, "motorcycle helmet" has the same meaning as provided in RCW 46.37.530.

Section 6. Street Designation

The following streets, within the corporate limits of the Town of Odessa are designated for wheeled all-terrain vehicle traffic:

1. SR 21 and SR 28 located only within the town corporate limits
2. Public highways located only within the town corporate limits

Section 7. Joyriding

"Joy-riding" on any roads, streets, or highways within the corporate limits of the Town of Odessa is prohibited. ORVs shall be operated in such a manner as to travel to and from the operator's intended point of destination on the designated streets within the Town.

Section 8. Trespassing

Nothing in this ordinance authorizes trespass on private property.

Section 9. Civil Liabilities

In addition to the penalties provided in this ordinance, 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 10. 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 11. Violation-Penalty

Failure to perform any act required, or the performance of any act prohibited of this ordinance shall be designated as a traffic infraction, unless so otherwise stated, and any person found to have committed such traffic infraction shall be subject to penalties governed by the Revised Codes of Washington, provided that conduct that constitutes a criminal offense may be charged as such and is subject to the maximum penalties allowed for such offenses.

Section 12. 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 13 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 23RD DAY OF MARCH, 2015.

Douglas Plinski, Mayor

ATTEST:

Gail Kiesz, Clerk-Treasurer