

Introduced by: Council Member Notti
Date: June 11, 2002
Public Hearing:
Action: Failed
Vote: Motion died with lack of
second

CITY OF BETHEL, ALASKA

ORDINANCE #02-21

AN ORDINANCE AUTHORIZING THE USE OF OFF HIGHWAY VEHICLES ON HIGHWAYS AND ROADWAYS WITHIN THE CITY OF BETHEL

WHEREAS the City of Bethel ("City") is a hub for all of the surrounding villages and the City Council desires to make it easier for residents of the surrounding villages to travel to Bethel and around Bethel in off highway vehicles as such vehicles utilize less fuel;

WHEREAS section 10.02.455 of the Bethel Municipal Code ("BMC") adopts by reference 13 AAC 02.455(a)(3), the State regulation that allows the City to authorize the use of off highway vehicles on highways and roadways within the City limits;

BE IT ORDAINED by the City Council of Bethel, Alaska that:

SECTION 1. Classification. This ordinance is permanent in nature and shall be placed in the Bethel Municipal Code.

SECTION 2. Title 10 of the Bethel Municipal Code is amended by adding a new Chapter 10.20 as follows:

Chapter 10.20 **Operation of Off-Highway Vehicles on Highways and Roadways.**

Sections:

- 10.20.010 Definitions
- 10.20.020 Use of off-highway vehicles: generally.
- 10.20.030 Use of off-highway vehicles on roadways: April 1 through November 30.
- 10.20.040 Driver license requirement.
- 10.20.050 Liability insurance requirement.
- 10.20.060 Equipment requirements.
- 10.20.070 Helmet requirement.
- 10.20.080 Seat requirement.
- 10.20.090 Responsibility for violations by minors.
- 10.20.100 Compliance with traffic laws.
- 10.20.110 Penalty.

Section 10.20.010 Definitions.

Unless the context clearly requires otherwise, in this chapter

- A. "Highway" means the entire width between the boundary lines of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, including all streets and roads maintained by the City but not including vehicular ways or areas;
- B. "Motor vehicle" means a vehicle which is self-propelled except a vehicle moved by human or animal power;
- C. "Off highway vehicle" or "O.H.V." mean any self-propelled vehicle when used for the purpose of recreational off-highway travel on land, water, snow, ice, marsh, swampland, beach and other natural terrain or a combination thereof, including but not limited to any snow machine, snowmobile or other vehicle which is designed for travel over snow or ice; any motor vehicle commonly referred to as a dune buggy, swamp buggy or all-terrain vehicle; and amphibious vehicles, ground effects or air cushion vehicles and any other means of land transportation delivering motor power from any source other than muscle or wind. The term "off-highway vehicle" does not include any vehicle which is primarily designed for travel on or in the water or any military owned vehicles when used by the military or other authorized government agency;
- D. "Operate" means to drive or be in actual physical control of an O.H.V.;
- E. "Operator" means every person who operates an O.H.V.;
- F. "Owner" means a person, other than a lien holder, having the property interest in or the title to an O.H.V., and who is entitled to the use or possession thereof;
- G. "Roadway" means that portion of a highway designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm, or shoulder, and in this Chapter, includes all streets and roads maintained by the City; and
- H. "Vehicular way or area" means a way, path, or area, other than a highway or private property, that is designated by official traffic control devices or customary usage and that is open to the public for pedestrian or vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles by the City.

Section 10.20.020 Use of off highway vehicles: generally.

- A. An off-highway vehicle may be driven on a roadway or shoulder of a highway only under the following circumstances:
- (1) when crossing a highway as provided in subsection B of this section, or when traversing a bridge or culvert on a highway, but then only by driving at the extreme right-hand edge of the bridge or culvert and only when the traverse can be completed with safety and without interfering with other traffic on the highway;
 - (2) when use of the highway by other motor vehicles is impossible because of snow or ice accumulation or other natural conditions or when the highway is posted or otherwise designated as being open to travel by off-highway vehicles;
 - (3) except as provided herein, on a roadway within a highway only in accordance with section 10.20.030 of this Chapter; or
 - (4) when driven on the right-of-way of a highway which is not a controlled-access highway, outside the roadway or shoulder, and no closer than three feet from the nearest edge of the roadway; night driving may be only on the right-hand side of the highway and in the same direction as the highway motor vehicle traffic in the nearest lane of the roadway; no person may drive an off-highway vehicle within the area dividing the roadways of a divided highway.
- B. An off-highway vehicle may make a direct crossing of a highway if
- (1) the crossing is made approximately at a right angle to the highway at a location where visibility along the highway in both directions is clear for a sufficient distance to assure safety, and the crossing can be completed safely and without interfering with other traffic on the highway; and
 - (2) the vehicle is brought to a complete stop before crossing the shoulder or roadway, and the driver yields the right-of-way to all traffic on the highway.
- C. No off-highway vehicle may cross or travel on a sidewalk, a location intended for pedestrians or other nonmotorized traffic, an alley, or a vehicular way or area which is not open to off-highway vehicle operation, except as provided in subsection B of this section.

10.20.030 Use of off highway vehicles on roadways: April 1 through November 30.

From April 1 through November 30 of each calendar year, off highway vehicles may be operated within the roadway of highways maintained by the City at all times, but only in accordance with this Chapter as well as all applicable state and local traffic and other laws regarding safe operation of motor vehicles.

10.20.040 Driver license requirement.

A person operating an O.H.V. within the City shall possess a valid Alaska State driver's license if he or she is required to possess one under state law in order to operate the O.H.V.

10.20.050 Liability insurance requirement.

A person operating an O.H.V. on highways and roadways shall have liability insurance that complies with the provisions of AS 28.20.440.

10.20.060 Equipment requirements.

No person may drive or operate an O.H.V. unless the O.H.V. is equipped with:

- A. A headlamp, with or without nonmultiple beams so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions, such headlamp shall be so aimed that glaring rays are not projected into the eyes of an incoming driver;
- B. At least one rear lamp exhibiting a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions;
- C. A return-to-idle spring in working order capable of returning the O.H.V. engine's carburetor to the closed position. If the O.H.V. is a snow machine, a rear snowflap of sufficient material to contain a cleat, if thrown from the track installed in a permanent manner and which shall be held down so as to contain all debris at all speeds;
- D. Adequate brakes to control the movement of and to stop and hold the vehicle under normal conditions of operation;
- E. Standard mufflers for production models in operating condition which are properly attached and meet any other requirements of state law, and no person may use a muffler cutout, bypass or similar device on the vehicle;
- F. A rigid drawbar, when towing a sled or other object; and
- G. A spark arrester.

10.20.070 Helmet requirement.

An O.H.V. operator or passenger shall wear a properly fitted full coverage crash helmet, which has an approved current Snell Foundation or equivalent rating or meets standards of the U. S. Standards Institute Safety Code Z90.1-1966. Such

rating shall be affixed to the helmet. This subsection does not apply to an operator or passenger of an O.H.V. riding within an enclosed cab of the O.H.V.

10.20.080 Seat requirement.

A person driving an O.H.V. may ride only on a permanent seat attached to the vehicle, and may not carry any passenger other than the driver unless the O.H.V. is designed and equipped with a seat for the passenger.

10.20.090 Responsibility for violations by minors.

- A. It is unlawful for a parent or guardian of any person under 18 years of age to authorize or knowingly permit that person to violate any provision of this Chapter.
- B. It is unlawful for the owner or person in possession of any O.H.V. to authorize or knowingly permit any other person who is under the age of 18 years to use such O.H.V. in violation of any provision of this chapter.

10.20.100 Compliance with traffic laws.

All provisions of state statutes and regulations regulating traffic and the safe and prudent operation of motor vehicles upon roadways and highways shall apply to the operation of an O.H.V. within the City, except for those which by their nature can have no application, and an operator or passenger of an O.H.V. shall comply with all such statutes and regulations.

10.20.110 Penalty.

A violation of this Chapter is punishable in accordance with section 1.08.010 of this Code.

SECTION 3. This ordinance shall become effective immediately upon adoption by the City Council.

PASSED AND APPROVED THIS _____ DAY OF _____ 2002, by a vote of * in favor and * opposed.

ATTEST:

Stanley "Tundy" Rodgers, Mayor

Janette Persinger, City Clerk