

ORDINANCE NO. 09-15-20

AN ORDINANCE OF NEPHI CITY, STATE OF UTAH, AMENDING TITLE 6 CHAPTER 2 OF THE NEPHI CITY CODE – OFF HIGHWAY VEHICLES; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Utah Code Ann. §10-9a-102 authorizes the Nephi City Council to pass ordinances that provide for the health, safety, welfare, and prosperity of its residents; and

WHEREAS, the Nephi City Council finds it in the best interest of the residents of the City to amend Title 6 Chapter 2 of the Nephi City Code relating to Off Highway Vehicle Use.

NOW THEREFORE, be it ordained by the City Council of Nephi City, State of Utah, that Title 6 Chapter 2 of the Nephi City Code is amended as set forth below.

Section 1: Section 6-2-1 is repealed in its entirety and replaced with the following:

Definitions:

1. “All-terrain type I vehicle” means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.
2. “All-terrain type II vehicle” means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:
 - (i) an electric-powered vehicle; or
 - (ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.
3. “All-terrain type II vehicle” does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code Ann. Section 41-1a-102.
4. “All-terrain type III vehicle” means any other motor vehicle, not defined in Subsection (1), (2), (6), or (7) herein, designed for or capable of travel over unimproved terrain.
5. “All-terrain type III vehicle” does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code Ann. Section 41-1a-102.

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6. "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.
7. "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.
8. "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.
9. *Safety Certificate* means a certificate issued by the state of Utah to a person for completion of an authorized safety education course.

Section 2: Section 6-2-2 is repealed in its entirety and replaced with the following:

Streets Designated for Off-Highway Vehicle Use:

- A. Streets Designated for Off-highway Vehicle Use include and are defined as from and to the operator's residence and his/her destination (by shortest route) using the following streets, to the extent reasonably possible: ~~to and including the streets of~~ 700 North Street, including the golf course road; 200 West Street from 700 North to 500 South; 500 South Street from 400 East to the west city limits; 400 East Street from 700 North to 500 South; 100 South Street from 400 East to 800 East; and 800 East Street from 700 North to 100 South.
- B. Streets Designated for Off-highway Vehicle Use does not include any county, state, or federal road, street, or highway within city limits except when the Off-highway vehicle is being operated in conformance with Section 6-2-2B above and:
 1. when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;
 2. when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation;
 3. when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority; or
 4. when specifically authorized by state law.

Section 3: Section 6-2-7 is repealed in its entirety and replaced with the following:

Use Restrictions:

- A. Off-highway vehicles shall be used and operated only on or over such public lands, trails, streets, roads or highways within the city that are designated by this chapter as Streets Designated for Off-highway Vehicle Use. All such designated accessways shall be posted by signs to evidence their use as off-highway vehicle roadways.
- B. Off-highway vehicles shall carry no more people than the number of seats designed by the original manufacturer and installed in the Off-highway vehicle ~~seats in the vehicle as existed at the time of manufacturing. All Off-highway vehicles occupants shall sit in a seat at an originally manufactured seat location~~—one person per seat.
- C. Off-highway vehicles may only be driven during daylight unless they have originally manufactured equipment headlights and tail-lights. The lights must be operable and in use anytime an Off-highway vehicle is being operated at non-daylight times.

Section 4: Section 6-2-8 is repealed in its entirety and replaced with the following:

License or Safety Certificate Required; Supervision; Helmets:

- A. Any person operating an off-highway vehicle is subject to the provisions of Utah Code Ann. title 41, chapter 6a, and title 41, chapter 22.
- B. Any person operating an off-highway vehicle is subject to the following provisions:
 - 1. No person may operate an off-highway vehicle on any land, trail, street or highway designated as open to off highway vehicle use or in the manner prescribed by Utah Code Annotated section 41-22-10.3, unless the person:
 - a) Has been properly issued and possesses a valid state issued driver's license, as provided in Utah Code Ann. title 53, chapter 3;
 - b) Has been properly issued and possesses a valid Safety Certificate and, if they have ever possessed a state issued driver's license, such license is not denied, revoked, or suspended; or

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- c) Is under the direct supervision of a certified off highway vehicle safety instructor during a scheduled safety training course.
- 2. All operators of Off-highway vehicles who are ages eight (8) through thirteen (13), inclusive, shall be accompanied while operating such vehicle within city limits by an adult on an accompanying licensed all-terrain type I, II or III vehicle, motorcycle or snowmobile.
- 3. All operators of off-highway vehicles who are fourteen (14) or fifteen (15) years of age do not need to be accompanied by an adult.
- 4. All operators and passengers of an off-highway vehicle, excluding a motorcycle, who are under the age of eighteen (18) years shall correctly wear a department of transportation certified helmet.
- 5. All operators and passengers of a motorcycle who are under the age of twenty-one (21) years shall correctly wear a department of transportation certified helmet.

Section 5: Section 6-2-9 is repealed in its entirety and replaced with the following:

Responsibility for Compliance

- A. No person or owner may give permission to any person to operate an off-highway vehicle contrary to the provisions of this chapter and applicable state law.
- B. A parent or legal guardian who fails to take reasonable measures to prevent their child from violating the provisions of this chapter shall also be in violation of this chapter and subject to the penalty provisions set forth herein.

Section 6: Section 6-2-11 is repealed in its entirety and replaced with the following:

Penalties and Enforcement

- A. Any person who violates any provision of this chapter is guilty of a class C misdemeanor and subject to penalties as outlined herein.
- B. The penalties for a minor fourteen (14) years of age or older who violates any provision of this chapter are as follows:
 - 1. First Offense:
 - a) Referred to youth court and successfully complete the requirements imposed by youth court.
 - b) If there is no youth court or the minor does not successfully complete the requirements of youth court, then the minor may be

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fined up to Fifty Dollars (\$50) and/or required to complete up to ~~five~~^{ten} (5) hours of community service.

- 2. Second Offense:
 - a) A fine up to One Hundred Dollars (\$100).
 - b) Required to complete up to ~~ten~~^{twenty} (10) hours of community service.
- 3. For any third or more offense of this section, the minor may receive penalties for a class C misdemeanor as set forth in section 1-4-1 of this code.
- 4. Regardless of whether it is a first offense, second offense, or any offense thereafter, in the event there is an accident and the minor is in violation of this section at the time of the accident, the minor may receive penalties for a class C misdemeanor as set forth in section 1-4-1 of this code.

C. The penalties for an adult who violates any provision of this chapter are as follows:

- 1. First offense: A warning shall be given that will be documented through a police report.
- 2. Second offense: A fine up to One Hundred Dollars (\$100).
- 3. For any third or more offense of this section, the adult may receive penalties for a class C misdemeanor as set forth in section 1-4-1 of this code.
- 4. Regardless of whether it is a first offense, second offense, or any offense thereafter, in the event there is an accident and the adult is in violation of this section at the time of the accident, the adult may receive penalties for a class C misdemeanor as set forth in section 1-4-1 of this code.

D. An adult and a minor may be prosecuted simultaneously for the same incident that led to violations of this chapter.

Section 7:

Severability.

If any provision or clause of this chapter or its application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications which can be

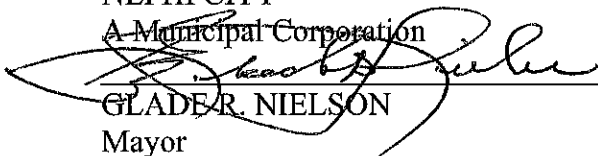
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implemented without the invalid provision, clause or application. To this end, the provisions of this chapter are declared to be severable.

Section 5: Effective date. This Ordinance take effect immediately upon its passage and publication as prescribed by law.

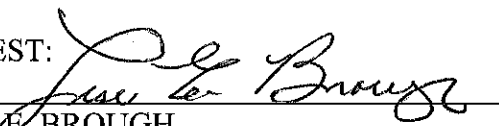
PASSED AND ADOPTED BY THE NEPHI CITY COUNCIL, STATE OF UTAH, ON THIS 15th DAY OF SEPTEMBER, 2020.

NEPHI CITY
A Municipal Corporation



GLADE R. NIELSON
Mayor

ATTEST:



LISAE. BROUGH
City Recorder

