

ORDINANCE NO. 854

**AN ORDINANCE AUTHORIZING THE OPERATION OF ALL - TERRAIN VEHICLES ON CERTAIN STREETS LOCATED WITHIN THE TOWN OF LAKEVIEW, OREGON, BUT SUBJECT TO THE PROVISIONS OF ORS 821.200(1)(f); PROVIDING A PENALTY FOR THE VIOLATION HEREOF AND REPEALING ORDINANCE NO. 849 IN ITS ENTIRETY.**

WHEREAS, the Town Council of the Town of Lakeview desires to adopt an ordinance authorizing the operation of all-terrain vehicles on certain streets as located within the town limits of the Town of Lakeview; and

WHEREAS, the Town Council has determined that it is necessary to impose certain restrictions on the operation of all-terrain vehicles on such streets for the purpose of protecting the interests and safety of the general public, now, therefore,

THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

**Section 1. - Purpose:** The purpose of this Ordinance is to authorize the operation of all-terrain vehicles on certain streets within the Town of Lakeview subject to the terms, provisions, rights and responsibilities as set forth in this Ordinance.

**Section 2. - Definitions:** For the purpose of this Ordinance, the following definitions are hereby established:

- (a) All-Terrain Vehicle(s) (ATV(s)), means Class I All-Terrain Vehicles, Class II All-Terrain Vehicles, Class III All-Terrain Vehicles and/or Class IV All-Terrain Vehicles.
- (b) ATV Operator Permit, means the ATV Safety Education Card issued upon completion of an Oregon Parks and Recreation Department 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).

- (c) Class I All-Terrain Vehicles, as defined by ORS 801.190 is 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.
- (d) Class II All-Terrain Vehicle(s), as defined by ORS 801.193 is 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 SUVs.
- (e) Class III All-Terrain Vehicle(s), as defined by ORS 801.194(1) is a motorcycle that travels on two tires and that is actually being operated off highway.
- (f) Class IV All-Terrain Vehicle(s), as defined by ORS 801.194(2) is 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, sand, snow, ice, marsh, swampland, or other natural terrain, (c) has nonstraddle 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. Class IV All-Terrain Vehicles may also be known as side-by-sides.
- (g) Driver License, has the meaning given that term under ORS 801.245.
- (h) Motorcycle Helmet, has the meaning given that term under ORS 801.366. ORS 801.366 defines a Motorcycle Helmet as a protective covering for the head consisting of a hard out 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.

- (i) Traffic Law(s), means 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.
- (j) Street(s), means all roads, streets, and alleys, other than U.S. Highway 395 and Oregon State Highway 140, as located within the boundaries of the Town of Lakeview that are open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

**Section 3. - Operation of All-Terrain Vehicles on Streets Authorized.** Subject to the provisions of this Ordinance, ATV's may be operated on Streets subject to the conditions and restrictions set forth under ORS 821.200. All-Terrain Vehicles are prohibited from operating under this Ordinance on U.S. Highway 395 and Oregon State Highway 140 as located within the Town, except that a person may, while operating an ATV, cross the above highways to the extent permitted under applicable Oregon law, including, without limitation, ORS 821.200(1).

**Section 4. - Regulations for Operation of All-Terrain Vehicles.** All-Terrain Vehicles operating under this Ordinance 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.

**Section 5. - Licensed Driver 16 Years of Age or Older Required.** A person operating an ATV under this Ordinance must be 16 years of age or older and hold a valid Driver License.

**Section 6. - All-Terrain Vehicle Operator Permit Required.** A person operating a Class I All-Terrain Vehicle under this Ordinance must hold a valid Class I ATV Operator Permit issued under ORS 390.570. A person operating a Class III All-Terrain Vehicle under this Ordinance must hold a valid Class III ATV Operator Permit issued under ORS 390.575. A person operating a Class IV All-Terrain Vehicle under this Ordinance must hold a valid Class IV ATV Operator Permit issued

under ORS 390.577.

**Section 7. - Safety Equipment Requirements.** All-Terrain Vehicles operated under this Ordinance must be equipped with the safety equipment required under all applicable Traffic Laws, including, without limitation, ORS 821.030, ORS 821.040, ORS 821.220, ORS 821.230, and OAR 735-116-0000.

**Section 8. - Helmet Requirements.** A person who is under 18 years of age must wear a Motorcycle Helmet with a fastened chin strap while riding as a passenger on an ATV operated under this Ordinance.

**Section 9. - Safety Belt Requirements.** A person must be properly secured with a safety belt or safety harness while operating or riding as a passenger on an ATV operated under this Ordinance if such ATV was required to be equipped with safety belts or safety harnesses at the time the ATV was manufactured or safety belts or safety harnesses have been installed on the ATV.

**Section 10. - Speed Limits.** All-Terrain Vehicles operated under this Ordinance 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.

**Section 11. - Prohibition on Operating, All-Terrain Vehicles While Driving Privileges Suspended.** A person may not operate an ATV under this Ordinance while the person's driving privileges (i.e., Driver License) are suspended or revoked.

**Section 12. - Financial Requirements.** If required by law, All-Terrain Vehicles operated under this Ordinance must meet the financial responsibility requirements under ORS 806.060. For purposes of this Section 12, "financial responsibility requirements" means the ability to respond in 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 806.060.

**Section 13. - Hours of Operation.** Any ATV equipped with operating headlights and taillights may be operated under this Ordinance at anytime during the day or night. ATV's not so equipped may be operated only during day light hours. "Day light hours" means one-half hour before sunrise and one-half hour after sunset.

**Section 14. - Posting.** The Town of Lakeview will post signs giving notice that the operation of ATVs is permitted upon Streets under the provisions of this Ordinance. The Town of Lakeview 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 Town of Lakeview in its sole discretion.

**Section 15. - Liability.** The operation of an ATV will be undertaken at the sole risk and responsibility of the owner and/or operator. The Town of Lakeview, by passing this Ordinance, assumes no responsibility for the operation of such ATVs and will be held harmless in any action arising from the operation of such ATVs on or off any public way within the Town limits, including, without limitation, Streets.

**Section 16. - Penalties.** Any violation of this Ordinance that constitutes a violation of a Traffic Law, then the penalty for the same shall be as provided for by Oregon statute. Any other violation of this Ordinance shall be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class B Violation pursuant to the provisions of ORS 153.008, ORS 153.012 and ORS 153.018 as now in effect or as may be amended from time to time.

**Section 17. - Referenced Statutes and Rules.** All references 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.

**Section 18. - Invalidity.** If any section, subsection or part of this Ordinance is for any reason held invalid, unenforceable or unconstitutional, such holding will not affect the validity, enforceability or constitutionality of the remaining portions of this Ordinance.

**Section 19. - Snowmobiles.** Nothing contained in this Ordinance applies to the operation of snowmobiles as that term is defined by ORS 801.490.

**Section 20. - Modifications.** The Chief of Police of the Town of Lakeview has the authority to modify the provisions of this Ordinance as a result of the occurrence of special events. Such modifications shall be temporary in nature and shall not violate Traffic Laws.

**Section 21. - Effective Date.** This Ordinance shall take effect on the thirtieth (30<sup>th</sup>) day after its adoption as set forth below.

A motion was made to read this Ordinance by title only and such motion passed unanimously. Thereafter, the Ordinance was read by title only and was adopted as indicated below.

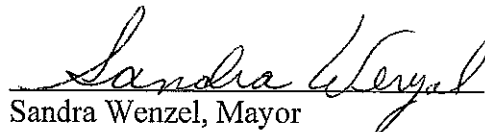
Passed by the Town Council by a vote as follows:

3 In Favor

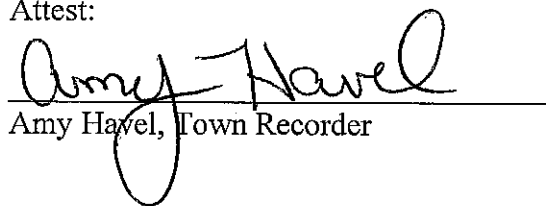
0 Opposed

Adopted this 20<sup>th</sup> day of ~~February~~, 2016.

*January*

  
Sandra Wenzel, Mayor

Attest:

  
Amy Havel, Town Recorder