



CITY OF UTQIAGVIK

“Farthest North Incorporated City”

Introduced by:	Fannie Suvlu, Mayor
Date of Introduction:	March 26, 2020
Date of Public Hearing:	April 23, 2020
Action:	
Vote:	

CITY OF UTQIAGVIK, ALASKA

ORDINANCE #03-2020

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 8.13 OF THE CITY OF UTQIAGVIK CODE OF ORDINANCES REGARDING SNOWMOBILES AND OFF-HIGHWAY VEHICLES

WHEREAS the current Chapter 8.13 of the City of Utqiagvik Code of Ordinances (“Chapter 8.13”) allows for operation of snowmobiles and other off-highway vehicles (“OHVs”) without a driver’s license on public streets within the City of Utqiagvik (“City”), as well as without other requirements that would promote safer driving of OHVs in the City;

WHEREAS 13 AAC 02.455(a)(3) of the Alaska Administrative Code allows for highway driving of OHVs when “authorized by an authority having jurisdiction over the highway, but only in accordance with restrictions which may be imposed by that authority with regard to highway use;”

WHEREAS AS 28.90.990(15) defines “highway” to mean every street or the entire width of “every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel, ... but not vehicular ways or areas;”

WHEREAS AS 28.90.990(32) defines “vehicular way or area” as a way, path, or area, other than a highway or private property designated for vehicular or pedestrian traffic and restricted for use of pedestrians, bicycles or “other specific types of vehicles . . .;”



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

WHEREAS AS 28.15.021(5) of the Alaska Statutes exempts from the need to get a driver's license "a person when driving or operating an off-highway vehicle ... not designed for highway use as specified by the department by regulation"; however, in *Stevens v. State*, 135 P.3d 688, 692 (Alaska App. 2006), the Alaska Court of Appeals held that the Alaska State Legislature, in enacting AS 28.15.021(5), intended that a driver's license is required for operating an OHV on a highway;

WHEREAS AS 28.22.011 requires that an operator or owner of OHVs driven on highways, vehicular ways or areas, or other public property, obtain motor vehicle liability insurance;

WHEREAS some individuals, including children, are currently driving OHVs in the City without driver's licenses and without motor vehicle liability insurance;

WHEREAS some individuals, including children, have caused accidents in the City when driving OHVs that have resulted in substantial personal injuries; and

WHEREAS the City desires to bring Chapter 8.13 into compliance with state law and to regulate the operation of OHVs in a manner that will promote safer operation of OHVs.

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

SECTION 1. Classification. This ordinance is permanent and general in nature and shall be placed in the City of Utqiagvik Code of Ordinances.

SECTION 2. Off-Highway Vehicle Regulation. Chapter 8.13 of the City of Utqiagvik Code of Ordinances is repealed and re-enacted to read as follows:

Chapter 8.13 Regulation of Off-Highway Vehicles

8.13.010 Operation of an Off-Highway Vehicle.

8.13.020 Driver's License Required to Operate an Off-Highway Vehicle.

8.13.030 Motor Vehicle Liability Insurance Required.

8.13.040 Helmets Required.

8.13.050 Equipment Required.

8.13.060 Seats Required for Operators and Passengers.

8.13.070 Seat Belts.



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

- 8.13.080 Stops Required.
- 8.13.090 Use of Off-Highway Vehicles by Children.
- 8.13.100 Parental Responsibility.
- 8.13.110 Owner's Responsibility.
- 8.13.120 Registration.
- 8.13.130 Penalties.
- 8.13.140 Definitions.

8.13.010 Operation of an Off-Highway Vehicle.

A. No person shall operate an off-highway vehicle upon any highways, vehicular ways and areas, or on any public property within the City

1. in a reckless manner;
2. in a negligent manner;
3. in a vexatious manner;
4. in a manner that endangers the person or property of another; or
5. in a manner that causes injury or damage to another person or to property.

B. An operator of an off-highway vehicle shall be able to reach and operate all controls necessary for safe operation of the off-highway vehicle.

C. An operator of an off-highway vehicle upon any highways, vehicular ways and areas, or on any public property within the City shall not tow a sled, toboggan, or other object, unless such object is attached to the off-highway vehicle by a rigid bar and the towed object is equipped with a red reflector.

D. An operator of an off-highway vehicle upon any highways, vehicular ways and areas, or on any public property within the City shall yield to all pedestrians and other motor vehicle traffic.

E. An operator of an off-highway vehicle upon any highways, vehicular ways and areas, or on any public property within the City shall comply with all speed limits posted within the City by the City, the North Slope Borough, or the State of Alaska.



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

8.13.020 Driver's License Required to Operate an Off-Highway Vehicle.

No person may operate an off-highway vehicle upon highways within the City unless the person has obtained a valid State of Alaska automobile driver's license.

8.13.030 Motor Vehicle Liability Insurance Required.

No person may operate an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City, unless the person has obtained motor vehicle liability insurance as required by AS 28.22.011.

8.13.040 Helmets Required.

A. No person may operate or ride as a passenger in an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City without wearing a helmet which meets Federal Motor Vehicle Safety Standard 218 for motorcycle helmets.

B. No person may operate an off-highway vehicle while transporting a passenger in an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City who is not wearing a helmet which meets Federal Motor Vehicle Safety Standard 218 for motorcycle helmets.

8.13.050 Equipment Required.

A. No off-highway vehicle may be operated upon highways, vehicular ways or areas, or on any other public property within the City unless it is equipped with:

1. at least one headlight, aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead under normal atmospheric conditions;

2. at least one red light, one stop-signal light and one red reflector, which must be mounted upon the rear or rear cowl of the vehicle. The lights must be visible from a distance of at least 1000 feet to the rear. The reflector must be visible from a distance of at least 600 feet to the rear when directly in front of the lawful lower beams of the headlights on a motor vehicle other than an off-highway vehicle;



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

3. a carburetor intake, exhaust muffler, and an emission-control system in good working order; an off-highway vehicle may not use a muffler cutout, bypass or other similar device;

4. a rear snow flap installed to deflect downward a cleat or other object or material which may be thrown by the track or wheels;

5. a protective shield over all moving parts;

6. reflectors placed on the sides or side cowling which meet the standards established by the Society of Automotive Engineers in effect on the effective date of this section;

7. when towing a sled or other object, a rigid drawbar no greater than 10 feet in length;

8. a spark arrester; and

9. brakes which will control the movement, stop, and hold the off-highway vehicle under normal driving conditions on any grade upon which it normally may be driven, and under all conditions of loading.

B. An off-highway vehicle operated by hand controls must be equipped with a throttle or idle spring in good working condition which, when released by hand, will return the engine speed to idle, close the carburetor, and disengage the clutch.

C. This section does not authorize any person to operate any vehicle which does not comply with any other equipment requirement which is applicable to the vehicle under state or federal statute or regulation.

8.13.060 Seats Required for Operators and Passengers.

A person operating an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City shall ride only on a permanent seat attached to the vehicle, and shall not carry passengers unless the off-highway vehicle is designed and equipped with seating for the passenger carried. No more than two people shall ride at any time on an off-highway vehicle.

8.13.070 Seat Belts.



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

A. If seat belts are installed by the manufacturer of an off-highway vehicle that is driven upon highways, vehicular ways or areas, or on any other public property within the City, a person shall not remove, render partially or wholly inoperative or modify a seat belt installed in a vehicle to which this section applies, unless the modification is approved by the manufacturer as a replacement seat belt.

B. A person must not use, operate or be a passenger on a vehicle to which this section applies unless the person wears a seat belt in a properly adjusted and securely fastened manner.

8.13.080 Stops Required.

An off-highway vehicle operated upon highways, vehicular ways or areas, or on any other public property within the City shall come to a complete stop prior to crossing any highway or private drive.

8.13.090 Use of Off-Highway Vehicles by Children.

A. A child shall not operate an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City.

B. A child shall not be a passenger, and a person shall not allow a child to be a passenger, on an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City unless

- (1) the child is of an age that meets the manufacturer's recommended minimum age for the off-highway vehicle;
- (2) the child is of a height and weight that meets the manufacturer's recommended minimum height and weight for the off-highway vehicle;
- (3) an adult with a valid State of Alaska driver's license has authorized the child to be a passenger on an off-highway vehicle and agrees to accompany the child for that purpose. Further, the adult must see, and be able to be seen by, the child at all times, and be able to provide immediate direction to the child, either verbally or visually, at all times.

8.13.100 Parental Responsibility.



CITY OF UTQIAGVIK

"Farthest North Incorporated City"

No parent or guardian shall authorize, allow, or knowingly permit his or her child to operate or ride as a passenger on an off-highway vehicle in violation of the provisions of this chapter. Additionally, a parent or guardian shall take reasonable precautions to prevent his or her child from operating or riding as a passenger on an off-highway vehicle in violation of the provisions of this chapter.

8.13.110 Owner's Responsibility.

The owner of an off-highway vehicle may not authorize, allow, or knowingly permit another person to operate or ride as a passenger on an off-highway vehicle in violation of the provisions of this chapter. Additionally, the owner of an off-highway vehicle shall take reasonable precautions to prevent another person from operating or riding as a passenger on an off-highway vehicle in violation of the provisions of this chapter.

8.13.120 Registration.

- A. A person may not operate an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City unless the vehicle has been properly registered with the State of Alaska, Department of Motor Vehicles ("DMV").
- B. A person may not operate or park an off-highway vehicle upon highways, vehicular ways or areas, or on any other public property within the City unless a DMV registration decal is affixed to the rear portion of the vehicle. A failure to display the registration decal is a violation of this chapter. No decal shall be obscure, hidden or damaged.

Section 8.13.130 Penalties.

- A. Except for Section 8.13.010(A)(1), a violation of this chapter shall result in a fine of \$300. Each day that a violation continues constitutes a separate violation.
- B. A violation of Section 8.13.010(A)(1) shall result in a misdemeanor and a fine of not more than \$1,000 or by imprisonment for not more than one year or by both.
- C. The City or an aggrieved person may institute a civil action against a person, including a person under the age of 21, who violates this Chapter. In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000 may be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the



CITY OF UTQIAGVIK

“Farthest North Incorporated City”

availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.

D. The provisions of AS 28.35.400–28.35.410, AS 28.90.010, and AS 29.25.070–29.25.075 apply to any penalties imposed under this chapter.

8.13.140 Definitions.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- A. **“Child”** means an individual who is 15 years of age or younger.
- B. **“Highway”** means every street or the entire width of every way that is publicly maintained when a part of it is open to the public for purposes of vehicular travel but not vehicular ways or areas.
- C. **“Off-highway vehicle”** means a vehicle designed or adapted for cross-country operation over unimproved terrain, ice or snow, including, but not limited to, snowmobiles, and which has been declared by its owner at the time of registration and determined by the department to be unsuitable for general highway use, although the vehicle may make incidental use of a highway as provided in this chapter; **“off-highway vehicle”** does not include implements of husbandry and special mobile equipment.
- D. **“Operate”** means to have actual control over the operation of a vehicle.
- E. **“Operator”** means a person who operates or is in actual control of a vehicle.
- F. **“Snowmobile”** means a motor vehicle designed to travel over ice or snow, and supported in part by skis, belts, cleats, or low-pressure tires.
- G. **“Vehicle”** means an off-highway vehicle.
- 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 purposes of pedestrian or vehicular travel, and which way or area may be restricted in use to pedestrians, bicycles, or other specific types of vehicles as determined by the State of Alaska, the North Slope Borough, or the City.



CITY OF UTQIAGVIK

“Farthest North Incorporated City”

I. “Vexatious” means to operate a vehicle in such a manner as to produce sufficient noise to disturb the peace and quiet of another person.

SECTION 3. Impact of invalid, void or illegal provisions. Should any provision of this ordinance, or application thereof to any person or circumstances be declared invalid, void, or illegal, the application to other persons or circumstances shall not be affected thereby. Further, such declaration shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

SECTION 4. Severability. Nothing in this ordinance shall be construed to authorize or condone actions which would violate any requirement of applicable state or federal law. This ordinance is intended to be interpreted consistently with, where possible, the Constitution of the United States, the Constitution of the State of Alaska, federal statutes and regulations, and Alaska statutes and regulations. Where it is not possible to construe a provision of this ordinance consistently with these state and federal provisions, the conflicting provision of this ordinance shall be void.

SECTION 5. Effective Date. This Ordinance shall become effective upon passage by the City Council.

ENACTED THIS ___ DAY OF _____, 2020, by a vote of ___ in favor and ___ opposed.

FANNIE SUVLU, MAYOR

ATTEST:

LOYLA T. LEAVITT, CITY CLERK