

ORDINANCE NO. 4915

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLensburg, WASHINGTON, ALLOWING THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES, AS DESCRIBED IN RCW 46.09, WITHIN THE CITY LIMITS AND ADDING A NEW CHAPTER ENTITLED “8.56 – WHEELED ALL-TERRAIN VEHICLES” TO THE ELLensburg CITY CODE.

WHEREAS, Washington State Engrossed Substitute House Bill (ESHB) 1632, passed by the Washington State Legislature in 2013, amended chapter 46.09 of the Revised Code of Washington (“RCW”), entitled “Off-Road, Nonhighway, and Wheeled All-Terrain Vehicles,” allowing cities to regulate the operation of certain non-highway vehicles on streets, roads, or highways; and

WHEREAS, RCW 46.09.455(1)(d)(i) requires cities that desire to allow the operation of wheeled all-terrain vehicles on city roadways, not including non-highway roads and trails, to approve an ordinance to designate city roadways for said usage; and

WHEREAS, any city, town, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. A new chapter entitled “8.56 – Wheeled All-Terrain Vehicles” is hereby added to the Ellensburg City Code to read as follows:

8.56 – Wheeled All-Terrain Vehicles

Sections

8.56.010 Purpose.

8.56.020 Definitions.

8.56.030 Use of wheeled all-terrain vehicle on city streets.

8.56.040 Restrictions on use of wheeled all-terrain vehicle on city streets.

8.56.050 Equipment requirements for wheeled all-terrain vehicles.

8.56.060 Registration and on-road tabs.

8.56.070 Duty to obey traffic-control devices and rules of the road.

8.56.080 Prohibited uses.

8.56.090 Prohibited areas.

8.56.100 Violation – Penalty.

8.56.010 Purpose.

The purpose of this chapter is to allow the operation of wheeled all-terrain vehicles described in RCW 46.09.310(19) on public roadways within the city of Ellensburg in accordance with RCW 46.09.455.

8.56.020 Definitions.

Unless otherwise specifically provided for herein, the definitions set forth in chapter 46.09 RCW, as existing or hereafter amended, shall govern this chapter. In addition, when used in this chapter, the following words, terms, and phrases shall have the following meanings:

- A. "City" means the city of Ellensburg, its elected officials, its employees, and its agents.
- B. "City street" means every way, lane, road, street, boulevard, and every way or place in the city open as a matter of right to public vehicular traffic inside the city limits.
- C. "Motorcycle helmet" has the same meaning as provided in RCW 46.37.530.
- D. "Sidewalk" means that property between the curb lines or the lateral lines of a city street and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a city street and dedicated to use by pedestrians.
- E. "Wheeled all-terrain vehicle" or "WATV" means:
 - 1. A 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
 - 2. 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 steering wheel for steering control, has nonstraddle seating with the operator and passenger sitting side by side in the vehicle manufactured primarily for recreational nonhighway all-terrain use, 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:
 - a. Has a minimum width of fifty inches;
 - b. Has a minimum weight of at least nine hundred pounds; or
 - c. Has a wheelbase of over sixty-one inches.

8.56.030 Use of wheeled all-terrain vehicle on city streets.

Subject to the restrictions and requirements set forth in chapter 46.09 RCW and in this chapter, a person with a valid driver's license issued by the state of the person's residence may operate a

wheeled all-terrain vehicle upon a city street having a speed limit of thirty-five miles per hour or less.

8.56.040 Restrictions on use of wheeled all-terrain vehicle on city streets.

A. A person who operates or rides as a passenger in a wheeled all-terrain vehicle must wear a securely fastened motorcycle helmet while the WATV is in motion, except when the WATV is equipped with seat belts and roll bars, or an enclosed passenger compartment.

B. A person may not operate a wheeled all-terrain vehicle upon any portion of Interstate 90, nor upon the sections of University Way (including the Interstate 90 overpass at Exhibit 106), Old Highway 10 or US 97, as depicted in Exhibit 1 to this chapter; however, a person may cross those sections of University Way, Old Highway 10 or US 97 if the crossing begins and ends on a city street with a speed limit of thirty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, and only at a controlled intersection.

C. A person may not operate a wheeled all-terrain vehicle upon a city street with a speed limit in excess of thirty-five miles per hour; however, a person may cross a city street with a speed limit in excess of thirty-five miles per hour if the crossing begins and ends on a city street with a speed limit of thirty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, and only at a controlled intersection.

D. A person may operate a wheeled all-terrain vehicle upon any city street 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.

E. A wheeled all-terrain vehicle shall not be operated in a negligent or unsafe manner.

F. No person shall tow any trailers, devices, equipment or persons behind the wheeled all-terrain vehicle.

G. No person shall carry or transport any other person or passenger on a wheeled all-terrain vehicle, nor shall any other person ride on a wheeled all-terrain vehicle, unless such wheeled all-terrain vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the wheeled all-terrain vehicle. Passengers shall wear a securely fastened motorcycle helmet unless the passenger's seat has a seatbelt and the wheeled all-terrain vehicle has a roll cage, or the wheeled all-terrain vehicle has an enclosed passenger compartment;

H. No person may operate a WATV upon a city street without having proof of current liability insurance with liability limits of at least the amounts provided in and in compliance with the requirements as set forth in RCW 46.29.090, as now enacted or hereafter amended. Written proof of such financial responsibility must be provided on the request of a law enforcement officer.

I. Wheeled all-terrain vehicles are subject to Chapter 46.55 RCW (Vehicle Towing and Impoundment).

8.56.050 Equipment requirements for wheeled all-terrain vehicles.

A. A wheeled all-terrain vehicle operated on a city street must comply with the following equipment requirements:

1. Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion;
2. Tail lamps meeting the following requirements:
 - a. Wheeled all-terrain vehicles with handlebars must have one tail lamp meeting the requirements of RCW 46.37.525 and to be used at all times when the vehicle is in motion upon a city street;
 - b. Wheeled all-terrain utility-type vehicles 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 city street;
3. A stop lamp meeting the requirements of RCW 46.37.200;
4. Reflectors meeting the requirements of RCW 46.37.060;
5. During hours of darkness, as defined in RCW 46.04.200, turn signals meeting the requirements of RCW 46.37.200;
6. Outside of hours of darkness, the operator must comply with RCW 46.37.200 or 46.61.310;
7. Mirror(s) meeting the following requirements:
 - a. Wheeled all-terrain vehicles with handlebars must have a mirror attached to either the right or left handlebar, which must be located to give the operator a complete view of the roadway for a distance of at least two hundred feet to the rear of the vehicle;
 - b. Wheeled all-terrain utility type vehicles must have two mirrors meeting the requirements of RCW 46.37.400;

8. 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;
9. A horn or warning device meeting the requirements of RCW 46.37.380;
10. Brakes in working order;
11. A spark arrester and muffling device meeting the requirements of RCW 46.09.470;
12. Wheeled all-terrain utility-type vehicles, as described under RCW 46.09.310(19), must have seat belts meeting the requirements of RCW 46.37.510, and an individual seat for each occupant designed to seat a person.

B. The requirements of this section do not apply to wheeled all-terrain vehicles used under the authority or direction of the city or 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.

8.56.060 Registration and on-road tabs.

A person may not operate a WATV upon a city street unless the vehicle has a current and proper on-road vehicle registration and displays the appropriate on-road tab or special year tab, as required by chapter 46.09 RCW.

8.56.070 Duty to obey traffic-control devices and rules of the road.

Unless a police officer directs otherwise, a person operating a WATV must obey all rules of the road and must obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles. A person operating a WATV upon a city street is subject to all of the duties that chapter 46.61 RCW and Title 8 of the Ellensburg City Code impose on an operator of a vehicle, except as to those provisions thereof which by their nature can have no application.

8.56.080 Prohibited uses.

- A. No person may occupy a WATV unless that person is seated in or on a seat designed to carry a person.
- B. No person may operate a WATV side-by-side with another WATV or other vehicle in a single lane of traffic.

8.56.090 Prohibited areas.

- A. It is unlawful to operate a WATV on a sidewalk or other area where it is unlawful to operate a motor vehicle.

B. It is unlawful to operate a WATV in any city park other than in areas designated for motor vehicle operation such as a park drive or designated parking lot.

C. It is unlawful to operate a WATV on any bicycle trail or in any bicycle lane, or walking path or trail.

D. The requirements of this section do not apply to wheeled all-terrain vehicles used under the authority or direction of the city or 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.

8.56.100 Violation – Penalty.

Any person violating this chapter shall be guilty of a traffic infraction punishable in accordance with chapter 46.63 RCW; provided, conduct that constitutes a criminal traffic offense may be charged as such and subject to the maximum penalties allowed for such offenses. A person who violates a provision of this chapter which does not constitute a violation of any other state or local traffic law is guilty of a traffic infraction and will be punished by the imposition of a monetary penalty of two hundred fifty dollars, exclusive of statutory assessments.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 1st day of May, 2023.

ATTEST:

Harvey J. Kellipas
MAYOR
Beth Leader
CITY CLERK

Approved as to form:

C
CITY ATTORNEY

Publish: 5-4-2023

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4915 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4915 was published as required by law.

Beth Leader
BETH LEADER