

AN ORDINANCE TO AMEND AND RE-ENACT ORDINANCE 23-1 AMENDED ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO OPERATION OF ALL-TERRAIN OR OFF HIGHWAY VEHICLES IN A PUBLIC RIGHTS OF WAYS.

NOW THEREFORE , BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.

SECTION 1. General Provisions

1. Burleigh County Home Rule Charter allows for the creation of an ordinance which provides for the safe operation of all-terrain or off highway vehicles while traveling on all rights of ways of public roads.

SECTION 2. Purpose.

1. The purpose of this Ordinance is to control and regulate the use of registered off-highway vehicle in the road right-of-way within Burleigh County, to ensure the integrity of, and appropriate use of, said right-of-ways, and to promote the general health, safety, and welfare of the citizens of Burleigh County.

SECTION 3. Definitions.

1. "*Exhibition driving*" means: driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire squeal, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns; or jumping of ditches.
2. "*Jumping of ditches*" means: accelerating a vehicle at such speeds as to cause one or more of the vehicle's tires to leave the ground.
3. "*Off-highway vehicle*" means: Any motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. The term includes a motorized vehicle converted to operate on snow. The term does not include an electric bicycle. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable Under NDCC Chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more nonhighway tires; or is sixty-five inches [1651

ORDINANCE NO. 26-01

millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.

- c. Class III off-highway vehicle weighs less than eight thousand pounds [3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat; has a wheel, handlebars, or steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, but does not include a vehicle registered by the North Dakota DMV under chapter 39-04 or 39-24.
- d. Only an OHV with a minimum width of 50 inches meeting the requirements of this Section may be operated on Burleigh County Roads. No other class of OHV's are allowed to operate upon any road, street or highway in this County kept open for vehicular traffic.

4. "Road Right-of-Way" means: land, property, or any interest therein, acquired by a governing entity for or devoted to road purposes and includes approaches or driveways into private property.

SECTION 4. Operation of Off Highway Vehicles in Right of Way

1. No person may engage in exhibition driving of any vehicle in the road right-of-way.
2. Exceptions are granted for OHVs operated by government employees when in the performance of official government business, including:
 - a. in normal operations of a property owner, business or agricultural activity would be exempt
3. An individual may not operate an OHV on the shoulder, bottom of ditch or slope of any road, street, or highway.
4. Licensed driver over 16 years of age may operate a registered OHV on a paved highway designated and posted at a speed not exceeding 65, miles per hour. An individual may not operate an OHV on a paved highway if the OHV is unable to attain a speed, on a paved level surface, of at least 25 miles per hour.
5. The operator of an OHV may make a direct crossing of a street or road only if:
 - a. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - b. The OHV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
 - c. The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
6. An individual may not operate an OHV in the following ways, which

ORDINANCE NO. 26-01

are declared to be unsafe and a public nuisance:

- a. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
- b. While under the influence of intoxicating liquor or a controlled substance.
- c. Without a manufacturer-installed or equivalent muffler in good working order and connected to the OHV's exhaust system.
- d. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than 880 yards apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of these signs at or on all gates through the fence or enclosure.
- b. An individual may not operate an OHV without having in possession a valid driver's license.
- c. When an OHV is operated within the right-of-way of any road, street, or highway, headlamps and tail lamps must always be on.
- d. An individual may not operate an OHV within the right-of-way of any highway while towing a trailer, unless the trailer being towed is connected to the OHV by a secure hitch.
- e. An individual under the age of 18 years may not operate, ride, or otherwise be propelled on an OHV unless the person wears a safety helmet meeting United States Department of Transportation standards.
- f. An operator of an OHV may not carry a passenger while operating the vehicle unless the OHV is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
- g. Any occupant must, while wearing the safety belt, be able to set their feet flat on the floor of the OHV and be able to simultaneously touch the grab bar attached to the roll cage, or in the alternative the occupant who weighs at least 40 pounds may wear a 4- or 5-point harness installed according to manufacturer's instructions.

7. Only peace officers of this state and their respective duly authorized representatives may enforce this chapter.
8. A person who violates subsection a, b or d of paragraph 6 of this section is guilty of an offense. Any person who violates any other provision of this section shall be assessed a fee of fifty dollars.

Section 5. OHV Equipment

1. To operate a Class III OHV on County roads or streets, the OHV must be equipped with all of the following.
 - a. one mirror on the driver side and one mirror on the passenger side.
 - b. a horn.
 - c. a speedometer.
 - d. two tail/brake lights.
 - e. two headlights.
 - f. a motor of at least 550 cubic centimeters.
 - g. a factory installed roll cage.
 - h. turn signals on the front and rear of the vehicle.
 - i. factory installed suspension.
 - j. a metal license plate centered on the rear of the vehicle, with a license plate light; and
 - k. safety belts for the driver and all occupants that are properly adjusted and fastened while in motion.
2. To operate a Class II OHV on County roads or streets, the OHV must be equipped with all of the following.
 - a. one mirror on the driver side
 - b. a horn.
 - c. a speedometer.
 - d. single tail/single brake lights.
 - e. single headlight.
 - f. a motor of at least 550 cubic centimeters.
 - g. factory installed suspension.
 - h. license plate sticker or hard plate centered on the rear of the vehicle,
 - i. safety belts for the driver and all occupants that are properly adjusted and fastened while in motion.
3. ~~Both~~ headlights and taillights must be on at all times while the vehicle is in operation. No auxiliary lights may be turned on while the vehicle is in Operation.

4. If the vehicle is being operated with tracks, they must be made of rubber or similar material. No metal can come in contact with the street surface while the vehicle is in motion.

Section 6. Operation by Persons Under Age 16.

1. An individual must be aged 16 or over and have in their possession a valid driver's license to operate an OHV on or in any County right-of-way.

Section 7. Electric Personal Assistive Mobility Device.

“Electric personal assistive mobility device” means a self-balancing device with two non-tandem wheels designed to transport not more than one person and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less. Electric personal assistive mobility devices are not classified as motor vehicles for the purposes of this section.

1. A person may operate an electric personal assistive mobility device on public sidewalks.
2. An electric personal assistive mobility device may not be operated on the trail system except for devices operated by the mobility impaired or operated by peace officers, emergency personnel, maintenance personnel or special event personnel in the performance of their official duties.
3. An electric personal assistive mobility device may be operated on a roadway only:
 - a. while making a direct crossing of a roadway in a marked or unmarked crosswalk.
 - b. where no sidewalk is available, and the posted speed on the roadway is 25 mph or less.
 - c. where the sidewalk is so obstructed as to prevent safe use.
 - d. when directed by a traffic control device or by a peace officer.
 - e. temporarily in order to gain access to a motor vehicle; or
 - f. when operated by an on-duty peace officer in an emergency situation.
4. An electric personal assistive mobility device may not be operated at any time while carrying more than one person.
5. A person operating an electrical personal assistive mobility device on a sidewalk must yield the right-of-way to pedestrians at all times.
6. Every electric personal assistive mobility device when in use at nighttime must be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear. A lamp emitting a red light visible from a distance of five

ORDINANCE NO. 26-01

hundred feet to the rear may be used in addition to the red reflector. This section may be satisfied if the operator of the electric personal assistive mobility device wears a headlight and reflectors on their person.

- 7. An electric personal assistive mobility device must be equipped with a braking system that when employed will enable the operator to bring the device to a controlled stop.
- 8. A person under 18 years of age must wear a helmet when operating an electric personal assistive mobility device.
- 9. Every person operating an electric personal assistive mobility device must be aware of existing conditions and potential hazards on the sidewalk and must exercise due care in operating the device.
- 10. A violation of this section is an infraction.

SECTION 8. Penalty for Offenses While Operating in Right of Way.

- 1. Any person who violates this ordinance must be assessed a fee of fifty dollars.

SECTION 9. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 10. Severability Clause. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 11. When Effective. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First Reading Passed: _____

Second Reading Passed: _____

Passed and adopted this _____ day of _____ 2026.

Brian Bitner , Chairperson

ATTEST:

Mark Splonskowski, County Auditor

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