



ORDINANCE NO. 18-014

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 6, CHAPTER 3, OFF-HIGHWAY VEHICLES.

WHEREAS, Brian Head Town has established an Off-Highway Vehicle (OHV) Code to regulate the operation and use of OHV's within the town boundaries; and

WHEREAS, Utah Code Annotated § 41-22-10.5(1) authorizes municipalities to adopt ordinances regulating the operation of off-highway vehicles within the boundaries of the municipality; and

WHEREAS, the Brian Head Town Council determined it was necessary to amend the Off-Highway Vehicle Code for the purpose of clarification and updating changes that have taken place since the code was originally adopted in 1999, and;

WHEREAS, the Brian Head Town Council has determined that the health, safety and welfare of Brian Head Town and its residents and guests will be served by amending the OHV Code to current standards of the town.

NOW THEREFORE, BE IT ORDAINED BY THE BRIAN HEAD TOWN COUNCIL, IRON COUNTY, STATE OF UTAH AS FOLLOWS:

SECTION 1. Ordinance No. 18-014, (attachment A) is hereby adopted by reference as Title 6, Chapter 3 Off Highway Vehicles, into the Brian Head Town Code; and

SECTION 2. Effective Date. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this ordinance shall be incorporated into the Brian Head Town Code, Title 6, Chapter 3 Off Highway Vehicles.

SECTION 3. Repealer: All provisions of the Brian Head Town Code that are inconsistent with the express terms of this ordinance shall be repealed. All other provisions of the Brian Head Town Code shall remain in full force and effect as codified.

SECTION 4. Conflict. To the extent of any conflict between other Town, County, State, or Federal ordinances or regulations, and this ordinance, the more restrictive is deemed to be controlling.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court or

competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF BRIAN HEAD TOWN, IRON COUNTY, UTAH this ____ day of November 2018 with the following vote.


Town Council Vote:

Mayor Clayton Calloway	Aye
Council Member Shad Hunter	Aye
Council Member Lynn Mulder	Aye
Council Member Kelly Marshall	Aye
Council Member Larry Freeberg	Absent

BRIAN HEAD TOWN

By: 
Clayton Calloway, Mayor

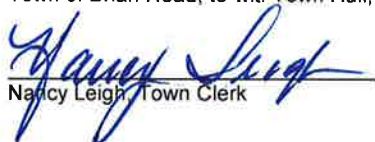
ATTEST:


Nancy Leigh, Town Clerk



CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the 13th day of November 2018, and have posted a complete copy of the ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office and the Mall.


Nancy Leigh, Town Clerk

Title 6 – Motor Vehicles and Traffic

Chapter 3

OFF HIGHWAY VEHICLES

- 6-3-1: POLICY DECLARATION:**
- 6-3-2: DEFINITIONS**
- 6-3-3: TRAIL DESIGNATION:**
- 6-3-4: OPERATION ON STATE ROAD 143; LIMITS:**
- 6-3-5: RESTRICTED AREAS:**
- 6-3-6: HOURS OF OPERATION:**
- 6-3-7: PERSONS UNDER AGE SIXTEEN:**
- 6-3-8: NOISE LEVEL LIMITATIONS:**
- 6-3-9: SPEED LIMIT:**
- 6-3-10: PROVISIONS FOR USE OF OHV**

6-3-1: POLICY DECLARATION:

It is the policy of the town to:

- A. Encourage the safe use of off highway vehicles (OHVs);
- B. Construct, sign and maintain an OHV trails through the town to facilitate access for citizens and guests to trails and play areas beyond the town limits;
- C. Promote uniformity of laws between the town, the state and the code of federal regulations, Title 36. (Ord. 99-002, 8-10-1999)

6-3-2: DEFINITIONS:

DIRECT SUPERVISION: means oversight at a distance of no more than 300' feet; and within which a visual contact is maintained, and advice and assistance can be given and received.

OFF-HIGHWAY VEHICLE (OHV): Any snowmobile or All Terrain Type 1 vehicle or Type II vehicle as defined by Utah Code Section 41-22-2 (2)(3) or motorcycle, including all electric and motorized vehicles over five (5) horse power or 1,000 watts.

OPERATE: To ride in or on and control the operation of an off-highway vehicle.

OPERATOR: An individual who operates or is in actual physical control of an off-highway vehicle.

OWNER: A person, other than a lien holder, having the property in or title to an off-highway vehicle and entitled to its use or possession.

REGISTER: The act of assigning a registration number to an off-highway vehicle in accordance with Title 41, Chapter 22, Section 3, Utah Code Annotated.

SNOWMOBILE: Means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface which it is operated.

6-3-3: TRAIL DESIGNATION:

All town streets, roads and roadways, together with posted OHV trails (maps attached) are designated as open to use with the following exceptions:

- A. Upon private property, other than that of the off-highway vehicle owner or operator, without express written permission of the owner, unless such property is a business that is held open to the public.
- B. No OHV may be operated on State Road 143 inside the town limits¹.
- ~~B. No OHV may be operated in any public parking area. (Ord. 99-002, 8-10-1999)~~

Footnote 1: See section 6-3-4 of this chapter for exceptions.

6-3-4: OPERATION ON STATE ROAD 143; LIMITS:

No person may operate an off-highway vehicle upon State Road 143, except as follows:

- A. When crossing a street or highway and the operator comes to a complete stop before the crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;
- B. 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; or
- C. When an emergency exists during any period of time and at those locations when the operation of conventional motor vehicles is impractical, as directed by a peace officer or other public authority. (Ord. 99-002, 8-10-1999)

6-3-5: RESTRICTED AREAS:

- A. In conjunction with Utah Code Annotated title 41, chapter 22, as amended, no unauthorized person may operate an off highway vehicle upon any ski slope or other restricted area, except when an emergency exist during any period of time and at those locations where the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority.

- B. Restricted areas shall, in addition to all ski slopes, consist of those areas designated by the Town Council within the town whereupon the use of off highway vehicles is restricted or prohibited. (Ord. 88-002, 2-23-1988)

6-3-6: HOURS OF OPERATION:

In order to preserve the solitude of the community, operation of OHVs after ten o'clock (10:00) P.M. to eight o'clock (8:00) A.M. shall not be allowed. (Ord. 99-002, 8-10-1999)

6-3-7: PERSONS UNDER AGE SIXTEEN:

No person under the age of sixteen (16) may operate or be in control of any off-highway vehicle unless:

- ~~A. Such person is under the direct visual supervision of an adult who is at least eighteen (18) years of age; or~~
- ~~B. Such person has in their possession at the time of such operation or control a valid state off highway vehicle certificate. (Ord. 04-004, 6-29-2004)~~
- A. All operators 16 years of age or older must possess either a valid operator's license or an OHV education certificate as issued by the Utah Division of Parks and Recreation.
- B. Unless otherwise provided for herein, no person under 8 years of age will be allowed to operate an OHV on a Brian Head road, street or highway designated for OHV use unless exempted under UCA 41-22-29.
- C. No person between the ages of 8 and 16 may operate and no owner may give permission to a person between the ages of 8 and 16 to operate an OHV on designated roads, streets and highways of Brian Head unless such person possess an OHV certificate issued by the Utah Division of Parks and Recreation and is accompanied on another OHV and under the direct supervision of an adult 18 years of age or older holding a valid driver's license.

6-3-8: NOISE LEVEL LIMITATIONS:

~~OHVs may only operate if they have an exhaust silencer that complies with USEPA noise emission standards and maintain stock dBA noise levels. (Ord. 99-002, 8-10-1999)~~

OHV's must have a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system. Mufflers must have a federally approved spark arrestor, with the exception of snowmobiles. Overall noise emission may not exceed 99 decibels at a distance of 20 inches. Mufflers may not be altered to increase motor noise, or have a cutout, bypass, or similar device (UCA 41-22-10-7).

6-3-9: SPEED LIMIT:

The maximum speed limit for operation of OHVs within the town limits shall be ~~twenty-five (25)~~ **fifteen (15)** miles per hour, unless posted otherwise, **with the exception of snowmobiles in which snowmobiles may not exceed a maximum speed of twenty-five (25) miles per hour within the town limits.** In addition, OHVs shall slow to five (5) miles per hour when approaching and passing non-motorized trail users. (Ord. 99-002, 8-10-1999; amd. 2010 Code)

6-3-10: PROVISIONS FOR USE OF OHV

- A. Any person operating an OHV is subject to all of the provisions of Title 41 Chapter 22, Utah Code Annotated (UCA).

- B. All riders under the age of 18 may not operate or ride an all-terrain type 1 vehicle on the trails, roads or highways unless the person is wearing a properly fitted and approved protective headgear designated for motorized use

- C. Restriction on use of snowmobile trails: A person may not operate a wheeled vehicle with a gross vehicle weight of 800 pounds or more on any snowmobile trail that has been designated, marked, posted or maintained as a snowmobile trail.

- D. Requiring compliance with traffic laws:
 - 1) Any person operating of off-highway vehicle is subject to the provisions of Title 41, Chapter 6a, (UCA) Traffic Code, unless specifically excluded.
 - 2) An off-highway vehicle accident shall be reported in accordance with the requirement of Section 41-6a-402 (UCA).

End.