

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE  
TOWN OF HOT SULPHUR SPRINGS, COLORADO,  
AMENDING PROVISIONS OF THE MUNICIPAL CODE TO  
GOVERN THE OPERATION OF SNOWMOBILES AND  
OTHER OFF HIGHWAY VEHICLES WITHIN THE TOWN  
AND PROVIDING PENALTIES AND VIOLATION THEREOF

**WHEREAS**, the Town of Hot Sulphur Springs is a Colorado statutory town; and

**WHEREAS**, Section 33-14.5-108, C.R.S. provides that off-highway vehicles operation is generally prohibited on streets, roads, and highways within the state with certain exceptions, including an exception when a local political subdivision authorizes the establishment of off-highway vehicle routes to permit the operation of off-highway vehicles on municipal streets, so long as no street or road which is part of the state highway system is so designated; and

**WHEREAS**, the Town Board of Trustees desires to permit the operation of snowmobiles and other OHV's on streets within the Town subject to the limitations and requirements set forth herein; and

**WHEREAS**, Chapter 2 of Title 6 of the Town of Hot Sulphur Springs Municipal code currently governs the operation of snowmobiles within the Town; and

**WHEREAS**, the Town Board of Trustees desires to repeal the existing Chapter 2 of Title 6 of the Municipal Code and replace it as set forth in this ordinance; and

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS:**

**Section 1. Repeal and reenactment of Chapter 2 of Title 6 of the Municipal Code. Chapter 2 of the Municipal Code is hereby repealed and reenacted to read as follows in its entirety:**

**Chapter 2**

**Off Highway Vehicles (OHV's)**

Sections:

- 6.2.1 Definitions
- 6.2.2 Permitted Use
- 6.2.3 Registration
- 6.2.4 Requirements
- 6.2.5 Licensed Operator Exceptions
- 6.2.6 Responsibilities and Safety
- 6.2.7 Restrictions
- 6.2.8 Hours of Operation
- 6.2.9 Yield Right-of-Way
- 6.2.10 Excessive Noise Prohibited
- 6.2.11 Liability Imposed on Parent
- 6.2.12 Liability Imposed on Owner
- 6.2.13 Declared Emergency
- 6.2.14 Accident Reporting
- 6.2.15 Penalties, Violations and Fines

## 6.2.16 Limitation of Liability

### 6.2.1 Definitions.

As used in this Chapter the following terms shall have the assigned meaning:

*All-terrain vehicle type I (ATV)* means any motor vehicle fifty (50) inches or less in width, having an unladen dry weight of eight hundred (800) pounds or less, traveling on four (4) or more low pressure tires, having a seat designed to be straddled by the operator, having a seat height of a minimum of twenty-four (24) inches when measured at the forward edge of the seat bottom, with handlebars for control and designed for or capable of traveling over unimproved terrain.

*Neighborhood Electric Vehicles (NEVs including Golf carts)* means any electric propelled vehicle that has not been modified from its original purpose primarily designed to carry one or more people traveling on four (4) or more low pressure tires, whose top speed is not designed for greater than 25 miles per hour, and having side by side seating with a steering wheel for control. It shall be registered according to the applicable laws and regulations of the State of Colorado as a Tax Class C vehicle and all of Title 42 of the Colorado Revised Statute shall apply.

*Normal Transportation* means having one or more specific destinations as if operating a normal motor vehicle and using the most direct route possible.

*Off-highway vehicle (OHV)* refers specifically to the vehicles described herein as an ATV, UTV, NEV, and Snowmobile that has not been otherwise modified from another specific form in order to conform to one of the aforementioned descriptions. *Operator* means the person who is in actual physical control of the vehicle. *Owner* means a person, other than a lien holder, having the property in or title to an OHV and entitled to the use of it.

*Public streets or alleys* is the entire right-of-way between boundary lines of any such public way which is open to the use of the public as a matter of right for the purpose of motor vehicle travel.

*Recreational use* means operating an OHV without a specific destination or not using the most direct route. This would include but not limited to; speed contests, excessive acceleration, riding around the block, and stunts.

*Registration* means the process by which the State of Colorado provides a valid Colorado registration for an OHV through the State Division of Parks and Wildlife or any successor agency.

*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 upon which it is operated.

*Town* is the Town of Hot Sulphur Springs

*Utility type vehicle (UTV)* means any recreational or commercial vehicle designed for and capable of traveling over unimproved terrain: traveling on four (4) or more low pressure tires, having a width of thirty (30) to seventy (70) inches, having an unladen dry weight of two thousand two hundred (2,200) pounds or less, having a seat height of twenty-five (25) to forty (40) inches when measured at the forward edge of the seat bottom, and having side by side seating with a steering wheel for control.

*Valid driver's license* means any regular and current legal license not subject to revocation or suspension.

### 6.2.2 Permitted Use.

A. It shall be a violation of this Code and is prohibited to operate any OHV on Town public streets or alleys except in accordance with this Chapter.

B. Properly registered, operated and insured OHV's may be operated on all public streets and alleys within the limits of the Town except Highway 40 in accordance with the requirements of this Chapter. This Chapter does not authorize or designate

- C. Properly registered, operated, and insured OHV's may cross Colorado Highway 40 only at its intersection with the following Town streets:
  - 1. First Street
  - 2. Aspen Street
  - 3. Hemlock Street

- D. All OHV's operated in accordance within this Chapter shall be used solely for the purpose of normal transportation having a specific destination using the most direct route.

- E. All provisions of the Model Traffic code as adopted by the Town and all traffic laws of the State of Colorado governing operation and parking of motor vehicles on Town streets shall apply to the operation and parking of OHV's hereunder, including, without limitation, laws prohibiting the operation of vehicles while intoxicated or under the influence of alcohol or drugs. The provisions of the Model Traffic code and state law governing motor vehicle required equipment shall not apply and shall be replaced with the equipment requirements set forth in this Chapter. It shall violate any such applicable traffic laws and such person shall be prosecuted either in the municipal court or in the state courts if the violation would be prosecuted in the state courts had the operator been operating a motor vehicle.

#### **6.2.3 Registration.**

The owner of any OHV driven within the Town shall obtain either a State Department of Motor Vehicle registration as an NEV or, if other than and NEV, an annual OHV Registration or Non-Resident Permit through Colorado State Parks and Wildlife Division or its successor agency. Such registration or permit must be clearly displayed on the OHV on in the presence of the driver at all times while operating an OHV on Town streets pursuant to this Chapter.

#### **6.2.4 Requirements.**

- A. Any OHV that operates on any Town public street or alley must have all the following listed equipment installed and such equipment must be operable:
  - 1. Headlamp, which is or are in use at all times before and at dawn and at dusk;
  - 2. Tail lamp, which is or are in use at all times before and at dawn and at dusk, and reflector;
  - 3. Stop or brake lamps on the rear;
  - 4. A horn or other audible warning device;
  - 5. A muffler and emissions system as required by the state;
  - 6. Rear view mirror;
  - 7. A windshield or eye protection for and worn by the operator;
  - 8. For UTV's and NEV's a seat belt for and to be worn by each occupant;
  - 9. For other than UTV's and NEV's a footrest and hand hold for each passenger.
- B. Any operator of an OHV operating on any Town public street or alley must have in their possession while operating the OHV:
  - 1. A valid driver's license except otherwise as set forth in Section 6.2.5; and
  - 2. Proof of current policy of insurance for the OHV in operation in at least minimum Title 10, Colorado Revised Statutes, as may be amended, or any successor statute; and
  - 3. Documentation of current registration or permit as required by Section 6.2.3 of this Chapter.

- C. The Town Board of Trustees shall suspend or revoke the privilege of any person to operate an OHV on Town public streets and alleys hereunder if such person has been convicted of two (2) or more violations of any traffic laws within one (1) year while operating an OHV. If such privilege is suspended or revoked, it shall be unlawful for such person to operate an OHV on Town public streets or alleys during such period of such suspension or revocation.

#### **6.2.5 Licensed Operator Exceptions.**

- A. Persons age ten (10) or under may only operate a snowmobile when accompanied on board by a person at least sixteen (16) years who has in possession a valid driver's license in such persons name.
- B. Persons age eleven (11) to fifteen (15) may only operate a snowmobile with a Snowmobile Operator's safety certificate issued by the Colorado Division of Parks and Wildlife and under the direct and immediate supervision by a person in possession of a valid driver's license in such persons name who remains in direct sight within 200 feet of the under aged operator.

- C. Persons age eleven (11) and older may operate an OHV without a valid driver's license strictly for the purposes of snow removal while under the direct and immediate supervision by a person in possession of a valid driver's license in such person's name who remains in direct sight within 50 feet of the unlicensed operator.

#### **6.2.6 Responsibilities and Safety.**

- A. All OHV's owners, operators thereof and passengers there in, shall comply with all of the following responsibilities:
  - 1. The registered owner of the OHV shall be responsible for the operation at all times of that vehicle; and
  - 2. The operator of any OHV must obey all Town, County, State, and Federal laws; and
  - 3. The operator of any OHV on Town streets or alleys may not exceed the posted speed limit at any time; and
  - 4. That use of an OHV is limited to one (1) person unless the vehicle is designed for two (2) or more riders and there are foot rests and hand holds for each rider, in which event more than one (1) person may use the OHV at the same time.
- B. OHV's traveling together must be driven in single file.

- C. The safety or deadman throttle on snowmobiles which causes the motor to be disengaged from the driving track when pressure is removed from the engine accelerator or throttle will be maintained and kept in proper working order and at all times functional when the snowmobile is in operation on the town public streets and alleys.

#### **6.2.7 Restrictions.**

- A. It shall be unlawful to operate any three-wheel OHV on any Town public street or alley.
- B. It shall be unlawful to operate any OHV that has been modified from its original form or use on any Town public streets or alleys.
- C. In order to prevent degradation of the paved surfaces, it shall be unlawful to operate any snowmobile on or across dry pavement areas. Snowmobiles must be operated only across areas of streets covered wholly with snowpack.
- D. It shall be unlawful to operate any OHV on Town public streets or alleys in any recreational, careless, reckless, or negligent manner.
- E. It shall be unlawful to operate any OHV on Town public streets or alleys which is towing by any means another OHV, motor vehicle, or any person or object. Any disabled OHV must be trailered or pushed to a safe and legal place.
- F. It shall be unlawful to operate any OHV on Town sidewalks, public parks, pedestrian bridges, designated pedestrian trails, or any other area posted as prohibited. This subsection does not apply to any Town vehicle or OHV or authorized contractors and other designees performing maintenance on behalf of the Town.

- G. It shall be unlawful to operate any OHV in Town upon the right-of-way of any operating railroad except for crossing the tracks at the intersection of a public street or alley.

H. The restrictions herein may be waived by the Town to permit use of OHV's in prohibited areas for special events upon approval by the Town of a Special Use Permit and the payment of any appropriate fees and bonds.

**6.2.8 Hours of Operation.**

No OHV may be operated within the Town except between the hours of 8:00 a.m. and 10:00 p.m. with the only exception being for snow removal purposes.

**6.2.9 Yield Right-of-Way.**

OHV's shall yield the right-of-way at all times to all vehicular traffic and pedestrians.

**6.2.10 Excessive Noise Prohibited**

It shall be unlawful to operate any OHV that produces excessive noise. All motorized OHV's in Town shall be operated with a conventional exhaust system in working order. Tuned exhausts are not permitted unless used in connection with an operable muffler.

**6.2.11 Liability Imposed on Parent**

It shall be unlawful for the parent or guardian of any juvenile to authorize or permit any such juvenile to violate any provision of this Chapter.

**6.2.12 Liability Imposed on Owner**

It shall be unlawful for the owner of any OHV to authorize or permit any person to operate the OHV in violation of any provision in this Chapter.

**6.2.13 Declared Emergency**

Under a declaration of emergency issued by the Mayor in accordance with Section 1-6-3 of the Town Code, this Chapter shall be automatically suspended during such emergency unless the mayor declares otherwise.

**6.2.14 Accident Reporting**

It shall be unlawful for any person involved in an accident involving an OHV in the Town to fail to report the same in the same manner as if the accident involved a motor vehicle, as set forth in Part 16 of Article 4 of title 42, as may be amended, or any successor statute.

**6.2.15 Penalties, Violations and Fines.**

A. Any person in violation of any provision in this Chapter shall be punished in accordance with Section 1.4.1(B) of this Code upon conviction.

**6.2.16 Limitation of Liability.**

Nothing in this chapter shall be construed as an assumption of any duty of care by the Town with respect to, or the assumption of any liability by the Town for any injuries to persons or property which may result from the operation of an OHV on the public streets and alleys within the Town limits. Nothing herein shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors, or agents or any other person acting on behalf of the Town, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised Statutes.

**Section 2. Severability.** If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not effect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The town Board of Trustees declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

**Section 3. No Existing Delinquency or Violation Affected** Nothing in this Ordinance shall be construed to affect any rights acquired, or liability incurred, or any causes or causes of action acquired or existing, under any ordinance hereby repealed by this Ordinance, or any legal right or remedy of any character impaired, or affected by this Ordinance.

**Section 4 Effective Date.** This Ordinance shall become effective thirty days after publication following final passage.

INTRODUCED, READ, ADOPTED, APPROVED AND ORDERED PUBLISHED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT IT REGULAR MEETING HELD ON THE 17th DAY OF APRIL, 2014, BY A VOTE OF 4 IN FAVOR, 0 AGAINST, and 0 ABSTAINING.

TOWN OF HOT SULPHUR SPRINGS

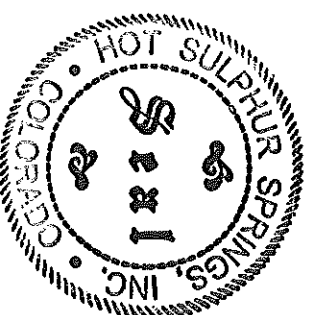
By: *Robert McVay*  
Robert McVay, Mayor

I hereby certify that the above Ordinance was introduced and adopted by the Town Board of Trustees of the Town of Hot Sulphur springs, Colorado, at it meeting of April 17th, 2014, and ordered published by Sky Hi Newspaper on April 24th, 2014.

seal

ATTEST:

By: *Sandra White*



Fri, Apr 18, 2014  
10125165

16:05:24

Ad Ticket #5

**Acct:** 1095219  
**Phone:** (970)725-3933  
**E-Mail:**  
**Client:**  
**Caller:** Sandy White

**Name:** HOT SULPHUR SPRINGS, TOW  
**Address:** PO BOX 116

**City:** HOT SULPHUR SPG  
**State:** CO **Zip:** 80451

**Receipt**

**Ad Name:** 10125165A  
**Editions:** 8MPT/  
**Start:** 04/24/14  
**Color:**  
**Copyline:** mpt Ordinance NO 2014 14 1 291

**Original Id:** 0  
**Class:** 0990  
**Stop:** 04/24/14

**Issue 1**  
**Rep:** Pam Schultz

Lines:	16
Depth:	1.35
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
<b>Total</b>	<b>6.77</b>
Payment	0.00

TOWN OF HOT SULPHUR SPRINGS  
COUNTY OF GRAND, COLORADO  
ORDINANCE NO 2014 4 1 291

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AMENDING PROVISIONS OF THE MUNICIPAL CODE TO GOVERN THE OPERATION OF SNOWMOBILES AND OTHER OFF HIGHWAY VEHICLES WITHIN THE TOWN AND PROVIDING PENALTIES AND VIOLATION THEREOF

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