

ORDINANCE 2017- 04

**AN ORDINANCE AUTHORIZING THE OPERATION OF OFF-ROAD VEHICLES
WITHIN THE CITY LIMITS OF THE CITY OF AUSTIN AND WITHIN DESIGNATED
USAGE AREAS, AND PROHIBITING CERTAIN CONDUCT THEREON AND
PROVIDING FOR VIOLATIONS**

WHEREAS, the City of Austin recognizes that the expanding popularity of off-road vehicles may provide opportunities for a wide variety of uses and outdoor recreational activities and the commerce that is derived therefrom; and;

WHEREAS, Ind. Code § 14-16-1-22 provides the City of Austin the authority to pass an Ordinance allowing the operation of such vehicles on its roadways;

WHEREAS, the City of Austin is desirous of defining areas of use and establishing rules to regulate the operation of off-road vehicles to promote and facilitate responsible off-road vehicle activities and recreation within the City of Austin.

THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUSTIN that there is hereby added to the Austin City Code a new Chapter to read as follows:

SECTION 1. DEFINITIONS.

OFF-ROAD VEHICLE. An “all-terrain vehicle” as that term is defined in I.C. 14-8-2-5.7 (except that all-terrain vehicles designed for travel on three non-highway or off-highway tires shall be excluded from this definition for the purposes of this chapter) and a “recreational off-road vehicle” as that term is defined in I.C. 14-8-2-233.5. The term OFF-ROAD VEHICLE for the purposes of this chapter does not mean a multi-wheel drive or low pressure tire vehicle; an amphibious vehicle; a ground effect air cushion vehicle; a farm vehicle; a vehicle used for military or law enforcement purposes; a construction, mining, or industrial related vehicle; a

snowmobile; a registered aircraft; a golf cart vehicle; any other vehicle properly registered by the Indiana Bureau of Motor Vehicles; and any water craft that is registered under the Indiana statutes.

OPERATOR. An OPERATOR of an off-road vehicle must be at least 18 years of age and possess a valid motor vehicle driver's license as required by I.C. 14-16-1-20(c).

AUTHORIZED STREETS. All city streets inside of the city limits, except restricted streets.

RESTRICTED STREETS.

(1) Indiana State Highway 256 and U.S. Highway 31, except to cross the said roadways at intersections in a path 90 degrees to the highway. The operator shall bring the off-road vehicle to a complete stop before proceeding across a highway and shall yield the right of way to all traffic. However, off-road vehicles may be operated on Indiana State Highway 256 and U.S. Highway 31 in connection with and during the course of such special events as may be from time to time determined and so designated by the Board of Public Works and Safety or the City;

(2) Any street or highway posted by order of the city or its designee for non-use by off-road vehicles.

(3) Any of the following:

(a) On sidewalks;

(b) On any surface, whether paved or unpaved, of property belonging to the Scott County School District 1 School Corporation;

(c) On any unpaved surfaces of public property; and

(d) On any private property without permission of the owner.

SECTION 2. USE AND OPERATION.

(A) Operators of off-road vehicles may use Authorized Streets, as those terms are defined herein, subject to the terms and conditions of this chapter.

(B) Off-road vehicles may not be operated on “restricted roads”.

(C) All-terrain vehicles designed for travel on three non-highway or off-highway tires shall not be allowed to operate on the city streets and highways in the city.

SECTION 3. REGISTRATION REQUIREMENTS.

Off-road vehicles must be registered under I.C. 14-16-1-8, as amended. Additionally, the owner or leasee of an off-road vehicle as defined in this chapter must register the off-road vehicle annually with the Austin Police Department on or before July 15. An annual registration fee of \$25 shall be paid to the Clerk-Treasurer of the city who, after inspection by the Austin Police Department verifying the off-road vehicle as insured and equipped as required by this chapter, shall issue a Certificate of Registration (“permit”) and a numerical tag which shall be prominently attached to and displayed on a rear panel of the off-road vehicle that is plainly visible to approaching traffic. The permit must be in the off-road vehicle or in the possession of the person operating the off-road vehicle at all times such off-road vehicle is in operation on the streets of the city.

SECTION 4. HEADLIGHTS, TAILLIGHTS, BRAKES, PENNANT AND REAR VIEW MIRROR.

The off-road vehicle must meet those standards of headlights, taillights, and brakes required under I.C. 14-16-1-21. The off-road vehicle shall be equipped with a functional rear view mirror at all times when the vehicle is being operated. In addition, the off-road vehicle operated on a city street pursuant to this chapter must have either:

SECTION 9. RESTRICTIONS ON OPERATION.

An off-road vehicle may not be operated on any city street between 11:00 p.m. and 6:00 a.m.

SECTION 10. OTHER LAWS AND REGULATIONS.

Nothing in this chapter modifies, alters or changes the requirements of the operation of vehicles on public roadways in Indiana, and all operators of off-road vehicles must obey and follow all rules and regulations applicable to the operation of vehicles on roadways in Indiana.

SECTION 11. DISTURBANCE OF ROADWAY.

No person shall operate an off-road vehicle on city streets in such a manner which causes damage to the street or disturbs the surface of the roadway. Any violator of this section, in addition to such penalties set forth in this Chapter, shall be responsible for all costs of repair of such damage or disturbance.

SECTION 12. EMERGENCIES.

Any city, county or state law enforcement officer may prohibit operation of an off-road vehicle on a city street or roadway during emergencies.

SECTION 13. IMPOUNDMENT OF OFF-ROAD VEHICLE.

(A) Any off-road vehicle operated on the streets in the city by an unlicensed operator, without the equipment required by this Chapter or Indiana Law, or used in the alleged commission of a crime may be impounded by the enforcing officer. Said off-road vehicle shall be held until retrieved by the owner and a properly licensed operator unless the off-road vehicle is being held by law enforcement as evidence or in the investigation or prosecution of a crime. If the off-road vehicle is improperly equipped as required by this Chapter or Indiana Law for operation on the streets of the city, then it shall only be released to be hauled away upon a

properly licensed vehicle capable of safely hauling the same. The off-road vehicle shall not be released from impoundment until:

- (1) It is properly registered as required by law;
- (2) The actual charge for the towing of the vehicle to the place of impoundment is paid; and
- (3) The storage fees are paid as charged by an authorized operator of a motor vehicle impound lot; provided, that the total storage charges may not exceed the sum of \$1,500.

(B) The city shall not be responsible for any loss or damage sustained by any off-road vehicle so impounded or stored hereunder. Off-road vehicles not reclaimed within 30 days from the date of impoundment shall be deemed abandoned and shall be sold by the City as surplus property with any proceeds being deposited into the City's general fund.

SECTION 14. PENALTY.

(A) Any person who violates any provision of this chapter shall be deemed guilty of a violation and; upon conviction, shall be fined pursuant to the following schedule:

- (1) First offense in a one-year period: \$50; and
- (2) Second offense in a one-year period: \$100.

(B) Each day that a violation occurs constitutes a separate offense.

(C) The Certificate of Registration for any off-road vehicle shall be revoked upon the commission of a second violation of this chapter within any one-year period.

(D) The Certificate of Registration may be revoked by the Austin Police Department if the registered off-road vehicle is used in connection with the alleged commission of a crime.

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), this June 12 day of June 12, 2017 at 6:26 Am.

Dillo Bush
Dillo Bush, Mayor

Attest:

Chris Fugate
Chris Fugate, Clerk-Treasurer

PREPARED BY: Joshua Stigdon
Houston, Thompson and Lewis, PC
49 E. Wardell St.
Scottsburg, IN 47170

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law."

Aziz Naw Clerk

(E) All penalties assessed for violation of this chapter shall be deposited into the general fund of the city and be made available for appropriation to the operating budget of the Austin Police Department.

SECTION 15: SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts.


SECTION 16. EFFECTIVE DATE.

This Ordinance shall become effective from and after its passage by the Council and after publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Austin, Indiana on the 12th day of June, 2017 by a vote of 5 to 0.

COMMON COUNCIL

CITY OF AUSTIN, INDIANA



Brandon White, President

Attest:



Chris Fugate, Clerk-Treasurer

Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 14th day of June, 2017 at 10 : 09 A.m.



Chris Fugate, Clerk-Treasurer