

ORDINANCE NO. 2-2019

AN ORDINANCE AUTHORIZING THE OPERATION OF ALL-TERRAIN VEHICLES ON CERTAIN STREETS LOCATED WITHIN THE BOUNDARIES OF THE CITY OF COVE, OREGON.

WHEREAS, the City of Cove (the "City") desires to adopt an ordinance authorizing the operation of all-terrain vehicles on certain streets located within the boundaries of the City: and

WHEREAS, the City has determined that it is necessary to impose certain restrictions on the operation of all-terrain vehicles on such streets in order to protect the interest and safety of the general public.

NOW, THEREFORE, THE CITY OF COVE ORDAINS AS FOLLOWS:

1. Incorporation. The above-stated findings are hereby adopted.
2. Short Title. The Ordinance No. 2-2019 ("this Ordinance") maybe referred to and cited as the "ATV Ordinance".
3. Definitions. As used in this Ordinance, the following capitalized terms have the meanings assigned to them below:

"All-Terrain Vehicle(s)" and "ATV(s)" mean Class I All-Terrain Vehicles, Class II All-Terrain Vehicles, and Class IV All-Terrain Vehicles.

"ATV Operator Permit" has the meaning given that term under OAR 736-004-0015(10). OAR 736-004-0015(10) defines an ATV Operator Permit as the ATV Safety Education Card issued upon completion of an Oregon Parks and Recreation Department-approved ATV Safety Education course and passage of the minimum standards test of ATV Safety Education competency as established by the Oregon Parks and Recreation Department.

"Class I All-Terrain Vehicle(s)" has the meaning given that term under ORS 801.190. ORS 801.190 defines a Class I All-Terrain Vehicle as a motorized, off-highway recreational vehicle that (a) is 50 inches or less in width, (b) has a dry weight of 1,200 pounds or less, (c) travels on three or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (d) uses handlebars for steering, (e) has a seat designed to be straddled for the operator, and (f) is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain. Class I All-Terrain Vehicles may also be known as quads, three-wheelers, or four-wheelers.

"Class II All-Terrain Vehicle(s)" means any motor vehicle that (a) weighs more than or is wider than a Class I All-Terrain Vehicle, (b) is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, (c) is not a Class IV All-Terrain Vehicle, and (d) is street-legal, is registered under ORS 803.420, and has a roof or

roll bar. Class II All-Terrain Vehicles may also be known as four-by-fours, pickups, jeeps, sand rails, dune buggies, and SUVs.

Class III ATV is an off-road motorcycle (ORM or OHM) with two tires.

"Class IV All-Terrain Vehicle(s)" has the meaning given that term under ORS 801.194(2). ORS 801.194(2) defines a Class IV All-Terrain Vehicle as any motorized vehicle that (a) travels on four or more pneumatic tires that are six inches or more in width and that are designed for use on wheels with a rim diameter of 14 inches or less, (b) is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, (c) has non-straddle seating, (d) has a steering wheel for steering control, (e) has a dry weight of 1,800 pounds or less, and (f) is 72 inches wide or less at its widest point. Class IV All-Terrain Vehicles may also be known as side-by-sides.

"Driver License" has the meaning given that term under ORS 801.245.

"Motorcycle Helmet" has the meaning given that term under ORS 801.366. ORS 801.366 defines Motorcycle Helmet as a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell and a chin-strap type retention system, and with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation.

"Traffic Law(s)" means any and all Oregon statutes and regulations relating in any way to the operation or use of motorized vehicles, including, without limitation, Oregon Vehicle Code (ORS Chapters 801 and 826) and any regulations promulgated thereunder.

"Street(s)" means all highways, roads, streets, and alleys, other than State of Oregon highways and two-lane gravel roads, within the boundaries of the City that are open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right. Designation of closed streets will be at the sole discretion of the City of Cove. Streets designated as "Closed" are shown in Attachment A. This listing can be amended at any time with majority vote of the City Council.

4. Operation of All-Terrain Vehicles on Streets Authorized. Subject to the provisions of this Ordinance, ATVs may be operated on Streets subject to the conditions and restrictions set forth under ORS 821.200. All-Terrain Vehicles are prohibited from operating under this Ordinance on State of Oregon highway 237 within the boundaries of the City, except that a person may, while operating an ATV, cross a State of Oregon highway to the extent permitted under the applicable Oregon law, including, without limitation, ORS 821.200(1).

5. Regulations for Operation of All-Terrain Vehicles. All-Terrain Vehicles operated under this Ordinance must be operated in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including, without limitation, all applicable Traffic Law requirements, including, without limitation, ORS 811.255, and all posted speed limits, and in a manner comporting with the public health, safety, and general welfare.

6. Licensed Driver 16 Years of Age or Older Required. A person operating an ATV under this Ordinance must be 16 years of age or older and hold a valid Driver License.

7. All-Terrain Vehicle Operator Permit Required. A person operating a Class I All-Terrain Vehicle under this Ordinance must hold a valid Class I ATV Operator Permit issued under ORS 390.570. A person operating a Class IV All-Terrain Vehicle under this ordinance must hold a valid Class IV ATV Operator Permit issued under ORS 390.577.

8. Safety Equipment Requirements. All-Terrain Vehicles operated under this Ordinance must be equipped with safety equipment required under all applicable Traffic Laws, including, without limitation, ORS 821.030, ORS 821.040, ORS 821.220, ORS 821.230, and OAR 735-116-0000.

9. Helmet Requirements. A person who is under 18 years of age must wear a Motorcycle Helmet with a fastened chin strap while operating an ATV, or riding as a passenger on an ATV operated under this Ordinance.

10. Safety Belt Requirements. A person must be properly secured with a safety belt or safety harness while operating or riding as a passenger on an ATV operated under this Ordinance if such ATV was required to be equipped with safety belts or safety harnesses at the time the ATV was manufactured or safety belts or safety harnesses have been installed on the ATV.

11. Speed Limits. All-Terrain Vehicles operated under this Ordinance must be operated in compliance with all posted speed limits and may not be operated (a) at a rate of speed greater than reasonable and proper under existing conditions, or (b) in a negligent manner so as to endanger or cause injury, death, and/or damage to the operator or person or property of another.

12. Prohibition on Operating All-Terrain Vehicles While Driving Privileges Suspended. A person may not operate an ATV under this Ordinance while the person's driving privileges (i.e., Driver License) are suspended or revoked.

13. Financial Requirements. All-Terrain Vehicles operated under this Ordinance must meet the financial responsibility requirements under ORS 806.060. For purposes of this Section 13, "financial responsibility requirements" means the ability to respond in damages for liability, on account of accidents arising out of ownership, operation, maintenance, and/or use of an ATV, in a manner provided under ORS 806.060.

14. Headlights and Taillights Requirement. All-Terrain Vehicles operated under this Ordinance must be equipped with and display operational headlights and taillights.

15. Posting. The City will post signs giving notice that the operation of ATVs is permitted upon Streets under the provisions of this Ordinance. The City will post such signs at locations necessary to inform the public that ATVs are permitted upon Streets, which sign locations will be determined by the City in its sole discretion.

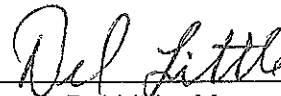
16. Liability. The operation of an ATV will be undertaken at the sole risk and responsibility of the owner and/or operator. The City, by passing this Ordinance, assumes no responsibility for the operation of such ATVs on or off any public way within the City, including, without limitation, Streets.

17. Penalties. Violation of, or failure to comply with, any provision of this Ordinance, including, without limitation, the operation of an ATV where such ATV is prohibited, is punishable by a fine not to exceed \$500.00. Each violation of this Ordinance will constitute a separate offense. The penalties imposed by this Section 17 are not exclusive and are in addition to any remedies, civil or criminal, available to the City under applicable law.

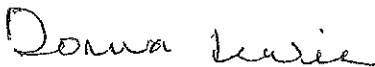
18. Miscellaneous. All pronouns contained in this Ordinance and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include", "includes", and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code, or ordinance as now in force and hereafter amended. The provisions of this Ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

19. Effective Date. This Ordinance will become effective 30 days after its approval and passage by the City Council.

This Ordinance was PASSED by the City Council of the City of Cove by a vote of 4 for and 0 against on this 1st day of October, 2019.



Del Little, Mayor of the City of Cove



Donna Lewis, City Recorder

ATTACHMENT "A" to Ordinance 2-2019

The following City Street is temporarily **Closed** to ATV use:

(State Laws still apply – ORS 281.191 Exception for Agricultural use allowance. City of Cove exception for transportation between jobs for Commercial use, such as snow removal, weed spraying, etc.)

- That part of Antles in the Cove City Limits.