

ORDINANCE NO. 422

AN ORDINANCE OF THE CITY OF MACKAY, CUSTER COUNTY, STATE OF IDAHO, REPEALING ORDINANCE NUMBER 388 AND ANY RELATED RESOLUTIONS TO THAT ORDINANCE OR DECISIONS MADE AND RECORDED IN THE MINUTES OF CITY COUNCIL MEETINGS, REVISING THE CITY OF MACKAY REQUIREMENTS FOR OPERATION OF PERSONAL VEHICLES OTHER THAN AUTOMOBILES OR TRUCKS, SPECIFICALLY ALL-TERRAIN VEHICLES (ATVs), UTILITY TYPE VEHICLES (UTVs), MOTORBIKES, ETC. BY MEMBERS OF THE PUBLIC WITHIN CITY LIMITS, IN ACCORDANCE WITH IDAHO CODE, TITLE 49 (MOTOR VEHICLES) AND TITLE 67 (STATE GOVERNMENT AND STATE AFFAIRS); PROVIDING THAT VIOLATION OF THIS ORDINANCE IS AN INFRACTION ; PROVIDING THAT VIOLATION OF THIS ORDINANCE SHALL BE A NUISANCE AND FOR INJUNCTION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO:

SECTION 1: Ordinance of the City of Mackay No. 388 is repealed in its entirety rather than edit the ordinance which proved to be cumbersome due the number of items needing to be changed. Also repealed are any resolutions or decisions recorded in the minutes of the City Council related to Ordinance No. 388.

Title 49 Idaho Code, Chapter 4, paragraph 401A states: "Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances or resolutions designating highways or sections of highways under its jurisdiction which are closed to all-terrain vehicles, utility type vehicles, specialty off-highway vehicles and motorbikes licensed pursuant to this chapter and numbered pursuant to section 67-7122, Idaho Code."

SECTION 2: Definitions of Motor Vehicles as used in this ordinance are taken from Idaho Code Title 49 Chapter 1 and Idaho Code Title 67 Chapter 71:

- a. "All-terrain vehicle" or "ATV" means any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty (50) inches or less in width, having a wheelbase of sixty-one (61) inches or less, has handlebar steering and a seat designed to be straddled by the operator.
- b. "Motorbike" means any self-propelled two (2) wheeled motorcycle or motor-driven cycle, excluding tractor, designed for or capable of traveling off developed roadways and highways and also referred to as trail bikes, enduro bikes, trials bikes, motocross bikes or dual purpose motorcycles.
- c. "Off-highway vehicle" means an all-terrain vehicle, motorbike, specialty off-highway vehicle or utility type vehicle as defined in this section.
- d. "Operator" means any person who is in physical control of a motorbike, all-terrain vehicle, utility type vehicle, specialty off-highway vehicle or snowmobile.
- e. "Passenger" is defined for the purpose of this Ordinance only, as any person on/in a vehicle defined in this SECTION of this Ordinance, who is not the Operator of said vehicle.
- f. "Public roadway" means all portions of any highway [Street or Alley] which are controlled by an authority other than the Idaho transportation department [such as the City of Mackay].

- g. "Snowmobile" means any self-propelled vehicle under two thousand (2,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners.
- h. "Specialty off-highway vehicle" means any vehicle manufactured, designed or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle or motorbike as defined in this section. For the purpose of this Ordinance only, golf carts shall be included in this definition.
- i. "Staging Area" is defined for the purpose of this Ordinance only, as that area where those vehicles defined in this SECTION of this Ordinance may be transferred from their transport conveyance, and where the transport conveyances may remain while the said vehicles are in use elsewhere.
- j. "Utility type vehicle" or "UTV" means any recreational motor vehicle other than an ATV [such as Side by Sides (SXSs)], motorbike or snowmobile as defined in this section, designed for and capable of travel over designated roads, traveling on four (4) or more tires, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, and having a wheelbase of one hundred ten (110) inches or less. A utility type vehicle must have a minimum width of fifty (50) inches, a minimum weight of at least nine hundred (900) pounds or a wheelbase of over sixty-one (61) inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. A "utility type vehicle" or "UTV" also means a recreational off-highway vehicle or ROV.

SECTION 3: This Ordinance does not apply to those vehicles defined in SECTION 2 that are registered and licensed for use on State of Idaho highways in accordance with Idaho Code 49-401A, or being similarly registered and licensed in another State. Those vehicles shall be operated in accordance with Idaho Code on any City street.

49-401A. "Every owner of a motor vehicle who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration for vehicles"

SECTION 4: The operator of any vehicle defined in SECTION 2 of this Ordinance within the City of Mackay must have a valid Driver's License in accordance with Idaho Code 49-301 (or other valid State Drivers License), including a motorcycle endorsement for operation of motorbikes in accordance with Idaho Code 49-304.

Idaho Code 49-301. "DRIVERS TO BE LICENSED. (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a current and valid Idaho driver's license. Provided however, that those persons holding a restricted school attendance driving permit may drive upon a highway pursuant to the restrictions set forth in section 49-307A, Idaho Code.

(2) No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license."

SECTION 5: The operator of any vehicle defined in SECTION 2 of this Ordinance and any passenger under the age of eighteen (18) must wear an approved safety helmet as defined in Idaho Code 49-666, when riding within the City of Mackay.

Idaho Code 49-666 "No person under eighteen (18) years of age shall ride upon or be permitted to operate a motorcycle, motorbike, utility type vehicle or an all-terrain vehicle unless at all times when so operating or riding upon the vehicle he is wearing, as part of his motorcycle, motorbike, UTV or ATV equipment, a protective safety helmet of a type and quality equal to or better than the standards established for helmets by the director, except the provisions of this section shall not apply when such vehicles are operated or ridden on private property, or when used as an implement of husbandry."

SECTION 6: Vehicles defined in SECTION 2 of this Ordinance may be operated on any street or alley within the City of Mackay in accordance with the following stipulations:

- a. Operation of said vehicles shall be limited to the hours of 7:00 a.m. to 10:00 p.m. on week days and Sunday/between 7:00 a.m. and 12:00 p.m. on Saturdays;
- b. Vehicles are prohibited from being operated up and down, or around and around the same streets, blocks, alleys etc. in any continuous pattern;
- c. All traffic control devices such as stop signs, yield signs, and traffic laws applying to the operation of motor vehicles in the State of Idaho (except highway licensing requirements) shall be followed and will be enforced;
- d. Vehicles are prohibited from traveling along U.S. Highway 93 (Custer Street) at any/all times. Crossing of U.S. Highway 93 is permitted by the State of Idaho, Idaho Code 49-426(4), at Main Street, Capitol Avenue; and Elm Avenue. These crossings are marked with brown and red ATV Trail signs.
- e. ATVs, UTVs, and motorbikes must meet the requirements for Off-Highway operation as defined in Idaho Code 67-7122 and Snowmobiles must be numbered in accordance with Idaho Code 67-7103 in that they must have valid registration sticker, liability insurance with proof of insurance, muffler and spark arrestor.
- f. Owners of vehicles defined in SECTION 2 of this Ordinance will be held responsible for ensuring the requirements of SECTIONS 4, 5 and this SECTION are met. Owners allowing, either accidentally or willfully, the violation of these SECTIONS shall be deemed as creating a public nuisance and may be fined \$100.00 per violation.

SECTION 7: ATVs and UTVs may be operated on the sidewalks of the City of Mackay when equipped with snow removal equipment and only for the purpose of snow removal.

SECTION 8: Vehicles may be offloaded at the Staging Area located at the corner of Main and Salmon Streets, and at the corner of Capitol Avenue and Vaden Street. Vehicles may also be offloaded at the Mackay City Rodeo Grounds located at the end of Capitol Avenue; when other events that may conflict are not being held. This does not preclude the offloading of vehicles at a private residence so long as the conveyance is not parked on City streets or alleys.

SECTION 9: Provisions of this Ordinance and all State of Idaho motor vehicle laws are to be enforced by Custer County Sheriff's Department in contract with the City of Mackay. First offenders shall be issued a Warning Citation. Repeat Offenders shall be fined \$100.00 per violation. Violation for traveling along U.S. Highway 93 will also be enforced by Idaho State Police and subject to State penalties.

SECTION 10: Any violation of the terms of this Ordinance shall be deemed a Public Nuisance and subject to injunction under the Laws of the State of Idaho and the Ordinances of the City of Mackay.

SECTION 11: This Ordinance shall be in full force and effect immediately upon its passage and publication according to law, the Council dispensing with the rule that ordinances must be read on three different days, all as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO, THIS 2th DAY OF DECEMBER 2014.

CITY COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO A MUNICIPAL CORPORATION OF IDAHO

By: /S/ Wayne C. Olsen
Wayne C. Olsen, Mayor

ATTEST: /S/ Suzanne Whitworth
Suzanne Whitworth, City Clerk