

ORDINANCE NO. 379

AN ORDINANCE REGULATING THE USE OF OFF-HIGHWAY VEHICLES WITHIN THE CITY LIMITS OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

I. DEFINITIONS. As used in this Ordinance, unless the context otherwise requires:

1. "Off-Highway Vehicle" means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I Off-Highway Vehicle is a vehicle that does not qualify as road capable under NDCC Chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handle bars for steering control of two wheels.
 - b. Class II Off-Highway Vehicle is less than 50 inches in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handle bars for steering control.
 - c. Class III Off-Highway Vehicle weighs less than 8,000 pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designed for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the Department of Transportation under NDCC Chapter 39-04.
2. "Operate" means to ride in or on and control the operation of an off-highway vehicle.
3. "Operator" means an individual who operates or is in actual physical control of an off-highway vehicle.
4. "Owner" means a person, other than a lienholder, having the property in or titled to an off-highway vehicle and entitled to its use or possession.

II. OFF-HIGHWAY VEHICLE REGISTRATION. Except as provided in NDCC Chapter 39-29, and individual may not operate an off-highway vehicle unless it has been registered under NDCC Chapter 39-29.

III. OPERATION OF OFF-HIGHWAY VEHICLES.

1. An individual may not operate a off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this ordinance.
2. Class I off-highway vehicles are permitted to be operated within the city limits of the City of Beulah only from the location that said Class I off-highway vehicle is kept or stored to the city limits of the City of Beulah, taking the shortest route practicable.
3. Class II off-highway vehicles are permitted to be operated within the city limits of the City of Beulah for commercial purposes and may also be used for snow removal as described below. Otherwise, Class II off-highway vehicles may only be operated within the city limits of the City of Beulah from the location that said Class II off-highway vehicle is kept or stored to the city limits of the City of Beulah, taking the shortest route practicable.
4. Class III off-highway vehicles may be operated on city streets in the City of Beulah provided that said Class III off-highway vehicle is operated in full compliance of NDCC Chapter 39-29 and this Ordinance.
5. The operator of an off-highway vehicle may make a direct crossing of a street or highway only if:
 - a. The crossing is made at an angle of approximately 90° to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The off-highway vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the road or highway;
 - c. The operator yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided street or highway, the crossing is made only at an intersection of the street or highway with another public street or highway.
6. Unless an individual is operating a Class I off-highway vehicle, an individual may not operate an off-highway vehicle unless it is equipped with at least one head lamp, one tail lamp, and brakes, all in working order, which conform to standards prescribed by rule of the director, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle safety training course, the requirement for a head lamp and tail lamp may be waived.

7. An individual may not operate an off-highway vehicle in the following ways which are declared to be unsafe and a public nuisance:
- a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to another person or the property of another person.
 - c. While under the influence of intoxicating liquor or a controlled substance.
 - d. Without a lighted head lamp and tail lamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
 - e. In any tree nursery or planting in a manner that damages growing stock.
 - f. Without a manufacturer-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
 - g. On any private land where the private land is posted prohibiting trespassing.
 - h. Except as provided in NDCC Section 39-29-10, an individual may not operate an off-highway vehicle without having in possession a valid drivers license or permit.
 - i. When an off-highway vehicle is operated within the right-of-way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the off-highway vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the off-highway vehicle.
 - j. An individual may not operated an off-highway vehicle within the right-of-way of any street or highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the off-highway vehicle by a hinged swivel and secure hitch.
 - k. An individual under the age of 18 years may not operate, ride, or otherwise be propelled on an off-highway vehicle unless the person wears a safety helmet meeting the United States Department of Transportation Standards.

- l. An operator of an off-highway vehicle may not carry a passenger while operating the vehicle unless the off-highway vehicle is equipped and recommended by the manufacturer to carry a passenger and the passenger is carried as recommended by the manufacturer.
- m. A person who is performing pest control or survey work for a political subdivision may operate an all-terrain vehicle on the bottom, back-slope, inside slope, and shoulder of a street or highway other than a controlled-access highway.
- n. When using Class II and Class III off-highway vehicles for snow removal, the off-highway vehicle must have a mounted blade on the off-highway vehicle. The off-highway vehicle may go from job site to job site on city streets provided that the operator obeys all other sections of this Ordinance and state law.

IV. OPERATION BY PERSONS UNDER THE AGE OF 16. Except as otherwise provided herein, an individual under 16 years of age who is not in possession of a valid operator's license or permit to operate an off-highway vehicle may not, except upon the lands of the individual's parent or guardian or as a participant in an organized sporting event that involves the use of off-highway vehicles, operate an off-highway vehicle. An individual at least 12 years of age may operate an off-highway vehicle if the individual has completed an off-highway vehicle safety training course prescribed by NDCC Chapter 39-29 and has received the appropriate off-highway vehicle safety certificate issued by the Director of the Department of Transportation.

V. EQUIPMENT. To operate an off-highway vehicle on a paved road or highway or gravel, dirt, or loose surface roadway, the off-highway vehicle must be equipped with a mirror in compliance with NDCC Section 39-27-09, a horn in compliance with NDCC Section 39-27-15, a speedometer and odometer in compliance with NDCC Section 39-27-16, a break light, a lighted head lamp in compliance with NDCC Section 39-27-17.1, and a motor of at least 350 cubic centimeters.

VI. PENALTIES. Violation of subsection b, c, or g of section 7 of paragraph III above is a Class B misdemeanor. Violation of any other provision of said section 7 of paragraph III above of this Ordinance is an infraction for which a fee of not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00) must be assessed. Violation of paragraph II of this Ordinance is an infraction, which for a fee of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this Ordinance is an infraction, for which a fee of not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) must be assessed.

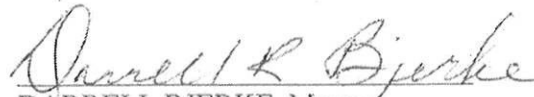
VII. SEVERABILITY. All Ordinances or parts of Ordinances in conflict herewith, are hereby rescinded and repealed.

VIII. EFFECTIVE DATE. The above referenced Ordinance shall be in full force and effect upon its final passage and approval and upon publication of its title and penalty clause.

IX. SAVINGS CLAUSE. If any provision of this Ordinance or its application to person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

DATED this 21st day of January, 2008.

CITY OF BEULAH


DARRELL BJERKE, Mayor

ATTEST:


LINDA A. WIEDRICH
City Auditor

Introduction and First Reading:	January 7, 2008
Second Reading:	January 21, 2008
Final Passage:	January 21, 2008
Publication:	January 24, 2008
Effective Date:	January 31, 2008

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THE CITY LIMITS OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA**

VI. PENALTIES. Violation of subsection b, c, or g of section 7 of paragraph III above is a Class B misdemeanor. Violation of any other provision of said section 7 of paragraph III above of this Ordinance is an infraction for which a fee of not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00) must be assessed. Violation of paragraph II of this Ordinance is an infraction, which for a fee of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) must be assessed. If the individual provides proof of registration since the violation, the fee may be reduced by one-half. Violation of any other provision of this Ordinance is an infraction, for which a fee of not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) must be assessed.

The title and penalty section of the above Ordinance is published in accordance with the Laws of the State of North Dakota.

Dated this 21st day of January, 2008.

/s/ Linda A. Wiedrich
LINDA A. WIEDRICH, CITY AUDITOR
CITY OF BEULAH

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