

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 94x

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, ADDING A NEW CHAPTER 11.70, ATV'S, TO TITLE 11, VEHICLES AND TRAFFIC, OF THE WRANGELL MUNICIPAL CODE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1. Action. The purpose of this ordinance is to add a new Chapter 11.70, ATV's, to Title 11, Vehicles and Traffic, of the Wrangell Municipal Code.

SEC. 2. New Chapter. A new Chapter 11.70, ATV's, is added to Title 11, Vehicles and Traffic, of the Wrangell Municipal Code to read:

ATV'S

Sections:

11.70.010	Definitions.
11.70.015	Unlicensed operators.
11.70.016	Registration Required.
11.70.020	Hours of operation.
11.70.025	Helmets required.
11.70.030	Lights.
11.70.035	Citation for defective equipment.
11.70.040	Failure to stop at direction of a peace officer.
11.70.045	Public nuisance and impoundment.
11.70.050	Parental responsibility.
11.70.055	Owner responsibility.
11.70.060	Penalty for violation.

11.70.010 Definitions.

When used in this chapter, the following words and phrases shall have the meanings set forth in this section:

“ATV” means motorized all-terrain vehicles primarily designed for off-road use. The term ATV includes “four wheelers,” golf carts, tractors, six- and eight-wheeled vehicles such as an ARGO, a Max, and six-wheeled vehicles that are configured the same as a “four wheelers.”

“Police officer” or “peace officer” means and includes the chief of police, any officer or employee of the police department and other persons authorized by the police chief to perform the duties of a “police officer.”

“Roadway owned and maintained by the city and borough” means any roadway within the city and borough of Wrangell except the state owned and maintained roadways identified as Bennet Street, Zimovia Highway, and Airport Loop Road.

11.70.015 Unlicensed operators. (\$50.00 fine for each offense)

(a) No person shall operate an ATV on any roadway owned and operated by the city and borough unless they have a valid driver’s license in their possession and only as provided in Section 11.70.020.

(b) No person shall operate an ATV in violation of any condition or limitation of any driver’s license.

11.70.016 Registration Required. (\$50.00 fine for each offense)

No person shall operate an ATV on any roadway owned and maintained by the city and borough or on public property within the borough without a current State of Alaska Snowmachine registration affixed to each side of the ATV in a clearly visible location or on a flag. Registration decals may be obtained at the DMV office.

11.70.020 Hours of operation. (\$50.00 fine for each offense)

Operation of ATVs is allowed on roadways owned and maintained by the city and borough only between the hours of 6:00 a.m. and 8:00 p.m.

11.70.021 Prohibited areas of operation (\$50.00 fine for each offense)

No person shall operate an ATV without the permission of the owner or property manager of the following public or private properties:

School Grounds;
Golf Course;
Shooting Range;

Parks and Play grounds;
Recreation areas;
Private property; and
Walking/ Hiking Trails.

11.70.025 Helmets required. (\$50.00 fine for each offense)

All persons under 18 years of age and any passenger operating an ATV on a roadway owned and maintained by the city and borough must wear a helmet which meets safety standards set by the Federal Motor Vehicle Safety Standard 218.

11.70.030 Lights. (\$50.00 fine for each offense)

All ATVs to which this chapter applies shall be equipped with at least one functional headlight, taillight and brake light that meet Alaska Administrative Code requirements for said equipment. The headlight and taillight shall be illuminated whenever the ATV is being operated.

11.70.035 Citation for defective equipment. (\$50.00 fine for each offense)

(a) A police officer may issue a “fix it” citation to the operator of an ATV which is not in safe mechanical condition or properly equipped as required by Title 28 of the Alaska Statutes, Title 13 of the Alaska Administrative Code, or the provisions of this chapter. A citation issued under this section shall specify the repair or adjustment to be made.

(b) An operator or owner receiving a “fix it” citation under this section shall within a time specified by the inspecting officer appear at the office of the Wrangell police department and present acceptable evidence of having made the repairs or adjustment or present the ATV for re-inspection. If the defective part or item is at that time determined to be operating in good repair, and the vehicle otherwise meets the requirements of Title 28 of the Alaska Statutes, Title 13 of the Alaska Administrative Code and the provisions of this chapter, the inspecting officer shall void the “fix it” citation. Failure to present evidence of repair or adjustment or to present the vehicle for re-inspection within the time specified will result in the fine being owed and payment due as ordered on the citation.

11.70.040 Failure to stop at direction of peace officer. (\$150.00 fine for each offense, plus four driver’s license points)

(a) No person, while operating an ATV shall fail to stop as soon as practical and in a reasonably safe manner under the circumstances when requested or signaled to do so by a peace officer.

(b) When used in this section “signal” means a hand motion, audible mechanical or electronic noise device, visual light device, or combination of them, used in a manner that a reasonable person would understand to mean that the peace officer intends that the person stop.

11.70.045 Public nuisance and impoundment.

(a) The purposes of this section include protecting the public, removing public nuisances, and deterring violations of this chapter, but do not include the generation of revenue for the borough.

(b) Any ATV operated or modified in a manner that violates Borough code or State law is hereby declared a public nuisance.

(c) Any ATV that is a public nuisance may be impounded immediately by any police officer. Impoundment may be accomplished through a seizure of the ATV at the time the citation is issued, or pursuant to a court order entered in the course of civil or criminal enforcement proceedings. Impoundment at the time of issuance of a citation is at the discretion of the citing officer.

(d) An ATV operated by, or driven by, or in the actual physical control of, an individual cited for violation of any section of this chapter is presumed to have been so operated by the owner(s) thereof, or having been operated by another person with the knowledge and consent of the owner(s). An ATV so operated is declared to be a public nuisance for which the owner(s) hold legal responsibility subject only to the defenses as set forth by law.

(e) A person contesting the impoundment of their ATV may be heard and decided by the borough manager (or the borough manager’s designee). Hearings before the borough manager shall take place no less than three days, and no more than thirty days, after the owner(s) of the ATV requests a hearing.

(f) At the hearing, a person who claims an ownership interest in an ATV may avoid impound if the claimant can establish by a preponderance of the evidence that:

(1) The claimant had an interest in the ATV at the time of the alleged violation;

(2) A person other than the claimant was in possession of the ATV and was responsible for or caused the act which resulted in impound; and

(3) That the ATV was stolen and used without his permission.

(g) At any impoundment hearing, the borough must establish by a preponderance of the evidence the ATV was operated or driven or in the actual physical control of an individual whose actions violated this chapter.

(h) The owner(s) of an ATV impounded by the borough may obtain the release of the ATV upon providing proof of ownership and payment of a \$150 impound fee with an additional \$10 per day storage fee plus any additional costs incurred during the impoundment.

(i) An ATV seized for impoundment shall be held in the custody of the public safety department. Any ATV not claimed within 30 days of impound shall be considered abandoned and may be disposed of in accordance to Section 11.72.

(j) The borough manager may appoint another borough employee to act as the borough manager's designee. The borough manager's designee shall have the same responsibilities as the borough manager at an impoundment hearing.

11.70.050 Parental responsibility.

(\$50.00 fine for each offense)

A parent or guardian of a minor under the age of sixteen (16) violates this chapter if he or she knowingly permits, or by insufficient control, allows their child or ward to operate an ATV in violation of this chapter. Indifference as to the activities or whereabouts of the minor under the age of sixteen (16) shall be prima facie evidence of insufficient control.

11.70.055 Owner responsibility.

(\$150.00 fine for each offense)

No person who owns or controls an ATV shall permit a person to operate the ATV if he or she knows or should reasonably know that it is likely to be operated in violation of this chapter.

11.70.060 Penalties for violation and impoundment.

A. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the WMC 1.20.050 fine schedule if the offense is listed in that fine schedule or by a fine of up to \$500.00 if the offense is not listed in the WMC 1.20.050 fine schedule.

B. A person operating an ATV vehicle in violation as incident to an arrest or other situation where the vehicle may require protection may be impounded immediately by a police officer or

other authorized official. The vehicle shall be released only upon proof of ownership, payment in full of impoundment and storage charges.

SEC. 3. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4. Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: _____, 2018.

PASSED IN SECOND READING: _____, 2018.

David L. Jack, Mayor

ATTEST:

Kim Lane, Borough Clerk