

**ORDINANCE NO. 1786**

**AN ORDINANCE AMENDING OMAK MUNICIPAL CODE  
TITLE 12, TRAFFIC, BY ADDING A NEW CHAPTER 12.XX RELATING TO THE  
OPERATION OF WHEELED ALL TERRAIN VEHICLES WITHIN THE CITY OF OMAK**

**WHEREAS**, The City of Omak recognizes that off-road vehicles have significant utility for farming operations, snow plowing, weed control and general recreational pursuits; and

**WHEREAS**, Chapter 46.09.360 RCW authorizes the legislative body of a city to authorize and provide for the regulation of non-highway vehicles on the streets, roads or highways within its boundaries by adopting regulations or ordinances of its governing body, provided that such regulations are not less stringent than the provisions of the State statutes; and

**WHEREAS**, the Omak City Council is interested in adopting regulations that will allow the use of All Terrain Vehicles or Off Road Vehicles, commonly know as 4 wheelers, Side by Side Off Road Vehicles, or Utility Vehicles on certain streets and alleys within its municipal boundaries.

**THE CITY COUNCIL OF THE CITY OF OMAK DO ORDAIN** as follows:

**Section 1: New Chapter 12.XX.XXX is hereby added to Omak Municipal Code, Title 12, Traffic** to read as follows:

**Definitions**

The terms herein shall be construed as follows unless clearly contrary or inconsistent with the context:

- (a) "Designated Street" means those streets and alleys selected by the Omak City Council for WATV travel.
- (b) "Highway roads" means the entire width between the boundary lines of every publicly maintained roadway when any part thereof is open to the use of the public for the purpose of vehicular travel.
- (c) "Non-highway roads" means roads that are owned or managed by a public agency who has granted an easement for public use, and that do not receive funds from the motor vehicle account.
- (d) "Off-road vehicle" or "ORV" means any non-street ORV-licensed vehicle when used for recreational purposes on non-highway roads, trails, or a variety of other natural terrain. Such vehicles include all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies. Snowmobiles are not included in this definition by this chapter.
- (e) "Operator" means each person who operates, or is in physical control of, any non-highway vehicle.

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- (f) "ORV recreational facilities" include but are not limited to, ORV trails, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.
  - (g) "Owner" means the person, other than the lien holder, having an interest in or title to a non-highway vehicle, and entitled to the use or possession thereof.
  - (h) "Person" means any individual, firm, partnership, association or corporation.
  - (i) "RCW" means Revised Code of Washington.
  - (j) "WAC" means Washington Administrative Code.
  - (k) "WATV" means Wheeled All Terrain Vehicles commonly known as 4 wheelers, Side By Side Off Road Vehicles or Utility Vehicles as defined in RCW 46.09.310 (19).

**WATV license.**

No person shall operate any WATV within the corporate limits of the city of Omak without a license plate issued by the Department of Licensing and displaying a current On-Road WATV tag in accordance with Washington State RCW 46.09.442 (3) and proper On-Road vehicle registration.

WATV license and WATV tags shall be required under the provisions of this chapter, except for the following exemptions:

- A. WATVs owned and operated by the United States, another state, or political subdivision thereof.
- B. WATVs owned and operated by Washington State, or any municipality or political subdivision thereof.
- C. WATVs owned by a resident of another state, which have a valid WATV or ORV Permit or license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state.
- D. WATVs being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

**Use for the good of the community.**

The use of WATVs shall be permitted on city sidewalks for plowing snow or other approved operations as designated by the Omak City Council. WATVs are allowed to plow snow in front of the owner's residence as well as other person's residence upon request.

**Operation of WATV**

It shall be unlawful for a person to operate a WATV:

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- A. In such a manner as to endanger the property of another, or at a rate of speed greater than the posted speed limit for the road it is being operated on.
  - B. In violation of the rules of the road which apply to motor vehicles.
  - C. Without a lighted headlight and taillight.
  - D. Without adequate brakes and working brake light.
  - E. Without a spark arrester approved by the Washington State Department of Natural Resources.
  - F. Without a muffler and other equipment that complies with RCW 46.09.470
  - G. On lands not owned by the operator or owner of the WATV or without permission of the land owner and in such a manner as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage or destroy trees, growing crops or other vegetation.
  - H. To operate a WATV abreast of another vehicle, or in any other manner except single file on the right-hand side of the roadway.
  - I. While under the influence of intoxicating liquor and/or drug, which is a misdemeanor. (RCW 46.09.470 (2)).
  - J. Except for an WATV equipped with seat belts and roll bars or an enclosed passenger compartment, without wearing upon his or her head a DOT approved motorcycle helmet fastened securely while in motion. "Motorcycle helmet" has the same meaning as provided in RCW 46.37.530.
  - K. In a manner that may endanger human or animal life or property.
  - L. In violation of any state or local laws.
  - M. Without proper eye protection per RCW 44.37.530 (b) and WAC 204-10-026.

**Towing.**

WATV operators shall abide by the manufacturers guidelines or specifications when towing approved devices. It will be unlawful for any WATV to pull any sled, toboggan, trailer or other device except by means of a rigid tow bar connecting the same to such device. No person shall be pulled in any fashion by a WATV.

**Age/license requirement.**

No person under the age of 16 shall operate a WATV upon public rights-of-way within the corporate limits of the city of Omak. All operators must carry a valid government-issued driver's license on their person.

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**Trespassing.**

Nothing in this chapter authorizes trespass on private property.

**Public Disturbance Noise.**

Operation of WATVs in accordance with this Chapter is subject to the restriction on Public Disturbance Noise as regulated in OMC 7.20.

**Street Designation.**

The following streets and alley ways within the corporate limits of the city of Omak are designated for WATV traffic:

- A. All Omak city streets and alleys are open to WATV use EXCEPT:

All streets and alleys within the exterior boundary of the Colville Indian Reservation.

- B. The Mayor of Omak has the authority to close streets and alleys to WATV use on a temporary basis. Temporary closures shall not last more than 14 consecutive days unless approved by the Omak City Council.

**Civil Liabilities.**

In addition to the penalties provided in this chapter, the owner and /or operator of any WATV traveling within the corporate limits of the City of Omak found to have violated any provision of this chapter may be liable to the landowner for any damage to property or injury to persons or animals. Any injured person or owner of property or animals damaged or injured may recover treble damages as well as costs, expenses and reasonable attorney's fees.

**Violation – Penalties.**

Failure to perform any act required, or the performance of any act prohibited, in this chapter shall be designed as a traffic infraction, unless so otherwise stated, and any person found to have committed such traffic infraction shall be subject to penalties governed by the Revised Code of Washington. Any violation of this chapter not covered by the Revised Code of Washington will be considered a violation of the City of Omak Municipal Code which will be an infraction with a monetary penalty as set forth in the OMC Chapter 1.16 General Penalty.

**Section 2:** This Ordinance shall become effective after its passage by the Council, approval by the Mayor and five days after publication of this Ordinance, or a summary, as provided by law.

**PASSED BY THE OMAK CITY COUNCIL** this \_\_\_\_ day of \_\_\_\_\_, 2014.

**APPROVED:**

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Cindy Gagné, Mayor

**ATTEST:**

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Kathy Lobdell, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Howe, City Attorney

Filed with City Clerk: \_\_\_\_\_  
Passed by City Council: \_\_\_\_\_  
Date Published: \_\_\_\_\_  
Date Effective: \_\_\_\_\_

On the \_\_\_\_ day of \_\_\_\_\_, 2014, the City Council of the City of Omak passed Ordinance No. 1786.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Kathy Lobdell, City Clerk