

TOWN OF KERSEY
ORDINANCE NO. 2017-0012

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE II, SECTION 8-38 (B) AND CREATING CHAPTER 8, ARTICLE IV, SECTIONS 8-81 THROUGH 8-108 OF THE KERSEY MUNICIPAL CODE ADDING LANGUAGE WITHIN THE CODE REGULATING OFF-HIGHWAY VEHICLE USE.

WHEREAS, the Town of Kersey ("Town") is a Colorado statutory municipality, with all powers and authority vested under Colorado law; and

WHEREAS, off-highway vehicles provide a useful method for travel and as a production item have generally increased in safety; and

WHEREAS, there is considerable interest in the Town to legally operate off-highway vehicles on public right of ways; and

WHEREAS, the Town Board finds that off-highway vehicles should be allowed to operate within the Town and that regulation by the Town concerning off-highway vehicles is necessary.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF KERSEY, COLORADO, AS FOLLOWS:

Section 1. Article II, Chapter 8, Section 8-38(b) shall be amended to read:

"Yard implements shall only be operated upon the public streets or alleys by a person who holds valid driving privileges pursuant to the Colorado Revised Statutes, shall display a slow-moving vehicle emblem as required by the adopted Model Traffic Code, and shall be operated only during the daylight hours and pursuant to the requirements of Section 8-41 regarding golf cars. Operation of yard implements shall only be operated in public streets or alleys incident to yard work."

Section 2. Article II, Chapter 8, Section 8-43 shall read:

"Registration.

- (a) Golf cars operating within the Town shall be registered annually with the Town and shall pay a fee of Twenty-five dollars (\$25.00) or the current adopted fee as provided in the Town's fee schedule, whichever is greater. All golf cars registered with the Town shall meet all the requirements of this chapter. Owners wishing to register their golf car with the Town may do so at the police department. Registrations will be for the current year and not pro-rated nor refunded for months not used.
- (b) Registration with the Town will be completed only when the golf car being registered meets the criteria set forth by the Town in accordance with local traffic ordinances already in place. Registrations are non-transferable. If the golf car is sold, the new owner must re-register the golf car. Registrations will be affixed to the golf car in a clearly visible location approved by the police department.
- (c) Owners must provide the following for registration:
 - 1. Bill of sale, title of vehicle or proof of ownership;
 - 2. Proof of current insurance (which must meet requirements of motorcycles licensed by the State of Colorado); and

3. Valid driver's license (a valid driver's license will be required to operate a golf car on the streets and alleys of the Town.)

Section 3. Article IV, Chapter 8, title shall read:

“Off-Highway Vehicles”

“Sec. 8-81. Definitions.

As defined in this Chapter, unless the context otherwise requires, the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number; and every word importing the masculine gender only may extend to and be applied to females and things as well as males, and every word importing the neuter gender only may extend to and be applied to natural persons as well as things. The word *shall* is always mandatory and not merely directory:

Off-highway vehicle means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. *Off-highway vehicle* does not include the following:

1. Vehicles designed and used primarily for travel on, over or in the water;
2. Snowmobiles. Snowmobile means a self-propelled vehicle primarily designed or altered for travel on snow or ice when supported in part by skis, belts or cleats. Snowmobile does not include machinery used strictly for the grooming of snowmobile trails or ski slopes;
3. Military vehicles;
4. Golf carts;
5. Vehicles designed and used to carry disabled persons;
6. Vehicles designed and used specifically for agricultural, logging or mining purposes; or
7. Vehicles registered pursuant to Article 3 of Title 42, C.R.S.

Operate means to ride in or on and control the operation of an off-highway vehicle.

Operator means every person who operates or is in actual physical control of an off-highway vehicle.

Owner means a person, other than a lienholder, having title to an off-highway vehicle and entitled to the use or possession thereof.

Section 4. Article IV, Chapter 8, Section 8-82 shall read:

“Designated off-highway vehicle routes.

In accordance with Section 33-14.5-108(1), C.R.S., all Town roads, roadways or alleys, except any road or roadway that is part of the state highway system within the Town, are hereby designated as off-highway vehicle routes.”

Section 5. Article IV, Chapter 8, Section 8-83 shall read:

“Operation of off-highway vehicles.

- (a) No person shall operate an off-highway vehicle in the Town, pursuant to this Chapter, unless the person possesses a valid Colorado driver's license or a valid driver's license from another state.
- (b) No person shall operate an off-highway vehicle on a road, roadway or alley of the Town while carrying any person or riding in any position that may interfere with the operation or control of an off-highway vehicle or the view of the operator.
- (c) Every person operating an off-highway vehicle shall do so in compliance with the applicable laws of the State of Colorado and the Model Traffic Code for Colorado, as adopted by the Town.
- (d) The operator of an off-highway vehicle in the Town shall not exceed a maximum speed of twenty-five (25) miles per hour, except for a speed not in excess of any speed limit designated by an official traffic control device.

Section 6. Article IV, Chapter 8, Section 8-84 shall read:

“Safety equipment.

Every off-highway vehicle operated pursuant to this Chapter shall be equipped, as provided by Section 33-14.5-109(1)(a) and (b), C.R.S., and the Colorado Division of Parks and Outdoor Recreation, Chapter 5 - OHV Regulations, as follows:

- (1) At least one (1) headlamp;
- (2) At least one (1) red tail lamp;
- (3) Braking system;
- (4) Spark arrester; and
- (5) Muffler.

Section 7. Article IV, Chapter 8, Section 8-85 shall read:

“Notice of Accident.

- (a) The operator of an off-highway vehicle involved in an accident resulting in property damage, injuries or death, or some person acting for the operator, or the owner of the off-highway vehicle having knowledge of the accident, shall immediately, by the quickest available means of communication, notify the Police Department.
- (b) The Police Department, upon receiving a report of an accident under this Section, shall forward a copy thereof to the Colorado Division of Parks and Outdoor Recreation.
- (c) Within forty-eight (48) hours after an accident involving an off-highway vehicle, the accident shall be reported to the Denver office of the Colorado Division of Parks and Outdoor Recreation. The report shall be made on forms furnished by such Division and shall be made by the owner or operator of the vehicle or someone acting for the owner or operator.”

Section 8. Article IV, Chapter 8, Section 8-86 shall read:

“Limitation of liability.

To the maximum extent permitted by law, nothing in this Chapter shall be construed as an assumption of any duty of care by the Town with respect to, or the assumption of any liability by

the Town for, any injuries to persons or property which may result from the operation of an off-highway vehicle on the roads, roadways or alleys within the Town limits.”

Section 9. Article IV, Chapter 8, Section 8-87 shall read:

“Enforcement, violations and fines.

- (a) Every peace officer of the Town is hereby authorized to enforce the provisions of this Chapter as provided by the applicable provisions of the Model Traffic Code for Colorado, as adopted by the Town. Notwithstanding the provisions of the adopted Model Traffic Code, Article IV Definitions, section 8-81, an off-highway vehicle shall be considered a "vehicle" for purposes of the application or enforcement of the adopted Model Traffic Code, except for Article I, Part 2, Equipment, thereof.
- (b) It shall be unlawful for any person to violate or fail to comply with any of the provisions of this Article, and the police officer or officers the Town shall have the ability to issue a summons and complaint for violations of any Sections of this Article. Upon conviction for a violation of any of the sections of this Article, a violator shall be punished as set forth in Section 1-72 of this code. (Ord. 120 §4, 1976)”

Section 10. Article IV, Chapter 8, Section 8-88 shall read:

“Registration.

- (a) Off-highway vehicles operating within the Town shall be registered annually with the Town and shall pay a fee of Twenty-five dollars (\$25.00) or the current adopted fee as provided in the Town’s fee schedule, whichever is greater. All off-highway vehicles registered with the Town shall meet all the requirements of this chapter. Owners wishing to register their vehicle with the Town may do so at the police department. Registrations will be for the current year and not pro-rated nor refunded for months not used.
- (b) Registration with the Town will be completed only when the vehicle being registered meets the criteria set forth by the Town in accordance with local traffic ordinances already in place. Registrations are non-transferable. If the vehicle is sold, the new owner must re-register the vehicle. Registrations will be affixed to the off-highway vehicle in a clearly visible location approved by the police department.
- (c) Owners must provide the following for registration:
 - 1. Bill of sale, title of vehicle or proof of ownership;
 - 2. Proof of current insurance (which must meet requirements of motorcycles licensed by the State of Colorado); and
 - 3. Valid driver’s license (a valid driver’s license will be required to operate an off-highway vehicle on the streets and alleys of the Town.)

Sections 8-89----8-109 reserved.”

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Introduced, read, passed, approved, and adopted and ordered published in full by the concurrence of at least a majority of the Board of Trustees, and ordered published the _____ day of _____, 2017 to take effect 30 days after publication.

TOWN OF KERSEY, COLORADO

By_____

Bob Kellerhuis, Mayor

ATTEST:

Julie Piper, Town Clerk