

**ORDINANCE NO. 2019-002**

**AN ORDINANCE AMENDING CHAPTER THIRTEEN, ARTICLE ONE,  
SECTION SEVEN OF THE KILLDEER CITY CODE SECTION,  
RELATING TO ALL TERRAIN VEHICLES.**

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF KILLDEER, NORTH DAKOTA, AS FOLLOWS:

**Section 1:** Chapter 13, Article 1, Section 7 of the City Code of the City of Killdeer, is hereby amended as follows:

**13.0107        Restrictions.**

1. Except as otherwise provided in this section, a person may not operate an off-highway vehicle within the city limits of the City of Killdeer, unless it has been registered in accordance with N.D.C.C. Ch. 39-29.
2. A person may not operate a ~~Class I or~~ Class II off-highway vehicle on any city street, sidewalk or public right-of-way of the City of Killdeer, except when being operated on a public right-of-way during emergency conditions or for the performance of construction, ~~or~~ maintenance in the public right-of-way, or for agricultural, utility, or landscaping purposes of a limited duration, and for which the most direct practical route possible is used when crossing or traveling on any public streets.
3. The operator of a Class II off-highway vehicle may make a direct crossing of a street or highway if:
  - a. The crossing is made at an angle of an approximate ninety degrees to the direction of the roadway, 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 roadway;
  - c. The operator yields to the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
  - d. In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
4. The emergency conditions under which a Class II off- highway vehicle may be operated as allowed under this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question. The Class II off-highway vehicle must be equipped with at least one headlamp, one tail lamp, and brakes, all in working order, which conform to standards prescribed by rule of the

director of the department of transportation, except when under the direct supervision of an off-highway vehicle instructor teaching a certified off-highway vehicle course, the requirement for a headlamp and tail lamp may be waived.

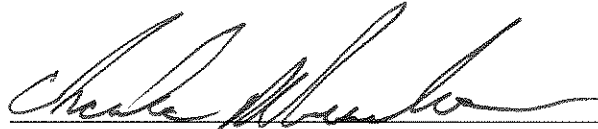
5. Class II and class III vehicles may be operated within the Killdeer city limits if equipped with snow removal blades and are used for snow removal on privately owned property.
6. Except as provided in N.D.C.C. Sec. 39-29-10, a person may not operate an off-highway vehicle without having in possession a valid driver's license or permit.
7. A person 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 such person or property.
  - c. While under the influence of intoxicating liquor or a controlled substance.
  - d. Without a lighted headlamp and tail lamp except when used by an off-highway vehicle instructor during a certified off-highway vehicle safety training course.
  - e. Without a manufactured-installed or equivalent muffler in good working order and connected to the off-highway vehicle's exhaust system.
  - f. On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred yards [804.68 meters] apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of such signs, at or on all gates through the fence or enclosure.
8. A person may not operate an off-highway vehicle within the right-of-way of any 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.
9. No person under the age of eighteen years may operate, ride or otherwise be propelled on an off-highway vehicle, unless the person wears a safety helmet meeting United States Department of Transportation standards.
10. No operator of an off-highway vehicle may carry a passenger while operating.

11. It shall be unlawful for a parent having legal custody of a juvenile allowing to permit or by insufficient control to allow the juvenile under the age of 16 years or who has not obtained a valid driver's license to operate an off-highway vehicle as defined herein in the city limits. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning any off-highway vehicle owned or in the possession of members of the parents' family and its custody and control. This requirement is intended to hold and collect for a careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities, conduct or whereabouts of such juvenile and/or the off-highway vehicle.
12. A person may not drive an off-highway vehicle in the city without a valid policy of liability insurance in effect in order to respond to damages for liability arising out of the ownership, maintenance or use of that vehicle in the amount required by N.D.C.C. Sec. 39-16.1.11, and all subsequent amendments shall be and are hereby incorporated by reference to this section.
13. Only peace officers of this state and their respective duly authorized representatives may enforce this chapter.
14. Any person who violates subsection b, c or f of paragraph 7 of this section is guilty of a Class B misdemeanor offense. Any person who violates any other provision of this section shall be guilty of an infraction and assessed a fine of two hundred (\$200.00) dollars.

**Section 2:**     **Repeal of Ordinances in Conflict.** All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

**Section 3:**     **Severability.** In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

**Section 4:**     **Effective Date:** This Ordinance shall be in full force and effect from and after final passage.



Charles Muscha, Mayor  
Board of City Commissioners

ATTEST



Matthew Oase, City Auditor

First Reading: 7/15/2019

Ayes: Muscha, Candrian, Praus, Rohr. Nays: None. Absent: Summerfield

Second Reading: 8/5/2019

Ayes: Muscha, Candrian, Praus, Summerfield, Rohr. Nays: None.

Final Passage: 8/5/2019