

**ORDINANCE #353 "AN ORDINANCE REGULATING OFF ROAD VEHICLE OPERATION WITHIN
THE CITY LIMITS OF THE CITY OF LAKE NORDEN, SD."**

Section I. Definitions

Section II. Unlawful Areas for Operation

Section III. Requirements for Operation

Section IV. Off-Road Vehicle Equipment Requirement

Section V. Seating Requirement

Section VI. Attachment to Other Vehicles Prohibited

Section VII. Separability Clause

Section VIII. Fine for Violation of this Ordinance

SECTION I. DEFINITIONS:

For the purposes of this chapter, the following words shall have the following meanings:

Highway: the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public as a matter of right for purposes of vehicular travel.

Off-road vehicle: any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all-terrain vehicles, dune buggies and any vehicle whose manufacturer's statement of origin (MSO) or manufacturer's certificate of origin (MCO) states that the vehicle is not for highway use.

Owner: a person, other than a lien holder, having the property in or title to an off-road vehicle entitled to the use or possession thereof. Operate: to ride in or on and control the operation of an off-road vehicle.

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

Person: includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

SECTION II. UNLAWFUL AREAS FOR OPERATION

It shall be unlawful to operate any off-road vehicle on any area within the corporate limits of the City of Lake Norden except on a highway as that term is defined in this chapter. This prohibition shall not be deemed to apply to operators of off-road vehicles on any lake, river or stream under the control or jurisdiction of the state or federal government, nor shall it be deemed to apply to operators of off-road vehicles on the private property of another with specific permission of the owner or person in control of said property, and with such permission in writing and in the possession of the person operating the off-road vehicle. It is

an express provision of this section that it shall not be deemed to apply to any duly authorized law enforcement officer operating an off-road vehicle while engaged in any authorized law enforcement function, nor shall it be deemed to apply to any other authorized governmental agency engaged in a legitimate public purpose function.

SECTION III. REQUIREMENTS FOR OPERATION

No person may operate an off-road vehicle on the public streets, right of ways, or highways unless it is duly licensed by the State of South Dakota and without a motor vehicle driver's license or permit upon which a state testing officer has certified that such person is qualified to operate such vehicle.

SECTION IV. OFF-ROAD VEHICLE EQUIPMENT REQUIREMENT

It is unlawful for any person to operate an off-road vehicle any place within the limits of the City unless it is equipped with the following:

1. Standard mufflers which are properly attached and which reduce the noise of the operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a three wheel or all-terrain vehicle motor.
2. Brakes adequate to control the movement of and to stop and hold the off-road vehicle under any condition of operation.
3. Any off-road vehicle operating on the highway in Lake Norden shall meet the necessary light, brake and other vehicle accessory requirements that are applicable to motorcycles including but not limited to helmets and eye protection.

SECTION V. SEATING REQUIREMENT

A person operating an off-road vehicle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on an off-road vehicle unless such off-road vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the off-road vehicle at the rear or side of the operator.

SECTION VI. ATTACHMENT TO OTHER VEHICLES PROHIBITED

No person riding upon an off-road vehicle may attach himself or the off-road vehicle to any other vehicle on a roadway.

SECTION VII. SEPARABILITY CLAUSE

Should any section, subsection, sentence, clause or phrase of this ordinance, for any reason, be held invalid, such decision shall not offset the validity of the remaining portions of this ordinance. The City hereby declares that it would have passed this ordinance and each section, subsection, clause, sentence and phrase hereof, irrespective of the

possibility that any one or more sections, subsections, clauses, sentences or phrases be declared unconstitutional or invalid.

SECTION VIII. FINE FOR VIOLATION OF THIS ORDINANCE

A violation of this ordinance is a Class 2 Misdemeanor punishable by a fine of \$54.00 (fifty four dollars) plus court costs.

CITY OF LAKE NORDEN

Jason Aho, Mayor

ATTEST:

Delores Kangas, Finance Officer

PASSED FIRST READING: July 1, 2019

PASSED SECOND READING: August 5, 2019

PUBLISHED: August 14, 2019