

## **HUNTSVILLE TOWN ORDINANCE 1-15-2009**

### **AN ORDINANCE ADOPTING BY REFERENCE THE UTAH OFF-HIGHWAY VEHICLE ACT (TITLE 41 CHAPTER 22, UTAH CODE)**

#### **PREAMBLE**

**WHEREAS**, The Huntsville Town Council desires to update the town's regulations to incorporate the changes to the Utah Code of the Utah Off-Highway Vehicle Act effective October, 2008.

**WHEREAS**, The Weber County Sheriff's Office is charged with the enforcement of regulations and laws relating to off-highway vehicles within Huntsville Town; and

**WHEREAS**, in the course of the Sheriff's enforcement duties it is often necessary to cite individuals for violations of the various state rules regulating the use and operation of off-highway vehicles; and

**WHEREAS**, Huntsville Town desires for violators to be cited for town ordinance violations rather than state code violations;

**NOW THEREFORE**, be it ordained by the Huntsville Town Council as follows:

#### **Section 1. Adoption of the Utah off-highway vehicle Code, Rules and Regulations.**

The Rules and Regulations contained in Utah Code Annotated Title 41, Chapter 22, as amended, are hereby adopted as the off-highway vehicle code of Huntsville Town to the same extent and effect as though said Title, Chapters, Sections and Rules were set forth in full. Any provisions of Title 41 Chapter 22 providing a penalty greater than a Class B misdemeanor, or not relating to criminal or administrative sanctions, are not incorporated as part of this ordinance.

#### **Section 2. Amendments.**

In order to assure continuing uniformity between the Utah off-highway vehicles Rules and Regulations and the Huntsville Town off-highway vehicles Rules and Regulations, as required by UCA 41-22-18, this Ordinance will include any and all periodic amendments to the State Rules and Regulations, Title 41 Chapter 22 after the effective date of this title, made by the Utah State Legislature or by the Utah Department of Natural Resources.

#### **Section 3. Local designation of OHV routes.**

- A. Unless otherwise provided for herein, Huntsville Town desires to designate all town streets within the corporate limits as approved OHV routes as allowed by Utah Code 41-22-10.5.

- B. First street is excluded as a designated street, but may be crossed to gain access to or from a private or public area open for OHV's.

**Section 4. Prohibited Operation**

- A. OHV's shall not be operated on shoulders of the roads or the verge, with the exception of snowmobiles when there is inadequate snow coverage on the street or road.
- B. A person under age 16 may not operate and an owner may not give that person permission to operate an OHV on Huntsville streets or roads.
- C. OHV's shall not be operated in the municipal park.
- D. OHVs are prohibited on Huntsville roads and streets:
  - a. between the hours of 10 PM and 8 AM from March 1 to October 31, and
  - b. between the hours of 9 PM to 8 AM from November 1 to February 28 (February 29 during leap year).

**Section 5. Supervision, Safety Certificate or Driver License Required.**

All operators 16 years of age and older must possess either a valid drivers license as provided in Title 53, Chapter 3, Uniform Drivers License Act or an OHV education certificate as issued by the Utah Division of Parks and Recreation (UCA 41-22-29 and 41-22-30).

- a. This does not apply to off-highway implements of husbandry used in accordance with Utah Code Section 41-22-5.5

**Section 6. Effective Date.**

This ordinance shall become effective immediately upon adoption, posting and publication of a summary in the Huntsville Gazette as provided in Section 10-3-711, Utah Code annotated.

ADOPTED BY THE TOWN COUNCIL OF HUNTSVILLE, UTAH THIS 15TH DAY OF JANUARY, 2009.

TOWN OF HUNTSVILLE

BY: \_\_\_\_\_ ss \_\_\_\_\_  
James C. McKay, Mayor

Attest:  
\_\_\_\_\_ ss \_\_\_\_\_  
Gail Ahlstrom, Town Clerk

**41-22-1. Policy declaration.**

1. It is the policy of this state to promote safety and protection for persons, property, and the environment connected with the use, operation, and equipment of off-highway vehicles, to promote uniformity of laws, to adopt and pursue a safety education program, and to develop trails and other facilities for the use of these vehicles.

**41-22-2. Definitions.**

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Board of Parks and Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle 50 inches or less in width, having an unladen dry weight of 800 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection (2), (9), or (20), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4) "Board" means the Board of Parks and Recreation.

(5) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(6) "Division" means the Division of Parks and Recreation.

(7) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of ten pounds per square inch or less as recommended by the vehicle manufacturer.

(8) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(9) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(10) "Motor vehicle" means every vehicle which is self-propelled.

(11) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, or motorcycle.

(12) "Off-highway implement of husbandry" means every all-terrain type I vehicle, motorcycle, or snowmobile that is used by the owner or his agent for agricultural operations.

- (13) "Operate" means to control the movement of or otherwise use an off-highway vehicle.
- (14) "Operator" means the person who is in actual physical control of an off-highway vehicle.
- (15) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.
- (16) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.
- (17) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.
- (18) "Register" means the act of assigning a registration number to an off-highway vehicle.
- (19) "Roadway" is used as defined in Section 41-6a-102.
- (20) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.
- (21) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.
- (22) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

**41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.**

- (1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.
- (b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.
- (2) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.
- (3) Each application for registration of an off-highway vehicle shall be accompanied by:
- (a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;
- (b) the past registration card; or
- (c) the fee for a duplicate.

(4) (a) Upon each annual registration, the Motor Vehicle Division shall issue a registration sticker and a registration card for each off-highway vehicle registered.

(b) The registration sticker shall:

(i) contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;

(ii) be affixed to the off-highway vehicle for which it is issued in a plainly visible position as prescribed by rule of the board under Section 41-22-5.1; and

(iii) be maintained free of foreign materials and in a condition to be clearly legible.

(c) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(5) (a) An applicant for a registration card and registration sticker shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

#### **41-22-3.5. Staggered registration dates -- Registration renewal.**

(1) Unless exempted under Section 41-22-9, every off-highway vehicle registration, every registration card, and every registration sticker issued under this chapter for the first registration of the off-highway vehicle in this state, continues in effect for a period of 12 months beginning with the first day of the calendar month of registration and does not expire until the last day of the same month in the following year.

(2) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the off-highway vehicle is extended to 12 midnight of the next business day.

(3) (a) The division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.

(b) Applications for registration renewal shall be made in accordance with Section 41-22-3.

(4) (a) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(b) The year of registration expiration shall be changed to reflect the renewed registration period.

(5) If the registration renewal application is an application generated by the division through its automated system, the owner need not surrender the last registration card or duplicate.

**41-22-4. Falsification of documents unlawful -- Alteration or removal of serial number unlawful -- Display of sticker.**

A person may not:

(1) knowingly falsify an application for registration, affidavit of ownership, or bill of sale for any off-highway vehicle;

(2) alter, deface, or remove any manufacturer's serial number on any off-highway vehicle;

(3) use or permit the use or display of any registration sticker, registration card, or permit upon an off-highway vehicle or in the operation of any off-highway vehicle other than the vehicle for which it was issued; or

(4) alter or deface a registration sticker, registration card, or permit issued to an off-highway vehicle.

**41-22-5.1 Rules of board relating to display of registration stickers.**

**In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules for the display of a registration sticker on an off-highway vehicle in accordance with Section 41-22-3.**

**41-22-5.5. Off-highway husbandry vehicles.**

(1) (a) The owner of an all-terrain type I vehicle, motorcycle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker. Each application shall be accompanied by evidence of ownership, a title, or a manufacturer's certificate of origin, and a signed statement certifying that the off-highway vehicle is used for agricultural purposes. The owner shall receive an off-highway implement of husbandry sticker upon production of the documents required above and payment of an off-highway implement of husbandry sticker fee established by the board not to exceed \$10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of

the all-terrain type I vehicle, motorcycle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, or snowmobile which is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, or snowmobile is only being used to travel from one parcel of land owned or operated by the owner of the vehicle to another parcel of land owned or operated by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

**41-22-7. Duplicate registration cards and registration stickers.**

(1) If a registration card is lost or destroyed, or if an owner changes the owner's address from the address shown on the owner's registration card, the owner shall, within 15 days, apply for a duplicate registration card.

(2) If a registration sticker is lost, stolen, or becomes illegible, the owner of the off-highway vehicle shall immediately apply for and obtain a replacement registration sticker.

**41-22-8. Registration fees.**

(1) The board shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

(a) The fee for each registration may not exceed \$17.

(b) The fee for each duplicate registration card may not exceed \$3.

(c) The fee for each duplicate registration sticker may not exceed \$5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

**41-22-9. Vehicles exempt from registration.**

(1) The following off-highway vehicles are exempt from the registration requirements of this chapter:

(a) vehicles that are currently registered for highway use, have a valid motor vehicle safety inspection sticker or certificate, and on which the required safety equipment has not been subsequently modified;

(b) except as provided in Subsection (2), a street-legal all-terrain vehicle registered in accordance with Section 41-6a-1509;

(c) off-highway vehicles that are owned by a nonresident and that are displaying a current annual off-highway vehicle user decal in accordance with Section 41-22-35;

(d) off-highway vehicles sold by a dealer to a person who is not a resident of this state;

(e) off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) through (5); and

(f) new off-highway vehicles being transported to an off-highway vehicle dealership by the dealer, employee of the dealership, or agent for the dealership.

(2) In addition to the registration requirements imposed under Section 41-6a-1509, a street-legal all-terrain vehicle is subject to the fees under Sections 41-22-8, 41-22-33, 41-22-34, and 41-22-36.

#### **41-22-10. Powers of board relating to off-highway vehicles.**

(1) The board may:

(a) appoint and seek recommendations from the Off-highway Vehicle Advisory Council representing the various off-highway vehicle, conservation, and other appropriate interests; and

(b) adopt a uniform marker and sign system for use by agents of appropriate federal, state, county, and city agencies in areas of off-highway vehicle use.

(2) The board shall receive and distribute voluntary contributions collected under Section 41-1a-230.6 in accordance with Section 41-22-19.5.

#### **41-22-10.1. Vehicles operated on posted public land.**

(1) Currently registered off-highway vehicles may be operated on public land, trails, streets, or highways that are posted by sign or designated by map or description as open to off-highway vehicle use by the controlling federal, state, county, or municipal agency.

(2) The controlling federal, state, county, or municipal agency may:

(a) provide a map or description showing or describing land, trails, streets, or highways open to off-highway vehicle use; or

(b) post signs designating lands, trails, streets, or highways open to off-highway vehicle use.

(3) Liability may not be imposed on any federal, state, county, or municipality relating to the designation or maintenance of any land, trail, street, or highway open for off-highway vehicle use.

#### **41-22-10.2. Off-highway vehicles -- Prohibited on interstate freeway.**

It is unlawful for an off-highway vehicle to operate along, across, or within the boundaries of an interstate freeway or controlled access highway, as defined in Section 41-6a-102.

#### **41-22-10.3. Operation of vehicles on highways -- Limits.**

A person may not operate an off-highway vehicle upon any street or highway, not designated as open to off-highway vehicle use, except:

- (1) when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;
- (2) when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation;
- (3) when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority; or
- (4) when operating a street-legal all-terrain vehicle on a highway in accordance with Section 41-6a-1509.

#### **41-22-10.4. Snowmobiles.**

Snowmobiles may be operated on streets or highways which have been officially closed for the season to conventional motor vehicle traffic because snow removal is no longer provided for the season by the public authority having jurisdiction.

#### **41-22-10.5. Local ordinances -- Designating routes -- Supervision.**

(1) A municipality or county may adopt ordinances designating certain streets and highways under its respective jurisdiction:

- (a) as open for street-legal all-terrain vehicle use;
- (b) as open for general off-highway vehicle use; or
- (c) as open for limited off-highway vehicle use to allow off-highway vehicle operators to gain direct access to or from a private or public area open for off-highway vehicle use.

(2) A municipality or a county may adopt an ordinance requiring an operator who is under 16 years of age to be under the direct visual supervision of an adult who is at least 18 years of age while using a route designated under Subsection (1).

(3) A route designated under Subsection (1) may not be along, across, or within the boundaries of an interstate freeway or limited access highway.

(4) Except as provided under Section 41-22-10.3, a person may not operate an off-highway vehicle on any street or highway that is not designated or posted as open for off-highway vehicle use in accordance with Subsection (1) or Section 41-22-10.1.

(5) Subsection (4) does not apply to off-highway implements of husbandry used in accordance with Section 41-22-5.5.

#### **41-22-10.6 Requiring compliance with traffic laws.**

Any person operating an off-highway vehicle is subject to the provisions of Title 41, Chapter 6a, Traffic Code, unless specifically excluded.

41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) a safety flag, red or orange in color and a minimum of six by 12 inches, attached to the off-highway vehicle at least eight feet above the surface of level ground, when operated on sand dunes designated by the board.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

(3) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

**41-22-10.8. Protective headgear requirements -- Owner duty -- Penalty for violation.**

(1) A person under the age of 18 may not operate or ride on all-terrain type I vehicles, snowmobiles, or motorcycles on public land unless the person is wearing a properly fitted and fastened, United States Department of Transportation safety-rated protective headgear designed for motorized vehicle use.

(2) The owner of an off-highway vehicle or any other person may not give permission to a person who is under 18 years of age to operate or ride on an off-highway vehicle in violation of this section.

(3) An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by Subsections 41-22-5.5(3) and (4) are exempt from the requirements of this section.

(4) Any person convicted of violations of this section is guilty of an infraction and shall be fined not more than \$50 per offense.

**41-22-11. Agencies authorized to erect regulatory signs on public land.**

No person, except an agent of an appropriate federal, state, county, or city agency, operating within that agency's authority, may place a regulatory sign governing off-highway vehicle use on any public land.

**41-22-12. Restrictions on use of public lands.**

(1) Except as provided in Section 63-11-17, federal agencies are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open public land to responsible off-highway vehicle use.

(2) A person may not operate and an owner of an off-highway vehicle may not give another person permission to operate an off-highway vehicle on any public land which is closed to off-highway vehicles.

**41-22-12.1. Restrictions on use of snowmobile trails.**

A person may not operate a wheeled vehicle with a gross vehicle weight of 800 pounds or more on any snowmobile trail that the division has marked, posted, designated, or maintained as a snowmobile trail.

**41-22-12.5. Restrictions on use of privately-owned lands without permission -- Unlawful for person to tamper with signs or fencing on privately-owned land.**

(1) (a) No person shall operate or accompany a person operating an off-highway vehicle upon privately-owned land of any other person, firm, or corporation without permission from the owner or person in charge.

(b) It is unlawful for any person operating or accompanying a person operating an off-highway vehicle to refuse to immediately leave private land upon request of the owner or person in charge of such land.

(c) Subsections (a) and (b) shall not apply to prescriptive easements on privately owned land.

(d) No person operating or accompanying a person operating an off-highway vehicle shall obstruct any entrance or exit to private property without the owner's permission.

(2) It is unlawful for any person to tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating an off-highway vehicle on land; or to tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to any such fence or enclosure.

**41-22-13. Prohibited uses.**

No person may operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes excessive pollution of air, water, or land, abuse of the watershed, impairment of plant or animal life, or excessive mechanical noise.

**41-22-15. Permission required for race or organized event.**

No person may organize, promote, or hold an off-highway vehicle race or other organized event on any land or highway within this state, except as permitted by the appropriate agency or landowner having jurisdiction over the land or highway.

**41-22-16. Authorized peace officers -- Arrest provisions.**

(1) Any peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce the provisions of this chapter and the rules promulgated under this chapter.

(2) Whenever any person is arrested for any violation of the provisions of this chapter or of the rules promulgated under this chapter, the procedure for the arrest is the same as outlined in Sections 77-7-22, 77-7-23, and 77-7-24.

**41-22-17. Penalties for violations.**

(1) Except as otherwise provided, a person who violates the provisions of this chapter is guilty of a class C misdemeanor.

(2) The division may revoke or suspend the registration of any off-highway vehicle whose application for registration has been falsified. The owner shall surrender to the division, within 15 days of suspension or revocation, the suspended or revoked registration card and registration sticker.

**41-22-18. Ordinances or local laws relating to operation and equipment of vehicles.**

The provisions of this chapter and other applicable laws of this state govern the operation, equipment, registration, and all other matters relating to the use of off-highway vehicles on public land. Nothing in this chapter may be construed to prevent the adoption of any ordinance or local law relating to the operation and equipment of off-highway vehicles in which the provisions are identical to the provisions of this chapter or the rules promulgated under this chapter, but these ordinances or local laws shall be operative only as long as and to the extent that they continue to be identical to the provisions of this chapter or the rules promulgated under this chapter.

**41-22-19. Deposit of fees and related moneys in Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.**

(1) Except as provided under Subsection (3) and Sections 41-22-34 and 41-22-36, all registration fees and related moneys collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue in the Off-highway Vehicle Account in the General Fund less the costs of collecting off-highway vehicle registration fees by the Motor Vehicle Division. The balance of the monies may be used by the division as follows:

- (a) for the construction, improvement, operation, or maintenance of publicly owned or administered off-highway vehicle facilities;
- (b) for the mitigation of impacts associated with off-highway vehicle use;
- (c) as grants or as matching funds with any federal agency, state agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;
- (d) for the administration and enforcement of the provisions of this chapter; and
- (e) for the education of off-highway vehicle users.

(2) All agencies or political subdivisions requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be

deposited in the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the monies deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) Any unused balance of the monies deposited under Subsection (3)(a) exceeding \$350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

**41-22-19.5. Off-highway Access and Education Restricted Account -- Creation -- Funding -- Distribution of funds by the Board of Parks and Recreation.**

(1) There is created in the General Fund a restricted account known as the Off-highway Access and Education Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the Off-highway Access and Education Restricted Account in accordance with Section 41-1a-230.6;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Funds in the account are nonlapsing.

(4) The Legislature shall appropriate money in the account to the board.

(5) (a) The state treasurer shall invest monies in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account monies into the General Fund.

(6) The board may expend up to 10% of the monies appropriated under Subsection (4) to:

(a) administer account distributions in accordance with Subsections (7) through (10); and

(b) administer off-highway vehicle provisions under this chapter.

(7) The board shall distribute the funds to a charitable organization that:

(a) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) has at least one full-time employee; and

(c) has as a primary part of its mission to:

- (i) protect access to public lands by motor vehicle and off-highway vehicle operators; and
- (ii) educate the public about appropriate off-highway vehicle use.

(8) The board may only consider proposals that are:

- (a) proposed by a charitable organization under Subsection (7); and
- (b) designed to:

- (i) protect access to public lands by motor vehicle and off-highway vehicle operators; and
- (ii) educate the public about appropriate off-highway vehicle use.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules providing procedures for an organization to apply to receive funds under this section.

(10) The board may not:

- (a) require matching funds from a charitable organization as a condition of receiving funds; or
- (b) prohibit the use of funds to cover litigation expenses incurred in protecting access to public lands by motor vehicle and off-highway vehicle operators.

**41-22-20. Public land administrating agencies to develop facilities and programs.**

All public land administering agencies are encouraged:

- (1) to develop and maintain trails, parking areas, rest rooms, and other related facilities appropriate to off-highway vehicle use; and
- (2) to promote the safety, enjoyment, and responsible use of all forms of this recreational activity.

**41-22-21. Publication of rules and amendments.**

The rules promulgated under this chapter and any amendments to those rules shall be published as required by the Utah Administrative Rulemaking Act.

**41-22-29. Operation by persons under eight years of age prohibited -- Definitions -- Exception -- Penalty.**

(1) As used in this section:

(a) "Organized practice" means a scheduled motorcycle practice held in an off-road vehicle facility designated by the division and conducted by an organization carrying liability insurance in at least the amounts specified by the division under Subsection (5) covering all activities associated with the practice.

(b) "Sanctioned race" means a motorcycle race conducted on a closed course and sponsored and sanctioned by an organization carrying liability insurance in at least the amounts specified by the division under Subsection (5) covering all activities associated with the race.

(2) Except as provided under Subsection (3), a person under eight years of age may not operate and an owner may not give another person who is under eight years of age permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state.

(3) A child under eight years of age may participate in a sanctioned race or organized practice if:

(a) the child is under the immediate supervision of an adult;

(b) emergency medical service personnel, as defined in Section 26-8a-102, are on the premises and immediately available to provide assistance at all times during the sanctioned race or organized practice; and

(c) an ambulance provider, as defined in Section 26-8a-102, is on the premises and immediately available to provide assistance for a sanctioned race.

(4) Any person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$50 per offense.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules specifying the minimum amounts of liability coverage for an organized practice or sanctioned race.

**41-22-30. Supervision, safety certificate, or driver license required -- Penalty.**

(1) As used in this section, "direct supervision" means oversight at a distance:

(a) of no more than 300 feet; and

(b) within which:

(i) visual contact is maintained; and

(ii) advice and assistance can be given and received.

(2) A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

(a) is under the direct supervision of a certified off-highway vehicle safety instructor during a scheduled safety training course;

(b) (i) has in the person's possession the appropriate safety certificate issued or approved by the division; and

(ii) if under 18 years of age, is under the direct supervision of a person who is at least 18 years of age if operating on a public highway that is:

(A) open to motor vehicles; and

(B) not exclusively reserved for off-highway vehicle use; or

(c) has in the person's immediate possession a valid motor vehicle operator's license, as provided in Title 53, Chapter 3, Uniform Driver License Act.

(3) (a) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$100 per offense.

(b) It is a defense to a charge under this section, if the person charged:

(i) produces in court a license or an appropriate safety certificate that was:

(A) valid at the time of the citation or arrest; and

(B) issued to the person operating the off-highway vehicle; and

(ii) can show that the direct supervision requirement under Subsection (2)(b) was not violated at the time of citation or arrest.

(4) The requirements of this section do not apply to an operator of an off-highway implement of husbandry.

**41-22-31. Board to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.**

(1) The board shall establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

(a) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(b) Components of the program shall include the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators.

(c) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(2) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(3) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

**41-22-32. Certification of safety instructors.**

(1) The division may certify certain qualified persons as off-highway vehicle safety instructors. An instructor certified by the division may act in behalf of the division as an agent in:

(a) conducting off-highway vehicle safety classes and examinations; and

(b) issuing safety certificates.

(2) A certified off-highway vehicle safety instructor shall:

(a) successfully complete an off-highway vehicle safety instructor program for the type of vehicle instruction to be given through a program:

(i) of the division; or

(ii) recognized by the division which is conducted by an off-highway vehicle safety organization;

(b) be at least 18 years of age and hold a valid motor vehicle operator's license;

(c) have no convictions as defined in Subsection 41-6a-501(2) for driving under the influence of alcohol or drugs during the previous five years; and

(d) have no convictions for a sexual offense against a minor or a violent crime against a minor.

**41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.**

(1) (a) A fee set by the board in accordance with Section 63J-1-303 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(b) The division may also collect a fee set by the board in accordance with Section 63J-1-303 from each person who:

(i) receives the training and takes the knowledge and skills test for off-highway vehicle use; or

(ii) takes the knowledge and skills test for off-highway vehicle use.

(c) If the board modifies the fee under Subsection (1)(a), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the board provides the State Tax Commission:

(i) notice from the board stating that the board will modify the fee; and

(ii) a copy of the fee modification.

(2) (a) To help defray instructors' costs, the division may reimburse volunteer certified off-highway vehicle safety instructors up to \$6 for each student who receives the training and takes the knowledge and skills test.

(b) On or before the 10th day of each calendar month, volunteer off-highway vehicle safety instructors shall report to the division all fees collected and students trained and shall accompany the report with all money received for off-highway vehicle training.

(c) If a volunteer off-highway vehicle safety instructor intentionally or negligently fails to pay the amount due, the division may assess a penalty of 20% of the amount due. All delinquent payments shall bear interest at the rate of 1% per month. If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total due together with interest.

(d) All fees collected from students shall be kept separate and apart from private funds of the

instructor and shall at all times belong to the state. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the instructor, receiver, or trustee for all money owing the state for training and shall not be stopped from asserting the claim by reason of commingling of funds or otherwise.

(e) A person may not:

(i) willfully misdate an off-highway vehicle education safety certificate;

(ii) issue an incomplete certificate; or

(iii) issue a receipt in lieu of a certificate.

**41-22-34. Search and rescue fee -- Amount -- Deposition.**

(1) In addition to the fees imposed under Sections 41-22-8 and 41-22-33, there is imposed a search and rescue fee of 50 cents on each off-highway vehicle required to be registered or renewed under Section 41-22-3.

(2) The fees imposed under this section shall be collected in the same manner and by the same agency designated to collect the fees imposed under this chapter.

(3) The fees collected under this section shall be deposited in the General Fund as dedicated credits for the Search and Rescue Financial Assistance Program created under Section 53-2-107.

**41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.**

(1) (a) Except as provided in Subsection (1)(b), any nonresident owning an off-highway vehicle who operates or gives another person permission to operate the off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee; and

(iii) provide evidence that:

(A) the person is a nonresident; and

(B) the person is the owner of the off-highway vehicle.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) registered in another state that offers reciprocal operating privileges to Utah residents under rules made by the board; or

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the board.

- (2) The off-highway vehicle user fee is \$30.
- (3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:
- (a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and
  - (b) display the decal on the off-highway vehicle in accordance with rules made by the board.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:
- (a) procedures for:
    - (i) the payment of off-highway vehicle user fees; and
    - (ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);
  - (b) acceptable evidence indicating compliance with Subsection (1);
  - (c) eligibility requirements for reciprocal operating privileges for nonresident users; and
  - (d) eligibility for scheduled competitive events or other events under Subsection (1)(b)(ii).
- (5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.
- (b) An agent shall retain 10% of all off-highway vehicle user fees collected.
  - (c) The division may require agents to obtain a bond in a reasonable amount.
  - (d) On or before the tenth day of each month, each agent shall:
    - (i) report all sales to the division; and
    - (ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).
  - (e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.
    - (ii) Delinquent payments shall bear interest at the rate of 1% per month.
    - (iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.
  - (f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:
    - (i) be kept separate and apart from the private funds of the agent; and
    - (ii) belong to the state.
  - (g) An agent may not issue an off-highway vehicle user decal to any person unless the person

furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited in the Off-highway Vehicle Account created in Section 41-22-19.

**41-22-36. Fees to cover the costs of electronic payments.**

(1) As used in this section:

(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Section 41-22-8.

(b) The fee described in Subsection (2)(a) shall be imposed regardless of the method of payment for a particular transaction.

(3) The division shall establish the fee according to the procedures and requirements of Section 63J-1-303.

(4) A fee imposed under this section:

(a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs of electronic payments;

(b) is nonlapsing;

(c) is not subject to Subsection 63J-2-202(2); and

(d) need not be separately identified from the fees imposed on registrations and renewals of registration under Section 41-22-8.