

AN ORDINANCE
PROVIDING FOR A NEW CHAPTER 11.42 OF THE ELGIN MUNICIPAL CODE, 1976, AS
AMENDED, ENTITLED "OPERATION OF NON-HIGHWAY VEHICLES ON CITY
STREETS"

WHEREAS, Section 5/11-1426.1(d) of the Illinois Vehicle Code (625 ILCS 5/11-1426.1(d)) provides that a municipality may authorize by ordinance or resolution the operation of non-highway vehicles on roadways under its jurisdiction if the unit of local government determines that the public safety will not be jeopardized; and

WHEREAS, before permitting the operation of non-highway vehicles on its roadways, a municipality must consider the volume, speed, and character of traffic on the roadway and determine whether or not highway vehicles may safely travel on or across the roadway; and

WHEREAS, the city has received requests from residents within the Highland Woods Subdivision in Elgin to allow the operation of certain non-highway vehicles on streets within the Highland Woods Subdivision subject to certain equipment requirements and other limitations; and

WHEREAS, the city has considered the volume, speed, and character of traffic on the roadways within the Highland Woods Subdivision and has determined whether or not highway vehicles may safely travel on or across the roadways within the Highland Woods Subdivision; and

WHEREAS, the City of Elgin is a home rule unit, and as a home rule unit, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the regulation of the operation of non-highway vehicles on specified streets within the city pertains to the government and affairs of the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, ILLINOIS:

Section 1. That Title 11 of the Elgin Municipal Code, 1976, as amended, entitled "Vehicles and Traffic" be and is hereby further amended by adding a new Chapter 11.42 thereto entitled "Operation of Non-Highway Vehicles on City Streets:" to read as follows:

"Chapter 11.42
Operation of Non-Highway Vehicles on City Streets"

11.42.010: DEFINITIONS:

For the purposes of this chapter, non-highway vehicle means a motor vehicle not specifically designed to be used on a public highway, including a golf cart, as defined in 625 ILCS 5/123.9 and a recreational off-highway vehicle, as defined in 625 ILCS 5/1-168.8.

11.42.020: OPERATION:

No person shall operate a non-highway vehicle on a City street except as set forth in this chapter.

11.42.030: REGISTRATION:

Each non-highway vehicle operating on a City street shall be registered with the City and display City registration stickers. This registration shall be valid from May 1st through November 1st of the year it was issued. Registrations shall not be transferable in the event of a change in ownership of the non-highway vehicle. Prior to issuance of a registration by the City, a non-highway vehicle must comply with the requirements set forth below.

- A. Applications for a City registration for a non-highway vehicle shall be made in writing and submitted to the city's chief of police on a form prescribed by the chief of police. All references to the chief of police in this chapter shall be deemed to include the chief of police or his or her authorized designee.
- B. An annual safety inspection shall be conducted by the Elgin Police Department or a designee authorized by the chief of police.
- C. A non-highway vehicle must have, at minimum the following operating equipment:
 - 1. Brakes;
 - 2. A steering apparatus;
 - 3. Tires;
 - 4. A rearview mirror;
 - 5. Red reflectorized warning devices in the front and rear;
 - 6. Seatbelts;
 - 7. A slow moving emblem (as required of other vehicles in 625 ILCS 5/12-709) on the rear of the non-highway vehicle;
 - 8. A headlight that emits a white light visible from a distance of five hundred (500) feet to the front and a tail lamp that emits a red light visible from at least one hundred (100) feet from the rear;
 - 9. Brake lights; and
 - 10. Turn signals.
- D. A non-highway vehicle shall not have a modified exhaust system which will amplify or increase the noise of the non-highway vehicle above that emitted by the muffler originally installed on the non-highway vehicle.
- E. Proof of valid insurance, as identified in 625 ILCS 5/7-601, *et seq.*, must be provided for the non-highway vehicle and the registrant must agree to insure the non-highway vehicle while in use on City streets.
- F. The registrant must agree and sign an indemnification form, releasing the City, its elected officials and its employees from liability and indemnifying and holding them harmless from any and all claims resulting from the operation of the non-highway vehicle.

- G. A fee of one hundred dollars (\$100) shall be paid for the initial annual safety inspection of each non-highway vehicle. A fee of fifty dollars (\$50.00) for the annual re-inspection for the same non-highway vehicle under the same ownership each year thereafter shall be paid.
- H. The chief of police shall promptly review an application upon the receipt of a completed registration application and upon payment of the registration fee by the applicant. The chief of police shall notify the applicant within ten (10) days from the receipt of the application and the registration fee of any deficiencies in the application. The chief of police shall grant or deny the registration application within twenty (20) days from the date the completed application was filed and the required inspection conducted.
- I. The chief of police shall approve a registration application if it complies with the requirements of this chapter and other applicable requirements of the law and the chief of police shall deliver the required registration to the applicant.
- J. Upon the chief of police's review of the application, the chief of police may refuse to issue a registration to the applicant under this chapter for any of the following reasons:
 - 1. The application has not been properly completed or the required fee has not been paid.
 - 2. An investigation reveals the applicant has falsified information in the application.
 - 3. The non-highway vehicle proposed to be registered does not meet the equipment requirements or other requirements of this chapter.
 - 4. Failure to comply with other provisions of this chapter or other applicable requirements of law.

11.42.040: LOCATION; PERMITTED STREETS:

No person shall operate a non-highway vehicle on any city street except on the following permitted city streets:

- A. Streets within the Highland Woods Subdivision including: Highland Woods Boulevard, Old Bridge Lane, Peregrine Way, Heathmoor Drive, Heathmoor Court, Broadleaf Avenue, Bellamere Lane, Skyglade Drive, Marlisle Lane, Greenbriar Drive, Lansmere Avenue, Richwood Avenue, Fewflower Court, Ancient Oak Drive, Waterscape Terrace, Waterscape Court, Wetlands Court, Wetlands Drive, Winged Elm, Harmony Circle, Slate Run, Hidden Fawn Drive, Kentshire Circle, Gallant Fox Drive, English Prairie Road, Goodfield Landing, Cashmere Lane, Woodgrass Circle, Prestwick Court, Redmond Place and Hopewell Place.

11.42.050: TIME:

A person may operate a non-highway vehicle on permitted streets from May 1st through October 20th each year from sunrise to sunset local time, as determined by the United States Naval Observatory. The use of non-highway vehicles on City Streets between October 21st and April 30th and afterhours is prohibited.

11.42.060: OPERATION REGULATIONS:

The operation of a non-highway vehicle is subject to the following requirements:

- A. Ability to travel at a speed of nineteen (19) miles per hour;
- B. Display of registration decals: Non-highway vehicles registered with the City are issued two registration decals. The decals must be displayed on the front and back on the non-highway vehicles by its own adhesive, in a position which is visible to law enforcement. Operators shall carry all necessary registration cards and paperwork with them for display to a law enforcement officer upon request.
- C. Valid driver's license by the operator of the non-highway vehicle issued in his or her name by the Illinois Secretary of State or by a foreign jurisdiction;
- D. The operator shall yield the right of way to all pedestrian and vehicular traffic which constitutes a hazard;
- E. Compliance with the provisions of the Illinois Vehicle Code (625 ILCS 5/1-100, *et seq.*, as amended) to include all speed limits and rules of the road;
- F. No operation shall occur when visibility is impaired by weather, smoke, or other conditions or at any time when there is insufficient natural light to clearly see persons and vehicles on the roadway at a distance of five hundred (500) feet;
- G. The number of occupants shall not exceed the number of seatbelts in the non-highway vehicle; and
- H. Headlight and tail lamps must be lighted at all times when operating on City streets.

11.42.070: DRIVING UNDER THE INFLUENCE:

A person who operates or is in actual physical control of a non-highway vehicle while under the influence of alcohol, drugs or a combination thereof shall be subject to enforcement through Chapter 11.18 of this Code or the Illinois Vehicle Code.

11.42.080: SUSPENSION OR REVOCATION:

- A. In addition to any penalty which may be authorized by this chapter or other city ordinances, any person who is cited for a violation of the Illinois Vehicle Code while using their non-highway vehicle in Elgin for no valid driver's license, suspended/revoked license, reckless driving or driving under the influence of alcohol or drugs, which results in arrest shall result in an automatic temporary suspension of any City registration and, upon a finding of guilty of a violation, shall result in an automatic revocation of any City registration for a minimum of twelve (12) months.

- B. In addition to any penalty which may be authorized by this chapter or other city ordinances, any person who has been found guilty of two (2) or more violations of this chapter, other provisions of this title or other provisions of the Illinois Vehicle code not listed in subsection B above, while using their non-highway vehicle in Elgin within a twelve (12) month period, shall result in an automatic revocation of any City registration for a minimum of twelve (12) months.

11.42.090: APPEALS:

- A. Any person aggrieved by the action or decision of the city's chief of police to deny, suspend or revoke a registration applied for or issued under the provisions of this chapter shall have the right to appeal such action or decision to the city manager within ten (10) days after the notice of action or decision has been mailed to the person's address as shown on the registration application form, or to the person's last known address.
- B. An appeal shall be taken by filing with the city's chief of police a written statement setting forth the grounds for appeal.
- C. The city's chief of police shall transmit the written statement to the city manager within ten (10) days of its receipt and the city manager shall set a time and place for a hearing on the appeal. The city manager may designate an authorized representative to conduct such hearing.
- D. A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.
- E. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action decision.
- F. The city manager or the city manager's designee shall serve a decision on the appellant within ten (10) days after the conclusion of the hearing on such appeal.

11.42.100: VIOLATION; PENALTY:

- A. Any person violating the provisions of this chapter shall be subject to a citation and imposition of a fine up to \$750. Any person violating other provisions of this title or the Illinois Vehicle Code while operating a non-highway vehicle shall be subject to the imposition of fines and penalties as provided by such other provisions of this title or the Illinois Vehicle Code.

11.42.110: SEVERABILITY:

If any provision, clause, sentence, paragraph, section or part of this chapter or application thereof to any person or circumstance, shall for any reason be judged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, or otherwise invalidate the remainder of this chapter, but shall be confined in its operation to such provision, clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered into the person or circumstances involved. It is hereby

declared to be the legislative intent of the city council of this chapter. It is hereby declared to be the legislative intent of the city council that this chapter would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section or part thereof had not been included.

11.42.120: EXPIRATION:

The provisions of this Chapter 11.42 shall without further city council action automatically expire on February 1, 2021. It is hereby declared to be the legislative intent of the city council of the adoption of Chapter 11.42 regarding the operation of non-highway vehicles on city streets is being done on an experimental basis only. The city manager is directed to submit a report to the city council prior to February 1, 2021, and therein shall advise the city council as to the city's experience with the operation of non-highway vehicles on city streets and recommend whether an ordinance providing for the continuation of Chapter 11.42 should be adopted.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance be and are hereby repealed to the extent of any such conflict.

Section 3. That this ordinance shall be in full force and effect upon its passage and publication in the manner provided by law.

s/ David J. Kaptain

David J. Kaptain, Mayor

Presented: July 8, 2020
Passed: July 8, 2020
Vote: Yeas: 9 Nays: 0
Recorded: July 8, 2020
Published: July 9, 2020

Attest:

s/ Kimberly Dewis

Kimberly Dewis, City Clerk