

ORDINANCE 2014-3

**AN ORDINANCE OF THE TOWN OF ELBERFELD PROVIDING
FOR THE OPERATION OF OFF-ROAD VEHICLES ON TOWN STREETS**

WHEREAS, I.C. 14-16-1-22 allows a town to pass an ordinance regulating the operation of off-road vehicles if the ordinance meets substantially the minimum requirements of I.C. 14-16-1; and

WHEREAS, the Town Council of the Town of Elberfeld, Indiana desires to permit and regulate the operation of off-road vehicles on Town streets;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL, TOWN OF ELBERFELD, STATE OF INDIANA:

SECTION 1: Definition of "off-road vehicle":

1. "Off-road vehicle", for purposes of I.C. 14-16-1, means a motor driven vehicle of at least four wheels capable of cross-country travel:
 - a. Without benefit of a road; and
 - b. On or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain
2. The term "off-road vehicle" does not include a snowmobile, or any other vehicle properly registered by the bureau of motor vehicles, any watercraft that is registered under Indiana statutes, or a golf cart vehicle.

SECTION 2: Definition of "off-road streets":

"OFF-ROAD STREETS" shall mean all town streets inside the town limits, except for the following:

1. Any street posted by order of the Town Council or its designee for non-use for off-road vehicles.
2. Any of the following:
 - a. On sidewalks;
 - b. On any unpaved surfaces of public property;
 - c. On any private property without permission of the owner

SECTION 3: Definition of Operator. An "Operator" of an off-road vehicle must be at least 18 years of age and possess a valid motor vehicle driver's license as is also required by I.C. 14-16-1-20(c).

SECTION 4: Use and operation of off-road vehicles on Town streets restricted to ingress and egress and direct through-traffic.

1. An "Operator" of an "off-road vehicle" may use the off-road vehicle on off-road streets, subject to the terms and conditions of the ordinance, for purposes of ingress and egress to the location where the off-road vehicle is kept within the Town using the most direct route possible to enter

and leave the Town. An Operator may also use an off road vehicle to drive through the Town of Elberfeld, utilizing the most direct route possible to pass through the Town on off-road streets and subject to the terms and conditions of this Ordinance.

2. "Off-road vehicles" may not operate on restricted streets and areas.

SECTION 5: Registration Requirements. Off road vehicles must be registered under Indiana I.C. 14-16-1-8, as amended.

SECTION 6: Headlights, taillights and brakes. The off road vehicle must meet those standards of headlights, taillights and brakes required under I.C. 14-16-1-21.

SECTION 7: Statutory restrictions on use. Nothing in this Ordinance modifies, alters, or changes the restrictions on operation established under I.C. 14-16-1-23.

SECTION 8: Number of occupants. No off-road vehicle shall be occupied by more persons than for which the vehicle was designed. Each occupant shall have and use a separate seat.

SECTION 9: Duties in event of Accident. Nothing in this Ordinance modifies, alters or changes the duties under I.C. 14-16-1-24 placed on the operator of an off-road vehicle in the event of an accident.

SECTION 10: Liability Insurance. An operator operating an off-road vehicle on a Town street shall have liability insurance specifically for such off-road in accordance with the minimum insurance requirements for the operation of other motor vehicles on public highways in the State of Indiana, in the minimum amount of \$25,000 per person/\$50,000 per accident.

SECTION 11: Possession of registration and certificate of insurance. Any operator of an off-road vehicle shall carry on his or her person any registration required under I.C. 14-16-1 and the certificate of insurance required under this Ordinance for the off-road vehicle being operated.

SECTION 12: Restriction on operation between 9:00 p.m. and 6:00 a.m. In addition to the restriction established under I.C. 14-16-1-23 (a)(7) prohibiting the operation of off-road vehicles within 100 feet of a dwelling between midnight and 6:00 a.m., an off-road vehicle may not be operated on any Town street between 9:00 p.m. and 6:00 a.m.

SECTION 13: Other law and regulations. Nothing in this Ordinance modifies, alters or changes the requirements of the operation of vehicles on public roadways in Indiana, and all operators of off-road vehicles must obey and follow all rules and regulations applicable to the operation of vehicles on roadways in Indiana.

SECTION 14: Disturbance of roadway. No person shall operate an off road vehicle on Town streets in such a manner which causes damage to the street or disturbs the surface of the roadway. Any violator

of this Section, in addition to such penalties set forth in Section 17 below, shall be responsible for all costs of repairs of such damage or disturbance.

SECTION 15: Mufflers. As required by I.C. 14-16-1-23, each ATV being operated on Town streets pursuant to this Ordinance, must be equipped with a muffler in good working order and in constant operation to prevent excessive noise and annoying smoke.

SECTION 16: Emergencies. Any town, county or state law enforcement officer may prohibit operation of an off-road vehicle on a town street or roadway during emergencies.

SECTION 17: Penalty.

1. Any person who violates any provision of this order shall be deemed guilty of a violation and, upon conviction, shall be fined pursuant to the following schedule:
 - a. First offense in a calendar year: \$100.
 - b. Second offense in a calendar year: \$200.
 - c. Third offense in a calendar year: \$250.
2. Each day that a violation occurs constitutes a separate offense.

SECTION 18: Impoundment of off-road vehicle. Any off-road vehicle operated on the streets of the Town of Elberfeld by an unlicensed operator or without the equipment required by this Ordinance or by the State of Indiana shall be impounded by the enforcing officer. Said off-road vehicle shall be held until retrieved by the owner and a properly licensed operator. If the off-road vehicle is improperly equipped by this Ordinance or Indiana law, for operation on the streets of the Town of Elberfeld, then it shall only be released to be hauled away under a properly licensed vehicle capable of safely hauling the same. The off-road vehicle shall not be released from impoundment until:

1. It is properly registered as required by law;
2. The actual charge for the towing of the vehicle to the place of impoundment is paid;
3. Storage charges in the amount of \$25.00 per day, or part thereof, have been paid. The Town of Elberfeld shall not be responsible for any loss or damage sustained by any off-road vehicle so impounded or stored hereunder. Off-road vehicles not reclaimed within 30 days from the date of impoundment shall be deemed abandoned and shall be sold as surplus property.

SECTION 19: Enforcement. All law enforcement officers in the Town of Elberfeld shall have the power and it shall be their duty to enforce the provisions of this ordinance unless otherwise prevented by the state statutes regarding the enforcement of state laws.

SECTION 20: Repeal of inconsistent ordinances. All ordinances or parts of Ordinances in conflict herewith are repealed.

SECTION 21: Severability. If any section, paragraph, sentence, clause, or phrase in this Ordinance is declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected by such declaration and shall remain in full force and effect.

SECTION 22: Effective Date. This Ordinance shall become effective upon the passage by the Town Council of the Town of Elberfeld, attested to by the Clerk-Treasurer, and published as required by I.C.5-3-1-5-2.

PASSED AND ADOPTED by the Town Council Town of Elberfeld, Warrick County, Indiana on the 31st day of July, 2014

ELBERFELD TOWN COUNCIL



Scott Downers, Council President



Jeff Vallant, Council Member



Tracee Matthews, Council Member

ATTEST:



Maddy Kirsela, Clerk-Treasurer