HAINES BOROUGH, ALASKA **Adopted**
ORDINANCE No. 14-02-368

An Ordinance of the Haines Borough Alaska amending Haines Borough Code Chapter 10.34 to authorize the use of ATVs on streets and highways owned by the borough and allowing use of snow machines on the streets and highways owned by the borough.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective upon adoption.

Section 4. Amendment of Chapter 10.34. Haines Borough Code 10.34 is amended, as follows:

NOTE: **Bolded**/UNDERLINED ITEMS ARE TO BE ADDED
~~STRIKETHROUGH~~ ITEMS ARE DELETED

Chapter 10.34
SNOW MACHINES AND ATVS
Sections:
10.34.005 Snow machine use permitted – Conditions.
~~10.34.007 Off-highway vehicle use permitted for snow removal purposes.~~
10.34.009 Equipment Requirements.
10.34.010 Parental responsibilities.
10.34.020 ~~Operator subject to applicable traffic laws~~ **Impound and Public Nuisance**.
10.34.030 ~~Driving on sidewalk/bike path/alley or other location intended for nonmotorized traffic~~ **Private Property Damages**
10.34.040 ~~Driving on highway when not authorized.~~ **Presumption of Ownership**.
10.34.050 ~~Interfering with traffic while crossing highway~~ **Penalty**.
10.34.060 ~~Failed to keep on right side~~ **Definitions**
~~10.34.070 Failed to display decal.~~
~~10.34.090 Operating an unregistered snow machine.~~
~~10.34.100 Operator/passenger must have permanent seat.~~
~~10.34.110 Snow machine must have brakes.~~
~~10.34.120 Snow machine must have headlight.~~
~~10.34.130 Snow machine must have throttle control.~~
~~10.34.140 Snow machine must have muffler in good working order.~~
~~10.34.150 Snow machine must have rear snow flap.~~
~~10.34.160 Snow machine must have protective shield over moving parts.~~
~~10.34.170 Snow machine must have reflectors.~~
~~10.34.180 Snow machine must have spark arrester.~~
~~10.34.190 Snow machine tow trailer to have rigid tow bar.~~

10.34.005 Snow machine **and ATV** use permitted – Conditions.

A. As provided for in 13 AAC 02.455(a)~~(3),~~the borough permits the use of snow machines as defined in AS 28.39.250(10) **and ATV's as defined in this chapter** on borough-maintained vehicle ways or areas as defined in AS 28.40.100(a)(25) **but only in accordance with the provisions of this Chapter**. ~~Snow machine~~ Information packets, specifying vehicular ways and areas where snow machines **and ATV's** are allowed to be ridden, are available at the borough administrative offices and the police department.

B. There shall be no snow machine **or ATV** use within the confines of Tlingit Park or the Fort Seward Parade grounds between the hours of 9:00 p.m. and 9:00 a.m.

C. ~~Failure to comply with this chapter is considered a violation unless otherwise identified, and is punishable by a $50.00 fine~~ **The operator of a snow machine or ATV shall be at least sixteen (16) years of age.**

~~D. Snow machine Information packets, specifying vehicular ways and areas where snow machines are allowed to be ridden, are available at the borough administrative offices and the police department.~~ *[Note from Borough Clerk: this text was moved to subsection A of this chapter and was amended by the assembly to remove the words "snow machine" and add the words "and ATV's."]*

D. The operator shall have in their possession while operating the snow machine or ATV a valid Alaska driver's license or equivalent from another jurisdiction.

E. The snow machine or ATV must be registered through the Division of Motor Vehicles and proof of registration must be displayed in the designated location on the vehicle per AS 28.39.040

F. Proof of insurance must be presented on demand.

G. No passengers other than the driver may be carried unless the snow machine or ATV is designed and equipped by the manufacturer to do so in accordance with 13 AAC 02.445 (a).

H. The operator of an ATV or snow machine must not exceed 25 miles per hour on Borough streets and roads and must comply with all other traffic safety regulations.

I. An operator shall use hand signals when making turns on an ATV or snow machine if the ATV or snow machine not equipped with turn signals.

J. An ATV or snow machine shall not be operated on a sidewalk or pedestrian way as defined in 13 AAC 40.010.

K. No person, while operating an ATV or snow machine within the Haines Borough, shall fail to stop as soon as practical, and in a reasonable manner under the circumstances, when requested or signaled to do so by a police officer.

L. When used in this section, "signal" means a hand motion, audible mechanical or electronic noise device, visual light device, or combination of them, used in a manner that a reasonable person would understand to mean that the police officer intends that the person stop.

M. No person who owns or controls an ATV or snow machine shall permit a person to operate the ATV or snow machine if he/she knows or should reasonably know that it is likely to be operated in violation of this section.

~~10.34.020 Operator subject to applicable traffic laws.~~

N. 13 AAC 02.430(b) **is adopted by reference**.

~~10.34.030 Driving on sidewalk/bike path/alley or other location intended for nonmotorized traffic.~~

O. 13 AAC 02.455(g) **is adopted by reference**.

~~10.34.040 Driving on highway when not authorized.~~

P. 13 AAC 02.455(a) **is adopted by reference**.

~~10.34.050 Interfering with traffic while crossing highway.~~

Q. 13 AAC 02.455(f)(1) **is adopted by reference**.

~~10.34.060 Failed to keep on right side.~~

R. 13 AAC 02.455(a)(4) **is adopted by reference**.

~~10.34.070 Failed to display decal.~~

S. AS 28.39.040(e) **is adopted by reference**.

~~10.34.090 Operating an unregistered snow machine.~~

T. AS 28.39.010 **is adopted by reference**.

U. Every ATV and snow machine shall display a lighted headlight and taillight at all times, day or night.

~~10.34.007 Off-highway vehicle use permitted for snow removal purposes.~~

~~A. As provided in 13 AAC 02.455(a)(3), the borough permits, on streets, roads or highways under borough jurisdiction, the incidental use of an off-highway vehicle equipped with a snowplow, for the purpose of providing snow removal services.~~

~~B. Travel on a borough highway is limited to one quarter mile.~~

~~C. The operator of the off-highway vehicle must have a permit; the clerk shall issue a permit when an operator shows a valid driver's license, and provides a description of the location that the snow removal services will be provided. A permit issued under this section shall be subject to the conditions set out in HBC 5.04.080.~~

~~D. A permitted operator must comply with AS 28.10.011 vehicle registration requirements and AS 28.22.011 liability insurance requirements.~~

~~E. A map showing the streets, roads or highways under borough jurisdiction is available at the borough administrative office and the police department.~~

10.34.009 Equipment Requirements

A. All ATVs and snow machines shall be equipped with at least one (1) functional headlight, taillight, and brake light that meet Alaska Administrative Code (13 AAC 04.400) requirements for said equipment.

B. All equipment originally installed by the snow machine or ATV manufacturer, in addition to that required by the Borough, shall be in good working order.

~~10.34.100 Operator/passenger must have permanent seat.~~

C. 13 AAC 02.445(a) **is adopted by reference**.

~~10.34.110 Snow machine must have brakes.~~

D. 13 AAC 04.405 **is adopted by reference**.

~~10.34.120 Snow machine must have headlight.~~

~~13 AAC 04.400(a).~~

~~10.34.130 Snow machine must have throttle control.~~

E. 13 AAC 04.410 **is adopted by reference**.

~~10.34.140 Snow machine must have muffler in good working order~~

F. 13 AAC 04.415(a) **is adopted by reference**.

~~10.34.150 Snow machine must have rear snow flap.~~

G. 13 AAC 04.420(a)(1) **is adopted by reference**.

~~10.34.160 Snow machine must have protective shield over moving parts.~~

H. 13 AAC 04.420(a)(2) **is adopted by reference**.

~~10.34.170 Snow machine must have reflectors.~~

I. 13 AAC 04.420(a)(3) **is adopted by reference**.

~~10.34.180 Snow machine must have spark arrester.~~

J. 13 AAC 04.420(a)(5) **is adopted by reference**.

~~10.34.190 Snow machine tow trailer to have rigid tow bar.~~

K. 13 AAC 04.420(a)(4) **is adopted by reference**.

10.34.010 Parental responsibilities.

~~13 AC 02.430(a).~~

A. A parent or guardian of a minor under the age of sixteen (16) commits an offense under this Chapter if he/she knowingly permits, or, by insufficient control, allows the minor to operate a snow machine or ATV in violation of this Chapter. Indifference to the activities or whereabouts of the minor under the age of sixteen (16) shall be prima facie evidence of insufficient control.

B. A parent or guardian must comply with 13 AAC 02.430(a).

10.34.020 Impound and Public Nuisance

A. The purpose of impoundment is for the protection of the public, and the removal of public nuisances and deterrence of violations of this section.

B. Officers of the Haines Borough Police Department or the State of Alaska Department of Public Safety may impound snow machines and ATVs whose operators have been cited upon the fourth (4th) citation of the operator under the provisions of this section.

C. Any snow machine or ATV operated or modified in a manner that violates this chapter may be hereby declared a public nuisance.

D. Any snow machine or ATV that is a public nuisance may be immediately impounded at the discretion of any police officer at the time of the violation or pursuant to a court order entered in the course of civil or criminal enforcement proceedings.

E. A police officer shall release an impounded ATV or snow machine to the owner upon receipt of proof of ownership, storage fees and civil fines owed to the Borough or private citizen or upon a finding by the magistrate that the ATV or snow machine was impounded without probable cause.

F. The towing fees, impound fees and storage fees for snow machines and ATVs shall be determined by the Haines Borough, and shall include an administrative charge of One Hundred Dollars ($100.00) to offset processing costs.

G. An ATV or snow machine seized for impoundment shall be held in the custody of a facility approved by the Borough.

H. An ATV or snow machine operated by, or driven by, or in the actual physical control of, an individual cited for violation of any section of this chapter, is presumed to have been so operated by the owner(s) thereof, or having been operated by another person with the knowledge and consent of the owner(s). An ATV or snow machine so operated is declared to be a public nuisance for which the owner(s) hold legal responsibility subject only to the defenses as set forth by law.

10.34.030 Private Property Damages.

The owner of an ATV or snow machine may be held jointly and severally liable to a property owner for three times the amount of damages to trees, shrubs, landscaping or personal property occurring on private property and caused by the ATV or snow machine where the ATV or snow machine is operated without the consent of the property owner or his agent.

10.34.040 Presumption of Ownership.
It is hereby declared that, for the purposed of this Chapter, it is presumed that the ATV or snow machine registered to an owner is being operated by the owner, and unless the presumption is rebutted, the owner shall be liable under the penalty and impoundment clauses as herein provided.

10.34.050 Penalty
Failure to comply with this chapter is considered a violation unless otherwise identified, and is punishable in accordance with the following fine and bail schedule ~~by a $50.00 fine~~ plus any surcharge required by AS 12.55.039:

1. **First offense, Fifty Dollars ($50.00)**
2. **Second offense, Seventy-five Dollars ($75.00)**
3. **Third offense, One Hundred Dollars ($100.00)**
4. **Fourth offense, One Hundred Fifty Dollars ($150.00) and each offense thereafter.**

10.34.060 Definitions.
As used in this section:

A."Snow machine" means a motor vehicle weighing one thousand pounds (1,000 lbs.) or less gross vehicle weight, primarily designed to travel over snow and supported in part by skis, belts, cleats or rubberized tracks, and includes the vehicle commonly known as a snowmobile or snow-go.

B."ATV" means a motor vehicle that has four (4) or more wheels utilizing low pressure tires (by the tire manufacturer's recommended pressure) or two (2) or more plastic-coated or rubberized tracks or treads measuring seventy-five (75) inches or less overall width, having a dry weight of one (1) ton or less, and designed primarily for travel over unimproved terrain. This definition includes the classifications known as Class I (operator straddles the seat) and Class II (vehicle is equipped with side by side seating for operator and passenger.)

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 12 DAY OF MARCH, 2014.

Stephanie Scott, Mayor

ATTEST:

Michelle Webb, Interim Borough Clerk

HAINES BOROUGH INCORPORATED SEAL OCTOBER 17 2002 STATE OF ALASKA

Date Introduced: 02/11/14
Date of First Public Hearing: 02/25/14
Date of Second Public Hearing: 03/12/14 - Adopted