

# **CITY OF DAPHNE ORDINANCE 2017-05**

## **AN ORDINANCE TO REGULATING OPERATION OF MOTORIZED VEHICLES ON TRESPASSED PRIVATE PROPERTY, PUBLIC PROPERTY, AND RIGHT-OF-WAYS WITHIN THE CITY OF DAPHNE, ALABAMA AND ITS POLICE JURISDICTION**

**WHEREAS**, the Mayor and City Council, desiring to protect the welfare and safety of the citizens of the City of Daphne and in an effort to prevent impacts to environmentally sensitive areas, prevent erosion and to protect water quality entering into its streams and Municipal Storm Sewer System (MS4), have determined it is necessary to establish standards that will regulate the operation of motorized vehicles on trespassed private property, public property and right-of-ways within the City of Daphne, Alabama and its police jurisdiction; and

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL  
OF THE CITY OF DAPHNE** as follows:

### **SECTION I: TITLE ORD. No. 2017-05 / MOTORIZED VEHICLE TRESPASS**

All-terrain vehicles (ATVs) shall be defined as any motor vehicle sixty-five (65) inches or less in width form outside of tire rim to outside of tire rim, having an unladen weight of 1000 pounds or less, traveling on 2 or more low pressure tires, designed for or capable of travel over unimproved terrain. This definition shall include but not be limited to any go-cart or off-road vehicles commonly referred to as a mule, gator, four-wheeler, dirt bike, mini-truck, or dune buggy. Other motorized vehicles, including but not limited to cars, motorcycles and trucks shall be subject to the provisions of this ordinance in the same manner as all-terrain vehicles.

Off-roading shall be defined as the activity of driving a motorized vehicle on any unpaved or unsurfaced road, track, land, or terrain made of materials including, but not limited to sand, gravel, mud, rocks, wetlands, riverbeds, beaches, and other natural terrain.

It shall be unlawful for any unauthorized person to participate in off-roading in any motorized vehicle as set forth herein. Motorized vehicles operated by unauthorized persons shall not off road travel in any manner which could cause environmental harm, including erosion, on any trespassed private property, public property, utility easement and/or public right-of-way in the City limits or police jurisdiction of the City of Daphne.

### **SECTION II: OFF-ROAD TRAVEL REGULATION**

- a. All riders under the age of eighteen (18) must wear size appropriate protective helmets that meet the current performance specifications established by the American National Standards Institute standard, z 90.1, the United States Department of Transportation (DOT) Federal Motor Vehicle Safety Standard no. 218 or Snell safety standards for protective headgear for vehicle users.
- b. It shall be unlawful for any person to ride or operate in any manner, any vehicle, car, truck, motor driven cycle, all-terrain vehicle (ATV), off-road vehicle,

recreational vehicle, or go-cart, on any private property without permission, utility easement, off-road on any public property and/or off-road on public right-of-way in the city limits or police jurisdiction of the City of Daphne. The foregoing statement shall be excepted in the following circumstances where the vehicle owner must adhere to all the Rules of the Road:

1. An off-road vehicle may make a direct crossing of a public road.
  2. An off-road vehicle may use the public road to load said vehicle onto a trailer.
  3. Public employees responding to an emergency.
- c. ATV's may only be operated from sunrise to sunset, unless equipped with original equipment headlights, taillights, and rear facing brake lights. They shall not be operated in inclement weather or when visibility is impaired to clearly see people and vehicles, except during emergency conditions.
- d. Operating an ATV or any other motorized vehicle described herein upon private property without permission from the owner of said property is per se trespass and may be prosecuted under this Ordinance or for criminal trespass.
- e. As stated above, an all-terrain vehicle or any other motorized vehicle described herein **shall not** operate off-road on public property and/or public right-of-way which includes but is not limited to the shoulder, or inside bank or slope of a public road right-of-way; unless such vehicle is performing right of way work or repairs and has been property permitted by the City to perform said work or repairs or such vehicle is owned and operated by the City and is performing work for the City.

### SECTION III: PENALTY

- 1) The operator of said motorized vehicle shall be issued a Municipal Citation for Trespass and Careless Driving.
- 2) Any person found guilty of violating any provision of this ordinance shall be punished by a fine of not less than \$50.00 nor more than \$500.00 or imprisonment, for a period not exceeding one hundred eighty days (180) days, or both, in the discretion of the municipal judge.
- 3) Schedule of fees:
  - 1) 1<sup>st</sup> Offense: Mandatory Court Appearance-Minimum Fine \$100.00 and cost of court.
  - 2) 2<sup>nd</sup> Offense: Mandatory Court Appearance: Minimum Fine \$200.00 and cost of court.
  - 3) 3<sup>rd</sup> Offense: Mandatory Court Appearance: Minimum Fine \$400.00 and cost of court.
- 4) Any and all damage to City Right-of-Ways or City property caused by the violator will be repaired and the cost of the restoration will be added to the minimum fine charged for the violation up to the maximum allowed by law.

**SECTION IV: SEVERABILITY**

The provisions of this Ordinance are severable. If any provision, section, paragraph, sentence or part thereof shall be held unconstitutional on a ballot, such decision shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence or part thereof separately and independently of each other.

**SECTION V: EFFECTIVE DATE**

This Ordinance shall become effective and be in force from and after the date of its approval adoption by the Mayor and City Council of the City of Daphne and publication as required by law.

**APPROVED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CITY OF DAPHNE, ALABAMA, THIS THE 17<sup>TH</sup> DAY OF JANUARY, 2017.**

**CITY OF DAPHNE**



**DANE HAYGOOD,  
MAYOR**

**ATTEST:**

  
**REBECCA A. HAYES, CITY CLERK**