

ORDINANCE No. 872

AN ORDINANCE ADDING SECTION OF CMC 10.24 OF THE CONCRETE MUNICIPAL CODES TO ALLOW THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES, AS DESCRIBED IN RCW 46.09, ON TOWN MAINTAINED STREETS AND ROADS WITH POSTED SPEED LIMITS OF 35 MILES PER HOUR OR LESS.

WHEREAS, Washington State’s Engrossed Substitute House Bill (ESHB) 1632, passed by the State of Washington during the 2013 2nd Special Session, amended the Revised Code of Washington (RCW) 46.09 “Off-Road, Non-Highway, and Wheeled All-Terrain Vehicles,” allowing cities and towns to regulate the operation of nonhighway vehicles on streets, roads, or highway; and

WHEREAS, RCW 46.09.310(19) defines “wheeled all-terrain vehicles as any motorized nonhighway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less or a utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a maximum width less than seventy-four inches, has a maximum weight less than two thousand pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following; has a minimum width of fifty inches, has a minimum weight of at least nine hundred pounds, or has a wheelbase of over sixty-one inches; and

WHEREAS, RCW 46.09.360 states in part the legislative body of a city or town with a population of less than three thousand persons may, by ordinance, designate a street or highway within its boundaries to be suitable for use by off-road vehicles.

WHEREAS, RCW 46.09.455(1) states in part a person may operate a wheeled all-terrain vehicle upon any public roadway of this state, not including nonhighway roads and trails, having a speed limit of thirty-five miles per hour or less subject to certain restrictions and requirements; and

WHEREAS, RCW 46.09.455(d)(i) states a person may not operate a wheeled all-terrain vehicle on a public roadway within the boundaries of a city or town, not including nonhighway roads and trails, unless the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways, not including nonhighway roads and trails; and

WHEREAS, RCW 46.09.455(d)(ii) states any public roadways, not including nonhighway roads and trails, authorized by a legislative body of a city or town under (d)(i) of this subsection must be listed publicly and made accessible from the main page of the city or town website.

WHEREAS, Exhibit A details town limits and the roads allowed under this ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CONCRETE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Chapter 10.24

OFF ROAD VEHICLES

Sections:

10.24.010	Definitions
10.24.020	Regulations
10.24.030	Allowed Public Streets
10.24.040	Penalty

10.24.010 Definitions

- (1) “Highway”, for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.
- (2) “Nonhighway road” means any road owned or managed by a public agency, a primitive road, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for original construction or reconstruction in the last twenty-five years or for maintenance in the last four years.
- (3) “Nonhighway vehicle” means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Nonhighway vehicle does not include any vehicle designed primarily for travel on, over, or in the water, snowmobiles, any military vehicles, or any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.38 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.
- (4) “Off-road motorcycle” means a motorcycle as defined in CMC 10.24.010(6) that is labeled by the manufacturer’s statement or certificate or origin as intended for “off-road use only” or a similar message stamped into the frame of the motorcycle, contained in the owner’s manual, or affixed to any part of the motorcycle.
- (5) “Off-road vehicle or ORV” means a nonstreet registered vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. “Off-road vehicle” or “ORV” includes but is not limited to, all-terrain vehicles, motorcycles, four-wheeled drive vehicles, and dune buggies.
- (6) “Motorcycle” means a motor vehicle designed to travel on not more than three wheels, not including any stabilizing conversion kits, on which the driver:
 - (a) Rides on a seat or saddle and the motor vehicle is designed to be steered with a handlebar; or
 - (b) Rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and the motor vehicle is designed to be steered with a steering wheel.

“Motorcycle” excludes a farm tractor, a power wheelchair, an electric personal assistive mobility device, a motorized foot scooter, an electric-assisted bicycle, and a moped.
- (7) “Wheeled all-terrain vehicle” means (a) any motorized nonhighway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less, or (b) a utility-type vehicle designed for and capable of travel over designated roads that travels on four or more low-pressure tires of twenty psi or less, has a maximum width less than seventy-four inches or less, and satisfies at least one of the following: (i) has a minimum width of fifty inches; (ii) has a minimum weight of at least nine hundred pounds; or (iii) has a wheelbase of over sixty-one inches.

10.24.020 Regulations

To operate any ORV, wheeled all-terrain, motorcycle or off-road motorcycle on any nonhighway road within town limits, the following shall apply:

- (1) All ORV, wheeled all-terrain, motorcycles or off-road motorcycles must be decaled, registered and/or have a current and proper on-road vehicle registration, with the appropriate on-road tab or comply with any other rules or regulations that may be required by the State of Washington.
- (2) Shall only be operated by a person who possesses a valid driver’s license issued by Washington State or state of the person’s residence.
- (3) Wheeled all-terrain operators are subject to rules and regulations outlined under RCW 46.09.444.
- (4) Vehicles listed in CMC 10.24.020 may be subject to tow or citation same as any other vehicle in town limits and shall abide by posted speeds, parking regulations and all other posted rules or restrictions.
- (5) It shall be the operator’s responsibility to know and comply with all provisions of CMC and any related RCW or any other provisions of the local, state, and federal laws, codes or regulations related to vehicles under this chapter on public roadways and rights of way within the Town of Concrete.

10.24.030 Allowed Public Streets

Vehicles listed under this chapter may operate upon any nonhighway roadway under Town of Concrete jurisdiction where such speed limit is 35 miles per hour or less.

10.24.040 Penalty

Any person violating any provision of this chapter may be punished by a fine not to exceed \$250.00 or the full amount charged by a towing company if said violation resulted in the towing of any such vehicles found to be in violation of this chapter or any fines, fees or other penalties as may be issued by law enforcement for violation of any related local, state, or federal laws in place.

Severability:

Should any Section, paragraph, sentence, or word of this Ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the Council of the Town of Concrete that it would have passed all other portions of this Ordinance hereby adopted independent of that word determined to be invalid and accordingly such declaration of invalidity shall not affect the validity of this Chapter as a whole nor any part hereof other than the part so declared to be invalid.

Effective Date:

This Ordinance shall take effect five (5) days after its passage, approval, and publication by law.

Passed and approved this _____ day of _____, 2024.

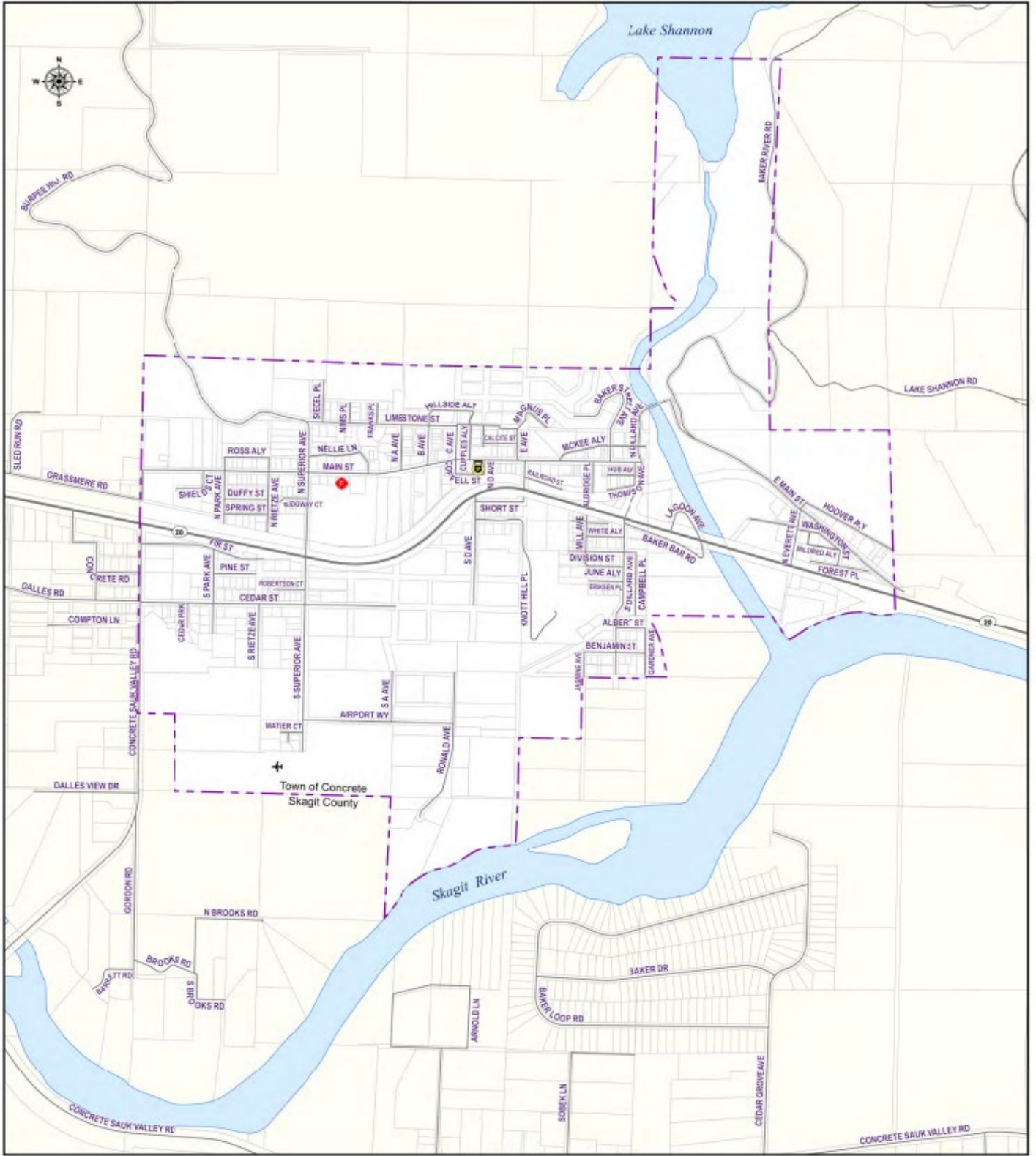
Mayor

Attest:

Approved as

Clerk - Treasurer

Town Attorney



Ordinance #872
 Adding CMC 10.24