

## COUNTY ORDINANCE NO. 39

### REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES & OFF-ROAD UTILITY VEHICLES IN DELAWARE COUNTY, IOWA

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

**SECTION 1: PURPOSE.** This ordinance shall set forth regulations regarding the operation of all-terrain vehicles and/or off-road utility vehicles on county roadways designated by the Delaware County Board of Supervisors.

**SECTION 2: DEFINITIONS.** The definitions of terms used in this ordinance are:

1. **All-terrain Vehicle** as defined by Iowa Code § 321I.1 means a motorized vehicle with not less than three and not more than six non-highway tires that is limited in engine displacement to less than one thousand two hundred cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
2. **Designated riding area** as defined by Iowa Code § 321I.1 means an all-terrain vehicle riding area on any public land or public ice under the jurisdiction of the Department of Natural Resource that has been designated by the department for all-terrain vehicle use.
3. **Designated riding trail** as defined by Iowa Code § 321I.1 means an all-terrain vehicle riding trail on any public land, private land, or public ice that has been designated by the state or the county for all-terrain vehicle use.
4. **Off-road Utility Vehicle** as defined by Iowa Code § 321I.1 means a motorized vehicle with not less than four and not more than eight non-highway tires or rubberized tracks that have a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. "Off-road Utility Vehicle" includes the following vehicles:
  - a. "Off-road Utility vehicle-type 1" means an Off-road Utility Vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
  - b. "Off-road Utility vehicle-type 2" means an Off-road Utility Vehicle, other than a type 1 Off-road Utility Vehicle, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.
  - c. "Off-road Utility vehicle-type 3" means an Off-road Utility Vehicle with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.
5. **Public ice** as defined by Iowa Code § 321I.1 means any frozen, navigable waters within the territorial limits of this state and the frozen marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the Natural Resource Commission of the DNR.

6. **Public land** as defined by Iowa Code § 321I.1 means land owned by the federal government, the state, or political subdivisions of the state and land acquired or developed for public recreation pursuant to § 321I.8.
7. **Roadway** as defined by Iowa Code § 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

**SECTION 3: OPERATION ON ROADWAYS.** A registered All-terrain Vehicle or Off-road Utility Vehicle may be operated on secondary roadways, including Class A gravel roadways, in Delaware County pursuant to the restrictions in this ordinance and those restrictions imposed by the Code of Iowa. All-terrain Vehicles and Off-road Utility Vehicles shall not be operated on Class B or Class C roads. All-terrain Vehicles and Off-road Utility Vehicles owned by Delaware County are authorized to operate on Class B roads for official purposes. Operation is limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operations.

A person shall not operate an All-terrain Vehicle or Off-road Utility Vehicle on secondary roadways in Delaware County unless the operator has a valid driver's license and is at least 16 years of age. An operator under 18 years of age shall be required to take and pass an Iowa Department of Natural Resources approved ATV Education Course and must carry a valid safety certificate while operating the vehicle as proof that the Iowa Department of Natural Resources approved ATV Education Course was successfully completed.

All-terrain Vehicle and Off-road Utility Vehicle operation may begin at sunrise and must cease at sunset.

**SECTION 4: UNLAWFUL OPERATION.** A person shall not operate an All-terrain Vehicle and/or Off-road Utility Vehicle under any of the following conditions:

1. At a rate of speed greater than the thirty-five (35) miles per hour or greater than reasonable and/or proper under existing circumstances.
2. In a careless, reckless, or negligent manner so as to:
  - a. Endanger any person;
  - b. Cause injury or damage to person or property; or
  - c. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
3. Without the following equipment:
  - a. Lit headlight(s) and taillight(s).
  - b. Functioning turn signals, brake lights, brakes, speedometer, and horn.
  - c. Rearview mirror, if the All-terrain or Off-road Utility Vehicle is so equipped.
  - d. An orange flag affixed to the vehicle at a height that is at least six feet off of the ground or no less than one foot above the top of the vehicle, whichever is higher.
  - e. An effective muffling device that complies with the standards and procedures required by Iowa Code § 321I.12.

4. Without wearing a properly adjusted and fastened seatbelt if the All-terrain or Off-road Utility Vehicle is so equipped.
5. In any tree nursery or planting in a manner which damages or destroys growing stock.
6. On any public land, public ice, or designated riding trail in violation of official signs prohibiting such operation.
7. In any park, wildlife area, preserve, refuge, or game management area, except on designated riding areas identified by the Department of Natural Resources or designated riding trails identified by the Delaware County Conservation Board.
8. Any portion of a meandered stream or the bed of a non-meandered stream which has been identified as a navigable stream or river by the Iowa Department of Natural Resources and which is covered by water. This provision does not apply to designated riding areas, designated riding trails, construction vehicles engaged in lawful activity, and/or the operation of All-terrain Vehicles on ice.
9. Upon an operating railroad right-of-way. An All-terrain Vehicle may be driven directly across a railroad right-of-way only at established crossings.
10. With more persons on the vehicle than it was designed to carry. This paragraph does not apply to a person who operates an All-terrain Vehicle or Off-road Utility Vehicle as part of a farm operation as defined in Iowa Code § 352.2.
11. On any designated riding area or trail unless the trail is designated by signs as open to All-terrain and Off-road Utility Vehicle operation.
12. With a firearm in the person's possession while operating or riding on an All-terrain Vehicle unless it is unloaded and enclosed in a carrying case, subject to the following exceptions:
  - a. The person is riding on or operating an All-terrain Vehicle on land owned or possessed by the person and the person's conduct is otherwise lawful.
  - b. The person is riding on or operating an All-terrain Vehicle on land that is not owned or possessed by the person and all of the following apply:
    - i. The loaded firearm is a pistol or revolver and is secured in a retention holster upon the person,
    - ii. The person possesses and displays to a peace officer upon demand a valid permit to carry weapons which has been issued to the person, and
    - iii. The person's conduct is within the limits of the permit to carry weapons.

A nonambulatory person may carry an uncased and unloaded firearm while operating or riding on an All-terrain Vehicle.
13. While discharging a firearm as the operator or passenger, except a nonambulatory person may discharge a firearm from an All-terrain Vehicle while lawfully hunting if the person is not operating or riding on a moving All-terrain Vehicle.
14. Under the age of 16.
15. Without a valid driver's license.
16. Without a valid safety certificate on board as proof of successful completion of an Iowa Department of Natural Resources approved ATV Education Course if the operator is younger than 18 years of age.

**SECTION 5: REGISTRATION REQUIREMENTS AND OTHER CONDITIONS.**

Individuals who operate on designated secondary roadways in Delaware County must register the All-terrain Vehicle or Off-road Utility Vehicle with the Iowa Department of Natural Resources. The following conditions apply:

1. The owner of each All-terrain Vehicle or Off-road Utility Vehicle shall be required to provide proof of ownership, including but not limited to bill of sale, Iowa Department of Natural Resources registration or registration from the appropriate out-of-state authority, and proof of liability insurance as required by Iowa Code §§ 321.20B and 321A.21.
2. All-terrain Vehicles or Off-road Utility Vehicles registered in Iowa are required to display their current registration decal and carry their certificate on board.
3. All-terrain Vehicles or Off-road Utility Vehicles registered in another state are required to also display a valid Iowa Department of Natural Resources User Permit in addition to displaying a current registration decal and carrying the certificate on board.

**SECTION 6: EXEMPT VEHICLES.** Registration shall not be required for:

1. All-terrain Vehicles and/or Off-road Utility Vehicles used exclusively as farm implements.
2. All-terrain or Off-road Utility Vehicles owned by the United States, this State or another State, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official purposes, but not for recreational or commercial purposes.
3. All-terrain vehicles used in accordance with Iowa Code § 321.234A(1)(a).

**SECTION 7: PENALTIES.** Violation of the Ordinance shall constitute a Simple Misdemeanor punishable by a fine of \$65.00 to \$625.00, plus the applicable court surcharge and costs and/or up to thirty (30) days in jail.

**SECTION 8: REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 9: EFFECTIVE DATE.** The ordinance shall become effective upon its passage and publication pursuant to Iowa Code § 331.302(8).

Passed and adopted this 23rd day of May, 2016.

Delaware County Board of Supervisors

/ s / Shirley Helmricks, Chairperson

ATTEST:

/ s / Carla Becker, Delaware County Auditor