



BENTON CO IA- LEXA S SPEIDEL, RECORDER  
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## ORDINANCE NO. 71

### ORDINANCE REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD VEHICLES IN BENTON COUNTY, IOWA.

**SECTION 1 PURPOSE.** This ordinance shall identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on the portion of county roadways as designated by the Benton 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 section 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) Off-road Utility Vehicle as defined by Iowa Code section 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.

3) Highway means the entire width of the right of way between the property lines.

4) Roadway as defined by Iowa Code section 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

5) Restricted roadways are any paved, concrete, sealcoat, or otherwise hard surfaced county roadway and those gravel roadways designated by the Benton County Board of Supervisors with posted signs prohibiting use of ATV/UTV's.

6) Unrestricted roadways include gravel or dirt roadways that do not have signs prohibiting ATV/UTV use.

**SECTION 3. OPERATION ON ROADWAYS.** A registered All-terrain Vehicle or Off-road Utility Vehicle may be operated on gravel or dirt county roadways in Benton County pursuant to the restrictions in this ordinance and those restrictions imposed by the Code of Iowa 321I and 321.234A. A person shall not operate an All-terrain Vehicle or Off-road Utility vehicle on gravel or dirt roadways in Benton County unless the operator has a valid driver's license and is at least 16 years of age. A person 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 on board as proof that the Iowa Department of Natural Resources approved ATV Education Course was successfully completed. Operation of an All-terrain Vehicle and/or Off-road Utility Vehicle is only permitted on the roadway and is restricted from operations in the highway. Residents who reside on a restricted roadway are permitted to operate on that restricted roadway only to reach the nearest unrestricted roadway. Operation is permitted on W26/32<sup>nd</sup> Ave. and D65/Benton-Buchanan Road for the sole purpose of crossing the Cedar River and only to reach the nearest unrestricted road. Operation may begin at sunrise and must cease at sunset.

**SECTION 4 UNLAWFUL OPERATIONS.** 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 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 a lighted headlight and taillight and operable brakes and muffling device.
- 4) While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
- 5) In any tree nursery or planting in a manner which damages or destroys growing stock.
- 6) On public land, ice or snow in violation of official signs prohibiting such operation.

- 7) In any park, wildlife area, preserve, refuge or game management area unless permitted by the local governing authority and only then in designated areas.
- 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 and only after yielding to oncoming traffic.
- 10) With more persons on the vehicle than it was designed to carry.
- 11) On any riding area or trail unless the trail is designated by signs as open to All-terrain and Off-road Utility Vehicle operation.
- 12) Under the age of 16.
- 13) Without a valid driver's license.
- 14) Being less than 18 years of age without a valid safety certificate on board as proof of successful completion of an Iowa Department of Natural Resources approved ATV Education Course.
- 15) On a county Level C roadway.
- 16) On a restricted roadway except for those operators who reside on a restricted road as outlined in Section 3.
- 17) On a state or federal designated roadway.

**SECTION 5 REGISTRATION REQUIREMENT AND OTHER CONDITIONS.** Individuals who operate on county roadways in Benton County must annually register the All-terrain Vehicle or Off-road Utility Vehicle with the Iowa Department of Natural Resources through a County Recorder. 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, a bill of sale, Iowa Department of Natural Resources registration or registration from the appropriate out-of-state authority, and Proof of Liability Insurance.
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 their current registration decal and carrying their certificate on board.

**SECTION 6 EXEMPT VEHICLES.** Registration shall not be required for All-terrain Vehicles and/or Off-Road Utility Vehicles used exclusively as farm implements in a farming operation as defined by the Code of Iowa 352.2. However, proof of insurance under Iowa Code 320.20B is required for farm exempt vehicles. Additionally, farm exempt vehicles that are used in a manner not consistent with the farm exemption, Iowa Code 352.2 and 321.234A, are subject to the requirements of this ordinance including registration requirements.

**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 as set forth in Iowa Code Section 903.1(1(A)); any amendments to the Simple Misdemeanor penalties of Iowa Code Section 903.1(1(a) shall be automatically incorporated into this section without need of amending this ordinance.

**SECTION 8 SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be judged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 9 EFFECTIVE DATE.** This ordinance shall become effective upon being officially recorded.

Passed and adopted by the Benton County Board of Supervisors on this 10th day of May, 2016.

BENTON COUNTY BOARD OF SUPERVISORS

  
Donald H. Frese  
Donald H. Frese, Chairman

Todd A. Wiley  
Todd Wiley

Terry L. Hertle  
Terry L. Hertle

ATTEST: Hayley Rippel  
Hayley Rippel, Deputy Auditor

April 26, 2016 – Approved 1<sup>st</sup> Consideration of Ordinance #71

May 3, 2016 – Approved 2<sup>nd</sup> Consideration of Ordinance #71

May 10, 2016-Adopted Ordinance #71

May 17, 2016, May 18, 2016 and May 20, 2016 Published Ordinance #71.

I, Hayley Rippel, do hereby certify the above to be a true and correct copy of Ordinance #71 and the dates of consideration and publication are correct.

Hayley Rippel  
Hayley Rippel, Deputy Benton County Auditor