

ORDINANCE 892

AN ORDINANCE RELATING TO ALL-TERRAIN VEHICLES AND UTILITY TYPE VEHICLES; TO ALLOW THE OPERATION OF ALL-TERRAIN VEHICLES AND UTILITY TYPE VEHICLES WITHIN THE CORPORATE LIMITS UNDER CERTAIN CIRCUMSTANCES; TO IMPOSE RESTRICTIONS ON THE USE OF ALL-TERRAIN OR UTILITY TYPE VEHICLES; TO ESTABLISH PENALTIES FOR VIOLATION; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DAKOTA CITY, NEBRASKA:

SECTION 1: A new Article VI is added to the Municipal Code of Dakota City, Nebraska as follows:

ARTICLE VI.

(ALL-TERRAIN VEHICLES AND UTILITY TYPE VEHICLES)

Section 102-430. Definitions.

For purposes of this section:

(1) All-terrain vehicle means any motorized off-highway vehicle which (a) is fifty (50) inches or less in width, (b) has a dry weight of nine hundred (900) pounds or less, (c) travels on four (4) or more low-pressure tires, (d) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (e) has a seat or saddle designed to be straddled by the operator, and (f) has handlebars or any other steering assembly for steering control.

(Neb. Rev. Stat. 60-6,355)

(2) Utility type vehicle means any motorized off-highway vehicle which (a) is not less than forty-eight (48) inches nor more than seventy-four (74) inches in width; (b) is not more than one hundred thirty-five (135) inches, including the bumper in length; (c) has a dry weight of not less six hundred fifty pounds (650 lbs.) nor more than two thousand pounds (2,000 lbs.); (d) travels on four (4) or more low pressure tires; and (e) is equipped with a steering wheel and bench or bucket type seating designed for at least two (2) people to sit side by side. Golf carts, riding lawn mowers, mini-bikes and motorized wheel chairs are not utility type vehicles as defined in this ordinance.

(3) Street or highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Neb. Rev. Stat. 60-624)

Section 102-431. Operation.

- (1) An all-terrain vehicle or utility type vehicle may be operated on streets and highways within the corporate limits of the City only if the operator and the vehicle comply with the provisions of this section.
- (2) An all-terrain vehicle or utility type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of twenty-five (25) miles per hour. When operating an all-terrain vehicle or utility type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.
- (3) It shall be unlawful for any person to operate, or be in actual physical control of any all-terrain or utility type vehicle upon the traveled portion of any public roadway within the corporate limits of the City except as specifically authorized and permitted under the terms of this ordinance
- (4) Any person operating an all-terrain or utility type vehicle as authorized in subsection (2) of this section shall have:
 - (a) A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. 60-4,126; and be eighteen (18) years of age or older.
 - (b) Have a permit issued by the City Clerk permitting operation within the corporate limits of the City.
 - (c) Liability insurance coverage for the all-terrain vehicle or utility type vehicle while operating the all-terrain vehicle or utility type vehicle on a street or highway. The person operating the all-terrain vehicle or utility type vehicle shall maintain proof of such insurance with the vehicle and shall provide proof of insurance coverage to any peace officer requesting the same;
 - (d) Operators of all-terrain vehicles must wear a helmet approved for operation of a motorcycle; and,
 - (e) No passengers are allowed on an all-terrain vehicle.
- (5) All-terrain and utility type vehicles may be operated without complying with subsections (1) and (4) of this section on streets and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.
- (6) An all-terrain or utility type vehicle shall not be operated on any controlled-access highway with more than two (2) marked traffic lanes, and the crossing of any controlled-access highway with more than two (2) marked traffic lanes shall not be permitted. Subsections (1) through (5)

and (7) of this section authorize and apply to operation of an all-terrain or utility type vehicle only on a street or highway other than a controlled-access highway with more than two marked traffic lanes. All-terrain or utility type vehicles shall not be operated on North 14th Street or Broadway other than to cross them.

(7) Subject to subsection (6) of this section, the crossing of a street or highway shall be permitted by an all-terrain or utility type vehicle without complying with subsections (1) and (6) of this section only if:

- (a) The crossing is made at an angle of approximately ninety degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
- (b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;
- (c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
- (d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and,

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.
(Neb. Rev. Stat. 60-6,356)

Section 102-432. Permit.

(1) In order to obtain a permit to operate an all-terrain or utility type vehicle within the corporate limits of the City, an applicant must make an annual application therefor at the office of the City Clerk and provide the following information:

- (a) Name and address of the applicant;
- (b) Proof of insurance for the all-terrain or utility type vehicle(s) to be operated within the City by the applicant;
- (c) Valid Class O operator's license issued by the State of Nebraska; and,
- (d) Year, make, model, color, engine size, and vehicle identification number (VIN) of the utility type vehicle(s) to be operated within the City by the applicant.

(2) In addition, the all-terrain or utility type vehicle must pass inspection by a person designated by the City to insure that the vehicle meets the following requirements:

- (a) At least one working headlight and taillight;

- (b) A working brake light;
- (c) At least one rearview mirror;
- (d) A working seatbelt on utility type vehicle;
- (e) A bicycle safety flag in compliance with Section 110-407(2) of this ordinance;
- (f) A brake system maintained in good operating condition;
- (g) A muffler system in good working condition properly attached to the all-terrain or utility type vehicle which reduces the noise of operation of the motor to the minimum necessary for operation. The muffler shall not be audible for a distance of more than five hundred (500) feet. No person shall use a muffler cutout, by-pass, straight pipe, or similar device on an all-terrain vehicle or utility type vehicle; and,
- (h) A United States Forest Service qualified spark arrester.

(3) Upon compliance with sections (1) & (2) herein, and payment of an application fee of \$30.00 for initial permit and a \$25.00 annual renewal fee , which fees may be amended from time to time by resolution of the City Council, the City Clerk shall issue the applicant a permit to operate the designated vehicle(s) within the corporate limits of the City and one (1) permit plate which are equal in size to a vehicle license plate issued by the State of Nebraska to attach to the rear of the vehicle.

(4) Permits to operate the vehicle shall be valid from the date of issuance until midnight on the 31st day of December of the year for which the permit is issued.

(5) The permit plate shall be prominently displayed on the rear fender or similar component of the operator's all-terrain or utility type vehicle.

Section 102-433. Traffic Regulations.

The operator of an all-terrain or utility type vehicle within the corporate limits of the City shall comply with, and is subject to, all traffic regulations of the City and the State of Nebraska, including but not limited to, those laws, ordinances, or regulations pertaining to the operation or being in actual physical control of a motor vehicle while under the influence of alcoholic liquor or of any drug. When making turns within the roadways and at intersections, the operator shall use the appropriate hand-signals as designated by the State of Nebraska Rules of the Road.

Section 102-434. Revocation of Permit.

Violations of these provisions shall be punishable as set forth in Section 1-9 of the Dakota City Code. In addition, any person receiving three (3) or more citations within a twelve (12) month period shall, upon conviction of the third or subsequent offense, have his or her permit to

operate an all-terrain or utility type vehicle within the City limits revoked for a period of one (1) year from the date of conviction. Upon completion of the revocation period, said person must reapply for a permit in order to operate an all-terrain or utility type vehicle within the City limits.

Section 102-435. Violation.

Any person who violates this article shall be punished as provided in Section 1-9 of this Code.

SECTION 2: Any other ordinance or Section passed and approved prior to passage, approval and publication of this ordinance which are in conflict with these provisions are repealed.

SECTION 3: The effective date of this ordinance shall be April 4th, 2014.

PASSED AND APPROVED this 3rd day of April, 2014.