

Resolution 2020-52

WHEREAS, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

WHEREAS, the Clay County Board of Supervisors have made recommendations in relation to the Amendment to the Clay County Ordinance for operation of all-terrain and off road vehicles.

WHEREAS, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 5th day of November, 2020 and the 17th day of November 2020; and

WHEREAS, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

NOW THEREFORE BE IT ENACTED AND ORDAINED:

CLAY COUNTY OPERATION OF ALL-TERRAIN AND OFF-ROAD VEHICLES,
NO. 3.10

An ordinance to designate that portion of county highways upon which All-Terrain Vehicles and Utilities Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

PURPOSE:

The purpose of this Resolution is to designate that portion of county highways upon which All- Terrain Vehicles and Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

DEFINITIONS:

- (1) "All-terrain vehicle," as defined by Iowa Code Section 321I.1(1)(a), 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 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 in Iowa Code Section 321I.1(17), means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- (3) "Roadway", as defined in Iowa Code Section 321I.1(26), means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

OPERATION ON ROADWAYS:

If an All-Terrain or Off-Road Utility Vehicle is properly registered pursuant to Iowa Code Section 321I.3, the same may be operated on any Clay County, Iowa, roadway, such operation 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 operation

SPECIAL OPERATION ON PUBLIC PROPERTY:

All-terrain vehicles shall not be operated on any public property, streets, highways, sidewalks, trails or bridges within Clay County, except under the following circumstances:

- (1) The operation is incidental to the vehicle's use for the purpose of surveying by a licensed engineer or land surveyor.
- (2) The all-terrain vehicle is operated by an employee or agent of a public agency as defined in section 34.1 of the Iowa Code for the purpose of providing emergency services or rescue including all-terrain vehicles operated by or with the approval of the Spencer police department or fire department or Clay County sheriff's office.
- (3) An all-terrain vehicle that is owned by the owner of land adjacent to a highway may be operated by the owner of the all- terrain vehicle, or by a member of the owner's family, on the portion of the highway right of way that is between the shoulder of the roadway, or at least five feet (5') from the edge of the roadway, and the owner's property line.
- (4) An employee or volunteer of the Spencer police department or fire department or Clay County sheriff's office may operated all- terrain vehicles on the property of the political subdivision and on public sidewalks and trails as well as on streets and highways. Under this provision, all-terrain vehicles may be operated on sidewalks, trails and public property for maintenance and snow removal activities, public safety, emergency response and rescue.
- (5) Property owners or their agents may operate all-terrain vehicles on sidewalks adjacent to the property owner's property for the purpose of removing snow and ice. When being used for the removal of snow and ice from a sidewalk, operation on city streets shall be limited to such incidental operation as is reasonably necessary in the snow removal operation. Individuals who operate all-terrain vehicles on sidewalks for snow removal shall possess a valid Iowa driver's license.

UNLAWFUL OPERATIONS:

- (1) A person shall not drive or operate an All-Terrain or Off-Road Utility Vehicle:
 - a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
 - c. All- Terrain Vehicles used in snow removal operations on city streets shall be equipped with a functioning yellow or amber flashing light visible from all points of the compass at all times.
 - d. While under the influence of an alcoholic beverage or controlled substance.

- e. All- Terrain Vehicles operated at any time from sunset to sunrise shall be equipped with at least two (2) headlamps in accordance with Section 321.385 of the Iowa Code; at least one (1) red rear light pursuant to Section 321.387 of the Iowa Code; and a signal lamp to give a signal of an intention to stop pursuant to Section 321.404 of the Code of Iowa. (Ord. 795, 1-18-2016, eff. 4-1-2016; amd. Ord. 855, 5-18-2020)
 - f. All- Terrain Vehicles operated on city streets shall be equipped with the original manufacturer's muffler and exhaust system or equivalent and shall not exceed the manufacturer's original emission specifications. Every such vehicle shall be equipped with lights and safety equipment required of motor vehicles under Iowa law.
 - g. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - h. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.
 - i. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the Department of Natural Resources and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
 - j. With more persons on the vehicle than it was designated to carry, except that this subsection shall not apply to a person who operates an All-Terrain or Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code section 352.2.
 - k. While in possession of a firearm in violation of the laws of the State of Iowa, including but not limited to Iowa Code Chapter 724.
 - l. Upon an operating railroad right-of-way. An All- Terrain or Off-Road Utility Vehicle may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
 - m. Upon a designated riding area or designated trail unless the riding area or trail is signed as open to Off-Road Utility Vehicle operation.
- (2) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has a valid Driver's License, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code section 321.174.

- (3) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the vehicle is duly registered, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code sections 321.18 and 321.20. This subsection shall not apply to All-Terrain or Off-Road Utility Vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code section 321I.9(3).
- (4) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has proof of insurance in compliance with the laws of the State of Iowa, including but not limited to Iowa Code Sections 321.20B and 321A.21.

PENALTIES:

Violation of this Ordinance shall constitute a SIMPLE MISDEMEANOR punishable by a fine and/or jail sentence, in addition to applicable surcharges and court costs, as provided by the laws of the State of Iowa, including but not limited to Iowa Code section 903.1(a).

JURISDICTION:

The provisions of this Ordinance shall apply throughout Clay County, Iowa, including municipalities which have not enacted a municipal ordinance dealing with similar subject matter.

REPEALER:

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SEVERABILITY CLAUSE:

If any section, provision, or part of this Ordinance shall be adjudged 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.

EFFECTIVE DATE:

This ordinance shall become in effect following its final passage, approval and publication as provided by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 17th day of November 2020 and the vote thereon being as follows:

Ayes: Supervisors Swanson, Anderson, Matthews, Hamrick, and Skelton

Nays: None.

Abstentions: None.

Resolution Adopted.

/s/Dan Skelton, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor