

ORDINANCE NO. 2021-528

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 75 PERTAINING TO
OPERATION OF ALL-TERRAIN VEHICLES AND SNOWMOBILES, OF THE CODE
OF ORDINANCES OF THE
CITY OF INDEPENDENCE, IOWA**

WHEREAS the City Council of the City of Independence, Iowa, has determined it is necessary or desirable to enact an ordinance establishing requirements for the registration and lawful operation of ATV/UTV's on certain city streets within the City of Independence.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, IOWA:

SECTION I. Purpose. The purpose of this Ordinance is to repeal and replace Chapter 75 of the City Code to allow for the controlled operation of ATVs within the City limits of Independence, Iowa and to enhance consistency across similar chapters of the City Code that address the use of small motorized vehicles within the City limits.

SECTION II. SECTIONS REPEALED AND REPLACED. Chapter 75 (All-Terrain Vehicles and Snowmobiles) of the City Code is hereby repealed in its entirety and replaced with the following provisions. No underline/strikethrough text is included in this section, as the entirety of the Chapter 75 as shown below constitutes newly added language:

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose	75.07 Operation of Snowmobiles
75.02 Definitions	75.08 Negligence
75.03 General Regulations	75.09 Accident Reports
75.04 ATV/UTV Registration	75.99 Penalty
75.05 Prohibited Streets	
75.06 Unlawful Operation	

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of ATV, UTV, and snowmobiles use within the City of Independence, as authorized by Section 321.234A and 321G.9 of the Code of Iowa.

75.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "All-terrain vehicle" or "ATV" 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 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1(1a))

2. "Off-road utility vehicle" or "UTV" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has 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" includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. "Off-road utility vehicle – type 2" includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. "Off-road utility vehicle – type 3" includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1(17a))

3. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, or UTV within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

75.05 PROHIBITED STREETS. The operation of ATV/UTVs on city streets within the City of Independence shall comply with the following restrictions:

1. *Permitted Streets.* ATV/UTV may be operated on all city streets within the City of Independence except as otherwise prohibited in this section.
2. *Prohibited Streets.*
 - A. ATVs or UTVs shall not be operated upon any portion of Highway 150.
 - B. Crossing of Highway 150 is allowed at 11th Street NE, 2nd Street SE, and Enterprise Drive. In accordance with Iowa Code 321I.10[5].
 - C. 1st East from 2nd Ave NE to 3rd Ave NE

75.06 OPERATION.

1. ATV's and UTV's are required to be registered with the State of Iowa.
2. No one under the age of 16 may operate an ATV or UTV within the city limits.
3. Operators 16 or 17 years of age must have passed a DNR ATV safety course and have the certification of completion in their possessions while operating an ATV or UTV with in the city limits.
4. All operators of an ATV or UTV must have a valid driver's license.
5. No ATV or UTV shall be operated on private property without the express consent of the property owner or lawful tenant.
6. No ATV or UTV shall be operated while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.
7. No person shall operate an ATV or UTV in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to the same.
8. No ATV or UTV shall be operated in violation of the traffic laws of the City of Independence or the State of Iowa.
9. ATV's and UTV's may only be operated between Sunrise and Sunset.
10. No ATV or UTV shall carry more passengers than the ATV or UTV is designed to carry.
11. No person shall ride in an ATV or UTV unless seated in a seat designed to carry a passenger.
12. No seat shall be used by more than one person at a time.
13. No cargo, materials, supplies, or other items may be transported in the ATV or UTV without being properly restrained.
14. No person shall leave an ATV or UTV unattended on public property while the motor is running, or the keys are in the ignition.
15. ATVs or UTVs shall be parked only on city streets where parking is permitted, parking lots, or driveways in the same manner as an automobile.
16. ATVs or UTVs shall not be operated on snowmobile trails except where designated.
17. ATVs or UTVs shall not be operated on an operating railroad right-of-way. An ATV or UTV 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.
18. ATVs or UTVs shall not be operated on any parks, playgrounds, trails, sidewalks, or upon any other City-owned property without the express permission of the City.

75.07 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season.

(Code of Iowa, Sec. 321G.9[4a])

2. Prohibited Streets. Snowmobiles shall not be operated on any of the following designated streets:

(Code of Iowa, Sec. 321G.9[4a])

- A. First Street.
- B. Highway No. 150.
- C. Second Avenue NE from First Street to Twelfth Street NE.
- D. Second Street NE from Second Avenue to Sixth Avenue NE.
- E. Third Avenue NE from First Street to Fifth Street NE.
- F. Fourth Avenue NE from First Street to Fifth Street NE.
- G. Fourth Avenue SE from First Street to Second Street SE.
- H. Fifth Avenue SE from First Street to Sixth Street SE.
- I. Sixth Street SE from Third Avenue SE to Fifth Avenue SE.

3. Other Streets. Snowmobiles may be operated on any other street within the City for the sole and exclusive purpose of using the most direct roadway for the ingress to and egress from the City. No snowmobile shall be driven on any roadway solely for entertainment or pleasure.

4. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic that constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

5. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile 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.

(Code of Iowa, Sec. 321G.13[1h])

6. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

7. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

8. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly

referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

9. **Hours of Operation Limited.** No snowmobile shall be operated in the City between the hours of 12:00 midnight and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

10. **Thaw Ban.** Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

11. **Dead Man Throttle.** No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

75.08 NEGLIGENCE. The owner and operator of an ATV, UTV, or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV, UTV, or snowmobile. The owner of an ATV, UTV, or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV, UTV, or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV, UTV, or snowmobile at the time the injury or damage occurred.

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.09 ACCIDENT REPORTS. Whenever an ATV, UTV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

75.99 PENALTY; SUSPENSION OR REVOCATION OF PERMIT.

1. *Penalty.* Unless another penalty is stated, a violation of this chapter shall constitute a municipal infraction with violators subject to a civil penalty under Section 4.03 of this Code of Ordinances.
2. *Suspension or Revocation of Permit Following Conviction.* In addition to the penalties provided for in Section 4.03 of this Code of Ordinances or in Iowa Code 805.8A(3), owners of ATVs/UTVs shall also be subject to suspension or revocation of their ATV/UTV permits for a period of time deemed appropriate by the Chief of Police or his/her authorized designee under the circumstances. Notice of such suspension or revocation shall be provided to the owner of an ATV/UTV found to have violated any provision of this chapter, regardless of whether the owner was operating the ATV/UTV at the time of the violation. The owner shall be notified of such suspension or revocation of their permit by certified mail to the address listed on their permit application within fourteen (14) days from the date of final adjudication of any criminal citation or municipal infraction citation issued as a result of a violation of this chapter involving the owner's ATV/UTV. The owner may appeal the decision directly to the City Council by notifying the City Clerk in writing of such appeal request within seven (7) days of the date on the letter of suspension or revocation. The City Council will then hold an informal hearing with the aggrieved party present at the next regularly scheduled council meeting or within fourteen (14) days of the hearing request. The City Council will then render a decision in writing within seven (7) days of the hearing date with notification to the owner by certified mail. The decision of the City Council shall constitute the final action of the City.

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

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

SECTION V. EFFECTIVE DATE. This ordinance shall be effective after its passage and publication as required by law.

PASSED AND APPROVED this 11th day of January, 2021.

Bonita Davis, Mayor
Bonita Davis, Mayor

ATTEST:

Susi Lampe
Susi Lampe, Deputy Clerk

First Reading: December 14, 2020

Second Reading: December 28, 2020

Third Reading: January 11, 2021

I certify that the foregoing was published as Ordinance No. 2021-528 on the 18 day of January, 2021.

Susi Lampe
Susi Lampe, Deputy Clerk