

ORDINANCE NO. 2429

AN ORDINANCE OF THE CITY OF WAHOO, SAUNDERS COUNTY, NEBRASKA, TO APPROVE AN ORDINANCE PERMITTING THE USE OF ALL-TERRAIN AND UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY OF WAHOO UNDER TERMS SPECIFICIED HEREIN; TO PROVIDE THAT THE MAYOR AND THE APPROPRIATE DEPARTMENT, WHETHER ONE OR MORE, OF THE CITY OF WAHOO, NEBRASKA, ARE AUTHORIZED AND DIRECTED TO IMPLEMENT THIS ORDINANCE; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, OR PROVISION OR PORTION OF THIS ORDINANCE FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED WITHIN THE FIRST FIFTEEN (15) DAYS AFTER ITS PASSAGE AND APPROVAL IN PAMPHLET FORM, AND SHALL BE IN FULL FORCE AND TAKE EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW, AND AS PROVIDED HEREIN; AND THAT IT IS THE INTENTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAHOO, NEBRASKA, AND IT IS HEREBY ORDAINED, THAT THE PROVISIONS OF THIS ORDINANCE SHALL NOT BECOME AND BE MADE A PART OF THE WAHOO MUNICIPAL CODE OF THE CITY OF WAHOO, NEBRASKA.

WHEREAS, a number of citizens of the City of Wahoo, Nebraska, have requested the City to adopt regulations allowing the use of All-Terrain, Utility-Type Vehicles within the corporate limits of the City of Wahoo, Nebraska, and,

WHEREAS, Neb. Rev. Stat. § 60-6,356(7) gives cities the authority to adopt ordinances relating to use of All-Terrain and Utility-Type Vehicles, and,

WHEREAS, Title VII: TRAFFIC Code; Chapter 70 GENERAL PROVISIONS; Section 70.03 currently provides a process from which an off-road designed vehicle shall be permitted to operate within the City of Wahoo, and,

WHEREAS, the Mayor and Council of the City of Wahoo, Nebraska, are willing to permit the use of All-Terrain and Utility-Type Vehicles within the corporate limits of the City of Wahoo, subject to certain conditions as contained herein, and,

WHEREAS, the Mayor and Council of the City of Wahoo, Nebraska, deem the adoption of this Ordinance to be in the best interests of the citizens of the City of Wahoo, Nebraska, and,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAHOO, NEBRASKA, AS FOLLOWS:

1. That the findings herein above made should be and are hereby made a part of this Ordinance as fully as if set out at length herein.

2. That Title VII: TRAFFIC Code; Chapter 70 GENERAL PROVISIONS; Section 70.03 shall be amended to read as follows:

(A) ATVs and UTVs; DEFINITIONS

- (1) All-Terrain Vehicle (ATV) is defined pursuant to Neb. Rev. Stat. § 60-103 and means any motorized off-highway vehicle which: (a) is fifty inches (50") or less in width, (b) has a dry weight of twelve hundred (1,200) pounds or less, (c) travels on four (4) or more non-highway tires, and (d) is designed for operator use only with no passengers or is specially designed by the original manufacture for the operator and one (1) passenger. ATVs are declared to be motor vehicles subject to Nebraska Rules of the Road and traffic laws in addition to this Chapter.
- (2) Utility-Type vehicle (UTV) is defined pursuant to Neb. Rev. Stat. § 60-135.01 and means any motorized off-highway device which (a) is seventy-four inches (74") in width or less, (b) is not more than one hundred eighty inches (180"), including the bumper, in length, (c) has a dry weight of two thousand (2,000) pounds or less, and (d) travels on four (4) or more non-highway tires. UTV does not include ATVs, golf car vehicles, or low-speed vehicles as the same are defined by Nebraska law. UTVs are declared to be motor vehicles subject to Nebraska Rules of the Road and traffic laws in addition to this Chapter.

(B) ATVs and UTVs; OPERATION AND EQUIPMENT

An ATV or UTV may be operated upon city streets and highways within the corporate limits of the City only if the operator and vehicle is in compliance with the following provisions in addition to the Nebraska Rules of the Road and City Codes:

1. Such ATV or UTV must be registered with City Hall as provided in this Chapter, unless the same is owned by the City itself.
2. An ATV or UTV shall not be operated at a speed faster than thirty (30) miles per hour or the posted speed limit, whichever is less. When in operation, the headlights and taillights of the vehicle shall be on.
3. Any person operating an ATV or UTV as authorized by this Code shall:
  - a. Have a valid Class O operator's license as provided for in Neb. Rev. Stat. § 60-4,126;
  - b. Have liability insurance coverage for the ATV or UTV while in operation upon a street or highway and provide such insurance proof of coverage upon the demand of any peace officer requesting such proof within five (5) days of such request; such insurance shall be within the limits stated in Neb. Rev. Stat. § 60-509, as amended from time to time;

- c. Only operate such ATV or UTV between sunrise and sunset.
  - d. Only operate such ATV or UTV less than 30 MPH
  - e. Only have as many riders as the manufacturers intended.
4. Every ATV and UTV shall be equipped with:
- a. A braking system maintained in good operating condition;
  - b. An adequate muffler system in good working condition and without a cutout, bypass or similar device, or any modifications to the muffler system which increases the volume of the noise of the exhaust system. No portion of the system shall be permitted to contact the ground when weighted by its operator;
  - c. A United States Forest Service-qualified spark arrester;
  - d. Headlights, taillights, and break lights;
  - e. Equipped with a safety flag which extends no less than five (5) feet above the ground and is attached to the rear of such vehicle. The flag shall be day-glow in color, triangular in shape, and of a size with an area of not less than thirty (30) square inches.

(C) ATVs and UTVs; Usage in Parades; Usage on Public Roads, Sidewalks and Trails.

ATVs and UTVs may be operated without complying with this section only: (1) during parades which have been authorized by the State or any department, board, commission, or political subdivision of the State, (2) if the operation is removing snow from driveways or sidewalks within 48 hours after cessation of a snow storm, or (3) on public trails and streets only if engaged by the public entity for snow removal.

(D) ATVs and UTVs; Controlled-Access Highways and Off-Limit Streets.

An ATV or UTV shall not be operated on any controlled-access highway with more than two (2) marked traffic lanes,

Unless engaged by the City for municipal government purposes, it shall be unlawful to operate an ATV or UTV anywhere on. Provided, however, the crossing of said streets shall be permissible subject to the restrictions identified herein.

(E) ATV and UTV; Crossing Highways

For the purpose of this Article, the crossing of a highway shall be permitted only if:

1. The crossing is made at an angle of approximately ninety degrees (90°) perpendicular to the direction of travel being made on such highway and at a place where no obstruction prevents a timely and safe crossing;
2. The vehicle is brought to a complete stop before crossing shoulder or roadway

of said highway;

3. The operator yields the right of way to all traffic which constitutes an immediate or potential hazard;
4. In crossing a divided highway, the crossing shall only be made at an intersection of another highway or roadway; and,
5. Both headlights and taillights must be on when crossing is made.

(F) ATV and UTV; Registration.

Only ATVs or UTVs registered with City Hall or owned by the City shall be authorized for operation on streets or highways within the corporate limits of the City. A registration sticker shall be issued by City Hall upon the owner submitting the following:

1. Certification from the Wahoo Police Department stating that the ATV or UTV has been inspected and is in compliance with the equipment requirements identified by City Code.
2. Proof of liability insurance coverage for the vehicle specifically listing the vehicle as referenced by year, make, model, and serial number; and,
3. A one hundred dollar (\$100.00) annual fee for registration of the vehicle.

The registration sticker shall entitle the vehicle to be operated on the streets and highways of the City as provided by Code during the calendar year of issuance. The annual fee will not be prorated and is not transferrable. No refunds shall be allowed for any reason. Registration will expire on December 31 of each year.

A reflecting, self-destructing sticker with an assigned number will be provided to the registering owner upon registration of such vehicle at City Hall. This registration sticker shall be affixed on the vehicle's lower driver's side windshield if equipped, or if the vehicle is not equipped with a windshield, then the sticker shall be affixed on the driver's side front of such vehicle. A duplicate sticker at a cost of twenty-five dollars (\$25.00) may be issued by City Hall in the event of a lost or destroyed registration sticker.

(G) ATV and UTV; Dealer Registration.

A dealer of ATVs or UTVs located within the City shall make application to City Hall for a dealer registration sticker, in lieu of registering each ATV and UTV which the dealer owns, to be used solely for the purposes of transporting, testing, demonstrating, or use in the daily use and conduct of business of the dealer.

A dealer registration sticker shall be issued upon the dealer submitting the following:

1. Certification from the dealer stating that ATVs and UTVs to be operated in

accordance with the dealer registration sticker comply with the equipment requirements identified by City Code;

2. Proof of liability insurance coverage for the fleet of ATVs and UTVs to be operated pursuant to this Section;
3. A three hundred dollar (\$300.00) annual fee is paid for the dealer registration sticker.

Displaying the dealer registration sticker entitles the vehicle to be operated as provided by City Code on the streets and highways of the City during the calendar year of issuance of the dealer registration sticker for uses described in this Section. The annual fee shall not be prorated and no refunds will be allowed for any reason. A dealer registration sticker may be allowed to be placed on a placard or other item so as to allow for its transferability from vehicle to vehicle and shall be displayed upon the vehicle during its operation. A duplicated dealer registration sticker at a cost of twenty-five (\$25.00) may be issued by City Hall in the event of a lost or destroyed dealer registration sticker.

(H) ATV and UTV; Accident; Report Required.

If an accident involving an ATV or UTV results an injury to any person resulting in the examination or treatment of the injured person by a physician, or results in the death of any person, then the operator of each ATV or UTV involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. § 60-699.

(I) ATV and UTV; Penalty; Impoundment.

Any person who violates any provision of this Article or violates the provisions defined by Chapter 39 or Chapter 60 of the Revised Statutes of Nebraska while operating an ATV or UTV shall be subject to the penalties under the provisions of Chapter 39 and Chapter 60 of the Revised Statutes of Nebraska and additionally all City-issued registrations for all of the operator's and the owner's ATVs and UTVs shall be revoked as follows:

1. For the operator's first offense, the operator shall be fined two hundred dollars (\$200.00);
2. For the operator's second offense occurring within two (2) years of the first offense, the operator shall be fined four hundred dollars (\$400.00)
3. For the operator's third offence occurring within two (2) years of the first offense, the operator shall be fined four hundred dollars (\$400.00), impoundment of vehicle, and all City-issued registrations of both the operator and the owner shall be revoked for a period of two (2) years from the date of offense.
4. For the operator's fifth offence occurring within five (5) years of the first offense, all City-issued registrations of both the operator and the owner shall be revoked for a period of ten (10) years from the date of offense.

3. That the Mayor and the appropriate department, whether one or more of the City of Wahoo, Nebraska, are hereby authorized and directed to implement this Ordinance, to include, but not be limited to, the filing of a certified copy of this Ordinance with the Saunders County Register of Deeds.

4. That should any section, paragraph, sentence, or word of this Ordinance hereby adopted be declared for any reason be invalid, it is the intent of the Mayor and Council of the City of Wahoo, Nebraska, that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

5. That all Ordinances or parts of Ordinances passed and approved prior to the passage, approval and publication of this Ordinance and in conflict herewith, are hereby repealed.

6. That this Ordinance shall be published within the first fifteen days after its passage and approval, in pamphlet form, and shall be in full force and be effective on June 1, 2023, from and after its passage and approval, and publication, as provided herein.

7. That it is the intention of the Council and Mayor of the City of Wahoo, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Wahoo Municipal Code of the City of Wahoo, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

PASSED AND APPROVED this 25th day of April 2023.

CITY OF WAHOO, NEBRASKA

BY:

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Gerald D. Johnson, Its Mayor

ATTEST:

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Christina Fasel, Its Clerk  
(SEAL)

1<sup>st</sup> reading: March 14, 2023  
2<sup>nd</sup> reading: March 28, 2023  
3<sup>rd</sup> reading: April 25, 2023