

**NOTICE OF PUBLIC HEARING
PROPOSED COUNTY ORDINANCE**

OFFICIAL NOTICE IS HEREBY GIVEN in accordance with the provisions of Section 331.305, current Code of Iowa, to all interested citizens of Dubuque County, Iowa, that a public hearing will be held on the 26th day of August, 2019, at 5:30 p.m. in the Board of Supervisors Chambers, Dubuque County Court House concerning the proposed Chapter 28 – Regulation of the operation of all-terrain vehicles and off-road utility vehicles to the Dubuque County Code of Ordinances described hereafter.

At the hearing, interested citizens will be invited to comment on the following proposed ordinance:

**CHAPTER 28 - REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES
& OFF-ROAD UTILITY VEHICLES IN DUBUQUE COUNTY, IOWA**

**PART 1
PURPOSE**

This ordinance shall set forth regulations regarding the operation of all-terrain vehicles and/or off-road utility vehicles on county roadways designated by the Dubuque County Board of Supervisors.

**PART 2
DEFINITIONS**

The definitions of terms used in this ordinance are:

a. All-terrain vehicle as defined by Iowa Code § 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.

b. Designated riding area as defined by Iowa Code § 321I.1 means an all-terrain vehicle riding area on any public land or public ice under the jurisdiction of the Department of Natural Resources that has been designated by the department for all-terrain vehicle use.

c. Designated riding trail as defined by Iowa Code § 321I.1 means an all-terrain vehicle riding trail on any public land, private land, or public ice that has been designated by the state or the county for all-terrain vehicle use.

d. Off-road utility vehicle as defined by Iowa Code § 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:

1. “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.

2. "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.

3. "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.

e. Public ice as defined by Iowa Code § 321I.1 means any frozen, navigable waters within the territorial limits of this state and the frozen marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the Natural Resource Commission of the DNR.

f. Public land as defined by Iowa Code § 321I.1 means land owned by the federal government, the state, or political subdivisions of the state and land acquired or developed for public recreation pursuant to § 321I.8.

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

PART 3 REQUIRED EQUIPMENT FOR VEHICLE AND OPERATOR

A person shall not operate an all-terrain vehicle and/or off-road utility vehicle without the following functioning equipment:

Vehicle:

1. Lit headlight(s) and taillight(s) while traveling on Dubuque County roads. (Iowa Code § 321I.13)
2. Brake lights, brakes (Iowa Code § 321I.13) and speedometer.
3. For all-terrain vehicles – a single rearview mirror on either side. For off-road utility vehicles – a single center rearview mirror or a side mirror.
4. An orange flag affixed to the all-terrain and/or off-road utility vehicle at a height that is at least six feet off of the ground or no less than one foot above the top of the vehicle, whichever is higher.
5. A suitable and effective muffling device that complies with the standards and procedures required by Iowa Code § 321I.12.
6. All occupied seating must be factory-equipped. Additional seating from the manufacturer installed under the roll cage is allowed.

Operator:

1. A properly adjusted and fastened seatbelt if the all-terrain or off-road utility vehicle is so equipped.

PART 4 OPERATION ON ROADWAYS

Pursuant to Iowa Code § 321I.10, a registered all-terrain vehicle or off-road utility vehicle may be operated on the roadways of that portion of county highways designated by the county board of supervisors for such use during a specified period. The county board of supervisors shall

evaluate the traffic conditions on all county highways and designate roadways on which all-terrain vehicles or off-road utility vehicles may be operated for the specified period without unduly interfering with or constituting an undue hazard to conventional motor vehicle traffic. In designating such roadways, the board may authorize all-terrain vehicles and off-road utility vehicles to stop at service stations or convenience stores along a designated roadway.

A. A registered all-terrain vehicle or off- road utility vehicle may be operated on secondary roadways, including Class A, B and C and gravel roadways, in Dubuque County pursuant to the restrictions in this ordinance and those restrictions imposed by the Code of Iowa. All-terrain vehicles and off-road utility vehicles shall not be operated on Class B or Class C roads, as designated by County Engineer. All-terrain vehicles and off-road utility vehicles owned by Dubuque County are authorized to operate on Class B roads for official purposes. Operation is limited to roadways lying outside the city limits of any incorporated city or private property which does not have an ordinance or other regulation in effect allowing such operations.

Please refer to Addendum A for a list of prohibited roadways.

B. Pursuant to Iowa Code § 321I.10, an all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

1. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
2. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
5. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city to a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city.

C. An all-terrain vehicle or off-road utility vehicle must follow the regulations of Dubuque County communities upon entering their city limits.

PART 5 TIME OF OPERATION

All-terrain vehicle and off-road utility vehicle operation may begin at 5:00 a.m. and must cease at sunset.

PART 6 OPERATOR REQUIREMENTS

A person shall not operate an all-terrain vehicle or off-road utility vehicle on secondary roadways in Dubuque County unless the operator is **at least 18 years of age**, has a valid driver's license, and provides proof of liability insurance.

PART 7 UNLAWFUL OPERATION

Pursuant to Iowa Code § 321I.14, a person shall not operate an all-terrain vehicle and/or off-road utility vehicle under any of the following conditions:

- A. In a careless, reckless, or negligent manner so as to:
 - 1. Endanger any person;
 - 2. Cause injury or damage to person or property; or
 - 3. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.

- B. While under the influence of intoxicating liquor or narcotics or habit-forming drugs. In addition, no operator or passenger shall operate or occupy an all-terrain vehicle and/or off-road utility vehicle with an open container of an alcoholic beverage.

- C. In any tree nursery or planting in a manner which damages or destroys growing stock.

- D. On the following types of property:
 - 1. On any public land, public ice, or designated riding trail in violation of official signs prohibiting such operation.
 - 2. In any park, wildlife area, preserve, refuge, or game management area, except on designated riding areas identified by the Department of Natural Resources or designated riding trails identified by the Dubuque County Conservation Board.
 - 3. 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 vehicle/off-road utility vehicle on ice.
 - 4. On any designated riding area or trail unless the trail is designated by signs as open to all-terrain vehicle/off-road utility vehicle operation.
 - 5. On public snowmobile trails.
 - 6. Dubuque County Conservation Heritage Trail.

- E. Upon an operating railroad right-of-way. An all-terrain vehicle/off-road utility vehicle may be driven directly across a railroad right-of-way only at established crossings.

- F. With more persons on the vehicle than it was designed to carry, except as provided herein. This paragraph does not apply to a person who operates an all-terrain vehicle or off-road utility vehicle as part of a farm operation as defined in Iowa Code § 352.2.

G. With a firearm in the person's possession while operating or riding on an all-terrain vehicle/off-road utility vehicle unless it is unloaded and enclosed in a carrying case, subject to the following exceptions:

1. The person is riding on or operating an all-terrain vehicle/off-road utility vehicle on land owned or possessed by the person and the person's conduct is otherwise lawful.
2. The person is riding on or operating an all-terrain vehicle/off-road utility vehicle on land that is not owned or possessed by the person and all of the following apply:
 - a. The loaded firearm is a pistol or revolver and is secured in a retention holster upon the person,
 - b. The person possesses and displays to a peace officer upon demand a valid permit to carry weapons which has been issued to the person, and
 - c. The person's conduct is within the limits of the permit to carry weapons.

A nonambulatory person may carry an uncased and unloaded firearm while operating or riding on an all-terrain vehicle/off-road utility vehicle.

H. Discharging a firearm, except that a nonambulatory person may discharge a firearm from an all-terrain vehicle/off-road utility vehicle while lawfully hunting, if the person is not operating or riding a moving all-terrain vehicle/off-road utility vehicle.

PART 8

REGISTRATION REQUIREMENTS AND OTHER CONDITIONS

Individuals who operate on designated secondary roadways in Dubuque County must register the all-terrain vehicle or off-road utility vehicle with the Iowa Department of Natural Resources as required by Iowa Code § 321I.7. The following conditions apply:

1. Proof of Ownership. 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 bill of sale, Iowa Department of Natural Resources registration or registration from the appropriate out-of-state authority, and proof of liability insurance with appropriate minimum standards as required by Iowa Code §§ 321.20B and 321A.21.
2. Current Registration. All-terrain vehicles or off-road utility vehicles registered in Iowa are required to display their current Iowa Department of Natural Resources registration decal and carry their certificate on board.
3. Non-Resident Use Permit.
 - a. As provided in Iowa Code § 321I.5, a nonresident wishing to operate an all-terrain vehicle, other than an all-terrain vehicle registered pursuant to this chapter, on public land, public ice, or a designated riding trail of this state shall obtain a user permit from the department. A user permit shall be issued for use on only one all-terrain vehicle and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.
 - b. A county recorder or a license agent designated by the director pursuant to section 483A.11 may issue user permits. The fee for a user permit shall be fifteen dollars plus an administrative fee established by the commission. A county recorder or a license

agent shall retain a writing fee from the sale of each user permit as provided in Iowa Code § 321I.29.

4. Special Use Permit. Groups organizing special rides of 24 or more registered all-terrain vehicles or off-road utility vehicles are required to obtain a special use permit in accordance with Chapter 63 of the Dubuque County Code.

**PART 9
SPEED LIMIT**

A person shall operate an all-terrain vehicle or off-road utility vehicle at a rate of speed per the posted speed limit, not to exceed thirty-five (35) miles per hour.

**PART 10
EXEMPT VEHICLES**

Pursuant to Iowa Code § 321I.9, registration shall not be required for:

1. All-terrain or off-road utility vehicles owned by the United States, this State or another State, or by a governmental subdivision thereof, and used for enforcement, search and rescue, or official purposes, but not for recreational or commercial purposes.
2. All-terrain vehicles used in accordance with Iowa Code § 321.234A (1)(a).
3. All-terrain vehicles and/or off-road utility vehicles used exclusively as farm implements.

**PART 11
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.

**PART 12
COMPLIANCE WITH STATE CODE**

All operation and registration shall comply with Iowa Code Chapter 321, 321I and 321J.

**PART 13
SUNSET CLAUSE**

This ordinance sunsets on June 30, 2022 and then subject to review by the Dubuque County Board of Supervisors. Any violations of this ordinance that have not yet been adjudicated may still be litigated.

**PART 14
EFFECTIVE DATE**

The ordinance shall become effective upon its passage and publication pursuant to Iowa Code § 331.302(8).

Addendum A

A registered all-terrain vehicle or off- road utility vehicle is not allowed to operate on the following roadways:

1. Sundown Road, south of U.S. 20 to U.S. 151
2. Military Road from Oakland Farms Road to Key West Drive
3. North Cascade Road from U.S. 20 to Dubuque city limits
4. Oakland Farms Road
5. English Mill Road
6. Hales Mill Road from Asbury city limits to Derby Grange Road
7. John F. Kennedy Road
8. West John Deere Road
9. South John Deere Road
10. Herber Road south of the Herber Road Bridge
11. Peru Road
12. Lake Eleanor Road from Key West Drive to Highways 151/61
13. Key West Drive
14. Dyersville East Road from Golf Course Road to Lansing Road
15. Derby Grange Road from Barnwood Lane to John F. Kennedy Road
16. Sundown Road south of Old Highway Road to Peosta city limits

By order of the Dubuque County Board of Supervisors on this 12th day of August, 2019.

Denise M. Dolan
Dubuque County Auditor