



City of Muscatine

ITEM NUMBER 2022-0361

AGENDA ITEM SUMMARY

DATE: 10/6/2022

STAFF

Anthony Kies, Captain
Brett Talkington, Police Chief

SUBJECT

Third and Final Reading of an Ordinance Revising Title 7, Chapter 2 of the City Code of Muscatine Regarding All-Terrain Vehicles

EXECUTIVE SUMMARY

City Council directed City Staff to prepare changes to portions of Title 7, Chapter 2 of Muscatine City Code related to All-Terrain Vehicle Regulations. The proposed ordinance includes revisions to definitions and requirements related to the use of All-Terrain Vehicles and Off-Road Utility Vehicles. The purpose of this chapter is to provide reasonable rules and regulations for the maintenance and operation of all-terrain vehicles and/or off-road utility vehicles on approved roadways within the City of Muscatine, Iowa.

STAFF RECOMMENDATION

Staff recommends adoption of the ordinance on third and final reading

BACKGROUND/DISCUSSION

At the May 12, 2022 In-Depth meeting, City Council directed City staff to prepare changes to portions of Title 7, Chapter 2 of Muscatine City Code related to All-Terrain Vehicle Regulations. The City Council was provided with proposed changes and suggested terms and definitions. Since the May Council meeting, the State of Iowa has passed a new code governing All-Terrain Vehicles and Off-Road Utility Vehicles to be allowed to pass through all 99 Counties in the State of Iowa. Please reference Iowa Code 321.10 for user rules and restrictions. Attached is the proposed code from City Staff which exceeds State of Iowa Code to ensure the safety of our community.

CITY FINANCIAL IMPACT

None at this time.

ATTACHMENTS

1. Exhibit A Off-Road Utility Vehicles Proposed Code Language
2. Ordinance Relating to ATVsUTVs

Exhibit A
TITLE 7 - VEHICLES AND TRAFFIC
CHAPTER 2 – TRAFFIC REGULATIONS IN
GENERAL

SECTIONS:

- 7-2-1 Parades; Processions
- 7-2-2 Clinging to Vehicles
- 7-2-3 Riding on Parts of Vehicles Not for Passengers
- 7-2-4 Operation of Golf Carts
- 7-2-5 Avoidance of Traffic Control Devices
- 7-2-6 **Off-road Utility Vehicles and All-Terrain Vehicles**
- 7-2-7 Driving through Funeral or Other Procession
- 7-2-8 Driving on Sidewalks
- 7-2-9 Careless Driving
- 7-2-10 Driving on Private Property
- 7-2-11 State Law; Law of the Road

7-2-1 Parades; Processions. No procession or parade, except forces of the United States Army, Navy, or Marine Corps, the military forces of this state, and the forces of the Police and Fire departments, shall occupy, march, or proceed along any street except in accordance with a permit issued pursuant to Title 3, Chapter 3 of the City Code.

7-2-2 Clinging to Vehicles. Any person riding upon any bicycle, moped, motorcycle, coaster, sled, roller skates, skateboards, or any toy vehicle shall not attach the same or himself to any moving vehicle upon any roadway.

7-2-3 Riding on Parts of Vehicles Not for Passengers.

- A. It shall be unlawful for the driver of any vehicle to permit any person to ride on the fenders, running boards, front ends, or rear ends of such vehicle or any part of a vehicle not intended for passengers, except for the purpose of repairing the same.
- B. It shall be unlawful for any person to ride on the fenders, running boards, front ends, or rear ends of any vehicle, or any part of a vehicle not intended for passengers, except for the purpose of repairing such vehicle.

7-2-4 Operation of Golf Carts. A person possessing a valid operator's license may operate a golf cart on city streets provided, however, that a golf cart shall not be operated upon a city street which is a primary road extension through the City but shall be allowed to cross a city street which is a primary road extension through the City. The golf carts shall be equipped with adequate brakes, a slow moving vehicle sign, and bicycle safety flag and operate on the streets only from sunrise to sunset.

7-2-5 Avoidance of Traffic Control Devices. It is unlawful for any person operating a motor vehicle to leave the roadway and travel across public or private property to avoid an official traffic control device.

7-2-6 Off-road Utility Vehicles & All-Terrain Vehicles.

- A. **Definitions.** For use within this chapter, the following words, terms and phrases

are defined as follows:

1. **"All-Terrain Vehicle (ATV)"** shall mean a motorized vehicle with not less than three and not more than six nonhighway 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. ATVs are not allowed on city streets.
 2. **Off-road Utility Vehicle (UTV)** shall mean a motorized vehicle with not less than four and not more than eight nonhighway 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) Type 1 is defined as an Off-road Utility Vehicle with a total dry weight of 1,250 pounds or less and a width of 50 inches or less.
 - (b) Type 2 is defined as an Off-road Utility Vehicle (other than a Type 1 Off-road Utility Vehicle), with a total dry weight of 2,000 or less and a width of 65 inches or less.
 - (c) Type 3 is defined as an Off-road Utility Vehicle with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.
 3. **Operate:** To ride in or on, other than as a passenger, use, or control the operation of an all-terrain vehicle in any manner, whether or not the All-Terrain Vehicle or Off-road Utility Vehicle is moving.
 4. **Operator:** A person who operates or is in actual physical control of an All-Terrain Vehicle or Off-road Utility Vehicle.
 5. **Person:** An individual, partnership, firm, corporation, association, any body of persons, whether incorporated or not, and the state, its agencies, and political subdivisions.
 6. **Street or highway:** The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular travel, except in public areas in which the boundary shall be thirty-three (33) feet each side of the center line of the roadway.
- B. **Minimum Equipment Standards for Operation.** Each Off-road Utility Vehicle (UTV) shall comply with the following standards for operation:
1. Vehicles more than 40 inches wide shall be equipped with turn signal lamps and have a manually operated switched controlled by the driver.
 2. Vehicles shall be equipped with a properly operating speedometer and odometer calibrated in miles per hour and miles respectively and shall be fully illuminated when the headlamp(s) are activated.

3. Vehicles shall be equipped with an electrically actuated horn, and emit a sound clearly audible from a distance of 200 feet. The horn shall be actuated with a switch easily accessible to the driver when operating the vehicle.
 4. Vehicles shall be equipped with a headlamp that shall be in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps shall be mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.
 5. Vehicles shall be equipped with tail lamp or lamps mounted on the rear of the vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamps shall be mounted not less than 15 inches, nor more than 72 inches, above the roadway.
 6. Vehicles shall be equipped with a stop lamp that is actuated by the brake switch to indicate braking of the vehicle.
 7. Vehicles shall be equipped with nonhighway tires which shall display the proper markings on the sidewall of the tire.
 8. Vehicles shall be equipped with a rear facing mirror and shall provide the operator with a clear view of the rear.
 9. Vehicles operated within city limits shall be equipped with a muffler.
- C. **Operating Provisions.** All operation of Off-road Utility Vehicles on city streets or highways must adhere to all city, county and state regulations relating to the use of such vehicles. All-terrain vehicles are not allowed on city streets in Muscatine for any reason. In addition to the provisions of Iowa Code Chapter 321 and Chapter 321(I), the following provisions shall apply:
1. Every Off-road Utility Vehicle operated upon streets or highways of the City of Muscatine shall be registered annually with the Muscatine County Recorder and shall be required to pay a registration fee in such amount established by the Muscatine County Board of Supervisors.
 2. The operator of each Off-road Utility Vehicle shall be required to provide, upon request by any peace officer, proof of ownership including but not limited to bill of sale or registration. This requirement shall be satisfied if an Off-road Utility Vehicle is in compliance with the registration requirements of any state within the United States of America.
 3. A person shall not operate an Off-road Utility Vehicle unless the operator has a valid driver's license issued by any state within the United States of America and is age 18 or older.
 4. A person shall not operate an Off-road Utility Vehicle unless the operator has proof of insurance complying with that required of an operator of a motor vehicle pursuant to applicable provisions of the Iowa Code, Rules and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

5. The operator and passengers shall wear the seatbelt or harness as so equipped by the manufacturer.
6. A person shall not drive or operate an Off-road Utility Vehicle:
 - a. At a rate of speed greater than the posted speed limit.
 - b. In a careless, reckless, or negligent manner so as to:
 - i) Endanger any person.
 - ii) Cause injury or damage to person or property.
 - iii) Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
7. While under the influence of intoxicating liquor or narcotics or habit-forming drugs as prohibited under Iowa Code Section 321J.
8. In any City park, wildlife area, reserve, refuge, game management area, or any portion of a meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated trails.
9. Upon operating railroad right-of-way, an Off-road Utility Vehicle may be driven directly across 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 or railroad employee of a Utility authority to enter upon the railroad right-of-way in the lawful performance of the employee's duty.
10. With more persons on the vehicle than designed to be carried or seated.
11. On any road, street, highway or interstate prohibited by the State of Iowa.

D. Prohibited Streets/Highways; Crossing.

1. In addition to all roads prohibited under state law, operation of Off-road Utility Vehicles shall be prohibited on the following streets and/or highways:
 - a. Highway 61
 - b. Park Avenue
 - c. Dick Drake Highway
2. An Off-road Utility Vehicle may make a direct crossing of a street or highway listed in this section provided that all of the following occur:
 - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway, and at a place where no obstruction prevents a quick and safe crossing;

- b. The Off-road Utility Vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
- c. The operator of the Off-road Utility Vehicle yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
- d. 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.

E. Exempt All-Terrain Vehicles and Off-road Utility Vehicles. The following all-terrain vehicles and Off-road Utility Vehicles shall be exempt from registration pursuant to Iowa Code, Section 321I.9 and the requirements of this Ordinance:

- 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 research and studies, but not for recreational or commercial purposes.
- 2. All-terrain or Off-road Utility Vehicles used exclusively to conduct agricultural purposes and in accordance with Iowa Code Section 321.234A(1)(a).
- 3. All-terrain or Off-road Utility Vehicles used exclusively as farm implements.

F. Leaving Motor Running or Keys in Ignition. It is unlawful for the owner or operator of an all-terrain vehicle to leave or allow an all-terrain vehicle or Off-road Utility Vehicle to remain unattended on public property while the motor is running or while the keys for starting the vehicle are left in the ignition.

G. Violation of A "Stop" Signal. A person, after having received a visual or audible signal from a peace officer to come to a stop, shall not operate an all-terrain vehicle or Off-road Utility Vehicle in willful or wanton disregard of the signal or interfere with or endanger the officer or any other person or vehicle, or increase speed or attempt to flee or elude the officer.

H. Penalty for Violation. Any person or owner of property who violates the provisions of this Chapter shall be guilty of a misdemeanor and subject to a penalty as set out in Section 1-2-14 of this Code of Ordinances.

I. Standard Penalty. Unless another penalty is expressly provided for violation of any particular provision, section or chapter, any person failing to perform a duty or obtain a license required by this Code of Ordinances or violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least one hundred-five dollars (\$105.00) but not to exceed eight hundred fifty-five dollars (\$855.00).

7-2-7 Driving Through Funeral or Other Procession.

- A. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.
- B. Each driver in a funeral or other procession shall drive as near the right-hand edge of the roadway as practicable, shall follow the vehicle ahead as close as is practical and safe, and shall have the headlights turned on.

7-2-8 Driving on Sidewalks. The driver of a vehicle shall not drive within any sidewalk area, except at a permanent or temporary driveway.

7-2-9 Careless Driving. No driver of a vehicle shall operate or halt the same negligently or needlessly in disregard to the rights or safety of persons or property.

7-2-10 Driving on Private Property. No driver of a vehicle shall operate or halt the same on private property without the consent of the owner thereof.

7-2-11 State Law; Law of the Road. The provisions of Chapter 321 of the Code of Iowa are hereby adopted by reference and it shall be unlawful for any person to violate any provision or amendments thereto, where the violation of such statute or statutes is declared, directly or indirectly, to be a misdemeanor, except such provisions as are by their nature inapplicable and not within the powers granted to cities of the class and size of this city to adopt.

ORDINANCE NO. 2022-0361

**AN ORDINANCE REVISING TITLE 7, CHAPTER 2, SECTION 6 OF THE CITY CODE
- ALL-TERRAIN VEHICLE REGULATIONS**

WHEREAS, The City of Muscatine’s current All-Terrain Vehicle (“ATV”) regulations can be found in Section 6, Chapter 7 of Title 2 of the City of Muscatine; and

WHEREAS, Section 6, Chapter 7 of Title 2 of the City of Muscatine regarding ATV Regulations has not been updated in 20 or more years; and

WHEREAS, on May 12, 2022 City Council directed City Staff to prepare changes to City Code regarding ATV regulations and to draft regulations related to use of Off-Road Utility Vehicles (“UTV”) within the City; and

WHEREAS, on June 13, 2022 the Governor of the State of Iowa signed into law HF2130 related to the operation of registered ATVs and UTVs on additional highways for additional purposes; and

WHEREAS, HF2130 allows cities to regulate the operation of registered ATVs and UTVs on streets under its jurisdiction; and

WHEREAS, the City of Muscatine desires to revise definitions and requirements related to the use of All Terrain Vehicles (ATV) and Utility Terrain Vehicles (UTV) within the City; and

WHEREAS, a public hearing was conducted on Sept 1st, 2022 by the City Council of Muscatine prior to the adoption of this ordinance.

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

SECTION 1. The current adopted version of Title 7, Chapter 2, Section 6 of the City Code is hereby deleted and Exhibit A as attached is hereby adopted in lieu thereof.

SECTION 2. 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.

SECTION 3. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 4. This Ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law.

PASSED, APPROVED AND ADOPTED this 6th day of October, 2022.

By the City Council of the City of Muscatine, Iowa;

Attest:



Dr. Brad Bark (Oct 11, 2022 13:08 CDT)

Dr. Brad Bark, Mayor



Carol Webb (Oct 11, 2022 13:49 CDT)

Carol Webb, City Administrator



First Reading Sept 1, 2022

Second Reading Sept 15, 2022

Third Reading Oct 6, 2022

Publication October 13, 2022

*** Proof of Publication ***

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE MUSCATINE JOURNAL, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is made a part of this affidavit, was published in said THE MUSCATINE JOURNAL, on the dates listed below.

CITY OF MUSCATINE- Legals account

215 Sycamore Street
MUSCATINE, IA 52761

ORDER NUMBER 138536

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.

Timothy J. Simpson

ORDINANCE NO. 2022-0361
AN ORDINANCE REVISING TITLE 7,
CHAPTER 2, SECTION 6 OF THE
CITY CODE - ALL-TERRAIN VEHICLE
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By the City Council of the City of Muscatine, Iowa;

Attest:

Dr. Brad Bark, Mayor

Carol Webb, City Administrator

First Reading 9-1-2022

Second Reading 9-15-22

Third Reading 10-6-22

Publication 10-13-22

Section: Notices & Legals

Category: 2635 Legal Ordinance

PUBLISHED ON: 10/13/2022

TOTAL AD COST: 35.73

FILED ON: 10/14/2022

Subscribed and sworn to before me by said affiant this 14 day of October 2022.

Michelle Graham

Notary Public in and for Scott County, Iowa

