

# HANCOCK COUNTY ORDINANCE NO. 28

## TITLE: AN ORDINANCE PERMITTING THE LIMITED OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES ON SECONDARY ROADWAYS IN HANCOCK COUNTY

### Section 1. Purpose.

The purpose of this ordinance is to designate that portion of the county secondary roadways designated by the Hancock County Board of Supervisors upon which an all-terrain vehicle and off-road utility vehicle may be operated.

### Section 2. Definitions.

- a. "All-terrain vehicle (ATV)" means a motorized vehicle with not less than three and not more than six low-pressure 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.
- b. "Off-road Utility Vehicle (ORV)" means a motorized vehicle with not less than four and not more than eight low-pressure tires or rubberized tracks that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and that has a seat that is bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- c. "Primary roadways" means those roads and streets both inside and outside the boundaries of municipalities which are under the jurisdiction of the Iowa Department of Transportation.
- d. "Roadway" means that portion of a county road improved, designed, or ordinarily used for vehicular travel.
- e. "Secondary roadways" means those roads under the jurisdiction of Hancock County. Secondary roadways" does not include primary roadways traveling through Hancock County, such as Highway 17, Highway 18, or Highway 69.

### Section 3. Operation on Roadways.

A registered all-terrain vehicle or off-road utility vehicle may be operated on all secondary roadways from sunrise to sunset (i.e., daylight hours only) subject to the restrictions contained in this ordinance.

### Section 4. Restrictions.

- a. A person shall not operate an all-terrain vehicle or off-road utility vehicle:
  1. At an unreasonable rate of speed under all existing circumstances and in no event at a rate of speed greater than thirty-five miles per hour.

2. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
  3. While under the influence of alcohol or any controlled substance.
  4. Without a lighted headlight and taillight at such times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred feet ahead.
  5. Upon any railroad right-of-way, except that the all-terrain vehicle or off-road utility vehicle may be driven directly across a railroad right-of-way at an established crossing after yielding to all oncoming traffic and notwithstanding any other provisions of law. This paragraph does not apply to a law enforcement officer or railroad employee with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
  6. On any public land or roadway under the jurisdiction or control of the Hancock County Conservation Board or Iowa Department of Natural Resources.
- b. A person shall not operate an all-terrain vehicle or off-road utility vehicle with a firearm in the person's possession unless the firearm is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded firearm while operating an all-terrain vehicle or off-road utility vehicle.
  - c. A person shall not operate an all-terrain vehicle or off-road utility vehicle with more persons on the vehicle than it was designed to carry, as provided by the manufacturer's specifications. 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 section 352.2.
  - d. A person shall not operate an all-terrain vehicle or off-road utility vehicle unless the person has an Iowa Driver's License, the vehicle is duly registered as provided for in Iowa Code section 321.17, and the person has proof of insurance as provided for in Iowa Code section 321.20B.

### **Section 5. Civil Liability.**

The owner and operator of an all-terrain vehicle or off-road utility vehicle shall be jointly and severally liable for any injury or damage caused by the negligent operation of the vehicle. However, the owner of an all-terrain vehicle and/or off-road utility vehicle shall not be liable for any such injury or damage if the owner was not the operator of the vehicle at the time the injury or damage occurred and if the operator did not have the owner's consent to operate the vehicle at the time the injury or damage occurred.

### **Section 6. Exemptions.**

Registration shall not be required for all-terrain vehicles or off-road utility vehicles used exclusively as farm implements.

**Section 7. Penalties.**

Any violation of this ordinance constitutes a simple misdemeanor punishable by a fine of at least \$65.00 and no more than \$650.00 and/or up to thirty days in jail.

**Section 8. Jurisdiction.**

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

**Section 9. Severability.**

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

**Section 10. When Effective.**

This ordinance shall be effective after final passage, approval, and publication as provided by law.

Adopted and passed by the Hancock County Board of Supervisors on this 9th day of December, 2013.

Signed:

Jerry Tlach

Chairman, Hancock County Board of Supervisors

Attest:

Michelle Eisenman

Hancock County Auditor

First reading: December 2, 2013

Second reading: December 9, 2013

Publication: December 18 & 19, 2013