

CHAPTER 77 - AN ORDINANCE RELATING TO OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES ON COUNTY ROADWAYS

Be It enacted by the Board of Supervisors of Emmet County, Iowa:

- 77.01 **PURPOSE.** The purpose of this Ordinance is to designate that portion of the County roadways which All-Terrain Vehicles and Off-Road Utility Vehicles may be operated during a specified period, and to establish regulations regarding such operation. This Ordinance is being adopted pursuant to authority contained in Iowa Code Sections 321.234A(1)(f) and 3211.10(2).
- 77.02 **DEFINITIONS.** For purposes of this Ordinance, the following terms shall have the following definitions:
- (a) *All-terrain vehicle* as defined in Iowa Code Section 3211.1(1)(a) 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 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) *Off-road utility vehicle* as defined in Iowa Code Section 3211.1(18)(a) 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:
 - (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.
 - (c) *Primary Roads* means those roads and streets both inside and outside the boundaries of municipalities which are under the jurisdiction of the Iowa Department of Transportation including Iowa State Highways 9, 4, and 15 anywhere in Emmet County.
 - (d) *Roadway* as defined in Iowa Code Section 3211.1(27) means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
 - (f) *Secondary Roads* means those roads under the jurisdiction of the Emmet County Secondary Roads Department. Secondary Roads do not include primary roads as defined above.

77.03 **OPERATION ON ROADWAYS.** Registered All-Terrain Vehicles and Off-Road Utility Vehicles may be operated on all Secondary Roadways during the hours of 5:00 A.M. to 11:30 P.M. subject to the restrictions contained in this ordinance

77.04 **RESTRICTIONS.** A person shall not operate an All-Terrain Vehicle or an Off-Road Utility Vehicle:

- (1) At a speed greater than the posted or accepted speed limit or greater than reasonable or proper under all existing circumstances on all secondary roads.
- (2) In a careless, reckless, or negligent matter so as to endanger the person or property of another or to cause injury or damage thereto. Such vehicle shall not be operated in a way that causes any damage to the roadway. When using a Level B roadway, the operator shall use extra caution especially when the roadway is wet.
- (3) While under the influence of alcohol or any controlled substance.
- (4) Without equipped with a lighted headlight and taillight on at all times to render clearly discernable persons and vehicles at a distance of two hundred feet.
- (5) No more than 2 persons shall be straddled on a seat of an All-terrain vehicle. All riders on an Off-road utility vehicle shall be belted if equipped with seat belts and no riders shall be in the box unless equipped with seats and seat belts.
- (6) Upon any primary road within Emmet County. However, such vehicle may cross such primary roadways.
- (7) The operator shall yield to all other traffic.
- (8) Upon any railroad right-of-way, except that the 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.
- (9) On any public land, wildlife area, preserve, refuge or game management area or gravel pit under the jurisdiction or control of the Emmet County Conservation Board, Emmet County Secondary Roads Department, or the Iowa Department of Natural Resources.
- (10) Upon a designated riding area or designated snowmobile trail unless the riding area or trail is signed as open to such vehicles.
- (11) In any ditch within Emmet County. This does not include Farmers who are using their vehicles exclusively as farm implements while engaged in farming. Operation of all other vehicles is confined to the travel portion of the roadway only.
- (12) A person shall not operate such vehicle with a firearm in the person's possession unless the firearm is unloaded and fully enclosed in a carrying case. However, a non-ambulatory person may carry an encased and unloaded firearm while operating such vehicle.
- (13) On any private or publicly owned property without permission.
- (14) On any public land, ice, or snow in violation of the official signs prohibiting such operation.

(15) Upon 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 or trails, the use of crossings for agricultural purpose, the use of construction vehicles engaged in lawful activity, and/or the operation of any such vehicle on ice.

77.05 **REQUIREMENTS.** No person shall operate an All-Terrain Vehicle or Off-Road Utility Vehicle upon any secondary roadway for any purpose, unless the operator possesses the following:

- (a) Has a valid driver's license including but not limited to Iowa Code Section 321.174. If the operator is 16 or 17 years of age the operator must carry proof of passing an Iowa DNR approved ATV Education Course.
- (b) The vehicle is duly registered as provided in Iowa Code Sections 321.18 and 321.20.
- (c) The vehicle is insured with liability insurance and the operator possesses proof of insurance pursuant to Iowa Code Sections 321.20B and 321A.21.
- (d) These requirements shall not apply to vehicles owned by the United States, State of Iowa, or any other state or governmental subdivision when used for enforcement, search and rescue, or official research and studies; or vehicles used in accordance with Iowa Code Section 321.234A(1)(a); or used exclusively as farm implements while engaged in farming.

77.06 **PENALTIES.** Violation of any provision of this ordinance shall constitute a simple misdemeanor punishable by a fine of at least \$65 up to a maximum of \$650 and/or a maximum of 30 days confinement in the Emmet County Jail. An operator violating any other State or local traffic law shall, in addition, be subject to penalties as provided in those laws. Pursuant to Iowa Code Section 321.15(2), Chapter 232 of the Iowa Code (Juvenile Delinquency) shall have no application in the prosecution of offenses which are committed in violation of this Ordinance.

77.07 **CONFLICT WITH OTHER ORDINANCES.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

77.08 **SEVERABILITY CLAUSE.** 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.

77.09 **WHEN EFFECTIVE.** This Ordinance shall become effective after its final passage, approval, and publication as provided by law.

Editor's Note: Title VII, Chapter 77 was established by ordinance approved by Board of Supervisors on November 10, 2015.