

AN ORDINANCE REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD VEHICLES IN KOSSUTH COUNTY, IOWA.

SECTION 1 - PURPOSE.

This ordinance shall designate the county secondary roads where all-terrain vehicles and off-road utility vehicles may operate.

SECTION 2 - DEFINITIONS.

The definitions of terms used in this ordinance are:

1. All-terrain vehicle as defined by Iowa Code Section 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 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.
2. Off-road Utility Vehicle as defined by Iowa Code Section 321I.1 means a motorized vehicle with not less than four and not more than eight non-highway tires or rubberized tracks that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than two thousand pounds and 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.
3. Roadway as defined by Iowa Code Section 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

SECTION 3 - OPERATION ON ROADWAYS.

A registered all-terrain vehicle or off-road utility vehicle may be operated on service area level A gravel roadways in Kossuth County pursuant to the restrictions in this ordinance and those restrictions imposed by the Iowa Code. In the event that a person residing on a county blacktop wishes to operate an all-terrain vehicle and/or an off-road utility vehicle on service area level A gravel roadways, said person may operate on the shoulder of the county blacktop for a reasonable distance to reach the permissible county gravel roadway. Such operation shall only be between sunrise and sunset.

SECTION 4 - UNLAWFUL OPERATION.

A person shall not operate an all-terrain vehicle and/or off-road utility vehicle under any of the following conditions:

1. At a rate of speed greater than reasonable and/or proper under existing circumstances, having due regard to the traffic, surface and any other condition existing, but not greater than 35 miles per hour.
2. In a careless, reckless or negligent manner so as to:

- a. Endanger any person, including the operator;
 - b. Cause injury or damage to person or property;
 - c. Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
3. Without a lighted headlamp, a lighted rear lamp, and equipped with at least one mirror so located as to reflect to the operator a view to the rear of the vehicle a distance of 200 feet.
 4. With a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded firearm while operating or riding on an all-terrain vehicle or off-road utility vehicle.
 5. In any tree nursery or planting in a manner which damages or destroys growing stock.
 6. On public land, ice or snow in violation of official signs prohibiting such operation.
 7. In any park, wildlife area, preserve, refuge or game management area, gravel pit or any other property owned by Kossuth County.
 8. 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 Department of Natural Resources and which is covered by water. This provision does not apply to designated riding areas; designated riding trails; the use of crossings for agricultural purposes; the use of construction vehicles engaged in lawful activity; and/or the operation of all-terrain vehicles on ice.
 9. On snowmobile trails except where designated by Kossuth County and the primary snowmobile trail sponsor.
 10. Upon an operating railroad right-of-way. An all-terrain vehicle may be driven directly across a railroad right-of-way only at established crossings. This provision 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 their duties.
 11. With more persons on the vehicle than it was designed to carry.
 12. On any riding area or trail, unless the trail is designated by sign as open to all-terrain and off-road utility vehicle operation.
 13. Unless the operator is at least 16 years of age, has a valid driver's license, the vehicle is duly registered, and the operator has proof of insurance.
 14. Without wearing a properly adjusted and fastened seatbelt if the all-terrain or off-road utility vehicle is so equipped.
 15. Without the all-terrain or off-road utility vehicle bearing 16 square inches of red and white reflective tape or a slow moving vehicle sign affixed to the rear of the vehicle so that it is clearly visible.
 16. On any county gravel roadway not identified as a service area level A gravel roadway.

SECTION 5 - REQUIREMENTS.

No person shall operate an all-terrain or off-road utility vehicle on any county graveled roadway, for any purpose, unless the operator possesses the following:

1. Proof that the all-terrain or off-road utility vehicle is registered with the Iowa DNR.

2. Proof of ownership, including but not limited to bill of sale, registration and/or other documentation.
3. Proof that the operator is at least 16 years of age and possesses a valid driver's license.
4. If the operator was born after 1995, proof of passing an Iowa DNR approved ATV Education Course.
5. Proof that the owner and operator have liability insurance covering operation of the all-terrain or off-road utility vehicle on County graveled roadways in the amount required by the Code of Iowa.

SECTION 6 - EXEMPT VEHICLES.

The Registration requirements of this ordinance shall not apply to the following described all-terrain or off-road utility vehicles:

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 in accordance with section 321.234A, subsection 1, paragraph "a".
3. All-terrain or off-road utility vehicles used exclusively as farm implements.

SECTION 7 - PENALTIES.

Violation of the Ordinance shall constitute a county infraction punishable by a fine of \$65.00 to \$625.00 plus the applicable court surcharges and costs.

An owner or operator who produces to the clerk of court prior to the date of the person's court appearance as indicated on the citation the necessary proof that the requirements set out in Section 5 were in effect at the time the person was stopped and cited shall not be convicted of a county infraction and the citation issued shall be dismissed by the court. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

SECTION 8 - EFFECTIVE DATE.

This ordinance shall become effective upon passage and publication pursuant to Iowa Code Section 331.302(8).

PASSED THIS 9th DAY OF June, 2015

Don McGregor
Chairperson, Kossuth County Board of Supervisors

ATTEST:

Amber Garman
Kossuth County Auditor

It was moved by Tjarks and seconded by Wymore
that the ordinance be adopted, and, upon roll call, the vote was:

Don Besch Y, Don McGregor Y, Jack Plathe Y, Roger Tjarks Y, Pam Wymore Y

STATE OF IOWA)
) SS:
COUNTY OF KOSSUTH)

I, Amber Garman, hereby certify that I am the secretary of the Kossuth County Board of Supervisors, that the above and foregoing Ordinance is a true and correct copy of the Ordinance which was passed, adopted and approved by the Kossuth County Board of Supervisors on the 9th day of June, 2015.

Amber Garman
Amber Garman, Kossuth County Auditor

PUBLISHER'S AFFIDAVIT OF PUBLICATION

I, Kurt Dahl, being duly sworn and say, I am the Publisher of The Algona Upper Des Moines newspaper, published in Algona, County of Kossuth, State of Iowa; and being the official legal organ of said county, and that the advertisement, a printed copy of which is attached hereto, was printed and published in said newspaper on the following date(s): June 4, 2015.

Kurt Dahl

Hereby subscribed and sworn to before me on this 10th day of June, 2015

Laura M Vileta

Notary Public



MY COMMISSION EXPIRES ON 11-21-17

**-12798-
PUBLIC NOTICE**

Ordinance Number 114 is an ordinance regulating the operation of all-terrain vehicles and off-road vehicles in Kossuth County, Iowa. This ordinance designates the county secondary roads where all-terrain vehicles and off-road utility vehicles may operate. It provides, in summary:

A registered all-terrain vehicle or off-road utility vehicle may be operated on service area level A gravel roadways in Kossuth County pursuant to the restrictions in this ordinance and those restrictions imposed by the Iowa Code.

Violation of the ordinance shall constitute a county infraction punishable by a fine of \$65.00 to \$625.00 plus the applicable court surcharges and costs.

This description is a summary only. The full text of the proposed ordinance may be inspected in the office of the Kossuth County Auditor on the main floor of the Kossuth County Courthouse at 114 West State Street, Algona, Iowa 50511, between the hours of 8:00 A.M. and 4:00 P.M.; and may also be inspected on the county's website at www.co.kossuth.ia.us. This ordinance will be considered and voted on for passage on May 26, 2015, and June 2, 2015, at the regular scheduled meeting of the Kossuth County Board of Supervisors. The final consideration and vote will be on June 9, 2015, at which time, if passed, the ordinance will become law upon publication of the ordinance in accordance with Iowa Code Section 302(8).

/s/ Amber Garman
Kossuth County Auditor
(No. 12798 published in the Algona (Ia.) Upper Des Moines June 4, 2015)