

**ORDINANCE NO. 2011-32**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78 BY ADDING ARTICLE VII. TO ALLOW THE OPERATION OF ALL TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS UNDER CERTAIN CIRCUMSTANCES; TO IMPOSE RESTRICTIONS ON THE USE OF ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES; TO ESTABLISH PENALTIES FOR VIOLATION; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. A new Section **78, Article VII**, is added to the Municipal Code of Wayne, Nebraska, as follows:

(1) For purposes of this section:

(a) All-terrain vehicle means any motorized off-highway vehicle which (a) is fifty inches or less in width, (b) has a dry weight of nine hundred pounds or less, (c) travels on three or more low-pressure tires, (d) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (e) has a seat or saddle designed to be straddled by the operator, and (f) has handlebars or any other steering assembly for steering control.

(Neb. Rev. Stat. 60-6,355)

(b) Street or highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Neb. Rev. Stat. 60-624)

(c) (i) Utility-type vehicle means any motorized off-highway vehicle which (A) is not less than forty-eight inches nor more than seventy-four inches in width, (B) is not more than one hundred thirty-five inches, including the bumper, in length, (C) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (D) travels on four or more low-pressure tires, and (E) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(ii) Utility-type vehicle does not include golf carts or low-speed vehicles.

(Neb. Rev. Stat. 60-6,355)

(2) An all-terrain vehicle and a utility-type vehicle may be operated on streets **and highways** within the corporate limits of the city/village only if the operator and the vehicle comply with the provisions of this section.

(3) An all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of thirty miles per hour. When operating an all-terrain vehicle or an utility-type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag

shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

(4) Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in subsection (2) of this section shall have:

- (a) A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. 60-4,126; and
- (b) Liability insurance coverage for the all-terrain vehicle or a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

(5) All-terrain vehicles and utility-type vehicles may be operated without complying with subsections (3) and (4) of this section on streets and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

(6) An all-terrain vehicle or an utility-type vehicle shall not be operated on any ~~controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted. Subsections (2) through (4) and (7) of this section authorize and apply to operation of an all-terrain vehicle or an utility-type vehicle only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.~~ Nebraska State Highway within the city limits of Wayne

(7) All ATV's and UTV's are to abide by the state statutes pertaining to the operation of vehicles on roadway's within the state

(8) Subject to subsection (6) of this section, the crossing of a ~~street or state~~ highway shall be permitted by an all-terrain vehicle or an utility-type vehicle without complying with subsections (3) and (4) of this section only if:

- (a) The crossing is made at an angle of approximately ninety degrees to the direction of ~~the street~~ ~~or state~~ highway and at a place where no obstruction prevents a quick and safe crossing;
- (b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the ~~street or state~~ highway;
- (c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
- (d) In crossing a divided state highway, the crossing is made only at an intersection of such state highway with another state highway; and
- (e) Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. 60-6,356)

**(9) Additional Requirements:**

- (a) The vehicle is licensed with the City of Wayne and displays a city approved, reflective license plate with numbers and/or letters 4 inches high, prominently and clearly displayed on the rear of the vehicle;
- (b) Any operator operating an ATV or Utility Vehicle must stop immediately when signaled to do so by a law enforcement officer;
- (c) The operator has signed a written acknowledgement of the terms of this Ordinance and has completed a safety program approved by the City of Wayne; and
- (d) The operator is wearing a protective helmet that meets the motorcycle helmet standards of the State of Nebraska.
- (e) The operator must be at least 19 years of age and no passengers are allowed on ATV which are not designed to carry passengers.

Section 2. ~~A person who violates Section 1 of this ordinance shall be punished as provided generally in the municipal code.~~ Section 1-9 of the City Code of Wayne, Nebraska, is amended as follows “...such violation of any such provision of this Code or any ordinance shall be punishable by a fine not exceeding \$500 .... except for Section 78, Article VII, in which each violation shall be punishable by a \$100 fine, and the operator’s City of Wayne ATV/utility vehicle license shall be revoked for one year after conviction of two violations within 365 days of each other.

Section 3. Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 4. This ordinance shall take effect and be in full force on January \_\_\_\_, 2012, after its passage, approval, and publication as required by law and shall remain in affect until December 31, 2012.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 201\_.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk