

## ORDINANCE NO. 1032

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEVADA, IOWA, 2005, BY ADDING CHAPTER 78, ALL TERRAIN VEHICLE AND OFF ROAD UTILITY VEHICLE, TO PERMIT TO BE OPERATED ON CITY STREETS UNDER CERTAIN CONDITIONS

BE IT ENACTED by the City Council of the City of Nevada, Iowa:

**SECTION 1. NEW CHAPTER.** The Code of Ordinances of the City of Nevada, Iowa, 2005, is amended by adding a new Chapter 78, entitled All-Terrain Vehicles and Off-Road Utility Vehicle also known in this ordinance as UTV, which is hereby adopted to read as follows:

**78.01 PURPOSE.** The purpose of this Chapter of the Code of Ordinances is to permit the operation of ATV's/UTV's on certain streets in the City, pursuant to Section 321I.10 of the Code of Iowa, as amended. This chapter shall apply whenever an ATV/UTV is operated on any city street or alley within the City of Nevada.

**78.02 DEFINITIONS.** For the purpose of this ordinance the following words and phrases are defined as follows.

1. "All Terrain Vehicles (ATV)" means a motorized vehicle not less than three and not more than six non-highway tires that is limited in engine displacement to less than 1000 cubic centimeters and in total dry weight to less than 1200 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 (UTV)" means 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. "Off-road utility vehicle - type 1" means an off-road vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
  - b. Off-road vehicle - type 2" means an off-road utility vehicle, other than a type 1 off-road vehicle, with a total dry weight of two thousand pounds or less and a width of sixty-five inches or less.
  - c. Off-road vehicle - type 3" means an off-road utility vehicle, other than a type 1 off-road vehicle, with a total dry weight of more than two thousand pounds or a width of sixty-five inches or both.
3. "Operate" means to use or control the movement of the ATV/UTV in any manner or degree.
4. "Operator" means the person who uses or controls the movement of the ATV/UTV.
5. "Passenger" means a person who does not use or control the movement of the ATV/UTV but who merely rides on the ATV/UTV.
6. "Street" means that portion of the street or alley intended for vehicular travel.

**78.03 OPERATION OF ATV/UTV PERMITTED.**

1. ATV's/UTV's may be operated upon the streets of the City by persons possessing a valid Iowa operator's license, and at least eighteen (18) years of age.
2. ATV's/UTV's and operators of ATV's/UTV's are considered vehicles and shall be subject to the Nevada Traffic Code when operating on city streets.

3. ATV's/UTV's are allowed to operate on roadways as set forth in Iowa Code Section 321I.10

**78.04 RULES OF OPERATION.**

1. Except when executing a left turn, ATV'S/UTV'S shall be driven as close as practicable to the right-hand edge of the right-most motorized travel lane.
2. When necessary to prevent congestion of traffic, ATV'S/UTV'S shall be pulled to the right-hand edge of streets and be stopped to allow other motor vehicles traveling in the same direction to pass.
3. When two or more ATV'S/UTV'S are being operated in the same direction and general vicinity, they shall proceed in single file.
4. No ATV's/UTV's shall be operated upon city sidewalks or multi-use trails.
5. The operator of an ATV'S/UTV'S shall yield the right of way to pedestrians, bicycles, electric scooters, and electric bicycles.
6. No ATV'S/UTV'S shall be operated along city streets while under the influence of alcoholic beverages, narcotics, or habit-forming drugs. There shall be no open containers with alcoholic beverages within the ATV/UTV.
7. No person shall operate an ATV/UTV in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to same.
8. The operator of an ATV/UTV shall be responsible for the safety of all passengers on the ATV/UTV and shall not allow reckless or dangerous behavior by passengers on said vehicles.
9. The operator of an ATV/UTV shall limit occupancy of the ATV/UTV to the number of seats for which the vehicle is registered and occupants shall ride in approved seats while the ATV/UTV is in motion.
10. ATV'S/UTV'S shall not be operated when visibility is such that there is insufficient light to clearly see persons and vehicles at a distance of 250 feet or less.
11. No person shall leave an ATV/UTV unattended on public property while the motor is running or keys in the ignition.

**78.05 SPEED.** No ATV's/UTV's shall be operated on any City Street at a speed in excess of the posted speed limit with maximum speed of thirty-five (35) miles per hour.

**78.06 EQUIPMENT.** ATV's/UTVs shall comply with the equipment required by state law, including Iowa Code Section 321.234A.

**77.07 PARKING.** ATV's/UTVs shall be parked in standard automobile parking spaces. No ATV's/UTVs may be parked in such a way as to obstruct vehicular, pedestrian, or bicyclist traffic.

**78.08 HOURS AND DATES.** ATV's/UTV's and operators of ATV's/UTV's are considered vehicles and shall be subject to the Nevada Traffic Code when operating on city streets.

**78.09 TRAVEL PROHIBITED.** It shall be unlawful to operate ATV's/UTV's in any public cemetery, park, playground, or on any sidewalk or trail or any other publicly owned property without express written permission from the City, public parking areas excluded.

**78.10 OCCUPANT LOAD.** It shall be unlawful to operate ATV's/UTV's in excess of the designed occupant load thereof or ride on any portion not designed to carry passengers.

**78.11 PROOF OF FINANCIAL LIABILITY COVERAGE.** No person shall operate an ATV/UTV on any public street, or alley without proof of financial liability coverage for the vehicle and carried proof of such financial liability coverage in accordance with Section 321.20B of the Code of Iowa.

**78.12 ACCIDENT REPORTS.** Either the operator, or someone acting for the operator, shall immediately notify a law enforcement officer whenever an ATV/UTV is involved in an accident resulting in injury or death to anyone, or property damage in the amount of \$1,500 or more, and shall file an accident report within 48 hours.

**78.13 NEGLIGENCE.** The owner and operator of an ATV/UTV are jointly and severally liable for any injury or damage by negligent operation of the ATV/UTV.

**78.14 PENALTY.** A person who violates the provisions of Iowa Code, section 321.234A is guilty of a simple misdemeanor punishable as a scheduled violation under Code of Iowa, Section 805.8A, subsection 3. In addition, a person who violated this ordinance may be cited for a municipal infraction with fines as set forth in Chapter 4 of the Nevada Municipal Code.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 3. 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.

**SECTION 4. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this 12<sup>th</sup> day of September, 2022.

Passed and approved this \_\_ day of September, 2022.

Passed and approved this \_\_ day of October, 2022.

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Brett Barker, Mayor

Attest:

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Kerin Wright, City Clerk

1<sup>st</sup> Reading – September 12, 2022

Motion by Council Member \_\_, seconded by Council Member \_\_, to adopt the first reading of Ordinance No. 1031.

AYES:

NAYS:

ABSENT:

2<sup>nd</sup> Reading – September 26, 2022

Motion by Council Member \_\_, seconded by Council Member \_\_, to approve the second reading of Ordinance No. 1031.

AYES:            —

NAYS:            —

ABSENT:                 —

3<sup>rd</sup> Reading – October , 2022

Motion by Council Member \_\_ seconded by Council Member \_\_, to approve the third reading of Ordinance No. 1031.

AYES:            —

NAYS:            —

ABSENT:                 —

The Mayor declared Ordinance No. 1031 (2022/2023) was passed on the \_\_ day of \_\_, 2022.

I certify that the foregoing was published as Ordinance No. 1031 (2022/2023) on the \_\_ day of \_\_\_\_\_ 2022.

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Kerin Wright, City Clerk