ORDINANCE NO. 2 - 14
OF
THE CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA

AN ORDINANCE TO AMEND THE ORIGINAL SECTIONS 75.50, 75.51, 75.52, 75.53, AND 75.99 OF THE CITY OF AUBURN, NEBRASKA, CODE OF ORDINANCES TO AUTHORIZE RESTRICTED USE AND OPERATION OF ALL-TERRAIN AND UTILITY-TYPE VEHICLES WITHIN THE CITY OF AUBURN CORPORATE CITY LIMITS IN A SAFE MANNER AND PURSUANT TO STATE STATUTE; TO REPEAL THE ORIGINAL SECTIONS 75.50, 75.51, 75.52, 75.53, AND 75.99 OF SAID CITY CODE AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE FOR THIS ORDINANCE.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF AUBURN, NEMAHA COUNTY, NEBRASKA:

SECTION 1. Section 75.50 of the City of Auburn, Nebraska, Code of Ordinances is amended to read as follows:

"§ **75.50 DEFINITIONS.**
For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ALL-TERRAIN VEHICLE.
(1) Any motorized off-highway vehicle which:
(a) Is 50 inches or less in width;
(b) Has a dry weight of 900 pounds or less;
(c) Travels on four 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.

(2) **ALL-TERRAIN VEHICLES** which have been modified to include additional equipment not required by §§ 72.52 and 75.53 of this subchapter shall not be registered under the Motor Vehicle Registration Act, Neb. RS§ 60-301.

UTILITY-TYPE VEHICLE.
(1) Any motorized off-highway vehicle which:
(a) Is not less than 48 inches nor more than 74 inches in width;
(b) Is not more than 135 inches, including the bumper, in length;
(c) Has a dry weight of not less than 900 pounds nor more than 2,000 pounds;
(d) Travels on four or more low pressure tires;
(e) Is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side; and

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

(2) ***UTILITY-TYPE VEHICLES*** which have been modified to include additional equipment not required by §§ 72.52 and 75.53 of this subchapter shall not be required to be registered under the Motor Vehicle Registration Act, Neb. RS § 60-301.

(Priority Code, § 5-508)(Ord. 1-04, passed 4-12-2004)
Statutory reference:
Related provisions, see Neb. RS 60-6,355"

SECTION 2. Section 75.51 of the City of Auburn, Nebraska, Code of Ordinances is amended to read as follows:

"§ 75.51 OPERATION.

(A) An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of the controlled-access highway with more than two marked traffic lanes shall not be permitted. Divisions (B), (D), and (E) below authorize and apply to operation of all-terrain motor vehicles or utility-type vehicles only on streets or highways other than a controlled-access highway with more than two marked traffic lanes. An all-terrain or utility-type vehicle may be operated in accordance with the operating requirements of division (B) below within the corporate limits of the City.

(B) An all-terrain vehicle or a utility-type vehicle may be operated in accordance with the operating requirements of division (A) above when the operation occurs only between the hours of sunrise and sunset. Any person operating an all-terrain vehicle or a utility-type vehicle as authorized in division (A) above shall be at least 19 years of age and have a valid Class O operator's license or a farm permit as provided in Neb. RS 60-4,126 and shall have 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 and shall fully hold harmless the City from any liability arising out of the use and operation of the all-terrain vehicle or a quality-type vehicle; and shall not operate the vehicle at a speed in excess of 30 miles per hour. The person operating the all-terrain vehicle or a quality-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five (5) days of the request. When operating an all-terrain vehicle or utility-type vehicle as authorized in division (A) above, 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 the vehicle. The bicycle safety flag shall be triangular shape with an area of not less than 30 square inches and shall be day-glow in color.
Any person who is under 19 years of age and is a passenger on an all-terrain vehicle in the City of Auburn must wear a Department of Transportation approved protective helmet or a protective helmet, as provided in Neb. Rev. Stat. Sections 60-6,279 and 60-6,280 or as amended, at any time the all-terrain vehicle is moving. Said helmet shall be secured properly on his or her head with a chin strap while the vehicle is in motion.

(Priority Code, § 5-509)(Ord. 11-94, passed 12-19-1994) Penalty, see §75.99

Statutory reference:

Related provisions, see Neb. RS 60-6,356"

SECTION 3. Section 75.52 of the City of Auburn, Nebraska, Code of Ordinances is amended to read as follows:

"§ 75.52 LIGHT REQUIREMENT.

(A) Every all-terrain vehicle and utility-type vehicle shall display a lighted headlight and taillight at all times that the vehicle is in use upon a city roadway, street or upon city property.

(B) For the safety of the residence of the city, every all-terrain vehicle and utility-type vehicle in use within the corporate limits of the city shall display a lighted headlight and taillight during the period of time from one half hour before sunset to one half hour before sunrise and at any time when visibility is reduced due to insufficient sight or on favorable atmospheric conditions whether the all-terrain vehicle or utility-type vehicle is upon city property or private property.

(Prior Code, § 5-510)(Ord. 1-04, passed 4-12-2004) Penalty, see § 75.99"

SECTION 4. Section 75.53 of the City of Auburn, Nebraska, Code of Ordinances is amended to read as follows:

"§ 75.53 EQUIPMENT REQUIREMENT.

Every all-terrain vehicle and utility-type vehicle shall be equipped with:

(A) A brake system maintained in good operating condition;

(B) An adequate muffler system in good operating condition;

(C) A United States Forest Service qualified spark arrester; and,

(D) A speedometer in good working condition.

Statutory reference:

Related state law provisions, see Neb. RS 60-6,358"

SECTION 5. Section 75.99 of the City of Auburn, Nebraska, Code of Ordinances is amended to read as follows:

"§ 75.99 PENTALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) Any violation of §§ 75.50 through 75.56 which is also a violation under Neb. RS STAT. Chapter 39 and 60 may be punished under the penalty provisions of that chapter.

(Prior Code, § 5-516)"

SECTION 6. That original City Code Sections 75.50, 75.51, 75.52, 75.53 and 75.99 of the City of Auburn, Nemaha County, Nebraska, and any other Ordinances, Resolutions, or parts thereof passed and approved prior to the passage, approval and publication or posting of this Ordinance that are in conflict herewith, are hereby repealed.

SECTION 7. That these Ordinances shall be in full force and effect from and after passage, approval and publication according to law.

Passed and Approved this 14th day of April, 2014.

J. Scott Kudrna, Mayor of
the City of Auburn, Nebraska

ATTEST:

Sherry Heskett, Municipal Clerk
of the City of Auburn, Nebraska

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