

ORDINANCE NUMBER 23-35

An ordinance to add Article XIX and Sections 16-660 through 16-671, inclusive to Chapter 16 of the Beatrice City Code regarding ATVs and UTVs; to repeal Ordinance Number 23-6, passed and adopted on April 3, 2023, and any and all other conflicting ordinances or parts of ordinances; and to provide for publication in electronic form and for an effective date of this ordinance.

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

SECTION 1. That Article XIX, Chapter 16, Section 16-660 of the Beatrice City Code be and is hereby added to read as follows:

“ARTICLE XIX. – ATVs AND UTVs

Sec. 16-660. Definitions.

All-terrain vehicle (“ATV”) or four-wheeler – means any motorized off-highway vehicle which:

- (1) is fifty (50) inches or less in width,
- (2) has a dry weight of twelve hundred (1,200) pounds or less,
- (3) travels on four (4) or more non-highway tires, and
- (4) is designed for operator use only with no passengers or is specially designed by the original manufacture for the operator and one (1) passenger.

Utility-type vehicle (“UTV”) – means any motorized off-highway device which:

- (1) is seventy-four (74) inches in width or less,
- (2) is not more than one hundred eighty (180) inches, including the bumper, in length,
- (3) has a dry weight of two thousand (2,000) pounds or less,
- (4) travels on four (4) or more nonhighway tires, and
- (5) UTV does not include ATVs, golf car vehicles, or low-speed vehicles as the same are defined by Nebraska law.”

SECTION 2. That Section 16-661 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-661. Operation and equipment; Restrictions.

A UTV may be operated upon city streets and highways within the corporate limits of the City only if the operator and vehicle are in compliance with the following provisions:

- (1) Operation occurs only between the hours of sunrise and sunset.
- (2) A UTV shall not be operated at a speed faster than thirty (30) miles per hour or the posted speed limit, whichever is less.
- (3) All UTVs operating within the corporate limits of the City shall be equipped with working headlights and taillights.
- (4) When in operation, the headlights and taillights of the UTV shall be on.
- (5) All UTVs shall be equipped with a safety flag which extends no less than five (5) feet above the ground when attached to the rear of such vehicle. The flag shall be day-glow in color, triangular in shape, and of a size with an area of not less than thirty (30) square inches.
- (6) Whenever a UTV is moving, all cargo must be securely attached to the UTV in such a manner that the cargo will remain secured without any assistance of the operator.
- (7) Any person operating a UTV as authorized by this Code shall:
 - a. Beginning on January 1, 2024, have a valid registration plate or sticker issued by the City pursuant to Section 16-662 or 16-663.
 - b. Have a valid Class O operator's license;
 - c. Have liability insurance coverage for the UTV while in operation within the corporate limits of the City and provide such insurance proof of coverage upon the demand of any peace officer within five (5) calendar days of requesting such proof;
 - d. Obey all applicable state and local traffic laws, ordinances, and regulations;
 - e. If operating or riding on a UTV, utilize manufacturer installed seat belts or wear a helmet approved for lawful operation of a motorcycle in the State of Nebraska. The total number of persons allowed in a UTV, including the operator and all passengers, shall not exceed the seating capacity as designed by the manufacturer of the UTV; and

- f. Have at least one (1) rearview mirror equipped.
- (8) No person shall:
- a. Equip the exhaust system of a UTV with a cutout, bypass, or similar device;
 - b. Operate a UTV with an exhaust system so modified;
 - c. Operate a UTV with the spark arrester removed or modified, except for use in a closed-course competition event;
 - d. Except for the operator, no person shall be permitted to be pulled, pushed, or otherwise propelled by a UTV, or on any object attached to the UTV; or
 - e. Operate an ATV within the corporate limits of the City.”

SECTION 3. That Section 16-662 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-662. Registration.

(1) Effective January 1, 2024, it shall be unlawful for any person to operate a UTV on the streets or highways of the City of Beatrice without first registering said UTV in accordance with this Article, unless exempted under this Article.

(2) Registrations stickers or plates issued pursuant to this Article must be affixed to the UTV in a conspicuous place.

(3) Registrations issued under this Section shall be unique to the specific owner and vehicle and shall not be transferrable. Any transfer of ownership shall cause the existing registration to expire. A separate application, and registration is required for each individual vehicle.

(4) All registrations issued under this Article shall be effective from January 1 to December 31, and all registrations shall expire on December 31 of the year in which they were issued.

(5) Any person issued a registration under this Article may renew the registration for the following year by filing with the City Clerk a renewal application updating or confirming the information provided in the immediately preceding application, and paying a renewal fee established by resolution adopted by the City Council.

(6) In the event the original registration plate or sticker is lost or destroyed, a replacement may be issued by the City upon the payment of a replacement fee established by resolution adopted by the city council.”

SECTION 4. That Section 16-663 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-663. Dealer Registration.

Effective January 1, 2024, it shall be unlawful for any authorized dealers of UTVs to operate a UTV on the streets or highways of the City of Beatrice without first registering said UTV in accordance with this Article. A dealer shall make only one (1) application to the City Clerk for a dealer registration plate or sticker, in lieu of registering each UTV which the dealer owns, to be used solely for the purposes of testing or demonstrating a UTV.

A dealer registration plate or sticker shall be issued upon the dealer submitting the following:

- (1) The registration application form provided by the City by the City and submitted the same to the City Clerk;
- (2) A nonrefundable dealer registration fee established by resolution adopted by the city council; and
- (3) Such other information as the City Clerk may require and as requested in the said application form.”

SECTION 5. That Section 16-664 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-664. Applications.

- (1) An applicant for individual UTV registration shall be filed with the City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information:
 - a. The applicant's name, address, phone number, and e-mail address;
 - b. The UTV's VIN number;
 - c. The description of the make, model, and color of the UTV to be registered;

- d. A nonrefundable application fee established by resolution adopted by the City Council; and
- e. Such other information as the City Clerk may require and as requested in the said application form.

SECTION 6. That Section 16-665 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-665. Issuance or Denial.

- (1) Upon receipt of a complete application for a UTV registration and payment of all applicable fees pursuant to this article, the City Clerk shall verify that the information provided is accurate and to determine whether the applicant is in compliance with the provisions of all applicable laws and this Code.
- (2) After receipt of the completed application and application fee, the City Clerk shall either approve or deny the UTV registration. Grounds for denial may include, but are not limited to, the following:
 - a. A finding that the application is incomplete;
 - b. The nonpayment of applicable fees;
 - c. A finding that the application is not in conformance with all applicable laws or all provisions of this Code; and
 - d. A finding that the statements within the application are materially untrue or incorrect.
- (3) The City Clerk shall keep a permanent record of all UTV registrations issued.”

SECTION 7. That Section 16-666 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-666. Appeal Hearing.

- (a) Denials of Registration. Applicants or registrants whose registrations under this article have been denied may request an appeal of such decision within twenty (20) calendar days of receipt of the notice. Such request for appeal shall be in writing to the City Clerk or his/her designee accompanied by the non-refundable appeal fee. The appeal fee shall be set by resolution adopted by the city council. Such appeal shall be heard by the City

Administrator. The City Administrator shall set such hearing within twenty (20) business days from the date of receipt the written request.

- (c) A written notice of the decision by the City Administrator or his/her designee following the hearing shall be sent to the property owner by regular U.S. mail or shall be provided at the conclusion of the meeting."

SECTION 8. That Section 16-667 of the Beatrice City Code be and hereby is added to read as follows:

"Sec. 16-667. Penalties.

- (1) It shall be unlawful for any person to operate a UTV upon any street or highway in violation of this Article, or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
 - a. Any person convicted of a violation described in Subsection (1) of this Section shall be guilty of a misdemeanor, and the person shall be fined in an amount not to exceed five hundred dollars (\$500.00)."

SECTION 9. That Section 16-668 of the Beatrice City Code be and is hereby added to read as follows:

"Sec. 16-668. Prohibited locations.

Unless engaged by the city for municipal government purposes, it shall be unlawful to operate a UTV in the following locations:

- (a) anywhere on Highway 77;
- (b) on Highway 136, except such operation shall be allowed only on Highway 136 between Center Street and 2nd Street;
- (c) anywhere on City-owned trails;
- (d) anywhere on sidewalks, except as permitted in Section 16-664 of this Article; or
- (e) in City-owned parks, except that such operation shall be allowed only in City-owned parks on the hard surfaced roads specifically designed for vehicular travel."

SECTION 10. That Section 16-669 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-669. Crossing highways.

For the purpose of this article, the crossing of a highway shall be permitted only if:

- (1) The crossing is made at an angle of approximately ninety (90) degrees perpendicular to the direction of travel being made on such highway and at a place where no obstruction prevents a timely and safe crossing;
- (2) The vehicle is brought to a complete stop before crossing shoulder or roadway of said highway;
- (3) The operator yields the right-of-way to all traffic which constitutes an immediate or potential hazard;
- (4) In crossing a divided highway, the crossing shall only be made at an intersection of another highway or roadway; and,
- (5) Both headlights and taillights must be on when crossing is made.”

SECTION 11. That Section 16-670 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-670. Exemptions.

ATVs and UTVs may be operated without complying with section 16-661(1), 16-661(8)(e), 16-662, or 16-668(a), (b), and (d) only:

- (1) during parades which have been authorized by the state or any department, board, commission, or political subdivision of the state, or
- (2) on sidewalks, if the operator is removing snow from the sidewalk within twenty-four (24) hours from and after the conclusion of the snowstorm which deposited snow upon the sidewalks to be cleaned.
- (3) Employees of the City, Gage County, and the State of Nebraska, while operating UTVs as part of their employment with the City, Gage County, or the State, and vendors, contractors, and subcontractors of the City, while operating UTVs during the course of their work for the City, shall be exempt from registering said UTVs.”

SECTION 12. That Section 16-671 of the Beatrice City Code be and hereby is added to read as follows:

"Sec. 16-671. Severability.

If any provision, clause, sentence, paragraph or other portion of this article or the application thereof to any person or circumstances shall be held to be invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable."

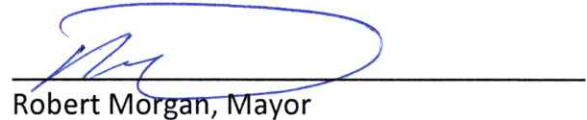
SECTION 12. That Ordinance Number 23-6, and any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 13. That this ordinance shall be in full force and effect as of November 20, 2023.

PASSED AND APPROVED this 20th day of November, 2023.

Attest:


Erin Saathoff, CMC, City Clerk


Robert Morgan, Mayor





MEMORANDUM

TO: Mayor & City Council

DATE SUBMITTED: November 16, 2023

FROM: Taylor Rivera
City Attorney

FOR AGENDA OF: November 20, 2023

SUBJECT: Amendment – UTV Ordinance

EXHIBIT(S): Redline Ordinance

The proposed amendment will repeal Ordinance No. 23-6 (the “UTV Ordinance”) in order to restate and correct the numbering of the code sections, and to add an exemption to the registration requirement for both employees of the City, Gage County, and State while operating UTVs as part of their employment with the City, Gage County, or State, and vendors, contractors, and subcontractors of the City while operating UTVs during the course of their work for the City.

** Redline **

ORDINANCE NUMBER 23-__

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- (1) is seventy-four (74) inches in width or less,
- (2) is not more than one hundred eighty (180) inches, including the bumper, in length,
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SECTION 2. That Section 16-661 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-661. Operation and equipment; Restrictions.

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- (3) All UTVs operating within the corporate limits of the City shall be equipped with working headlights and taillights.
- (4) When in operation, the headlights and taillights of the UTV shall be on.
- (5) All UTVs shall be equipped with a safety flag which extends no less than five (5) feet above the ground when attached to the rear of such vehicle. The flag shall be day-glow in color, triangular in shape, and of a size with an area of not less than thirty (30) square inches.
- (6) Whenever a UTV is moving, all cargo must be securely attached to the UTV in such a manner that the cargo will remain secured without any assistance of the operator.
- (7) Any person operating a UTV as authorized by this Code shall:
 - a. Beginning on January 1, 2024, have a valid registration plate or sticker issued by the City pursuant to Section 16-662 or 16-663.
 - b. Have a valid Class O operator's license;
 - c. Have liability insurance coverage for the UTV while in operation within the corporate limits of the City and provide such insurance proof of coverage upon the demand of any peace officer within five (5) calendar days of requesting such proof;
 - d. Obey all applicable state and local traffic laws, ordinances, and regulations;
 - e. If operating or riding on a UTV, utilize manufacturer installed seat belts or wear a helmet approved for lawful operation of a motorcycle in the State of Nebraska. The total number of persons allowed in a UTV, including the operator and all passengers, shall not exceed the seating capacity as designed by the manufacturer of the UTV; and

- f. Have at least one (1) rearview mirror equipped.
- (8) No person shall:
 - a. Equip the exhaust system of a UTV with a cutout, bypass, or similar device;
 - b. Operate a UTV with an exhaust system so modified;
 - c. Operate a UTV with the spark arrester removed or modified, except for use in a closed-course competition event;
 - d. Except for the operator, no person shall be permitted to be pulled, pushed, or otherwise propelled by a UTV, or on any object attached to the UTV; or
 - e. Operate an ATV within the corporate limits of the City.”

SECTION 3. That Section 16-662 of the Beatrice City Code be and is hereby added to read as follows:

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(4) All registrations issued under this Article shall be effective from January 1 to December 31, and all registrations shall expire on December 31 of the year in which they were issued.

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(6) In the event the original registration plate or sticker is lost or destroyed, a replacement may be issued by the City upon the payment of a replacement fee established by resolution adopted by the city council.”

SECTION 4. That Section 16-663 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-663. Dealer Registration.

Effective January 1, 2024, it shall be unlawful for any authorized dealers of UTVs to operate a UTV on the streets or highways of the City of Beatrice without first registering said UTV in accordance with this Article. A dealer shall make only one (1) application to the City Clerk for a dealer registration plate or sticker, in lieu of registering each UTV which the dealer owns, to be used solely for the purposes of testing or demonstrating a UTV.

A dealer registration plate or sticker shall be issued upon the dealer submitting the following:

- (1) The registration application form provided by the City by the City and submitted the same to the City Clerk;
- (2) A nonrefundable dealer registration fee established by resolution adopted by the city council; and
- (3) Such other information as the City Clerk may require and as requested in the said application form.”

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“Sec. 16-664. Applications.

- (1) An applicant for individual UTV registration shall be filed with the City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information:
 - a. The applicant's name, address, phone number, and e-mail address;
 - b. The UTV's VIN number;
 - c. The description of the make, model, and color of the UTV to be registered;

- d. A nonrefundable application fee established by resolution adopted by the City Council; and
- e. Such other information as the City Clerk may require and as requested in the said application form.

SECTION 6. That Section 16-665 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-665. Issuance or Denial.

- (1) Upon receipt of a complete application for a UTV registration and payment of all applicable fees pursuant to this article, the City Clerk shall verify that the information provided is accurate and to determine whether the applicant is in compliance with the provisions of all applicable laws and this Code.
- (2) After receipt of the completed application and application fee, the City Clerk shall either approve or deny the UTV registration. Grounds for denial may include, but are not limited to, the following:
 - a. A finding that the application is incomplete;
 - b. The nonpayment of applicable fees;
 - c. A finding that the application is not in conformance with all applicable laws or all provisions of this Code; and
 - d. A finding that the statements within the application are materially untrue or incorrect.
- (3) The City Clerk shall keep a permanent record of all UTV registrations issued.”

SECTION 7. That Section 16-666 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-666. Appeal Hearing.

- (a) **Denials of Registration.** Applicants or registrants whose registrations under this article have been denied may request an appeal of such decision within twenty (20) calendar days of receipt of the notice. Such request for appeal shall be in writing to the City Clerk or his/her designee accompanied by the non-refundable appeal fee. The appeal fee shall be set by resolution adopted by the city council. Such appeal shall be heard by the City

Administrator. The City Administrator shall set such hearing within twenty (20) business days from the date of receipt the written request.

- (c) A written notice of the decision by the City Administrator or his/her designee following the hearing shall be sent to the property owner by regular U.S. mail or shall be provided at the conclusion of the meeting.”

SECTION 8. That Section 16-667 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-667. Penalties.

- (1) It shall be unlawful for any person to operate a UTV upon any street or highway in violation of this Article, or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
 - a. Any person convicted of a violation described in Subsection (1) of this Section shall be guilty of a misdemeanor, and the person shall be fined in an amount not to exceed five hundred dollars (\$500.00).”

SECTION 9. That Section 16-668 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-668. Prohibited locations.

Unless engaged by the city for municipal government purposes, it shall be unlawful to operate a UTV in the following locations:

- (a) anywhere on Highway 77;
- (b) on Highway 136, except such operation shall be allowed only on Highway 136 between Center Street and 2nd Street;
- (c) anywhere on City-owned trails;
- (d) anywhere on sidewalks, except as permitted in Section 16-664 of this Article; or
- (e) in City-owned parks, except that such operation shall be allowed only in City-owned parks on the hard surfaced roads specifically designed for vehicular travel.”

SECTION 10. That Section 16-669 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-669. Crossing highways.

For the purpose of this article, the crossing of a highway shall be permitted only if:

- (1) The crossing is made at an angle of approximately ninety (90) degrees perpendicular to the direction of travel being made on such highway and at a place where no obstruction prevents a timely and safe crossing;
- (2) The vehicle is brought to a complete stop before crossing shoulder or roadway of said highway;
- (3) The operator yields the right-of-way to all traffic which constitutes an immediate or potential hazard;
- (4) In crossing a divided highway, the crossing shall only be made at an intersection of another highway or roadway; and,
- (5) Both headlights and taillights must be on when crossing is made.”

SECTION 11. That Section 16-670 of the Beatrice City Code be and is hereby added to read as follows:

“Sec. 16-670. Exemptions.

ATVs and UTVs may be operated without complying with section 16-661(1), 16-661(8)(e), 16-662, or 16-668(a), (b), and (d) only:

- (1) during parades which have been authorized by the state or any department, board, commission, or political subdivision of the state, or

(2) on sidewalks, if the operator is removing snow from the sidewalk within twenty-four (24) hours from and after the conclusion of the snowstorm which deposited snow upon the sidewalks to be cleaned.

~~(2)~~(3) Employees of the City, Gage County, and the State of Nebraska, while operating UTVs as part of their employment with the City, Gage County, or the State, and vendors, contractors, and subcontractors of the City, while operating UTVs during the course of their work for the City, shall be exempt from registering said UTVs.”

SECTION 12. That Section 16-671 of the Beatrice City Code be and hereby is added to read as follows:

“Sec. 16-671. Severability.

If any provision, clause, sentence, paragraph or other portion of this article or the application thereof to any person or circumstances shall be held to be invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.”

SECTION 12. That Ordinance Number 23-6, and any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 13. That this ordinance shall be in full force and effect as of April 22, 2023.

PASSED AND APPROVED this 20th day of November, 2023.

Attest:

Erin Saathoff, CMC, City Clerk

Robert Morgan, Mayor