

## **KOSSUTH COUNTY ORDINANCE NUMBER 114-B**

### **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. Primary Roads means those roads and streets both inside and outside the boundaries of municipalities which are under the jurisdiction of the Iowa Department of Transportation including Iowa State Highways 169, 18, 17, 15, and 9.
4. Roadway as defined by Iowa Code Section 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.
5. Secondary Roads means those roadways under the jurisdiction of the Kossuth County Secondary Roads Department. Secondary roads do not include primary roads.

#### **SECTION 3 - OPERATION ON ROADWAYS.**

A registered all-terrain vehicle or off-road utility vehicle may be operated on all secondary roads during the hours of 5:00 a.m. to 11:30 p.m. in Kossuth County pursuant to the restrictions in this ordinance and those restrictions imposed by the Iowa Code.

#### **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. When using a Level B roadway, the operator shall use extra caution especially when the roadway is wet.
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. Upon any primary road within Kossuth County. However, such vehicle may be driven directly across such primary road at an established crossing. This provision does not apply to a law enforcement officer in the lawful performance of their duties.
  12. Without first yielding to all other traffic.
  13. With more persons on the vehicle than it was designed to carry. No riders shall be in the box of an off-road utility vehicle even if equipped with seats and seat belts.
  14. On any riding area or trail unless the trail is designated by sign as open to all-terrain and off-road utility vehicle operation.
  15. In any ditch within Kossuth County. This does not include farmers who are using their vehicles exclusively as farm implements while engaged in farming. Operation of all other vehicles is confined to the traveled portion of the roadway only.
  16. Unless the operator is at least 18 years of age, has a valid driver's license, the vehicle is duly registered, and the operator has proof of insurance. However, if the operation is

between sunrise and sunset and is incidental to the vehicle's use for agricultural purposes as set forth in Iowa Code section 321.234A subsection 1, paragraph "a," the operator must be at least 16 years of age.

17. Without wearing a properly adjusted and fastened seatbelt if the all-terrain or off-road utility vehicle is so equipped.
18. 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.

#### **SECTION 5 - REQUIREMENTS.**

No person shall operate an all-terrain or off-road utility vehicle on any secondary road, 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 of the operator's age and 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 secondary roads 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 – SEVERABILITY CLAUSE**

If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

**SECTION 9 - REPEALER**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 8 - EFFECTIVE DATE.**

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

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Chairperson, Kossuth County Board of Supervisors

ATTEST:

\_\_\_\_\_  
Kossuth County Auditor

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

Jack Plathe \_\_\_\_, Roger Tjarks \_\_\_\_, Donnie Loss \_\_\_\_, Galen Casey \_\_\_\_, Kyle Stecker \_\_\_\_

STATE OF IOWA            )  
  ) SS:  
COUNTY OF KOSSUTH    )

I, Tammy Eden, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Tammy Eden, Kossuth County Auditor