

ORDINANCE NO. 1935

AN ORDINANCE OF THE CITY OF GERING, NEBRASKA, AMENDING TITLE VII, TRAFFIC CODE, CHAPTER 73: SNOWMOBILES, BICYCLES AND TOY VEHICLES; TO ADD ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES; AND GOLF CARTS, REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. That Chapter 73 title be amended as follows:

CHAPTER 73: SNOWMOBILES, BICYCLES AND TOY VEHICLES, ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES, GOLF CARTS

Section 2. That the following definitions be added to Section 73.01 Definitions:

ALL-TERRAIN VEHICLE. All-Terrain Vehicle means any motorized off-highway vehicle which is (a) fifty inches (50") or less in width, (b) has a dry weight of nine hundred pounds (900 lbs.) or less, (c) travels on four (4) 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 (1) 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.

STREET, SIDEWALK, OR HIGHWAY. Means the entire width between the boundary limits of any street, road, avenue, boulevard, including the sidewalk or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

UTILITY-TYPE VEHICLE. Utility-Type Vehicle means any motorized off-highway vehicle which (a) is not less than forty-eight inches (48"), nor more than seventy-four inches (74") in width, (b) is not more than one hundred thirty-five inches (135"), 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.

GOLF CART. Golf Cart Means a cart operated by non-human powered means, with three or four wheels and is designed for the sole purpose of carrying golf equipment and persons engaged in the game of golf. A golf cart shall have only one seat, bench or otherwise, for carrying passengers.

Section 3. That Sections 73.30 THROUGH 73.99 be added or amended as follows:

§73.30 ALL-TERRAIN VEHICLES OR UTILITY-TYPE VEHICLE; OPERATION OF

(A) An All-Terrain Vehicle or Utility-Type Vehicle may be operated on streets and highways, other than a controlled-access highway with more than two (2) marked traffic lanes, within the corporate limits of the City of Gering, only if the operator and the vehicle comply with the provisions of this ordinance.

(B) It is unlawful to operate a three-wheeled All-Terrain Vehicle or Utility-Type Vehicle within the city limits of the City of Gering.

(C) Any person operating an All-Terrain Vehicle or Utility-Type Vehicle within the City of Gering must do so only during the course of their employment if its use is required in the normal course of their employment.

(D) An All-Terrain Vehicle or Utility-Type Vehicle shall not be operated at a speed in excess of thirty miles per hour (30 mph) and shall observe posted speed limits if lower than thirty miles per hour.

(E) An All-Terrain Vehicle or Utility-Type Vehicle shall not be operated on any controlled-access highway with more than two (2) marked traffic lanes, and the crossing of any controlled-access highway with more than two (2) marked traffic lanes shall not be permitted. The crossing of any one of these streets or avenues shall be permitted by an All-Terrain Vehicle or Utility-Type Vehicle if:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street or avenue and at a place where no obstruction prevents a quick and safe crossing;
- (2) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or avenue;
- (3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
- (4) The crossing is made only at an intersection of such street or avenue with another street or avenue; and
- (5) Both the headlight and taillight of the vehicle are on when the crossing is made.

(F) All-Terrain Vehicles or Utility-Type Vehicles may be operated on streets and highways without complying with paragraphs (B) through (D) of this ordinance while in parades which have been authorized by the State of Nebraska, any department, board, commission or political subdivision of the State of Nebraska.

(G) If an accident results in the death of any person or in the injury of any person which requires a treatment of the person by a physician, the operator of each All-Terrain Vehicle or Utility-Type Vehicle involved in the accident shall give notice in the accident in the same manner as provided by Neb. Rev. Stat. §60-699.

§73.31 ALL-TERRAIN VEHICLE OR UTILITY-TYPE VEHICLE OPERATION; RESTRICTION

No All-Terrain Vehicle or Utility-Type Vehicle is permitted to ride on private property except that property owned by the same individual as the All-Terrain Vehicle or without the written consent of the owner. If the owner is present on property where an All-Terrain Vehicle or Utility-Type Vehicle is being used, they are permitted to give verbal consent.

§73.32 LIGHTS, SAFETY FLAG AND BRAKES

(A) When operating an All-Terrain Vehicle or Utility-Type Vehicle, the headlight of the vehicle shall be on. Whenever an All-Terrain Vehicle or Utility-Type Vehicle is operated within the city, there shall be no trailer attached to the All-Terrain Vehicle or Utility-Type Vehicle, and all cargo must be securely attached to the vehicle in such a manner that the cargo remains secured without any assistance of the operator.

(B) Every All-Terrain Vehicle or Utility-Type Vehicle shall be equipped with a bicycle safety flag which extends not less than six feet (6') aboveground attached to the rear of the vehicle. The safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color. Every All-Terrain Vehicle or Utility-Type Vehicle shall also be equipped with (a) a brake system maintained in good operating condition; (b) an adequate muffler system in good working condition; and (c) a United States Forest Service Qualified Spark Arrester.

§73.33 EXHAUST SYSTEM

No person shall:

(A) Equip the exhaust system of an All-Terrain Vehicle or Utility-Type Vehicle with a cutout, bypass or similar device;

(B) Operate an All-Terrain Vehicle or Utility-Type Vehicle with an exhaust system so modified; or

(C) Operate an All-Terrain Vehicle or Utility-Type Vehicle with the spark arrester removed or modified, except for use in a closed-course competition event.

§73.34 LICENSE, PASSENGERS AND HELMETS; RESTRICTIONS

Any person operating an All-Terrain Vehicle or Utility-Type Vehicle shall have obtained a valid Class O Operator's License issued in accordance with the Motor Vehicle Operations License Act 60-479, Et Seq. and license regulations promulgated by Nebraska Department of Motor Vehicles. No passengers shall be allowed on any All-Terrain Vehicles or Utility-Type Vehicle while operated in the city under this section unless designed by the original manufacturer for more than one passenger. The operator of any All-Terrain Vehicle or Utility-Type Vehicle must wear a helmet in compliance with Neb. Rev. Stat. §60-6,278 through §60-6,282.

§73.35 INSURANCE COVERAGE; REQUIRED

Any person operating an All-Terrain Vehicle or Utility-Type Vehicle shall have liability insurance coverage for the All-Terrain Vehicle while operating the All-Terrain Vehicle or Utility-Type Vehicle within the City of Gering. The person operating the All-Terrain Vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five (5) days of such request. It shall be unlawful for any person to operate any All-Terrain Vehicle or Utility-Type Vehicle within the City of Gering until the owner has demonstrated proof of insurance to the Gering Police Department and obtained an insurance decal for the current year. The Gering Police Department will issue a decal for the current year that must be affixed to the All-Terrain Vehicle or Utility-Type Vehicle in a conspicuous place. The City of Gering will charge a fee of twenty-five dollars (\$25.00) for the issuance of the permit.

73.36 GOLF CARTS; DEFINITION, RESTRICTIONS AND APPROVED USE ON CITY STREETS

No person is authorized to operate a golf cart on any street, highway or alley owned and maintained by the City of Gering. Operators are allowed to cross City streets at designated golf cart crossings only. Current golf cart crossings are at the following locations:

1. Shadow Ridge Drive: approximately 132 feet west of Five Rocks Road.
2. Shadow Ridge Drive: approximately 268 feet west of Five Rocks Road.

Both of these measurements were taken along the curved, curb line along the south side of Shadow Ridge Drive. Both golf cart crossings are approximately 6 feet wide and are designated with approved signage.

3. Intersection of Country Club Road and Grandview Road. This is a T-shaped intersection with traffic on Grandview Road having a stop sign on the southeast corner. Country Club Road is a through street. The golf cart crossing starts at the southeast curb of the intersection and extends generally north, to the north curb line of Country Club Road.

Violations of this ordinance are a Class II violation, see penalty section.

§ 73.99 PENALTY

(A) Any person violating any of the provisions of this chapter pertaining to bicycles, scooters, snowmobiles, skateboards or skates, shall upon conviction be subject to any one or more of the following: a fine in an amount not to exceed \$100, and/or an order to surrender his or her bicycle, scooter, snowmobile, skateboard or skates to the Police Chief for impounding for a period not to exceed six months. Provided, in the case of an apparent violation of any provision of the chapter by a person under 14 years of age who has neither been convicted nor received a warning of a violation of any provision of this chapter during the preceding 12 months, a written warning may be issued and a copy shall be mailed to the parents or guardians of the apparent violator at their last know address.

(B) Any person who violates any provision of this chapter pertaining to All-Terrain Vehicles or Utility-Type Vehicles shall be punished as provided in §10.99 of the Gering Municipal Code, unless otherwise provided for in this ordinance. In addition to any penalties for violation hereof, the Gering Police Department may impound any All-Terrain Vehicle or Utility-Type Vehicle when operated in violation of Nebraska law or city ordinance, in the same situation as any violation in connection with a motor vehicle.

Section 5. Any ordinance or part of any ordinance in conflict with this ordinance is hereby repealed to the extent of such conflict and should any part or section of this ordinance be declared void and unenforceable, such declaration shall not render any other part void and unenforceable.

Section 6. This Ordinance shall take effect and be in full force on January 1, 2011, after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 8th DAY OF NOVEMBER, 2010.

Edwin F. Mayo
Edwin Mayo, Mayor

ATTEST:

Kerri Schhase-Berge
Kerri Schhase-Berge, City Clerk

