

**ORDINANCE NO. 2021-11**

AN ORDINANCE OF THE VILLAGE OF EAGLE, CASS COUNTY, NEBRASKA, TO APPROVE PERMITTING THE USE OF ALL-TERRAIN, UTILITY-TYPE, AND GOLF CAR VEHICLES WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF EAGLE UNDER TERMS SPECIFICIED HEREIN; TO PROVIDE FOR PENALTIES, REVOCATION AND IMPOUNDMENT; TO PROVIDE FOR THE EFFECTIVE DATE HEREOF; TO PROVIDE THAT THE CLERK AND THE APPROPRIATE DEPARTMENT, WHETHER ONE OR MORE, OF THE VILLAGE OF EAGLE, NEBRASKA, ARE AUTHORIZED AND DIRECTED TO IMPLEMENT THIS ORDINANCE; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, OR PROVISION OR PORTION OF THIS ORDINANCE FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED WITHIN THE FIRST FIFTEEN (15) DAYS AFTER ITS PASSAGE AND APPROVAL IN PAMPHLET FORM, AND SHALL BE IN FULL FORCE AND TAKE EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW, AND AS PROVIDED HEREIN; AND THAT IT IS THE INTENTION OF THE GOVERNING BODY AND IT IS HEREBY ORDAINED, THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE MUNICIPAL CODE OF THE VILLAGE OF EAGLE, NEBRASKA.

WHEREAS, a number of citizens of the Village of Eagle, Nebraska, have requested the Municipality to adopt regulations allowing the use of All-Terrain Vehicles (ATV), Utility-Type Vehicles (UTV) and Golf Car Vehicles within the corporate limits of the Village of Eagle, Nebraska, and,

WHEREAS, Nebraska State Law gives municipalities the authority to adopt ordinances relating to use of ATVs, UTVs, and Golf Car Vehicles within the corporate boundaries of the jurisdiction and,

WHEREAS, the governing body of the Village of Eagle, Nebraska, is willing to permit the use of ATVs and UTVs and Golf Car Vehicles within the corporate limits of the Village of Eagle, subject to certain conditions as contained herein, and,

WHEREAS, the governing body of the Village of Eagle, Nebraska, deem the adoption of this Ordinance to be in the best interests of the citizens of the Village of Eagle, Nebraska,

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF EAGLE, NEBRASKA, AS FOLLOWS:

1. That the findings herein above made should be and are hereby made a part of this Ordinance as fully as if set out at length herein.

2. That the Eagle Municipal Code Chapter 5, Article 5 be amended, by amending and adding the following sections, as follows:

**SECTION 5-504: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; DEFINITIONS**

- A. All-Terrain Vehicle (ATV) is defined pursuant to Neb. Rev. Stat. § 60-103 and means any motorized off-highway device which: (a) is fifty inches (50") or less in width, (b) has a dry weight of twelve hundred (1,200) pounds or less, (c) travels on four (4) or more non-highway tires, and (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. ATVs are declared to be motor vehicles subject to Nebraska Rules of the Road and traffic laws in addition to this Chapter.
- B. Utility-Type Vehicle (UTV) is defined pursuant to Neb. Rev. Stat. § 60-135.01 and means any motorized off-highway device which (a) is seventy-four inches (74") in width or less, (b) is not more than one hundred eighty inches (180"), including the bumper, in length, (c) has a dry weight of two thousand (2,000) pounds or less, and (d) travels on four (4) or more non-highway tires. UTV does not include ATVs, golf car vehicles, or low-speed vehicles as the same are defined by Nebraska law. UTVs are declared to be motor vehicles subject to Nebraska Rules of the Road and traffic laws in addition to this Chapter.
- C. All-terrain vehicles and utility-type vehicles which have been modified or retrofitted with after-market parts to include additional equipment not required by Neb. Rev. Stat. §§ 60-6,357 and 60-6,358 shall not be registered under the Motor Vehicle Registration Act, nor shall such modified or retrofitted vehicles be eligible for registration in any other category of vehicle defined in the act.
- D. Golf Car Vehicle is defined pursuant to Neb. Rev. Stat. §60-116.01 and means a vehicle that has at least four wheels, has a maximum level ground speed of less than twenty miles per hour, has a maximum payload capacity of one thousand two hundred pounds, has a maximum gross vehicle weight of two thousand five hundred pounds, has a maximum passenger capacity of not more than four persons, and is designed and manufactured for operation on a golf course for sporting and recreational purposes.

**SECTION 5-505: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; PROHIBITED OPERATION AND EXCEPTIONS**

- A. ATVs, UTVs and Golf Car Vehicles may not be operated upon any Municipal property, streets, sidewalks, public right-of-ways and highways within the corporate limits of the Municipality EXCEPT as follows:
1. By an employee of the Municipality in their official capacity for the Municipality and while operating a Municipal-owned ATV or UTV;
  2. A contractor or other authorized representative of the Municipal may also use ATV or UTV in furtherance of a Municipal-contracted purpose if expressly allowed to do so by the Municipal Administrator or supervising Department manager;
  3. During parades which have been authorized by the State or the Municipality;
  4. If the operator is removing snow from the ~~road or~~ sidewalk within 24 hours after cessation of a snow storm (ATV and UTV only);
  5. If the operator is addressing storm damage within 24 hours after an emergency event as declared by the governing body (ATV and UTV only); or
  6. Or, as permitted by the rules set forth in this Article, with an ATV, UTV or Golf Car Vehicle that is registered and abides by the rules set forth herein and state law.
- B. ATVs, UTVs and Golf Car Vehicles 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.
- C. For the purpose of this Article, the crossing of a non-controlled access highway shall be permitted according to Neb. Rev. Stat. § 60-6,356 and Neb. Rev. Stat. § 60-6,381 only if:
1. The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the 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 the shoulder or roadway of the highway;
  3. The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;
  4. In crossing a divided highway, the crossing is made only at an intersection of such highway with a street or road; and,
  5. Both the headlights and taillights must be on when the crossing is made (applies to only ATV and UTV).

- D. If permitted, said vehicles shall only be allowed to operate on the streets, alleys, and roads, not on the sidewalks, rights-of-way, or other property of the Municipality (except for the purposes set forth above).
- E. Golf Car Vehicles may only be operated on streets with a posted speed limit of thirty-five miles per hour or less and the Golf Car Vehicle shall not operate in excess of 20 miles per hour and may at no time be operated on a state or federal highway, except to cross at an intersection.

**SECTION 5-506: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; OPERATOR AND EQUIPMENT REQUIREMENTS:**

- A. Any person operating an ATV, UTV, or Golf Car Vehicle as authorized by this code section shall:
  - 1. Have a valid Class O operator's license and be at least 17 years of age;
  - 2. Have proof of liability insurance coverage for the ATV, UTV, or Golf Car Vehicle while in operation upon a street and provide such insurance proof of coverage at the time of registration or upon the demand of any peace officer requesting such proof within five (5) days of such request; such insurance shall be within the limits stated in Neb. Rev. Stat. § 60-509 or Neb. Rev. Stat. § 60-6,381, as amended from time to time;
  - 3. If operating or riding on an ATV or UTV, utilize manufacturer installed seat belts or wear a helmet approved for lawful operation of a motorcycle in the State of Nebraska; and,
  - 4. Only operate such ATV, UTV or Golf Car Vehicle between sunrise and sunset as required by Neb. Rev. Stat §60-6,356 and §60-6,381.
- B. Every ATV and UTV shall be equipped with:
  - 1. A braking system maintained in good operating condition;
  - 2. An adequate muffler system in good working condition and without a cutout, bypass or similar device, or any modifications to the muffler system which increases the volume of the noise of the exhaust system. No portion of the system shall be permitted to contact the ground when weighted by its operator;
  - 3. A United States Forest Service-qualified spark arrester;
  - 4. Headlights and taillights;
  - 5. A reflective sign must be affixed to the rear of the vehicle; and,
  - 6. Equipped with a safety flag (provided by the Municipality) which extends no less than five (5) feet above the ground and is 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.

C. No child under the age of eight (8) years shall be a passenger on an ATV, UTV, or Golf Car Vehicle unless the vehicle is equipped with, and the child is restrained by, a child passenger restraint system of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration.

D. No person shall:

1. Equip the exhaust system of an ATV or UTV with a cutout, bypass, or similar device;
2. Operate an ATV or UTV with an exhaust system so modified; or
3. Operate an ATV or UTV with the spark arrester removed or modified except for use in closed-course competition events.

**SECTION 5-507: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; ACCIDENT REPORT.**

As provided in Neb. Rev. Stat. § 60-6,361, if an accident involving an ATV, UTV or Golf Car Vehicle results in an injury to any person resulting in the examination or treatment of the injured person by a physician, or results in the death of any person, then the operator of each ATV, UTV or Golf Car Vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. § 60-699.

**SECTION 5-508: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; PENALTY; IMPOUNDMENT.**

A. Any person who violates any provision of this Article or violates the provisions defined by Chapter 60 of the Revised Statutes of Nebraska while operating an ATV or UTV or who owns the same, shall be subject to the penalties under Chapter 5 of the Municipal Code and under the provisions of Chapter 60 of the Revised Statutes of Nebraska is hereby authorized and all Municipal-issued registrations for all of the operators and the owners of ATVs and UTVs shall be revoked as follows:

1. For the first offense, the owner and/or operator shall be guilty of a Class III misdemeanor pursuant to Neb. Rev. Stat. § 60-6,362, which carries a possible maximum penalty of \$500 fine and/or three (3) months in jail or both for violations under Neb. Rev. Stat. 60-6,356 to 60-6,361. For a subsequent offense within any period of one year, the owner and/or operator shall be guilty of a Class III misdemeanor pursuant to Neb. Rev. Stat. §60-6,362, (if within the same year as the prior offense, then a Class II misdemeanor, which carries a maximum penalty of a \$1,000 fine and/or six (6) months in jail or both.)
2. For violations of the provisions of this article, not included under the state sections noted above, the owner and/or operator shall be guilty of a misdemeanor and subject to the penalties contained in Chapter 5 of the municipal code

B. Any person who violates any provision of this Article while operating a Golf Car Vehicle, or who owns the same, shall be subject to the penalties under Chapter 5 of the Municipal Code, or if done in violation of the State Law, may be subject to the penalties provided thereunder.

C. The following additional provisions apply to violations under the Municipal Code and/or the State Statutes, and apply to ATV, UTV and Golf Car Vehicle violations within the corporate limits as follows:

1. First Offense Impoundment: The vehicle may be impounded until it is validly registered (if registration is the basis of the violation) or for 10 days (for all other violations) and stored in a privately operated facility or other place designated by or maintained by the Municipality, with all impoundment costs payable by the owner/operator prior to retrieval. The operator shall be prohibited from operating ATVs, UTVs and Golf Car Vehicles within the Municipality for a period of ten (10) days from the date of the offense.
2. Second Offense Impoundment/Revocation: All Municipal-issued registrations shall be revoked for a period of one (1) year from the date of the offense; and the vehicle shall be impounded for fourteen (14) days and stored in a privately operated facility or other place designated by or maintained by the Municipality with all impoundment costs payable by the owner/operator prior to retrieval. The plate/flag shall be removed from the vehicle and returned to the Municipal Clerk. The operator shall be prohibited from operating ATVs, UTVs and Golf Car Vehicles within the Municipality for a period of one (1) year from the date of the offense.
3. Third and subsequent Offense Impoundment/Revocation: In the event of a third or subsequent offense under this Article, the registration for the ATV, UTV or Golf Car Vehicle shall be permanently revoked and the owner shall be prohibited from registering another vehicle permanently. An operator's third offense shall prohibit the operator from operating such vehicles in the Municipality permanently. The vehicle shall be impounded for fourteen (14) days and stored in a privately operated facility or other place designated by or maintained by the Municipality with all impoundment costs payable by the owner/operator prior to retrieval. The plate/flag shall be removed from the vehicle and returned to the Municipal Clerk.

E. Any adult, including the parent or guardian, who is found to have encouraged, caused, or contributed to the act of a minor child operating an ATV, UTV or Golf Car Vehicle in violation of Chapter 60 or of this Code, shall be considered in violation of Contributing to the Delinquency of a Minor pursuant to Neb. Rev. Stat. §28-709 and subject to the penalties set forth under Nebraska Law.

**SECTION 5-509: ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND GOLF CAR VEHICLES; PERMIT AND REGISTRATION.**

- A. All ATVs, UTVs and Golf Car Vehicles shall be registered by filing application with the Municipal Clerk, providing proof of liability insurance coverage as required in Section 5-506, and paying an annual fee of \$75.00 per vehicle. Upon filing and payment, the vehicle shall be inspected by the Municipal Clerk and the Municipal Clerk will issue the permit which shall be evidenced with a license plate and matching whip flag (as provided by the Municipality) affixed to the vehicle. In the event the plate or flag are lost, the Owner shall pay the Municipality for a replacement at the cost of \$50.00.
  - B. The permit period shall be from January 1 to December 31 each year. There shall be no proration of the annual permit fee for any permits issued after January 1. The full shall be required regardless of the time of year paid and will expire on December 31 of the year issued. A new application is required each calendar year.
  - C. A permit plate and a whip flag of not less than thirty (30) square inches must be posted on the vehicle in a conspicuous place at all times. Lost plates and flags are to be replaced at Permittee's cost.
  - D. Operators of the vehicle must comply with the rules set forth in this article, Nebraska Rules of the Road, and traffic laws. Owners shall be subject to impoundment and other penalties if the vehicle is entrusted to an operator who is not the owner.
3. That the effective date of this Ordinance shall be January 1, 2022.
  4. That the Clerk and the appropriate department of the municipality are hereby authorized and directed to implement this Ordinance.
  5. That should any section, paragraph, sentence or word of this Ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the governing body that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.
  6. That all Ordinances or parts of Ordinances passed and approved prior to the passage, approval and publication of this Ordinance and in conflict herewith, are hereby repealed.
  7. That this Ordinance shall be published within the first fifteen days after its passage and approval, in pamphlet form, and shall be in full force and take effective on the aforementioned effective date as provided herein.
  8. That it is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Municipal Code of the

Village of Eagle, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

PASSED AND APPROVED this 5<sup>th</sup> day of October 2021.

VILLAGE OF EAGLE, NEBRASKA

BY:

John Surman  
John Surman, Chair

ATTEST:

Nick Nystrom  
Nick Nystrom, Its Clerk  
(SEAL)

