

ORDINANCE NO. 423

AMENDING THE EARLHAM CODE OF ORDINANCES BY REMOVING CHAPTER 75 ALL-TERRAIN VEHICLES AND SNOWMOBILES, AND REPLACING IT WITH CHAPTER 75 GOLF CARTS, ATVs, UTVs, AND SNOWMOBILES

SECTION 1. Chapter 75 of the Earlham Code of Ordinance is hereby removed and will be replaced by the following:

75.01 PURPOSE.

The purpose of this ordinance is to amend the Earlham Code of Ordinances, Chapter 75, to allow for the operation of all-terrain vehicles, off-road utility vehicles, golf carts, and snowmobiles within the City of Earlham, as authorized by Code of Iowa, Section 321I.10; and to create regulations for same.

75.02 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "All-terrain vehicle" or "ATV" means a motorized vehicle, with not less than four and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1)

2. "Golf Cart" means a motorized cart for carrying golfers and their equipment over a golf course.

3. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the Code of Iowa, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

4. "Off-road utility vehicle" or "UTV" means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, 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. "Off-road utility vehicle" includes the following vehicles:

(Code of Iowa, Sec. 321I.1)

- a. "Off-road utility vehicle – type 1" includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.
- b. "Off-road utility vehicle – type 2" includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.
- c. "Off-road utility vehicle – type 3" includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

5. "Operator" means a person, who operates or is in actual physical control of a golf cart, ATV or UTV.

6. "Street or highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular travel.

7. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

75.03 OPERATION OF GOLF CARTS, ATVS AND UTVS PERMITTED

Golf carts, ATVs and UTVs may be operated upon the streets of the City by a person possessing a valid Iowa operator's license, and at least seventeen (17) years of age, subject to the regulations herein.

Operators shall observe all State and local traffic control regulations and devices.

75.04 PERMIT

No person shall operate a Golf cart, ATV or UTV on any City street, or alley for any purpose unless the operator(s) possesses a City of Earlham permit to operate a golf cart, UTV or ATV on the City streets, issued by the City's Clerks Office.

1. Owners may register a with the City Clerk using forms provided by the City.
2. Owner registration will not be approved until the following has occurred:
 - a. Owner provides proof of liability insurance covering operation on City streets. If the policy changes or renews during the duration of the issued permit dates, the owner is responsible to provide new or renewed policy.
 - b. An inspector designated by the City has inspected the vehicle to verify it meets the requirements of the chapter.
 - c. Operator(s) provide a valid driver's license.
 - d. Owner has paid permit fee of fifty dollars (\$50).
 - e. Owner will not have to pay a permit fee, or be inspected, if the vehicle has been issued an Iowa registration and license plate.
3. The permit sticker shall be displayed visibly and prominently on the left rear fender.
4. Permits will be granted for one year, valid from March 1st through February 28th/29th. Permits may be purchased at any time during the year but will be valid only through February 28th/29th. Annual cost will not be pro-rated if the permit is purchased during year. The fee will not be refunded if the golf cart, ATV or UTV is sold, or the permit is suspended or revoked.
5. Permits may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund for suspended or revoked permits.
 - a. First violation – permit is revoked for the remainder of the permit year.
 - b. Second violation- permit is revoked for the remainder of the permit year as well as the following year.
 - c. Third violation - permanent revocation with no possibility of reinstatement.In cases deemed to be a severe violation the City Council may move to treat as a second or third violation.

75.05 EQUIPMENT. Golf carts, ATVs and UTVs operated upon City streets shall be equipped with a minimum of the following safety features:

1. A bicycle safety flag mounted at a flag height of 5 feet from the surface of the Roadway;
2. Adequate brakes;
3. Properly functioning unaltered factory exhaust muffler as defined in Iowa Code Section 321I.12;
4. Clearly audible horn device;
5. Valid liability insurance covering the golf cart, ATV or UTV in the same limits as required of automobiles by the financial responsibility provisions of Chapter 321A of the Code of Iowa;
6. Working break lights; working head lights, if operating after sunset, or as conditions require.

75.06 UNLAWFUL OPERATION:

No golf cart, ATVs and UTVs shall be operated or parked upon City owned property or sidewalk without the express permission of the City of Earlham, except in designated parking areas.

1. Golf carts, ATVs and UTVs may not be operated upon private property without the express consent of the owner.
2. No golf cart, ATVs and UTVs shall be left unattended on public property while the motor is running or with the keys in the ignition switch.
3. Passengers may not surpass manufactures capacity limits.
4. No Golf cart, UTV, or ATV shall be operated or parked upon City sidewalks or in City parks.
5. No Golf cart, UTV, or ATV shall be operated while under the influence of intoxicating liquor, narcotics or habit-forming drugs.
6. No person shall operate a Golf cart, ATV or UTV in careless, reckless or negligent manner endangering the person or property of another or causing injury or damage to same.
7. The number of occupants in the motorized golf cart, UTV or ATV may not exceed the design occupant load.
8. Operator of the Golf Cart, UTV or ATV must be in the driver's seat.

75.07 OPERATION OF SNOWMOBILES.

The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.
(Code of Iowa, Sec. 321G.9[4a])
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
 - a. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
(Code of Iowa, Sec. 321G.9[4c])

b. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately 90 degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.08 OPERATION OF ALL-TERRAIN VEHICLES.

The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-Way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

75.09 SPEED

Golf carts, ATVs, UTVs and snowmobiles shall be subject to posted speed limits

75.10 CONDITIONS OF OPERATION.

Golf carts, UTVs, ATVs, and snowmobiles shall not be operated when visibility is such that there is insufficient light or lighting to clearly see persons and vehicles at a distance of 500 feet. Golf carts, ATVs and UTVs owned and operated by any governmental entity or school district are exempt from these restrictions when used in the performance of their duties.

75.11 NEGLIGENCE.

The owner and operator of a Golf cart, UTV, ATV, or snowmobile is liable for any injury or damage occasioned by the negligent operation of the same. The owner of a Golf cart, UTV, ATV, or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the Golf cart, UTV, ATV, or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the Golf cart, UTV, ATV, or snowmobile at the time the injury or damage occurred.

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.12 ACCIDENT REPORTS.

Whenever a Golf cart, UTV, ATV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

75.13 PENALTY.

In addition to the suspension or revocation of the permit, a person who violated this chapter is guilty of a simple misdemeanor punishable as a scheduled violation or as otherwise provided under Iowa Code. Any person who is found to have violated this chapter shall be subject to a fine of fifty dollars (\$50) plus surcharge and costs. A court appearance shall not be required if the fine is paid in full prior to the date set for the person's court appearance.

SECTION 2. REPEALER CLAUSE.

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

SECTION 3. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in effect following final passage, approval, and publication of this ordinance as required by law.

Passed and approved by the Council this _____ day of _____ 2020.

Jeff Lillie, Mayor

Attest: _____
Mary Sue Hibbs, Clerk

Passed First Reading: _____

Passed Second Reading: _____

Third Reading: _____

<u>Member</u>	<u>1st Reading</u>	<u>2nd Reading</u>	<u>3rd Reading</u>
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Baskin

Fredericksen

Payne

Petersen

Swalla

I certify that the foregoing Ordinance was published as Ordinance No. 423 on the ____ day of _____, 2010.

Mary Sue Hibbs, City Clerk/Treasurer