

**CITY OF MISSOURI VALLEY
CITY COUNCIL MEETING
RAND COMMUNITY CENTER
TUESDAY, OCTOBER 5, 2021**

Mayor Kelly presided over the meeting and called it to order at 6:00 p.m. with the following Council members present: Ford, Stueve, Struble, Tuttle, and Pfouts via telephone. Also Present: Sally Salter, John Harrison, Jeannie Wortman, Mary Jo Buckley, Robert Fairchild, Paul Messerschmidt, Bruce Kocher, Caleb Wohlers, Dave Scott, Amy Ford, Milinda Coddington, Linda Coddington

The Pledge of Allegiance was recited.

There were no Council comments or additions.

Motion by Struble, seconded by Stueve to approve the agenda for October 5, 2021. Motion carried unanimously.

6:00 P.M. Public Information Meeting for the City of Missouri Valley to file an application with the USDA Rural Development for Financial Assistance for renovations and addition to their fire station. There were no written or oral objections. Motion by Struble, seconded by Stueve to close the hearing. Motion carried unanimously.

Motion by Struble, seconded by Stueve to approve the following items on the consent agenda: a) Minutes from September 21, 2021 City Council Meeting b) Claims list c) Liquor Licenses for Food Land Super Markets. Motion carried unanimously.

Mary Jo Buckley stated that the Children's Little Library has been installed at the Park. They are still working on the Adult Little Library. She thanked the newspaper for paying the registration fees.

Bobby Fairchild would like the City to release information on their facebook page in a timely manner and would like the Police Department to reactivate their facebook page.

Dave Scott stated Willow Park is draining in places that have never drained before and the contractor is doing a great job.

Paul Messerschmidt stated his Mayor signs are being stolen and is upset that the Police Chief is parking across the sidewalk at his residence.

Zimmerer said the West Street contracts have been signed. The contractor is waiting on a shipment of pipe before the work can start. A preconstruction meeting will be scheduled and the completion date is November 15, 2021. The Willow Park Project is moving forward. CenturyLink is expected to complete their work by the end of the week. There are two sections of drainage work that need to be finished and then the asphalt work should start by the end of October. Motion by Struble, seconded by Tuttle to approve Change Order #4 for Midwest Mechanical in the amount of \$47,891.00. Motion carried unanimously. Motion by Ford, seconded by Stueve to approve Pay Application #3 for Midwest Mechanical in the amount of \$93,603.03. Motion carried unanimously.

Olmsted spoke with the IDOT and contracts are in route for the Highway 30 Curb and Gutter Project. He stated there is an urgency to move forward with the USDA Water System

Improvements due to the recent watermain breaks by the interstate. After the design is finished, they will submit the project to the DNR for approval. They are currently working on finding a way to keep the businesses operating while the project is being completed.

Library Director Kocher gave the Library report. There is a Box for Bags drop off at the Library. He presented past and future events that were held at the Library.

Fire Chief Wohlers gave the Fire Department Report. The Department participated in homecoming clean up, were present during the thrashing event, helped at West Fair for an EMS event, and assisted PeopleService with a water main break. Wohlers is working on several grants for the Fire Station. Motion by Ford, seconded by Stueve to approve the candidate for Fire Department, pending physicals. Motion carried unanimously.

Jeannie Wortman, Chamber Director stated they have a display from the State Historical Society. There were 12 employers at the Job Fair. The candidate's forum will be on October 12, 2021 at 6 p.m. at the Rand Center. The next 150th window display will be the Eagles. The Chamber Awards Banquet will be on October 23, 2021. The Halloween Parade will be on October 28, 2021. The 150th Committee presented the City with a map from 1897 of the City and railroad. The Chamber had the map framed and would like it displayed at the Library or Watson Station.

Kelly inquired about RAGBRAI. Wortman will look into the event but believes it will conflict with the Harrison County Fair.

Motion by Struble, seconded by Stueve to allow the 150th Committee to Bury a Time Capsule and Install a Marker at Summit Park. Motion carried unanimously.

Motion by Stueve, seconded by Ford to allow the Harrison County Fair Board to plant trees at the Football Field. Motion carried unanimously.

Discussion was held on creating a parking lot on the south side of Willow Park. Flaherty priced a rock lot and the material costs will be under \$600.00. Council would like to see if a tube needs to be added.

Motion by Stueve, seconded by Struble to sell the 2013 Gas Train Engine at Watson Station on the Discover Live Steam website. Motion carried unanimously.

Motion by Ford, seconded by Struble to change the Health Insurance Renewal dates to January 1st of each year. Motion carried unanimously.

Resolution #21-38 was introduced to Apply for Financial Assistance with the USDA Rural Development to Finance the Renovation and Addition to the Fire Station. Motion by Ford, seconded by Stueve. Motion carried unanimously.

Resolution #21-39 was introduced Declaring Necessity and Providing for Notice of Hearing on Proposed Urban Revitalization Plan. Motion by Tuttle, seconded by Stueve to set the Public Hearing for November 16, 2021 at 6 p.m. Motion carried unanimously.

Ordinance #587 was introduced to Designate that Portion of City Roadways upon which All-Terrain Vehicles may be Operated during a Specific Period, to Specify said Periods and to Establish Regulation Regarding such Operation. Motion by Ford, seconded by Stueve to adopt the 3rd reading. Roll Call: Ayes: Ford, Stueve, Tuttle Nays: Struble, Pfouts. Motion carried on

a 3-2 vote. Motion by Ford, seconded by Tuttle to adopt Ordinance #587. Roll Call: Ayes: Ford, Tuttle, Stueve Nays: Struble, Pfouts. Motion carried on a 3-2 vote.

Ordinance #588 was introduced amending the Zoning Ordinances of the City of Missouri Valley, Iowa, by Amending the Zoning Map, the Zoning Designation of Real Property Legally Described below to the City of Missouri Valley, Iowa, from a Zoning Designation of RD 60 to a Designation of BGC. Motion by Ford, seconded by Struble to waive the 3rd reading. Motion carried unanimously. Motion by Ford, seconded by Stueve to adopt Ordinance #588. Motion carried unanimously.

Ordinance #589 was introduced amending Chapter 75 of the Code of Ordinances for the City of Missouri Valley, Iowa Pertaining to Off-Road Motorcycle and Snowmobiles. Motion by Ford, seconded by Tuttle to waive the 2nd and 3rd readings. Roll call: Ford, Tuttle, Stueve, Struble Nays: Pfouts. Motion carried on a 4-1 vote. Motion by Ford, seconded by Stueve to adopt Ordinance #589. Roll call: Ayes: Ford, Stueve, Struble, Tuttle Nays: Pfouts. Motion carried on a 4-1 vote.

Flaherty stated the water slide painting is completed, the tennis court and basketball courts have been painted, the firewalls have been installed at City Hall and the Water Treatment Plant, and there will be a housing meeting on Monday.

Kelly thanked all of the people and entities involved in fixing the water issues.

Motion by Struble, seconded by Stueve to enter into closed session at 6:51 p.m. per IA Code 21.5(1)(i) to evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation. Motion carried unanimously.

Motion by Stueve, seconded by Tuttle to return to open session at 7:26 p.m. Motion carried unanimously.

Motion by Struble, seconded by Stueve to change the Building Inspectors wage to \$25.00 per hour effective October 6, 2021. Motion carried unanimously.

Motion by Struble, seconded by Ford to adjourn at 7:28 p.m. Motion carried unanimously.

Shawn Kelly, Mayor

Attest: Jodie Flaherty, City Administrator

RESOLUTION 21-38

A Resolution of the City Council of the City Missouri Valley to apply for financial assistance with the United States Department of Agriculture, Rural Development to finance the renovation and addition to their fire station. Be it further resolved that the City Council of the City of

Missouri Valley authorizes the Mayor and the City Administrator to sign all documents relating to the USDA Rural Development grant.

PASSED and APPROVED this 5th day of October, 2021.

Shawn Kelly, Mayor

Attest:

Jodie Flaherty, City Administrator

RESOLUTION 21-39

RESOLUTION DECLARING NECESSITY AND PROVIDING FOR NOTICE OF HEARING ON PROPOSED URBAN REVITALIZATION PLAN

WHEREAS, pursuant to the provisions of Chapter 404, Code of Iowa (the “Act”) the City of Missouri Valley, Iowa (the “City”), may designate an area of the City as an urban revitalization area, if that area meets the criteria of Section 1 of the Act; and

WHEREAS, pursuant to the provisions of the Act, before designating an urban revitalization area, the City must prepare a proposed plan for the designated urban revitalization area, hold certain public hearings thereon, and otherwise comply with the procedures set forth in the Act; and

WHEREAS, it has been proposed that certain real property situated within the City (hereinafter referred to as the “Missouri Valley Urban Revitalization Area”) be designated as a revitalization area pursuant to the Act, such Missouri Valley Urban Revitalization Area being legally described as set forth in the notice appearing as part of this resolution in Section 5 hereof; and

WHEREAS, a proposed plan (the “Proposed Plan”) for the Missouri Valley Urban Revitalization Area is being prepared for presentation to the City Council for consideration in accordance with the provisions of the Act; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Missouri Valley, Iowa, as follows:

Section 1. It is hereby found and determined:

(a) The proposed Missouri Valley Urban Revitalization Area is an area which is appropriate as an economic development area as defined in Section 403.17 of the Code of Iowa.

(b) The Missouri Valley Urban Revitalization Area is an area which is appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing.

(c) The redevelopment, economic development and promotion of housing and residential development in the Missouri Valley Urban Revitalization Area is necessary in the interest of the public welfare of the residents of the City and the Missouri Valley Urban Revitalization Area substantially meets the criteria set forth in Section 404.1 of the Act.

(d) The Proposed Plan which shall be attached hereto as Exhibit A shall be prepared in accordance with the provisions of the Act.

Section 2. This Council will meet at 6:00 o'clock p.m., on November 16, 2021, at the Rand Center, Missouri Valley, at which time and place it will conduct a public hearing on the Proposed Plan and the designation of the Missouri Valley Urban Revitalization Area as an urban revitalization area pursuant to the Act.

Section 3. The City Clerk is hereby directed to give notice of such hearing by publication once, in a newspaper published at least once weekly and having general circulation in the City, not less than four and not more than twenty days before the date on which the hearing will be held. In addition, the City Clerk is hereby directed to send notice of such hearing by ordinary mail to the last known address of the owners of record of real property located within the Missouri Valley Urban Revitalization Area, such notice to be mailed by no later than the thirtieth day prior to the date set for the hearing.

Section 4. As authorized by the Act, this City Council hereby waives the mailing of notice to the "occupants" of city addresses located within the Missouri Valley Urban Revitalization Area, due to the lack of a reasonably current and complete address list and the finding of the Council that published notice will be sufficient to apprise such persons of the hearing.

Section 5. Such notice shall be in the form substantially, as follows:

NOTICE OF PUBLIC HEARING ON THE DESIGNATION OF THE MISSOURI VALLEY URBAN REVITALIZATION AREA AND THE ADOPTION OF A PLAN FOR SUCH REVITALIZATION AREA

NOTICE IS HEREBY GIVEN: That there is now on file for public inspection in the office of the City Clerk of Missouri Valley, Iowa, a Proposed Urban Revitalization Plan (the "Plan") for the development, rehabilitation and redevelopment of the property proposed for inclusion in the Missouri Valley Urban Revitalization Area (the "Area"), such property lying within the City and being described as follows:

All real property situated within the corporate municipal limits of the City of Missouri Valley, Harrison County, State of Iowa as of October 1, 2021.

The City Council will meet at 6:00 o'clock p.m., at the Rand Center, Missouri Valley, Iowa, on November 16, 2021, at which time and place a hearing will be held pursuant to the provisions of Chapter 404, Code of Iowa (the "Act") on the proposal to adopt the Plan and the proposal to establish the above described area as an urban revitalization area. At such public hearing all owners of record of real property, tenants, and all "occupants" of city addresses within the described area, and any other person having an interest in the matter may appear and be heard for or against the adoption of the Plan and/or the establishment of the Area.

Once the Area has been designated pursuant to the Act, property therein on which certain improvements are constructed may become eligible for certain property tax exemptions as set forth in the Plan which is on file for inspection in the office of the City Clerk.

Published by order of the City Council of the City of Missouri Valley, Iowa.

Jodie Flaherty
City Administrator

Section 6. All resolutions or parts of resolutions in conflict herewith are hereby repealed, to the extent of such conflict.

Passed and approved October 5, 2021.

Shawn Kelly, Mayor

Attest:

Jodie Flaherty, City Administrator

ORDINANCE #587

AN ORDINANCE TO DESIGNATE THAT PORTION OF CITY ROADWAYS UPON WHICH ALL-TERRAIN VEHICLES MAY BE OPERATED DURING A SPECIFIC PERIOD, TO SPECIFY SAID PERIODS AND TO ESTABLISH REGULATION REGARDING SUCH OPERATION.

WHEREAS, the City of Missouri Valley (The City) has evaluated the traffic conditions on all roadways and has determined that All-Terrain Vehicles as defined by Iowa Code Section 321I can be operated without unduly interfering with or constituting an undue hazard to conventional motor vehicle traffic, and;

WHEREAS, pursuant to Iowa Code Section 321I.10, the City may permit operation of said vehicles on the roadways designated by the City for use during a specified period, and;

WHEREAS, the operation of said vehicle would be regulated under Iowa Code Chapters 231I, 321.20B, 321A.21, and other applicable provisions of Iowa law;

NOW, THEREFORE, be it resolved by the City of Missouri Valley, Harrison County, Iowa, that the following regulations are hereby adopted regarding operation of All-Terrain Vehicles on roadways within the City:

SECTION 1: CHAPTER 74 CREATED. Chapter 74, titled, "All-Terrain Vehicles" is hereby created and the following Sections are adopted.

1. Purpose: The purpose of this Ordinance is to designate that portion of city roadways upon which All-Terrain Vehicles may be operated during a specified period, to specify said period, and to establish regulation regarding such operation.

2. Definitions:

1. "All-Terrain Vehicle", as defined in Iowa Code Section 321I.1, means a motorized vehicle with no less than three and not more than six nonhighway 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. Two-wheeled, off-road motorcycles shall be considered All-Terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.25 and 321I.26 of the Code of Iowa.
2. "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel.

3. Operation on Roadways: A registered All-Terrain Vehicle may be operated on any designated City of Missouri Valley roadway and such operation is further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

4. Unlawful Operations:

1. A person shall not drive or operate an All-Terrain Vehicle:
 - a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property or another or to cause injury or damage thereto.
 - c. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
 - d. Without a lighted headlight and taillight at such times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred (500) feet ahead.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for persons, property, or the environments. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.
 - g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a nonmeandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of All-Terrain vehicles on ice.
 - h. Upon an operating railroad right-of-way. An All-Terrain Vehicle 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. This paragraph does not apply to a law enforcement officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.

2. A person shall not operate or ride in an All-Terrain Vehicle with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a nonambulatory person may carry an uncased and unloaded forearm while operating or riding in an All-Terrain Vehicle.
3. A person shall not operate an All-Terrain Vehicle:
 - a. With more persons on the vehicle than it was designed to carry.
 - b. Paragraph "a" does not apply to a person who operates an All-Terrain Vehicle as a part of a farm operation as defined in Iowa Code Section 352.2.
4. A person shall not operate an All-Terrain Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to an All-Terrain Vehicle operation.
5. A person shall not operate a vehicle other than an All-Terrain Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to such other use.
6. A person shall not operate an All-Terrain Vehicle unless the operator is 18 years of age or older and has a valid Iowa Driver's License; unless the vehicle is duly registered; and unless the operator has proof of insurance complying with that required of the operator of motor vehicle pursuant to applicable Iowa Statutes, Rules, and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

5. Identification Stickers: Individuals who operate an All-Terrain Vehicle on the roadways of Missouri Valley must obtain an identification sticker from the office of the Missouri Valley Clerk. The following conditions apply:

1. The owner of each All-Terrain Vehicle shall be required to provide proof of ownership including by not limited to bill of sale, registration, and other documentation as may be accepted by the Recorder.
2. Each applicant for an identification sticker must provide proof that the vehicle is properly registered pursuant to Iowa Code Section 321I.3 and DNR regulations.
3. Each applicant for an identification sticker must pay a fee in the amount of \$25.00.
4. Identification Sticker's shall be affixed to the right-rear portion of all All-Terrain Vehicles in such a manner as to be clearly visible.

6. Exempt Vehicles: Registration shall not be required for vehicles exempt under Iowa Code Section 321I.9 (3).

7. Penalties: Violation of this Ordinance shall constitute a SIMPLE MISDEMEANOR punishable by a minimum fine of \$65.00, a maximum fine of \$625.00, plus applicable surcharges and court costs.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. 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. WHEN EFFECTIVE. This ordinance shall become effective October 13, 2021.

PASSED AND APPROVED this 5th day of October, 2021.

Shawn Kelly, Mayor

Attest: Jodie Flaherty, City Administrator

1st reading: 9-07-2021

2nd reading: 9-21-2021

3rd reading: 10-05-2021

Published: 10-13-2021

I certify that the foregoing was published as Ordinance #587 on the 13th day of October, 2021.

Jodie Flaherty, City Administrator

ORDINANCE #588

AN ORDINANCE AMENDING THE ZONING ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, BY AMENDING THE ZONING MAP, THE ZONING DESIGNATION OF REAL PROPERTY LEGALLY DESCRIBED BELOW TO THE CITY OF MISSOURI VALLEY, IOWA, FROM A ZONING DESIGNATION OF RD60 TO A DESIGNATION OF BGC.

SECTION 1: SUBSECTION ADDED. A subsection to Article IV, Section 4.3, titled AMENDMENTS TO OFFICIAL ZONING MAP of the Zoning Ordinances to the City of Missouri Valley, Iowa, is being added as subsection 4.32, to read as follows:

4.32 The following properties are designated on the Official Zoning Map as being BGC-Central Business Zone:

- 108 N. 2nd St., legally described as: The South Half (S½) (also described as the South 30 feet) of Lot Eight (8), Block Eleven (11), Original town of Missouri Valley, Harrison County, Iowa;
- 110 N. 2nd St., legally described as: The North Half (N½) of Lot 8 in Block 11 in the original Town of Missouri Valley, Harrison County, Iowa;
- 112 N. 2nd St., legally described as: The South ½ of Lot 9, Block 11, Missouri Valley, Harrison County, Iowa,

SECTION 2: REPEALER. All ordinances or parts of ordinances 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: WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 5th day of October, 2021, and approved this 5th day of October, 2021.

Shawn Kelly, Mayor

ATTEST:

Jodie Flaherty, City Administrator

1st reading: 9-21-2021
2nd reading: 10-05-2021
3rd reading: Waived
Published: 10-13-2021

I certify the foregoing was published as Ordinance #588 on the 13th day of October, 2021.

Jodie Flaherty, City Administrator

ORDINANCE #589

AN ORDINANCE AMENDING CHAPTER 75 OF THE CODE OF ORDINANCES FOR THE CITY OF MISSOURI VALLEY, IOWA PERTAINING TO OFF-ROAD MOTORCYCLES AND SNOWMOBILES.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF MISSOURI VALLEY, IOWA:

SECTION 1. AMENDING AND SUBSTITUTION, IN ITS ENTIRETY, CHAPTER 75 OF THE CODE OF ORDINANCES OF THE CITY OF MISSOURI VALLEY, IOWA, AND ADOPTING IN ITS PLACE, THE FOLLOWING:

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of off-road motorcycles and snowmobiles within the City.

75.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Off-road motorcycle" or "ORM" 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.
(Code of Iowa, Sec. 321I.1)

2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (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 which has been altered or equipped with runners, skis, belt-type tracks, or treads.
(Code of Iowa, Sec. 321G.1)

75.03 GENERAL REGULATIONS.

No person shall operate an off-road motorcycle within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation. *(Code of Iowa, Ch. 321G & Ch. 321I)*

75.04 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 ninety degrees (90°) 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-tenth of 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.

75.05 OPERATION OF OFF-ROAD MOTORCYCLES.

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

1. Streets. ORMs 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 sport of driving ORMs. (*Code of Iowa, Sec. 321I.10[1 & 3]*)
2. Trails. ORMs shall not be operated on snowmobile trails except where designated.
(*Code of Iowa, Sec. 321I.10[4]*)
3. Railroad Right-of-way. ORMs shall not be operated on an operating railroad right-of-way. An ORM 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. ORMs 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. ORMs 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.”
6. Direct Crossing. An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur: (*Code of Iowa, Sec. 321I.10[5]*)
 - A. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
 - B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
 - C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
 - D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
 - E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city to a street, roadway, or highway designated as an all-terrain vehicle trail by a state agency, county, or city.

(Subsection 6 – Ord. 533 – Oct. 17 Supp.)

75.06 NEGLIGENCE. The owner and operator of an off-road motorcycle or snowmobile are liable for any injury or damage occasioned by the negligent operation of the off-road motorcycle or snowmobile. The owner of an off-road motorcycle or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the off-road motorcycle or snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the off-road motorcycle or snowmobile at the time the injury or damage occurred.

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

75.07 ACCIDENT REPORTS. Whenever an off-road motorcycle or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) 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)*

75.08 DEAD MAN THROTTLE. No snowmobile shall be operated within the City unless equipped with a “dead man throttle” which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. 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. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this 5th day of October, 2021.

Shawn Kelly, Mayor

Attest: Jodie Flaherty, City Administrator

1st Reading: 10-05-2021
2nd Reading: Waived
3rd Reading: Waived
Published: 10-13-2021

I certify that the foregoing was published as Ordinance #589 on the 13th day of October, 2021.

Jodie Flaherty, City Administrator