

## ORDINANCE NO. 25

### REGULATING THE OPERATIONS OF OFF-HIGHWAY VEHICLES IN O'BRIEN COUNTY, IOWA

**SECTION 1: PURPOSE.** This ordinance shall designate the county roadways on which off-highway vehicles may be operated in O'Brien County, Iowa, and the restrictions and conditions related to such authorized operation of off-highway vehicles.

**SECTION 2: DEFINITIONS.** The definitions of the terms used in this ordinance are as follows:

- 1) All-terrain vehicle means a motorized vehicle with not 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.
- 2) Off-highway vehicle ("OHVs") means all-terrain vehicles, off-road motorcycles, and off-road utility vehicles, either collectively or individually.
- 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 Iowa Code, but which contains design features that enable operation over natural terrain.
- 4) Off-road utility vehicle means a motorized vehicle with not less than four and not more than eight nonhighway 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. Said vehicles shall have a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less; a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less; or a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.
- 5) Operate means to ride in or on (other than as a passenger) use, or control the operation of an OHV in any manner, whether or not the OHV is moving.
- 6) Operator means a person who operates or is in actual physical control of an OHV.
- 7) Roadway means that portion of a highway improved, designed, or ordinarily used for vehicular travel; a roadway does not include a ditch.

The aforementioned definitions are intended to mirror the definitions set forth in chapter 321I of the Iowa Code (2015); section 321I.1 thereof is thus hereby incorporated by reference. Accordingly, pursuant to section 331.302(5) of the Iowa Code (2015), if section 321I.1 is hereinafter amended, the aforementioned definitions shall likewise be deemed to have been

automatically amended without the necessity of a formal amendment being approved by the O'Brien County Board of Supervisors.

**SECTION 3: OPERATION ON COUNTY ROADWAYS.** A person may operate an OHV, from sunrise to sunset, on county gravel and paved roadways in O'Brien County (*i.e.*, secondary roads under county jurisdiction) pursuant to the restrictions and conditions in this ordinance and those imposed by the Iowa Code. If the restrictions and conditions imposed by the Iowa Code are inconsistent with those imposed by this ordinance, the Iowa Code shall take precedence over this ordinance. For purposes of this ordinance, the times of sunrise and sunset shall be the times designated by the U.S. Naval Observatory for Primghar, Iowa.

**SECTION 4: UNLAWFUL OPERATION.** This ordinance does not authorize the operation of an OHV on or at any location (such as primary roads, public land or public ice, and private property) other than the county gravel and paved roadways in O'Brien County. A person shall not operate an OHV on county roadways:

- 1) At a rate of speed greater than the lesser of 35 miles per hour, the posted speed limit, or the speed that is reasonable or proper under all existing circumstances;
- 2) In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;
- 3) While under the influence of an alcoholic beverage or other drug or a combination of such substances;
- 4) Upon an operating railroad right-of-way, except to directly cross a railroad right-of-way at an established crossing;
- 5) With more persons on the OHV than the OHV was designed to carry by its original manufacturer; and
- 6) In violation of any posted traffic signs or signals or in violation of the rules of the road as set forth in chapter 321 of the Iowa Code.

**SECTION 5: REGISTRATION REQUIREMENT AND OTHER CONDITIONS.** Before an OHV is operated on any county gravel or paved roadways in O'Brien County, the OHV must be registered each year with the O'Brien County Recorder ("Recorder") and also with the Iowa Department of Natural Resources ("Department") through the office of the Recorder as provided in chapter 321I of the Iowa Code and any other applicable provisions of the Iowa Code. The annual cost of registration with the Recorder shall be \$25.00 and the annual cost of registration with the Department shall be set from time to time by the Department. Each operator shall possess, at the time of operation, the following:

- 1) A current certificate of registration and two current registration decals (*i.e.*, an O'Brien County decal and a Department decal) that have been obtained from the Recorder / Department, with said decals to be affixed to the OHV;
- 2) A valid driver's license;
- 3) Proof of financial responsibility as required by section 321.20B and other applicable provisions of the Iowa Code;
- 4) If the operator is sixteen or seventeen years of age and not exempt per chapter 321I of the Iowa Code from the educational requirements set forth in that chapter, a certificate showing that the operator has passed an all-terrain vehicle education course that has been approved by the Department; and

- 5) If the operator is not a resident of the State of Iowa, a current nonresident user permit and a current nonresident permit user decal that have each been obtained from the Department, with said decal to be affixed to the OHV.

Notwithstanding the foregoing, registration shall not be required for OHVs owned by the United States, the State of Iowa or another state, or by a governmental subdivision of any of the foregoing, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes; OHVs vehicles used for agricultural purposes in accordance with section 321.234A(1)(a) of the Iowa Code; and OHVs used exclusively as farm implements.

**SECTION 6: PENALTIES.** A violation of this ordinance shall constitute a simple misdemeanor punishable by a fine of at least \$65.00 but not to exceed \$625.00; the Iowa District Court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine. If a fine is imposed, an additional penalty in the form of a criminal penalty surcharge equal to 35.00% of the fine shall also be assessed. This ordinance does not preclude a violator of chapter 321I of the Iowa Code from being subjected to the criminal and civil penalties set forth in that chapter.

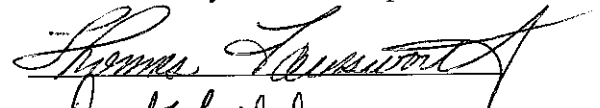
**SECTION 7: SAVING CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.


**SECTION 8: REPEALER.** All sections, sub-sections, sub-paragraphs and other parts of the ordinances of O'Brien County, Iowa, in conflict with these amendments are hereby repealed.

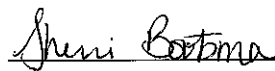
**SECTION 9: EFFECTIVE DATE.** After the final passage, approval, and publication of this ordinance as provided by law, this law shall be in effect as of April 1, 2017.

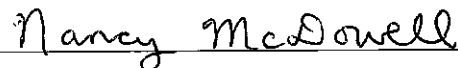
Passed and approved this 21<sup>st</sup> day of February, 2017

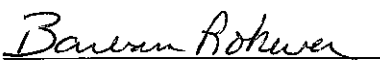
O'Brien County Board of Supervisors









Attest:   
Barbara Rohwer  
O'Brien County Auditor

