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AN ORDINANCE AUTHORIZING OPERATION OF WORK-SITE UTILITY VEHICLES (WSUV), MICRO UTILITY TRUCK (MUT), ALL-TERRAIN VEHICLES (ATV's), AND LOW SPEED VEHICLES / GOLF CARTS (LSV) ON THE STREETS WITHIN THE CORPORATE LIMITS OF THE CITY OF BURLINGTON, KANSAS; PROVIDING FOR RELATED MATTERS INCLUDING PENALTIES FOR VIOLATION THEREOF; AND PROVIDING FOR THE REPEAL PORTIONS OF ARTICLE 14 SECTION 114, REGULATING THE ABOVE NAMED VEHICLES, OF THE STANDARD TRAFFIC ORDINANCES (STOs) FOR THE CITY OF BURLINGTON, KANSAS. THIS ORDINANCE REPEALS AND REPLACES CITY ORDINANCE 786 IN ITS ENTIRETY.

Be it Ordained by the City of Burlington, Kansas:

Section 1. OPERATION OF WORK-SITE UTILITY VEHICLES (WSUV); PENALTY:

- (a) Work-site utility vehicles may be operated upon the public streets, roads, and alleys within the corporate limits of the city.
- (b) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials.
- (c) No Work-site utility vehicle shall be operated on any streets, roads, or alleys between sunset and sunrise unless equipped with head lights and tail lights.
- (d) Every person operating a work-site utility vehicle on the public streets, roads, and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.
- (e) A violation of this section shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Article 20 Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provisions as the city may then have in effect.

Section 2. OPERATION OF MICRO UTILITY TRUCK (MUT); PENALTY:

- (a) Micro utility trucks may be operated upon the streets, roads, and alleys within the corporate limits of the city.
- (b) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 144 inches, has an unloaded weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured, and is manufactured with a metal cab.
- (c) No micro utility truck shall be operated on any streets, roads, or alleys between sunset and sunrise unless equipped with head lights and tail lights.
- (d) Every person operating a micro utility truck on the streets, roads, and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.
- (e) A violation of this section shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provisions as the city may then have in effect.

Section 3. OPERATION OF AN ALL-TERRAIN VEHICLE (ATV); PENALTY:

Off Road Vehicles (All Terrain Vehicles)

- (a) Definition: "All terrain Vehicles", also known as ATV's are defined as any motorized non-highway vehicle 45 inches or less in width, having a dry weight of 650 pounds or less, traveling on three or more low pressure tires and have a seat designed to be straddled by the operator. As used in this section, low pressure tires mean any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the manufacture.

(b) No All Terrain Vehicles (ATV) may be operated within the city limits of the City of Burlington, to include any streets, highway, alley, right or way or public property.

(c) Exceptions to the provision of (b) above are as follows:

(1) A person may operate such a vehicle on real property owned by the person or upon private property with the written permission of the owner of said real property.

(2) A utility company authorized employee may operate an All Terrain Vehicle during the course of his employment with a utility company, subject to limitation of operation between the hours of sunrise and sunset.

(3) During the course of employment or for hire jobs such as snow removal, weed spraying or blading gravel, subject to limitation of operation between the hours of sunrise and sunset unless equipped with head lights and tail lights.

(d) Exemptions for the operation of All Terrain Vehicles may be granted, on a case by case basis, for such reasons as traffic control for parades or other functions in the public interest, by the Chief of Police or Governing Body, said exemptions shall be limited to begin no more than one (1) hour prior to the start of the function and shall expire not more than one (1) hour after the conclusion of the function. Request for exemption shall be made in writing, setting forth the times, dates, locations and numbers of vehicles and persons involved, shall include proof of insurance and shall be signed by the individual who shall assume full responsibility for operation of any All Terrain Vehicles.

(e) No person riding upon an all-terrain vehicle shall attach himself, herself, or the all-terrain vehicle to any other vehicle on a roadway.

(f) Any all-terrain vehicle carrying a passenger shall be equipped with a seat and footrests for such passenger.

(g) **OPERATION OF ALL-TERRAIN VEHICLES; EQUIPMENT
REQUIRED FOR OPERATORS AND RIDERS:**

(1) No person under the age of 18 years shall operate or ride upon an All-Terrain Vehicle unless wearing a helmet, which complies with the minimum guidelines established by the national highway safety administration pursuant to the national traffic and motor vehicle safety act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.

(2) No person shall operate an All-Terrain Vehicle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles, or transparent face shields which are shatter proof and impact resistant, except when the All-Terrain Vehicle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.

(h) **SAME; PENALTIES:**

Every person operating an All Terrain Vehicle on the streets, roads, and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law. A violation of any provision in subsections (b) through (g) shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Article 20 Section 201, Standard Traffic Ordinance, as amended, or such similar provisions as the city may then have in effect.

Section 4. OPERATION OF A LOW SPEED VEHICLE / GOLF CART (LSV); PENALTY:

(a) Low Speed Vehicles / Golf Carts may be operated upon the streets, roads, and alleys of Burlington.

(b) "Low Speed Vehicle / Golf Cart" means any four-wheeled electric vehicle whose top speed is not greater than 25 miles per hour. A Low Speed Vehicle / Golf Cart that is factory designed to be operated by a fuel motor shall be included within this definition provided that the designed top speed shall not exceed 25 (twenty five) miles per hour.

(c) No Low Speed Vehicle / Golf Cart shall be operated on any streets, roads, or alleys between sunset and sunrise unless equipped with head lights and tail lights.

(d) Every person operating a low speed vehicle on the streets, roads, and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(e) A violation of this section shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Article 20

Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provisions as the city may then have in effect.

Section 5. AGE RESTRICTION; SEATBELTS, CHILD SAFETY SEATS.

(a). No person shall operate a work-site utility vehicle, micro utility truck, an all-terrain vehicle, or a low speed vehicle / golf cart on any street, road or alley within the corporate limits of the city unless such person has attained the age of 16 (Sixteen) and holds a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than six months or by both such fine and imprisonment.

(b). All State of Kansas motor vehicle seatbelt and child safety seat / booster seat regulations shall apply to occupants of any Work Site Utility Vehicle, Micro Utility Truck, Low Speed Vehicle or Golf Cart. Any of these vehicles that do not have seatbelts installed may not transport individuals under the age of 18.

(c). A violation of this section shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Article 20 Section 201, Standard Traffic Ordinance, and amendments thereto, or such other similar provisions as the city may then have in effect.

Section 6. OWNER OPERATOR REQUIREMENTS & RESPONSIBILITIES

(a) **Permit and Insurance:** No vehicle listed under this ordinance shall be operated within the corporate limits of the city without first having a permit issued by the City of Burlington for operation of said vehicle. Said permits are to be issued on an annual basis upon paying the permit fee. No permit shall issue except upon proof of liability insurance. The City of Burlington, by issuing a permit for operation of one of the above mentioned vehicles, has verified that the owner has provided proof of insurance and the City assumes no further liability. Permits shall be prominently displayed on the rear of the vehicle, visible when being driven. Proof of valid insurance shall be carried and produced upon demand by a law enforcement officer.

(1) **Dealer Permit:** Whenever owner/operator is also a dealer, the dealer may purchase multiple permits (up to three permits) for one fee of \$25 for demonstrating the vehicles and for people to test drive the vehicles; and

(2) **Dealer Insurance:** The dealership shall maintain proof of insurance at the dealer's place of business to cover the dealer and/or employees driving the vehicles for demonstration and anyone test driving the vehicles. (See Section 9 of this Ordinance.)

(b) **Revocation and Appeal:** Any violation of this ordinance may be cause for revocation of the City of Burlington issued permit. Permits may be revoked for cause, effective immediately, by the Chief of Police with notice provided to the owner / operator /dealer in writing within a reasonable amount of time.

(c) A permit that has been revoked by the Chief of Police may be appealed to the Governing Body of the City of Burlington by filing a written appeal with the City Clerk within 5 (five) business days of the date of the written notice of revocation. The Governing Body may choose to hear or refuse to hear the appeal. If the Governing Body chooses to hear the appeal, they may sustain the revocation, rescind and reissue the permit or reissue a permit with restrictions.

(d) **Application:** The 'Unconventional Vehicle Permit Application' must be completed by Owner/Operator, who must:

(1) Complete an 'Unconventional Vehicle Permit Application' with the City of Burlington for each vehicle.

(2) Attach a copy of Proof of Insurance for the vehicle.

(3) Agree to obey all sections of this Ordinance, of which they will be provided a copy.

(4) Pay \$25 fee for each permit. Permit(s) will be renewable each year on the anniversary of the initial date of issue upon payment of the annual permit fee.

Section 7. ROADWAYS LANED FOR TRAFFIC:

(a) All vehicles listed in this ordinance are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any listed vehicle of the full use of a lane.

(b) The operator of a listed vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a listed vehicle between lanes of traffic or between adjacent lines or rows of vehicles.

- (d) No vehicle listed in this ordinance shall travel upon 75 Highway (4th Street) except to cross safely by the most direct path of travel.
- (e) All-Terrain Vehicles shall not be operated more than two (2) abreast in a single lane.
- (f) Subsections 2 and 3 shall not apply to police officers in the performance of their official duties.

Section 8. LAWN MOWERS:

Lawn mowers may be operated upon the public streets, roads, and alleys within the corporate limits of the city in so far as the lawn mower and operator are engaged in mowing work or travelling to or from mowing work. No lawn mower shall travel upon 75 Highway (4th Street) except to cross safely by the most direct path of travel. There shall be no requirement for permit, insurance, age or drivers license for operation of a lawn mower.

Section 9. DEALERSHIP REQUIREMENTS/RESPONSIBILITIES

(a) Dealer Permit and Insurance Requirements

(1) **Permit:** No dealer/dealership shall operate or allow to be operated inside the corporate city limits of Burlington any vehicle of the dealer/dealership of the types listed under this ordinance without first having a permit, which will be valid for one year, issued by the City of Burlington for operation of said vehicle. Permits shall be prominently displayed on the rear of the vehicle, visible when being driven.

a) Whenever owner/operator is also a dealer, the dealer may purchase multiple permits (up to three permits) for one fee of \$25 for demonstrating the vehicles and for people to test drive the vehicles. The 'Unconventional Vehicle Permit Application' is available at City Hall.

(2) **Insurance:** No dealer/dealership permit shall issue except upon proof of liability insurance. The City of Burlington, by issuing a permit for operation of one of the above mentioned vehicles, has verified that the owner/operator/dealer has provided proof of insurance and the City assumes no further liability.

a) The dealership shall maintain proof of insurance for each type of vehicle at the dealer's place of business to cover the dealer and/or employees driving vehicles for demonstration and anyone test driving the vehicles.

(b) Revocation and Appeal:

(1) Any violation of this ordinance may be cause for revocation of the City of Burlington issued permit. Permits may be revoked for cause, effective immediately, by the Chief of Police with notice provided to the owner / operator /dealer in writing within a reasonable amount of time.

(2) A permit that has been revoked by the Chief of Police may be appealed to the Governing Body of the City of Burlington by filing a written appeal with the City Clerk within 5 (five) business days of the date of the written notice of revocation. The Governing Body may choose to hear or refuse to hear the appeal. If the Governing Body chooses to hear the appeal, they may sustain the revocation, rescind and reissue the permit or reissue a permit with restrictions.

(c) Application: Dealers shall:

- (1) Complete an 'Unconventional Vehicle Permit Application' with the City of Burlington for each type of vehicle listed in this ordinance that will be driven for demonstration or test drive; and
- (2) Attach a copy of Proof of Insurance for each type of vehicle.
- (3) Agree to obey all sections of this Ordinance, of which they will be provided a copy.
- (4) Pay \$25 fee for each multiple permit for each type of vehicle, with the understanding a permit will cover up to three vehicles of the same type. This fee will be due each year on the anniversary of the initial date of issue.

(d) **Sales of Vehicles:** Dealers shall collect Sales Tax at the City of Burlington rate and shall abide by all sales tax laws administered by the State of Kansas.

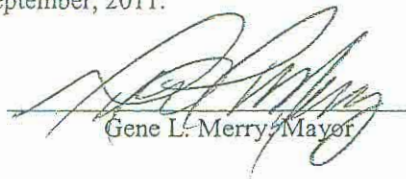
Section 10. PENALTIES:

A violation of any provision in sections of this Ordinance shall be deemed a traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Article 20 Section 201, Standard Traffic Ordinance, as amended, or such similar provisions as the city may then have in effect.

Section 11. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the Coffey County Republican, the official city newspaper.

Passed by the city council and signed by the Mayor on the 7th day of September, 2011.

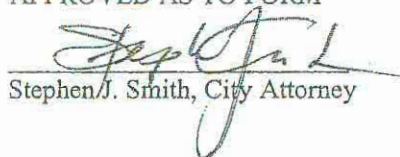
SEAL


Gene L. Merry, Mayor

ATTEST:


Regina R. Kewley, City Clerk

APPROVED AS TO FORM


Stephen J. Smith, City Attorney

