

## **RE: Ordinance Prohibiting the use of ATVs on City Streets**

### **Background:**

In 2018, the City Council adopted bill #2018-087 allowing golf carts to be operated on city streets with a permit issued by the City of Nixa. During that time, there was a lot of discussion on the use of UTVs and ATVs. Council elected to not allow UTVs on City streets and indicated they did not want ATVs used on City Streets as well. There is an ordinance, #20-392, that currently allows the use of an ATV on City Streets with a permit issued by the City of Nixa, no permits have been issued for ATVs based on the discussions in 2018.

### **Analysis:**

During a recent discussion, questions were raised regarding the ordinance allowing the use of ATVs on City streets, causing staff to re-evaluate the ordinance. After discussions with Nick Woodman, it was decided the best course of action, if Council does not want to allow ATVs on City streets, would be to amend chapter 20, article V, Division 6, Section 20-392 of the Nixa City Code to prohibit the operation of all-terrain vehicles on streets within the City. If passed, the amended ordinance would still allow the use of ATVs owned and operated by a governmental entity for official use and would also allow ATVs to operate for agricultural purposes or industrial on-premise purposes between the official sunrise and sunset on the day of operation.

### **Recommendation:**

Due to the safety concerns regarding the use of ATVs on City streets, staff is recommending the approval of the ordinance amending chapter 20, article V, Division 6, Section 20-392 of the Nixa City Code to prohibit the operation of all-terrain vehicles on streets with the City.

### **MEMO PREPARED BY:**

**Jimmy Liles** | City Administrator

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1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER  
2 20, ARTICLE V, DIVISION 6, SECTION 20-392 OF THE NIXA CITY CODE FOR THE  
3 PURPOSE OF PROHIBITING THE OPERATION OF ALL-TERRAIN VEHICLES ON  
4 STREETS WITHIN THE CITY.

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7 WHEREAS City Code currently authorizes the use of all-terrain vehicles on streets  
8 and highways within the City limits; and  
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10 WHEREAS the Council desires to repeal this authorization so as to prohibit the  
11 use of all-terrain vehicles on streets and highways within the City limits.  
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13 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
14 NIXA, AS FOLLOWS, THAT:  
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16 SECTION 1: Chapter 20, Article V, Division 6, Section 20-392 of the Nixa City  
17 Code is hereby amended by repealing said Section in its entirety and adopting in lieu  
18 thereof a new Section 20-392, which said Section shall read as follows:  
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20 (Note: Language to be added is indicated by being underlined. Language to be removed  
21 is indicated by being ~~stricken~~.)  
22

23 Sec. 20-392. All-terrain vehicles.  
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25 (a) No person shall operate an all-terrain vehicle, as defined in section 20-1, upon the  
26 streets and highways of this city, except as follows:  
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28 (1) All-terrain vehicles owned and operated by a governmental entity for official use;  
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30 (2) All-terrain vehicles operated for agricultural purposes or industrial on-premises  
31 purposes between the official sunrise and sunset on the day of operation;  
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33 ~~(3) All-terrain vehicles whose operators carry a special permit issued by the city  
34 pursuant to RSMo 304.013.~~

35  
36 ~~a. No person shall operate an off-road vehicle, as defined in RSMo 304.001,  
37 within any stream or river in this city, except that off road vehicles may be  
38 operated within waterways which flow with the boundaries of land which an off-  
39 road vehicle operator owns or has permission to be upon.~~

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41 ~~b. A person operating an all-terrain vehicle on a street or highway pursuant to an  
42 exception covered in this section shall have a valid license issued by a state  
43 authorizing such person to operate a motor vehicle, but shall not be required to  
44 have passed an examination for the operation of a motorcycle, and the vehicle  
45 shall be operated at speeds of less than 30 miles per hour. When operated on  
46 a street or highway, an all-terrain vehicle shall have a bicycle safety flag, which~~

47 ~~extends not less than seven feet above the ground, attached to the rear of the~~  
48 ~~vehicle. The bicycle safety flag shall be triangular in shape with an area of not~~  
49 ~~less than 30 square inches and shall be dayglow in color.~~

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51 ~~c. No person shall operate an all-terrain vehicle:~~

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53 ~~1. In any careless way so as to endanger the person or property of another.~~

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55 ~~2. While under the influence of alcohol or any controlled substance; or~~

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57 ~~3. Without a securely fastened safety helmet on the head of an individual who~~  
58 ~~operates an all-terrain vehicle or who is being towed or otherwise propelled~~  
59 ~~by an all-terrain vehicle, unless the individual is at least 18 years of age.~~

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61 ~~(b) No operator of an all-terrain vehicle shall carry a passenger, except for agricultural~~  
62 ~~purposes.~~

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64 **SECTION 2:** The City Attorney, when codifying this Ordinance, is authorized to  
65 provide for different section numbers, subsection numbers, and different internal citation  
66 references than those provided herein when such section numbers, subsection numbers,  
67 or internal citation references are in error or are contrary to the intent of this Ordinance.

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69 **SECTION 3:** Savings Clause. Nothing in this Ordinance shall be construed to  
70 affect any suit or proceeding now pending in any court or any rights acquired, or liability  
71 incurred nor any cause or causes of action occurred or existing, under any act or  
72 ordinance repealed or modified hereby.

73  
74 **SECTION 4:** Severability Clause. If any section, subsection, sentence, clause, or  
75 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect  
76 the validity of the remaining portions of this Ordinance. The Council hereby declares that  
77 it would have adopted the Ordinance and each section, subsection, sentence, clause, or  
78 phrase thereof, irrespective of the fact that any one or more sections, subsections,  
79 sentences, clauses, or phrases be declared invalid.

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81 **SECTION 5:** This Ordinance shall be in full force and effect from and after its final  
82 passage by the City Council and after its approval by the Mayor, subject to the provisions  
83 of section 3.11(g) of the City Charter.

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86 **[Remainder of page intentionally left blank. Signatures follow on next page.]**

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93 **ADOPTED BY THE COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

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ATTEST:

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98 \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
CITY CLERK

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101 **APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

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ATTEST:

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\_\_\_\_\_  
CITY CLERK

106 MAYOR

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109 APPROVED AS TO FORM:

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111 \_\_\_\_\_

112 CITY ATTORNEY