

**DATE:** May 13, 2022  
**TO:** David Bauer, Mayor; Tom Ourada, City Administrator  
**FROM:** Kyle Manley, City Attorney  
**RE:** Municipal Comparison of ATVs and UTVs

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### **State Law**

All-terrain vehicles (ATVs) are defined as any motorized off-highway device that:

- (1) Is 50 inches or less in width,
- (2) Has a dry weight of 1,200 lbs. or less,
- (3) Travels on three or more nonhighway tires, and
- (4) Is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.

Utility-type vehicles (UTVs) are defined as any motorized off-highway device that

- (1) Is 74 inches in width or less,
- (2) Is not more than 180 inches, including bumper, in length,
- (3) Has a dry weight of 2,000 lbs. or less, and
- (4) Travels on four or more nonhighway tires.

Highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Neb. Rev. Stat. §§ 60-6,355 to 60-6,362 provide restrictions on the use of all-terrain vehicles and utility-type vehicles and specify the situations in which using such vehicles is permitted.

### **State Law Summary**

The default rule is that all-terrain and utility-type vehicles are prohibited from being used on highways, streets, roads, or any other public rights-of way anywhere in the state.

Cities and villages are authorized to allow the operation of all-terrain and utility-type vehicles within their corporate limits subject to certain conditions:

- (1) The use of all-terrain and utility-type vehicles on controlled-access highways with more than two traffic lanes is always prohibited.
- (2) ATVs cannot cross controlled-access highways. UTVs can cross controlled-access highways, but only if the intersection is controlled by a traffic light and if the City has specifically authorized crossing at the particular intersection.
- (3) The vehicles can only be operated between the hours of sunrise and sunset.
- (4) There must be liability insurance coverage for the vehicle.

- (5) The vehicle cannot go above 30 mph.
- (6) The vehicle must have headlights and taillights that are on while operating it.
- (7) The vehicle must be equipped with a bicycle safety flag that extends at least 5 feet above the ground.
- (8) The vehicle must have an occupant protection system (safety belts).

Cities and villages can be more restrictive than this, but cannot be less restrictive, so all of the conditions above are required and will need to be policed.

For Crete, the restriction on the use of the vehicles on controlled-access highways with more than two traffic lanes could pose a problem. Highway 33 has three traffic lanes between Pine Ave and N Highway 103, so if it is considered a controlled-access highway:

- The City cannot allow ATVs and UTVs to be used on this stretch of Highway 33, including along Hawthorne and 13th where the two overlap.
- Only UTVs could cross this portion of Highway 33 and only at spots where there is a traffic light, which is only a few spots along 13th Street between Hawthorne and Main.

### **Municipal Comparison**

No cities with populations of 20,000 or more allow the use of ATVs or UTVs. Only 4 cities with populations of 8,000 or more allow the use of ATVs and UTVs within their corporate limits: Scottsbluff, South Sioux City, Alliance, and Gering.

- All of these cities have further restrictions placed on the use of ATVs and UTVs, including size and type restrictions and requiring permitting/licensing.
- All of these cities require helmets to be worn.
- South Sioux City further limits the maximum speed to 25 mph.
- Gering only allows ATVs or UTVs to be used as part of a persons employment if the use is required in the normal course of their employment.

Of cities around Crete's size (approx. 6,500 to 8,000 population), Seward, Nebraska City, Crete, Schuyler, Plattsmouth, and Ralston allow ATVs with additional restrictions. Seward, Nebraska City, Schuyler, and Plattsmouth allow UTVs, but Crete and Ralston do not. York, Blair, and McCook do not allow either of them. The additional restrictions vary with each jurisdiction:

- Most further limit the size or type of ATVs or UTVs.
- Almost all require city permits to be issued.
- Some require helmets to be worn.
- Crete, Plattsmouth, and Ralston only allow ATVs to be used as part of agricultural operations.

	Size	ATVs		UTVs		Speed	Flag	Helmet	City Permit
Scottsbluff	14,436	Limited	Size & Type Restrictions	Limited	Size & Type Restrictions	30 mph	6 feet	Y	Y
South Sioux City	14,043	Limited	Size & Type Restrictions	Limited	Size & Type Restrictions	25 mph	5 feet	Y	Y
Beatrice	12,261								
Lexington	10,348								
Gering	8,564	Limited*	Size & Type Restrictions	Limited*	Size & Type Restrictions	30 mph	6 feet	Y	Y
Alliance	8,151	Limited	Type Restriction	Y		30 mph	5 feet	Y	Y
York	8,066								
Blair	7,790								
Seward	7,643	Y		Y		30 mph	5 feet	N	N
McCook	7,446								
Nebraska City	7,222	Limited	Type Restriction	Y		30 mph	5 feet	Y	Y
Crete	7,099	Limited**	Type Restriction	N		30 mph	5 feet	Y	Y
Schuyler	6,547	Limited	Type Restriction	Limited	Size Restriction	30 mph	5 feet	N	Y
Plattsmouth	6,544	Limited**	Size & Type Restrictions	Y		30 mph	5 feet	N	Y
Ralston	6,494	Limited**	Size & Type Restrictions	N		30 mph	5 feet	N	N