

KANE COUNTY ORDINANCE NO. 2005-3
OFF- HIGHWAY VEHICLES

AN ORDINANCE TO DESIGNATE AND REGULATE THE USE OF OFF-HIGHWAY VEHICLES, PURSUANT TO UTAH CODE ANNOTATED, TITLE 41 CHAPTER 22, UTAH CODE ANNOTATED 1953 AS AMENDED.

WHEREAS, Kane County claims the right and ownership of all Class B and Class D roads designated on the County Road System, pursuant to the rights of way granted in accordance with Public Law 2477 and Title 72, Utah Code Annotated, and

WHEREAS, Kane County has designated all Class B and Class D roads as open, unless designated closed to off-highway vehicle (OHV) use, and

WHEREAS, authority to designate such roads, trails and highways is given the County pursuant to Utah Code Annotated, Section 41-22-10.1 and Section 41-22-10.5, and

WHEREAS, the County does hereby intend, pursuant to statute 41-22-10.5 to designate which County Class B and Class D roads are open or closed to public use for the purpose of allowing OHV operation as part of a county wide system of OHV roads.

WHEREAS, Kane County is desirous of cooperating with public land administrative agencies pursuant to their regulations and in accordance with State law to:

1. Develop and maintain trails;
2. Develop and maintain parking areas;
3. Develop and maintain other related facilities appropriate to off-highway vehicle use;
4. To promote the safety, enjoyment, and responsible use of all forms of this recreational activity (Utah Code Annotated, Section 41-22-20).

NOW THEREFORE, it is hereby ordained as follows:

1. DESIGNATION OF ROADS FOR OFF-HIGHWAY VEHICLES, DEFINITIONS:

Currently registered OHVs may be operated on the County Road System as posted by sign or designated by map or description as open to off-highway vehicle use by the County. "OHV" is defined as: all motorcycles, snowmobiles, and all terrain type I vehicles, and all terrain type II vehicles. "All terrain type I vehicle" is defined as: any motor vehicle fifty-two (52) inches or less in width, having an unladed dry weight of eight hundred (800) pounds or less, traveling on three (3) or more low pressure tires having a seat designated to be straddled by the operator, and designed for, or capable of travel over unimproved terrain." All-terrain type II vehicle" means any other motor vehicle not defined in Subsection (2), (9) or (20), designed for or capable of travel over unimproved terrain. This term does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under Utah Code Annotated Section 41-1a-102. The County may (a) provide a map or

description showing or describing land, trails, streets, or highways open to OHV use; or (b) post signs designating lands, trails, streets, or highways open to OHV use. Kane County reserves the right to change, modify, or amend maps, descriptions or signs from time to time. In addition, OHVs operated in compliance with Utah Code Annotated Title 41, Chapter 22 are street legal vehicles when operated on routes designated by Kane County through maps, description or sign posting.

2. COMPLIANCE WITH ALL TRAFFIC LAWS

Any person operating an off-highway vehicle is subject to all of the provisions of Title 41 Chapter 6 Utah Code Annotated, as amended, (Traffic Code) which includes but is not limited to:

- a. No person under eight (8) years of age will be allowed to operate an OHV on the Kane County Road system, except as provided in Utah Code Annotated Section 41-22-29.
- b. OHV Operators between the age of eight (8) years of age through fifteen (15) years of age must possess an OHV education certificate issued by the Utah Division of Parks and Recreation.
- c. All operators sixteen (16) years and older must possess a valid driver's license or OHV education certificate.
- d. All riders under eighteen (18) years of age must wear a properly fitting, safety regulated helmet.
- e. OHV operators under sixteen (16) years of age shall be under the direct visual supervision of an adult who is at least eighteen (18) years of age while operating an OHV on a county approved off-highway vehicle route.

3. OPERATION OF VEHICLE ON HIGHWAYS

No person may operate an off-highway vehicle upon any street or highway not designated as open to off-highway vehicle use, except:

- a. When crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic and crosses at a right angle.
- b. When loading or unloading any off-highway vehicle from a vehicle which shall be done with due regard for safety and at the nearest practical point of operation.
- c. When an emergency exists during any period of time and at those locations when operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority.

4. REGISTRATION

All vehicles operated on the OHV road system must be either safety inspected and licensed by the Utah Division of Motor Vehicles, or registered as an OHV by the Utah Division of Motor Vehicles. Except as provided in Utah Code Annotated 41-22-35 Subsection (1) (b), any nonresident off-highway vehicle owner shall comply with Utah Code Annotated 41-22-35 and

display a nonresident off-highway vehicle user decal if operating or allowing the operation of the off-highway vehicle on any public land, trail, street, or highway in Kane County.

5. VEHICLE EQUIPMENT REQUIREMENT

An off-highway vehicle shall be equipped with:

- a. Brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions.
- b. Headlights and taillights when operated between sunset and sunrise.
- c. A noise control device and except for snowmobiles, a spark arrestor device.
- d. A safety flag, red or orange in color with a minimum diameter of six (6) by twelve (12) inches, attached to the off-highway vehicle at least eight (8) feet above the surface of level ground, when operated on the Coral Pink Sand Dunes.

6. PROHIBITED USES:

- a. All traffic and other safety laws and rules apply to operation of off-highway vehicles, including the prohibited use of said vehicles while under the influence of alcohol or drugs (UCA 41-6-44), and violations of such laws and regulations shall be subject to penalties under Utah State Law.
- b. No person may operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries, other crimes, damage to the environment which includes excessive pollution of air, water, or land, abuse of the water shed, impairment of plant or animal life, or excessive noise.
- c. No person shall operate or accompany a person operating an OHV upon privately owned land of any other person, firm, or corporation without permission from the owner, or person in charge.
 - (i) It is unlawful for a person to remain on private land upon request of the owner or person in charge to leave the properties.
 - (ii) This section does not apply to prescriptive easements.
- d. It is unlawful for any person to tear down, mutilate, or destroy any sign, sign boards, or other notice including those which regulate trespassing for purposes of operating an OHV; or to tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to such fence or enclosure.

7. PENALTIES FOR VIOLATION

Unless otherwise specified in this ordinance, any violation of the terms of this ordinance shall be punishable as a Class C misdemeanor.

8. PRIVATE LANDS

This designation is not intended to include roads on private property, unless those roads are part of the County Road system.


9. MAP AMENDMENTS

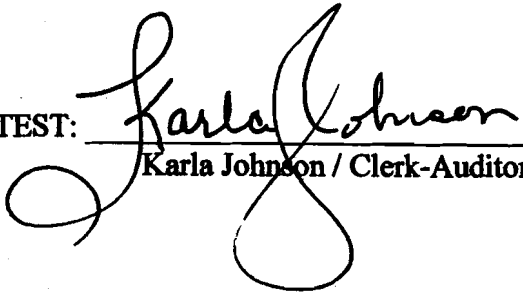
Affected land management entities shall be notified in writing prior to any changes made to the Designated OHV/ATV Routes this ordinance applies.

10. SEVERABILITY

In the event that any provision of this ordinance less than the entire ordinance is held invalid by a court of competent jurisdiction, this ordinance shall be deemed severable and such finding of invalidity shall not affect the remaining portions of this ordinance.

Approved this 3rd of August, 2005

BY: 
Daniel W. Hulet / Commission Chair

ATTEST: 
Karla Johnson / Clerk-Auditor