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## INTRODUCTION TO SNOWMOBILE ORDINANCE

Snowmobiles are increasingly becoming a popular form of winter recreation in Iowa. Their proliferation has been significant enough in recent years that the Iowa General Assembly has enacted legislation regulating their use and operation.<sup>1</sup> As the numbers of snowmobiles increase within a particular city, the need for municipal regulation in addition to state regulation will become apparent because of the hazards and inconveniences caused by snowmobiles. For example, snowmobiles are designed for off-road operation and the lack of adequate snow cover can loosen the soil which may cause possible erosion. Also, their operation can encroach on facilities used for other recreational pursuits, damage shrubbery, and disrupt conventional vehicular traffic on roadways.<sup>2</sup>

Iowa municipalities clearly have the power to regulate snowmobiles. The state statute generally governing snowmobiles expressly provides that cities may regulate the use of snowmobiles on the streets within their corporate limits.<sup>3</sup> Under the home rule power, cities may provide for additional regulations on a matter so long as the regulations are not inconsistent with state law.<sup>4</sup> Moreover, these regulations may set standards which are higher than state law.<sup>5</sup>

In this model ordinance, strict standards have been established to reduce the hazards and inconveniences of snowmobiles. Such standards or restrictions regarding the operation of snowmobiles in municipal corporate limits are included because snowmobiles are designed primarily for cross country and rural operation. The compact nature of a city makes general operation of a snowmobile dangerous to pedestrians, conventional vehicular traffic, and real property. Consequently, this model ordinance prohibits the operation of any snowmobile within a city's corporate limits except as specifically permitted. The places of permissible operation are: (1) on trails in city parks or on other public property which have been designated by an appropriate city official, (2) on streets during emergency conditions, and (3) on private property with the consent of the owner.

Although the ordinance as drafted does not permit a snowmobile to be operated on any street, roadway, or shoulder of a roadway, an option is included which would allow such operation on uncongested streets. The option is provided because some small communities have streets which are used very little and would be appropriate for snowmobile operation. Moreover, these communities may lack adequate park space to provide for snowmobile operation. However, the enactment of the option should be done with caution because of the numerous hazards involved with the operation of snowmobiles.

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Furthermore, the model ordinance prohibits various conduct regarding the operation of a snowmobile. For example, a snowmobile may not be operated in a reckless or negligent manner, or while under the influence of intoxicating liquors, or without the proper equipment, such as mufflers, brakes, and headlights. Moreover, the ordinance requires that operators shall have in force at the time of snowmobile operation a policy of liability insurance for bodily injury or death and for property damage. Since the state statute governing snowmobiles does not mention liability insurance, cities have not been precluded from providing for such a requirement.<sup>6</sup> Under the home rule power cities can provide for the safety of their residents and the purpose of this model ordinance is to do that regarding snowmobile operation.<sup>7</sup> Despite such regulation, it is reasonable for cities to foresee that snowmobile accidents will occur and that the people who are involved should be provided with a source of indemnification.<sup>8</sup>

One additional prohibition that should be noted regards operation of snowmobiles on adequate snow and ice cover. The ordinance requires a cover of at least four inches. The reason for such a requirement is to prevent loosening of the topsoil and erosion.

#### REFERENCES

<sup>1</sup>Code 1973, ch. 321G. This statute was originally enacted by the Sixty-third General Assembly.

<sup>2</sup>Michigan Municipal League, "Technical Topics" No. 36 (November, 1969).

<sup>3</sup>Code 1973, sec. 321G.2. Op. Atty. Gen. (March 7, 1972).

<sup>4</sup>Ch. 1088, sec. 10.

<sup>5</sup>*Ibid*, sec. 12(3).

<sup>6</sup>*See* Code 1973, ch. 321G.

<sup>7</sup>Ch. 1088, sec. 10.

<sup>8</sup>New York by statute permits cities to require proof of financial responsibility of the owner of a snowmobile as a condition of operation. N.Y. Code 1970, sec. 8-0303(4b). Generally speaking, cities have been permitted to require proof of responsibility for operation of motor vehicles. McQuillin, *Municipal Corporations*, sec. 24.634 (Rev. ed., 1968). An analogy could be drawn between the operation of motor vehicles and snowmobiles and the need for liability insurance.



AN ORDINANCE RESTRICTING THE USE OF SNOWMOBILES AND PROVIDING FOR VIOLATIONS

Be It Enacted by the Council of the City of \_\_\_\_\_, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to regulate the operation of snowmobiles within the corporate limits of \_\_\_\_\_, Iowa.

SEC. 2. Definitions.

1. The term "snowmobile" shall mean a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

2. The term "operator" shall mean a person who operates or is in actual physical control of a snowmobile.

3. The term "operate" shall mean to ride in or on and control the operation of a snowmobile.

4. The term "street" shall mean a public thoroughfare, roadway, alley, or trail used for motor vehicular traffic including an interstate, state, or county highway.

5. The term "shoulder" shall mean the portion of a street immediately adjacent to the right side of a street which is customarily used only for emergency travel and parking.

6. The term "dead man throttle" shall mean a device which disengages the motor from the driving track of a snowmobile when pressure is removed from the accelerator or throttle.

SEC. 3. Operation of a Snowmobile. A snowmobile may not be operated on any street, shoulder of a street, sidewalk, public property, city park, or any other area within the corporate limits of \_\_\_\_\_, Iowa, except as hereinafter specifically permitted:

1. On streets in an emergency during the period of time when and at locations where snow and ice upon the streets render travel by conventional motor vehicles impractical and unsafe.<sup>1</sup>

2. On trails in city parks or on other public property which are specially designated by [the mayor or chief of police] and which are marked by appropriate signs giving notice that snowmobiles may be operated in the area.

3. On the private property of the operator or owner of a snowmobile or on any other private property in Iowa, with the consent or permission of the property owner.<sup>2</sup>



4. On other public areas specifically provided by the council by resolution. Such resolutions shall limit snowmobile operation on such public areas to no more than 30 days at one time, shall designate the hours during which snowmobiles may be operated in the area, and shall provide that the areas be posted notifying the public of these requirements.

Optional

5. On those uncongested city streets, roadways, or shoulders of uncongested roadways that are designated herein by the council.

- (a) A. \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.  
 B. \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.

(b) Operation of snowmobiles shall be on \_\_\_\_\_ days of the week between \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m. but no longer than between 6:30 a.m. and 5 p.m.

(c) The council shall enact by resolution such additional regulations which promote the safety of snowmobile operators, pedestrians, and vehicular traffic on such streets.

SEC. 4. Equipment Required for Operation. All snowmobiles operated within the city shall have the following equipment:

1. An effective and suitable muffling device to reduce the noise of operation of a snowmobile to a minimum.<sup>3</sup>

2. At least one headlight and one taillight.<sup>4</sup>

3. Brakes which conform to standards prescribed by the commissioner of public safety.<sup>5</sup>

4. A safety or "dead man" throttle in operating condition.

Optional

5. All snowmobiles while operating on an uncongested street shall display a flag with an area of not less than 50 square inches of fluorescent red color on a staff holder to put such flag at least 6 feet above the surface of the street.<sup>6</sup>

SEC 5. Unlawful Operation. It shall be unlawful for any person to operate any snowmobile in \_\_\_\_\_, Iowa:<sup>7</sup>



1. At a rate of speed greater than 15 miles per hour, provided the circumstances are not such that a lesser speed would be prudent.

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 intoxicating liquor or narcotics or habit-forming drugs.

4. Without the proper equipment as required by section 4 of this ordinance.

5. In any tree nursery or planting in a manner which damages or destroys growing stock.

6. With any firearms in the vehicle, except in the possession of a peace officer.

7. Without having such snowmobile registered as provided for by Iowa law except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.

8. Without having in force at time of operation, a policy of insurance affording coverage for the operation of a snowmobile against liability imposed by law for bodily injury or death and for property damage. The minimum limits of coverage required of an owner shall be \$10,000 for one person who is injured or killed in any one accident and \$20,000 for two or more persons who are injured or killed in one accident. For property damage, the minimum coverage shall be \$5,000. If requested by a peace officer [or other designated city official or employee], an owner or operator of a snowmobile shall present proof within 24 hours that a policy of insurance is currently in force.<sup>8</sup>

SEC. 6. Unattended Vehicles. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.

SEC. 7. Age of Operation. No minor under 16 years of age may operate a snowmobile within the corporate limits of \_\_\_\_\_, Iowa.

SEC. 8. Hours of Operation. No person shall operate a snowmobile on public or private property within \_\_\_\_\_, Iowa, between the hours of 5 p.m. and 6:30 a.m.



SEC. 9. Adequate Snow and Ice Cover. A snowmobile may not be operated within \_\_\_\_\_, Iowa, on public or private property without adequate snow or ice cover. A snow or ice cover of no less than four inches shall be deemed adequate.

Optional

SEC. 9A. A snowmobile may make a direct crossing of a street or highway provided:

1. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and
2. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled portion of the highway; and
3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
4. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.<sup>9</sup>

SEC. 10. Penalty. Any person who shall violate any provision of this ordinance may be punished by a fine of not more than \$100, or by imprisonment for not more than 30 days.<sup>10</sup>

SEC. 11. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are:<sup>11</sup>

SEC. 12. Severability. 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 a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SEC. 13. When effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.<sup>12</sup>

Passed by the Council the \_\_\_\_ day of \_\_\_\_\_, 19\_\_,  
and approved this day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
MAYOR

Attest: \_\_\_\_\_  
CLERK



## REFERENCES

<sup>1</sup>Code 1973, sec. 321G.9(4c).

<sup>2</sup>Ch. 1088, sec. 21(c). The private property of an individual would not include sidewalks which are considered public.

<sup>3</sup>Code 1973, sec. 321G.11.

<sup>4</sup>Code 1973, sec. 321G.12.

<sup>5</sup>*Ibid.*

<sup>6</sup>This optional provision should be adopted if optional sec. 3(5) of this ordinance is included. This provision will assist in implementing sec. 3(5) by making operation of snowmobiles safer on city streets.

<sup>7</sup>See Code 1973, sec. 321G.13.

<sup>8</sup>The owner and operator of a snowmobile shall be liable for injuries or damage caused by negligent operation of snowmobiles. Code 1973, sec. 321G.18. Therefore, it is reasonable to require owners and operators to have liability insurance as a source of indemnification.

<sup>9</sup>Code 1973, sec. 321G.9(2). This optional section should be adopted if optional section 3(5) of this ordinance is included to implement section 3(5).

<sup>10</sup>Ch. 1088, sec. 12(2).

<sup>11</sup>Ch. 1088, sec. 72. All ordinances or parts of ordinances that are repealed by this ordinance should be listed. See *Iowa Model Ordinances*, Introductory ch. 3, "Repealer Clause."

<sup>12</sup>See *Iowa Model Ordinances*, Introductory ch. 4, "Adoption of an Ordinance."