

RESOLUTION

CITY OF WOODSTOCK ORDINANCE

This ordinance is an amendment to Chapter 58, of the City of Woodstock Code of Ordinances, known as Offenses and Miscellaneous Provisions, Article IV All Terrain Vehicles – Sections 58-78 through 58-85.

WHEREAS, the City of Woodstock (hereinafter sometimes referred to as the “City”) is a municipality duly formed and existing pursuant to Georgia law; and

WHEREAS, the 1983 Constitution of the State of Georgia provides for the self government of municipalities without the necessity of action by the General Assembly¹; and

WHEREAS, the City of Woodstock, Georgia, has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general law, and which are not inconsistent with the Constitution or any charter provision applicable thereto²; and

WHEREAS, the Mayor and Council of the City of Woodstock have determined that the amendment heretofore resolved is in the best interest of the City and the public welfare of the citizens, environment and public property; and

WHEREAS, Section 2.34(b) of the City Charter of the City of Woodstock provides initial introduction of such amendments prior to adoption at the regular meeting of the Council; and

WHEREAS, the governing authority of the City of Woodstock has read and considered the proposed amendments;

NOW THEREFORE, BE IT RESOLVED AND ORDAINED by the Mayor and Council of the City of Woodstock that the aforesaid amendments have been and shall

¹ Ga. Const., 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows:

“The General Assembly may provide by law for the self government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly.”

² O.C.G.A. §36-35-3(a) provides the following:

“(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not consistent with the Constitution or any charter provision applicable thereof. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section. This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to appeal, modify or supersede any action taken by a municipal authority under this Code section, except as authorized under Code Section 36-36-6”.

now and hereafter be maintained for public inspection during the normal business hours at the Woodstock Annex under the custody of the City Clerk of the City of Woodstock; and

NOW THEREFORE, BE IT RESOLVED AND ORDAINED by the City of Woodstock, Georgia, by the lawful authority vested in them that the following Article and Sections shall be amended to include the new Article IV to Chapter 58 of the Code of Ordinances to establish regulations regarding all-terrain vehicles, to promote public health, safety and welfare, and for other purposes as follows:

ARTICLE IV. ALL-TERRAIN VEHICLES.

Sec. 58-78 Definitions. The following words and phrases, when used in this chapter, shall have the meanings as set out herein:

- (1) "ATV Trails" mean the property designated and posted for lawful, authorized use by ATVs.
- (2) "All-Terrain Vehicles" ("ATV") means a motorized vehicle designed primarily for operation over natural terrain, to specifically include, but not be limited to, off-road motorcycles, three-wheelers, four-wheelers, and all other such vehicles with one (1) or more wheels but excluding street legal vehicles operating on public road right-of-ways, golf carts and motorized wheelchairs.
- (3) "City Sanctioned Organized Event" means, for the purposes of this Article, an event that is sanctioned or approved by the Mayor and Council and for which the council has approved the use of ATVs in such event.
- (4) "Golf Cart" means a motorized cart for carrying golfers and their equipment around a golf course.
- (5) "Motorized Wheelchair" means a mechanized transport designed specifically for handicapped persons and being used by a handicapped person.
- (6) "Operate" means to ride in or on and control the operation of an ATV.
- (7) "Operator" means every person who operates an ATV.
- (8) "Owner" means a person, other than a person with a security interest, having a right of use regarding, property interest in or title to an ATV and entitled to the use and possession of the vehicle.

- (9) "Person" includes an individual, partnership, corporation, or other legal entity whether incorporated or not.
- (10) "Public road right-of-way" means the entire right-of-way of a public road, street or highway, including the traveled portions, banks, ditches, shoulders and medians of a roadway that is not privately owned.
- (11) "Public Property" means any real property owned by or under control of a governmental entity, either through lease, ownership or public right.

Sec. 58-79 Intent. It is the intent of this ordinance to limit the use of ATVs within the incorporated limits of the City.

Sec. 58-80 Unlawful Operation.

- a) Unless otherwise noted, it is unlawful for any person to operate an ATV:
 - (1) In a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger, or be likely to endanger, or cause injury or damage to any person or property;
 - (2) On a public road right-of-way;
 - (3) In a manner so as to violate the City's ordinances against loud and unnecessary noises (Section 58-39, et seq.) reference with Noise Ordinance.
 - (4) On private property without the express permission to do so by the owner and occupant of the property;
 - (5) On any Public Property, including, but not limited to, public school grounds, park property, playgrounds, recreational areas, public rights of way, cemeteries or any other public places;
 - (6) On United States Department of the Army Corp of Engineers property, unless the operator has the written permission of the Allatoona Operations Project Manager, which such written permission shall be carried on the person of the permittee at all times during operation of the ATV on such property or unless such person is an employee of the Federal, State, Cherokee County or City government who is on duty and performing services for his or her governmental employer;
 - (7) On any trail segment of the City whereby the City holds ownership or easement rights with respect to such trail, including those existing on privately owned property.

b) It shall be unlawful to operate a golf cart on any property owned by the City or on which the City has an easement for the use of the property, except that this provision shall not apply to the owner of the property or the owner's guests and invitees where the City only has an easement for the use of the property.

Sec 58-81 Age Restrictions. No person shall operate an ATV in violation of the age requirements established by Georgia State Law.

Sec 58-82 Organized Events. Nothing in this chapter shall prohibit the use of ATVs within the City in City Sanctioned Organized Events.

Sec 58-83 Exceptions. This chapter shall not apply to:

- (1) Motorboats;
- (2) Any military, fire, or law enforcement vehicle;
- (3) Any farm machinery, farm tractors, and other self-propelled equipment for harvesting and transportation of forest products, for clearing land for planting, for utility services and maintenance, for earth moving, and for like activities; and
- (4) Self-propelled lawnmowers, snow blowers, garden or lawn tractors, while such vehicles are being used exclusively for their designed purposes and used in a location consistent with their designed purpose.
- (5) Motorized wheelchairs

Sec. 58-84 Additional Requirements. This paragraph (g) shall apply to the operation of ATVs that are otherwise operating in compliance with this Ordinance:

- (1) No ATV shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection or so close to the intersection as to constitute an immediate hazard;
- (2) The operator of an ATV shall make every effort to be visible to oncoming traffic from any direction.

Sec. 58-85 Penalties. Any person violating the terms of this chapter shall be guilty of a misdemeanor and subject to issuance of a citation, and if proven guilty before City of Woodstock Municipal Court, shall be subject to a fine of up to \$1,000.00, upon conviction.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective as of the date of adoption.

SECTION 3. SEVERABILITY. If any section, subsection sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

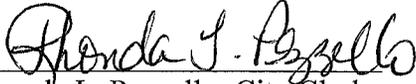
First Reading: June 11, 2011

Second Reading: June 20, 2011

APPROVED, ADOPTED, AND ENACTED this 20th day of June, 2011.



Donnie Henriques, Mayor
City of Woodstock, Georgia



Rhonda L. Pezzello, City Clerk
City of Woodstock, Georgia

(Municipal Seal)