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## MEMORANDUM

To: Board of Public Safety

From: Rick Brown, Director of Public Works / City Engineer

Date: January 8, 2019

Re: Use of Recreational Off Highway Vehicles on City Roadways

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As was introduced at the November meeting, please be prepared to continue the discussion regarding the requested use of personal recreational off highway vehicles (ROHV) on City roadways.

The City code does not make an allowance to legally drive such a vehicle on city roads, however, we are permitted to do so under state law, if a Special Permit is issued authorizing this practice.

The applicable City Code Section is as follows:

**Section 380.010, Vehicle License Plates and Current Safety Inspection Stickers Required.**

[Ord. No. 124 §§1—2, 9-1-1995]

- A. Every owner of a motor vehicle or trailer which shall be operated or driven upon the highways and roadways of the City shall display a license or licenses in accordance with Chapter 301, RSMo.
- B. It shall be unlawful for any person to park or drive upon any street or upon any public property any motor vehicle not bearing or displaying current license plates specifically issued for such motor vehicle and a current safety inspection certificate sticker, if applicable. Two (2) license plates as required by law will be required before the vehicle can be parked or driven on a public street or public property.

For the City to consider this request, the above section of the City Code would require an amendment to provide a means for granting an exception through the issuance of a Special Permit, as allowed for in the State statute.

City Attorney John Young will be available for any questions or comments from the Board relative to this request. In addition, please see that attached memo from Mr. Young, as well as a similar ordinance, which was passed by the City of Creve Coeur.

If the Board finds that granting an exception for the use of ROHV's on public streets is acceptable, the Department requests a motion recommending the preparation of legislation to amend the above City Code, which will be forwarded to the City Council for further consideration.

I will be available for questions regarding this information at the January 10, 2019, meeting of the Board of Public Safety.

RCB



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## 2018 Board of Public Safety

### Memorandum

**To:** Board of Public Safety

**From:** John A. Young, City Attorney  
Rick Brown, Director of Public Works

**Date:** November 6, 2018

**Re:** Recreational Off-Highway Vehicles

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As a general principal, City ordinances make it unlawful for any person to drive upon any street any motor vehicle not bearing or displaying current license plates specifically issued for such motor vehicle. See City Code Section 380.010(B). Summarizing the applicable defined terms relevant to the interpretation of the above referenced prohibition, any self-propelled mechanical device on wheels used on a City street must display a license plate, subject to any applicable exceptions to that general rule that may be set forth in the City Code.

Although City Council has the authority to provide limited exceptions to the above stated general rule for "recreational off-highway vehicles," there is nothing in the City Code that evidences that the City Council has done so. Accordingly, any permit sought to operate a "recreational off-highway vehicle" on a City street would require action by the City Council. Until such action is taken, operation of an unlicensed "recreational off-highway vehicle" on a City street would violate Section 380.010(B) of the City Code.

Enclosed with this Memorandum are the following:

1. Section 301.010(49), RSMo. definition of a "recreational off-highway vehicle".
2. Section 304.033, RSMo. regulating recreational off-highway vehicles.
3. Section 340.085 of the Creve Coeur City Code, as an example of legislation that could be enacted consistent with Section 304.033, RSMo.

### **301.010, RSMo. Definitions**

(49) "Recreational off-highway vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than sixty-seven inches in width, with an unladen dry weight of two thousand pounds or less, traveling on four or more nonhighway tires and which may have access to ATV trails;

**304.033, RSMo. Recreational off-highway vehicles, operation on highways prohibited, exceptions — operation within streams and rivers prohibited, exceptions — license required for operation, exception. — 1.** No person shall operate a recreational off-highway vehicle, as defined in section 301.010, upon the highways of this state, except as follows:

(1) Recreational off-highway vehicles owned and operated by a governmental entity for official use;

(2) Recreational off-highway vehicles operated for agricultural purposes or industrial on-premises purposes;

(3) Recreational off-highway vehicles operated within three miles of the operator's primary residence. The provisions of this subdivision shall not authorize the operation of a recreational off-highway vehicle in a municipality unless such operation is authorized by such municipality as provided for in subdivision (5) of this subsection;

(4) Recreational off-highway vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads;

(5) Governing bodies of cities may issue special permits to licensed drivers for special uses of recreational off-highway vehicles on highways within the city limits. Fees of fifteen dollars may be collected and retained by cities for such permits;

(6) Governing bodies of counties may issue special permits to licensed drivers for special uses of recreational off-highway vehicles on county roads within the county. Fees of fifteen dollars may be collected and retained by the counties for such permits.

2. No person shall operate a recreational off-highway vehicle within any stream or river in this state, except that recreational off-highway vehicles may be operated within waterways which flow within the boundaries of land which a recreational off-highway vehicle operator owns, or for agricultural purposes within the boundaries of land which a recreational off-highway vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions

or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating a recreational off-highway vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle pursuant to subdivision (4) of subsection 1 of this section, but shall not be required to have passed an examination for the operation of a motorcycle. An individual shall not operate a recreational off-highway vehicle upon \* a highway in this state without displaying a lighted headlamp and a lighted tail lamp. A person may not operate a recreational off-highway vehicle upon a highway of this state unless such person wears a seat belt. When operated on a highway, a recreational off-highway vehicle shall be equipped with a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover.

## Chapter 340. Miscellaneous Driving Rules

### Section 340.085. No Operation of Recreational Off-Highway Vehicles On State Highways – Exceptions.

[Ord. No. 5264 §13, 8-27-2012]

- A. No person shall operate a recreational off-highway vehicle, as defined in Section 301.010, RSMo., upon State highways within the City, except as follows:
1. Recreational off-highway vehicles owned and operated by a governmental entity for official use;
  2. Recreational off-highway vehicles operated for agricultural purposes or industrial on-premises purposes;
  3. Recreational off-highway vehicles operated within three (3) miles of the operator's primary residence, but only pursuant to special license issued by the City Council as provided herein or, as to County roads, issued by the County Council;
  4. Recreational off-highway vehicles operated by handicapped persons for short distances occasionally only on the State's secondary roads;
  5. The City Council may in its discretion based on all relevant factors issue special permits on an annual basis to licensed drivers for special uses of recreational off-highway vehicles on State highways within the City limits. An annual fee of fifteen dollars (\$15.00) shall be paid, collected and retained by the City for each such permit.
- B. No person shall operate a recreational off-highway vehicle within any stream or river in this State, except that recreational off-highway vehicles may be operated within waterways which flow within the boundaries of land which a recreational off-highway vehicle operator owns, or for agricultural purposes within the boundaries of land which a recreational off-highway vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this State at such road crossings as are customary or part of the highway system.
- C. A person operating a recreational off-highway vehicle on a highway pursuant to an exception covered in this Section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle pursuant to Subdivision (4) of Subsection (A) of this Section, but shall not be required to have passed an examination for the operation of a motorcycle. An individual shall not operate a recreational off-highway vehicle upon a highway in this State without displaying a lighted headlamp and a lighted taillamp. A person may not operate a recreational off-highway vehicle upon a highway of this State unless such person wears a seat belt. When operated on a highway, a recreational off-highway vehicle shall be equipped with a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover.