

AGENDA  
CITY COUNCIL MEETING  
Monday, April 4, 2011  
7:30 P.M.

1. Call to Order
2. Minutes of March 21, 2011

Old Business

New Business

3. Visitors (All visitors wishing to address the Council must complete an information card and submit it to the City Clerk before the meeting begins)
4. Bill No. 11-1189: Revisions to All Terrain and Utility Vehicle Ordinances
5. New Madrid Power Plant 2011-2012 Proposed Budget and 2009 and 2010 Financial Statements
6. Mayoral appointment: Civil War Tourism Committee
7. City Administrator's Report
  - a. Gravity Flow Update

CLOSED SESSION relative to:

Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration there for (RSMo 610.021.2)

8. Additional items, if requested.

AN ORDINANCE REPEALING SECTIONS 54-583 AND 54-584 OF CHAPTER 54, ARTICLE XII AND ADOPTING A NEW SECTION 54-583 OF CHAPTER 54, ARTICLE XII OF THE MUNICIPAL CODE OF THE CITY OF NEW MADRID, MISSOURI SO AS TO COMPLY WITH SECTIONS 301.010, 304.013 AND 304.032 REVISED STATUTES OF THE STATE OF MISSOURI AND CLARIFYING THE REGULATION OF ALL TERRAIN VEHICLES AND UTILITY VEHICLE OPERATION WITHIN THE CITY OF NEW MADRID

WHEREAS, The Board of Aldermen of the City of New Madrid, Missouri desires to clarify the ordinances regulating the use of all terrain vehicles and utility vehicles within the City of New Madrid,

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI AS FOLLOWS:

That Sections 54-583 and 54-584 of Chapter 54, Article XII are hereby repealed and a new Section 54-583 is hereby adopted and shall read as follows:

**Section 54-583: ALL TERRAIN VEHICLE AND UTILITY VEHICLE USE; DEFINITIONS; OPERATED AT OWN RISK; PENALTY.**

**Section A: Definitions.**

1. "City" shall mean the corporate limits of the City of New Madrid, Missouri.
2. "Streets and alleys" shall mean those roadways that have been accepted or platted by the City of New Madrid, Missouri as public streets and alley ways.
3. "Utility vehicle" means any motorized vehicle manufactured and used exclusively for off-highway use which is sixty-three inches or less in width, with an unladen dry weight of one thousand eight hundred fifty pounds or less, traveling on four or six wheels, to be used primarily for agricultural, recreational, landscaping, lawn care, or maintenance purposes.
4. "All Terrain vehicle" means any motorized vehicle manufactured and used exclusively for off-road use which is fifty inches or less in width , with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires , with a seat designed to be straddled by the operator and handle bars for steering control. All Terrain vehicle does not include motorized wheel chairs, riding lawn mowers or go-carts.
5. "Off road vehicle" means any vehicle that falls under the definitions in sections 3 and 4 above.

**Section B: Limitations on utility vehicle and all terrain vehicle operations on designated public streets.**

1. Utility vehicle and all terrain vehicle (hereinafter "off road vehicle") operations on designated

public streets and alleys shall be in accordance with the following limitations:

**a. TRAFFIC LAWS APPLY:** It shall be unlawful for any person to operate an off road vehicle in any manner which violates the provisions in this Chapter. In addition no person shall operate an off road vehicle:

(i) In any careless way so as to endanger the person or property of another; or

(ii) While under the influence of alcohol or any controlled substance.

**b. NO HIGHWAY USE:** An off road vehicle may be operated only on designated public streets where the posted speed limit is 30 miles an hour or less. No off road vehicle shall cross any highway or street at an intersection where the highway or street being crossed has a posted speed limit of more than 40 miles per hour.

**c. VALID LICENSE REQUIRED:** A person operating an off road vehicle on a street or highway pursuant to any exceptions created in Section 304.032 RSMo and Section 304.013 RSMo shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle under subdivision (3) of subsection (b) of this section, shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour when being operated under the exceptions set forth in subsection (b) below.

**d. LOCAL PERMIT REQUIRED:** In addition to a valid operator's permit a person operating an off road vehicle on a street shall be required to have a special operator's permit provided by this City as set forth in Section 304.032 RSMo and Section 304.013 RSMo. A handicapped person will not be required to purchase a local permit. A fee of FIFTEEN (\$15.00) DOLLARS shall be charged for each permit so issued and the permit may be renewed annually by the operator upon proof of valid license and payment of the annual permit fee.

**e. EMBLEMS REQUIRED:** Every utility vehicle whenever operated on a public street shall display a slow-moving vehicle emblem in conformity with Section 307.127 RSMo. Every all terrain vehicle shall display a bicycle safety flag which extends not less than seven feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than 30 square inches and shall be day glow in color.

**f. LIGHTS REQUIRED AFTER DUSK:** Off road vehicles shall be operated upon the public streets only between sunrise and sunset, unless equipped with proper lights.

**g. SEATS REQUIRED;** No operator of an off road vehicle shall carry a passenger, except for agricultural purposes. The provisions of this subsection shall not apply to any utility vehicle in which the seat of such vehicle is designed to carry more than one person.

**h. RIGHT SIDE OF ROAD:** Off road vehicles must be operated at the extreme right of the street and must yield to all vehicular and pedestrian traffic.

**i. SCOTT STREET PROHIBITED:** No off road vehicles shall be operated on Scott Street in either direction from U.S. Highway 61 to its terminus with Powell Ave.

**j. HELMET REQUIRED:** No person under the age of 18 shall operate an all terrain vehicle without a securely fastened safety helmet on the head of such an operator.

**k. STREAMS PROTECTED:** No person shall operate an off road vehicle within any stream or river in this state, except that off road vehicles may be operated within waterways which flow within the boundaries of land which an off road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off road 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.

2. The limitations of subsection (1) a. (“Highways”), d. (“Local Permit”), e. (“Emblem”) and i. (“Scott Street”) above shall not apply to off road vehicles being operated as follows:

a. Utility vehicles owned and operated by a governmental entity for official use; (Section 304.032.1.1)

b. Utility vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation, unless equipped with proper lighting; (Section 304.032.1.2)

c. Utility vehicles or all terrain vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads and city streets when operated between the hours of sunrise and sunset; (Section 304.032.1.3)

**Section C: Liability disclaimer:** This Ordinance is adopted to address the interest of public safety. Off road vehicles are not designed or manufactured to be used on public streets and the City of New Madrid in no way advocates or endorses their operation on public streets and alleys. The City of New Madrid, by regulating such operation is merely trying to address obvious and continuing safety issues that have arisen by the increased use of such vehicles by the public. The adoption of this Ordinance is not to be relied upon as a determination that operating on public streets is safe or advisable if done in accordance with this section. All persons who operate or ride upon off road vehicles on public streets or alleys do so at their own risk and must be observant of and attentive to the safety of themselves and others, including passengers, other motorists, bicycles and pedestrians. The City of New Madrid assumes no liability under any theory of tort or contract and specifically denies any such liability including comparative fault. Any person who operates an off road vehicle is responsible for procuring and maintaining liability insurance sufficient to cover the risk involved with operating an off vehicle on public streets and alleys and the procurement of such insurance is a condition precedent to the lawful operation of an off road vehicle under this section.

**Section D: Penalty:** A violation of the provisions herein shall be a traffic ordinance violation punishable by a fine of up to One Thousand (\$1,000.00) Dollars and/ or a term in the County Jail of up to 30 days.

**Section E: Severability:** It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

BE IT FURTHER ORDAINED THAT THIS ORDINANCE SHALL BE IN EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL AND ANY ORDINANCE IN CONFLICT HEREWITH IS HEREBY REPEALED.

READ TWO TIMES AND DULY PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF April, 2011.

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DONNIE BROWN, MAYOR

ATTEST:

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MARIAN B. BOCK, CITY CLERK

APPROVED AS TO FORM:

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LYNN N. BOCK, CITY ATTORNEY