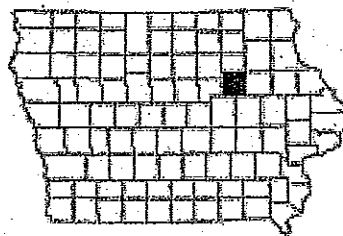
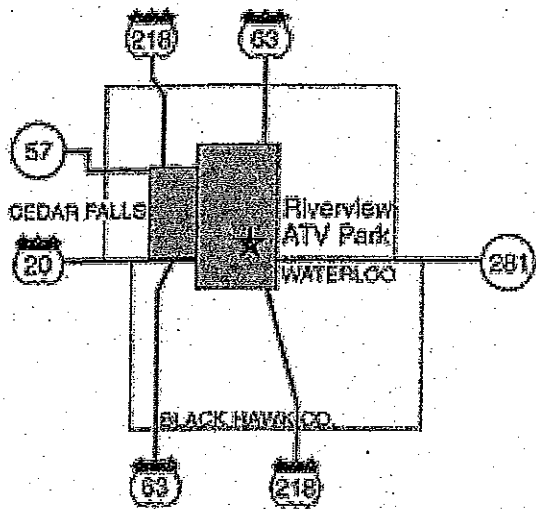
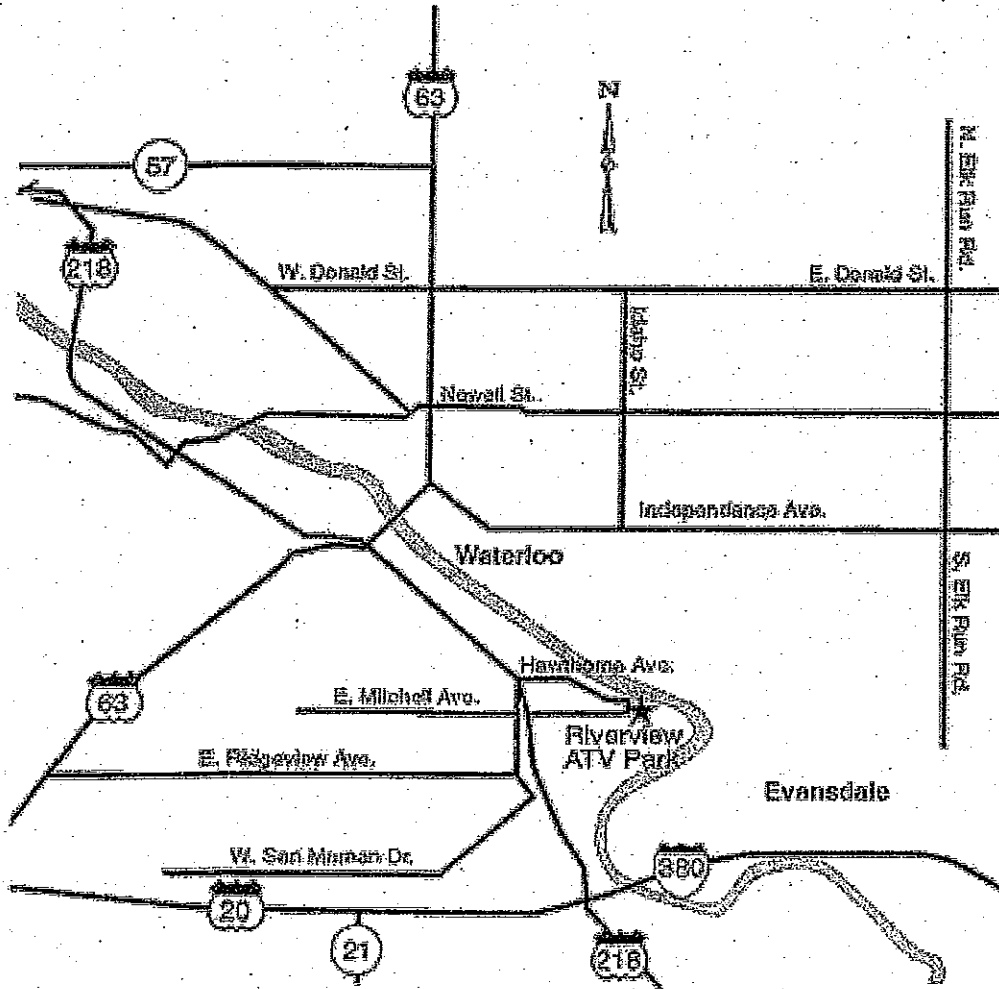


# Riverview ATV Park



Paul Hitting - Leisure Services Director

RIVERVIEW RECREATIONAL AREA

319 291-4370

### ATV USER AGREEMENT

This Agreement is entered into this 7<sup>th</sup> day of December, 1998, between the City of Waterloo, Iowa, a municipal corporation duly organized and whose principal place of business is located at 715 Mulberry Street, Waterloo, Black Hawk County, State of Iowa, 50703 (hereinafter "City") and Trail Blazers, Inc., a non-profit corporation duly organized and in good standing in the State of Iowa, whose principal place of business is P. O. Box 383, Independence, Iowa, 50644 (hereinafter "Trail Blazers"), for and in consideration of the promises, covenants, terms, and provisions contained in this Agreement.

1. **Definitions.**

"All Terrain Vehicle (ATV)" shall include:

a. "Off Highway Vehicles (OHV)" means a motorized flotation-tire vehicle with not less than three low pressure tires, but not more than six low pressure tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 750 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control, which cannot be licensed for use upon public streets or highways (i.e., truck, car, pickup, jeep, sport utility vehicle, or dune buggy).

b. "Off Road Motorcycle" means a motor vehicle having two wheels designed by its manufacturer for off road use, to include dual purpose (off road/street legal) use with an engine displacement of not more than 1,000 cubic centimeters and no more than two cylinders.

c. "Snowmobile" means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis, or tread, and is designed for travel on snow or ice.

2. **Demised Premises.** City agrees to permit all ATV users who have current registration to use the premises commonly known as the Riverview Recreational Area depicted in Exhibit 1 which by this reference is made a part of this Agreement as if fully set forth herein for the sole purpose of using it as a riding area for ATV's.

3. **Purpose of Agreement.** To provide for and coordinate the development of an all terrain vehicle park which shall be maintained and operated by Trail Blazers for the purpose of encouraging safe and proper use of all terrain vehicles as defined above in definitions.

4. **Term of Agreement.** The term of this Agreement shall begin with the date this instrument is executed and shall terminate fifteen (15) years subsequent thereto with five (5) ten

(10) year renewals which must be exercised at least thirty (30) days prior to the termination of the lease term in effect at that time. The parties shall review this Agreement one (1) year from the date of signing and biannually thereafter to determine whether or not the Agreement should be terminated prematurely by consent of the parties.

5. *Indemnity.*

a. Trail Blazers shall conduct its activities upon the demised premises so as not to endanger any person lawfully thereon. Furthermore, Trail Blazers shall indemnify, save, and hold harmless City, including the Waterloo Board of Park Commissioners, its consultants, agents, and/or employees from and against all claims, damages, losses, and expenses, including but not limited to, attorney's fees, whether incurred prior to or during litigation, administrative hearings, arbitration, or bankruptcy proceedings, including trial and appellate levels, which may in any way arise out of or result from the occupancy or use of the premises described herein and/or this Agreement, provided that any such claim, damage, loss, or expense is caused in whole or in part by any negligent act or omission or other fault of Trail Blazers or anyone directly or indirectly employed by it or anyone for whose acts Trail Blazers may be liable.

b. City shall conduct its activities upon the demised premises so as not to endanger any person lawfully thereon. Furthermore, City shall indemnify, save, and hold harmless Trail Blazers, its consultants, agents, and/or employees from and against all claims, damages, losses, and expenses, including but not limited to, attorney's fees, whether incurred prior to or during litigation, administrative hearings, arbitration, or bankruptcy proceedings, including trial and appellate levels, which may in any way arise out of or result from the occupancy or use of the premises described herein and/or this Agreement, provided that any such claim, damage, loss, or expense is caused in whole or in part by any negligent act or omission or other fault of City or anyone directly or indirectly employed by it or anyone for whose acts City may be liable.

6. *Insurance.* Trail Blazers shall carry general liability insurance covering any activity which may take place upon the demised premises by anyone, and said insurance shall be for a minimum of Three Million Dollars (\$3,000,000.00). Trail Blazers shall provide a Certificate of Insurance to City evidencing that City, its employees or agents, and the Board of Park Commissioners of the City of Waterloo, its employees or agents, are named as additional insureds. Trail Blazers further agree that it shall not in any way modify the insurance or cancel it without providing at least thirty (30) days written notice to City. Any liability shall be first assumed by Trail Blazers' general liability insurance up to the limits of coverage as set forth herein.

7. *Responsibility for Premises.* Trail Blazers shall vacate the premises in as good state and condition as they were in at the commencement of this Agreement, reasonable wear and damages by the elements excepted. Trail Blazers also agree that if the premises are damaged during the term of this Agreement, Trail Blazers shall pay to City, upon demand, such sum as shall be

necessary to restore the premises to condition they were in at the commencement of this Agreement.

8. *Compliance with Laws.* All users, including Trail Blazers, shall comply with all applicable laws of any entity having jurisdiction on the property in question. All ATV, snowmobile and, if required, motorcycle users shall have current registration in place before use of the demised premises.

9. *Permitted Uses of Premises.* Trail Blazers shall only use the premises as an off highway vehicle park, and shall not use or permit the use of the premises for any other purpose or for any immoral, objectionable, or unlawful acts. The decision of the Park Board of City in these matters shall be final. The Riverview Recreational Area as depicted in Exhibit A shall be used for recreational purposes, and by ATV's and snowmobiles in designated areas only.

All ATV and snowmobile users shall be required to wear a helmet.

**Age Requirements  
ATV/Snowmobile Operation**

AGE	PUBLIC LANDS AND TRAILS
Under 12	<ul style="list-style-type: none"><li>• Snowmobilers under 12 may not operate unless accompanied by a responsible person on the same snowmobile of at least 18 years or older who is experienced in snowmobile operation and possesses a valid motor vehicle license or safety certificate issued by the State of Iowa (safety flag required).</li><li>• ATV's may only operate on public lands while taking a prescribed safety training course.</li></ul>
12-15	State of Iowa Safety Certificate required.*
16-17	State of Iowa Safety Certificate required.*

\*Except for motorcycles

10. *Utilities.* All utilities shall be the sole responsibility of Trail Blazers.

11. *Contracts and Liens.* Trail Blazers agrees to make no contracts for construction, repair, or improvements on, in, or to the demised premises or any part thereof, except those incident to normal maintenance and operation of the premises, without the prior written consent of City. Trail Blazers further agree that it shall not permit any liens for work, services, or material provided to be made or filed against the demised premises, and further agrees to hold City, including the Board of Park Commissioners, harmless from any such claim, and to immediately have removed any liens.

12. *Performance.* Failure by City to insist on strict performance of any of the terms, agreements, conditions, or covenants in this Agreement, shall not constitute or be construed as a

waiver of any right City may have or to thereafter enforce any agreement, term, condition, or covenant.

13. *Subletting and Assignments.* Trail Blazers shall not sublet the whole or any part of the premises, nor assign or mortgage this Agreement or any of its rights under this Agreement, without the prior written consent of City through its Park Board. Any consent given by City shall not operate as a waiver of this condition for future subletting, assignment, or mortgage.

14. *Default.* In the event Trail Blazers violate any of the provisions of this Agreement or any other requirements of the Board of Park Commissioners, it shall be construed as a default under this Agreement and City, at its sole option, may terminate this Agreement without any further liability whatsoever. Furthermore, Trail Blazers understand and agree that it shall make every good faith effort to raise sufficient funds to provide for the operation and maintenance of the demised premises.

Upon termination of this Agreement, Trail Blazers shall immediately, but no longer than thirty (30) days from the date of termination, return the demised premises to City's control and possession in as good or substantially good condition as when leased.

15. *Legal Recourse.* In the event of a breach by Trail Blazers of any of the terms of this Agreement or any of the provisions as set out under the Default paragraph, City shall have, in addition to any other legal recourse, the right to enter and obtain possession of the entire premises, remove and exclude all persons from the premises, remove all property of Trail Blazers from the premises, all without service of notice or resort to legal process and without any legal liability on City's part, and Trail Blazers shall be responsible for all expenses incurred in enforcing the provisions of this Agreement, including but not limited to reasonable attorney's fees.

16. *Termination.* This Agreement may be terminated for any reason at any time by giving at least one hundred eighty (180) days written notice to the other party.

17. *Notices.* All notices under this Agreement shall be as follows: For City, Park Board, 1101 Campbell, Waterloo, Iowa, 50701. For Trail Blazers, Shawn Hoaglan, P. O. Box 383, Independence, Iowa, 50644.

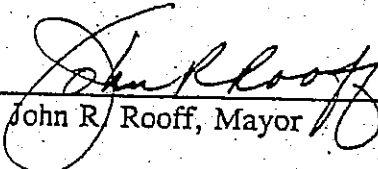
18. *Hours.* ATV users may use the Riverview Recreational Area for ATV and/or snowmobile purposes only during regular park hours which shall be from 5:00 a.m. to 11:00 p.m. However, Trail Blazers may, with the express written permission of City, use the demised premises other than as stated herein.

19. *Severability.* If any provision of this Agreement or the application of any provision of this Agreement to any person or circumstances is held invalid, the remainder of the Agreement and the application of such provision to other persons or circumstances shall not be affected and deemed severable.

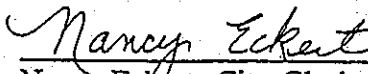
20. *Maintenance.* Trail Blazers and all ATV and snowmobile users shall keep the premises clean, litter-free, and shall develop the park. Development of the park shall begin by submitting a plan to the Park Board for its approval.

21. *Use.* Use of the demised premises shall be by ATV users in designated areas only and snowmobiles are specifically included by this reference.

CITY OF WATERLOO, IOWA


By:   
John R. Roof, Mayor

ATTEST:

  
Nancy Eckert, City Clerk

STATE OF IOWA            )  
  )        ss.  
BLACK HAWK COUNTY )

On this 7<sup>th</sup> day of December, 1998, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared John R. Roof and Nancy Eckert, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Waterloo, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council as contained in the Resolution adopted by the City Council, under Council Action No. 111316 of the City Council on the 7<sup>th</sup> day of December, 1998, and that John R. Roof and Nancy Eckert acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

  
Notary Public in and for the State of Iowa

TRAIL BLAZERS, INC.

By: Shawn Hoaglan, President

STATE OF IOWA            )  
  )    ss.  
BLACK HAWK COUNTY    )

On this 3<sup>rd</sup> day of NOVEMBER, 1998, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Shawn Hoaglan, to me personally known, and who, being by me duly sworn, did say that he is the President of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) (the seal affixed thereto is the seal of said) corporation; that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said President as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

DEBORAH L. WEIS  
2-22-2000

Deborah L. Weis  
Notary Public in and for the State of Iowa