



City of Fort Atkinson
City Manager's Office
101 N. Main Street
Fort Atkinson, WI 53538

CITY COUNCIL WORKSHOP
MONDAY, SEPTEMBER 18, 2023 – 5:00 PM
CITY HALL – SECOND FLOOR

<https://us02web.zoom.us/j/5997866403?pwd=alcreldSbGpNUVI1VnR1RWF5bXovdz09>

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AGENDA

1. Call to Order
2. Review and discussion of proposed amendments to Section 94-151 of the City of Fort Atkinson Municipal Code relating to the use of **All-Terrain Vehicles (ATVs) on City Streets**
3. Adjournment

Date Posted: September 14, 2023

CC: City Council; City Staff; City Attorney; News Media; Fort Atkinson School District; Fort Atkinson Chamber of Commerce

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City of Fort Atkinson
City Manager's Office
101 N. Main Street
Fort Atkinson, WI 53538

MEMORANDUM

DATE: September 18, 2023

TO: Fort Atkinson City Council

FROM: Rebecca Houseman, City Manager

RE: Review and discussion of proposed amendments to Section 94-151 of the City of Fort Atkinson Municipal Code relating to the use of All-Terrain Vehicles (ATVs) on City Streets

BACKGROUND

The Ordinance Committee discussed amending the City's ordinances relating to ATV/UTV use on City streets on July 6th. The full City Council had a workshop on August 15th where the matter was discussed. The Council directed staff to schedule another workshop and provide a draft ordinance allowing ATVs and UTVs to drive on City streets.

Included in this packet are the following:

- A draft Ordinance amending Section 94-151 of the City of Fort Atkinson Municipal Code allowing the use of ATVs/UTVs on City streets
- The July 6, 2023 packet of information provided to the Ordinance Committee
- 2023 off-highway vehicle fatal accident summary (as of 9.7.23; 12 additional fatalities since 6.19.23)

RECOMMENDATION

Allowing ATVs on state highways within the City and on City streets is a policy decision that must be made by the City Council, who have been elected to make such decisions.

Staff does not support changing the City's ordinances to allow for ATV use in the City due to the safety and enforcement concerns, as well as the lack of consistent regulatory direction from the State of Wisconsin. Staff recommends that the City Council delay any decisions relating to ATV use within the City until such time that the State provides additional direction relating to the applicability of state motor vehicle laws to ATVs.

ORDINANCE NO. ____

**AN ORDINANCE TO REPEAL AND RECREATE SECTION 94-151 OF THE CITY OF FORT ATKINSON
CODE OF GENERAL ORDINANCES
RELATING TO THE USE OF ALL-TERRAIN VEHICLES (ATVS) ON CITY STREETS**

WHEREAS, the City of Fort Atkinson (the City) has previously adopted ordinances regulating the use and operation of all-terrain vehicles (ATVs) and utility-terrain vehicles (UTVs) via Sec. 94-151 adopting Wis. Stats. 23.33(11)(a); and

WHEREAS, Following due consideration of the recreational and economic value in allowing ATVs and UTVs to access businesses and residences using City streets, weighted against possible dangers, public health, public safety, liability aspects, terrain involved, traffic density and other traffic risks, this ordinance is enacted pursuant to 23.33 Wis. Stats., and the provisions of the Wisconsin Administrative Code NR 64 regulating ATV/UTV operation, which is hereby incorporated and adopted; and

WHEREAS, Local ATV/UTV clubs have volunteered to provide funds to the City to pay for appropriate signage; and the City will accept such donations and use funds to install signage in the manner and locations City staff deem necessary to implement this ordinance; and

WHEREAS, the City further finds that its present ordinances regulating the use of ATVs and UTVs are outdated and must be restated and adopted.

NOW THEREFORE, the City Council of the City of Fort Atkinson, Wisconsin, does hereby ordain as follows:

Section 1. Repeals Sec. 94-151 of the Ordinances.

Section 2. Recreates Sec. 94-151 of the City of Fort Atkinson Municipal Code to read as follows:

“Sec. 94-151. – State Laws Adopted for clarity purposes.

- A. The provisions of Wis. Stats. § 23.33, and the defining regulations found in Wis. Admin. Code NR Ch. 64 with respect to the regulation of all-terrain vehicles, including any future amendments thereof, are hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited in this section.
- B. The operator of ATV/UTV shall be subject to Wis. Stats. Sections 341.057, 346.02(11), 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.21, 346.215(3),

346.22, 346.27, 346.33, 346.35, 346.37, 346.39, 346.44, 346.46, 346.47, 346.48, 346.50, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.62, 346.71, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), and 364.94(1) and (9); and Sections 347.06(3), 347.07(2), 347.14(1), 347.39(1); and 347.48(4). Acts required to be performed or prohibited by such Statutes are required or prohibited by this Chapter.

Sec. 94-152. – Definitions.

- A. All-terrain vehicle (ATV): A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards effective July 1, 2012, that is not a golf cart, low speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a paved road, and that has, and was manufactured with, all of the following:
1. A weight, without fluids, of 900 pounds or less.
 2. Four or more tires.
 3. A steering handlebar, single or dual headlights, a tail and brake light.
 4. A width of no more than 50 inches.
- B. Utility-terrain vehicle (UTV): A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards effective July 1, 2012, that is not a golf cart, low speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was manufactured with, all of the following:
1. A weight, without fluids, of 3,000 pounds or less.
 2. Four or more tires.
 3. A cargo box installed by the manufacturer measured laterally between the outermost wheel run on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
 4. A steering wheel, tail and brake lights, and two headlights.
 5. A width of no more than 65 inches.

6. A system of seat belts, or similar system, for restraining each occupant of the device in the event of a collision.
 7. A system of structural members designed to reduce the likelihood that an occupant would be crushed as a result of a rollover of the device (roll bars).
- C. ATV/UTV Route: A street designated for use by ATV/UTV vehicle operators by the governmental agency having jurisdiction as authorized by this Chapter.
- D. Operate: To exercise physical control over the speed or direction of an all-terrain vehicle or physically manipulate or activate any of the controls of an all-terrain vehicle necessary to put it into motion.
- E. State Trunk Highway: Any highway designated pursuant to Wis. Stat. §84.29 as part of the state trunk highway system.
- F. City Streets: Every named, paved public right-of-way within the corporate limits of the City, inclusive of State Connecting Highways, and excluding alleys.

Sec. 94-153. – All-terrain/Utility Terrain vehicle routes. ATV/UTV usage shall be authorized on all City streets.

Sec. 94-154. – Age Requirement. All ATV/UTV operators shall be 18 years or older to operate an all-terrain vehicle on road routes in the City, holding a valid Wisconsin Driver's License. The operator, upon request from any law enforcement officer, state patrol, or inspector under Wisconsin Statutes 110.07(1), conservation warden, or municipal peace officer shall display said operator's license to said agent as well as proof of insurance and registration.

Sec. 94-155. – Speed Limits. All ATV/UTV operators shall observe the posted speed limits on City streets.

Sec. 94-156. – Registration and Display of Registration. All ATV/UTV vehicles operated within the City of Fort Atkinson on designated routes are required to have State of Wisconsin registration as issued by the Wisconsin Department of Natural Resources and display such registration on the ATV/UTV vehicle.

Sec. 94-157. – Operating Requirements.

- A. All ATV/UTV operators shall ride single file on the right side of the City Street but shall not operate on any unpaved or shoulder section of City Streets.

- B. Headlights and taillights shall be present and on at all times.
- C. All-terrain/utility terrain vehicles shall yield the right-of-way to non-motorized vehicles, such as bicycles and pedestrians.
- D. No person shall leave or allow an all-terrain/utility terrain vehicle owned or operated by him/her to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
- E. No owner having charge or control of an all-terrain/utility terrain vehicle shall authorize or permit any person to operate such all-terrain vehicle who is not permitted under state law to operate an all-terrain/utility terrain vehicle or who is under the influence of an intoxicant or a dangerous or narcotic drug.
- F. Wis. Stat. § 346.63, which prohibits the operation of a motor vehicle while under the influence of an intoxicant or other drugs, shall apply to the operation of an all-terrain/utility terrain vehicle at any place within the City.
- G. No person shall operate an all-terrain/utility terrain vehicle in the City between dusk and 9:00 A.M.
- H. No operator or passenger of an all-terrain/utility terrain vehicle may possess in or on an all-terrain/utility terrain vehicle on any City Street in the City of Fort Atkinson, any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released.
- I. No operator shall operate an ATV/UTV so as to cause the tires thereof to squeal, the horn to blow excessively, the motor to race excessively, or by emitting unnecessary and loud muffler noises.
- J. During special events within the City limits, the Chief of Police, with the approval of the City Manager, is granted authority to allow for all-terrain/utility terrain vehicle operation on City streets for the duration of going to or coming from said event or during a parade. An operator needs to contact the Fort Atkinson Police Department and provide their name, all terrain/utility terrain device type and registration number, and the Chief of Police will review the request for permission and notify the individual either verbally or in writing of his/her decision.

- K. Groups of 25 or more ATV/UTV operators shall notify the Fort Atkinson Police Department before entering the legal boundaries of the City.
- L. ATVs/UTVs shall only be operated on paved surfaces, unless yielding the right-of-way. ATVs/UTVs shall not operate in any public municipal property, public park, public golf course, public walking trail, public sidewalk, public alley, public unpaved surface, or on any private property without permission of the property owner; except that operators may park ATVs/UTVs in public parking lots in accordance with any other ordinance requirements.
- M. Operators shall have liability insurance consistent with State of Wisconsin requirements for motor vehicles and shall have and provide proof of said insurance while operating an ATV/UTV.
- N. Parking. ATVs/UTVs shall be subject to all parking requirements and allowances of motor vehicles included in the City of Fort Atkinson Municipal Code, except that ATVs/UTVs shall not be parked overnight on any City Street or parking lot.

Sec. 94-158. – Signage. City staff shall mark entrances to the City with signage in accordance with Wis. Admin. Code NR § 64.12 and NR § 64.12(7)c. Locations and placement must be approved by the Police Chief and Public Works Director. Signs shall be maintained by the City. No person may erect or remove any official sign unless authorized by the City.

Sec. 94-159. – Penalties. Any person who shall operate an all-terrain vehicle in violation of this section, in addition to the penalties of Wis. Stats. Chs. 346, 347, and Ch. 23.33 shall forfeit to the City not less than \$50.00, nor more than \$200.00, for each violation together with costs and assessments imposed under Wis. Stats. Ch. 814. This penalty section may be amended and set annually by the City Council.

Sec. 95-160. – Review and Sunset Provision. Information and statistics relating to incidents, accidents, and calls stemming from the use of ATVs/UTVs on City Streets shall be reviewed by the City Council every six months starting six months from the effective date of this ordinance, through a staff report. This ordinance will cease to be effective and automatically be repealed two years from the effective date of the ordinance, unless specific action is taken by the City Council to extend the date of said ordinance.

Section 3. Upon its adoption, the clerk is hereby directed to send a copy of this ordinance to the Wisconsin Department of Transportation, the Wisconsin State Patrol, the Jefferson County Sheriff Department, the Wisconsin Department of Natural

Resources, and the Fort Atkinson Police Department, pursuant to Wis. Stat. §23.33(11)b.

Section 4. Effective Date. This ordinance shall take effect after passage, publication, and attestation as required by law.

Enacted by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, this _____ day of _____, 2023.

Fort Atkinson City Council

Bruce Johnson, President

ATTEST:

Michelle Ebbert, City Clerk/Treasurer/Finance Director



City of Fort Atkinson
City Manager's Office
101 N. Main Street
Fort Atkinson, WI 53538

MEMORANDUM

DATE: July 6, 2023

TO: Fort Atkinson Ordinance Committee

FROM: Rebecca Houseman, City Manager

RE: Discussion relating to ATV/UTV use in the City of Fort Atkinson

BACKGROUND

The Ordinance Committee is a standing committee of the City Council made up of the City Council President, who serves as the Chairperson, and two City Council members, who are appointed by the President annually after organization of the Council. While the function of this committee is not outlined in the City's ordinances, as its name suggests, it has been used historically to discuss and vet potential ordinance changes requested by City Council members or recommended by staff.

For the purposes of this memo, all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) will be collectively referred to as "ATVs." Wis. Stats. Section 23.33 allows ATVs and UTVs to operate on a state highway in certain cases. An ATV ordinance must be enacted by a municipality and/or county before operation may occur. Jefferson County enacted such an ordinance after the state law changed. Other municipalities in Jefferson County have also enacted such ordinances: Town of Koshkonong, City of Jefferson, Village of Johnson Creek, City of Lake Mills, City of Waterloo, and City of Whitewater. Currently, the City of Fort Atkinson does not allow ATVs to operate on state highways within the City, nor other City streets.

Several members of area ATV clubs have reached out to City staff and the City Council encouraging the City Council to consider allowing ATVs to be driven on City streets.

DISCUSSION

This issue has come up before, specifically when the Town of Koshkonong considered a change to their ordinances to allow ATVs to operate within the Town. At the time in June 2022, Administrator Assistant (now Town Board Chairperson) Kim Cheney reached out to the City asking for an opinion on the Town's proposed ordinance. Staff provided the attached letter outlining opposition to the proposed ordinance.

The same items remain areas of concern for City staff when considering an ordinance allowing ATV use within the City limits: lack of proper safety equipment; off-road tires; helmet and eye protection; OWI laws and open intoxicants; exhaust and noise; enforcement; short term and

long-term responsibility for signage and route designation; general safety of drivers, riders, and other vehicle operators, pedestrians, and bicyclists; and communication.

As outlined above, many other municipalities in Jefferson County have changed ordinances to allow ATV use on their roads. Attached to this memo are several such ordinances.

FINANCIAL ANALYSIS

Staff is not aware of any studies or quantitative data that suggests allowing ATVs in the City of Fort Atkinson will have a positive economic impact on the City or area businesses.

RECOMMENDATION

Allowing ATVs on state highways within the City and on City streets is a policy decision that must be made by the City Council, who have been elected to make such decisions.

Staff does not support changing the City's ordinances to allow for ATV use in the City due to the safety and enforcement concerns outlined in this memorandum and the attachments.

If the Ordinance Committee would like staff to draft an ordinance allowing ATVs to operate on City streets, then staff will need additional information including, but not limited to the following:

- Responsibility for signage and route creation
- Insurance and registration requirements
- Vehicle requirements (tires, size, headlights, taillights, directionals, horn, seatbelts)
- Operating on private property
- Role of ATV Club(s)
- Permitted hours of operation
- Age limitations; helmet and eye protection for certain drivers/riders
- Penalties for violations
- Requirement for ordinance review after a period of time
- Enforcement of current traffic laws and ATV ordinance
- Open intoxicants and OWI enforcement

LINKS AND ATTACHMENTS

[Link to DOT Information on ATVs and UTVs](#)

[The ATV Safety Institute's Golden Rules](#)

6.29.22 T. Kosh Letter – ATV.UTV Ordinance

Town of Caledonia's ATV Decision

Jefferson ATV Ord

Johnson Creek ATV Ord

Lake Mills ATV Ord

Waterloo ATV Ord

Whitewater ATV Ord

DNR ATV Fatality Reports (2021-2023)



City of Fort Atkinson
City Manager's Office
101 N. Main Street
Fort Atkinson, WI 53538

Sent via email

June 29, 2022

Ms. Kim Cheney, Administrative Assistant
Town of Koshkonong
W5609 Star School Road
Fort Atkinson, WI 53538

RE: Town of Koshkonong Proposed ATV/UTV/RTV Ordinance

Dear Ms. Cheney:

Thank you for emailing me on June 16, 2022 relating to a draft ATV/UTV/RTV ordinance (ATV ordinance") being considered by the Town Board of the Town of Koshkonong on July 20, 2022. The City Council of the City of Fort Atkinson has not taken any official action relating to ATVs or other similar vehicles on City streets. As such, the perspective provided in this letter is from City staff.

ATVs and other similar vehicles are prohibited on City roads. City staff does not support the operation of such vehicles on City roads for many reasons including, but not limited to the following:

- ATVs are not intended for roadway travel and the manufacturers indicate this on their manuals and warning stickers on the units.
- The safety features, brakes and tires are not built or suited to perform on roadways which increases the potential danger to the rider.
- The addition of another type of vehicle on roads increases the danger for other vehicles, bicyclists, and pedestrians.
- ATV tires are designed for dirt and rough roads, not for paved terrain. The wide tires with big tire threads create opportunities for roll overs and loss of control during quick or avoidance turns.
- ATVs can lack certain safety features, such as turn signals, headlights, and tail lights. Some even lack brake lights. They also lack speedometers, horns, windshields, etc.
- There are no laws in place that require the use of a helmet or the wearing of eye protection when operating an ATV.
- Drivers of ATVs are not subject to the same impairment/OWI laws as those driving legal vehicles. If an ATV driver is impaired while driving, he or she is only subject to a DNR violation.
- Most ATVs are louder and produce more exhaust than legal vehicles on the road.
- The ATV Safety Institute does not support roadway travel as a safe option. They have developed 8 Golden Rules for safety and #2 is: "Never ride on paved roads except to cross when done safely and permitted by law – another vehicle could hit you. ATVs are designed to be operated off-highway." <https://atvsafety.org/the-golden-rules/>

City staff members have reviewed the draft ATV ordinance as emailed on June 16th and have the following specific concerns:

- 1) **Enforcement:** The City of Fort Atkinson Police Department would have a “zero tolerance” policy on enforcement of the City’s prohibition of ATVs on City roads. Citations would likely be issued for all violations. Note that many people do not know where Town roads end and City roads begin. This is especially true on Hackbarth Road, which jogs in and out of the City. The Jefferson County Sheriff’s Department has few officers on duty at any given time and a large area to cover. The DNR does not have active enforcement officers relating to ATV use. Enforcement of the ATV ordinance would likely be minimal within the Town.
- 2) **Responsibility:** The ATV ordinance requires a Club to register with the Town and be responsible to promote safe ATV use and fund signage. What if no Club takes on such a role? What if a Club takes on this role for the short term, but becomes inactive in the longer term? What kind of accountability does the Club have if Section 28.18(d) is not followed? There is no section relating to the revocation of Club designation. Likewise, there are not any sections that outline consequences to the Club if the ordinance is violated nor the expectations for “promoting safe and responsible ATV/UTV/RTV use...”
- 3) **Safety:** As previously mentioned, ATVs are not manufactured to be driven on paved roads. Even if additional safety measures are required, such as those outlined in Section 28.18(g)9. through 11., there is no mechanism for enforcement. Riders would have to be at least 16 years old and only ATV use relating to farming operations would be permitted between 11:00 p.m. and 5:00 p.m., but enforcement is a major concern.
- 4) **Communication:** If the Town closes a route or a road to ATV use, how would that be communicated to Town residents, visitors, or guests? How would ATV riders know if the designated Club ceases to exist but route signs remain? How much signage will be required showing where routes will be located?

If the Town Board chooses to enact this ATV ordinance or a similar ordinance, City staff recommends that any roads that border the City of Fort Atkinson be included in the list of exceptions outlined in Section 28.18(e)3. Such recommended roads include Hackbarth Road, Banker Road, Main Street, High Street, Fox Hill Road, and any others that border the City limits.

The City respects the authority of the Town Board to govern their own community and regulate this matter and others which are in the best interest of the Town. City staff was asked to share information and perspective on the matter and has done so through this letter.

If you have any questions, please reach out via email at rlemire@fortatkinsonwi.gov or by phone at (920) 563-7760.

Sincerely,

Rebecca Houseman LeMire

Rebecca Houseman LeMire
Fort Atkinson City Manager

Town Makes Decision on ATV/UTV Use of Town Roads

Background

Late in 2018, the Town of Caledonia was asked by ATV/UTV owners and clubs to open town roads to ATV/UTV use. Because of the lack of public land in Caledonia for off road trails, none exist at this point and future development of off road trails for ATV/UTV use is unlikely. Additionally, ATV/UTV use of the many snowmobile trails in the town will not be permitted. As a result, the only place to ride in Caledonia is on private land and, if permitted, municipal roads, so club members asked for town roads to be opened for their use. The Town Board understands this situation and agreed to look into it. The use of municipal roads by ATV/UTVs is a divisive topic with strong opinions on both sides. The Town Board felt it was essential to consider the benefits and impacts on all 1650+ residents in the Town in addressing this request. The Town Board also felt it was important to get the facts relating to this matter to ensure the best possible decision would be made. Supervisor Bill Abba was assigned to investigate and bring back the necessary information so the Town Board could make an appropriate decision.

The Town Board prioritized four considerations in making the ATV/UTV decision; 1.) safety of residents and users of town roads, 2.) the ability to effectively enforce and prosecute applicable laws, 3.) the maintenance of the local rural environment enjoyed here, and 4.) the cost implications to residents. Over a period of six months numerous contacts with individuals and organizations that could provide facts on this topic were made including the WDNR, Waupaca County District Attorney and Sheriff, the Wisconsin DOT, insurance providers, a number of attorneys, and others. The State of Wisconsin Statutes and WDNR Administrative Codes were obtained and studied in detail. The latest annual report (2018) of the WDNR Recreational Enforcement and Safety Department was obtained and studied. Discussions with the Vilas County Recreation Department were also initiated to learn about the experiences in that County with the extensive use of recreational vehicles in northern Wisconsin. Conversations were held with other townships and county representatives to learn from their perspectives and research.

The Town Board has reviewed this information and decided not to open town roads for ATV/UTV use at this time. This decision will be revisited as new information is obtained that changes the findings. We will explain the Town Boards rationale in this article.

Findings

State Statute 23.33 and DNR Administrative Code NR64 control most aspects of ATV/UTV operation in Wisconsin. State Statute 23.33 passes authority to designate local municipal roads as ATV/UTV routes to the responsible local government body, in our case that would be the Town of Caledonia. Municipal roads can be designated as "routes" for ATV/UTVs to use by passing a local town ordinance in "strict conformity" with the State Statute 23.33. Waupaca County approved an ordinance which passes authority to make the ATV/UTV decision for the County Highways within a township to the local Town Board. This ordinance requires a 35 mph speed limit on the county roads. The Wisconsin DOT has made the decision that Highways 45 and 96 will not be opened to ATV/UTV traffic, except for the short 35 mph stretch in Readfield. The Town Board was designated by the DOT to make the decision on that portion of Hwy 96.

When operating on municipal roads, ATV/UTVs must be driven on the paved surface of the road only and can not be driven on the road's shoulders or ditches because of the potential to damage these parts of the road. Snowmobiles, on the other hand, are not permitted on any paved roads except to cross them, and must use the many off road snowmobile trails that are available and in some cases the ditches along roads. ATV/UTVs, therefore, will be traveling amongst all other traffic on opened roads, which does not happen with snowmobiles. The State already has an exemption in place for on road use of ATV/UTVs for agricultural use and for use by the disabled. A permit from the State is required for these uses and the vehicle must be used on the paved surface of the road and in compliance with the exemption rules.

Unlike the northern portions of the State where recreational use of these vehicles is extensive and great economic benefit is realized, little if any economic benefit is likely in Caledonia. There are no hotels, gas stations, lakes, recreational trails, parks, retail outlets, repair shops for ATV/UTV drivers to patronize. No incremental taxes are expected to be collected. The three restaurants/taverns in Caledonia would likely be the only businesses for riders to patronize. And while we would hope these businesses would benefit from ATV/UTV traffic if an ordinance was passed, there would still be no tax benefit back to the town. We expect that ATV/UTV traffic would be "pass through" traffic and some local resident use. All costs for the required signage and ordinance enforcement would need to be picked up by the existing property tax levy requiring a tax increase or further cuts in road maintenance spending to offset these costs.

State Statute 23.33 was thoroughly studied and legal interpretations were sought to understand what is required of ATV/UTV users when operating on municipal roads. Four concerning issues were identified from this research that ultimately became an important part of this decision. Each will be reviewed in the next sections:

- 1.) State Statutes require all motorized vehicles using public roadways to have minimum liability insurance coverage in case of accidents and injury. State Statute 23.33 does not require ATV/UTVs to have this coverage when operating on municipal roads even though they are operating in traffic. If you are involved in an accident resulting in damage to property or injury and caused all or in part by an uninsured ATV/UTV driver, your insurance may have to cover it. **The Town Board believes all drivers should be required to have this basic liability coverage in order to operate on public roads.** The town can not require insurance in its ordinance because we must be in "strict conformity" with the State Statute and the Statute does not require insurance coverage, so we can't. Some communities have written insurance requirements into their local ordinances, but we have been advised this is not enforceable. **The Town Board believes this is a serious safety concern and a major flaw in the Statute that must be addressed by the State.**
- 2.) State Statute 23.33 does not require a driver's license to operate in traffic on municipal roads. Twelve year olds can drive ATV's and unlicensed sixteen year olds can drive UTVs in traffic, obviously without having completed drivers training on the rules of the

road. And they can do so at the posted speed limit for other vehicles on that road. Of even greater concern is that ATVs are arguably more difficult to drive versus UTVs, yet twelve year olds can drive ATVs but you need to be sixteen to drive UTVs - this makes little sense. Imagine the following totally legal situation:

An unlicensed twelve year old drives an ATV (which the manufacturers association says should not be used on paved roads for safety reasons), in traffic, without basic liability insurance coverage, on narrow town roads with deep ditches and small shoulders, at 55 mph.

While it is true that this child is to be accompanied by a person eighteen years old or older on a second machine, **this seems like a serious safety issue, especially with the heavy truck traffic in the Town of Caledonia.**

A second concerning issue created by not requiring a valid driver's license to drive ATV/UTVs on municipal roads involves operating under the influence. A person who has lost their driver's privileges because of OWI convictions can continue to use the public roads in traffic by driving an ATV/UTV. No drivers license is required so they have not lost their ATV/UTV driving privilege. If caught driving under the influence while on an ATV, they can be fined but not deprived of their ability to continue operating on municipal roads. **The Town Board believes this is a safety issue for our residents and must be addressed by the State. The Board believes if these vehicles are going to operate on municipal roads, a valid driver's license must be required.**

- 3.) Many municipalities and counties have passed local ordinances allowing ATV/UTVs to use their roads. All of the ordinances that we have seen have a requirement that the speed limit for ATV/UTVs is 35 mph or lower if the road has a speed limit below 35. We believe these municipalities expected that this speed limit is enforceable. This appears to not be the case. Statute 23.33 does not specify a speed limit for ATV/UTVs on municipal roads and, therefore, any speed limit set in a local ordinance is not enforceable according to the Statutes strict conformity requirement. The Waupaca County District Attorney, the Wisconsin Towns Association legal staff, and our town attorney all advise that 35 mph is not enforceable. The only enforceable ATV/UTV speed limit is the same limit that is imposed for all other vehicles on that road - the posted speed limit. The majority of the roads in Caledonia have 45 or 55 mph speed limits so the enforceable speed limit for ATV/UTVs would be as high as 55 mph in this township. **The Town Board believes Statute 23.33 must be amended to include enforceable speed limits that reflect the safe speed limit for these vehicles on the road in traffic.**
- 4.) Lastly, It is unclear which agency and at whose expense the rules governing ATV/UTV use on municipal roads would be enforced. The State Statute 23.33 is enforced by DNR wardens and other law enforcement agencies, and these agencies' costs are covered by the State when enforcing this Statute. But the designation of local roads as ATV/UTV

routes is a local ordinance. We have been told by the DNR that they would not enforce local ordinances, they only enforce the state law, so they would not enforce our local ordinance. We have no local police department to enforce any ordinance we may create so we would need to depend on the Waupaca County Sheriff to enforce any ATV/UTV ordinance we may enact. The Sheriff's Office has served our community very well over the years and would assist as best they can. When enforcing local ordinances in the past, the Sheriff's Office has required the Town to pay expenses and officer time. These costs, along with the signage costs required in the Statute 23.33, would then have to be paid for by the Town of Caledonia out of property tax revenues. As said earlier, no new revenues will be generated by allowing ATV/UTV use of town roads, so property tax revenues would need to be used. **The Town Board is very concerned about the continued increases in expenses and continued demand on an already overstretched Sheriff's Office.**

After considering all of this information, **the Town Board believes there are a number of serious issues with the State Statute 23.33 that need to be corrected by the State legislature.** These issues involve safety concerns, cost and enforcement coverage issues, and the ability to enforce the ordinance we may create. We hope that municipalities and the clubs would work together to address these issues with our State legislators. **Until Statute 23.33 is amended to correct these issues the Town Board does not believe passing an ordinance allowing ATV/UTV use of town roads is in the best interests of our residents.** The Town Board is willing to reconsider this decision in the future as these issues are addressed.

Finally, while studying this issue for the past months, many conversations were held with supporters of allowing ATV/UTV use of town roads. Often, we would be told to "just pass the ordinance, there are no issues with this in the communities that have passed it". Well, this is not entirely true and the data from the DNR bears that out. After reviewing the data from the 2018 Annual Report from the DNR Recreational Safety and Enforcement group, it is clear that safety issues do exist with ATV/UTV use that do require enforcement support and spending. There are nearly 400,000 registered ATV/UTVs in Wisconsin and the number is growing rapidly, and this number does not include out of state machines that are brought to Wisconsin. It is hard to imagine that adding this many vehicles to State roads, trails, and private lands would result in "no issues". In 2018, there were 26 fatalities with ATV/UTVs in Wisconsin, half on municipal roads. This is more than either boats or snowmobiles experienced and is troubling when you consider ATV/UTVs are not allowed on a lot of roads at this point. Additionally, 1430 citations were issued for violations. While ATV/UTVs make up 32% of the total registered recreational vehicles in the State, they are involved in 42% of all incidents involving injuries. Even more troubling, certain operators of ATV/UTVs are required to have completed safety training and carry a certificate when riding, yet nearly half of these individuals who were involved in injury causing accidents, did not have one.

The Town Board does understand the desire to operate these vehicles on our roads and does think that could happen one day. At this point with the best interests of all in mind, however, there are too many issues to approve this now.

[1] Editor's Note: This ordinance also repealed former Art. II, All-Terrain Vehicles, adopted 7-5-2016 by Ord. No. 6-16.

§ 265-19 State laws adopted.

- A. The provisions of § 23.33, Wis. Stats., and the defining regulations found in Ch. NR 64, Wis. Adm. Code, with respect to the regulation of all-terrain vehicles, including any future amendments thereof, are hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited in this section.
- B. The operator of an ATV/UTV shall be subject to §§ 346.02(11), 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.21, 346.215(3), 346.22, 346.27, 346.33, 346.35, 346.37, 346.39, 346.44, 346.46, 346.47, 346.48, 346.50, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.71, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), and 346.94(1) and (9), Wis. Stats. Acts required to be performed or prohibited by such statutes are required or prohibited by this article.

§ 265-20 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE (ATV)

A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards effective July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was manufactured with, all of the following:

- A. A weight, without fluids, of 900 pounds or less.
- B. Three or more tires.
- C. A steering handlebar, single or dual headlights, a taillight and brake light.
- D. A width of no more than 50 inches.

ALL-TERRAIN VEHICLE CLUB

A club consisting of individuals that promote the recreational use of all-terrain vehicles.

ATV/UTV ROUTE

A street designated for use by ATV/UTV vehicle operators by the governmental agency having jurisdiction as authorized by this article.

OPERATE

To exercise physical control over the speed or direction of an all-terrain vehicle or physically manipulate or activate any of the controls of an all-terrain vehicle necessary to put it into motion.

STATE TRUNK HIGHWAY

Any highway designated pursuant to § 84.29, Wis. Stats., as part of the state trunk highway system, exclusive of connecting highways.

STREETS

Every highway within the corporate limits of the City except alleys.

UTILITY-TERRAIN VEHICLE (UTV)

A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards effective July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was manufactured with, all of the following:

- A. A weight, without fluids, of 3,000 pounds or less.
- B. Four or more tires.
- C. A cargo box installed by the manufacturer measured laterally between the outermost wheel run on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
- D. A steering wheel, taillights and brake lights, and two headlights.
- E. A width of no more than 65 inches.
- F. A system of seat belts, or similar system, for restraining each occupant of the device in the event of a collision.
- G. A system of structural members designed to reduce the likelihood that an occupant would be crushed as a result of a rollover of the device (roll bars).

§ 265-21 All-terrain/utility-terrain vehicle routes.

- A. ATV/UTV usage shall be authorized on all City streets except as follows:

[Amended 10-4-2022 by Ord. No. 6-22]

(1) No usage on Business State Highway 26 North on Main Street from Puerner Street to North Watertown Avenue/Junction Road.

B. ATV/UTV vehicles shall not be operated on any sidewalk within the City of Jefferson.

C. The Jefferson Police Department may temporarily close any ATV/UTV route whenever conditions require closure.

§ 265-22 Age requirement.

All ATV/UTV operators shall be 16 years or older to operate an all-terrain vehicle on road routes in the City holding a valid Wisconsin driver's license. All sixteen-year-old licensed riders who have not attained the age of 18 shall be required to wear a helmet and eye protection. The operator, upon request from any law enforcement officer, state patrol, or inspector under § 110.07(1), Wis. Stats., conservation warden, or municipal peace officer, shall display said operator's license to said agent as well as proof of insurance and registration.

§ 265-23 Speed limit.

[Amended 10-4-2022 by Ord. No. 6-22]

All ATV/UTV operators shall observe the posted speed limits on City streets.

§ 265-24 Registration.

All ATV/UTV vehicles operated within the City of Jefferson on designated routes are required to have State of Wisconsin registration as issued by the Wisconsin Department of Natural Resources.

§ 265-25 Operating requirements.

A. All ATV/UTV operators shall ride single file on the right side of the pavement but shall not operate on the shoulders or in the ditch.

B. Headlights and taillights shall be on at all times.

C. All-terrain/utility-terrain vehicles shall yield the right-of-way to nonmotorized vehicles, such as bicycles and pedestrians.

D. No person shall leave or allow an all-terrain/utility-terrain vehicle owned or operated by him/her to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

E. No owner having charge or control of an all-terrain/utility-terrain vehicle shall authorize or permit any person to operate such all-terrain vehicle who is not permitted under state law to operate an all-terrain/utility-terrain vehicle or who is under the influence of an intoxicant or a dangerous or narcotic drug.

F. Section 346.63, Wis. Stats., which prohibits the operation of a motor vehicle while under the influence of an intoxicant or other drugs, shall apply to the operation of an all-terrain/utility-terrain vehicle at any place within the City.

G. No person shall operate an all-terrain/utility-terrain vehicle in the City between the hours of 10:00 p.m. and 8:00 a.m.

H. No operator or passenger of an all-terrain/utility-terrain vehicle may possess in or on an all-terrain/utility-terrain vehicle on any street or highway in the City of Jefferson any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released.

I. During special events within the City limits, the Chief of Police is granted authority to allow for all-terrain/utility-terrain vehicle operation on City streets for the duration of going to or coming from said event or during a parade. An operator needs to contact the Jefferson Police Department and provide their name, all-terrain/utility-terrain device type and registration number, and the Chief of Police will review the request for permission and notify the individual either verbally or in writing of his/her decision.

J. Groups of 25 or more ATV/UTV operators shall notify the Jefferson Police Department before entering the legal boundaries of the City.

[Added 10-4-2022 by Ord. No. 6-22]

§ 265-26 Signage.

A. Organized all-terrain vehicle clubs shall be responsible for marking all all-terrain vehicle routes with uniform all-terrain route signs in accordance with §§ NR 64.12 and 64.12(7)c, Wis. Adm. Code, which locations and placement must be approved by the Police Chief and Public Works Director.

B. All-terrain/utility-terrain vehicle clubs shall be responsible for creating and circulating a map or maps illustrating the City's current all-terrain vehicle routes.

§ 265-27 Violations and penalties.

Any person who shall operate an all-terrain vehicle in violation of this article, in addition to the penalties of Ch. 346, Wis. Stats., shall forfeit to the City not less than \$50, nor more than \$200, for each violation, together with costs and assessments imposed under Ch. 814, Wis. Stats. This penalty section may be amended and set annually by the Common Council.

ORDINANCE NO. 02-23

STATE OF WISCONSIN: VILLAGE OF JOHNSON CREEK: JEFFERSON COUNTY

**AN ORDINANCE REPEALING AND RECREATING
SECTIONS 221-10 AND 221-18 A. OF THE MUNICIPAL CODE**

THE VILLAGE BOARD OF THE VILLAGE OF JOHNSON CREEK, JEFFERSON COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 221-10 is hereby repealed and recreated to read as follows:

§ 221-10. All-terrain vehicles and utility terrain vehicles.

A. State laws adopted.

(1) Except as otherwise specifically provided in this chapter, the provisions of §§ 23.33, 345.11(1r), 346.02(11), 885.235(1), Wis. Stats., and the regulations in Ch. NR 64, Wisconsin Administrative Code Ch. NR 64, with respect to the regulation of all-terrain vehicles and utility terrain vehicles, including any future amendments thereof, are hereby adopted by reference and made part of this chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes and regulations are required or prohibited in this chapter.

(2) The adoption of § 346.02(11), Wis. Stats., by reference is intended to include the rules of the road therein enumerated which are as follows: §§ 346.04, 346.06, 346.11, 346.14(1), 346.18 to 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46 to 346.48, 346.50(1)(b), 346.51 to 346.55, 346.71, 346.87 to 346.91, 346.92(1) and 346.94(1) and (9), Wis. Stats.

B. Operation of all-terrain vehicles and utility terrain vehicles on Village roads. All-terrain vehicles and utility terrain vehicles may be operated on all Village roads, except as prohibited or restricted by an official posted route sign, § 23.33, Wis. Stats., Wisconsin Administrative Code NR 64, or this chapter.

C. Operation of all-terrain vehicles and utility terrain vehicles on Jefferson County highways. All-terrain vehicles and utility terrain vehicles may be operated on Jefferson County highways, except as prohibited or restricted by an official posted route sign, § 23.33, Wis. Stats., Wisconsin Administrative Code NR 64, Jefferson County Code of Ordinances, or this chapter. All requirements for the operation of all-terrain vehicles and utility terrain vehicles on Village roads shall also apply to the operation of all-terrain vehicles and utility terrain vehicles on Jefferson County highways. If a conflict arises between this chapter and the Jefferson County Code of Ordinances regarding the operation of all-terrain vehicles

and utility terrain vehicles on Jefferson County highways, the more restrictive provision shall apply.

D. Operating requirements. The following requirements apply to the operation of all-terrain vehicles and utility terrain vehicles on all Village roads:

- (1) No person shall operate an all-terrain vehicle or utility terrain vehicle between the hours of 10:00 p.m. and 5:00 a.m.
- (2) Operators shall have liability insurance.

E. Modification or suspension of route.

- (1) Modification of route. The route designated for the operation of all-terrain vehicles and utility terrain vehicles in the Village shall be established by ordinance of the Village Board. Any modification to the route designated for all-terrain vehicles and utility terrain vehicles shall be approved by ordinance of the Village Board.
- (2) Temporary suspension of route. The Village Department of Public Works Director and Chief of Police shall each have the sole authority to suspend the operation of all-terrain vehicles and utility terrain vehicles on any road, route, or segment thereof in the Village due to hazards, construction, emergency conditions, road damage, or any other issue deemed appropriate for public safety. The Public Works Director or Chief of Police may suspend the operation of all-terrain vehicles and utility terrain vehicles for any time period necessary to accomplish the purpose of this section.

F. Intoxicants in an all-terrain vehicle or utility terrain vehicle.

- (1) No person may drink alcohol beverages while he or she is in an all-terrain vehicle or utility terrain vehicle when an all-terrain vehicle or utility terrain vehicle is upon a Village road.
- (2) No person may possess on his or her person, in an all-terrain vehicle or utility terrain vehicle upon a Village road, any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released.
- (3) The owner of an all-terrain vehicle or utility terrain vehicle, or the operator of an all-terrain vehicle or utility terrain vehicle if the owner is not present in the all-terrain vehicle or utility terrain vehicle, shall not keep, or allow to be kept in the all-terrain vehicle or utility terrain vehicle when it is upon a Village road, any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed or released. This subsection does not apply if the bottle or receptacle is kept in the trunk or other area of the all-terrain vehicle or utility terrain

vehicle not normally occupied by the operator or passengers. A utility compartment or glove compartment is considered to be within the area normally occupied by the operator and passengers.

- G. Route signs. All initial required route signs will be installed and maintained by the Village Department of Public Works. All signs shall comply with the Federal Manual on Uniform Traffic Control Devices. No person may erect or remove any official designated route sign unless authorized by Village Department of Public Works in writing. No person shall operate an all-terrain vehicle or utility terrain vehicle contrary to any authorized and official posted sign.
- H. All-terrain vehicle and utility terrain vehicle trails designated. Except as provided in § 23.33, Wis. Stats., no person shall operate an all-terrain vehicle or utility terrain vehicle upon any public right-of-way in any public park, golf course, public walking trail, public sidewalk, or any public municipal property in the Village.
- I. Violations and penalties. Any person who operates an all-terrain vehicle or utility terrain vehicle in violation of this section, in addition to the penalties of § 23.33 and Ch. 346, Wis. Stats., shall forfeit to the Village not less than \$50, nor more than \$200, for each violation, together with costs and assessments imposed under Ch. 814, Wis. Stats. This penalty section may be amended and set annually by the Village Board.

SECTION 2: Section 221-18 A. is hereby repealed and recreated to read as follows:

- A. Uniform offenses. Forfeitures for violation of any provision of Chs. 341 to 348, Wis. Stats., adopted by reference in § 221-1 or 221-6A of this chapter, Ch. 350, Wis. Stats., adopted by reference in § 221-6A, or § 23.33, Wis. Stats. and Wisconsin Administrative Code NR 64, adopted by reference in § 221-10 of this chapter shall conform to forfeitures for violation of the comparable state offense, including any variations or increases for second offenses, together with the costs of prosecution, and in default of payment any person convicted of such violation may be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed 90 days.

SECTION 3: All ordinances or parts of ordinances conflicting with or contravening the provisions of this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect upon passage and posting as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of Johnson Creek,
Jefferson County, Wisconsin this ____ day April, 2023.

VILLAGE OF JOHNSON CREEK,

BY: _____

John L. Swisher, President

ATTEST:

Susan L. Caine, Clerk

Date Introduced:

Date Adopted:

Date Posted:

Date Published:

City of Lake Mills, WI
Saturday, March 18, 2023

Chapter 609. Vehicles, All-Terrain

[Adopted by the City Council of the City of Lake Mills 6-3-1997 by Ord. No. 769B (Title 6, Ch. 6, of the 2009 Code of Ordinances). Amendments noted where applicable.]

§ 609-1. Definition.

As used in this chapter, the definition of an "all-terrain vehicle," and all other definitions set forth in § 23.33(1), Wis. Stats., are incorporated herein by reference.

§ 609-2. Adoption of state statutes.

The provisions of § 23.33, Wis. Stats., are incorporated herein by reference, as the same exist as of the adoption of this chapter, or as the same be amended from time to time. These provisions relate to the registration, rules of operation, age restrictions, equipment requirements and accident reporting requirements as set forth in § 23.33, Wis. Stats.

§ 609-3. Enforcement; violations and penalties.

Any person violating any provision of this chapter shall be subject to the issuance of a citation in conformance with § 23.54, Wis. Stats., and the deposit schedule adopted and revised by the Wisconsin Judicial Conference. Upon conviction of any violation under this chapter, a forfeiture, penalties and costs as set forth in § 23.33(13), Wis. Stats., exclusive of penalties requiring imprisonment, may be imposed by the court.

§ 609-4. Route designation.

[Added 10-4-2022 by Ord. No. 1238A]

- A. Pursuant to § 23.33(8)(b)(2), Wis. Stats., and Jefferson County Ordinance No. 2021-01, the following highways and roads are hereby designated as ATV and UTV routes: all official City roads and county highway segments within the jurisdiction of the City of Lake Mills so long as the road is signed in accordance with the Wisconsin Statutes.
- B. The City of Lake Mills Police Chief shall have the authority to temporarily suspend operation on any City route or segment thereof due to hazards, construction, emergency conditions, road damage or any other condition deemed appropriate for public safety.

§ 609-5. Route signs.

[Added 10-4-2022 by Ord. No. 1238A]

- A. All ATV/UTV routes are to be signed pursuant to § 23.33(8)(e)(3) and (4), Wis. Stats.

- B. All ATV/UTV routes shall be marked with uniform ATV and UTV route signs in accordance with § NR 64.12(7), Wis. Adm. Code.
- C. Pursuant to § 23.33(8)(f), Wis. Stats., no person may do any of the following in regard to signs marking City ATV/UTV routes:
- (1) Intentionally remove, damage, deface, move, or obstruct any ATV/UTV route or trail sign if the sign is legally placed by the state or any municipal or local government or duly authorized personnel of such state and local or municipal governments.
 - (2) Possess any uniform ATV or UTV route or trail sign or standard of the type established by the department for the warning, instruction, or information of the public, unless said person obtained the uniform ATV or UTV route or trail sign or standard in a lawful manner. Possession of an ATV or UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.

§ 609-6. Operation.

[Added 10-4-2022 by Ord. No. 1238A]

- A. Operation of ATVs/UTVs pursuant to this chapter shall be in accordance with all municipal, county, state and federal laws and regulations.
- B. Persons operating an ATV or UTV on an ATV/UTV route within the City of Lake Mills pursuant to this chapter must be at least 16 years of age and hold a valid driver's license. A probationary license is acceptable for the purposes of this section.
- C. ATVs/UTVs shall be operated on the extreme right side of the roadway unless making a left turn. Operation of ATVs/UTVs within bicycle lanes is prohibited.
- D. ATVs/UTVs may be operated on paved surfaces only unless yielding the right-of-way.
- E. ATV/UTV operators are required to have applicable liability insurance.
- F. ATVs/UTVs shall not be operated at a speed greater than the posted speed limit with a maximum speed of 35 mph.
- G. ATVs/UTVs may not be operated on any ATV/UTV route without fully functioning headlights, taillights, and brake lights. Use of additional light bars or lighting is not allowed.
- H. ATVs/UTVs may not be operated on any ATV/UTV route between the hours of 10:00 p.m. and 5:00 a.m.
- I. All ATVs and UTVs must display current Wisconsin registration decals and rear registration plates.
- J. No person under the age of 18 may operate or be a passenger in an ATV/UTV on an ATV/UTV route without wearing a helmet.
- K. All ATVs/UTVs shall be operated in single file.
- L. No ATV/UTV may be operated on any ATV/UTV route if the vehicle does not meet all applicable federal and state noise and pollution standards. No modified exhausts are allowed.

§ 609-7. Enforcement; violations and penalties.

[Added 10-4-2022 by Ord. No. 1238A]

- A. Pursuant to § 23.33(12), Wis. Stats., this chapter shall be enforced by any law enforcement officer authorized to enforce the laws of the City of Lake Mills.

- B. The penalties for violating provisions of this chapter are set forth in § 23.33(13)(a), Wis. Stats., and are incorporated herein by reference.

§ 609-8. Agricultural use.

[Added 10-4-2022 by Ord. No. 1238A]

- A. ATVs and UTVs legally registered for private agricultural use are exempt from this chapter.
- B. ATVs and UTVs legally registered for private agricultural use are subject to the laws and regulations of Chs. 23.33 and 23.335, Wis. Stats., and Chs. NR 64 and NR 65, Wis. Adm. Code.

§ 609-9. Cost.

[Added 10-4-2022 by Ord. No. 1238A]

- A. The cost of the ATV/UTV route signs, installation, and maintenance will be paid for by Quad County Runners Inc. or any successor organization or group. Within 30 days of the passage of this chapter, Quad County Runners Inc. will coordinate with the Director of Public Works of the City of Lake Mills to determine the location of the ATV/UTV route signs to be installed at all designated points as required by this chapter and any applicable county or state laws and regulations.
- B. Quad County Runners Inc. will be responsible for the installation of ATV/UTV route signs in accordance with the provisions of this chapter.
- C. ATV/UTV route signs shall be dedicated to the City of Lake Mills and become the property of the City of Lake Mills upon installation.
- D. The City of Lake Mills reserves the right to send an invoice to Quad County Runners Inc. or its successor organization for reimbursement of costs to the City for any ATV/UTV route sign replacement or maintenance.

§ 609-10. Mandatory ordinance review.

[Added 10-4-2022 by Ord. No. 1238A]

The City Manager shall direct staff review of this chapter by no later than April 2024, giving due consideration to the recreation and economic values to access businesses and residences weighted against possible dangers, public health, public safety, liability aspects, terrain involved, traffic safety and other traffic risks since the enactment of this chapter to make findings whether or not the benefits of continuing this chapter outweigh repealing or amending this chapter. The review shall include but not be limited to evaluation by the Departments of Public Works, Police, Facilities and Grounds, and Finance. Results of the review and findings shall be forwarded to the City Council no later than the date of the first regular City Council meeting in June 2024.

- C. Vehicles prohibited. No person shall at any time operate a motor vehicle other than a school bus engaged in transporting or picking up passengers and service vehicles engaged in deliveries or pickups upon any school drive which is designated for those vehicles only.

[Amended by Ord. No. 97-7]

- D. One-way traffic. No person shall operate a motor vehicle contrary to the one-way traffic signs posted on any school drive.

§ 350-12 Trains obstructing streets.

No person shall stop any railroad train, locomotive or car upon or across any highway or street crossing in the City or leave the same standing upon such crossing longer than five minutes, except in cases of accident or breakdown. Any conductor, engineer, brakeman or other person in charge thereof or responsible therefor who shall violate this section shall, upon conviction thereof, be subject to a penalty as provided in Chapter 1, § 1-4, of this Code.

§ 350-13 Off-road vehicles.

[Amended 4-6-2017 by Ord. No. 2017-02; 2-21-2019 by Ord. No. 2019-01]

- A. Intent. The City of Waterloo adopts the following all-terrain vehicle trails and routes for the operation of all-terrain vehicles and utility terrain vehicles upon roadways and City-owned property throughout Waterloo. Following due consideration of the recreational value to connect trail opportunities and weighed against the possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, these routes and trails have been created.
- B. State laws adopted. The statutory provision in § 23.33, Wis. Stats., and Chs. 340 to 348, Wis. Stats., establishing definitions and regulations with respect to ATVs and UTVs, and Ch. NR 64, Wis. Adm. Code, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Unless otherwise provided in this chapter, any act required to be performed or prohibited by any statute incorporated herein is hereby required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein are made a part of this chapter in order to secure uniform statewide regulation of ATVs and UTVs.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

ALL ATV/UTV VEHICLE TRAIL

A marked corridor on public property or on private lands subject to public easement or lease, designated for use by all-terrain vehicle or utility terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways or highways, except those roadways that are seasonally not maintained for motor vehicle traffic.

ALL-TERRAIN VEHICLE (ATV)

A commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator, and travels on three or more tires.

[Amended 5-20-2021 by Ord. No. 2021-04]

OFF-ROAD VEHICLES

Shall include, but not be limited to, minibikes, all-terrain vehicles, and utility terrain vehicles.

UTILITY TERRAIN VEHICLE (UTV)

Any of the following:

- (1) A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all the following:
 - (a) A weight, without fluids, of 2,000 pounds or less.
 - (b) Four or more tires.
[Amended 5-20-2021 by Ord. No. 2021-04]
 - (c) A cargo box installed by the manufacturer.
 - (d) A steering wheel.
 - (e) A taillight.
 - (f) A brake light.
 - (g) Two headlights.
 - (h) A width of not more than 65 inches.
 - (i) A system of seat belts, or similar system, for restraining each occupant of the device in the event of an accident.

(j) A system of structural members designed to reduce the likelihood that an occupant would be crushed as a result of a rollover of the device.

(2) A commercially designed and manufactured motor driven device to which all the following applies: All other applicable words or phrases defined within § 23.33, Wis. Stats., and Ch. 340.01, Wis. Stats., are incorporated within this section.

(a) It has a weight, without fluids, of more than 900 pounds but not more than 2,000.

(b) It has a width of 50 inches or less.

(c) It is equipped with a seat designed to be straddled by the operator.

(d) It travels on tires.

[Amended 5-20-2021 by Ord. No. 2021-04]

D. Regulated. No person shall operate an off-road vehicle on any City street, alley, park, or parking lot; on any public lands or parking lots held open to the public; or on any land zoned residential within the City except as provided below:

[Amended 4-18-2019 by Ord. No. 2019-02]

(1) Designation of all-terrain and utility terrain vehicle routes. Pursuant to § 23.33(8)(b)2., Wis. Stats., all City-maintained streets, roads and alleys are designated as all-terrain and utility terrain vehicle routes unless posted.

(a) Under Wis. Stat., § 23.33(8)(b)1., the City of Waterloo designates STH 19 as an ATV route from the 25/40 MPH speed limit transition to Canal Road. The route shall not be effective unless the Department of Transportation approves the route under Wis. Stat., § 23.33(8)(b)3.

[Added 9-2-2021 by Ord. No. 2021-07]

(2) Conditions of operation. In addition to the provisions in § 23.33, Wis. Stats., and Chs. 340 to 348, Wis. Stats., the following conditions apply:

(a) "ATV/UTV vehicle route" means a highway or sidewalk designated for use by all-terrain vehicle or utility terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.

(3) The City of Waterloo reserves the right to close or modify routes and trails at any time.

(4) The City of Waterloo or its designee shall maintain all route and trail signs within the City of Waterloo. The City of Waterloo shall maintain all route signs erected on state highways within the City of Waterloo.

(5) All ATV/UTV routes and trails shall be signed in accordance with Chs. NR 64.12 and NR 64.12(7)(c), Wis. Stats.

(6) All City of Waterloo streets, roads and alleys are designated as ATV/UTV routes, not including county highways, state trunk highways, or connecting highways unless Jefferson County and/or the Department of Transportation approves or is required to approve the designation.

(7) Per § 23.33 (11)(am)(4), Wis. Stats., the City of Waterloo authorizes the operation of ATVs/UTVs on all highways that have a speed limit of 35 miles per hour or less that are located within the territorial boundaries of the City of Waterloo.

(8) Conditions of route use. As a condition for the use of these trails and routes, the following conditions shall apply to all operators and passengers as applicable:

(a) All ATV/UTV units shall be registered in accordance with WI DNR regulations.

(b) All ATV/UTV operators shall observe all applicable rules of the road governing motorized vehicles on municipal streets in accordance with Ch. 346, and § 23.33, Wis. Stats.

(c) No ATV/UTV shall be operated at a speed greater than the posted street speed limit unless posted otherwise.

(d) All operators of ATVs or UTVs are subject to Wis. Stats. and/or DNR rules and regulations pertaining to age, safety and safety certificate requirements.

(e) No ATV/UTV may be operated on any designated trail or route without fully functional headlights, taillights and brake lights. Operators must display a lighted headlight and taillight at all times while on the trail or route.

(f) All ATV/UTV operators shall ride single file.

(g) ATV/UTVs may be operated on paved roadway surfaces only.

(h) No ATV/UTV may be operated on any designated route between the hours of 10:00 p.m. and 7:00 a.m. daily, unless otherwise authorized by the Chief of Police.

(i) ATV/UTVs that do not meet Wisconsin State or local noise pollution requirements may not be operated on any trail or route.

(j) Operation within any municipal park unless specifically designated is prohibited.

(k) Operation on any sidewalk unless specifically designated is prohibited.

- (l) No person shall leave or allow any ATV owned or operated by him/herself to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition. Insurance is required for all ATVs/UTVs operated within the City of Waterloo.
- (m) DOT. Approved protective helmets will be worn for all operators and passengers of any ATV/UTV for persons under the age of 18 years old.
- (n) A valid Department of Transportation driver's license is required to operate any ATV/UTV.
- (9) In accordance with § 23.33 (11)(am)(3), Wis. Stats., the operation of ATVs and UTVs is authorized on a highway bridge that is not part of the national system of interstate and defense highways, that is 1,000 feet in length or less, and is located within the territorial boundaries of the City of Waterloo, regardless of whether the City of Waterloo has jurisdiction over the highway. The City of Waterloo authorizes the operation of ATVs on STH 19 from the 35/45 MPH speed limit transition to Heil Street, under Wis. Stat., §§ 23.33(4)(d)3.b. and (11)(am)3. to cross over the Mauneshia River tributary provided that a person crossing a bridge shall do all the following:
[Amended 9-2-2021 by Ord. No. 2021-07]
 - (a) Cross the bridge in the most direct manner practicable and at a place where no obstruction prevents a quick and safe crossing;
 - (b) Stay as far to the right of the roadway or shoulder as practicable;
 - (c) Stop the vehicle prior to the crossing;
 - (d) Yield the right-of-way to other vehicles, pedestrians, and electric personal assistive mobility devices using the roadway or shoulder; and
 - (e) Exit the highway as quickly and safely as practicable after crossing the bridge.

§ 350-14 Violations and penalties.

[Amended 6-2-2003 by Ord. No. 2003-3; 9-20-2007 by Ord. No. 2007-18; 4-19-2018 by Ord. No. 2018-04]

The penalty for violation of any provision of this chapter shall be a forfeiture as hereafter provided, together with statutory court costs and penalty assessment, if applicable.

- A. State forfeiture statutes. Forfeitures for violation of §§ 340.01 to 348.28, Wis. Stats., shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.
- B. State fine statutes. The forfeiture for violation of any statute adopted by reference hereunder for which the penalty is a fine shall not exceed the maximum fine permitted under such statute.
- C. Local regulations. The penalty for violations of §§ 350-2 through 350-13 of this chapter shall be as provided in Chapter 1, § 1-4, of this Code.
- D. Penalty for parking violations. Notwithstanding any other penalty provided in this chapter, the forfeiture for parking violations other than those violations contained in the state statutes, as adopted by reference in § 350-1 of this chapter, shall be as hereinafter provided plus costs, fees, and surcharges associated with the prosecution thereof which are required or authorized by state statute or administrative regulation, as follows:
 - (1) \$20 if paid within five days of the issuance of the violation citation.
 - (2) \$60 if paid after five days.
 - (3) Except for a motor vehicle used by a physically disabled person as defined under § 346.503(1) Wis. Stats., a \$100 fine shall be issued for stopping, standing or parking in spaces reserved for vehicles displaying special registration plates or special identification cards.

§ 350-15 Enforcement.

- A. Enforcement procedure. This chapter shall be enforced in accordance with the provisions of §§ 345.20 to 345.53, and § 66.0114, Wis. Stats.
[Amended 9-20-2007 by Ord. No. 2007-18]
- B. Duty of police to enforce. City police officers shall enforce all the provisions of this chapter.
- C. Uniform citation. The uniform citation promulgated under § 345.11, Wis. Stats., shall be used for all moving and nonmoving traffic violations, except parking violations.
- D. Notice of demerit points and receipts. Every officer accepting a forfeited penalty or money deposit under this chapter shall receipt therefor in triplicate as provided in § 345.26(3)(b), Wis. Stats. Every officer accepting a stipulation under the provisions of this chapter shall comply with the provisions of §§ 343.28, 345.26(1)(a) and 345.27(2), Wis. Stats.
- E. Parking citations. Citations for all parking violations under this chapter shall conform to § 345.28, Wis. Stats., and shall permit direct mail payment of the applicable forfeiture to the Police Department within five days of the issuance of the citation in lieu of a court appearance.

ORDINANCE NO. 2031A**AN ORDINANCE CREATING CHAPTER 11.45****Allowing the Operation of All-Terrain Vehicles (ATV) and Utility Terrain Vehicles (UTV) on Whitewater Streets Located in Jefferson County (Excluding City Streets Located Within the Boundaries of the University of Wisconsin – Whitewater Campus)**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 11.45, is hereby created to read as follows:

11.45.010 **General.** This ordinance is enacted pursuant to sections 62.11 (5) and 23.33 Wis. Stats., and the provisions of Wisconsin Administrative Code NR 64 regulating ATV and UTV operation, which is hereby adopted and incorporated herein.

11.45.020 **Applicability and Enforcement.** The provisions of this Ordinance shall apply to all streets, roads and highways, hereinafter at times referred to as City Streets, in the City of Whitewater, Jefferson County, Wisconsin (except City streets located within the boundaries of the University of Wisconsin - Whitewater campus) and the provisions of this ordinance shall be enforced by the City of Whitewater Police Department.

Adoption of this ordinance shall not prohibit any law enforcement officer or DNR warden from proceeding under any other ordinance, regulation, statute, law or order that pertains to the subject matter addressed in this Chapter.

11.45.030 **Limitations.** The following limitations apply to all areas of operation designated in this Ordinance:

(a) Operators and passengers of ATVs/UTVs shall comply with all federal, state and local laws, orders, regulations, restrictions and rules, including, but not limited to, section 23.33 Wis. Stats. and Wisconsin Administrative Code NR 64.

(b) This Ordinance incorporates by reference all definitions under section 23.33 Wis. Stats. and Wisconsin Administrative Code NR 64 and any other applicable Wisconsin Law defining ATVs/UTVs and regulating ATV/UTV use unless this Ordinance states otherwise.

(c) ATVs/UTVs shall be operated on the paved surface on the extreme right side of the roadway.

(d) ATVs/UTVs may be operated on paved surfaces only, unless yielding the right of way.

(e) ATVs/UTVs operators are required to have applicable liability insurance.

(f) ATVs/UTVs shall not be operated at a speed greater than the posted speed limits.

(g) ATVs/UTVs may not be operated on any city street without fully functional headlights, taillights and brake lights.

(h) ATVs/UTVs may not be operated on any city street between the hours of 10:00 p.m. and 5:00 a.m.

(i) No person may operate an ATV/UTV on any city street without a valid driver's license and shall display the license on demand from any law enforcement officer or official described in section 23.33 (12) Wis. Stats.

(j) The operation of an ATV/UTV shall be limited to traveling on a direct route from the initial starting point of the vehicle to a Jefferson County highway, or from a Jefferson County highway to a specific destination in the City of Whitewater, Jefferson County, Wisconsin. Operating ATV/UTV vehicles on City streets for other purposes is prohibited.

11.45.040 Routes.

(a) Any modification to the routes designated for ATV/UTV use shall be approved by the Common Council.

(b) The routes designated as an ATV/UTV vehicle route shall be as follows: streets, roads and highways in the City of Whitewater, Jefferson County, Wisconsin (excluding City streets located within the boundaries of the University of Wisconsin - Whitewater campus).

(c) The City Manager or his or her designee shall have the authority to suspend operation on any route or segment thereof due to hazards, construction, emergency conditions, road damage or any other issue deemed appropriate for public safety. Routes subsequently removed as an ATV/UTV vehicle route will be posted on the City of Whitewater website.

11.45.050 Route Signs.

(a) All initial route signs will be installed and maintained by the City of Whitewater Public Works Department in cooperation with the Jefferson County Highway Department.

(b) No person may erect or remove any official designated route sign unless authorized by the City of Whitewater Public Works Department in writing.

(c) No person shall operate an ATV/UTV contrary to any authorized and official posted sign.

11.45.060 Penalties.

(a) This Ordinance shall be enforced by the City of Whitewater Police Department, or any other law enforcement official as set forth in section 23.33 (12) Wis. Stats., including the issuance of citations under section 66.0113 Wis. Stats.

(b) The penalties set forth in section 23.33 (13) (a) Wis. Stats., are adopted and incorporated by reference herein.

11.45.070 Severability.

(a) Should any subsection, clause or provision of this ordinance be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part declared invalid.

11.45.080 Maintenance.

(a) Designation of City of Whitewater streets and roads as ATV/UTV routes does not impose upon the City of Whitewater a greater duty of care or responsibility for maintenance of those segments than that required for any other street or road. Operators of ATV/UTVs on City streets assume all the usual and normal risks of ATV/UTV operation.

11.45.090 **Council Review.** This ordinance is enacted to operate in conjunction with Jefferson County Ordinance number 2021-01. Jefferson County will begin a review process of its ordinance on November 30, 2022 for the purpose of determining if Jefferson County's experience with its ordinance has been positive. The City of Whitewater Public Works Committee shall monitor Jefferson County's review process and provide the City Council with a report on Jefferson County's findings and actions no later than March 1, 2023.

Ordinance introduced by Council Member Allen, who moved its adoption.

Seconded by Council Member Smith. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: November 2, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk



















