

## **ORDINANCE 2021-01**

### **AN ORDINANCE CREATING (All-Terrain Vehicles and Off-Road Motor Vehicle Operation) OF THE TOWN OF DEERFIELD, DANE COUNTY, WISCONSIN.**

**WHEREAS** the Town Board of Deerfield recognizes that regulating the ATV/UTV use of town roads is necessary to enhance safety, promote safe recreational activities and enable greater flexibility of agricultural use of ATV/UTVs on Town of Deerfield Roads,

**NOW THEREFORE**, the Town Board of the Town of Deerfield, Dane County, Wisconsin, does hereby ordain as follows:

#### **All-Terrain Vehicles, Utility-Terrain Vehicles, and Off-Road Motor Vehicle Operation**

Wisconsin All-Terrain Vehicle & Utility-Terrain Vehicle Laws  
Adopted Authorized All-Terrain & Utility-Terrain Vehicle Use.  
Unauthorized Operation of Motor Vehicles on Public or Private Property

#### **STATE ALL-TERRAIN VEHICLE & UTILITY-TERRAIN VEHICLE LAWS ADOPTED.**

The provisions describing and defining regulations with respect to all-terrain vehicles and utility- terrain vehicles in the following-enumerated subsections of Sec. 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this Section as if fully set forth herein. Any acts required to be performed by the following statutory subsections or which are prohibited by such statutory subsections are required to be performed by this Section or are prohibited by this Section:

- |           |   |
|-----------|---|
| 23.33(1)  | Definitions, including subsections (a) through (o) and sections (1m).   |
| 23.33(2)  | Registration.   |
| 23.33(3)  | Rules of operation, including subsections (a) through (i) and sections (3c), (3e) and (3g).   |
| 23.33(4)  | Operation on or near highway, including subsections (a) through (f) and sections (4c), (4g}, (4j), (4L}, (4p), (4t}, (4x) and (4z). |
| 23.33(5)  | Age restrictions including subsections (a) through (c).   |
| 23.33(6)  | Equipment requirements, including subsections (a) through (i) and sections(6m) and (6r).  |
| 23.33(7)  | Accidents, including Subsections (a) and (b}.   |
| 23.33(8)  | Routes and Trails, including subsections (a) through (f).   |
| 23.33(11) | Local Ordinances, including subsections (a) and (b)   |
| 23.33(12) | Enforcement, including sections (a) and (b).  |
| 23.33(13) | Penalties, including subsections (a) through (f).   |

#### **AUTHORIZED ALL-TERRAIN & UTILITY-TERRAIN VEHICLE USE**

**(A) PURPOSE.**

- (1) The purpose of this ordinance is to establish an all-terrain vehicle (ATV) / utility-terrain vehicle (UTV) route and provide safe and enjoyable ATV/UTV recreation consistent with public rights and Interests pursuant to Wis Stat . ss. 23.33(8)(b) and 23.33(11).

**(B) DESIGNATION AND AUTHORIZATION OF ROUTES.** Except as otherwise specifically provided in Wisconsin Statute 23.33, and subject to the conditions and limitations hereinafter set forth:

- (1) Under Wis. Stat. s. 23.33(8)(b)(2), the Town of Deerfield designates ALL town-maintained roads, streets, and highways, with a speed limit as posted, as ATV/UTV routes. This also includes any town-maintained parking lots as ATV/UTV routes, unless otherwise posted.
- (2) Under Wis. Stat. S. 23.33(11) (am)4., the Town of Deerfield authorizes the operation of ATVs/UTVs on all state trunk and county trunk highways that have a posted speed limit as posted.
- (3) The Town Chairman, at his or her discretion, shall have the authority to temporarily close any ATV/UTV street/route designated or authorized herein for a period of ninety (90) days or less due to hazard, construction, or emergency conditions in any designated area, street, or route listed above.
- (4) The Town Board may close any ATV/UTV routes designated or authorized herein at any time, for any reason, through removal of route signage and by providing notice to the public.

**(C) SIGNAGE**

- (1) Routes shall be marked with ATV/UTV route signs in accordance with Wisconsin Administrative Code section NR 64.12 and all other applicable state and local laws.
- (2) No person may do any of the following in regard to signs marking town routes:
  - a. Intentionally remove, damage, deface, move, or obstruct any ATV/UTV route or trail sign or standard or intentionally interfere with the effective operation of any ATV/UTV route or trail sign or standard, if the sign or standard is legally placed by the state, any municipality, or any authorized individual.



- b. Possess any ATV/UTV route or trail sign or standard of the type established by the Department of Natural Resources for the warning, instruction or information of the public, unless he or she obtained the ATV/UTV route or trail sign or standard in a lawful manner. Possession of an ATV/UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.
- (3) All required designated route signs shall be paid for and installed by an ATV/UTV club and installation of such signs will be approved and under the direction of a Town of Deerfield Patroller and/or the Town of Deerfield Board.
- (4) All signs shall be in compliance with the Federal manual on uniform traffic control devices.
- (5) No sign may be mounted to an existing County sign post unless authorized by the Dane County Highway Commissioner or designee.
- (6) No sign shall be mounted to an existing Wisconsin DOT sign post.

#### **(D) REQUIREMENTS FOR USE OF ROUTES:**

In addition to the provisions of Wisconsin Statutes section 23.33, the following restrictions are placed on the use of ATVs and UTVs on Town of Deerfield designated routes:

- (1) ATV/UTV shall not be operated at a speed greater than what is posted. ATV/UTV operators shall comply with all other posted roadway speed limit signs and all other applicable traffic signs & regulations within the Town of Deerfield.
- (2) On all town roads ATV/UTV operation shall be on the roadway portion of the highway. Operation on paved shoulders intended for bicycles or pedestrians, gravel shoulders, grassy in-slope, ditches, or other highway right-of-way is prohibited. No person may operate an ATV or UTV upon any sidewalk or pedestrian way.
- (3) All ATVs/UTVs shall be operated in single file.
- (4) No ATV/UTV may be operated on any Town of Deerfield road without fully functional headlights, tail-lights, and brake lights. Every ATV/UTV operator on any town road must display a lighted headlight and tail-light at all times.
- (5) All persons who operate an ATV or UTV in the Town of Deerfield must be 16 years of age or older and must possess a valid driver's license as defined in Wisconsin Statutes 340.01(41g).
- (6) All ATV/UTV units shall be registered in accordance with WI DNR regulations and WI DOT regulations.

- (7) All UTV operators and passengers must wear manufacturer-installed seatbelts at all times.
- (8) No person under the age of 16 may operate or be a passenger on an ATV/UTV on any Town of Deerfield road without wearing Department of Transportation approved protective headgear.
- (9) No ATV/UTV may be operated on any town road between the hours of 11:00 p.m. to 5:00 a.m. unless otherwise authorized by the Town of Deerfield Chairman.
- (10) All persons who operate an ATV or UTV on any Town of Deerfield road shall have in effect a liability insurance policy covering the vehicle being operated and such operator shall have in his or her immediate possession proof of said insurance, which shall be displayed upon demand from any law enforcement officer.
- (11) No person may operate an ATV or UTV within the Town of Deerfield unless it conforms to all noise, registration, and other requirements of Wisconsin Statutes, Wisconsin Administrative Code, and the Wisconsin Department of Natural Resources.
- (12) No person may drink alcohol beverages while he or she is in or on an ATV or UTV that is on a Town of Deerfield ATV/UTV road. No person may possess on his or her person while he or she is in or on an ATV or UTV that is on a town road any bottle, can, or receptacle containing alcohol beverages if the bottle, can, or receptacle has been opened. The use or possession of open intoxicants by operators or passengers of ATVs or UTVs are strictly prohibited while utilizing ATV/UTV roads within the Town of Deerfield.
- (13) No person may drive or operate an ATV/UTV while under the influence of alcohol or a restricted controlled substance, including absolute sobriety by operators under the age of 21.

#### **(E) ENFORCEMENT & PENALTIES**

- (1) This Ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.
- (2) Violations of this section shall incur the maximum penalties set forth in Wis Stats. s. 23.33(13), as may be amended from time to time.
- (3) Adoption of this section shall not prohibit any law enforcement officer or Department of Natural Resources Warden from proceeding under any other ordinance, regulation, statute, law, or order that pertains to the subject matter addressed under this section.
- (4) Wisconsin state All-Terrain Vehicle and Utility-Terrain Vehicle penalties found in s.23.33(13)(a) Wis. Stats, are adopted by reference.
- (5) The penalty for a violation of sections 10-4-2 (D)(1), (D)(2), (D)(3), (D)(4), (D)(6) and (D)(11) will result in a fine of \$85.00 plus court costs.



- (6) The penalty for a violation of sections 10-4-2 (D)(5), (D)(7), (D)(8), (D)(9), and (D)(10), will result in a fine of \$100 plus court costs.
- (7) The penalty for a violation of sections 10-4-2 (D)(12) will result in a fine of \$200 plus court costs.
- (8) A violation of section 10-4-2 (D)(13) will be referred to the DNR, the Dane County Sheriff's Department, or Dane County Circuit Court.
- (9) A person who violates any provisions in this section three (3) times shall be considered a repeat offender and shall lose his or her privileges to operate or be a passenger on an ATV or UTV within the Town of Deerfield. Continued operation after being found guilty of three (3) violations of this section will result in impoundment of the ATV/UTV and a fine of \$200 plus court costs.

#### **UNAUTHORIZED OPERATION OF MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY.**

##### **(A) Purpose.**

- (1) The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvement to the lands; and
- (2) The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and
- (3) The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and
- (4) The unauthorized off road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

##### **(B) Definitions.** For purposes of this Section, the terms below shall be defined as follows:

- (1) **Unauthorized** shall mean without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.
- (2) **Off-Road** shall mean any location which:
  - a. Is not a paved or maintained public road or alley; or
  - b. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or

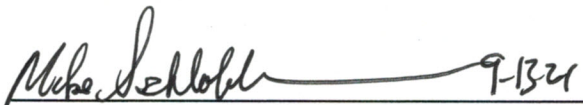
- c. Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creek bed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creek bed, riverbed or lake.
- (3) **Operation** shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.
- (4) **Motor Vehicle** shall mean, for purposes of this Section, any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. Motor vehicle shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this Section shall not be so defined while:
  - a. It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites provided such operation is by persons having legitimate business on such lands or sites;
  - b. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.
  - c. It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

**(C) Unauthorized Off-road Operation Prohibited.**

- (1) The unauthorized off-road operation of a motor vehicle is prohibited.
- (2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in areas authorized by the Town Board, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the Town roads, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the written consent of the owner before operation of such craft or vehicle on private lands.

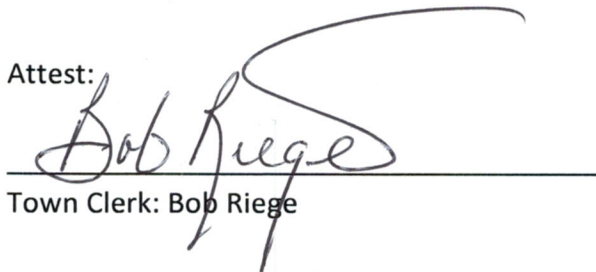
This ordinance shall take effect upon its passage and publication or posting as required by law. All other sections under this ordinance shall remain in full force and effect as drafted. Any Ordinance, or parts thereof, inconsistent herewith is hereby repealed.

Adopted and approved this 13 th day of September, 2021, by the Board of Supervisors of the Town of Deerfield, Dane County, Wisconsin.

 9-13-21

Town Chair: Mike Schlobohm

Attest:



Town Clerk: Bob Riege