

ORDINANCE NO. 9-24

An Ordinance Repealing and Recreating section 7.09, All- Terrain Vehicle Route of the Code of Ordinances of the Town of Ottawa

WHEREAS, the Town of Ottawa recognizes that surrounding communities permit the use of non-traditional vehicles, including all-terrain vehicles and utility terrain vehicles, on their roadways; and

WHEREAS, the Town of Ottawa recognizes that there is interest in allowing the use of such vehicles on roadways within the Town; and

WHEREAS, the Town of Ottawa also recognizes that such use, if permitted, requires appropriate regulation to ensure the safety of all citizens; and

WHEREAS, Wis. Stats. § 23.33 authorizes municipalities to designate municipal roads as all-terrain vehicle routes to allow all-terrain vehicles and utility terrain vehicles to operate on certain roads within the municipal boundaries.

NOW, THEREFORE, the Town Board of the Town of Ottawa, Waukesha County, Wisconsin do ordain as follows:

Chapter 7 of the Town of Ottawa Municipal Code entitled “Traffic Code,” Section 7.09 entitled “All-Terrain Vehicle Route” is hereby repealed and recreated to read as follows:

All-Terrain Vehicles and Utility Terrain Vehicles

Section I – Authority

The Town Board of the Town of Ottawa adopts the provisions of this Ordinance pursuant to the authority of § 23.33, § 60.22, and § 349.11(11), Wis. Stats., and Wis. Admin. Code Chapter NR 64, to regulate, control, prevent and enforce certain uses, activities, and operations by persons that may affect all-terrain use and traffic in the Town of Ottawa, and has the power to designate all-terrain routes and trails by § 23.33, Wis. Stats.

Section II – Regulation of All-Terrain Vehicles (ATV and UTV)

Except as otherwise specifically provided in this Ordinance, the statutory provisions of Wis. Stats. § 23.33, Wis. Stats. § 340, Wis. Admin. Code NR § 64, describing and defining regulations with respect to all-terrain vehicles are adopted and by reference made a part of this Ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute or administrative code incorporated herein by reference is required or prohibited by this Ordinance. Any future amendments, revisions, or modifications of the statutes of administrative code incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles.

Section III – Designation and Authorization of ATV /UTV Routes

Except as otherwise specifically provided in Wis. Stats. § 23.33, and subject to the conditions and limitations hereinafter set forth:

- (a) *Designated Routes.* All Town-maintained roads, streets, and highways which are signed in accordance with Wis. Stats. § 23.33(8) and Department of Natural Resources rules will be designated as ATV Routes in accordance with Wis. Stat. § 23.33(8)(b)(2). The following roads are excluded as designated routes within the Town municipal boundaries:
 - (1) Waterville Road from approximately 1390 ft south of HWY 18 to CTH ZZ at the border of the Town of Ottawa and Village of Summit.
 - (2) Waterville Road from CTH ZZ to Piper Road
 - (3) Parry Road from State Road 67 to Waterville Road
- (b) *Temporary Closure or Suspension of ATV/UTV Routes.* The Town Board or Town Building Inspector, at his or her discretion, shall have the authority to temporarily close or suspend operation of ATVs and UTVs on any road, street, or highway on an ATV /UTV Route designated or authorized herein for a period of ninety (90) days or less due to hazard, construction, or emergency conditions.
- (c) *Permanent Closure of ATV/UTV Routes.* The Town Board may permanently restrict operation of ATVs and UTVs on 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.
- (d) *Review of Ordinance.* Periodic reviews may be completed as deemed necessary by the Town Board.

Section IV – Signage

All ATV/UTV Routes shall be signed in accordance with Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64.12(7).

- (a) The Town of Ottawa shall have the sole responsibility for ATV/UTV signage on Town roads, streets, and highways. The Town Board or their designee shall coordinate the installation of any signage required on State or County highways with the respective agency that maintains jurisdiction of each segment of highway authorized or designated as an ATV/UTV Route.
- (b) Okauchee Area ATV/UTV club shall be responsible for the cost of all required designated route ATV/UTV signage, and shall work with the Town of Ottawa to ensure that ATV/UTV signage is uniform and in compliance with all applicable state and local regulations.
- (c) All signs shall be in compliance with the most current version of the Wisconsin Manual on Uniform Traffic Control Devices.
- (d) No sign shall be mounted to an existing County sign post unless authorized by the Waukesha County Highway Commissioner or designee.
- (e) No sign shall be mounted to an existing Wisconsin Department of Transportation sign post.
- (f) ATV and UTV operation shall be subject to all provisions of Wis. Stats. § 23.33, which is adopted as part of this ordinance by reference. Pursuant to Wis. Stat. § 23.33(8)(f), no person may do any of the following in regard to signs marking ATV/UTV Routes:
 - (1) Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain vehicle route or trail sign or intentionally interfere with the effective operation of any uniform all-terrain vehicle route or trail sign, if the sign is legally placed by the state, any municipality, or any authorized individual.

- (2) Possess any uniform all-terrain vehicle route or trail sign 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 uniform all-terrain vehicle route or trail sign in a lawful manner. Possession of a uniform all-terrain vehicle route or trail sign creates a rebuttable presumption of illegal possession.

Section V – Operation of All-Terrain Vehicles and Utility Terrain Vehicles on Designated and Authorized ATV/UTV Routes

- (a) *Conditions and Restrictions on ATV and UTV Operation.* The operations of an ATV or UTV on a roadway that is a designated or authorized ATV/UTV Route and signed in accordance with Wis. Stat. § 23.33(8)(e) by the Town of Ottawa shall be subject to all provisions of Wis. Stats. § 23.33, Wis. Stats. § 340, and Wis. Admin. Code NR § 64, which are adopted as part of this ordinance by reference. In addition, the following conditions and restrictions shall apply to all ATV and UTV operators and passengers, as applicable:
 - (1) ATVs and UTVs shall not be operated at a speed greater than the posted speed limit.
 - (2) ATV and UTV operators shall comply with all applicable rules of the road governing motorized vehicles operating on municipal roadways in accordance with Wis. Stats. 23.33, Wis. Admin. Code Chapter NR 64, Wis. Stats. Chapter 346, and all other applicable traffic and parking laws, local ordinances, and Wisconsin Department of Natural Resources regulations.
 - (3) No persons under the age of sixteen (16) may operate an ATV or UTV on designated or authorized ATV/UTV Routes in the Town.
 - (4) All ATV and UTV operators born after January 1, 1988 are required to have an ATV Safety Certificate.
 - (5) No person may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required in Wis. Stat. § 347.485(1)(a) and with the chin strap properly fastened, unless one of the following applies, pursuant to Wis. Stat. 23.33(3g):
 - (i) The person is at least eighteen (18) years of age.
 - (ii) The ATV or UTV is being operated for an agricultural purpose.
 - (iii) The ATV or UTV is being operated by a person on land under the management and control of the person's immediate family.
 - (iv) The person is being transported for medical reasons while under the care of emergency personnel.
 - (v) The person is an emergency responder who is responding to an emergency that is directly related to the function of a city, town, Town, county, state agency, federal agency, federally recognized American Indian tribe, or public safety corporation.
 - (6) All ATV and UTV operators shall ride in single file on the extreme right-hand side of the paved portion of the roadway, unless otherwise marked for operation on the shoulder or in the right-of-way. Left turns may be made from any part of the road or highway that is safe given prevailing conditions.

- (7) All ATVs and UTVs shall have fully functional headlights, tail lights, and brake lights while operating on designated or authorized ATV/UTV Routes in the Town. Every ATV and UTV operator on any highway must display a lighted headlight and tail lights at all times.
- (8) Approved hand signals are required whenever the operator intends to change direction if the ATV or UTV is not equipped with turn signals.
- (9) No person may drive or operate an ATV or UTV while under the influence of alcohol or a restricted controlled substance, including absolute sobriety by operators under the age of twenty-one (21).
- (10) Open intoxicants are prohibited for ATV and UTV operators or passengers while the ATV or UTV is in operation in the Town.
- (11) No person shall drive or operate an ATV or UTV on any designated or authorized ATV/UTV Route between the hours of 10:00 p.m. and 7:00 a.m.
- (12) Operation of an ATV or UTV within any municipal park is prohibited.
- (13) Operation of an ATV or UTV on any sidewalk, designated bicycle or pedestrian lane, gravel shoulder, ditch, or other area of any public right-of-way other than on the paved roadway is prohibited, unless specifically designated and posted otherwise by the Town.
- (14) No person shall leave or allow any ATV or UTV owned or operated by that person to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
- (15) A golf cart is not an ATV or UTV. Operation of golf carts on Town roads is prohibited.

(b) *Licensing, Insurance, and Registration.*

- (1) *Driver's License.* Persons sixteen (16) years of age or older must possess a valid driver's license to operate an ATV or UTV on a designated or authorized ATV/UTV Route in the Town.
- (2) *Insurance.* No person may operate an ATV or UTV on designated or authorized ATV/UTV Routes in the Town unless the owner or operator has in effect a liability insurance policy providing coverage consistent with the liability insurance required for operation of a motorized vehicle by the State of Wisconsin and has in his or her immediate possession proof that he or she is in compliance.
- (3) *Registration.* All ATVs and UTVs shall be registered for public use in accordance with Wisconsin Department of Natural Resources regulations with proof of registration displayed as required by statute during all times of operation.

(c) *Disturbing the Peace and Nuisance Activities.*

- (1) *Exhaust System/Muffler Modifications Prohibited.* Every ATV and UTV shall be equipped, maintained, and operated to prevent excessive or unusual noise in accordance with all applicable provisions in Wis. Stat § 23.33(6m). No person shall operate an ATV or UTV on a designated or authorized ATV/UTV Route unless such ATV or UTV is equipped with a muffler or other noise suppression system in good working order and in constant operation. It shall be unlawful to use a muffler cutout,

bypass, or similar device on any ATV or UTV in a manner such that noise is emitted by the ATV or UTV increases to a level higher than as originally manufactured.

- (2) *Radios, Sound Systems, and Electronic Sound Amplification Devices.* ATVs and UTVs equipped with radios, sound systems, or electronic sound amplification devices must be operated consistent with Wis. Stats. §23.33(6m) and Town of Ottawa Code Section 9.05 “Loud and Unnecessary Noise Prohibited.”
- (3) *Cruising Prohibited.* No ATV or UTV operator shall engage in the practice of cruising on any authorized or designated ATV/UTV Route in the Town. Cruising is defined as running all or part of the length of a roadway multiple times per day, back and forth, for any purpose other than departing or arriving at their residence or place of lodging, departing or arriving at a place of business, or departing or arriving at a public boat launch.
- (4) All ATV and UTV operation must be completed consistent with Town of Ottawa Code Section 9.05 “Loud and Unnecessary Noise Prohibited.”

Section VI – Enforcement and Penalties

- (a) Pursuant to Wis. Stat. § 23.33(12), any state traffic patrol officer under Wis. Stat. § 110.07(1), inspector under Wis. Stat. § 110.07(3), conservation warden appointed by the Wisconsin Department of Natural Resources under Wis. Stats. § 23.10 county sheriff shall have authority and jurisdiction to enforce this Ordinance.
- (b) No operator of any ATV or UTV may refuse to stop after being requested to do so by a law enforcement officer or a conservation warden.
- (c) Penalties related to violations of this Ordinance as set forth in Wis. Stats. § 23.33(13), are incorporated herein by reference. In addition to, and not to the exclusion or prejudice of such other remedies as described herein and as may be allowed by law, any person or entity violating the provisions of this Ordinance shall be punished as provided in Section 25.04 of the Town Code.

Section VII – Town Immunity from Liability

- (a) ATV/UTV operation is at the risk of the operator and any passenger(s). In establishing ATV/UTV Routes under this Ordinance for recreational use, the Town of Ottawa intends to utilize the liability and immunity protections provided under Wis. Stats. § 895.52. provided, however, that the Town does not waive any other liability exemption(s) and/or limitation(s) afforded the Town under Wisconsin law.
- (b) Designation of segments of the Town highway system as ATV/UTV Routes does not impose upon the Town of Ottawa Public Works Department a greater duty of care or responsibility for maintenance of those segments than for any other segment of Town highway. Operators of ATVs and UTVs on Town highways assume all the usual and normal risks of ATV and UTV operation.

Section VIII – Town Clerk to Provide Required Notices

Pursuant to Wis. Stat. § 23.33(11)(b), following adoption, the Town Clerk shall provide copies of this Ordinance to the Wisconsin Department of Natural Resources, the Wisconsin State Patrol, and the

Waukesha County Sheriff's Office. The Town Clerk shall also provide copies of this Ordinance to the Waukesha County Public Works Department and the Wisconsin Department of Transportation.

Section IX - Severability

The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect. Any other ordinances whose terms conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

Section X – Effective Date

This ordinance shall become effective upon the Okauchee Area ATV/UTV Club purchasing and staking out the placement of all signs required by State Law, and the Town Board approving the location of the signs and the signs having been fully placed and accepted by the adoption of a Town Board resolution.

Dated this 10 day of Sept, 2024

TOWN OF OTTAWA


Cheryl Rupp, Town Chairman

Attest:


Lori Geyman, Clerk/Treasurer

Published and/or posted this 10 day of Sept., 2024