

Village of Birchwood
Ordinance Amendment 38-2024
Article VIII – All-Terrain Vehicles and Off-Road Vehicle Operation

Chapter 24 – Traffic and Vehicles, Article VIII – All-Terrain Vehicles and Off-Road Vehicle Operation

Article VIII. All-Terrain Vehicles and Off-Road Vehicle Operation [amended]

BE IT ORDAINED by the Board of Trustees of the Village of Birchwood to read as follows:

ARTICLE VIII. - ALL-TERRAIN VEHICLES AND OFF-ROAD MOTOR VEHICLE OPERATION

Sec. 24-417. - State and County all-terrain vehicle laws adopted.

The provisions describing and defining regulations with respect to all-terrain vehicles and utility terrain vehicles in Wis. Stats. § 23.33(1) through § 23.33(7) and any future amendments or revisions, are hereby adopted by reference and made part of this section as if fully set forth herein. Any reference to all-terrain vehicles in this Article VIII shall also mean to include utility-terrain vehicles. (amendment 2021-01) 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.

Sec. 24-418. - Operation of ATVs/UTVs within the village.

(a) Routes and trails designated.

- (1) Use of streets. Except as provided in Wis. Stats. §§ 23.33, 350.02 and 350.03, as adopted herein, no person shall operate an all-terrain vehicle upon any public right-of-way, in any public yard or on any public property in the village except on designated routes. All public streets within the Village, including County Highway D/Wise Road from Hinman Drive to the Tuscobia Trail pursuant to the authority granted in Wis. Stat. §23.33(11)(am)4, are hereby designated as all-terrain vehicle routes with the exception of

the following: Holly Hill Lane; Main Street from Cedar Avenue North to Highway48; and Hinman Drive to County Road Highway DD on County Road Highway D/Wise Road. (amendment 2021-03)

- (2) Rules of the road. All-terrain vehicles operated on designated routes shall observe the rules of the road for motor vehicles set forth in Wis. Stats. ch. 346. Any act required to be performed or prohibited by such laws is required or prohibited by this article.

(b) Additional regulations.

- (1) Speed. No person shall operate an all-terrain vehicle at a speed in excess of fifteen miles per hour upon any trail or route within the village except for the following:

- (i) Cedar Avenue from Main Street to the County Line and the speed limit for all-terrain vehicles shall be twenty-five miles per hour; and

- (ii) County Road D the speed limit for all-terrain vehicles shall be twenty-five miles per hour. (amendment 2021-01)

- (2) Hours of operation. No person shall operate an all-terrain vehicle within the village between the hours of 1:00 a.m. to 5:00 a.m., except for one entry to reach a specific destination by the most direct route authorized under this section or one exit to leave the village, and then only as permitted by the provisions of this section.

- (3) Operation on sidewalks prohibited. No person shall operate an all-terrain vehicle on any sidewalk or pedestrian way within the village.

- (4) Obedience to laws. The operator of any all-terrain vehicle shall observe all traffic laws of the state as adopted by the village and shall operate the same on the right-hand side of the right portion of the traveled streets designated as all-terrain vehicle routes under subsection (a) of this section and when two or more all-terrain vehicles are operated at the same time, they shall be operated in line one behind the other and not abreast.

- (5) Liability for operation of all-terrain vehicles. By operating an all-terrain vehicle upon any streets in the village as permitted herein, the operator thereof assumes full liability for any damage or injuries caused by such operation and agrees to indemnify and save the village harmless from claims for damages by reason of such operation.

- (6) Unattended all-terrain vehicles. No person shall leave or allow an all-terrain vehicle to remain unattended on any public street or public property while the motor is running or with the starting key in the ignition.

Sec. 24-419. - Penalties.

Violation of this article shall be punishable by a forfeiture and enforced pursuant to sections 24-392 and 24-393.

Sec. 24-420. - Unauthorized operation of motor vehicles on public property.

(a) Findings.

- (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;
- (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;
- (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:

All-terrain vehicle (ATV) shall be defined per Wis. Stats. § 340.01(2g).

Motor vehicle means, 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(ATVs), UTVs, mopeds, dune buggies and tractors. The term "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:

- (1) 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.
- (2) It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.
- (3) It is being operated by the holder of an easement or right of access on or over the land on which the operation is occurring or the holder's employees or agents.

Off-road means any location which:

- (1) Is not a paved or maintained public street or alley;
- (2) Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
- (3) Is a private trail for use only by the owner or his permittees for recreational or other vehicular use.

The term "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.

Operation means the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

Street or highway means all public ways and thoroughfares and bridges on the same. It includes the entire highway right-of-way width, not limited to the actual traveled portion, but also includes the shoulders, ditches and other areas adjacent thereto.

Unauthorized means 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.

Utility-terrain vehicle (UTV) shall be defined per Wis. Stats. § 23.33(1)(ng)(1).

(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 authorized areas pursuant to sections 24-391 and 24-418, it shall be unlawful to operate any minibike, go-cart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the village streets, alleys, terraces, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public.

Sec. 24-421. Adoption of Washburn County ATVs/UTVs Ordinance

Intent:

Following due consideration of the recreational and economic value to access businesses and residences and to make trail connections and weighted against possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this article has been created pursuant to county board authority under Wis. Stats. §§ 59.02, 23.33(11)(am) and 23.33(8)(b) as amended.

Sec.24-422. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

All-terrain vehicle (ATV) shall be defined per Wis. Stats. § 340.01(2g).

Utility-terrain vehicle (UTV) shall be defined per Wis. Stats. § 23.33(1)(ng)(1).

Sec. 24-423. ATV/UTV route designation.

County trunk highways designated as ATV/UTV routes shall be established and approved by the highway and dam committee and the county board of supervisors. The highway and dam committee shall develop policies and procedures for designation of ATV/UTV routes. Any modification to a designated ATV/UTV route shall be approved by the highway and dam committee.

All requests for new or revised ATV/UTV route designations shall first be submitted to the county highway department for review prior to the last Thursday in January for any request to be considered for the calendar year. All requests must be submitted by the local jurisdiction (city/village/town) to be considered. A copy of approved local jurisdiction minutes must accompany the request. The highway department shall review such requests for county trunk highway route designations and make a recommendation to the county highway and dam committee. The highway and dam committee shall review the ATV/UTV route request, including appropriate criteria for making a designation and make a recommendation to the county board of supervisors.

(2) Safety of the traveling public is of great concern for the county. Below is a list of factors that shall be considered by the county in determining if a section of county trunk highway should be designated as an ATV/UTV route. This list is not exhaustive, and as every county highway has unique features, additional factors may be considered:

- a. ADT (average daily traffic).
- b. Washburn county sheriff department concerns.
- c. Accident history within proposed route.
- d. Verification that all other route options have been considered.
- e. Presence of school zones or other special consideration areas.
- f. Will the requested route connect segments of other ATV/UTV trail networks?
- g. Vertical/horizontal highway alignment issues.
- h. Sight distance issues at the posted highway speed.
- i. Pavement width.
- j. Commercial heavy truck volumes.
- k. Environmental hazards.

(3) After the enactment of this article, the highway and dam committee may by resolution close or restrict any specific county highway or segment of county highway to ATV/UTV use. Closed or restricted highways or segments of highway will be signed in accordance with section 70-15(a) of this article and a copy of closed or restricted ATV/UTV routes, along with a map showing their location, shall be kept on file at the highway department.

(4) The county highway department has the authority to close or restrict ATV/UTV use on any of the highways under its jurisdiction if damage to the highway results or where public safety is adversely affected as a result of ATV/UTV use. Actions under this section may be reviewed by the highway and dam committee.

(5) The highway and dam committee shall review this article annually with the highway department giving a report on highway damage and the sheriff's department giving a report on ATV/UTV violations, crashes and safety concerns.

(6) The county highway commissioner shall have the authority to temporarily close or terminate any ATV/UTV route enacted under this chapter for a period of up to 90 days due to an emergency situation or condition. Closures for a duration of greater than 90 days shall be approved by the county highway and dam committee.

Sec. 24-424. ATV/UTV routes only on roadway.

All ATVs and UTVs shall operate only on the paved portion of the roadway. Operation on the gravel shoulders, grassy in-slope, ditches, or other highway right-of-way is prohibited and illegal.

Sec. 24-425. Operation of ATVs/UTVs on county highways.

- (a) ATV/UTV operation shall be subject to all provisions of Wis. Stats. § 23.33, which is adopted as part of this article by reference.
- (b) No person may operate an ATV or UTV on county highways unless the owner or operator has in effect a liability insurance policy providing coverage consistent with the liability insurance required for automobile operators by the state and has in his or her immediate possession proof that he or she is in compliance.
- (c) Persons 16 years of age or older must possess a valid driver license to operate an ATV or UTV on a county highway.
- (d) Persons that hold a Class A or Class B disabled hunting permit may operate an ATV/UTV on county highways if they are traveling for the purposes of hunting that are allowed by the permit.
- (e) No persons under the age of 16 may operate an ATV or UTV on county highways during the hours between sunset and sunrise.
- (f) No one under 12 years of age is allowed to operate an ATV on a county highway.
- (g) No one under 16 years of age is allowed to operate a UTV on a county highway.
- (h) All operators born after January 1, 1988, are required to be in possession of an ATV safety certificate issued by either the Wisconsin DNR or an ATV safety certificate from the operator's state of residence.
- (i) No person under 16 years of age may operate an ATV or UTV on a county highway unless the person is accompanied by his or her parent or guardian or by a person who is at least 18 years of age who is designated by the parent or guardian. Anyone accompanying those under 16 years of age must possess a valid driver's license.
- (j) No person may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required in Wis. Stats. § 347.485(1)(a), unless the person is at least 18 years of age.
- (k) All ATVs and UTVs shall display either a current state registration or a nonresident state trail pass while operating on county highways.
- (l) All ATV/UTV operators shall operate at a speed of 35 miles per hour (MPH), or the posted speed limit, whichever is lower.
- (m) All ATV/UTV operators shall ride in single file on the right hand side of the paved portion of the highway.
- (n) All ATV/UTV operators are required to display a lighted headlamp and tail lamp while operating on a county highway.
- (o) No ATV/UTV may be operated on any designated route between the hours of 1:00 a.m. and 5:00 a.m. daily.

- (p) All occupants riding in, or operating a UTV, shall be required to wear a seatbelt when traveling on any county highway.
- (q) It shall be unlawful for any person to possess 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 receptacle have been partially removed, while operating or as a passenger on an ATV or UTV when traveling on any county highway.

Sec. 24-426. Signage of all-terrain and utility-terrain vehicle routes.

- (a) The county highway department has sole responsibility for ATV/UTV signage on county highways. Highways shall be marked with uniform all-terrain vehicle route signs in accordance with § NR 64.12(7), Wisconsin Administrative Code and installed on the county highways at the following locations:
 - (1) At all intersecting state highways;
 - (2) At the borders of adjacent counties, the City of Spooner, the City of Shell Lake, the Village of Minong, and the Village of Birchwood.
 - (3) Other locations deemed necessary by the county highway commissioner.

(b) ATV/UTV operation shall be subject to all provisions of Wis. Stats. § 23.33, which is adopted as part of this article by reference. Pursuant to Wis. Stats. § 23.33(8)(f), no person may do any of the following in regard to signs marking all-terrain vehicle routes:

- (1) Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain vehicle route or trail sign.
- (2) Possess any uniform all-terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform all-terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.

Sec. 24-427. Enforcement.

This article shall be enforced by any officer employed by the county sheriff's department or any other law enforcement official as set forth in Wis. Stats. § 23.33(12). The penalty for operating an ATV/UTV off the roadway of a designated ATV/UTV route (i.e., the gravel shoulder, grassy in-slope, ditch, or other highway right-of-way) or violating any other provision of this article shall result in a forfeiture of not less than \$25.00 or more than \$200.00, plus court costs per violation.

Deposit Schedule

Illegal operation of an ATV/UTV off roadway \$25.00

Speeding, on or off roadway:

1—10 \$25.00

11—15 \$50.00

16—19 \$75.00

20—24 \$100.00

25 and over \$125.00

Failure to operate single file \$25.00

Failure to illuminate headlights or taillights \$25.00

Operating an ATV/UTV without safety certificate \$25.00

Operating an ATV/UTV without protective headgear \$25.00

Operating an ATV/UTV without insurance \$25.00

Operating an ATV/UTV without proof of insurance \$25.00

Damage to route or ATV/UTV sign or removal of sign \$200.00

Sec. 24-428. Maintenance.

- (a) Designation of segments of the county highway system as ATV/UTV routes does not impose upon the county highway department a greater duty of care or responsibility for maintenance of those segments than for any other segment of county highway.
- (b) Operators and passengers of ATVs/UTVs on county highways assume all the usual and normal risks of ATV/UTV operation.

