

Town of Evergreen

Ordinance _2021-03_____

An Ordinance to Replace Ordinance 10-6 Regulating the Operation of All-Terrain Vehicle and Utility Terrain Vehicle Routes and Operation on Town Roads

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 ordinance has been created pursuant to Wis Statutes 23.33(8)(b)2.

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

- (a) All-Terrain Vehicle (ATV) – A commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, and has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator and on 3 or more low-pressure or non-pneumatic tires.
- (b) Utility-Terrain Vehicle (UTV) – Means any of the following: 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 of the following: A net weight, without fluids of 2,000 pounds or less. Four or more low pressure or non-pneumatic tires and a steering wheel.

ATV/UTV route designation: Town Roads designated as ATV/UTV routes shall be established and approved by the Town Board. The Town Board shall develop policies and procedures for designation of ATV/UTV routes. Any modifications to a designated ATV/UTV route shall be approved by the Town Board.

ATV/UTV routes only on roadway: All ATV's and UTV's shall operate only on the paved portion of the roadway. Operation on the gravel shoulders, grassy in-slopes, ditches or other road right-of-way is prohibited and is illegal.

Operation of ATVS/UTVS on Town Roads:

- (a) ATV/UTV operation shall be subject to all provisions of WI Stats. 23.33, which is adopted as part of this ordinance by reference.

- (b) No person may operate an ATV or UTV on Town Roads 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 of Wisconsin 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's license to operate an ATV or UTV on a town road.
- (d) Persons that hold a Class A or Class B disabled hunting permit may operate an ATV/UTV on town roads 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 town roads during the hours between sunset and sunrise.
- (f) No one under 12 years of age is allowed to operate an ATV or UTV on a town road.
- (g) 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.
- (h) No person under 16 years of age may operate an ATV or UTV on a town road 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.
- (i) No person may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required in section 347.485(1)(A), Wi Statutes unless the person is at least 18 years of age.
- (j) All ATV's and UTV's shall display either a current Wisconsin registration or a Nonresident Wisconsin Trail Pass while operating on town roads.
- (k) All ATV/UTV operators shall operate at a speed of 25 miles per hour (MPH), or the posted speed limit, whichever is lower.
- (l) All ATV/UTV operators shall ride in single file on the right-hand side of the paved portion of the highway.
- (m) All ATV/UTV operators are required to display a lighted headlamp and tail lamp while operating on a town road.

- (n) No ATV/UTV may be operated on any designated route between the hours of 1:00 am and 5:00 am daily.
- (o) All occupants riding in, or operating a UTV, shall be required to wear a seatbelt when traveling on any town road.
- (p) It shall be unlawful for any person to possess any bottle or receptacle containing alcoholic 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 Town of Evergreen road.

Signage of all-terrain and utility-terrain vehicle routes:

- (a) The Town of Evergreen has sole responsibility for ATV/UTV signage on town roads. Roads shall be marked with uniform all-terrain vehicle route signs in accordance with s. NR 64.12(7), Wisconsin Administrative Code and installed on the town roads at the following locations:
 - 1. At all intersecting county or state highways;
 - 2. At the borders of adjacent townships and the City of Spooner.
 - 3. Other locations deemed necessary by the Evergreen Town Board.
- (b) ATV/UTV operation shall be subject to all provisions of WI Stats. 23.33, which is adopted as part of this ordinance by reference. Pursuant to Wisconsin Statutes 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.

Enforcement:

This ordinance shall be enforced by any officer employed by the Washburn County Sheriff's Department or any other law enforcement official as set forth in Wisconsin Statute 23.33(12).

Violation/Penalty:

The penalty for operating an ATV/UTV on the roadway of a designate ATV/UTV route (i.e., the gravel shoulder, grassy in-slope, ditch, or other road right-of-way) or violating any other provision of this ordinance shall result in a forfeiture of \$200.00, plus court costs per violation.

Severability:

Should any sub-section, clause, or provision of this ordinance be declared by the Court to be invalid, the same shall not affect the validity of the section as a whole or any part thereof, other than the part so declared to be invalid.

Maintenance:

- (a) Designation of segments of the Town of Evergreen roads as ATV/UTV routes does not impose upon the Town a greater duty of care or responsibility for maintenance of those segments than for any other segment of town road.

- (b) Operators and passengers of ATV's/UTV's on town roads assume all the usual and normal risks of ATV/UTV operation.

Adopted this 8th day of March, 2021.

Attest:

Town Chairman

Clerk

This ordinance shall become into effect following the publication and posting of this ordinance.