

ORDINANCE NO. 2022-12

AN ORDINANCE REPEALING AND RECREATING ALL-TERRAINE VEHICLES, UTILITY TERRAINE VEHICLES AND OFF-ROAD MOTOR VEHICLE OPERATION; SECTION 10, CHAPTER 4; OF THE MUNICIPAL CODE OF THE CITY OF HORICON

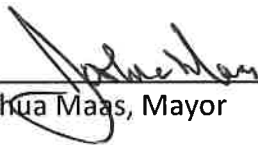
THE COMMON COUNCIL OF THE CITY OF HORICON DOES ORDAIN AS FOLLOWS:

Section 10, Chapter 4 of the Municipal Code of the City of Horicon is hereby repealed and recreated as follows:

See attached.

This ordinance shall become effective upon passage and publication as provided by law.

Introduced by Alderperson Bryce Remy, this 23rd day of June 2022.



Joshua Maas, Mayor

ATTEST:



Kristen M. Jacobson, City Clerk-Treasurer

Chapter 4

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

Article A General Provisions

- 10-4-1 State All-Terrain Vehicle and Utility Terrain Vehicles Adopted
- 10-4-2 Definitions
- 10-4-3 Official All-Terrain Vehicle and Utility Terrain Vehicles Routes and Map

Article B All-Terrain Vehicles and Utility Terrain Vehicles; Street Traffic Regulations

- 10-4-4 Registration
- 10-4-5 Rules of Operation
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Sec. 10-4-1 State All-Terrain Vehicle Laws Adopted.

(a) The provisions describing and defining regulations with respect to all-terrain vehicles in the following-enumerated Subsections of Sec. 23.33, and Chapters 340 to 348 of the Wis. Stats., establishing definitions and regulations with respect to ATVs and UTVs and Chapter NR 64 of the Wisconsin Administrative Code are adopted here by reference. Unless otherwise specifically provided herein, any act required to be performed or prohibited by any statute or administrative code provision incorporated here is required or prohibited by this ordinance. Any future amendments, revisions or modifications of the Wisconsin Statutes or Wisconsin Administrative Code incorporated herein are made a part of this ordinance in order to secure uniform statewide regulation of ATVs and UTVs, 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 (l m).
- 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 (Gr).
- 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).

(b) **Other State Laws Adopted.** There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this Chapter shall be as provided in Chapter 346 of the Wisconsin Statutes and the penalty for violation thereof shall be limited to a forfeiture as hereinafter provided in this Chapter: Applicability of rules of the road to all-terrain vehicles and utility terrain vehicles. all-terrain vehicle or utility-terrain vehicle upon a roadway shall, in addition to the provisions of Ch. 23, Wis. Stats., be subject to §§ 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), (6), (6m) and (9), Wis. Stats.

Sec. 10-4-2 Definitions.

Definitions – For this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The words "shall," "will," and "must" are always mandatory. The words "may" and "should" are discretionary terms. The masculine shall include the feminine. Terms not defined in this Section shall be interpreted based on common usage.

- (a) All-terrain vehicles and utility terrain vehicles. Definitions, as used in this section:
- (b) "Accompanied" means being subject to continuous verbal direction or control.
- (c) "Alcohol beverages" means fermented malt beverages and intoxicating liquor.
- (d) "Alcohol concentration" means any of the following: The number of grams of alcohol per 100 milliliters of a person's blood. The number of grams of alcohol per 210 liters of a person's breath.
- (e) "All-terrain vehicle" means a commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of not more than 50 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation, is equipped with a seat designed to be straddled by the operator, and travels on 3 or more tires.
- (f) "All-terrain vehicle route" means a highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.
- (g) "All-terrain vehicle trail" means a marked corridor on public property, in a highway right-of-way, or on private lands subject to public easement or lease, designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

- (h) "City" means the City of Horicon, the City Council or any other City of Horicon Official(s) authorized by the City Council to act on behalf of the City of Horicon.
- (i) "Controlled substance" means a drug, substance or immediate precursor included in schedules I to V of sub ch. II.
- (j) "Immediate family" means persons who are related as spouses, as siblings or as parent, step-parent and child.
- (k) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled substance, controlled substance analog or other drug, or any combination thereof.
- (l) "Intoxicated operation of an all-terrain or utility terrain vehicle law" means sub. (4c) or a local ordinance in conformity therewith or, if the operation of an all-terrain or utility terrain vehicle is involved, s. 940.09 or 940.25.
- (m) "Municipality" means a city, village, or town.
- (n) "Operate" means to exercise physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or to physically manipulate or activate any of the controls of the vehicle necessary to put it in motion.
- (o) "Operation" means the exercise of physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or the physical manipulation or activation of any of the controls of the vehicle necessary to put it in motion.
- (p) "Operator" means a person who operates an all-terrain vehicle or utility terrain vehicle, who is responsible for the operation of an all-terrain vehicle or utility terrain vehicle or who is supervising the operation of an all-terrain vehicle or utility terrain vehicle.
- (q) "Owner" means a person who has lawful possession of an all-terrain vehicle or utility terrain vehicle by virtue of legal title or equitable interest in the vehicle which entitles the person to possession of the vehicle.
- (r) "Preferred route" means an all-terrain vehicle route marked with signs to assist all-terrain vehicle operators in navigating to needed services such as fueling stations, restaurants, lodging, or other business establishments.
- (s) "Proof," when used in reference to evidence of a registration document, safety certificate, trail pass, or temporary trail use receipt, means the original registration document, safety certificate, trail pass, or temporary trail use receipt issued by the department, or an agent appointed under sub. (2) (i) 3. or (2j) (f) 1. or any alternative form of proof designated by rule under s. 23.47 (1).
- (t) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity therewith.
- (u) "Registration document" means an all-terrain vehicle or utility terrain vehicle registration certificate, a temporary operating receipt, or a registration decal
- (v) "Small all-terrain vehicle" means an all-terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 130 cubic centimeters or an equivalent power unit.
- (w) "Small utility terrain vehicle" means a utility terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 200 cubic centimeters or an equivalent power unit.
- (x) "State agency" means any office, department, or independent agency in the executive branch of state government.
- (y) "Utility terrain vehicle" means 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 of the following:

- a. A weight, without fluids, of 3,000 pounds or less.
- b. Four or more tires.
- c. A steering wheel.
- d. A tail light.
- e. A brake light.
- f. Two headlights.
- g. A width of not more than 65 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
- h. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
- i. A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.

2. A commercially designed and manufactured motor driven device to which all of the following applies:

- a. It does not meet federal motor vehicle safety standards in effect on July 1, 2012; is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle; is designed to be used primarily off of a highway; and has, and was originally manufactured with, a weight, without fluids, of not more than 3,000 pounds.
- b. It has a width of 65 inches or less as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.
- c. It is equipped with a seat designed to be straddled by the operator.
- d. It travels on 3 or more tires.
- e. It is not an all-terrain vehicle, as defined in s. 340.01 (2g).

Sec. 10-4-3 Official All-Terrain Vehicle and Utility Terrain Vehicle Routes and Map.

(a) **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 City of Horicon designates ALL city- maintained roads, streets, and highways, with a speed limit as posted, as ATV/UTV routes, unless otherwise posted.
- (2) Under Wis. Stat. S. 23.33(11) {am}4., the City of Horicon authorizes the operation of ATVs/UTVs on all state trunk and county trunk highways that have a posted speed limit as posted.
- (3) The City of Horicon Common Council, at their discretion, shall have the authority to temporarily close any ATV/UTV street/route designated or authorized herein due to hazard, construction, or emergency conditions in any designated area, street, or route listed above.
- (4) The City of Horicon Common Council 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.

- (5) The route(s) shall not include public properties, City-owned Parks, or public places, except for those designated as public roadways and parking areas where motorized vehicles normally operate.
- (6) The route(s) shall not include private roads or driveways, nor any private property within the City.
- (7) All ATV and UTV routes shall be signed in accordance with NR 64.12 and NR 64.12(7)(c) of the Wisconsin Administrative Code. The City or its designee shall maintain all ATV routes within the City, including without limitation, signage on county or state trunk highways in the City.

Sec. 10-4-4 ATV/UTV Registration.

Pursuant to Sec. 23.33(2)(a), Wis. Stats, ATV/UTV registration requirement:

- (a) No person may operate, and no owner may give permission for the operation of an all-terrain vehicle or utility terrain vehicle on an all-terrain vehicle route or an all-terrain vehicle trail unless the all-terrain vehicle or utility terrain vehicle is registered for public use under this subsection.
- (b) **Registration and Decal Display:** DNR Decals (2) shall be displayed on both sides of the ATV/UTV. They shall be in a position which is always forward of the operator and visible to city police officers.
- (c) **Rear Registration ID Plate Requirement:** All ATV/UTV's shall have a registration plate attached to the rear of the vehicle. A minimum of 4 inches height and 7 ½ inches wide, the plate shall be white in color and shall display four-number and two-letter registration ID in black characters for the ATV/UTV issued by the DNR. The registration ID numbers shall be a minimum of 1 ½ inches in height, and a minimum of a 3/16-inch stroke (width). The plate may be made from any type of material, but must be visible and in a legible condition at all times.
- (d) Any person violation the provisions of this section shall have committed a traffic offense and a penalty shall be imposed as provided in Section 10-4-10

Sec. 10-4-5 Rules of Operation.

- (a) Operators must abide by all traffic laws unless further restricted by this Ordinance.
- (b) No person may operate an all-terrain vehicle or utility terrain vehicle in any careless way so as to endanger the person or property of another, on the private property of another without the consent of the owner or lessee.
- (c) ATVs and UTVs may be operated on paved route surfaces only, unless yielding right-of-way.
- (d) All ATVs and UTVs shall ride in single file, on the right-hand side of road section. Operation on gravel shoulders, grassy in-slopes, ditches, or other roadway right-of-way is prohibited, unless yielding the right of way.
- (e) No ATV or UTV may be operated without fully functional headlights, tail lights, and brake lights.
- (f) No ATV or UTV may be operated without meeting federal noise and air pollution standards.
- (g) No ATV or UTV may be operated between the hours of 10:00 p.m. and 6:00 a.m. daily unless a different restriction of hours of operation has been specified by the City and notice of the same is duly posted along the route.
- (h) No ATV or UTV operator or passenger shall be in possession of an open intoxicants while the ATV or UTV is in operation. No person shall operate an ATV or UTV under the influence of an intoxicant, a

restricted controlled substance, a controlling substance analog, or any combination of these elements, to a degree which renders the person incapable of safely operating the ATV or UTV.

- (i) No person may operate or park, stop or leave standing an ATV/UTV vehicle while using a radio or other electric sound amplification device emitting sound from the vehicle audible under normal conditions from 75 feet or more, unless the electric sound amplification device is used to request assistance or warn against an unsafe condition.
- (j) Every person who operates an ATV or UTV shall have in his or her immediate possession a valid motor vehicle operator's license and shall display the license document upon demand from any law enforcement officer or official described in Wis. Stat. Section 23.33(12).
- (k) No person shall operate an ATV or UTV unless Owner or Operator has in effect at the time a liability policy insuring the ATV or UTV with a policy meeting or exceeding carrier and coverage requirements specified in Section 344.61 of Wis. Stats. No person shall operate an ATV or UTV without having proof of such liability insurance coverage readily available.
- (l) Any person violation the provisions of this section shall have committed a traffic offense and a penalty shall be imposed as provided in Section 10-4-10.

Sec. 10-4-6 Speed Limits.

- (a) No person shall operate any all-terrain vehicle within the City of Horicon at a speed in excess of 25 (twenty-five) miles per hour or the location speed limits posted for automobiles, whichever is lower.
- (b) Any person violation the provisions of this section shall have committed a traffic offense and a penalty shall be imposed as provided in Section 10-4-10.

Sec. 10-4-7 Age Restrictions.

- (a) No person under the age of sixteen (16) shall operate an ATV or UTV along any segment of the City route.
- (b) No person under 18 years of age shall operate an ATV or UTV unless 16 years of age or older and holds a valid driver's license issued by the Wisconsin Department of Transportation or another state driver's licensing authority, a DNR Safety Certificate, and must be in direct verbal supervision of parent, step-parent or legal guardian when operating on a designated ATV/UTV route.
- (c) No person under 18 years of age may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required under Section 347.485(l)(a) and with the chin strap property fastened, except as specifically exempted under Section 23.33 (3g)(b, c and d) Wis. Stat.
- (d) Any person violation the provisions of this section shall have committed a traffic offense and a penalty shall be imposed as provided in Section 10-4-10

Sec. 10-4-8 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 a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creekbed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, 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.
- (c) **Operation on Rock River.** No person shall drive, operate or use any snowmobile, go-cart, mini-bike, trailer-bike, terrain vehicle or any other similar self-propelled vehicle on the ice surface area or banks of the Rock River within the City of Horicon:
- (1) At a speed in excess of ten (10) miles per hour, or in a careless, reckless or negligent manner so as to unnecessarily interfere with the use of said ice surface area by any other person engaged in fishing, skating or other use thereof, or so as to endanger the life or property of other persons lawfully on said ice surface area or the banks thereof.
 - (2) So as to produce excessive or unusual noise or so as to disturb the quiet of the neighborhood or of any family or house of worship in the vicinity thereof.

Any person violation the provisions of this section shall have committed a traffic offense and a penalty shall be imposed as provided in Section 10-4-10.

Sec. 10-4-9 Enforcement

This ordinance may be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin. A copy of this ordinance shall be sent by the City Clerk/Treasurer to the Department of Natural Resources, the Dodge County Sheriff's Department, and any other law enforcement agency serving the City of Horicon's jurisdiction.

Sec. 10-4-10 Penalties

The penalties under Section 23.33 (13) (a), Wis. Stats., are adopted by reference. Violation of this Chapter shall be punishable by a forfeiture and enforced pursuant to Sections 10-3-10 and 10-3-11.

