

Randie Lange

From: Mo Hansen <cityhall@waterloowi.us>
Sent: Tuesday, December 06, 2016 4:51 PM
To: Randie Lange
Cc: City of Waterloo, Mayor; Bob Thompson Traveling
Subject: Allowable ATV use within the City of Waterloo / follow-up
Attachments: 20161206155825.pdf

Randie,

Attached are meeting minutes, meeting notes and a copy of Wis. Stats. 23.33(4) as my follow up regarding information on ATV use within the City of Waterloo.

A local prohibition is not required to regulate ATV use in the City of Waterloo. Except as listed below, to operate an ATV on Waterloo streets, a roadway must be designated as an all-terrain vehicle route by the municipality. In July of 2015, the Public Safety & Health Committee reviewed a sample ordinance provided by Dan Gorder. The Committee made no recommendation to the Council on the matter.

No City of Waterloo roadway is designated as an all-terrain vehicle route.

Several roadway operations of ATVs are permitted by state statutes. See the following:

- a. 23.33(4)(c)(1) "vehicle operation directly related to the functions of the municipality"
- b. 23.33(4)(c)(1m) "land surveying"
- c. 23.33(4)(c)(2) "special events authorized by the municipality"
- d. 23.33(4)(d)(1) "to cross a roadway" NOTE: In Waterloo an operator would have to have permission from property owners on each side of road... Similar permission requirements applies to 23.33(d)(3) "crossing a bridge, culvert or railroad right-of-way."
- e. 23.33(4)(d)(5) "ATV is an implement of husbandry used exclusively for agricultural purposes."
- f. 23.33(4)(d)(6) "travel authorized for licensed hunter engaged in an activity allowed by the hunting permit"
- g. 23.33(4)(f) "... may operate an all-terrain vehicle with a snow removal device... October 1 – April 30 for purposes of removing snow... if applicable roadway speed is 45 mph or less... the travel necessary to and from the snow removal site may not exceed 2 miles.

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(1) Note: No further action taken by committee. No approved public routes approved. (M.A.)

PUBLIC SAFETY AND HEALTH COMMITTEE MEETING MINUTES
July 2, 2015

1. **Call to Order:**
The Public Safety Committee meeting was called to order by Alderperson Reynolds at 6:30PM
2. **Roll Call:**
Committee members present – Alderperson Reynolds, Griffin, Thomas, and Chief Sorenson, Citizens Diane Graff and Dan Gorder.
3. **Approval of Public Safety Committee Minutes of Cancelled meeting May 7, 2015 and June 4, 2015.**
Motion by Alderperson Thomas to approve, second by Griffin, motion carried.
4. **Citizen Input: (None)**
5. **Public Comment:**
Alderperson Reynolds advised she had received several complaints about cyclists going through downtown and not stopping for the stop signs. Chief Sorenson advised he would have officers monitor the traffic.
6. **Unfinished Business: (None)**
7. **New Business:**
Chief Sorenson request to fill vacant Sgt position. Request to fill within department with Officer Tracy Thom. Motion by Thomas to fill vacant Sgt position with Officer Tracy Thom, second by Griffin, motion carried.

Request to operate UTV's and ATV's on designated routes within city limits. Dan Gorder requesting city to allow ATV and UTV on Clarkson Rd and STH 89 and STH 19 in downtown Waterloo. Discussion on noise, hours of operation, and DOT regulations on state highways. Gorder stated he would provide further information to address questions. Motion by Griffin to table till further information provided. Second by Thomas, motion carried. (1)

- Referral to change municipal code 278-8 consumption of alcohol beverages on public property and parking lots section D. to include the Waterloo Regional Trail Head Facility.** Motion by Thomas to approve change, second by Griffin. Motion carried.

- Chamber of Commerce Special Event License for W&K on September 12, 2015.** Motion to approve license by Thomas, second by Griffin, motion carried.
8. **Future Agenda Items and announcements: (None)**
9. **Adjourn : Motion to Adjourn by Alderperson Reynolds, Second by Griffin, motion carried.**

Attest: Chief Lewis P. Sorenson

ORDINANCE 2015-1
ALL TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE ROUTE ORDINANCE

*As Submitted
by Dan
Gorder
July 2, 2015*

STATE OF WISCONSIN
TOWN OF PORTLAND
DODGE COUNTY

SECTION I - TITLE AND PURPOSE

The title of this ordinance is the Town of Portland All-Terrain Vehicle and Utility Terrain Vehicle Route Ordinance. The purpose of this ordinance is to establish all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the operation of all-terrain vehicles and utility terrain vehicles in the town.

SECTION II - AUTHORITY

The Town Board of the Town of Portland, Dodge County, Wisconsin, has the specific authority to adopt this All-Terrain Vehicle and Utility Terrain Vehicle Ordinance under s. 23.33 (8) (b) and (11), Wis. stats.

SECTION III - ADOPTION OF ORDINANCE

This ordinance adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting provides the authority for the town to designate all-terrain vehicle and utility terrain vehicle routes in the town and to regulate the use of those routes and all-terrain vehicles and utility terrain vehicles in the town.

SECTION IV - OPERATION OF ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES

Pursuant to s. 23.33 (4) (d) 4, Wis. stats., except as otherwise provided in s. 23.33 (4), Wis. stats., no person may operate an all-terrain vehicle or utility terrain vehicle on the roadway portion of any highway in the town except on roadways that are designated as all-terrain vehicle and utility terrain vehicle routes by this ordinance. Operation of all-terrain vehicles and utility terrain vehicles on a roadway in the town that is an all-terrain vehicle and utility terrain vehicle route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway that is safe given prevailing conditions.

SECTION V - DESIGNATION OF ALL-TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE ROUTES

All Portland Town roads are designated all-terrain vehicle and utility terrain vehicle routes in the town.

SECTION IX - SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION X - POSSIBLE AMENDMENT TO/CANCELLATION OF THE ORDINANCE

Should any issues arise in the future which might require Town Board action, the Town Board reserves the right to either amend or cancel this ordinance at a duly-noticed meeting at which notice of such amendment or cancellation has been included in the meeting's agenda.

SECTION XI - EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly publish this ordinance as required under s. 60.80 Wis. stats.

Adopted this day of 2015.

Town Chairperson

Town Supervisor # 1

Town Supervisor # 2

SELECT SECTION OF Wis. Stat. 23.33

23.33 All-terrain vehicles and utility terrain vehicles.

(1) DEFINITIONS. As used in this section:

(a) "Accompanied" means being subject to continuous verbal direction or control.

(ag) "Agricultural purpose" includes a purpose related to the transportation of farm implements, equipment, supplies, or products on a farm or between farms.

(am) "Alcohol beverages" has the meaning specified under s. 125.02 (1).

(ar) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

(b) "All-terrain vehicle" has the meaning specified under s. 340.01 (2g).

(bc) "All-terrain vehicle club" means a club consisting of individuals that promotes the recreational use of all-terrain vehicles.

(bd) "All-terrain vehicle dealer" means a person engaged in the sale of all-terrain vehicles for a profit at wholesale or retail.

(bh) "All-terrain vehicle distributor" means a person who sells or distributes all-terrain vehicles to all-terrain vehicle dealers or who maintains distributor representatives.

(bp) "All-terrain vehicle manufacturer" means a person engaged in the manufacture of all-terrain vehicles for sale to the public.

(bt) "All-terrain vehicle renter" means a person engaged in the rental or leasing of all-terrain vehicles to the public.

(c) "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.

(d) "All-terrain vehicle trail" means a marked corridor on public property 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.

(dm) "Approved public treatment facility" has the meaning specified under s. 51.45 (2) (c).

(e) "Controlled substance" has the meaning specified under s. 961.01 (4).

(f) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(fm) "Golf cart" means a vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, and that is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course.

(gb) "Hazardous inhalant" means a substance that is ingested, inhaled, or otherwise introduced into the human body in a manner that does not comply with any cautionary labeling that is required for the substance under s. 100.37 or under federal law, or in a manner that is not intended by the manufacturer of the substance, and that is intended to induce intoxication or elation, to stupefy the central nervous system, or to change the human audio, visual, or mental processes.

(h) "Immediate family" means persons who are related as spouses, as siblings or as parent and child.

(i) "Intoxicant" means any alcohol beverage, hazardous inhalant, controlled substance, controlled substance analog or other drug, or any combination thereof.

(ic) "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.

(id) "Lac du Flambeau band" means the Lac du Flambeau band of Lake Superior Chippewa.

(ie) "Lac du Flambeau reservation" means the territory within the boundaries of the Lac du Flambeau reservation that were in existence on April 10, 1996.

(if) "Land under the management and control of the person's immediate family" means land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

(ig) "Law enforcement officer" has the meaning specified under s. 165.85 (2) (c) and includes a person appointed as a conservation warden by the department under s. 23.10 (1).

(ik) "Low pressure tire" has the meaning given in s. 340.01 (27g).

(im) "Low-speed vehicle" has the meaning given in s. 340.01 (27h).

(ip) "Mini-truck" means a motor truck, as defined in s. 340.01 (34), having a top speed of not more than 60 miles per hour, and that is all of the following:

1. Powered by an internal combustion engine with a piston or rotor displacement of not less than 660 cubic centimeters.
2. Not more than 60 inches wide.
3. Not more than 1,600 pounds in dry, unloaded weight.
4. Manufactured with a locking enclosed cab and a heated interior.

(iq) "Non-pneumatic tire" means a tire that is designed by the manufacturer to meet all of the following requirements:

1. To have a minimum width of 6 inches.
2. To have a reinforced structure.
3. To not be supported by air pressure.

(ir) "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.

(it) "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.

(iw) "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.

(j) "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.

(je) "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).

(je) "Purpose of authorized analysis" means for the purpose of determining or obtaining evidence of the presence, quantity or concentration of any intoxicant in a person's blood, breath or urine.

(jm) "Refusal law" means sub. (4p) (e) or a local ordinance in conformity therewith.

(jn) "Registration document" means an all-terrain vehicle or utility terrain vehicle registration certificate, a temporary operating receipt, or a registration decal.

(jo) "Restricted controlled substance" means any of the following:

1. A controlled substance included in schedule I under ch. 961 other than a tetrahydrocannabinol.
2. A controlled substance analog, as defined in s. 961.01 (4m), of a controlled substance described in subd. 1.
3. Cocaine or any of its metabolites.
4. Methamphetamine.
5. Delta-9-tetrahydrocannabinol.

(jp) "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.

(jpm) "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.

(jq) "Snow removal device" means an attachment designed and installed for the purpose of removing snow. An attachment under this paragraph may be a plow blade, blower, bucket, or brush.

(jr) "Temporary operating receipt" means a receipt issued by the department or an agent under sub. (2) (ig) 1. a. that shows that an application and the required fees for a registration certificate have been submitted to the department or an agent appointed under sub. (2) (i) 3.

(js) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).

(n) "Used exclusively on private property" means use of an all-terrain vehicle or utility terrain vehicle by the owner of the vehicle or a member of his or her immediate family only on land owned or leased by the vehicle owner or a member of his or her immediate family.

(ng) "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 2,000 pounds or less.

b. Four or more low-pressure tires or non-pneumatic tires.

d. A steering wheel.

e. A tail light.

f. A brake light.

g. Two headlights.

h. A width of not more than 65 inches.

j. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.

k. 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 has a weight, without fluids, of more than 900 pounds but not more than 2000 pounds.

b. It has a width of 50 inches or less.

c. It is equipped with a seat designed to be straddled by the operator.

d. It travels on 3 or more low-pressure tires or non-pneumatic tires.

(ni) "Utility terrain vehicle dealer" means a person engaged in the sale of utility terrain vehicles for a profit at wholesale or retail.

(nk) "Utility terrain vehicle distributor" means a person who sells or distributes utility terrain vehicles to utility terrain vehicle dealers or who maintains distributor representatives.

(nm) "Utility terrain vehicle manufacturer" means a person engaged in the manufacture of utility terrain vehicles for sale to the public.

(np) "Utility terrain vehicle renter" means a person engaged in the rental or leasing of utility terrain vehicles to the public.

Cross-reference: See also definitions in s. 340.01.

[NOTE: 23.33(1) through 23.33(3) omitted here.]

(4) OPERATION ON OR NEAR HIGHWAYS.

(a) *Freeways.* No person may operate an all-terrain vehicle or utility terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate an all-terrain vehicle or utility terrain vehicle upon any part of any other freeway unless the department of transportation authorizes the use of that vehicle on that freeway. No person may operate an all-terrain vehicle or utility terrain vehicle with a snow removal device attached upon any part of any freeway under any circumstances.

(b) *Other highways; operation restricted.* No person may operate an all-terrain vehicle or utility terrain vehicle on a highway except as authorized under pars. (d), (e), and (f) and sub. (11) (am) 2, or 3, or as authorized by rules promulgated by the department and approved by the department of transportation.

(c) *Exceptions; municipal, state and utility operations; races and derbies; land surveying operations.*

1. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle or utility terrain vehicle owned by a municipality, state agency, or public utility, or by the Great Lakes Indian Fish and Wildlife Commission, while the operator is engaged in an emergency or in the operation of an all-terrain vehicle or utility terrain vehicle directly related to the functions of the municipality, state agency, or public utility, or of the Great Lakes Indian Fish and Wildlife Commission, if safety does not require strict adherence to these restrictions.