

ORDINANCE NO.: D—2023-24

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

1 Wis. Stats. §23.33 allows all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) to
2 operate on highways. This same statute allows Counties to enact ordinances allowing the
3 use of ATVs and UTVs on roadways designated by the County referred to as “routes.”
4

5 Wis. Stats. §23.33(8)(b)1 allows a town, village, city of county the ability to enact an
6 ordinance to designate a highway not under its jurisdiction, but within its territorial limits,
7 as an ATV route. In any circumstance in which the proposed route is one which is on or
8 across a state highway, the local government entity must seek Department of Transportation
9 (DOT) approval.
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11 On October 27, 2020, the Outagamie County Board adopted Ordinance C—2020-2021
12 which created Section 50-353 (based on Wis. Stat. §23.33) allowing ATVs and UTVs to
13 operate on roadways designated by Outagamie County and referred to as “routes.”
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15 There has been interest from constituents to modify the ordinance as pertains to speed limits
16 and operating hours in order to maintain consistency throughout the county. The Outagamie
17 County Highway, Recycling and Solid Waste Committee recommends updating language
18 in Section 50-353 of the Outagamie County Code of Ordinances.
19

20 NOW THEREFORE, the following ordinance is presented by the Highway, Recycling and
21 Solid Waste Committee to the County Board.

22 BE IT ORDAINED, that the Outagamie County Board of Supervisors does approve the
23 following amendments to Chapter 50 of the Outagamie County Code of Ordinances (additions are
24 underlined and in italics; deletions are struck through and in red):

25 **Sec. 30-353. All-terrain vehicles and utility terrain vehicles.**

26 (5) *Regulation of ATVs and UTVs.* Except as otherwise provided herein, the statutory provisions
27 of Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64, which create, describe, and define
28 regulations with respect to ATVs and UTVs, are adopted and, by reference, made a part of this
29 Code as if fully set forth herein.

30 (a) Operator and rider requirements. Any person who operates or rides as a passenger on an
31 ATV or UTV on a roadway that is an ATV/UTV route in Outagamie County designated
32 pursuant to Wis. Stats. § 23.33(8)(b)1, or an ATV/UTV route in Outagamie County
33 designated pursuant to Wis. Stats. § 23.33(8)(c), must meet the following requirements:
34

- 1 (i) Any operator or passenger shall comply with all federal, state, and local laws, orders,
2 regulations, restrictions, and rules, including those outlined in Wis. Stats. § 23.33
3 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis.
4 Stats. § 23.33 and Wis. Admin. Code NR § 64 are adopted and incorporated by
5 reference in this section.
- 6 (ii) No person may operate an ATV or UTV without having attained the age of 16.
- 7 (iii) No person may operate an ATV or UTV without a valid driver's license.
- 8 (iv) All operators shall have a liability insurance policy in force on any ATV or UTV
9 operated on an ATV/UTV route or route. The liability insurance policy must have
10 the following minimum coverages:
 - 11 a. \$10,000.00 for property damage
 - 12 b. \$25,000.00 for the injury or death of one person
 - 13 c. \$50,000.00 for the injury or death of more than one person
- 14 (b) Rules of operation. The operation of an ATV or UTV on a roadway that is an ATV/UTV
15 route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(b)1, or an
16 ATV/UTV route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(c),
17 is subject to the following rules of operation:
 - 18 (i) Any operator or passenger shall comply with all federal, state, and local laws, orders,
19 regulations, restrictions, and rules, including those outlined in Wis. Stats. § 23.33
20 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis.
21 Stats. § 23.33(3) and NR§64 are adopted and incorporated in this section.
 - 22 (ii) Operators may only operate on a designated ATV/UTV route signed in accordance
23 with Wis. Stats. § 23.33(8)(e).
 - 24 (iii) Speed limits.
 - 25 a. Operators on ATV/UTV routes shall observe ~~a speed limit not to exceed 35~~
26 ~~miles per hour or~~ the posted speed limit on the roadway, ~~whichever is less.~~
 - 27 (iv) Operators shall ride in single file in the roadway. Roadway is defined in the same
28 manner as defined in Wis. Stats. § 340.01(54).
 - 29 (v) ~~Operators may not operate an ATV or UTV on an ATV/UTV route at any time~~
30 ~~before or after operating hours. Operating hours are designated as sunrise and sunset.~~
 - 31 (vi) All ATVs and UTVs must operate with fully functional headlamps, tail lamps, and
32 brake lights.
 - 33 (vii) Every ATV or UTV shall be equipped, maintained, and operated to prevent
34 excessive or unusual noise. No person shall operate an ATV or UTV on an
35 ATV/UTV route unless the vehicle is equipped with a muffler or other effective
36 noise-suppressing system in good working order and in constant operation.

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38 BE IT FURTHER ORDAINED, that this ordinance shall be in effect upon completion of
39 publication in accordance with Wisconsin Statutes, and

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1 BE IT FINALLY ORDAINED, that the Outagamie County Clerk be directed to forward a
 2 copy of this ordinance to the Outagamie County Highway Commissioner, the Outagamie County
 3 Development and Land Services Director, the Outagamie County Sheriff, the Outagamie County
 4 Corporation Counsel, and Municipal Code Corporation for inclusion in the Outagamie County
 5 Code of Ordinances.

6 Dated this ____ day of August 2023

7
 8
 9 Duly and officially adopted by the County Board on: _____
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11
 12 Signed: _____
 13 Board Chairperson County Clerk
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15
 16 Approved: _____ Vetoed: _____
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18
 19 Signed: _____
 County Executive

Sec. 50-353. All-terrain vehicles and utility terrain vehicles.

- (1) *Intent.* To create uniform procedures and requirements for the use and operation of all-terrain vehicles and utility terrain vehicles on Outagamie County highways.
- (2) *Definitions.* In this section, words and phrases used herein shall have the meaning as defined by Wis. Stats. § 23.33(1), unless otherwise defined herein. All-terrain vehicles (hereinafter referred to as ATVs) shall have the definition given in Wis. Stats. § 340.01(2g). Utility terrain vehicles (hereinafter referred to as UTVs) shall have the definition given in Wis. Stats. § 23.33(1)(ng). Any reference to a Wisconsin Statute Section or Administrative Code Regulation is a reference to that specific chapter, section, code, or its successor chapter, section, or code. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles.
- (3) *Statutory authority.* Outagamie County is authorized to designate county highways as ATV/UTV routes pursuant to Wis. Stats. §§ 23.33(8)(b) and 59.02, and is authorized to enact ordinances regulating ATVs and UTVs on designated routes pursuant to Wis. Stats. § 23.33(11)(a).
- (4) *Designating ATV/UTV Routes.*
 - (a) Application process for route designation. The commissioner shall develop policies and procedures for consideration of ATV/UTV routes in accordance with the requirements of Wis. Stats. § 23.33, Wis. Admin. Code NR § 64, and the provisions of this section.
 - (i) Municipalities. Any town, village, or city in Outagamie County may, by application to the highway commissioner, request that portions of county highways be designated as ATV/UTV routes. Applications shall be completed as prescribed by the commissioner and must be in compliance with the policies and procedures developed by the commissioner for the designation of ATV/UTV routes. The town, village, or city must further affirm that the municipality will pay for the costs to make, install, and maintain ATV/UTV route signs. Prior to application, municipality shall:
 1. Hold a public hearing on the proposed ATV/UTV route, with publication by Class 2 Notice under Wis. Stats. ch. 985. Notice of public hearing shall include the time and location of the hearing, a map depicting the proposed route, and details on how public comment can be submitted in addition to verbal comment at the public hearing.
 2. Provide written notice, by mail, to property owners abutting the proposed ATV/UTV route's County Highway right-of-way by including, at minimum, a copy of the public hearing notice described in [subsection] 4(a)(i)1.
 3. Take official action, during a public meeting of municipality's governing board or designated committee, to authorize said municipality to apply for ATV/UTV route designation.
 - (ii) Application requirements. An application for designation of an ATV/UTV route shall, at a minimum, include the following:
 1. A map showing the proposed ATV/UTV route on the county highway system.
 2. A map showing any existing or future ATV/UTV routes leading to the proposed route.
 3. A statement explaining why the proposed route should be designated as an ATV/UTV route.
 4. Documentation that items required in [subsection] 4(a)(i)1-3 were completed by municipality.

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- 5. A statement that the applicant will be financially responsible for payments for the installation and maintenance of required ATV/UTV route signs.
 - 6. Any municipality in which the segment of a county roadway being proposed as an ATV/UTV route exists must have adopted the regulations in subsection (5) set forth below for the application to be considered.
- (b) Duties and powers of highway commissioner.
- (i) The commissioner shall administer, at minimum, an annual ATV/UTV route designation application process. Such process shall include administrative review and evaluation of proposed routes based on safety and operational considerations, such as traffic volume, roadway speed limits, topography, vision clearance issues, pavement and shoulder conditions, and other factors related to operational safety and efficacy. Commissioner shall summarize said evaluation and provide a recommendation to the highway, recycling and solid waste committee for their consideration of route designation by ordinance.
 - (ii) The commissioner shall ensure that all routes designated pursuant to this section are properly posted. Payment for signage production, installation, and future maintenance for designated routes shall be at the cost of the requesting municipality.
 - (iii) The commissioner shall establish the official ATV/UTV route opening and closing dates for each year. Dates shall be posted on the Outagamie County website in a place visible to the public.
 - (iv) All routes established pursuant to this section shall be reviewed annually by the commissioner to consider the continued value, efficacy, safety, and need for the ATV/UTV routes. In the event the commissioner believes the route is no longer safe or is otherwise inappropriate, Commissioner shall seek a modification of the ordinance allowing designation of that route through the highway recycling and solid waste committee which may advance its recommendation to amend the ordinance to the County Board of Supervisors.
- (c) Route adoption, modification and termination procedures.
- (i) The highway, recycling and solid waste committee shall on an annual basis, at minimum, consider ATV/UTV route designation applications received by the highway commissioner, to include the highway commissioner's review and recommendation per [subsection] 4(b)(i).
 - (ii) Upon review of ATV/UTV routes under consideration, the highway, recycle, and solid waste committee shall authorize an ordinance be drafted for any ATV/UTV routes they find worthy of designation. Said ordinance can incorporate any terms, conditions and/or modifications of proposed routes as recommended by the highway commissioner and/or based on factors identified by the highway, recycling and solid waste committee during their review.
 - (iii) An ATV/UTV route that is created by section shall not officially become effective until said route is officially opened by the highway commissioner, indicated by the erection of signage.
 - (iv) The county board of supervisors may rescind or modify the designation of an ATV/UTV route by enactment of an ordinance rescinding or modifying the designation.
- (5) *Regulation of ATVs and UTVs.* Except as otherwise provided herein, the statutory provisions of Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64, which create, describe, and define regulations with respect to ATVs and UTVs, are adopted and, by reference, made a part of this Code as if fully set forth herein.
- (a) Operator and rider requirements. Any person who operates or rides as a passenger on an ATV or UTV on a roadway that is an ATV/UTV route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(b)1, or an ATV/UTV route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(c), must meet the following requirements:

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- (i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64 are adopted and incorporated by reference in this section.
 - (ii) No person may operate an ATV or UTV without having attained the age of 16.
 - (iii) No person may operate an ATV or UTV without a valid driver's license.
 - (iv) All operators shall have a liability insurance policy in force on any ATV or UTV operated on an ATV/UTV route or route. The liability insurance policy must have the following minimum coverages:
 - a. \$10,000.00 for property damage
 - b. \$25,000.00 for the injury or death of one person
 - c. \$50,000.00 for the injury or death of more than one person
- (b) Rules of operation. The operation of an ATV or UTV on a roadway that is an ATV/UTV route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(b)1, or an ATV/UTV route in Outagamie County designated pursuant to Wis. Stats. § 23.33(8)(c), is subject to the following rules of operation:
- (i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Wis. Stats. § 23.33 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis. Stats. § 23.33(3) and NR§64 are adopted and incorporated in this section.
 - (ii) Operators may only operate on a designated ATV/UTV route signed in accordance with Wis. Stats. § 23.33(8)(e).
 - (iii) Speed limits.
 - a. Operators on ATV/UTV routes shall observe ~~a speed limit not to exceed 35 miles per hour or the posted speed limit on the roadway, whichever is less.~~
 - (iv) Operators shall ride in single file in the roadway. Roadway is defined in the same manner as defined in Wis. Stats. § 340.01(54).
 - (v) ~~Operators may not operate an ATV or UTV on an ATV/UTV route at any time before or after operating hours. Operating hours are designated as sunrise and sunset.~~
 - (vi) All ATVs and UTVs must operate with fully functional headlamps, tail lamps, and brake lights.
 - (vii) Every ATV or UTV shall be equipped, maintained, and operated to prevent excessive or unusual noise. No person shall operate an ATV or UTV on an ATV/UTV route unless the vehicle is equipped with a muffler or other effective noise-suppressing system in good working order and in constant operation.
- (c) Enforcement.
- (i) Any act that is required or is prohibited by any statute or administrative code provision incorporated herein by reference is required or prohibited by this Code.
 - (ii) An officer of the state traffic patrol under Wis. Stats. § 110.07(1), inspector under Wis. Stats. § 110.07(3), conservation warden appointed by the department under Wis. Stats. § 23.10, county sheriff or municipal peace officer has authority and jurisdiction to enforce this section and ordinances enacted in accordance with this section.

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- (iii) No operator of an all-terrain vehicle or utility terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in Wis. Stats. § 939.22(5).
 - (d) Penalties.
 - (i) Any forfeiture for a violation of State Statute or Administrative Code adopted by reference in this section shall conform to the forfeiture permitted to be imposed for violation of said statutes or code provisions as set forth therein.
 - (ii) Any violation of a section of this section without a penalty specified by statute or administrative code shall be punishable as provided in Outagamie County Ordinance 1-10.
 - (6) *Severability*. The provisions of this section shall be deemed severable and it is expressly declared that Outagamie County would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other person's circumstances shall not be deemed affected.
- (Ord. No. C-2020-21 , 10-27-2020)