

ORDINANCE #2024-02 OF THE VILLAGE OF DEERFIELD, WISCONSIN

Committee:

Public Hearing: n/a

Committee Date:

Village Board Date: Nov 25, 2024

Committee Recommendation:

Village Board Action:

An Ordinance Modifying Chapter 32 and Creating Sections 32-240 to 32-242 of the Code of Ordinances of the Village of Deerfield, Wisconsin, related to the Operation of ATVs and UTVs on Village Streets

WHEREAS, residents within and outside of the Village of Deerfield have expressed interest in the Village opening up its streets to the operation of all-terrain vehicles and utility terrain vehicles for consistency with what has been allowed in neighboring towns and villages;

WHEREAS, local all-terrain vehicle and utility terrain vehicle clubs have offered to pay for the Village of Deerfield's costs of purchasing and installing legally required route signs following the establishment of all-terrain vehicle and utility terrain vehicle routes within the Village;

WHEREAS, after due consideration of this Ordinance by the Village of Deerfield Ad Hoc ATV/UTV Committee, the Public Works Committee, the Plan Commission, and the police department the Village of Deerfield Board finds that the regulation of the operation of all-terrain vehicles and utility terrain vehicles to provide safe and healthful conditions for the use of such vehicles consistent with state law is in the public interest;

THEREFORE, the Village Board of Deerfield do ordain as follows:

PART I. This ordinance is created to establish all-terrain vehicle and utility terrain vehicle routes on public roadways and to regulate the operation of such vehicles on such routes to provide safe and healthful conditions for the use of all-terrain vehicles and utility-terrain vehicles consistent with state law. This ordinance is adopted pursuant to the Village's authority under Wis. Stat. §§ 23.33(8)(b) and 23.33(11)(a).

PART II. Division 2 of Article VII of Chapter 32 of the Code of Ordinances of the Village of Deerfield, Wisconsin ("Deerfield Code") is hereby renumbered as Division 3 of Article VII of Chapter 32 of the Deerfield Code.

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PART III. Section 32-233 is hereby repealed and replaced as follows:

32-233 – State all-terrain vehicles and utility terrain vehicles laws adopted.

(a) *State laws adopted.* The following provisions describing and defining regulations with respect to all-terrain vehicles and utility terrain vehicles of Section 23.33 of the Wisconsin Statutes are hereby adopted by reference and made part of this section as if fully set forth herein. Acts required to be performed or prohibited by the statutory sections adopted are required or prohibited by this division.

Wis. Stats. § 23.33(1m)	Utility terrain vehicle program
Wis. Stats. § 23.33(2)	Registration
Wis. Stats. § 23.33(2h)	Alterations and falsifications prohibited
Wis. Stats. § 23.33(3e)	Original seating
Wis. Stats. § 23.33(3g)	Use of headgear
Wis. Stats. § 23.33(4)	Operation on or near highways
Wis. Stats. § 23.33(4c)	Intoxicated operation of an all-terrain vehicle or utility terrain vehicle
Wis. Stats. § 23.33(4g)	Preliminary breath screening test
Wis. Stats. § 23.33(4j)	Applicability of the intoxicated operation of an all-terrain vehicle or utility terrain vehicle law
Wis. Stats. § 23.33(4L)	Implied consent
Wis. Stats. § 23.33(4p)	Chemical tests
Wis. Stats. § 23.33(5)	Age restrictions; safety certification program
Wis. Stats. § 23.33(6)	Equipment requirements
Wis. Stats. § 23.33(6m)	Noise limits
Wis. Stats. § 23.33(6r)	Passenger restrictions
Wis. Stats. § 23.33(7)	Accidents
Wis. Stats. § 23.33(8)	Routes and trails
Wis. Stats. § 23.33(11m)	Exceptions for governmental entities
Wis. Stats. § 23.33(12)	Enforcement
Wis. Stats. § 23.33(13)	Penalties
Wis. Stats. § 23.33(1)	Definitions

(b) *More stringent requirement applies.* If the terms and provisions of this Article VII are more restrictive than any adopted section, the terms and provisions of this Article VII shall apply.

(c) *Code designations.* The statutory sections adopted by reference herein shall be designated as part of this Code by adding the prefix "32-233" to each statute section number.

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(d) *Future amendments included.* Any future amendments, revisions or modifications of any adopted section are made part of this section.

(e) *Definitions applicable.* The definitions contained in Wis. Stat. § 23.33(1), as adopted herein, shall apply to this Article VII.

PART IV. The definition of “motor vehicle” in section 32-234(a) is hereby amended to include “utility terrain vehicles” as follows:

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, utility terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. The term "motor vehicles" 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; or
- (3) It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

PART V. Section 32-234(c)(2) is hereby amended to include “utility terrain vehicles” as follows:

- (2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles and utility terrain vehicles operating in areas authorized by the village board, it is unlawful to operate any minibike, go-kart, all-terrain vehicle, utility terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the village streets, alleys, parks, sidewalks, bikeways, parking lots, or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the written consent of the owner before operation of such craft or vehicle on private lands.

PART VI. Division 2 of Article VII of Chapter 32, titled “ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES” is hereby created to read as follows:

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DIVISION 2 – ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES

32-240. – Designation of routes; closure.

- (a) In this division 2, “route” means a designated all-terrain vehicle route or utility terrain vehicle route designated in paragraphs (b) to (c).
- (b) *Routes designated.* Pursuant to Wis. Stat. § 23.33(1m)(b), all public streets in the Village of Deerfield are designated as all-terrain vehicle routes, except the following:
 - (1) None designated at this time.
 - (b) *Routes on state highways.* Pursuant to Wis. Stat. § 23.33(11)(am)4., all-terrain vehicles and utility terrain vehicles are authorized to operate on the following highways where the speed limits are 35 miles per hour or less:
 - (1) State Highway 73 from the northern village limits at North Street to the southern village limits at London Road.
- (c) *Utility terrain vehicle routes.* Pursuant to Wis. Stat. § (8)(b)(2), all all-terrain vehicle routes in the Village may be used by utility terrain vehicles, except as otherwise posted.
- (d) *Temporary closure of public streets.* The following village officials shall have the authority to temporarily close any route in the village to all-terrain vehicles, utility terrain vehicles, or both, for any reason: public works, committee and Village Board.
- (e) *Removal of streets from routes.* The village board may permanently close any street or other public way to use by all-terrain vehicles, utility terrain vehicles, or both at any time, for any reason. As soon as practicable thereafter, the village board shall amend paragraph 32-240(a) to recognize the redesignation. The public works director shall post signs at each point where the permanently closed street or other public way intersects a designated route.
- (f) *Signage.* The village shall install signage in accordance with Wis. Stat. § 23.33(8) and Wis. Admin. Code NR § 64.12(7).

32-241. – Requirements for use of routes.

As a condition for the use of village routes, the following shall apply to all operators and, where applicable, passengers:

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- (a) All all-terrain vehicle and utility terrain vehicle operators shall comply with the provisions of Wis. Stat. § 23.33 and all rules and regulations promulgated by the Wisconsin Department of Natural Resources thereunder.
- (b) All all-terrain vehicle and utility terrain vehicle operators shall comply with chapter 32 of the Deerfield Code, including but not limited to parking regulations.
- (c) An all-terrain vehicle or utility terrain vehicle shall not be operated at a speed greater than what is posted and safe for the conditions then present.
- (d) All all-terrain vehicle and utility terrain vehicle operators shall comply with all other applicable traffic signs and regulations within the village.
- (e) All-terrain vehicles and utility terrain vehicles shall be operated only on the roadway portion of any route. No person may operate an all-terrain vehicle or utility terrain vehicle on any sidewalk, pedestrian way, bicycle path, gravel shoulder, grassy in-slope, ditch, or other street right-of-way.
- (f) All all-terrain vehicles and utility terrain vehicles shall be operated in a single file and with the flow of traffic.
- (g) No all-terrain vehicle or utility terrain vehicle may be operated on any route between the hours of 11:00 p.m. to 5:00 a.m.
- (h) No all-terrain vehicle or utility terrain vehicle may be operated in the village without fully functional and lighted headlamps and tail lamps, and fully functional brake lights.
- (i) All all-terrain vehicle and utility terrain vehicle operators and passengers must wear manufacturer-installed seatbelts at all times.
- (j) All persons who operate an all-terrain vehicle or utility terrain vehicle must be 16 years of age or older and must possess a valid operator's license as defined in Wis. Stat. § 340.01(41g).
- (k) All all-terrain vehicles and utility terrain vehicles shall be registered in accordance with Wisconsin Department of Natural Resources and Wisconsin Department of Transportation regulations.
- (l) [Not used at this time.]
- (m) All all-terrain vehicle and utility terrain vehicle operators shall have in effect a liability insurance policy covering the vehicle being operated and such operator shall have in the

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operator's immediate possession proof of said insurance, which shall be displayed upon demand from any law enforcement officer.

- (n) No person shall operate an all-terrain vehicle or utility terrain vehicle unless the vehicle conforms to all noise, registration, and other requirements of state and local laws, regulations, rules, and ordinances.
- (o) No person shall operate an all-terrain vehicle or utility terrain vehicle in such a manner as to cause any of the following:
 - (1) excessive and unnecessary acceleration;
 - (2) the vehicle's tires to spin or emit loud noises;
 - (3) the vehicle to unnecessarily throw stones or gravel; or
 - (4) the vehicle's wheels to leave the ground.
- (p) No person may drink alcohol beverages, as defined by Wis. Stat. § 125.02(1), while the person operates or is a passenger on an all-terrain vehicle or utility terrain vehicle on any route or other public way.
- (q) No operator or passenger on an all-terrain vehicle or utility terrain vehicle may possess on the operator's or passenger's person any opened bottle, can, or receptacle containing an alcohol beverage, as defined by Wis. Stat. § 125.02(1).
- (r) No person may operate an all-terrain vehicle or utility terrain vehicle under the influence of alcohol or a restricted controlled substance.
- (s) No person under the age of 21 who has an alcohol concentration greater than 0.00 may operate an all-terrain vehicle or utility terrain vehicle.

32-242. – Enforcement; penalties

(a) *Enforcement.* This division and Deerfield Code section 32-233 shall be enforced in accordance with Wis. Stat. § 23.33(12) and sections 32-59 to 32.62 of the Deerfield Code.

(b) *Penalties.*

- (1) Unless specified in this section, the penalty for violation of any provision of this division or Deerfield Code section 32-233 shall be the maximum forfeiture set forth in Wis. Stat. § 23.33(13), as may be amended from time to time.

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- (2) Except as provided in paragraph (d), the penalty for a violation of secs. 32-241(c)-(f), (h), (k), (n) and (o) is \$85.00 plus court costs for the first violation, and \$135.00 plus court costs for each subsequent violation within one (1) year.
 - (3) Except as provided in paragraph (d), the penalty for a violation of secs. 32-241(g), (i), (j) or (m) or sec. 32-233-23.33(g) is \$100.00 plus court costs for the first violation, and \$150.00 plus court costs for each subsequent violation within one (1) year.
 - (4) Except as provided in paragraph (d), the penalty for a violation of sec. 32-241(p) or (q) is \$200.00 plus court costs for the first violation, and \$250.00 plus court costs for each subsequent violation within one (1) year.
 - (5) The penalty for a violation of sec. 32-241(r) or (s) shall be the maximum forfeiture set forth in Wis. Stat. § 23.33(13) and, in addition, the violator shall be referred to the district attorney.
- (c) *Separate violations.* With respect to violations that are continuous with respect to time, each day that a violation of this division or Deerfield Code section 32-233 occurs, continues, or remains present constitutes a separate offense. With respect to violations that are not continuous with respect to time, each act constitutes a separate offense.
- (d) *Other laws applicable.* Nothing in this section shall preclude the village or municipal court from proceeding under any other ordinance, regulation, statute, law, or order that pertains to a subject matter addressed under this division, or from exercising any other additional authorities granted by the Wisconsin Statutes.

PART VII. If any section or portion of this ordinance shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

PART VIII. The provisions of this ordinance shall be in full force and effect from and after its passage and publication as required by law.

This ordinance was duly adopted by a vote of 6 in favor and 0 opposed, which is at least a 2/3 majority vote of the elected members of the Village Board of the Village of Deerfield, Wisconsin at a regular meeting held on November 25, 2024.

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Approved:

Gregory Frutiger, Village Board President

Attested:

Tammy L Jordan, Village Clerk

Publication Date: