

Chapter 350

REGULATION OF ATV AND UTV OPERATIONS AND ROUTES

[HISTORY: Adopted by the Town Board of the Town of Erin 08-19-2024 by Ord. No. 24-07 Amendments noted where applicable.]

§ 350-1. Purpose

The purpose of this Ordinance is to address the matter of all-terrain vehicle (“ATV”) and utility terrain vehicle (“UTV”) routes on Town streets, alleys, and public lands and to regulate the related operation of ATVs and UTVs, as defined in Wis. Stat. §23.33(1), in the Town of Erin, Washington County, Wisconsin (the “Town”). The intent of this Ordinance is to provide for the safety, welfare, healthful conditions, and enjoyment of recreational vehicle enthusiasts and private landowners consistent with the public rights, interests, and capabilities of the areas regulated in the Town. The provisions of this Ordinance shall apply to all roadways and public property in the Town within the jurisdiction of the Town Board as authorized by state law.

§ 350-2. Definitions.

ALL-TERRAIN VEHICLE (ATV)

A commercially designed and manufactured motor-driven device that does not meet federal motor vehicle safety standards effective 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 paved road, and that has, and was manufactured with, all of the following.

- a. A weight, without fluids, of 900 pounds or less.
- b. Four or more tires.
- c. A steering handlebar, single or dual headlights, a tail and brake light.
- d. A width of no more than 50 inches.

UTILITY-TERRAIN VEHICLE (UTV)

A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards effective 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 manufactured with, all of the following:

- a. A weight, without fluids, of 2,000 pounds or less.
- b. Four or more tires.
- c. A cargo box installed by the manufacturer measured laterally between the outermost wheel run on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.

- d. A steering wheel, tail and brake lights, and two headlights.
- e. A width of no more than 65 inches.
- f. A system of seat belts, or similar system, for restraining each occupant of the device in the event of a collision.
- g. A system of structural members designed to reduce the likelihood that an occupant would be crushed as a result of a rollover of the device (roll bars).
- h. All other applicable words and phrases defined in Section 23.33 and Section 340.01 of the Wisconsin Statutes are incorporated by reference in this ordinance

§ 350-3. Authority

The Town Board has the specific authority under Wis. Stat. §§ 23.33(8)(b) and 23.33(11) to adopt this Ordinance. The Town of Erin reserves the right to close or modify any ATV/UTV routes within its jurisdiction at any time.

§ 350-4. Adoption of Statutory Provisions

Those provisions and requirements set forth in Wis. Stat. § 23.33, Wis. Stat. Chapters 340-348, and Wis. Admin. Code § NR 64, and any future amendments or revisions thereto, are hereby adopted by reference and fully incorporated as if fully set forth herein.

§ 350-5. Routes

All Town roads in the Town of Erin are hereby designated as ATV and UTV Routes (the “Routes”):

The Routes shall not include any private roads or driveways nor any private property in the Town. The Town retains the right to close any Town road to ATV and UTV operation for special events, street construction or repair, or for any other reason, without advance notice. The Town neither accepts nor assumes liability for the operation of ATVs or UTVs on any Town roads under the provisions of this Section. Residents of the Town are permitted to travel to and from their place of residence to the nearest designated route, using the most direct route, and shall be subject to the rules of the road. This does not apply to residents using County or State Trunk Highways unless they are signed as an ATV route.

- A. **ATV/UTV Route:** A road or street designated for use by ATV/UTV vehicle operators by the governmental agency having jurisdiction as authorized by this Chapter.
- B. **Operate:** To exercise physical control over the speed or direction of an all-terrain vehicle or physically manipulate or activate any of the controls of an all-terrain vehicle necessary to put it into motion.

- C. State Trunk Highway: Any highway designated pursuant to Wis. Stat. §84.29 as part of the state trunk highway system.
- D. Town Roads: Every named, paved public right-of-way within the Jurisdictional limits of the Town, inclusive of State Connecting Highways, and excluding alleys.
- E. Age Requirement. All ATV/UTV operators shall be 16 years or older to operate an all-terrain vehicle on road routes in the Town, holding a valid Wisconsin Driver's License. The operator, upon request from any law enforcement officer, state patrol, or inspector under Wisconsin Statutes 110.07(1), conservation warden, or enforcement officer shall display said operator's license to said agent as well as proof of insurance and registration.
- F. Speed Limits. All ATV/UTV operators shall observe the posted speed limits on Town Roads.
- G. Registration and Display of Registration. All ATV/UTV vehicles operated within the Town of Erin on designated routes are required to have State of Wisconsin registration as issued by the Wisconsin Department of Natural Resources and display such registration on the ATV/UTV vehicle.
- H. All ATV/UTV operators shall ride single file on the right side of the Town Road but shall not operate on any unpaved or shoulder section of Town Roads.,
- I. Headlights and taillights shall be present and on at all times.
- J. In accordance with Section 23.33(8)(b)2 of the Wisconsin Statutes and unless otherwise posted, all streets, and roads within the Town are designated ATV and UTV routes, except all county highways, state trunk highways or connecting highways with a speed of 40 MPH or greater, unless the applicable County or State authority approves such a designation.
- K. In accordance with section 23.33(11)(am)(4) of the Wisconsin Statutes, the town authorizes the operation of ATVs and UTVs on all county highways, state trunk highways or connecting highways within its municipal boundary with a posted speed limit of 35 MPH or less.
- L. The town or its designee reserves the right to close or modify ATV and UTV routes within its jurisdiction at any time.
- M. All ATV and UTV routes shall be signed in accordance with NR 64.12 and 64.12(7)(c) of the Wisconsin Administrative Code. The town or its designee shall maintain all ATV route signs within the town without limitation, on state trunk highways within the town.

§ 350-6. Operation of ATVs and UTVs

- A. Pursuant to Wis. Stat. § 23.33(4)(d)4, except as otherwise provided in Wis. Stat. §
- B. 23.33(4), no person may operate an ATV or UTV on the roadway portion of any highway, street, alley, public right-of-way, park, cemetery, or on any other public property in the

Town or on any parking lots held open to the public, except on roadways, right-of-way and trails which are designated as Routes by Section IV above. Unless authorized by the Town Board, no ATV/UTV shall be operated on any walking, bicycle, equestrian, or other special use trail or path.

- C. No person shall operate an ATV or UTV upon private property without the owner's express permission, except upon Routes designated by the Town Board.
- D. Municipal or other governmental ATVs or UTVs used for governmental purposes are authorized to operate on streets and right-of-way.
- E. It shall be the responsibility of ATV and UTV operators to know whether they are operating on public or private property.
- F. Violations Involving Signage. Routes shall be marked with uniform signage, applicable to both ATV and UTV operations, as prescribed in Wis. Admin. Code § NR 64.12(7), and which conform to regulations of this Ordinance and of the DNR and DOT, pursuant to Section VI below. No person shall do any of the following in regard to signs marking Routes:
 - (1.) Intentionally remove, damage, deface, move, obstruct, or interfere with any uniform ATV/UTV Route or trail sign or standard, or intentionally interfere with the effective operation of any uniform ATV/UTV route sign or standard if the sign or standard is legally placed by the State of Wisconsin, any local government, or any authorized individual or organization.
 - (2.) Possess any uniform ATV or UTV Route or trail sign or standard of the type established by the DNR for the warning, instruction, or information of the public, unless he/she obtained the uniform ATV or UTV Route sign or standard in a lawful manner. Possession of a uniform ATV/UTV Route sign or standard creates a rebuttable presumption of illegal possession.
- G. Cruising Prohibited. No person shall, while operating an ATV or UTV, engage in the practice of cruising on any authorized Route. "Cruising" is defined as running all or part of a designated route multiple times per day, back and forth, for any purpose other than departing or arriving at their residence.
- H. No ATV or UTV shall be operated on a Route between the hours of 10:00 p.m. and 6:00 a.m.
- I. Operation of ATVs and UTVs shall be subject to Sec. 23.33, Wis. Stats. and any other applicable regulations, which is adopted as a part of this Ordinance by reference, pursuant to Sec. 23.33(11), Wis. Stats.
- J. Operators of ATV and UTVs on Routes assume all of the usual and normal risks of ATV and UTV operation.
- K. The Town accepts no liability for the operation of ATVs and UTVs on any Routes.

- L. No person shall operate an ATV or UTV on a Route during such time as their driver's license has been suspended or revoked.
- M. All Routes in the Town shall have a maximum speed limit of thirty-five (35) miles per hour unless posted at a lower speed for vehicular traffic. If ATV and UTV speed limits are posted, then ATV and UTV operators shall observe posted ATV and UTV speed limits. Notwithstanding the above and regardless of the signage posted, no ATV or UTV shall be operated at a speed greater than thirty-five (35) miles per hour.
- N. All ATV and UTV operators under the age of eighteen (18) shall wear a helmet.
- O. All ATV and UTV operators shall ride single file.
- P. All ATV and UTV operators shall operate only on the extreme right side of the paved portion of the roadway except that left turns may be made from any part of the roadway that is safe given prevailing conditions.
- Q. On paved roadways, ATVs and UTVs shall be operated on the paved portion of the roadway and not on the gravel shoulder or ditch.
- R. Radios or electric sound amplification devices. No person may operate or park, stop or leave standing an ATV or UTV while using a radio or other electric sound amplification device emitting sound from the vehicle that is audible under normal conditions from 75 feet or more, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition.
- S. All ATV and UTV operators shall slow the vehicle to ten (10) mph or less when operating within one hundred (100) feet of a person not on a vehicle or machine.
- T. All ATV and UTV operators shall stop at each roadway or highway to be crossed and yield the right-of-way to all motor vehicles approaching on each such roadway or highway.
- U. All ATVs and UTVs operated on the Routes shall be equipped with a working white-lighted headlamp and a red-lighted tail lamp. The headlamp and tail lamp shall be lighted at all times while operating on the ATV/UTV Routes.
- V. All ATVs and UTVs are required to be equipped with a functioning muffler to prevent excessive or unusual noise and with a functioning spark arrester of a type approved by the U.S. Forest Service.
- W. No operator shall operate an ATV/UTV so as to cause the tires thereof to squeal, the horn to blow excessively, the motor to race excessively, or by emitting unnecessary and loud muffler noises. Subject to decibel reading of no more than 65 dB
- X. During special events within the Town limits, the Washington County Sheriff's Office, with the approval of the Town Chair or Director of Emergency Management, is granted authority to allow for all-terrain/utility terrain vehicle operation on Town Roads for the duration of going to or coming from said event or during a parade. An operator needs to contact the

town and provide their name, all terrain/utility terrain device type and registration number, and the Town Chair or Director of Emergency Management will review the request for permission and notify the individual either verbally or in writing of their decision.

- Y. Operators shall have liability insurance consistent with State of Wisconsin requirements for motor vehicles and shall have and provide proof of said insurance while operating an ATV/UTV. Operators must possess proof of insurance at any time.
- Z. Parking. ATVs/UTVs shall be subject to all parking requirements and allowances of motor vehicles included in the Town of Erin Municipal Code, except that ATVs/UTVs shall not be parked overnight on any Town Road or parking lot.
- AA. Tires. Every ATV/UTV tire shall have at least 2/32-inch tread depth in every major tire groove measured at 2 points no less than 15 inches apart.
- BB. Eye Protection. Unless operating with an enclosed or partial cab, no person may operate an ATV/UTV without wearing any of the following eye protection: a protective face shield attached to the headgear, glasses, goggles, or a windshield on the ATV/UTV that rises a minimum of 15 inches above the handlebar or steering wheel. This section shall not apply to persons operating an ATV/UTV in a parade sanctioned by the Town of Erin.
- CC. No operator or passenger of an all-terrain/utility terrain vehicle may possess in or on ATV/UTV on any Road in the Town of Erin, any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released.

§ 350-7. Designated Routes Signage/Markers

- A. The Town shall be responsible for administering and authorizing appropriate route, trail, and/or speed limit signs and markers to be procured, erected and maintained consistent with this Ordinance and as required by Wisconsin Statutes, Wisconsin Administrative Code, and Wisconsin Department of Transportation and Wisconsin Department of Natural Resources standards. Specific state standards to be complied with include, but are not limited to, Wis. Stat. § 23.33(8), Wis. Admin. Code § NR 64.12 and the Wisconsin Manual of Uniform Traffic Control Devices (WMUTCD). The Town may work cooperatively with local authorized ATV/UTV organizations to procure, erect, and maintain all ATV/UTV route/trail signs within the Town, including, without limitation, on town-maintained roads and local streets. Signs for county, state and connecting highways may be erected by the Town, a qualified contractor or a county highway department as long as the standards specified above are followed. specific Routes shall not be open for use until properly signed.
- B. Signs and Markers to be Obeyed. No person shall fail to obey any route or trail sign, marker, speed limit, or other control device erected in accordance with this Ordinance or traffic sign or signal under the authority of the Wisconsin Statutes.
- C. Signage. Town staff shall mark entrances to the Town with signage in accordance with Wis. Admin. Code NR § 64.12 and NR § 64.12(7)c. Locations and placement must be approved by the Town Board. Signs shall be maintained by the Town. No person may erect or remove any official sign unless authorized by the town

§ 350-8. Enforcement

This Ordinance shall be enforced by any law enforcement officer of the Town, Town official, or any other officer authorized to enforce the laws of the State of Wisconsin, including but not limited to Washington County Sheriff's Department personnel and Wisconsin Department of Natural Resources Wardens.

§ 350-9. Penalties

Wisconsin ATV and UTV penalties set forth in Wisconsin Statutes § 23.33(13) are adopted by reference and may be enforced through the issuance of municipal citations as provided elsewhere in the Town's ordinances.

- A. Penalties: Any person who shall operate an all-terrain vehicle in violation of this section, in addition to the penalties of Wis. Stats. Chs. 346, 347, and Ch. 23.33 shall forfeit to the town not less than \$50.00, nor more than \$200.00, for each violation together with cost assessments imposed under Wis Stats, Ch, 814. This penalty section may be amended and set annually by the Town Board.
- B. Enforcement: The penalty for any violation identified in Section 23.33(13) or Chapters 340 through 347 of the Wisconsin Statutes shall be as set forth in the Wisconsin Statutes. Deposit amounts for such violations shall be as set forth in the current Revised Uniform State Traffic Deposit Schedule. The penalty for any violation of this ordinance not addressed in Section 23.33(13) or Chapters 340 through 347 of the Wisconsin Statutes shall be a forfeiture as set forth in Town of Erin Code and Regulations, together with all applicable costs, surcharges and assessments.

§ 350-10. Review.

Information and statistics relating to incidents, accidents, and calls stemming from the use of ATVs/UTV, on town roads shall be reviewed by the Town board every twelve (12) months starting twelve (12) months from the effective date of this ordinance, through a staff report.