

TOWN OF NEPEUSKUN  
WINNEBAGO COUNTY, WISCONSIN

**ALL-TERRAIN AND UTILITY-TERRAIN VEHICLE  
ROUTE ORDINANCE NO 10-2020-01**

Section 1. Purpose.

The purpose of this ordinance is to establish all-terrain and utility terrain vehicle routes in the Town of Nepeuskun and to regulate the operation of all-terrain and utility terrain vehicles in the Town. Following due consideration of the recreational value to connect trail opportunities and weighed against possible dangers, public health, liability aspects, terrain involved, traffic density and automobile traffic volume, this route has been created.

Section 2. Authority.

The Town Board of the Town of Nepeuskun, Winnebago County, Wisconsin, has the specific authority to adopt this All-Terrain and Utility Terrain Vehicle Ordinance under Wis. Stats. §§ 23.33(8)(b) and (11).

Section 3. 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 4. Definitions.

For the purposes of 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 Vehicle (ATV)" 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.
- (b) "Town" means the Town of Nepeuskun, the Town Board or any other Town of Nepeuskun official(s) authorized by the Town Board to act on behalf of the Town of Nepeuskun.

(c) “Utility Terrain Vehicle (UTV)” 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 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 2000 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 not an all-terrain vehicle, as defined in (a) above.

Section 5. Operation of All-Terrain and Utility Terrain Vehicles.

Pursuant to Wis. Stat. § 23.33(4)(d)4, except as otherwise provided in Wis. Stat. § 23.33(4), no person may operate an all-terrain or utility terrain vehicle on the roadway portion of any highway in the Town except on roadways that are designated as all-terrain and utility terrain vehicle routes by this ordinance.

Section 6. Designation of All-Terrain and Utility Terrain Vehicle Routes.

The Town of Nepeuskun hereby designates the following Town roads as all-terrain vehicle and utility terrain vehicle routes: All town roads except for those roads whose jurisdiction is shared with another town, in which case such road will not be a designated route unless the other town approves its designation as a route. The Town also designates all county and state roadways posted 35 mph or less as authorized under Wis. Stat. § 23.33(11)(am)4 unless otherwise posted.

Section 7. Conditions Applicable to All-Terrain and Utility Terrain Vehicle Routes.

- (a) Pursuant to Wis. Stat. § 23.33(8)(d), the following restrictions are placed on the use of the Town all-terrain and utility terrain vehicle routes designated by this resolution:
- (1) Routes shall be marked with uniform all-terrain and utility terrain vehicle route signs in accordance with NR 64.12 (7), Wisconsin Administrative Code. No person may do any of the following in regard to signs marking Town all-terrain and utility terrain vehicle routes:
  - (2) Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain and utility terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain and utility terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the State, any municipality, or any authorized individual.
  - (3) Possess any uniform all-terrain and utility terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction, or information of the public, unless he or she obtained the uniform all-terrain and utility terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-

terrain and utility terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.

- (b) Operation shall be subject to all provisions of Wis. Stat. § 23.33, which is adopted as a part of this ordinance by reference, pursuant to Wis. Stat. § 23.33(11).
- (c) Operation with snow removal device attached:
  - i. Operation of such an all-terrain vehicle or utility terrain vehicle on a roadway or adjacent to a roadway is authorized only if the applicable roadway speed limit is 45 miles per hour or less.
  - ii. Operation on a roadway of such an all-terrain vehicle or utility terrain vehicle is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway where it is safe to do so given prevailing conditions,
- (d) Operators must abide by all traffic laws unless further restricted by this Ordinance.
- (e) All ATV/UTV operators on routes shall observe posted roadway speed limits; not to exceed 35 MPH.
- (f) ATV/UTV designated routes are closed for operation of an ATV/UTV between the hours of 10:00 P.M. to 6:00 A.M. daily.
- (g) Off- road auxiliary lighting shall not be used on designated routes,

Section 8. Enforcement.

This ordinance may be enforced by the Town Board or law enforcement officer authorized to enforce the laws of the state of Wisconsin. A copy of this ordinance shall be sent by the Town Clerk to the Department of Natural Resources, the Winnebago County Sheriff's Department and any other law enforcement agency serving the Town of Nepeuskun's jurisdiction.

Section 9. Penalties.

The penalties under Wis. Stat. § 23.33(13), are adopted by reference. If there is any instance where a penalty under Wis. Stat. § 23.33(13) cannot be determined and/or applied, then there shall be a forfeiture of \$100 for a violation of this Ordinance. Every day that a violation of this Ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Ordinance shall also pay the fees and costs of prosecution incurred in the enforcement of this Ordinance. The issuance of a citation under this Ordinance shall not preclude the Town from proceeding under any other ordinance or law, or from the use of any other enforcement method including, but not limited to, a court-imposed injunction.

Section 10. Maintenance.

Designation of segments of the Town road system as ATV/UTV routes does not impose upon the Town a greater duty of care or responsibility for maintenance of those segments than for any other segment of Town road. Operators of ATV/UTV's on Town roads assume all the usual and normal risks of ATV/UTV operation.

Section 11. 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 12. Effective Date.

This ordinance is effective on publication or posting and only upon placement of signage in accordance with NR 64.12. The Town Clerk shall properly publish this ordinance as required under Wis. Stat. § 60.80.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

TOWN OF NEPEUSKUN

By: \_\_\_\_\_  
Kyle Grahn, Town Chairman

Attest:

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Rebecca Pinnow, Town Clerk