

STATE OF WISCONSIN:

TOWN OF MERTON

WAUKESHA COUNTY

ORDINANCE NO. 7.10 ALL-TERRAIN VEHICLES

An Ordinance Repealing and Recreating Chapter 7.10 ALL-TERRAIN VEHICLES.

WHEREAS, the Town of Merton recognizes that surrounding communities permit the use of non-traditional vehicles, including all-terrain vehicles and utility vehicles, on their roadways; and

WHEREAS, the Town of Merton recognizes that there is interest in allowing the use of such vehicles on roadways within the Town; and

WHEREAS, The Town of Merton also recognizes that such use, if permitted, requires appropriate regulation to ensure the safety of all citizens; and

WHEREAS, Wis. Stat. § 23.33 generally and more specifically, Wis. Stat. § 23.33(11) authorizes municipalities to enact an ordinance to designate municipal roads as all-terrain vehicle routes to allow all-terrain vehicles and utility vehicles to operate on certain roads within the municipal boundaries.

NOW, THEREFORE, the Town Board of the Town of Merton, Waukesha County, Wisconsin does ordain as follows:

Chapter 7.10 All-Terrain Vehicles and Utility Terrain Vehicles is hereby repealed and recreated to read as follows:

1. Authority

The Town Board of the Town of Merton adopts the provisions of this Ordinance pursuant to the authority of Wis. Stats. §§ 23.33, 61.34, 349.11(11), and Wisconsin Administrative Code Chapter NR 64, to regulate, control, prevent and enforce certain uses, activities, and operations by persons that may affect all-terrain use and traffic in the Town of Merton, and has the power to designate all-terrain routes and trails by Wis. Stat. § 23.33.

2. Regulation of All-Terrain Vehicles and Utility Terrain Vehicles ("ATV" and "UTV")

Except as otherwise specifically provided in this Ordinance, the statutory provisions of Wis. Stat. § 23.33, Wis. Stat. § 340, and Wis. Admin. Code NR § 64, describing and defining regulations with respect to ATVs and UTVs as defined in Wis. Stat. § 23.33 are adopted and by reference made a part of this Ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute or administrative code incorporated herein by reference is required or prohibited by this Ordinance. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles. This

ordinance governs only the use of ATVs and UTVs on designated Routes (as defined herein) and does not apply to other gas-powered vehicles, including, but not limited to, golf carts, motorbikes, go-carts, or similar types of vehicles.

3. Designation and Authorization of ATV Routes

Except as otherwise specifically provided in Wis. Stat. § 23.33, as authorized in Wis. Stat. § 23.33(8)(d), the Town of Merton is hereby designating ATV routes, subject to the conditions and limitations hereinafter set forth:

- (a) Designated Routes. All Town-maintained roads, streets, and highways which are signed in accordance with Wis. Stat. § 23.33(8) and Department of Natural Resources rules, with a speed limit consistent with Section 5(a)(2) of this Ordinance, will be designated as ATV Routes in accordance with Wis. Stat. § 23.33(8)(b)(2) ("Route" or "Routes"). The shoulder of any Town-maintained road, street, or highway is not a Route for the purposes of this Ordinance, and any operation of an ATV or UTV on a shoulder, adjacent to a roadway, or on a non-designated Route is strictly prohibited.
- (b) Temporary Closure or Suspension of ATV Routes. The Law Enforcement for the Town of Merton, at its discretion, shall have the authority to temporarily close or suspend operation of ATVs and UTVs on any road, street, or highway on an ATV Route designated or authorized herein for a period of ninety (90) days or less due to hazard, construction, or emergency conditions.
- (c) Permanent Closure of ATV Routes. The Town Board may permanently restrict operation of ATVs and UTVs on any ATV Routes designated or authorized herein at any time, for any reason, through removal of route signage and by providing notice to the public.

4. Signage

All ATV Routes shall be signed in accordance with Wis. Stat. § 23.33 and Wis. Admin. Code NR § 64.12(7). Routes shall not be open for use until properly signed.

- (a) The Town of Merton Public Works Department shall have the sole responsibility for ATV and UTV signage on Town roads, streets, and highways. The Public Works Department shall coordinate the installation of any signage required on State highways with the respective agency that maintains jurisdiction of each segment of highway authorized or designated as an ATV Route.
- (b) ATV clubs shall be responsible for the cost of all required designated ATV and UTV Route signage, and shall work with the Town of Merton Public Works Department to ensure that ATV and UTV signage is uniform and in compliance with all applicable state and local regulations.
- (c) All signs shall be in compliance with the most current version of the Wisconsin Manual on Uniform Traffic Control Devices as well as with Wis. Admin. Code NR § 64.12(7).
- (d) No sign shall be mounted to existing Wisconsin Department of Transportation signposts.

(e) ATV and UTV operation shall be subject to all provisions of Wis. Stat. § 23.33 which is adopted as part of this ordinance by reference. Pursuant to Wis. Stat. § 23.33(8)(f), no person may do any of the following in regard to signs marking ATV Routes:

1. Intentionally remove, damage deface, move or obstruct any uniform ATV route or trail sign or intentionally interfere with the effective operation of any uniform ATV route or trail sign, if the sign is legally placed by the state, municipality, or any authorized individual.
2. Possess any uniform ATV route or trail sign of the type established by the Department of Natural Resources for the warning, instruction, or information of the public, unless he or she obtained the uniform ATV route or trail sign in a lawful manner. Possession of a uniform ATV route or trail sign creates a rebuttable presumption of illegal possession.

5. Operation of All-Terrain Vehicles and Utility Terrain Vehicles on Designated and Authorized ATV Routes

(a) The following conditions and restrictions shall apply to all ATV and UTV operators and passengers, as applicable:

1. On all designated and authorized ATV Routes that are roadways shared with another jurisdiction, the more restrictive Ordinance shall apply.
2. ATVs and UTVs shall not be operated at a speed greater than the posted speed limit.
3. ATV and UTV operators shall comply with all applicable rules of the road and governing motorized vehicles operating on municipal roadways in accordance with Wis. Stat. § 23.33, Wis Admin. Code NR § 64, Wis. Stat. § 346, and all other applicable traffic and parking laws, local ordinances, and Wisconsin Department of Natural Resources regulations.
4. No person under the age of sixteen (16) may operate an ATV or UTV on designated or authorized ATV Routes in the Town.
5. All ATV and UTV operators born after January 1, 1988 are required to have an ATV Safety Certificate.
6. No person may operate or be a passenger on an ATV or UTV without wearing protective headgear of the type required in Wis. Stat. § 357.485(1)(a) and with the chin strap properly fastened, unless one of the following applies, pursuant to Wis. Stat. § 23.33(3g):
 - (i) The person is at least eighteen (18) years of age.
 - (ii) The person is traveling for the purpose of hunting or fishing and is at least twelve (12) years of age.
 - (iii) The ATV or UTV is being operated for an agricultural purpose.
 - (iv) The person is being transported for medical reasons while under the care of emergency personnel.
 - (v) The person is an emergency responder who is responding to an emergency that is directly related to the function of a city, town, village, county, state agency, federal agency, federally recognized American Indian tribe, or public safety corporation.

7. All ATV and UTV operators shall ride in single file on the extreme right-hand side of the paved portion of the roadway in accordance with Section 3(a) of this Ordinance. Left turns may be made from any part of the road or highway that is safe given prevailing conditions.
 8. All ATVs and UTVs shall have fully functional white lighted headlights, red-lighted taillights, and brake lights while operating on designated or authorized ATV Routes in the Town. Every ATV and UTV operator on any highway must display lighted headlights and taillights at all times.
 9. Approved hand signals are required whenever the operator intends to change direction if the ATV or UTV is not equipped with turn signals.
 10. No person shall drive or operate an ATV or UTV on any designated or authorized ATV Route between the hours of 10:00 PM and 6:00 AM.
 11. Operation of an ATV or UTV within any municipal park, sidewalks, public walking trail, or golf course is prohibited, with the exception of designated driving lanes.
 12. Operation of an ATV or UTV on any sidewalk, designated bicycle or pedestrian lane, gravel shoulder, ditch, or other area of any public right-of-way other than on the paved roadway is prohibited, unless specifically designated and posted otherwise by the Town.
 13. No person shall leave or allow any ATV or UTV owned or operated by that person to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
 14. A golf cart is not an ATV or UTV and is not allowed on Town roads.
- (b) Intoxicants in an ATV or UTV.
1. No operator or passenger may drink alcohol beverages while he or she is in an ATV or UTV when an ATV or UTV is upon a Town Route.
 2. No person may possess on his or her person, in an ATV or UTV upon a Town Route, 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.
 3. The owner of an ATV or UTV, or the operator of an ATV or UTV if the owner is not present in the ATV or UTV, shall not keep, or allow to be kept, in any part of the ATV or UTV when it is upon a Town Route, 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.
- (c) Licensing, Insurance, and Registration.
1. Driver License. Persons sixteen (16) years of age or older must possess a valid driver's license to operate an ATV or UTV on a designated or authorized ATV Route in the Town. No person shall operate an ATV or UTV on a Route during such time as their driver's license has been suspended or revoked. No person shall operate an ATV or UTV on a Route if they do not have an active or valid driver's license.
 2. Insurance. No person may operate an ATV or UTV on designated or authorized ATV Routes in the Town unless the owner or operator has in effect a liability

insurance policy providing coverage consistent with the liability insurance required for operation of a motorized vehicle by the State of Wisconsin and has in his or her immediate Possession proof that he or she is in compliance.

3. Registration. All ATVs and UTVs shall be registered for public use in accordance with Wisconsin Department of Natural Resources regulations with proof of registration displayed as required by statute during all times of operation.
- (d) Disturbing the Peace and Nuisance Activities.
1. Exhaust System/Muffler Modifications Prohibited. Every ATV and UTV shall be equipped, maintained, and operated to prevent excessive or unusual noise in accordance with all applicable provisions in Wis. Stat. § 23.33(6m). No person shall operate an ATV or UTV on a designated or authorized ATV Route unless such ATV or UTV is equipped with a muffler or other noise suppression system in good working order and in constant operation. It shall be unlawful to use a muffler cutout, bypass, or similar device on any ATV or UTV in a manner such that noise emitted by that ATV or UTV increases to a level higher than as originally manufactured.
 2. Radios, Sound Systems, And Electronic Sound Amplification Devices. ATVs and UTVs equipped with radios, sound systems, or electronic sound amplification devices must be operated at a volume that is limited within the personal space of the vehicle and in such a way that does not cause a nuisance and annoyance to other persons unless the electronic sound amplification device is being used to request assistance or to warn against an unsafe condition.
 3. Uses Prohibited. For purposes of this ordinance, the repetitive operation of an ATV or UTV means repeatedly driving or riding the vehicle up and down a Route or along a series of Routes, in a continuous or repeated manner primarily for amusement, entertainment, or amusement of the operator or passengers rather than for legitimate transportation, work, or similar lawful purpose. No person shall operate an ATV or UTV on Town Routes in a repetitive pattern if such operation:
 - (i) Annoys or disturbs residents or other users of the road;
 - (ii) Creates excessive noise;
 - (iii) Causes a public nuisance; or
 - (iv) Interferes with the safe and reasonable use of the road by others.

6. Operation of an ATV or UTV During or After Snowfall

- (a) A person may operate an ATV or UTV with a snow removal device attached on a Route during the period beginning on October 1 and ending on April 30 of each year for the purpose of removing snow if such operation is necessary to travel to or from a site where the snow removal device will be used. The travel necessary to or from the site may not exceed 2 miles. Operation of such an ATV or UTV on a Route is authorized only if the applicable Route speed limit is 45 miles per hour or less. Operation of such an ATV or UTV on a 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 where it is safe to do so given prevailing conditions.

- (b) During a snowfall, or in a proceeding period following a snowfall in which snowplows are present among Routes, an ATV or UTV operator shall not obstruct or impede upon a snowplow's anticipated course or otherwise interfere with a snowplow's standard operation in any way. When a snowplow is present among a Route, an ATV or UTV operator must yield and give way to the snowplow and allow the snowplow to pass along its ordinary and anticipated course.

7. Enforcement and Penalties

- (a) Pursuant to Wis. Stat. § 23.33(12), any state traffic patrol officer under Wis Stat. § 110.07(1), inspector under Wis. Stat. § 110.07(3), conservation warden appointed by the Wisconsin Department of Natural Resources under Wis. Stat. § 23.10, county sheriff, or municipal peace officer shall have authority and jurisdiction to enforce this Ordinance.
- (b) No Operator of any ATV or UTV may refuse to stop after being requested to do so by a law enforcement officer or a conservation warden.
- (c) Penalties related to violations of this Ordinance as set forth in Wis. Stat. § 23.33(13), are incorporated herein by reference. In addition to, and not to the exclusion or prejudice of such remedies as described herein and as may be allowed by law, any person or entity violating the provisions of this Ordinance shall be punished as provided in Section 7.17 Penalty – General Provisions of the Town of Merton Code.

8. Town Immunity from Liability

- (a) ATV and UTV operation is at the risk of the operator and any passenger(s). In establishing ATV Routes under this Ordinance for recreational use, the Town intends to utilize the liability and immunity protections provided under Wis. Stat. § 895.52 provided, however, that the Town does not waive any other liability exemption(s) and/or limitation(s) afforded the Town under Wisconsin law.
- (b) Designation of segments of the Town highway system as ATV Routes does not impose upon the Town of Merton Public Works Department a greater duty of care or responsibility for maintenance of those segments than for any other segment of Town highway. Operators of ATVs and UTVs on Town highways assume all the usual and normal risks of ATV and UTV operation.

9. Severability

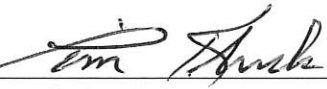
The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions of the Ordinance. The remainder of this Ordinance shall remain in full force and effect. Any other ordinance whose terms conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

Effective Date

This ordinance shall become effective upon its passage and publication posting.

DATED: 8-11-2025

TOWN OF MERTON

By: 
Tim Klink, Chairman

ATTEST:


Donna Hann, Clerk

Date Adopted: 8-11-25

Date Published: 8-12-25

Effective Date: 8-12-25