**ORDINANCE 2020-08**

**AN ORDINANCE REPEALING AND RECREATING TITLE 10, CHAPTER 4 (All-Terrain Vehicles and Off-Road Motor Vehicle Operation) OF THE MUNICIPAL CODE OF THE VILLAGE OF MARSHALL, DANE COUNTY, WISCONSIN.**

NOW, THEREFORE, the Village Board of the Village of Marshall, Dane County, Wisconsin, does hereby ordain as follows:

**Title 10, Chapter 4 of the Village of Marshall Code shall be and hereby amended as follows**

**CHAPTER 4**

**All-Terrain Vehicles, Utility-Terrain Vehicles, and Off-Road Motor Vehicle Operation**

10-4-1 Wisconsin All-Terrain Vehicle & Utility-Terrain Vehicle Laws Adopted

10-4-2 Authorized All-Terrain & Utility-Terrain Vehicle Use.

10-4-3 Unauthorized Operation of Motor Vehicles on Public or Private Property

10-4-4 Mini-Bikes and Self-Propelled Vehicles Regulated

**SEC. 10-4-1 STATE ALL-TERRAIN VEHICLE & UTILITY-TERRAIN VEHICLE LAWS ADOPTED.**

The provisions describing and defining regulations with respect to all-terrain vehicles and utility-terrain vehicles in the following-enumerated subsections of Sec. 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this Section as if fully set forth herein. Any acts required to be performed by the following statutory subsections or which are prohibited by such statutory subsections are required to be performed by this Section or are prohibited by this Section:

23.33(1) Definitions, including subsections (a) through (o) and sections (1m).

23.33(2) Registration.

23.33(3) Rules of operation, including subsections (a) through (i) and sections (3c), (3e) and (3g).

23.33(4) Operation on or near highway, including subsections (a) through (f) and sections (4c), (4g), (4j), (4L), (4p), (4t), (4x) and (4z).

23.33(5) Age restrictions including subsections (a) through (c).

23.33(6) Equipment requirements, including subsections (a) through (i) and sections (6m) and (6r).

23.33(7) Accidents, including Subsections (a) and (b).

23.33(8) Routes and Trails, including subsections (a) through (f).

23.33(11) Local Ordinances, including subsections (a) and (b)

23.33(12) Enforcement, including sections (a) and (b).

23.33(13) Penalties, including subsections (a) through (f).

**10-4-2 AUTHORIZED ALL-TERRAIN & UTILITY-TERRAIN VEHICLE USE**

1. **PURPOSE.**
2. The purpose of this ordinance is to establish an all-terrain vehicle(ATV) / utility-terrain vehicle (UTV) route and provide safe and enjoyable ATV/UTV recreation consistent with public rights and interests pursuant to Wis Stat. ss. 23.33(8)(b) and 23.33(11).
3. **DESIGNATION AND AUTHORIZATION OF ROUTES.** Except as otherwise specifically provided in Wisconsin Statute 23.33, and subject to the conditions and limitations hereinafter set forth:
4. Under Wis. Stat. s. 23.33(8)(b)(2), the Village of Marshall designates ALL village-maintained roads, streets, and highways, with a speed limit of 35mph or less, as ATV/UTV routes. This also includes any village-maintained parking lots as ATV/UTV routes, unless otherwise posted.
5. Under Wis. Stat. S. 23.33(11)(am)4., the Village of Marshall authorizes the operation of ATVs/UTVs on all state trunk and county trunk highways that have a posted speed limit of 35MPH or less.
6. The Village President, at his or her discretion, shall have the authority to temporarily close any ATV/UTV street/route designated or authorized herein for a period of ninety (90) days or less due to hazard, construction, or emergency conditions in any designated area, street, or route listed above.
7. The Village Board may close any and all ATV/UTV routes designated or authorized herein at any time, for any reason, through removal of all route signage and by providing notice to the public.
8. **SIGNAGE**
9. Routes shall be marked with ATV/UTV route signs in accordance with Wisconsin Administrative Code section NR 64.12 and all other applicable state and local laws.
10. No person may do any of the following in regard to signs marking village routes:
    * + 1. Intentionally remove, damage, deface, move, or obstruct any ATV/UTV route or trail sign or standard or intentionally interfere with the effective operation of any ATV/UTV route or trail sign or standard, if the sign or standard is legally placed by the state, any municipality, or any authorized individual.
        2. Possess any ATV/UTV route or trail sign or standard 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 ATV/UTV route or trail sign or standard in a lawful manner. Possession of an ATV/UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.
11. All required designated route signs shall be paid for by an ATV/UTV club and installation of such signs will be approved and under the direction of the Village of Marshall Department of Public Works and/or Marshall Village Board.
12. All signs shall be in compliance with the Federal manual on uniform traffic control devices.
13. No sign may be mounted to an existing County sign post unless authorized by the Dane County Highway Commissioner or designee.
14. No sign shall be mounted to an existing Wisconsin DOT sign post.
15. **REQUIREMENTS FOR USE OF ROUTES:**

In addition to the provisions of Wisconsin Statutes section 23.33, the following restrictions are placed on the use of ATVs and UTVs on village designated routes:

1. ATV/UTV shall not be operated at a speed greater than 35mph. ATV/UTV operators shall comply with all other posted roadway speed limit signs and all other applicable traffic signs & regulations within the Village of Marshall.
2. On all village streets ATV/UTV operation shall be in the center of the lane of operation. Operation on paved shoulders intended for bicycles or pedestrians, gravel shoulders, grassy in­slope, ditches, or other highway right-of-way is prohibited. No person may operate an ATV or UTV upon any sidewalk or pedestrian way.
3. All ATVs/UTVs shall be operated in single file.
4. No ATV/UTV may be operated on any village street without fully functional headlights, tail-lights, and brake lights. Every ATV/UTV operator on any village street must display a lighted headlight and tail light at all times.
5. All persons who operate an ATV or UTV in the village must be 16 years of age or older and must possess a valid driver's license as defined in Wisconsin Statutes 340.01(41g).
6. All ATV/UTV units shall be registered in accordance with WI DNR regulations and WI DOT regulations.
7. All UTV operators and passengers must wear manufacturer-installed seat belts at all times.
8. No person under the age of 18 may operate or be a passenger on an ATV/UTV on any village street without wearing Department of Transportation approved protective headgear.
9. No ATV/UTV may be operated on any village between the hours of 11:00 p.m. to 7:00 a.m. unless otherwise authorized by the Chief of Police.
10. All persons who operate an ATV or UTV on any village street shall have in effect a liability insurance policy covering the vehicle being operated and such operator shall have in his or her immediate possession proof of said insurance, which shall be displayed upon demand from any law enforcement officer.
11. No person may operate an ATV or UTV within the village limits unless it conforms to all noise, registration, and other requirements of Wisconsin Statutes, Wisconsin Administrative Code, and the Wisconsin Department of Natural Resources.
12. No person may drink alcohol beverages while he or she is in or on an ATV or UTV that is on a village ATV/UTV street. No person may possess on his or her person while he or she is in or on an ATV or UTV that is on a village street any bottle, can, or receptacle containing alcohol beverages if the bottle, can, or receptacle has been opened. The use or possession of open intoxicants by operators or passengers of ATVs or UTVs are strictly prohibited while utilizing ATV/UTV streets within the village.
13. No person may drive or operate an ATV/UTV while under the influence of alcohol or a restricted controlled substance, including absolute sobriety by operators under the age of 21.
14. **ENFORCEMENT & PENALTIES**
15. Violations of this section shall incur the maximum penalties set forth in Wis Stats. s. 23.33(13), as may be amended from time to time.
16. Adoption of this section shall not prohibit any law enforcement officer or Department of Natural Resources Warden from proceeding under any other ordinance, regulation, statute, law, or order that pertains to the subject matter addressed under this section.
17. The penalty for a violation of sections 10-4-2 (D)(1), (D)(2), (D)(3), (D)(4), (D)(6) and (D)(11) will result in a fine of $85.00 plus court costs.
18. The penalty for a violation of sections 10-4-2 (D)(5), (D)(7), (D)(8), (D)(9), and (D)(10), will result in a fine of $100 plus courts costs.
19. The penalty for a violation of sections 10-4-2 (D)(12) will result in a fine of $200 plus court costs.
20. A violation of section 10-4-2 (D)(13) will be referred to the DNR, the Dane County Sheriff’s Department, or Dane County Circuit Court.
21. A person who violates any provisions in this section three (3) times shall be considered a repeat offender and shall lose his or her privileges to operate or be a passenger on an ATV or UTV within the Village of Marshall. Continued operation after being found guilty of three (3) violations of this section will result in impoundment of the ATV/UTV and a fine of $200 plus court costs.

**SEC. 10-4-3 UNAUTHORIZED OPERATION OF MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY.**

1. **Purpose.**
2. The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvement to the lands; and
3. The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and
4. The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and
5. The unauthorized off road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

**(B) Definitions.** For purposes of this Section, the terms below shall be defined as follows:

1. **Unauthorized** shall mean without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.
2. **Off-Road** shall mean any location which:
   1. Is not a paved or maintained public street or alley; or
   2. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
   3. Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creek bed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creek bed, riverbed or lake.
3. **Operation** shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.
4. **Motor Vehicle** shall mean, 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, mopeds, snowmobiles, dune buggies and tractors. Motor vehicle 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: a. 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; b. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties. c. 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.

**(C) Unauthorized Off-road Operation Prohibited.**

1. The unauthorized off-road operation of a motor vehicle is prohibited.
2. Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in areas authorized by the Village Board, it shall be unlawful to operate any minibike, go-kart, all-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.

**SEC. 10-4-3 MINI-BIKES AND SELF-PROPELLED VEHICLES REGULATED**.

(A) **Definitions**. The following definitions shall be applicable in this Section:

1. **Mini-Bike**. Any motorized vehicle primarily used for transportation or sport, including, but not limited to, motorcycles, off-the-road trail bikes and motorized bicycles.
2. **Self-Propelled Vehicles**. Any motorized vehicle primarily used for off-the- road use, including but not limited to, go-carts, all-terrain vehicles and all other vehicles not registered pursuant to Chapter 341 of the Wisconsin Statutes, but not snowmobiles.
3. **Motorized Vehicle**. Any self-propelled device in, upon or by which any person or property is or may be transported.
4. **Highway**. All public ways and thoroughfares and bridges on the same. It includes the entire highway right-of-way width, not limited to the actual traveled portion, but also includes the shoulders, ditches and other areas adjacent thereto.
5. **Operation of Mini-Bikes and Self-Propelled Vehicles**. No person shall operate a mini-bike or self-propelled vehicle in the Village of Marshall in the following manner:

1. At a rate of speed that is unreasonable or imprudent under the circumstances.
2. In any careless way so as to endanger the person or property of another.
3. While under the influence of intoxicating liquor, fermented malt beverages, narcotics or other controlled substances.
4. In such a way that the exhaust of the motor makes an excessive or unusual noise.
5. Without a functioning muffler.
6. Upon any public highway, street or alley, or upon any sidewalk or parkway in the Village of Marshall, unless such vehicle is registered as required by Chapter 341 of the Wisconsin Statutes, and its operation and operator are specifically permitted to operate the said vehicle by the Wisconsin Statutes.
7. Upon any slide, ski or skating area, except for the purposes of serving the area or crossing the places where marked.
8. Upon any lands owned, operated or leased by the Village of Marshall.
9. Upon a cemetery, burial ground, school or church property, without the express consent of the owner.
10. **Liability of Parent or Guardian**. No parent or guardian of any child under the age of eighteen (18) years shall authorize or permit such child to violate any of the provisions of this Section. Any child under the age of eighteen (18) years who shall operate a mini-bike or self-propelled device shall be presumed to be operating said vehicle under the authority of a parent or guardian.

(D) **Penalties**. Any person who shall violate this Section shall, upon conviction thereof, forfeit for each offense not less than Twenty-five Dollars ($25.00) nor more, than Two Hundred Dollars ($200.00), together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail not to exceed thirty (30) days.

This ordinance shall take effect upon its passage and publication or posting as required by law. All other sections of Chapter 4 of the Village of Marshall Municipal Code not specifically amended under this ordinance shall remain in full force and effect as drafted. Any Ordinance, or parts thereof, inconsistent herewith is hereby repealed.

Adopted and approved this day of , 2020, by the Village Board of the Village of Marshall, Dane County, Wisconsin.

VILLAGE OF MARSHALL by:

John Schuepbach, Village President

**ATTEST**: I, Lindsey Johnson, Village Clerk, do hereby certify that the amendment to Chapter 4 of the Village of Marshall Municipal Code has been approved by the Village Board of the Village of Marshall, Dane County, Wisconsin, at a meeting held on , 2020.

\_\_\_\_\_\_\_voting yes, \_\_\_\_\_\_\_\_\_\_ voting no, \_\_\_\_\_\_\_\_abstaining, \_\_\_\_\_\_\_\_\_\_\_absent

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Lindsey Johnson, Village Clerk