

Chapter 4

All-Terrain Vehicles and Off-Road Motor Vehicle Operation

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Sec. 10-4-1 State All-Terrain Vehicle Laws Adopted.

The provisions describing and defining regulations with respect to all-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:

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| 23.33(2) | Registration |
| 23.33(3) | Rules of operation [including Subsections (a) through (i)] |
| 23.33(4) | Operation on or near highway [including Subsections (a) through (e)] |
| 23.33(5)(a)(c) | Age restrictions |
| 23.33(6) | Equipment requirements [including Subsections (a) through (e)] |
| 23.33(7) | Accidents [including Subsections (a) and (b)] |
| 23.33(1) | Definitions [including Subsections (a) through (n)] |

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Sec. 10-4-2 Penalties.

Violation of this Chapter shall be punishable by a forfeiture and enforced pursuant to Sections 10-3-10 and 10-3-11.

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

(a) **Purpose.**

- (1) 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
- (2) 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
- (3) 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
- (4) 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:
 - a. Is not a paved or maintained public street or alley; or
 - b. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
 - c. 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:

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- 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 authorized areas pursuant to Section 10-3-9 and this Section, it shall be unlawful to operate any mini-bike, 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, properly dated as to year, before operation of such craft or vehicle on private lands.
- (d) **Prohibited Use of Snowmobile Trails.** Except as provided in Subsection (b)(4) above, no person shall operate any motor vehicle other than a snowmobile on a snowmobile trail.

Sec. 10-4-4 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Accompanied.** Being subject to continuous verbal direction or control.
- (b) **All-Terrain Vehicle.** An engine-driven device which has a net weight of five hundred (500) pounds or less, which has a width of forty-six (46) inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed to travel on three (3) or more low-pressure tires. A low-pressure tire is a tire which has a minimum width of six (6) inches, which is designed to be mounted on a rim with a maximum diameter of twelve (12) inches and which is designed to be inflated with an operating pressure not to exceed six (6) pounds per square inch as recommended by the manufacturer.
- (c) **All-Terrain Vehicle Route.** A highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction as authorized under this Section.
- (d) **All-Terrain Vehicle Trail.** A marked corridor on public property or on private lands subject to public easement or lease, designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction, but excluding roadways or highways, except those roadways which are not seasonally maintained for motor vehicle traffic.
- (e) **Controlled Substance.** Has the meaning specified under Sec. 161.01(4), Wis. Stats.

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- (f) **Fermented Malt Beverages.** Has the meaning specified under Sec. 125.02(6), Wis. Stats.
- (g) **Game.** Has the meaning specified under Sec. 29.01(5), Wis. Stats.
- (h) **Immediate Family.** Persons who are related as spouses, as siblings or as parent and child.
- (i) **Intoxicating Liquor.** Has the meaning specified under Sec. 125.02(8), Wis. Stats.
- (j) **Owner.** A person who has lawful possession of an all-terrain vehicle by virtue of legal title or (l)equitable interest in the all-terrain vehicle which entitles the person to possession of the all-terrain vehicle.
- (k) **Used Exclusively for Agricultural Purposes.** Used exclusively for an agricultural use as defined under Sec. 91.01(1), Wis. Stats.
- (l) **Used Exclusively for Commercial Purposes.** Includes use of an all-terrain vehicle by a dealer for demonstration purposes but does not include all-terrain vehicles leased or rented.
- (m) **Used Exclusively on Land Under the Management and Control of a Person's Immediate family.** Use of an all-terrain vehicle only on land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes use of an all-terrain vehicle on land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

Sec. 10-4-5 Rules of Operation

No person may operate an all-terrain vehicle:

- (a) In any careless way so as to endanger the person or property of another.
- (b) While under the influence of fermented malt beverages, intoxicating liquor or controlled substances.
- (c) On the property of another without the express written consent of the owner or lessee. Such written consent shall be carried by the operator on his or her person at all times during operation.
- (d) On Indian lands without the consent of the tribal governing body or Indian owner. Failure to post Indian lands does not imply consent for all-terrain vehicle use. With any firearm in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case.
- (f) To drive or pursue any animal except as a part of normal farming operations involving the driving of livestock.
- (g) When within one hundred fifty (150) feet of a dwelling at a speed exceeding ten (10) miles per hour on property for which consent to operate has been given under Subsection (c) above.
- (h) When within three hundred (300) feet of a dwelling on property which adjoins or is contiguous to property for which consent to operate has been given under Subsection (c) above.

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- (i) On any public property, except as may otherwise be specifically provided herein.
- (j) On the frozen surface of public waters within one hundred (100) feet of a person not in or on an all-terrain vehicle or motor vehicle or within one hundred (100) feet of a fishing shanty at a speed exceeding ten (10) miles per hour.
- (k) In a manner which violates operation rules promulgated by the Department of Natural Resources.

Sec. 10-4-6 Operation On or Near Highways.

- (a) **Freeways.** No person may operate an all-terrain vehicle upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate an all-terrain vehicle upon any part of any other freeway unless the Department of Transportation authorizes all-terrain vehicle use on that freeway.
- (b) **Other Highways; Operation Restricted.** All-terrain vehicles may not be operated on highways except as authorized under Subsections (d) and (e) or as authorized by rules promulgated by the Department and approved by the Department of Transportation.
- (c) **Exceptions; Municipal, State and Utility Operations; Races and Derbies.**
 - (1) Subsections (a) and (b) do not apply to the operator of an all-terrain vehicle owned by the City, a state agency or public utility while the operator is engaged in emergency operations or in operations directly related to the functions of the City, state agency or public utility if safety does not require strict adherence to these restrictions.
 - (2) Subsection (b) does not apply to a highway blocked off for special all-terrain vehicle events. The City may block off highways under its jurisdiction for the purpose of allowing special all-terrain vehicle events. No state trunk highway or connecting highway, or part thereof, may be blocked off by the City for any all-terrain vehicle race or derby. The City shall notify the local police department and the county sheriffs office at least one (1) week in advance of the time and place of any all-terrain vehicle race or derby which may result in any street, or part thereof, of the City being blocked off.
- (d) **Operation on Roadway.** All-terrain vehicles may be operated on the roadway portion of any highway only in the following situations:
 - (1) **To cross a roadway.** The crossing of a roadway is authorized only if the crossing is done in the most direct manner practical, if the crossing is made at a place where no obstruction prevents a quick and safe crossing and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles and pedestrians using the roadway.
 - (2) **On any roadway which is not seasonally maintained for motor vehicle traffic.** Operation on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to all-terrain vehicle traffic.

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- (3) **To cross a bridge, culvert or railroad right-of-way.** The crossing of a bridge, culvert or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain vehicle traffic. The crossing is authorized only if the crossing is done in the most direct manner practical, if the crossing is made at a place where no obstruction prevents a quick and safe crossing and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles and pedestrians using the roadway.
 - (4) **On roadways which are designated as all-terrain vehicle routes.** Operation of all-terrain vehicles on a roadway which is an all-terrain vehicle 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 which is safe given prevailing conditions.
 - (5) On roadways if the all-terrain vehicle is an implement of husbandry, if the all-terrain vehicle is used exclusively for agricultural purposes and if the all-terrain vehicle is registered for private use under state statute. Operation of an all-terrain vehicle which is an implement of husbandry on the roadway is authorized only for the extreme right side of the roadway, except that left turns may be made from any part of the roadway which is safe given prevailing conditions.
- (e) **Operation Adjacent to Roadway.** An all-terrain vehicle may be operated adjacent to a roadway only on an all-terrain vehicle route or trail and only if the all-terrain vehicle is operated in the following manner:
- (1) The all-terrain vehicle is operated at a distance of ten (10) or more feet from the roadway along U.S. numbered highways and state and county highways. Travel on the median of a divided highway is prohibited except to cross.
 - (2) During hours of darkness, the all-terrain vehicle is operated in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.
 - (3) The all-terrain vehicle does not exceed the speed limits of the adjacent roadway.
 - (4) The all-terrain vehicle is operated with due regard to safety and in compliance with rules promulgated by the Wisconsin Department of Natural Resources and approved by the Wisconsin Department of Transportation.

Sec. 10-4-7 Age Restrictions.

- (a) **Age Restriction.** No person under twelve (12) years of age may operate an all-terrain vehicle unless he or she is accompanied by a parent, guardian or person over eighteen (18) years of age. No person who is under twelve (12) years of age may operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under Section 10-4-6, regardless of whether he or she is accompanied by a parent, guardian or person over eighteen (18) years of age.

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- (b) **All-Terrain Vehicle Safety Certificate.** A person who is at least twelve (12) years of age but under sixteen (16) years of age may not operate an all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is accompanied by a person over eighteen (18) years of age. A person who is at least twelve (12) years of age but under sixteen (16) years of age may not operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under Section 10-4-6(d)(5), unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over eighteen (18) years of age. A person who is at least twelve (12) years of age but under sixteen (16) years of age who holds an all-terrain vehicle safety certificate shall carry it while operating an all-terrain vehicle and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the Department of Natural resources may operate an all-terrain vehicle in an area designated by the instructor.
- (c) **Exceptions.** Subsections (a) and (b) do not apply to a person who uses an all-terrain vehicle exclusively on land under the management and control of the person's immediate family. Subsections (a) and (b) do not apply to a person at least twelve (12) years of age but under sixteen (16) years of age who holds a valid certificate issued by another state or province of Canada.

Sec. 10-4-8 Equipment Requirements.

- (a) An all-terrain vehicle operated during hours of darkness or operated during daylight hours on any all-terrain vehicle route or trail is required to display a lighted headlamp and tail lamp.
- (b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least two hundred (200) feet ahead of the all-terrain vehicle.
- (c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible during hours of darkness from a distance of five hundred (500) feet to the rear.
- (d) Every all-terrain vehicle is required to be equipped with at least one (1) brake operated either by hand or foot.
- (e) Every all-terrain vehicle is required to be equipped with a functioning muffler to prevent excessive or unusual noise.

Sec. 10-4-9 Accidents.

- (a) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident to the Onalaska Police

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Department and with the Department of Natural Resources on the form provided by it within ten (10) days of the accident.

- (b) If the operator of an all-terrain vehicle is physically incapable of making the reports required by this Subsection and there was another witness to the accident capable of making the reports, the witness may make the report.

Sec. 10-4-10 Enforcement.

No person operating an all-terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer.

Sec. 10-4-11 Operation and Regulation of Motorcycles and Dirt Bikes.

- (a) **Definitions.** As used in this Section:

- (1) "Dirt bike" means a motorcycle which is not legally capable of being driven on a public street or highway.
- (2) "Motorcycle" means a motor vehicle, excluding a tractor or an all-terrain vehicle, which is capable of speeds in excess of thirty (30) miles per hour with a one hundred fifty (150) pound rider on a dry level, hard surface with no wind, with a power source as an integral part of the vehicle, and which meets either the conditions under Subsections a. or b. below:
 - a. Type 1 is a motor vehicle which meets either of the following conditions:
 - 1. Is designed and built with two (2) wheels in tandem and a seat for the operator and may be modified to have no more than three (3) wheels by attaching a sidecar to one (1) side of the wheels in tandem without changing the location of the power source.
 - 2. Is designed and built to have no more than three (3) wheels, seating for the operator and no more than three (3) passengers, and does not have the operator area enclosed.
 - b. Type 2 is a motor vehicle designed and built to have at least three (3) wheels in contact with the ground, a curb weight of less than one thousand five hundred (1,500) pounds, and a passenger and operator area with sides permanently enclosed with rigid construction and a top which may be convertible.

- (b) **Rules of Operation.** No person may operate a motorcycle or dirt bike:

- (1) In a manner which violates the laws of the State of Wisconsin or the ordinances of the City of Onalaska.
- (2) On the property of another without the express written consent of the owner or lessee. Such written consent shall be carried by the operator on his or her person at all times during operation.

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- (3) When within one hundred fifty (150) feet of a dwelling at a speed in excess of ten (10) miles per hour on property for which consent to operate has been given under Subsection (b)(2) herein.
 - (4) When within three hundred (300) feet of a dwelling on property which adjoins or is contiguous to property for which consent to operate has been given under Subsection (b)(2) herein.
- (c) **Operation Near Highway.** A motorcycle or dirt bike may be operated adjacent to a roadway only on an officially designated motorcycle or dirt bike trail and only if the motorcycle or dirt bike is operated in the following manner:
- (1) The motorcycle or dirt bike is operated at a distance of ten (10) or more feet from the roadway along U.S. numbered highways and state and county highways. Travel on the median of a divided highway is prohibited except to cross.
 - (2) During the hours of darkness, the motorcycle or dirt bike is operated in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.
 - (3) The motorcycle or dirt bike does not exceed the speed limits of the adjacent roadway.
- (d) **Equipment Requirements for Dirt Bikes.**
- (1) A dirt bike operated during hours of darkness or operated during daylight hours on any officially designated dirt bike or motorcycle trail is required to display a lighted headlamp and taillight.
 - (2) The headlamp on any dirt bike is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least two hundred (200) feet ahead of the dirt bike.
 - (3) The tail lamp on any dirt bike is required to display a red light plainly visible during hours of darkness from a distance of five hundred (500) feet to the rear.
 - (4) Every dirt bike is required to be equipped with at least one (1) brake operated either by hand or by foot.
 - (5) Every dirt bike is required to be equipped with a functioning muffler to prevent excessive or unusual noise.
- (e) **Accidents.**
- (1) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each dirt bike involved in the accident shall give notice to the Onalaska Police Department as soon as possible and shall file a written report of the accident with the Onalaska Police Department on forms provided by it within ten (10) days after the accident.
 - (2) If the operator of a dirt bike is physically incapable of making the reports required by this Subsection and there was another witness to the accident capable of making the reports, the witness may make the reports.
 - (3) Accidents involving motorcycles shall be reported as required by state law and the ordinances of the City of Onalaska.

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- (f) **Enforcement.** No person operating a dirt bike or motorcycle may refuse to stop after being requested or signaled to do so by a law enforcement officer.
- (g) **Penalty for Dirt Bikes.** Any person convicted of a violation of any provision of this Chapter relating to dirt bikes shall be subject to a forfeiture not to exceed Two Hundred Fifty Dollars (\$250.00).
- (h) **Penalty for Motorcycles.**
 - (1) Any person convicted of a violation of any specific provision of this Section relating to motorcycles shall be subject to a forfeiture not to exceed Two Hundred Fifty Dollars (\$250.00).
 - (2) Any person convicted of a violation of any provision of the Section relating to motorcycles, which violation also constitutes a violation of the state traffic or motor vehicle laws as adopted by the City of Onalaska, shall be subject to a forfeiture in an amount established by said laws or ordinances.