

ORDINANCE 2021-08

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AN ORDINANCE REPEALING AND RECREATING CHAPTER 7.07 (13) (ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN.

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, does hereby ordain as follows:

Section 1: That section 7.07(13) of the Municipal Code of the City of Prairie du Chien, Wisconsin be repealed and recreated to read as follows:

(13) ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES

(a) **ADOPTION OF STATUTORY PROVISIONS.** The provisions of Wisconsin Statutes section 23.33, and subsequent amendments thereto, are hereby incorporated herein by reference as part of this section, except with those provisions thereof which conflict with this section.

(b) **DEFINITIONS.** For purposes of this section, the definitions set forth in Wisconsin Statutes section 23.33(1) are hereby adopted and incorporated herein by reference.

(c) **DESIGNATION AND AUTHORIZATION OF ROUTES.** Except as otherwise specifically provided in Wisconsin Statutes section 23.33, and subject to the conditions and limitations hereinafter set forth:

1. Under Wis. Stat. s. 23.33(8)(b)2, the City of Prairie du Chien designates all City-maintained roads, streets and highways, including any city-maintained parking lots, except connecting highways, as all-terrain vehicle ("ATV") or utility terrain vehicle ("UTV") routes, except as otherwise posted; and
2. Under Wis. Stat. s. 23.33(11)(am)4, the City of Prairie du Chien authorizes the operation of ATVs or UTVs on all state, connecting and county highways with a posted speed limit of 35 MPH or less within the territorial boundaries of the City of Prairie du Chien, except as otherwise posted.

(d) **SIGNAGE.**

1. 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.
2. No person may do any of the following in regard to signs marking City ATV/UTV routes:
 - a. 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.
 - b. 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.
 - a. Under the direction of the City, the ATV/UTV Club selected by the City shall be responsible for purchasing and maintaining all necessary and required signs. The City shall be responsible for installing said signs in accordance

with state statute. The ATV/UTV route signs shall be inspected by the City annually and shall be maintained, as directed by the City. The City shall be promptly notified by the ATV/UTV Club of any change in leadership of the ATV/UTV Club.

(e) **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 City ATV/UTV routes:

1. ATV/UTV shall not be operated at a speed greater than 35 miles per hour. ATV/UTV operators shall comply with all other posted roadway speed limits within the City of Prairie du Chien.
2. On all City ATV/UTV routes, ATV/UTV operation shall be in the center of the lane of operation, except that left turns may be made from any part of the roadway that is safe given prevailing conditions. Operation on paved shoulders intended for bicycles or pedestrians, gravel shoulders, grassy in-slope, 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 City ATV/UTV route without fully functional headlights, tail-lights, and brake lights. Every ATV/UTV operator on any City route must display a lighted headlight and tail light at all times.
5. All persons who operate an ATV or UTV on the City ATV/UTV routes must be 16 years of age or older and must possess a valid driver's license. All UTV operators and passengers must wear manufacturer-installed seat belts at all times. No person under the age of 18 may operate or be a passenger on an ATV/UTV on any City ATV/UTV route without wearing Department of Transportation approved protective headgear.
6. No ATV/UTV may be operated on City ATV/UTV routes between the hours of 10:00 p.m. to 6:00 a.m.
7. All persons who operate an ATV or UTV on any City ATV/UTV route 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.
8. No person may operate an ATV or UTV within the City limits unless it conforms to all noise, registration, and other requirements of Wisconsin Statutes, Wisconsin Administrative Code, the Wisconsin Department of Natural Resources, and the Municipal Code of the City of Prairie du Chien.
9. No person may drink alcohol beverages while he or she is in or on an ATV or UTV that is on a City ATV/UTV route. 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 City ATV/UTV route 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 is strictly prohibited while utilizing ATV/UTV routes within the City.

10. All operation of ATVs/UTVs on City ATV/UTV routes shall be in accordance with the provisions of Wisconsin State Statutes, the Wisconsin Department of Transportation Administrative Code, the Wisconsin Department of Natural Resources Administrative Code, the City of Prairie du Chien Municipal Code, and all other applicable laws.

11. No person may drive or operate an ATV/UTV while:

- a. Under the influence of an intoxicant, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog, under the influence of any other drug to a degree which renders him or her incapable of safely driving or operating, or under the combined influence of an intoxicant and any other drug to a degree which renders him or her incapable of safely driving or operating; or
- b. Having a detectable amount of a restricted controlled substance in his or her blood; or
- c. The person has a prohibited alcohol concentration.
- d. A person may be charged with and a prosecutor may proceed upon a complaint based upon a violation of any combination of par. (a), (b), or (c) for acts arising out of the same incident or occurrence. If the person is charged with violating any combination of par. (a), (b), or (c), the offenses shall be joined. If the person is found guilty of any combination of par. (a), (b), or (c) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing. Paragraphs (a), (b), and (c) each require proof of a fact for conviction which the others do not require.
- e. In an action under par. (b) that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(f) CLOSURE OF ROUTES.

1. The Mayor, at his or her sole discretion, shall have the authority to temporarily close any ATV/UTV route designated or authorized herein for a period of sixty (60) days or less due to an emergency, complaint, or other necessary condition.
2. The Common Council may close any or 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.

(g) ENFORCEMENT. The enforcement provisions under Wisconsin Statute section 23.33(12), and subsequent amendments thereto, are adopted by reference as if fully set forth herein and shall govern enforcement of this section. 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.

(h) PENALTIES. The penalty for violating any provision of this section shall be according to the following, plus the cost of damages or restoration, and plus court costs:

1. The penalties set forth in Wisconsin Statutes section 23.33(13), and subsequent amendments thereto, are hereby adopted by reference as if fully set forth herein and shall establish the penalties for the violations referred to therein.
2. The penalties set forth in the City of Prairie du Chien Municipal Code, as the same may be amended from time to time, including but not limited to those in section 7.03, are hereby adopted by reference as if fully set forth herein and shall establish the penalties for the violations referred to therein.
3. The penalty for a violation of section 7.03(13)(e)(9) will result in a forfeiture of not more than \$250.00.
4. The penalty for a violation of section 7.03(13)(e)(11)(a), (b), or (c) will result in a forfeiture of not more than \$1,000.00.
5. The penalty for a violation of any other provision of this section for which no specific penalty is listed shall be not more than \$125.00.
6. 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 City of Prairie du Chien. Continued operation after being found guilty of three (3) violations of this section will result in impoundment of the ATV/UTV and a forfeiture of \$125.00.

Section 2: Any Ordinance, or parts thereof, inconsistent herewith is hereby repealed.

Section 3: This Ordinance shall be effective after its passage and publication as required by law.

Passed and approved this 2nd day of November, 2021.

David Hemmer, Mayor

ATTEST:

Chad Abram, City Administrator

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Certification

I, Tina Fuller, am the duly qualified and acting City Clerk of the City of Prairie du Chien, Crawford County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Common Council.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity
on 2nd day of November, 2021.

(SEAL)

Tina Fuller
City Clerk