

Ordinance No. 17-2

**An Ordinance Regarding All-Terrain and
Utility Terrain Vehicle Operations**

The Village Board of the Village of Elk Mound, Dunn County, Wisconsin, do ordain as follows:

SECTION I. REPEAL AND ADOPTION OF PROVISIONS.

Title 10, Chapter 4 of the Village of Elk Mound Code of Ordinances regarding all-terrain and utility terrain vehicle operations is repealed and re-adopted to read as follows:

Title 10 ► Chapter 4

All-Terrain and Utility Terrain Vehicles

- 10-4-1** State All-Terrain and Utility Terrain Vehicle Laws Adopted; Definitions
- 10-4-2** General ATV and UTV Routes and Use Regulations
- 10-4-3** Miscellaneous ATV/UTV Regulations
- 10-4-4** Unauthorized Off-Road Operation of Motor Vehicles on Public or Private Property

Sec. 10-4-1 State All-Terrain and Utility Terrain Vehicle Laws Adopted; Definitions.

- (a) **Purpose.** The purpose of this Chapter is to address the matter of all-terrain and utility terrain vehicle routes on Village streets, alleys and public lands and to regulate the related operation of all-terrain and utility terrain vehicles in the Village of Elk Mound. The provisions of this Chapter shall apply to all roadways and public property in the Village of Elk Mound within the jurisdiction of the Village Board as authorized by state law.
- (b) **Statutory Authority.** The Village Board of the Village of Elk Mound has the specific authority to adopt this Chapter pursuant to Sec. 23.33(8)(b) and (11), Wis. Stats.
- (c) **Adoption of Statutory Provisions.** The provisions describing and defining regulations with respect to all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) 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. The statutory sections adopted by reference herein shall be designated as part of this Code of Ordinances by adding the prefix "10-4-1-" to each statute section number. 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
- 23.33(1m) Utility Terrain Vehicle Program
- 23.33(2) Registration
- 23.33(2j) Non-Resident Trail Passes
- 23.33(2k) Weekend Exemption
- 23.33(2m) Rental of All-Terrain Vehicles and Utility Terrain Vehicles
- 23.33(3) Rules of Operation

23.33(3c)	Firearms
23.33(3g)	Use of Headgear
23.33(4)	Operation On or Near highway
23.33(4c) through 23.33(4z)	Intoxicated Operation of an All-Terrain Vehicle or Utility Terrain Vehicle and Related Laws
23.33(5)	Age Restrictions
23.33(6)	Equipment Requirements
23.33(6m)	Noise Limits
23.33(7)	Accidents
23.33(8)(f)	Interference With Signs and Standards Prohibited
23.33(12)(b)	Refusal to Stop for Law Enforcement Officer
23.33(13)	Penalties [subsections (a) – (b)1 and (b)4, (bg), (e), and (f)]

(d) **Definitions.** The following definitions shall be applicable in this Chapter, in addition to those definitions in Sec. 23.33(1), Wis. Stats.:

- (1) **All-Terrain Vehicle (ATV).** An engine-driven device which has a net weight of nine hundred (900) pounds or less, which is originally manufactured with a width of fifty (50) inches or less, which is equipped with a seat designated to be straddled by the operator and which is designed by the manufacturer to travel on three (3) or more low-pressure tires. [Sec. 340.01(2g), Wis. Stats.]
- (2) **Immediate Family.** Persons who are related as spouses, as siblings, or as parent and child.
- (3) **Land On Which Operation is Authorized.** Land under the management and control of a person who consents to the operation of an all-terrain or utility terrain vehicle on the land.
- (4) **Land Under the Management and Control of the Person's Immediate Family.** 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. The term excludes land owned or leased by an organization of which the person or a member of the person's immediate family is a member.
- (5) **Mini-Bike.** Any motorized two-wheel vehicle used primarily for off-road use, including, but not limited to, motorcycles, off-road motorized trail bicycles.
- (6) **Self-Propelled Vehicles.** Any motorized vehicle primarily used for off-road use, including, but not limited to, go-carts, all-terrain and utility terrain vehicles, and other non-registered vehicles per Chapter 341, Wis. Stats., but not including snowmobiles.
- (7) **Small Utility Terrain Vehicle.** A utility terrain vehicle that has four (4) wheels and that has either an engine certified by the manufacturer at not more than two hundred (200) cubic centimeters or an equivalent power unit.
- (8) **Snow Removal Device.** An attachment designed and installed for the purpose of removing snow, such as a plow blade, blower, bucket or brush.
- (9) **Utility Terrain Vehicle (UTV).** Means any of the following:
 - a. A 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:
 1. A net weight of less than two thousand (2,000) pounds.
 2. Four (4) or more low-pressure tires.
 3. A cargo box installed by the manufacturer.

4. A steering wheel.
 5. A tail light.
 6. A brake light.
 7. Two (2) headlights.
 8. A width of not more than sixty-five (65) inches.
 9. Seats for at least two (2) occupants, all of which seating is designed not to be straddled.
 10. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
 11. 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.
- b. A motor driven device that has a net weight of more than nine hundred (900) pounds, that is originally manufactured with a width of fifty (50) inches or less, that is equipped with a seat designed to be straddled by the operator, and that is designed by the manufacturer to travel on three (3) or more low-pressure tires. [See Sec. 23.33(ng), Wis. Stats.]

Sec. 10-4-2 General ATV and UTV Routes and Use Regulations.

(a) Operation of All-Terrain Vehicles.

(1) Operation on Designated Routes; Prohibitions; Municipal Vehicles Exception.

- a. Pursuant to Sec. on 23.33(4)(d)4, Wis. Stats., except as otherwise provided in Sec. 23.33(4), Wis. Stats., no person may operate an all-terrain or utility terrain vehicle on the roadway portion of any highway, street, alley, public right-of-way, park, cemetery, or on any other public property in the Village of Elk Mound except on roadways, right-of-ways and trails which are designated as all-terrain and utility terrain vehicle routes by this Section. Unless authorized by the Village Board, no ATV/UTV shall be operated on any walking, bicycle, equestrian or other special use trail or path.
- b. No person shall operate an all-terrain or utility terrain vehicle upon private property without the owner's express permission except upon routes and trails designated by the Village Board as all-terrain or utility terrain vehicle routes/trails.
- c. Municipal or other governmental all-terrain or utility terrain vehicles used for governmental purposes are authorized to operate on streets and rights-of-ways.
- d. As part of a designated route system, the Village Board may designate limited access for the sole purpose of access to main designated routes or places of lodging.
- e. No person may operate an all-terrain or utility terrain vehicle in any of the following public areas of the Village of Elk Mound unless part of a Village-designated trail or route or specific authorization is first obtained from the Village Board; Village-owned property need not be posted regarding this prohibition:
 1. Any Village of Elk Mound parks.
 2. Any Village of Elk Mound cemeteries.
 3. Any property owned or leased by the Village of Elk Mound.
- f. It shall be the responsibility of all-terrain and utility terrain vehicle operators to know whether they are operating on public or private property.

(2) Permissible Operation on Designated Roadways. Operation of all-terrain or utility terrain vehicles on a roadway in the Village of Elk Mound that is an all-terrain and utility 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 that is safe given prevailing conditions. On paved roadways all-terrain and utility terrain vehicles must be operated on the paved portion of the roadway and not on the gravel shoulder, except when necessary to avoid other vehicles.

- (b) **Designation of All-Terrain and Utility Terrain Vehicle Roadway Routes.** The Village Board may designate routes adopted by resolution and shown or described on the "Village of Elk Mound ATV and UTV Roadway Routes Resolution", on file with the Village Clerk-Treasurer and incorporated herein by reference, and are designated all-terrain and utility terrain vehicle roadway routes in the Village of Elk Mound.
- (c) **Designated Routes Signage/Markers.**
- (1) **Erection of Route Markers/Signage.** Area ATV/UTV organizations shall be responsible for procuring, erecting and maintaining appropriate route, trail and/or speed limit signs and markers consistent with this Chapter and as required by the Wisconsin Statutes, Wisconsin Administrative Code and Wisconsin Department of Transportation and Wisconsin Department of Natural Resources standards. Specific state standards to be complied with include, but are not limited to, NR 64.12 generally and specifically NR 64.12(7)(c), Wis. Adm. Code.
 - (2) **Trail Status/Closure.** The Village President and/or Chief of Police shall have the authority to declare all-terrain and/or utility terrain vehicle routes and trails open or closed. Such openings and closings information shall be posted as authorized by the Village of Elk Mound.
 - (3) **Signs and Markers to be Obeyed.** No person shall fail to obey any route or trail sign, marker or speed limit or other control device erected in accordance with this Section or traffic sign or signal under the authority of the Wisconsin Statutes.
- (d) **Conditions Applicable to All-Terrain and Utility Terrain Vehicle Roadway Routes.** Pursuant to Section 23.33(8)(d), Wis. Stats., the following restrictions are placed on the use of the Village of Elk Mound all-terrain and utility terrain vehicle roadway routes designated in Subsection (b) above:
- (1) **Violations Involving Signage.** All-terrain and utility terrain vehicle roadway routes shall be marked with uniform ATV/UTV signs as prescribed in NR 64.12(7), Wis. Adm. Code, and which conform to regulations of this Chapter and of the Wisconsin Department of Natural Resources (WisDNR) and Wisconsin Department of Transportation (WisDOT). No person shall do any of the following in regard to signs marking Village of Elk Mound all-terrain and utility vehicle routes:
 - a. Intentionally remove, damage, deface, move, or obstruct any uniform ATV/UTV route or trail sign or standard, or intentionally interfere with the effective operation of any uniform ATV/UTV route or trail sign or standard if the sign or standard is legally placed by the State of Wisconsin, any local government or any authorized individual or organization.
 - b. Possess any uniform all-terrain or utility terrain vehicle route or trail sign or standard of the type established by the Wisconsin Department of Natural Resources for the warning, instruction or information of the public, unless he/she obtained the uniform all-terrain or utility terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform ATV/UTV route or trail sign or standard in a lawful manner. Possession of a uniform ATV/UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.

- (2) **Route Use Regulations.** In addition to the requirements of this Section and applicable provisions of the Wisconsin Statutes adopted by reference, operators utilizing a designated trail shall comply with the requirements of Section 10-4-3.
- (e) **Snow Removal Exception.** For the sole purpose of snow removal, an all-terrain or utility terrain vehicle, with a snow removal device attached, may be operated during the period starting November 1 and ending on April 30 on a public route, street, sidewalk, or alley that is not a designated route, or adjacent to a roadway or public sidewalk, when all of the following provisions are complied with:
 - (1) The operator is actively engaged in snow removal activity on the property, or is enroute to or from the property, and not exceeding 5 m.p.h while on the sidewalk, street, or alley. The travel necessary to or from the snow removal site shall not exceed two (2) miles.
 - (2) The operator shall follow the shortest and most direct route to the property at which snow removal activities will be conducted.
 - (3) The operator of the all-terrain or utility terrain vehicle is sixteen (16) years of age or older and has a valid driver's license.
 - (4) The ATV's/UTV's headlights are on at all times and not obstructed by the attached snow removal device.
 - (5) The operator of the all-terrain or utility terrain vehicle yields the right of way to any pedestrian, bicyclist or motor vehicle approaching on a street, sidewalk, or alley.
 - (6) The manner of snow removal is consistent with Village ordinances.
- (f) **Rules of the Road.** Except as otherwise provided in Section 23.33, Wis. Stats., and herein, all-terrain vehicles and utility terrain vehicles shall follow the State of Wisconsin rules of the road that are applicable to automobiles.
- (g) **Yield to Traffic and Pedestrians.** All all-terrain and utility terrain vehicles shall yield to all vehicular traffic and pedestrian movement.

Sec. 10-4-3 Miscellaneous ATV/UTV Regulations.

- (a) **Conditions of Operation.** The following conditions of operation shall apply to all operators and passengers of all-terrain and utility terrain vehicles:
 - (1) **Statutory Operations Regulations.** Operation of all-terrain and utility terrain vehicles shall be subject to all provisions of Section 23.33, Wis. Stats., which is adopted above by reference as a part of this Section by Section 10-4-1(c) above, pursuant to Section 23.33(11), Wis. Stats. Specifically, no person may operate an all-terrain or utility terrain vehicle:
 - a. In any careless way so as to endanger the person or property of another.
 - b. On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for ATV/UTV use.
 - c. On public property that is posted as closed to ATV/UTV operation or on which the operation of an all-terrain or utility terrain vehicle is prohibited by law.
 - d. With any crossbow in his or her possession unless the crossbow is not cocked or is unloaded and enclosed in a carrying case.
 - e. With any bow in his or her possession unless the bow does not have an arrow nocked.
 - f. With any firearm in his or her possession unless the firearm is unloaded or is a handgun, as defined in Sec. 175.60(1)(bm), Wis. Stats. This limitation does not

apply to a firearm that is placed or possessed on an all-terrain or utility terrain vehicle that is stationary, as defined in Sec. 167.31(1)(fg), Wis. Stats.

- g. With a passenger riding in or on any part of a utility terrain vehicle that is not designed or intended to be used by passengers.
- h. Unless he or she, and every occupant of the utility terrain vehicle, is seated on a seated on a seat that is original to the utility terrain vehicle as manufactured.

(2) **Speed Limits.**

- a. All ATV/UTV operators shall observe a speed limit of 20 m.p.h. on the designated and posted roadway or the posted roadway speed limit, whichever is lower. Lower speed limits may be designated on certain portions of roadway routes as deemed appropriate and indicated on the routes resolution. This speed limit shall also apply while operating on private property.
- b. ATV/UTV operators shall slow to 10 m.p.h. when within one hundred fifty (150) feet of a residence or business, including when operating on private property held open to public ATV/UTV use. This speed limitation does not apply to a person operating an ATV/UTV on a roadway that is designated as an all-terrain vehicle route.
- c. ATV/UTV operators shall slow to 10 m.p.h., yield and exercise extreme caution on the frozen surface of public waters or on an ATV/UTV trail when within one hundred (100) feet of another person not operating a motor vehicle, all-terrain vehicle, utility terrain vehicle, or snowmobile, and shall observe all other requirements in Sec. 23.33, Wis. Stats. This restriction does not apply to operation of an ATV/UTV or when competing in a sanctioned derby or race.
- d. ATV/UTV operators shall not exceed a speed of 10 m.p.h. when within one hundred (100) feet of a fishing shanty at a speed exceeding 10 m.p.h.
- e. ATV/UTV operators shall not exceed a speed of 15 m.p.h. when the ATV/UTV is being operated on a roadway or adjacent to a roadway with a snow removal device attached, if the ATV/UTV is more than one hundred and fifty (150) feet from a dwelling.
- f. ATV/UTV operators shall not exceed 5 m.p.h. when the ATV/UTV is being operated on a sidewalk or driveway with a snow removal device attached, regardless of proximity to a dwelling.

(3) **Restrictions on Equipment.** No all-terrain or utility terrain vehicle may be operated within the Village of Elk Mound unless it complies with all noise, registration, and other equipment standards as established in the Wisconsin Statutes, Wisconsin Administrative Code, or the Village of Elk Mound Code of Ordinances.

(4) **Headlight/Taillights and Trailer Requirements.** A person who operates an all-terrain or utility terrain vehicle during hours of darkness or during daylight hours on any highway right-of-way is required to display a lighted headlamp and tail lamp on the vehicle, as follows:

- a. The headlamp is required to display a white light of sufficient illumination power to reveal any person, vehicle or substantial object at a distance of at least two hundred (200) feet ahead of the all-terrain or utility terrain vehicle. The headlight shall be properly adjusted so as to not interfere with the operation of other vehicles on the roadway.
- b. Taillights shall be red in color and be observable during hours of darkness to a distance of five hundred (500) feet to the rear.

- c. If a trailer is towed behind an all-terrain or utility terrain vehicle, the trailer shall conform with all lighting requirements applicable to an all-terrain or utility terrain vehicle.
- (5) **Noise Limits.** No person may manufacture, rent, sell or operate an all-terrain or utility terrain vehicle that is constructed in such a manner that noise emitted from the vehicle exceeds 96 decibels on the A scale as measured in the manner prescribed under rules promulgated by the Wisconsin Department of Natural Resources.
- (6) **Operations Restrictions.** If the Village Board does designate by resolution a street, alley, public right-of-way or public lands, or portion thereof, as an official designated route, all-terrain and utility terrain vehicles operating on Village of Elk Mound streets, roads, and other public property shall comply with the following:
 - a. All-terrain and utility terrain vehicles shall be operated on the extreme right side of the roadway and travel with the flow of traffic.
 - b. All-terrain and utility terrain vehicles shall be operated in single-file, with headlights and taillights in operation at all times.
 - c. All-terrain and utility terrain vehicle operators shall yield the right-of-way to all other vehicular traffic and pedestrians.
 - d. No racing-type all-terrain or utility terrain vehicles, all-terrain or utility terrain vehicle conversions, or converted drive trains will be allowed on Village roads or public ways.
- (b) **Operator Standards.**
 - (1) **General Standards.** Operation of an all-terrain or utility terrain vehicle on a Village street, alley or public way by unlicensed or youth operators shall be governed by the restrictions of Section 23.33(5), Wis. Stats. No person who is not lawfully licensed, or under a current driver's license suspension, revocation or cancellation for any reason, may operate a all-terrain and utility terrain vehicle upon a public street or public way in the Village of Elk Mound except in conformance with this Section and Sec. 23.33(5), Wis. Stats.
 - (2) **All-Terrain Vehicles – Age Restrictions.**
 - a. Subject to Subsections (b)(2)b-e, no person under the age of twelve (12) years of age may operate an all-terrain vehicle unless any of the following criteria applies:
 - 1. He or she is operating the ATV for an agricultural purpose and he/she is under the supervision of a person over eighteen (18) years of age. "Supervision" does not require that the person under twelve (12) years of age be subject to continuous direction or control by the person over eighteen (18) years of age.
 - 2. He or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated by the Wisconsin Department of Natural Resources and he or she is accompanied by his or her parent or guardian or by a person who is a minimum of eighteen (18) years of age who is designated by the parent or guardian.
 - b. No person who is under twelve (12) years of age may operate an all-terrain vehicle that is an implement of husbandry on a roadway under any circumstances.
 - c. No person who is under twelve (12) years of age may operate an all-terrain vehicle on a roadway under the authorization provided under Sec. 23.33(4)(d)6, Wis. Stats., under any circumstances.
 - d. No person who is under sixteen (16) years of age may operate an all-terrain vehicle under the authority provided under Sec. 23.33(4)(d)4 or 7, Wis. Stats.,

unless the person is accompanied by his or her parent or guardian or by a person who is at least eighteen (18) years of age who is designated by the parent or guardian.

- e. No person who is under sixteen (16) years of age may operate an all-terrain vehicle under the authorization provided under Sec. 23.33(4)(f), Wis. Stats., under any circumstances.
- f. No person who is under twelve (12) years of age may rent or lease an all-terrain vehicle.

(3) **Utility Terrain Vehicles – Age Restrictions.**

- a. No person under sixteen (16) years of age may operate, rent, or lease a utility terrain vehicle unless any of the following apply:
 - 1. He or she is operating the UTV for an agricultural purpose and he or she is under the supervision of a person over eighteen (18) years of age. "Supervision" does not require that the person under sixteen (16) years of age be subject to continuous direction and control by the person over eighteen (18) years of age.
 - 2. He or she is at least twelve (12) years of age, is operating a small utility terrain vehicle on an all-terrain vehicle trail designated by the Wisconsin Department of Natural Resources and he or she is accompanied by his or her parent or guardian or by a person who is at least eighteen (18) years of age who is designated by the parent or guardian.
- b. Except as provided in Sec. 23.33(4)(d)1, 2, and 3a, Wis. Stats., no person who is under sixteen (16) years of age may operate a utility terrain vehicle on a roadway.

(4) **Safety Certification Requirements.**

- a. No person who is at least twelve (12) years of age and who was born on or after January 1, 1988, may operate an all-terrain or utility terrain vehicle unless he or she holds a valid safety certificate issued by the Wisconsin Department of Natural Resources, another state, or a province of Canada.
- b. Any person who is required to hold an all-terrain or utility terrain vehicle safety certificate while operating an ATV or UTV shall carry proof that the person holds a valid safety certificate and shall display this proof to a law enforcement officer upon request. Persons enrolled in a safety certification program approved by the Wisconsin Department of Natural Resources may operate an all-terrain or utility terrain vehicle in an area designated by the instructor.
- c. Notwithstanding the safety certificate requirements under this Subsection, a person is not required to hold a safety certificate if all of the following apply:
 - 1. The person operates an all-terrain or utility terrain vehicle at an all-terrain or utility terrain vehicle demonstration event.
 - 2. The event under Subsection (b)(4)c.1 above is sponsored by an all-terrain or utility terrain dealer, an all-terrain or utility terrain vehicle club, the State of Wisconsin, a city, a village, a town, or a county.
 - 3. If the person is under eighteen (18) years of age, the person is accompanied by his or her parent or guardian or is accompanied by a person over eighteen (18) years of age who is designated by the parent or guardian.
 - 4. Notwithstanding Subsection (d)(2), the person wears protective headgear of the type required under Sec. 347.485(1), Wis. Stats.

5. The person operates the all-terrain or utility terrain vehicle in a closed course area in the manner prescribed by the event sponsor.
- (5) **Age Restrictions Exceptions.**
- a. Subsections (b)(2)-(4) above do not apply to a person who operates an all-terrain or utility terrain vehicle exclusively on land that is either of the following:
 1. Land under the management and control of the person's immediate family.
 2. Land, other than land described in Subsection (b)(5)a.1 above, on which operation is authorized.
 - b. A person who operates an all-terrain or utility terrain vehicle on land on which operation is authorized qualifies for the exception under Subsection (b)(5)a.2 above only if the person is under twelve (12) years of age and operates the all-terrain or utility terrain vehicle when accompanied by his or her parent or guardian or by a person who is at least eighteen (18) years of age who is designated by the parent or guardian.
- (c) **Use of Headgear.**
- (1) **General Requirement.** No person may operate or be a passenger on an ATV/UTV without wearing protective headgear of the type required by Sec. 347.485(1)(a), Wis. Stats., and with the chin strap properly fastened.
 - (2) **Exceptions to Headgear Requirements.** Protective headgear required under Subsection (d)(1) above need not be worn if:
 - a. The person is a minimum of eighteen (18) years of age.
 - b. The person is traveling for the purposes of hunting or fishing and is a minimum of twelve (12) years of age.
 - c. The all-terrain or utility terrain vehicle is being operated for an agricultural purpose.
 - d. The all-terrain or utility terrain vehicle is being operated by a person on land under the management and control of the person's immediate family.
- (d) **Storage Restrictions.** No more than three (3) all-terrain or utility terrain vehicles may be parked outside of a building or garage on a residential property for more than twenty-four (24) hours.
- (e) **Enforcement.** This Chapter shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.
- (f) **Penalties.** Wisconsin State All-Terrain and Utility Terrain Vehicle penalties as found in Sec. 23.33(13)(a), Wis. Stats., are adopted and incorporated herein by reference.
- (g) **Required Notifications.** The Village shall submit a copy of this Chapter upon adoption to the Wisconsin Department of Natural Resources, Wisconsin State Patrol, and the County Sheriff's Department of Dunn County, as required by law.

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

- (a) **Purpose.**
- (1) The unauthorized off-road operation of motor vehicles within the Village of Elk Mound can result in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvements on the lands; and

- (2) The unauthorized off-road operation of motor vehicles can result in the permanent scarring of land and an increase in erosion, noise pollution and air pollution; and
 - (3) The unauthorized off-road operation of motor vehicles can result in collisions or near collisions threatening the life and safety of the operators of such vehicles as well as of other persons and personal property; and
 - (4) The unauthorized off-road operation of motor vehicles can result in a loss of the privacy, quietude and serenity to which the owners and users of land, and their neighbors, are rightfully entitled.
- (b) **Definitions.** For purposes of this Section, the terms below shall be defined as follows:
- (1) **Unauthorized.** 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.** Any location which:
 - a. Is not a paved or maintained as a 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/her permittees for recreational or other vehicular use. "Off-road" shall not include any creekbed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, riverbed or lake.
 - (3) **Operation.** The physical manipulation or activation of any of the controls of a motorized vehicle necessary to put it in motion.
 - (4) **Motor Vehicle.** 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, utility terrain vehicles, all-terrain vehicles, mopeds, snowmobiles, and dune buggies. "Motor vehicle" shall not mean any airplane, railroad train, boat, assisted mobility device, 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 in the Village of Elk Mound.
 - (2) Except for authorized maintenance vehicles and snowmobiles or all-terrain/utility terrain vehicles operating on routes/trails authorized by the Village Board or as otherwise authorized by this Chapter, it shall be unlawful to operate any minibike, go-kart, 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.

- (3) Operation of vehicles regulated by this Section shall not be operated in the following manner:
- a. At a rate of speed that is unreasonable or imprudent under the circumstances.
 - b. In a careless way so as to endanger people or property.
 - c. While under the influence of intoxicating liquor, fermented malt beverages, wine, narcotics or other controlled substances.
 - d. Without a functioning muffler or in such a way that the exhaust of the engine produces an excessive or unusual noise.
 - e. Upon any public street or alley, or upon a sidewalk or public right-of-way, unless such vehicle is registered for street operation as required by Chapter 341, Wis. Stats., and its operation in the Village of Elk Mound is permitted by this Code of Ordinances.
 - f. Except where authorized, upon any lands owned, operated or leased by the Village of Elk Mound.
- (d) **Liability of Parent or Guardian.** No parent or guardian of any person under the age of eighteen (18) years of age shall authorize or permit such child to violate any of the provisions of this Section. Any person under the age of eighteen (18) years of age who shall operate a vehicle in a manner prohibited by this Section shall be presumed to be operating such vehicle under the authority of a parent or guardian.

SECTION II. SEVERABILITY.

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.


SECTION III. EFFECTIVE DATE.

This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 4 day of october, 2017.

VILLAGE OF ELK MOUND, WISCONSIN


Village President



Village Clerk-Treasurer

INTRODUCED: 10-4-17
ADOPTED: 10-4-17
PUBLISHED: 10-11-17

State of Wisconsin:
County of Dunn:

I hereby certify that the foregoing Ordinance is a true, correct, and complete copy of an Ordinance duly and regularly enacted by the Village of Elk Mound Village Board on the 4 day of october, 2017 and that said Ordinance has not been repealed or amended and is now in full force and effect.

Dated this 4 day of _____, 2017


Patricia Hahn, Clerk-Treasurer