

TOWN OF NEKIMI
WINNEBAGO COUNTY, WISCONSIN

**ALL-TERRAIN AND UTILITY-TERRAIN VEHICLE
ROUTE ORDINANCE**

Section 1. Purpose.

The purpose of this ordinance is to establish all-terrain and utility terrain vehicle routes in the Town of Nekimi and to regulate the operation of all-terrain and utility terrain vehicles in the Town.

Section 2. Authority.

The Town Board of the Town of Nekimi, Winnebago County, Wisconsin, has the specific authority to adopt this All-Terrain and Utility Terrain Vehicle Ordinance under Wis. Stats. §§ 23.33(8)(b) and (11).

Section 3. Adoption of Ordinance.

This ordinance adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to designate all-terrain vehicle and utility terrain vehicle routes in the Town and to regulate the use of those routes and all-terrain vehicles and utility terrain vehicles in the Town.

Section 4. Definitions.

For the purposes of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The words "shall," "will," and "must" are always mandatory. The words "may" and "should" are discretionary terms. The masculine shall include the feminine. Terms not defined in this Section, shall be interpreted based on common usage.

- (a) "All-Terrain Vehicle (ATV)" means a commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator, and travels on 3 or more low-pressure tires or non-pneumatic tires.
- (b) "Town" means the Town of Nekimi, the Town Board or any other Town of Nekimi official(s) authorized by the Town Board to act on behalf of the Town of Nekimi.
- (c) "Utility Terrain Vehicle (UTV)" means any of the following:
 - (1) A commercially designed and manufactured 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:

- a. A weight, without fluids, of 2,000 pounds or less.
 - b. Four or more low-pressure tires or non-pneumatic tires.
 - c. A steering wheel.
 - d. A tail light.
 - e. A brake light.
 - f. Two headlights.
 - g. A width of not more than 65 inches.
 - h. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
 - i. 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.
- (2) A commercially designed and manufactured motor driven device to which all of the following applies:
- a. It has a weight, without fluids, of more than 900 pounds but not more than 2000 pounds.
 - b. It has a width of 50 inches or less.
 - c. It is equipped with a seat designed to be straddled by the operator.
 - d. It travels on 3 or more low-pressure tires or non-pneumatic tires.

Section 5. Operation of All-Terrain and Utility Terrain Vehicles.

Pursuant to Wis. Stat. § 23.33(4)(d)4, except as otherwise provided in Wis. Stat. § 23.33(4), no person may operate an all-terrain or utility terrain vehicle on the roadway portion of any highway in the Town except on roadways that are designated as all-terrain and utility terrain vehicle routes by this ordinance.

Section 6. Designation of All-Terrain and Utility Terrain Vehicle Routes.

The Town of Nekimi hereby designates the following Town roads as all-terrain vehicle and utility terrain vehicle routes: All town roads except for those roads whose jurisdiction is shared with another town, in which case such road will not be a designated route unless the other town approves its designation as a route. The Town also designates all county and state roadways posted 35 mph or less as authorized under Wis. Stat. § 23.33(11)(am)4 unless otherwise posted.

Section 7. Conditions Applicable to All-Terrain and Utility Terrain Vehicle Routes.

- (a) Pursuant to Wis. Stat. § 23.33(8)(d), the following restrictions are placed on the use of the Town all-terrain and utility terrain vehicle routes designated by this resolution:
- (1) Routes shall be marked with uniform all-terrain and utility terrain vehicle route signs in accordance with NR 64.12 (7), Wisconsin Administrative Code. No person may do any of the following in regard to signs marking Town all-terrain and utility terrain vehicle routes:
 - (2) Intentionally remove, damage, deface, move, or obstruct any uniform all-terrain and utility terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain and utility terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the State, any municipality, or any authorized individual.
 - (3) Possess any uniform all-terrain and utility terrain vehicle route or trail sign or standard of the type established by the department for the warning, instruction, or information of the public, unless he or she obtained the uniform all-terrain and utility terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain and utility terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.
- (b) Operation shall be subject to all provisions of Wis. Stat. § 23.33, which is adopted as a part of this ordinance by reference, pursuant to Wis. Stat. § 23.33(11).
- (c) Operators must abide by all traffic laws unless further restricted by this Ordinance.
- (d) The speed limits for ATVs and UTVs shall be as posted.
- (e) ATVs/UTVs may be operated on paved surfaces only, unless yielding the right of way.
- (f) All all-terrain and utility terrain vehicle operators shall ride single file.
- (g) No ATV/UTV may be operated on any designated route without fully functional headlights, tail-lights and brake lights.
- (h) All ATV/UTV operators shall ride on the right hand side of the paved portion of the highway, unless making a left turn. Operation on the gravel shoulders, grassy

in-slope, ditches, or other highway right-of-way is prohibited, unless yielding right of way.

- (i) No ATV/UTV may be operated on any designated ATV route if the ATV/UTV does not meet all applicable Federal noise and air pollution standards.
- (j) No person under the age of sixteen (16) may operate an ATV/UTV on any segment of Town Road which is a designated ATV route.
- (k) No person under the age of eighteen (18) may operate an ATV/UTV on any designated route unless wearing approved protective head gear.
- (l) Every person who operates an ATV/UTV on a segment of Town road which is designated as an ATV route shall have in his or her immediate possession a valid motor vehicle operator's license and proof of insurance for the ATV or UTV the person is operating, and shall display both upon demand from any law enforcement officer or official described in Wis. Stat. § 23.33(12).

Section 8. Enforcement.

This ordinance may be enforced by the Town Board or law enforcement officer authorized to enforce the laws of the state of Wisconsin. A copy of this ordinance shall be sent by the Town Clerk to the Department of Natural Resources, the Winnebago County Sheriff's Department and any other law enforcement agency serving the Town of Nekimi's jurisdiction.

Section 9. Penalties.

The penalties under Wis. Stat. § 23.33(13), are adopted by reference.

Section 10. Maintenance.

Designation of segments of the Town road system as ATV/UTV routes does not impose upon the Town a greater duty of care or responsibility for maintenance of those segments than for any other segment of Town road. Operators of ATV/UTV's on Town roads assume all the usual and normal risks of ATV/UTV operation.

Section 11. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 12. Effective Date.

This ordinance is effective on publication or posting and only upon placement of signage in accordance with NR 64.12. The Town Clerk shall properly publish this ordinance as required under Wis. Stat. § 60.80.

Dated this _____ day of _____, 2020.

TOWN OF NEKIMI

By: _____
Glen Barthels, Town Chairman

Attest:

Tom Pollack, Town Clerk