

# Ordinance #64

## All-Terrain/ Utility-Task Vehicle Use on City Roads

The Common Council of the City of Fountain City, Wisconsin do ordain as follows:

1. **STATUTORY AUTHORIZATION.** This ordinance is adopted pursuant to the authority of Wisconsin Statutes sections 23.33(11) and 59.02, as amended. In addition, the provisions of Wisconsin Statutes section 23.33, and the provisions of Wisconsin Administrative Code NR 64 regulating All-Terrain Vehicles and Utility Terrain Vehicles (ATV/UTV) operations are hereby incorporated by reference.

2. **PURPOSE AND INTENT.** The City of Fountain City enacts this ordinance to authorize operation of ATV/UTV's upon city roads designated for such use in Section 3 of this ordinance. Buffalo County has adopted its Ordinance #21-03-01 which authorizes recreational use of ATV/UTVs on designated routes within the County, some of which are located in the City of Fountain City. After considering the recreational value of ATV/UTV use to the City of Fountain City and the potential impacts to the public's health, safety, and welfare, this ordinance is enacted. A copy of a map showing the location of ATV/UTV routes shall be kept on file at the Buffalo County Highway Department and the Buffalo County Sheriff's Department.

3. **AUTHORIZED ROUTES.** All City roads are designated as ATV/UTV routes. Pursuant to Wisconsin Statutes section 23.33(11)(am)4, ATV/UTV operation is authorized on the sections of State Trunk Highway 35 and State Trunk Highway 95 that are both located within the territorial boundaries of the City of Fountain City, and have a speed limit of 35 miles per hour or less. State highways within the territorial boundaries of the City of Fountain City and with speed limits exceeding 35 miles per hour must have explicit approval from the Wisconsin Department of Transportation to authorize operation of ATV/UTVs.

4. **CONDITIONS.** The operation of ATVs and UTVs on any portion of a City of Fountain City road designated as an ATV/UTV route, or any portion of a state highway authorized for operation of ATV/UTVs within the City, shall be subject to the following:

1. Operation shall be subject to all provisions of Sec. 23.33, Wis. Stats., which is adopted as part of this ordinance by reference to Sec. 23.33(11), Wis. Stats.
2. All ATV/UTV operations shall observe a speed limit of not more than 35 MPH or the posted roadway speed limit, whichever is lower.
3. All ATV/UTV operators shall ride single file on the far-right hand side of the paved portion/lane of traffic of the roadway. Operation on the gravel shoulders, grassy in-slope, ditches, or other highway right-of-way area is prohibited. Left turns may be made from any part of the roadway which is safe given prevailing conditions.
4. All ATV/UTV operators shall maintain liability insurance for their ATV/UTV in the amount established by the State of Wisconsin for motor vehicle operation and by utilizing any ATV/UTV, agrees to fully indemnify and hold harmless the City of Fountain City for all liability arising from use or non-use of ATV and/or UTVs within the City of Fountain City.

5. All ATV/UTV operating within the City must be equipped with a functioning headlamp and tail lamp illuminated.
  6. All ATV/UTV operators shall observe a nighttime curfew and shall not operate their ATV/UTV for the period of one (1) hour prior to sunrise and no later than 10:00 p.m.
  7. ATV/UTV routes will be open year-round.
  8. On all roads shared with another jurisdiction the most restrictive ordinance shall apply.
  9. All ATV/UTV drivers must have valid driver license. All UTV operators at least age 12 must possess a valid ATV Safety Certificate issued by this state. All ATV safety certified operators age 12-15 must also be accompanied by a parent, guardian or adult designated by the parent or guardian with continuous verbal direction and physical control.
  10. All operators under the age of 18 must wear protective headgear as required by Sec. 23.33, Wis. Stats.
  11. All occupants riding in, or operating a UTV, shall be required to wear a seatbelt when travelling on any trail or route within the City of Fountain City.
  12. It shall be unlawful for any person to possess any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the receptacle has been partially removed, while operating or as a passenger on an ATV or UTV on any road or road route in the City of Fountain City.
  13. ATV/UTV operators who are born after January 1, 1988 and operating on a highway are required to have an ATV Safety Certificate provided by the Department of Natural Resources.
- 5. SIGNAGE.** The Buffalo County Highway Department, as the maintaining authority for highways designated as ATV/UTV routes, shall have oversight of the installation of signage in compliance with s. NR 64, Wisconsin Administrative Code. The quantity and location of signs shall be reviewed and approved by the Buffalo County Highway Department.
1. No person may 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.
  2. All costs for signage, installation, maintenance and removal shall be borne by the Buffalo County Trail Riders. The Buffalo County Trail Riders may assist the Buffalo County Highway Department in the installation of signs under the direction of department staff to help defer costs of installation.
  3. No sign may be mounted on any existing City signpost or utility post/pole. Posts shall be suitably sized for mounting the necessary number of signs at the location.
  4. No person shall operate an ATV/UTV contrary to any authorized and official posted sign

6. **ENFORCEMENT.** This ordinance shall be enforced by any law enforcement officer as applicable and authorized to enforce the laws of the State of Wisconsin, as set forth in Wisconsin Statutes Sec. 23.33(12).

7. **PENALTIES.** The State of Wisconsin All-Terrain Vehicles penalties as found in Sec. 23.33(13)(1), Wis. Stats. and/or any resolutions are adopted by reference.

8. **REVIEW.** This ordinance or any route designated by it may be cancelled at any time by act of the Common Council. The Common Council may add or delete authorized routes by action that conforms to the requirements of Wisconsin Statutes section 23.33 and all public notice required by law for Common Council action.


9. **SEVERABILITY.** The provision of this ordinance shall be deemed severable and it is expressly declared that the City would have passed the other provisions of this ordinance irrespective of whether one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other persons circumstances shall not be deemed affected.

10. **SAVING CLAUSE.** This ordinance in no way be deemed to supplant or otherwise invalidate any provisions of state statute relating to the subject matter hereof. Any person entrusted with the enforcement of this ordinance may, in the exercise of his or her discretion, proceed under applicable state statutes.

11. **EFFECTIVE DATE.** This ordinance becomes effective upon passage and publication. Actual use of City roads under this ordinance may begin only after Buffalo County Highway Department certifies that the signage required by this ordinance is in place on the routes authorized in section 3.

This ordinance shall take effect upon passage and be enforced from and after its passage, posting and/or public action as required by law.

Dated this 14th day of September, 2021.

  
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**Gwen Katula, Mayor**

  
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**Barb Schmidtknecht, Council President**