

**ORDINANCE**      2020-02-02-D

**AN ORDINANCE REPEALING SECTIONS 44 -177, 44-178, 44-179, 44-180 AND 44-181 AND RECREATING SECTIONS 44 -177, 44-178, 44-179, 44-180, 44-181, AND CREATING SECTIONS 44-182 AND 44-183 OF THE MUNICIPAL CODE OF THE CITY OF TOMAH, MONROE COUNTY, WISCONSIN REGARDING ALL-TERRAIN AND UTILITY TERRAIN VEHICLES.**

The Common Council of the City of Tomah, Monroe County, Wisconsin, does hereby ordain as follows:

**SECTION ONE:** That sections 44-177, 44-178, 44-179, 44-180 and 44-181 of the Municipal Code of the City of Tomah, Wisconsin be repealed and Chapter 44, Article VIII be created to read as follows:

**Chapter 44, Article VIII ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES**

**Sec. 44-177. - Purpose**

The City Council has considered the recreational and economic value of all-terrain vehicle and utility-terrain vehicle (ATV/UTV) routes and trail opportunities weighed against protecting the public safety, liability aspects, terrain involved, traffic density, and history of automobile traffic. After due consideration, this ordinance is created to establish all-terrain vehicle and utility terrain vehicle routes on public roadways and trails on the City property and to regulate the operation of such vehicles on such routes and trails to provide safe and healthful conditions for the enjoyment of ATV/UTV recreation consistent with public rights and interest pursuant to City authority under Wis. Stat. §§ 62.11(5), 23.33(8) and 23.33(11).

**Sec 44-178. - Adoption of standards.**

Except as otherwise provided in this chapter, the statutory provisions in Wis. Stat. Chs. 23, 340 to 348, and 350 establishing definitions and regulations with respect to ATVs and UTVs, and Wis. Adm. Code. Ch. NR 64, All-Terrain Vehicles, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Unless otherwise provided in this chapter, any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance. Any future amendments, revisions or modifications of the statutes or administrative codes incorporated herein are made a part of this chapter in order to secure uniform statewide regulation of ATVs and UTVs, except to the extent that the provisions of this chapter are more restrictive.

**Sec. 44-179. - ATV/UTV routes.**

Unless otherwise posted, designated ATV/UTV routes include all public streets and alleys except connecting highways within the City of Tomah city limits. In addition, under Wis Stat. 23.33(11)(am)4, ATVs/UTVs are authorized to operate on STH 12, 16, and 131 where the speed limit is 35 MPH or less.

The Tomah Police Department may temporarily close any ATV/UTV route whenever conditions require closure.

**Sec. 44-180. - Trail and route signs.**

Designated ATV/UTV route and trail signs shall be installed and maintained in accordance with Wisconsin Administrative Code NR 64.12 (7).

- A. The City of Tomah is solely responsible for ATV/UTV route signage installation and no person may install any sign on a designated ATV/UTV route without written authorization of the City.
- B. All required signs shall be in accordance with state statutes and administrative codes applicable to ATV/UTV routes on public streets and bridge crossings.
- C. No person may erect, remove, obscure, or deface any authorized ATV/UTV route sign without written authorization of the City of Tomah.

**Sec. 44-181. - Operation of ATVs and UTVs.**

Operation of ATVs and UTVs on designated ATV/UTV routes shall be subject to all provisions of s. 23.33, Wis. Stats., which is adopted as a part of this ordinance by reference. In addition the following restrictions apply to operation of ATVs and UTVs on all city streets designated as ATV/UTV routes:

- A. ATVs and UTVs may only be operated on approved ATV/UTV routes from 6am – 10pm.
- B. ATVs and UTVs shall operate at a safe speed not to exceed the posted speed limits.
- C. No person under the age of 16 may operate an ATV or UTV on any segment of a street or highway in the City of Tomah.
- D. Every person who operates an ATV or UTV on any street or highway in the City of Tomah shall have in his or her immediate possession a valid motor vehicle operator's license. The ATV/UTV operator shall display the operator's license upon demand from any Law Enforcement Officer, State Patrol Officer, Inspector under Wisconsin State Stats 110.07(1), or Conservation Warden.
- E. No operator or passenger of an ATV or UTV may possess in or on an ATV or UTV on any street or highway in the City of Tomah, 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 bottle or receptacle have been partially removed or released.
- F. All ATV and UTV equipment is required to have applicable liability insurance and have proof of insurance.

**SECTION TWO: Section 44-182 is hereby created to read as follows:**

**Sec. 44-182. -Notifications.**

A copy of this ordinance shall be sent to the Wisconsin State Patrol, Monroe County Sheriff's Department and to the Wisconsin Department of Natural Resources.

**SECTION THREE: Section 44-183 is hereby created to read as follows:**

**Sec 44-183. - Violations and penalties.**

- A. Except as provided in Sec. 23.33(13)(am) to (e), Wis. Stat, any person who violates any section of this ordinance or statutes adopted by reference shall pay a forfeiture of not less than \$50.00 nor more than \$250.00 for each offense. Said forfeiture is exclusive of mandatory assessments and costs.
- B. The penalty for operating an ATV/UTV off the roadway of a designated ATV/UTV route to include the grassy in-slope, ditches, or other highway right-of-way; other than for direct access from a trail to a roadway on a designated trail, or operating outside of permitted times for route use, or operating in excess of permitted speed; shall result in a forfeiture of not less than \$100.00 nor more than \$250.00, as established in Wis. Stat. Chs. 23. Said forfeiture is exclusive of mandatory assessments and costs.
- C. In addition to any forfeiture, a court may order restitution to repair any damage caused by a violation of this chapter.

**SECTION FOUR:** Any Ordinance, or parts thereof, inconsistent herewith is hereby repealed.

**SECTION FIVE:** This Ordinance shall be published as required by law after passage by the Common Council. This ordinance shall be in full force and effect from and after its passage and publication as required by law and shall remain in effect unless amended or repealed by action of the Common Council of the City of Tomah.

Passed and approved this 18th day of February, 2020.

Michael Murray, Mayor

ATTEST: JoAnn Cram, City Clerk

READ: 01/14/2020 & 02/11/2020

PASSED: 02/11/2020

PUBLISHED: 02/21/2020

Please publish 1x in the Tomah Journal – single column legal notice on 2/21/2020. Please charge City of Tomah Account 60004155