

2023-0-04

PASSED 03/21/2023

AN ORDINANCE REGULATING OPERATION OF NON-HIGHWAY VEHICLES (GOLF CARTS, ALL-TERRAIN & UTILITY TERRAIN VEHICLES) ON VILLAGE STREETS

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Wauconda, Illinois, as follows:

SECTION I: There is hereby established a New Section 77.07, entitled “Operation of Non-Highway Vehicles (Golf Carts, All-Terrain & Utility Terrain Vehicles) On Village Streets,” to Chapter 77 of Title VII of the Wauconda Village Code to provide in Sections and Sub-sections as follows:

Section 77.07. Operation of Non-Highway Vehicles (Golf Carts, All-Terrain & Utility Terrain Vehicles) On Village Streets.

(a) **Policy Statement.** These regulations are established in the interest of public safety. This ordinance is not to be relied upon as a determination that the operation of golf carts, All-Terrain Vehicles (ATV) and Utility Terrain Vehicles (UTV) on streets is safe or advisable, even if done in accordance with this ordinance. All persons operating golf carts, ATV’s and UTV’s must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians. All persons who operate or ride golf carts, ATV’s and UTV’s on streets within the Village of Wauconda do so at their own risk and peril. The Village of Wauconda has no liability under any theory of law for permitting golf carts, ATV’s or UTV’s to be operated on Village streets. In accordance with 625 ILCS 5/11- 1426.1(i), golf carts, ATV’s or UTV’s operated on Village streets or roadways do not constitute an intended or permitted use of property with respect to Section 3-102 of the Local Governmental and Governmental Employees Tort Immunity Act.

(b) **Non-Highway Vehicle Regulations.**

(1) Definition of Golf Cart. A “golf cart” shall be as defined in the Illinois Vehicle Code, 625 ILCS 5/1-123.9, and shall mean a vehicle specifically designed and intended for the purposes of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

(2) Definition of Utility Terrain Vehicle (UTV)/All-Terrain Vehicle (ATV)

a. A “All-Terrain” vehicle shall be as defined in the Illinois Vehicle

Code, 625 ILCS 5/1-101.8, shall mean any motorized off-highway device designed to travel primarily off-highway, 50 inches or less in width, having a manufacturer's dry weight of 1,500 pounds or less, traveling on 3 or more non-highway tires, designed with a seat or saddle for operator use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers.

b. A “**Recreational Off-Highway**” vehicle shall be defined in the Illinois Code, 625 ILCS

c. 5/1-168.8, as any motorized off-highway device designed to travel primarily off-highway, 64 inches or less in width, having a manufacturer's dry weight of 2,000 pounds or less for gas-powered engines or 3,000 pounds or less for electric-powered engines, traveling on 4 or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers.

d. A “**Non-Highway**” vehicle shall be defined in the Illinois Vehicle Code, 625 ILCS 5/11-1426.1, shall mean a motor vehicle not specifically designed to be used on a public highway.

(3) Operation of Non-Highway Vehicles. Subject to the requirements of Section 11-1426.1 of the Illinois Vehicle Code, 625 ILCS 5/11-1426.1, which is hereby adopted by the Village, and to the provisions of this Ordinance, drivers eighteen (18) years of age and older properly licensed to operate motor vehicles on the streets of the Village shall be authorized to operate non-highway vehicles which are registered as provided in this Ordinance on Village streets from sunrise to 10:00 pm at the posted speed limit or less. Non-highway vehicles may not be operated on sidewalks or other public property not accessible to or authorized for vehicular traffic, unless otherwise authorized by the Village Board for special events. Non-highway vehicle operators must yield the right-of-way to overtaking vehicles at all times.

Non-highway vehicles shall not be operated in inclement weather, nor when visibility is impaired by weather, smoke, fog or other conditions at any other time when there is insufficient light to clearly see people or vehicles on the roadway at a distance of 500 feet. Each non-highway vehicle may transport only as many individuals as is the number of seats available for each occupant. If a non-highway vehicle is designed or equipped with a seatbelt, the seatbelt must be worn at all times while the non-highway vehicle is in operation. No one shall stand on, hang off or sit on another passenger's lap while the non-highway vehicle is in operation. Children under the age of six (6) shall wear seatbelts if the non-highway is designed or equipped with a seatbelt while the non-highway vehicle is in operation.

(4) Restrictions on Operating and Crossing Certain Streets. No person operating a non-highway vehicle shall be permitted upon any highway under the jurisdiction of the State, Interstate Highway, or a controlled access highway of Route 12. A non-highway vehicle may cross Route 176 and Bonner Road at a 90-degree angle. The designated crossing

intersections are as follows:

- Route 176 (E. Liberty Street) - Kimball Ave. cross to E. Mill Street
- Route 176 (E. Liberty Street) - Wethington Drive cross to Lake Shore Blvd.
- Route 176 (E. Liberty Street) - Crestview Drive cross to Woodland Ave.
- Bonner Road - Baldwin Lane cross to Wauconda Road.
- Bonner Road - McIntosh Drive cross to Grand Blvd.
- Bonner Road - Water Stone Circle cross to Grand Blvd.

(5) Safety Requirements for Golf Carts. Golf carts that operate within the Village must be registered as provided for in Subsection E below and said vehicles must contain the following: horn, brakes, a steering apparatus, tires, designated seating for all passengers, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem (as required of other vehicles in Section 12-709 of the Vehicle Code, 625 ILCS 5/12-709) on the rear of the golf cart, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a roadway, a golf cart shall have its headlight and tail lamps lighted at all times and shall also comply with the lighting requirements of Section 12-201 of the Illinois Vehicle Code, 625 ILCS 5/12-201, unless the requirements of this Ordinance are more restrictive. No unsafe modifications shall be made to the suspension of a golf cart.

(6) Safety Requirements for UTV's and ATV's

No non-highway vehicle (UTV/ATV) may not operate on a roadway unless, at a minimum, it has the following: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem (as required of other vehicles in Section 12-709 of the Illinois Vehicle Code) on the rear of the non-highway vehicle, a headlight that emits a white light visible from a distance of 500 feet to the front, a tail lamp that emits a red light visible from at least 100 feet from the rear, brake lights, and turn signals. When operated on a roadway, a non-highway vehicle shall have its headlight and tail lamps lighted as required by Section 12-201 of the Illinois Vehicle Code.

(7) Annual Registration of Non-Highway Vehicles. No golf cart, UTV or ATV shall be operated on any roadway of Village unless the owner(s) thereof shall have first registered the non-vehicle with the Village in accordance with the following:

- a. Registration shall be administered by the Chief of Police or his designee and applications for registration shall be made on a form prescribed by the Wauconda Police Department, and shall include a waiver and release of all claims against the Village, a statement under oath or penalties of perjury that the non-highway vehicle proposed to be registered meets the definition under this Ordinance and complies with the safety requirements provided for in Subsection (4) herein, and shall be accompanied by an initial non-refundable registration fee of \$75.00 and proof of liability insurance for said non-highway vehicles having at least the same limits as required for motor vehicles under the mandatory insurance law of the State of Illinois. A copy of the applicant's proof of insurance shall be kept on file by the Wauconda

Police Department.

b. Registered non-highway vehicles shall be issued a registration sticker which shall be displayed on the back rear of the non-highway vehicle.

c. Registrations shall be effective for a period of one year, May 1 to April 30, and shall be renewed annually in the same manner as the original registration except that the renewal and reinspection fee shall be \$50.00. Registrations obtained after May 1 of a given year will still expire on April 30, requiring a new registration, even if the initial registration covered less than a full year.

d. Registrations shall not be transferable in the event of change of ownership.

e. Registrations shall be subject to revocation by the Village in the event of a violation of the requirements of Section 11-1426.1 of the Illinois Vehicle Code, 625 ILCS 5/11-1426.1, any of the provisions of this Ordinance or a determination by the Police Chief or his designee that a non-highway vehicle has been operated in an unsafe manner or has been operated in violation of the Village Code or the Illinois Vehicle Code. A revocation shall be made in writing by the Chief of Police or his designee and shall set forth the provision(s) of the statute or ordinance found to be violated.

f. Revocations may be appealed in writing to the Chief of Police within fourteen (14) days from the issuance of the revocation, the affected owner may appear, present witnesses and evidence, and be represented by an attorney. The Chief of Police shall uphold the revocation if it determines by a preponderance of the evidence presented that the violation which was the basis for the revocation occurred. During the appeal process, the revocation shall remain in full force and effect. The Chief of Police may designate a hearing officer if he is unavailable to conduct the appeal hearing.

(g) In the event a registration is revoked due to a failure to maintain the required liability insurance or a failure to maintain the condition of the non-highway vehicle in compliance with this Ordinance, including but not limited to, maintaining the required safety equipment, the Village, in its discretion, may reinstate the registration upon proof of reinstatement of the required insurance, or of the repair or modification of the non-highway vehicle necessary to cure any deficiencies, as applicable, if the Village determines that the violation was not intentional and is not likely to recur.

(h) No non-highway vehicle shall be registered with a motor in excess of 1,000 cc.

(8) Inspection of Non-Highway Vehicles. Golf Carts, UTV's and ATV's registered, or proposed to be registered, pursuant to this article shall be subject to inspection by the Chief of Police or his designee, at any time to determine that said non-highway vehicle meets, and continues to meet, the definition thereof as set forth in this Ordinance, and meets the applicable requirements of Subsection (5) or (6) of this Ordinance, and particularly that required safety systems and equipment are in operating condition.

(9) Handicapped Parking. Only non-highway vehicles with a valid handicapped parking sticker or placard may be parked in a handicapped parking space.

(10) Designated Parking Areas.

- Non-highway vehicles may not park on Main Street between Route 176 (E. Liberty Street) and Slocum Lake Road.
- Non-highway vehicles shall park in the Municipal Parking lot located at W. Mill Street and S. Maple Ave.

(11) Other Laws, Regulations and Ordinances. Non-highway vehicles shall be operated at all times in accordance with the provisions of the Illinois Vehicle Code, the rules of the road contained therein, and any other laws, regulations or ordinances governing the operation of motor vehicles in the Village, as well as any laws, regulations or ordinances specifically pertaining to non-highway vehicles and the operation thereof.

(12) Violations. In addition to the revocation of the registration for a non-highway vehicle as provided in this ordinance, any person violating the provisions of this Ordinance shall be subject to revocation of any registration and a fine of not less than \$25.00 and not more than \$750.00. The provisions hereof for prosecuting violations of this Ordinance are not intended to supersede the Illinois Vehicle Code, or to in any way impair prosecution of violations of the Illinois Vehicle Code involving the operation of non-highway vehicles. A second or subsequent violations of this Ordinance in a one (1) year period, shall be grounds for higher fines and revocation of the registration for up to one (1) year.

SECTION II: That Sections 77.08 through 77.98 of Chapter 77 of Title VII of the Wauconda Village Code shall remain “Reserved.”

SECTION III: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION IV: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such

unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION V: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

Passed this 21st day of March, 2023.

	Ayes:	Nays:	Absent/Abstain:
John Barbini	_____	_____	_____
Tim Howe	_____	_____	_____
Tom Shaw	_____	_____	_____
Jennifer Kuhn	_____	_____	_____
Nicole M. Ferrier	_____	_____	_____
Samuel Stein	_____	_____	_____

APPROVED:

By: _____ Date: _____
JEFF A. SODE, Mayor

ATTEST:

By: _____
VIRGINIA RADCLIFFE, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on March 21, 2023.

Published in pamphlet form on March ___, 2023.

VIRGINIA RADCLIFFE, Village Clerk