

ORDINANCE #1012-2020

ADOPTING THE PROVISIONS OF MARATHON COUNTY ORDINANCE 7.125 TO BE APPLIED IN THE TOWN OF CASSEL

WHEREAS, on December 17, 2019, the Marathon County Board repealed and replaced Section 7.125 of the Marathon County Code of Ordinances; and

WHEREAS, § 7.125 of the General Code of Ordinances for Marathon County addresses the regulation of ATVs and UTVs in Marathon County; and

WHEREAS, Wis. Stat. §§ 23.33(8)(b) and 23.33(11)(a) provides Towns in Wisconsin authority to designate certain roadways or highways as ATV/UTV routes and regulate the use and operation of ATVs and UTVs on certain routes within Towns; and

WHEREAS, the Town of Cassel recognizes that having a uniform set of regulations for the use of ATVs and UTVs within Marathon County would support public safety; and

WHEREAS, the Town of Cassel has reviewed the updated provisions of § 7.125 of the General Code of Ordinances for Marathon County and finds it appropriate to adopt the provisions and regulations therein in full within the jurisdiction of the Town; and

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED that the Town of Cassel does hereby adopt the provisions of § 7.125 of the General Code of Ordinances for Marathon County in full to be applied to all ATV and UTV routes and trails designated as such within the jurisdiction of the Town; and

NOW, THEREFORE, BE FURTHER IT ORDAINED AND RESOLVED that the Town of Cassel does hereby adopt in full the regulations on ATV and UTV use and the rules of operation as expressed in § 7.125 of the General Code of Ordinances for Marathon County to be applied to the use and operation of ATVs and UTVs within the Town on designated ATV and UTV routes or trails; and


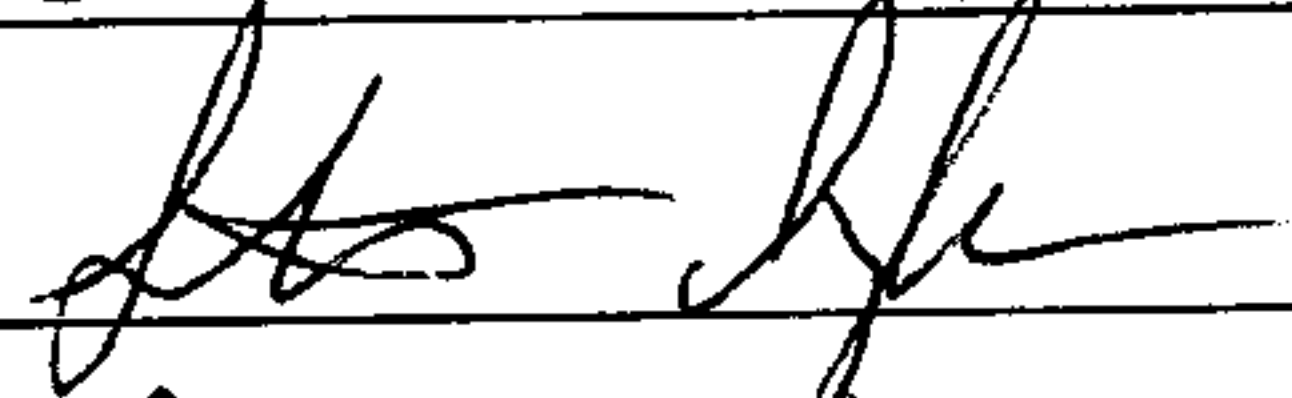

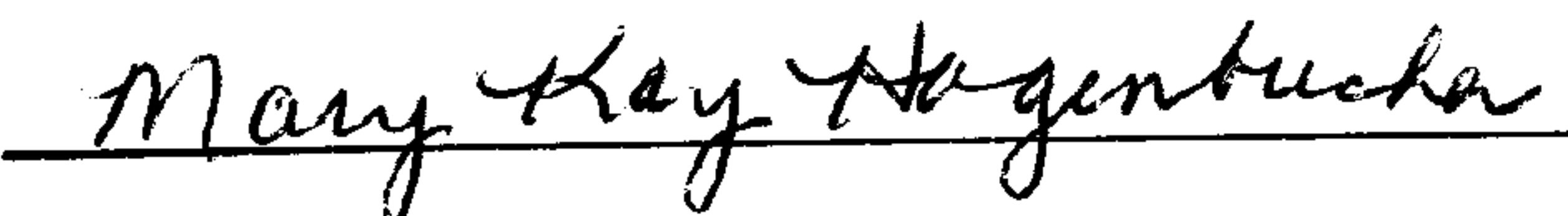
NOW, THEREFORE, BE IT FURTHER ORDAINED AND RESOLVED that the Town of Cassel does hereby adopt the application process for ATV and UTV route and trail designation outlined in § 7.125 of the General Code of Ordinances for Marathon County to be applied to the designation of ATV routes and trails within the jurisdiction of the Town; and

NOW, THEREFORE, BE IT FURTHER ORDAINED AND RESOLVED that the Town of Cassel does hereby approve the enforcement of the regulations and rules of operations in § 7.125 of the General Code of Ordinances for Marathon County by the Marathon County Sheriff's Office; and

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED that a copy of this Ordinance shall be sent to the State of Wisconsin and local law enforcement as required by law; and

BE IT FURTHER RESOLVED that the ordinance shall take effect upon passage and publication as required by law.

Dated the 8th day of February, 2021.


_____, Chairman

_____, Supervisor

_____, Supervisor

_____, Attest Clerk

MARATHON COUNTY ORDINANCE Sec. 7.125
ALL-TERRAIN VEHICLES AND UTILITY TERRAIN VEHICLES

- (1) *Intent.* To create uniform procedures and requirements for the use and operation of All-Terrain Vehicles and Utility Terrain Vehicles on Marathon County routes and trails.
- (2) *Definitions.* In this section, words and phrases used herein shall have the meaning as defined by Wis. Stat. § 23.33(1), unless otherwise defined herein. All-terrain vehicles (hereinafter referred to as ATVs) shall have the definition given in Wis. Stat. § 340.01(2g). Utility terrain vehicles (hereinafter referred to as UTVs) shall have the definition given in Wis. Stat. § 23.33(1)(ng). Any reference to a Wisconsin Statute Section or Administrative Code Regulation is a reference to that specific chapter, section, code, or its successor chapter, section, or code. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles.
- (3) *Statutory Authority.* Marathon County is authorized to designate highways as ATV/UTV routes pursuant to Wis. Stat. §§ 23.33(8)(b) and 59.02, and is authorized to enact ordinances regulating ATVs and UTVs on designated routes and trails pursuant to Wis. Stat. § 23.33(11)(a).
- (4) *Designating ATV/UTV Routes.* The Marathon County Highway Commissioner (Commissioner) may designate ATV/UTV routes following due consideration of the recreational value and after weighing possible dangers, public health, liability concerns, terrain involved, traffic density, and history of automobile traffic on potential and existing routes.
 - (a) *Duties of Highway Commissioner.*
 - (i) The Commissioner shall designate which portions of county highways are ATV/UTV routes. The Commissioner will update the Infrastructure Committee with respect to the status of, and changes to, ATV/UTV routes.
 - (ii) The Commissioner shall ensure that all routes designated pursuant to this Ordinance are properly posted.
 - (iii) The Commissioner shall establish the official ATV/UTV route opening and closing dates for each year. Dates shall be posted on the Marathon County website in a place visible to the public.
 - (iv) All routes established pursuant to this Ordinance shall be reviewed annually by the Commissioner to consider the continued value, efficacy, and need for the ATV/UTV routes.

- (b) *Application Process for Route Designation.* The Commissioner shall develop policies and procedures for consideration of, and designation of, ATV/UTV routes in accordance with the requirements of Wis. Stat. § 23.33, Wis. Admin. Code NR § 64, and the provisions of this Ordinance.
- (i) *Municipalities.* Any town, village, or city in Marathon County may apply to the Commissioner and request that portions of county highways be designated as ATV/UTV routes. Applications shall be completed on a form prescribed by the Commissioner and must be in compliance with the policies and procedures developed by the Commissioner for the designation of ATV/UTV routes. The town, village, or city must further affirm that the municipality will pay for the costs to make, install, and maintain ATV/UTV route signs.
- (ii) *ATV/UTV Clubs.* An organization that has assembled as a recognized ATV/UTV club may apply to the Commissioner and request that the Commissioner designate an ATV/UTV route within Marathon County. Applications shall be completed on a form prescribed by the Commissioner and must be in compliance with the policies and procedures developed by the Commissioner for the designation of ATV/UTV routes. An ATV/UTV club must further affirm that the club will pay for the costs to make, install, and maintain ATV/UTV route signs.
- (iii) The County Board of Supervisors may rescind or modify the designation of an ATV/UTV route by enactment of an ordinance rescinding or modifying the designation.
- (iv) *Application requirements.* An application for designation of an ATV/UTV route, at a minimum, include the following:
1. A map showing the proposed ATV/UTV route on the county highway system.
 2. A map showing any ATV/UTV trails leading to the proposed route.
 3. A statement explaining why the proposed route should be designated as an ATV/UTV route.
 4. If the applicant is an ATV/UTV club, the names and addresses of its officers, the date when the organization was established or incorporated, and the number of members.
 5. A statement that the applicant will be financially responsible for payments for the installation and maintenance of required ATV/UTV route signs.

6. Any municipality in which the segment of a county roadway being proposed as an ATV/UTV route exists must have adopted the regulations in (6) of this provision for the application to be considered.
- (v) *Appeal.* The Commissioner's determination regarding an application for or continuation of a designated ATV/UTV route may be appealed by the person aggrieved as provided in Chapter 24 of the Marathon County Code of Ordinances. In the event of an appeal, the review of the Commissioner's initial determination shall be conducted by the county administrator or his or her designee.
- (5) *Designating ATV/UTV Trails.* The Wausau and Marathon County Parks, Recreation, and Forestry Director (Director) may designate ATV/UTV trails following due consideration of the recreational value and after weighing possible dangers, public health, liability concerns, and terrain involved.
 - (a) *Duties of Director.*
 - (i) The Director shall designate which portions of county land are designated as ATV/UTV trails. The Director will update the Infrastructure Committee with respect to the status of, and changes to, ATV/UTV trails.
 - (ii) The Director shall ensure that all trails designated pursuant to this Ordinance are properly posted.
 - (iii) The Director shall establish the official ATV/UTV trail opening and closing dates for each year. Dates shall be posted on the Marathon County website in a place visible to the public.
 - (iv) All trails established pursuant to this Ordinance shall be reviewed annually by the Director to consider the continued value, efficacy, and need for the ATV/UTV trails.
 - (b) *Application Process for Trail Designation.* The Director shall develop policies and procedures for consideration of, and designation of, ATV/UTV trails in accordance with the requirements of Wis. Stat. § 23.33, Wis. Admin. Code NR § 64, and the provisions of this Ordinance.
 - (i) *Municipalities.* Any town, village, or city in Marathon County may apply to the Director and request that portions of county lands be designated as ATV/UTV trails. Applications shall be completed on a form prescribed by the Director and must be in compliance with the policies and procedures developed by the Director for the designation of ATV/UTV trails. The town, village, or city must further affirm that the municipality will pay for the costs to make, install, and maintain ATV/UTV trail signs.

(ii) *ATV/UTV Clubs.* An organization that has assembled as a recognized ATV/UTV club may apply to the Director and request that the Director designate an ATV/UTV trail within Marathon County. Applications shall be completed on a form prescribed by the Director and must be in compliance with the policies and procedures developed by the Director for the designation of ATV/UTV trails. An ATV/UTV club must further affirm that the club will pay for the costs to make, install, and maintain ATV/UTV trail signs. The Director may require an ATV/UTV club to execute a trail maintenance contract and obtain or maintain insurance as required by Marathon County.

(iii) The County Board of Supervisors may rescind or modify the designation of an ATV/UTV trail by enactment of an ordinance rescinding or modifying the designation.

(iv) *Application requirements.* An application for designation of an ATV/UTV trail must, at a minimum, include the following:

1. A map showing the proposed ATV/UTV trail in relation to the county highway system.
2. A map showing any ATV/UTV routes leading to the proposed trail.
3. A statement explaining why the proposed trail should be designated as an ATV/UTV trail.
4. If the applicant is an ATV/UTV club, the names and addresses of its officers, the date when the organization was established or incorporated, and the number of members.
5. A statement that the applicant will be financially responsible for payments for the installation and maintenance of required ATV/UTV trail signs.
6. If the proposed trail travels on private property, a statement from the owner of said property attesting that the landowner will consent to the creation of a trail on said property.

(b) *Appeal.* The Director's determination regarding an application for or continuation of a designated ATV/UTV trail may be appealed by the person aggrieved as provided in Chapter 24 of the Marathon County Code of Ordinances. In the event of an appeal, the review of the Director's initial determination shall be conducted by the county administrator or his or her designee.

(6) *Regulation of ATVs and UTVs.* Except as otherwise provided herein, the statutory provisions of Wis. Stat. § 23.33 and Wis. Admin. Code NR § 64, which create, describe, and define regulations with respect to ATVs and UTVs, are adopted and, by reference, made a part of this Code as if fully set forth herein.

(a) *Operator and Rider Requirements.* Any person who operates or rides as a passenger on an ATV or UTV on a roadway that is an ATV/UTV route in Marathon County designated pursuant to Wis. Stat. § 23.33(8)(b)1, or an ATV/UTV trail in Marathon County designated pursuant to Wis. Stat. § 23.33(8)(c), must meet the following requirements:

(i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Wis. Stat. § 23.33 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis. Stat. § 23.33 and Wis. Admin. Code NR § 64 are adopted and incorporated in this Ordinance.

(ii) No person may operate an ATV or UTV without having attained the age of 16.

(iii) No person may operate an ATV or UTV without a valid driver's license.

(iv) All operators shall have a liability insurance policy in force on any ATV or UTV operated on an ATV/UTV route or trail. The liability insurance policy must have the following minimum coverages:

- a. \$10,000 for property damage
- b. \$25,000 for the injury or death of one person
- c. \$50,000 for the injury or death of more than one person

(b) *Rules of Operation.* The operation of an ATV or UTV on a roadway that is an ATV/UTV route in Marathon County designated pursuant to Wis. Stat. § 23.33(8)(b)1, or an ATV/UTV trail in Marathon County designated pursuant to Wis. Stat. § 23.33(8)(c), is subject to the following rules of operation:

(i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in Wis. Stat. § 23.33 and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in Wis. Stat. § 23.33(3) are adopted and incorporated in this Ordinance.

(ii) Operators may only operate on a designated ATV/UTV route or trail if said route or trail is signed in accordance with Wis. Stat. § 23.33(8)(e) and Wis. Admin. Code NR § 64.12(7).

(iii) *Speed Limits.*

- a. Operators on ATV/UTV routes shall observe a speed limit not to exceed 35 miles per hour or the posted speed limit on the roadway, whichever is less.
- b. Operators on ATV/UTV trails shall observe a speed limit not to exceed 35 miles per hour or the posted speed limit on the trail, whichever is less.

(iv) Operators shall ride in single file.

(v) Operators may not operate an ATV or UTV on an ATV/UTV route at any time before or after Operating Hours. Operating Hours are designated as one hour before sunrise and one hour after sunset.

(vi) All ATVs and UTVs must operate with fully functional headlamps, tail lamps, and brake lights.

(vii) Every ATV or UTV shall be equipped, maintained, and operated to prevent excessive or unusual noise. No person shall operate an ATV or UTV on an ATV/UTV Route unless the vehicle is equipped with a muffler or other effective noise-suppressing system in good working order and in constant operation.

(c) *Enforcement.*

- (i) Any act that is required or is prohibited by any statute or administrative code provision incorporated herein by reference is required or prohibited by this Code.
- (ii) The Marathon County Sheriff's Office, local law enforcement agencies, and the Marathon County Parks, Recreation & Forestry Department shall have authority to enforce this Ordinance pursuant to Wis. Stat. § 23.33 (12).

(d) *Penalties.*

- (i) Any forfeiture for a violation of State Statute or Administrative Code adopted by reference in this Ordinance shall conform to the forfeiture permitted to be imposed for violation of said statutes or code provisions as set forth therein.

(ii) Any violation of a section of this Ordinance without a penalty specified by statute or administrative code shall have a cash deposit requirement of fifty dollars (\$50.00) plus court costs. A cash deposit requirement of one-hundred fifty dollars (\$150.00) plus court costs will be required for a second violation of this Ordinance within a 12-month period.

(7) *Severability.* The provisions of this ordinance shall be deemed severable and it is expressly declared that Marathon County would have passed the other provisions of this ordinance irrespective of whether or not 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 person's circumstances shall not be deemed affected.