

Ordinance No. 2010-007

AN ORDINANCE TO REPEAL AND RECREATE SECTION 7.12 OF THE TOWN OF DELAFIELD MUNICIPAL CODE RELATED TO REGULATION OF OFF-THE-ROAD VEHICLES

WHEREAS, the Town Board has received complaints regarding noise, dust and other disturbances related to dirt bikes and other off-road vehicles being driven on private property within the Town of Delafield; and

WHEREAS, the Town Board has also received complaints that off-road vehicles have damaged public property within the Town of Delafield; and

WHEREAS, the Town currently regulates off-road vehicles to some extent, however the Town Board finds that additional regulation is required in order to preserve the health, safety and welfare, peace and good order of the Town of Delafield.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 7 of the Town of Delafield Municipal Code entitled "Traffic Code," Section 7.12 entitled "Regulation of Mini Bikes and All-Terrain Vehicles," is hereby repealed and recreated with the title "Regulation of Off-the-Road Vehicles," as follows:

7.12 REGULATION OF OFF-THE-ROAD VEHICLES

(a) **Definitions.** As used in this section, the following terms shall have the meaning indicated:

ALL-TERRAIN VEHICLE - Has the meaning specified under § 340.01(2g), Wis. Stats., as amended from time to time.

CONTIGUOUS – To be contiguous for purposes of this section, the real property must satisfy all of the following requirements:

(1) The entire property must:

(a) either be a single parcel with a single tax identification number but only if the single parcel is at least 210 feet wide at each and every point; or

(b) be two or more parcels with separate tax identification numbers, only if all of the following are true:

(1) each parcel must have a common boundary line of at least 210 feet with another parcel that makes up the entire property; and

(2) all of the parcels that make up the entire property must be in identical ownership; and

(3) the entire property must be treated and occupied by the property owner as a single unit for a use permitted by the applicable zoning district; and

(4) there must be no gaps or obstructions between the parcels, whether by public right of way, body of water, physical construction or otherwise.

(5) The entire property must be at least 210 feet wide at each and every point.

(2) If a public right of way, body of water, physical construction or other obstruction crosses a parcel of land, the parcel as a whole does not qualify as contiguous property. In that event, each severed portion shall constitute a separate parcel for purposes of this section.

OFF-THE-ROAD VEHICLE - Any two-wheeled self-propelled vehicle designed or adapted and used for riding over unpaved ground or gravel surfaces. Such vehicles may be equipped with rugged tires and flexible suspension and are called by various names: dirt bike, pit bike, chopper bike, sport bike, street bike, exercise bike, mini bike, and scrambler that are combustion engine operated. "Off-the-road vehicle," as used in this section, does not include all-terrain-vehicles and snowmobiles, as defined in § 340.01 (2g) and (58a), respectively, Wis. Stats., as amended from time to time.

OPERATOR - A person who operates a vehicle herein regulated, who is responsible for the operation of a vehicle herein regulated or who is supervising the operation of a vehicle herein regulated.

TRACKS - Any real property within the Town where repetitive operation of any vehicle(s) regulated by this section has worn down a specific area on private property and/or where changes have been made to the original contour of the landscape for riding of any vehicle(s) regulated by this section.

(b) **All-Terrain Vehicles.** The restrictions and prohibitions concerning the operation of all-terrain vehicles found in Section 23.33 Wisconsin Statutes, as now or hereinafter amended, are hereby adopted by reference and made a part of this section with the same force and effect as if fully set forth herein.

(c) **Off-the-Road Vehicles.**

(1) No person may operate an off-the-road vehicle within the Town on any property less than ten contiguous acres in size.

(2) An off-the-road vehicle may be operated on property that is ten or more contiguous acres in size with the consent of the adult property owner. Any adult property owner within the Town having not less than ten contiguous acres of property may operate and/or permit operation of an off-the-road vehicle on their property subject to the following restrictions:

- (a) No operator shall operate any off the road vehicle within 100 feet from any property line.
- (b) Only the property owner(s) and/or or occupant(s) of the real estate may operate an off-the-road vehicle under this section.
- (c) No operator shall operate between the hours of 7 p.m. and 9 a.m. within 100' of a dwelling.
- (d) No operator shall operate on the shoulders, in the drainage ditches or on public streets and highways.
- (e) No operator shall operate in excess of 25 mph.
- (f) No operator shall operate with more than one passenger.
- (g) No operator shall operate without protective headgear.
- (h) No operator shall operate on a public or private street or highway unless the driver has an operator's license and the vehicle is licensed by and meets the equipment requirements of the State.
- (i) No operator shall operate who is under 12 years of age.
- (j) No operator shall operate so as to race the engine or otherwise cause unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, health, peace or safety of others.

(d) **Tracks Regulated.** No operator shall cause or permit the creation or establishment of a track for the operation of any vehicle regulated under this section without site plan and plan of operation review and approval pursuant to Section 17.03(1)(C) of this code and compliance with such other statutes, codes, ordinances and other laws as may apply.

(e) **Parental Responsibility.** The parent or guardian having legal custody of an unemancipated minor child shall be liable for penalties and costs imposed for violations of this section, where such minor is unable to pay the same, including the jail sentence for nonpayment thereof.

SECTION 2: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.


This ordinance passed this 28th day of September, 2010.

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD:



Paul L. Kanter, Town Chairman

ATTEST:



Mary T. Elsner, CMC, WCMC
Town Clerk

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