

CHAPTER 29: OFF-ROAD RECREATIONAL VEHICLE ORDINANCE

29.01. Title/Purpose.

This chapter is entitled the “Off-Road Recreational Vehicle Ordinance.” The purpose of Chapter 29 is to foster and regulate the recreational use of off-road motorized vehicles upon public and private lands in the Town in a manner which best promotes public health, safety, comfort and tranquility, prosperity, aesthetics, and the general welfare of the Town and its environs.

29.02. Statutory Authority.

This chapter is adopted upon authority, explicit, inherent, and implied, granted to the Town by the Wisconsin Constitution and Wisconsin Legislature, specifically, although not exclusively, by Wis. Stat. §§ 60.22(3) and 61.34(1).

29.03. Abrogation and Greater Restrictions.

It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with duties under common law, or with any other rules, regulations, ordinances or permits adopted or issued pursuant to law. However, whenever this chapter imposes greater restrictions, the provisions of this chapter shall apply.

29.04. Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

29.05. Applicability.

The requirements of this chapter apply to all persons within the limits of the Town of Darien, Walworth County, Wisconsin.

29.06. Enforcement.

The provisions of this chapter may be enforced by such means as are provided and permitted by law, including by issuance of citations as provided in the Town citation ordinance.

29.07. Definitions.

As used in this chapter, the following terms have the meaning set forth herein:

A. “Highway” has the same meaning as defined at Wis. Stat. § 340.01(22).

B. "Motor vehicle" means any vehicle, intended or designed for a human driver or passenger, which is self-propelled.

C. "Obstacle course" means any visible or marked course, track, or path which has been knowingly and materially altered to include bumps, hills, jumps, ramps, bogs, or other such obstacles to any motor vehicle.

D. "Off-road motorized vehicle":

(1) Means any motor vehicle, including, as examples, but not in limitation, any automobile, truck, bus, motorcycle, moped, scooter, all-terrain vehicle, or snowmobile, whether or not such vehicle is registered for operation upon the highways, whenever such vehicle is off of a highway.

(2) "Off-road motorized vehicle" does not mean any police vehicle, ambulance, fire engine, or emergency vehicle while engaged in necessary emergency activities; a vehicle while being operated primarily for an agricultural purpose; a vehicle or construction machinery while being operated primarily for a construction, repair, or maintenance purpose; a vehicle while being operated primarily for yard maintenance or landscaping; or an electric personal assistive mobility device.

E. "Offsite property":

(1) "Offsite property" means any parcel of land which is not the parcel of land upon which the subject operation of an off-road motorized vehicle occurs.

(2) "Offsite property" does not mean a highway.

F. "Operation of an off-road motorized vehicle":

(1) "Operation of an off-road motorized vehicle" means starting or running the engine or motor of an off-road motorized vehicle, whether or not the off-road motorized vehicle is moving.

(2) "Operation of an off-road motorized vehicle" does not mean ordinary, momentary and transitory ingress to, or egress from, a parcel of land.

G. "Race-track" means any visible or marked course, track, or path knowingly created or used for formal or informal races, competitions, time trials, or for practice or training for races, competitions or time trials.

H. "Sustained" means for more than a total of 15 minutes per day.

I. "Sustained sounds or noises" means any sounds or noises heard for more than a total of 15 minutes per day upon any one offsite property.

29.08. Prohibited Activities.

A. No person shall cause, allow, or permit the operation of an off-road motorized vehicle within the Town so as to cause dirt, debris, snow, ice, or other similar substances to enter upon an offsite property, without the consent of the owner or lawful occupant of that offsite property.

B. No person shall cause, allow, or permit the operation of an off-road motorized vehicle within the Town so as to cause dust, exhaust, fumes, smoke, or other similar substances, such as would materially annoy or disturb a person of ordinary sensibilities, to enter upon an offsite property, without the consent of the owner or lawful occupant of that offsite property.

C. No person shall cause, allow, or permit the operation of one or more off-road motorized vehicles within the Town so as to cause upon an offsite property, without the consent of the owner or lawful occupant of that offsite property, sustained sounds or noises such as would materially annoy or disturb a person of ordinary sensibilities.

D. No person shall cause, allow, or permit the sustained operation of an off-road motorized vehicle within the Town if such off-road motorized vehicle does not conform to the noise limit of Wis. Stat. § 23.33(6m)(a).

E. No person shall cause, allow, or permit the operation of an off-road motorized vehicle within the Town so as to intentionally, or with reckless disregard, cause livestock upon an offsite property to startle, bolt, jump, stampede, or to otherwise react in a manner dangerous to itself, to other livestock, or to any person.

F. No person shall cause, allow, or permit the operation of an off-road motorized vehicle within the Town upon any race-track or obstacle course for motor vehicles, whether formal or informal, if any part of such race-track or obstacle course for motor vehicles comes within 150 feet of an occupied dwelling, without the consent of the owner or lawful occupant of that occupied dwelling, or if any part of such race-track or obstacle course for motor vehicles comes within 50 feet of the paved portion of a highway.

29.09. Effective Date.

The provisions of this chapter shall become effective upon adoption and publication or posting, as provided by law.