

Ordinance 2022-02

Town of Port Washington, Ozaukee County
An Ordinance
Amending Chapter 322 of the Town Code
Concerning All-Terrain Vehicles and Utility Terrain Vehicles

WHEREAS, the Town Board intends to enhance transportation options, recreational opportunities, and improve commerce within the Town; and

WHEREAS, Wis. Stat. s. 23.33(8)(b) grants to municipalities the ability to designate highways under its jurisdiction as all-terrain vehicle routes; and

WHEREAS, Wis. Stat. s. 23.33(8)(d) grants to municipalities the ability to specify effective periods for the use of all-terrain vehicle routes; and

WHEREAS, Wis. Stat. s. 23.33(11) grants to municipalities the ability to enact ordinances regulating all-terrain vehicles and utility terrain vehicles on designated routes;

THEREFORE, the Board of Supervisors of the Town of Port Washington, Ozaukee County, Wisconsin do ordain as follows:

- I. Chapter 322 of the Town Code is hereby amended by adding Article V as follows:

Article V
ATV/UTV Regulations

§ 322-9. Adoption of state statutes and administrative code provisions by reference.

- A. Wisconsin Statute § 23.33 is hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to said statute as may be made by the Legislature in the future.
- B. Those portions of Chapter 346 of the Wisconsin Statutes identified in Wis. Stat. § 346.02(11) are hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to either § 346.02(11) or to the sections identified by reference within § 346.02(11) as may be made by the Legislature in the future.
- C. Wisconsin Administrative Code § NR 64 is hereby incorporated by reference as if set forth here in full, including any amendments or renumbering to said administrative code chapter as may be made by the Department of Natural Resources in the future.

§ 322-10. Routes designated.

All highways under the maintenance jurisdiction of the Town of Port Washington are hereby designated as all-terrain vehicle routes, except for the following highway(s) which are expressly not designated as all-terrain vehicle routes:

- a. River Lane Road.

§ 322-11. ATV and UTV operation authorized.

The operation of all-terrain vehicles or utility terrain vehicles is authorized:

- A. On a highway bridge that is not part of the national system of interstate and defense highways, that is 1,000 feet in length or less, and that is located within the territorial boundaries of the Town of Port Washington, regardless of whether the Town has jurisdiction over the highway, provided that the operator do all of the following:
 - 1. Cross the bridge in the most direct manner practicable and at a place where no obstruction prevents a quick and safe crossing.
 - 2. Stay as far to the right of the roadway or shoulder as practicable.
 - 3. Stop the vehicle prior to the crossing.
 - 4. Yield the right-of-way to other vehicles, pedestrians, electric scooters, and electric personal assistive mobility devices using the roadway or shoulder.
 - 5. Exit the highway as quickly and safely as practicable after crossing the bridge.
- B. On a highway that is not part of the national system of interstate and defense highways, that has a speed limit of 35 miles per hour or less, and that is located within the territorial boundaries of the Town of Port Washington, regardless of whether the Town has jurisdiction over the highway.

§ 322-11. Restrictions.

- A. No person shall violate any provision of any state statute or administrative code adopted by reference in § 322-9.
- B. No person shall operate an all-terrain vehicle or utility terrain vehicle between the hours of 11:00 p.m. and 5:00 a.m.
- C. On any route that runs upon the boundary with another municipality, as between the Town and the adjoining municipality, the more restrictive provision shall apply upon the full width of the route that runs upon the boundary.
- D. When multiple all-terrain vehicles or utility terrain vehicles are operating in the same location, the operators shall proceed single-file and may not operate 2 or more vehicles abreast.

§ 322-12. No Town liability.

Operation of an all-terrain vehicle or utility terrain vehicle is a recreational activity as defined by Wis. Stat. § 895.52(1)(g). Pursuant to Wis. Stat. § 895.52(2), the Town is immune from liability to any person who engages in a recreational activity except as provided in Wis. Stat. § 895.52(4).

§ 322-13. Enforcement and penalty.

- A. The provisions of this Article may be enforced by any officer designated by Wis. Stat. § 23.33(12)(a).
- B. The penalty for any violation of this Article shall be as set forth in Wis. Stat. § 23.33(13) with the deposit amount as set forth in the Uniform Deposit and Bail Schedule adopted pursuant to Wis. Stat. § 23.66(4).

- II. The provisions of this ordinance shall be deemed severable, and it is expressly declared that the Town 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 persons or circumstances shall not be deemed affected.

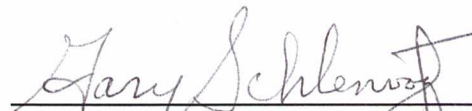
- III. This ordinance becomes effective upon publication and upon posting of necessary signage as set forth by Wisconsin Administrative Code § NR 64.

ADOPTED THIS 2 day of May, 2022.

**BY THE TOWN BOARD OF SUPERVISORS
TOWN OF PORT WASHINGTON
OZAUKEE COUNTY, WI**



Michael Didier, Town Chair

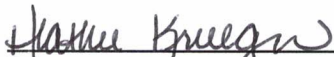


Gary Schlenvogt, Town Supervisor



Greg Welton, Town Supervisor

Attest:



Heather Krueger, Town Clerk

TOWN OF PORT WASHINGTON

OFFICE OF THE CLERK

Official Minutes of the regular meeting of the Port Washington Town Board
Monday, May 2, 2022, at 7:30 p.m.
At the Town Hall, 3715 Highland Drive, Port Washington, WI

1. Roll Call and Pledge of Allegiance.

Present: Mike Didier, Greg Welton, Gary Schlenvogt, Heather Krueger-Clerk, Mary Sampont-Treasurer, Roger Kison

Absent: none

Residents: 17 Residents, 1 member of the Press

2. Approval of April Town Board and road tour minutes. Motion made by Didier to approve April Town Board and Road Tour minutes, second by Schlenvogt. Motion passed unanimously.

3. Public Comments. James Kultgen, 3741 River Lane Rd., can the town add double lines and passing on Mink Ranch Road if the ordinance is approved? Didier: yes, the town board has authority to do so if needed, it would need engineered. Justin Myers, 3709 E Norport. if the town passes the ATV ordinance, can other people from outside Port use our roads? Didier, yes, roads are open to all.

4. Town Chairman report. 1) Didier was contacted by the City of Port Washington mayor to have a conversation regarding a county-wide Fire/EMS services. 2) Didier received a call from a resident on Bayhill Rd regarding the town fireworks permit. 3) Didier contacted the Belgium Assistant Fire Chief regarding the water bill the town received from the Iron Hog fire. The fire department did not bill us, the Village billed the city and it was forwarded to the town.

5. Town Supervisor report. Welton reports that he has received calls from residents regarding the new Ansay development and the placement of the road. Per the plans the road lines up with Applewood Drive. Welton would like the town to be able to see plans and be part of the approval process for the road placement.

6. Town Building Inspector report. Kison reports he received a kitchen remodel permit, basement remodel, deck, and will be receiving 2 new home permits in May.

7. Town Treasurer report. Sampont reports the Town has a balance of \$464,534.53 in the money market account, \$79,903.19 in the checking account, \$35.07 in the small business account, and \$83,503.09 in the Newburg State Bank (APRP funds).

8. Town Clerk report. Per Krueger, the annual recycling grant has been submitted. The Rural Mutual audit has been completed. The APRP Funds grant has been submitted stating the town has not spent any funds to date, and there currently are no plans. Krueger sent out the annual liquor license renewal and those will be on the June town board agenda.

9. Second consideration and possible action to approve Ordinance 2022-02 ATV/UTV use on town roads. Per Schlenvogt, farmers have been driving ATV vehicles on town roads for years with little to no incidents. Allowing the use of ATVs on roads would enhance our community and not make it detrimental. Schlenvogt would be in favor of adding signage on River Lane Rd prohibiting use. Is there an estimate on what signage would cost? Didier: The estimate is \$2400 which includes signs and labor, which may also be donated from a private club as well, but the town is ultimately responsible for the signs. Didier states that during the public comments he noticed that public safety was the major concern along with noise. Statistically, town roads are the most dangerous types of roads. Didier does not think the Sheriff Dept has a formal opinion on the use of ATVs on roads, some are for it and some against personally. Didier does not feel trespassing on private land will be an issue. This ordinance includes all town roads except for shared roads of Northwoods and E Sauk Rd.

Welton: Can this ordinance be reviewed annually? Didier: yes, the town board can review it whenever they feel its needed. **Motion made by Welton to approve the Ordinance 2022-02 with the condition that it is reviewed in a year and that River Lane Road is omitted. Second by Schlenvogt. Aye – 2, Nay-1. Motion passes.**

10. **Discussion and possible action to approve Resolution 2022-02 Fee Schedule.** Changes include adding a fee for Egress Windows / \$75 ea., solar panel \$5/per panel and Broadband application fee \$100. Change the size of an accessory structure from 800 square feet to 1,200 square feet. **Motion made by Welton to approve the fee schedule as presented, second by Schlenvogt. Motion passed unanimously.**
11. **Discussion regarding annual road tour which took place on April 21, 2022.** Marvin Kolbach: Did the board look at the culvert on Woodland? Didier, no but we will. Didier states there are a lot of roads that need maintenance, and the town did not do any maintenance in 2021. Welton, can we patch Woodland? Didier will look at it, but it may be very expensive to patch especially if we resurface in the next couple of years.
12. **Discussion and possible action to approve Road Bids for 2022.** Didier: the bids are high, and the town doesn't have the funds to resurface and do maintenance. Its in the best interest to do maintenance only this year and not a construction project. **Motion made by Didier to not accept road bids, go forward with road tour maintenance items for 2022, second by Welton. Motion passed unanimously.**
13. **Discussion and possible action to approve Operator License for Richard Walters. Motion made by Didier to approve operator license for Richard Walters, second by Welton. Motion passes unanimously.**
14. **Discussion on complaint about garbage on residential property at 4192 County Road LL.** Didier received a complaint from adjoining/surrounding landowner and has given the town board permission to enter his property to view the address at 4192 County Road LL, as there is no access except for an easement from the surrounding property. The complaint states there are junk cars, tarps, burn barrels, old RVs. Per the town attorney, the town board will need to determine if there is anything the town board needs to enforce. **Motion made by Didier to have the town board independently inspect the property at 4192 County Road LL via George Roberts property, second by Welton. Motion passed unanimously.**
15. **Consideration and approval of monthly bills. Motion made by Welton to approve the April bills in the amount of \$ \$12,827.52, second by Schlenvogt. Motion passed unanimously.**
16. **Adjourn. Motion made by Schlenvogt to adjourn May Town Board meeting at 8:20 PM, second by Welton. Motion passed unanimously.**

Heather Krueger- Clerk