

ORDINANCE NO. 1361-0819

Upon the recommendation of the Community Protection and Services Committee the Common Council of the City of Sturgeon Bay, Door County, Wisconsin, do ordain as follows:

**SECTION 1: Chapter 37 of the Sturgeon Bay Code of Ordinances is hereby created to read as follows:**

**Chapter 37 – Commercial quadricycle licensing.**

**37.01 – Definitions.**

- (1) *Applicant* means the individual applying for a license under this section or any person who is an officer of a corporation that is applying for a license under this section.
- (2) *Commercial quadricycle* means a vehicle with fully operative pedals for propulsion entirely by human power that:
  - (a) Has four wheels and is operated in a manner similar to a bicycle;
  - (b) Is equipped with at least eight (8) seats for passengers;
  - (c) Is designed to be occupied by a driver and by passengers providing pedal power to the drive train of the vehicle;
  - (d) Is used for commercial purposes; and
  - (e) Is operated by the vehicle owner or an employee of the owner.
- (3) *Commercial quadricycle business* means any enterprise that owns a commercial quadricycle or manages the operation of a commercial quadricycle.
- (4) *Commercial quadricycle operator's license* means an operator's license as described below in 37.02.
- (5) *Public commercial quadricycle operator* means any person who operates a commercial quadricycle or commercial quadricycle which transport passengers for hire or compensation.

**37.02 – Licenses required.**

- (1) *Commercial quadricycle business license.* No person may engage in a commercial quadricycle business unless each commercial quadricycle used in the business is licensed. A commercial quadricycle business license shall expire on December 31 of each year.

- (2) *Commercial quadricycle operator's license.* No person may operate a commercial quadricycle for purposes upon a highway or public road unless the person is licensed as a public commercial quadricycle operator. The public commercial quadricycle operator's license shall expire on December 31 of each year.

### **37.03 – Commercial quadricycle business application process.**

- (1) *Application.* A person wishing to operate a commercial quadricycle business shall apply to the city clerk for a business license using an approved form and pay the clerk a fee in the amount designated in the City of Sturgeon Bay Fee Schedule for each commercial quadricycle managed by the person. The clerk shall forward the application to the police department for review. The police department shall deny the application if any of the following applies:
- (a) The circumstances of a pending criminal charge against the applicant substantially relate to the licensed activity.
  - (b) The applicant has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the particular job or licensed activity.
  - (c) The applicant made a false statement on the application.
  - (d) The applicant is under 18 years old.
- (2) *Commercial Quadricycle Plan of Operation.* All applicants must complete and file with the clerk a Commercial Quadricycle Plan of Operation detailing the hours of operation, routes, quadricycle operators, and the rules the licensee will enforce on its customers regarding alcohol beverage possession and consumption and litter and noise regulation. This plan of operation shall be forwarded to the Police and Fire departments for consideration as a condition of approval of the license. In its review, the Police and Fire department may recommend approval, approval subject to certain modifications or denial of the license.
- (3) *Appeal.* If the police or fire department denies an application for a commercial quadricycle business license, or demands modifications that the applicant objects to, the applicant may appeal within 15 days after the police and fire department mails a notice of its decision to the applicant. If the applicant files a timely appeal with the clerk, the clerk shall schedule an appeal hearing before the community protection and services committee.
- (4) *Hearing Before Committee.* The committee may approve any application placed on its agenda only if the applicant is qualified under this section and may place conditions upon approval. The common council shall affirm, reverse or modify the committee's decision.

- (5) *Issuance.* The clerk shall issue the commercial quadricycle business license if the applicant has been approved by the common council and has satisfied all other provisions of this section.
- (6) *Vehicle Inspection.* Before a commercial quadricycle business may operate a commercial quadricycle on a highway, the applicant shall obtain a certificate of inspection of the Commercial Quadricycle by a mechanic certified by the National Institute for Automotive Service Excellence (ASE). The ASE mechanic will provide certification, satisfactory to the police department that the Commercial Quadricycle is in sound mechanical working condition. This paragraph does not apply to a commercial quadricycle owned or operated by:
- (a) A nonprofit corporation that provides to the police department proof that the vehicle passed a state vehicle inspection.
  - (b) An organization which is exempt from federal income tax under IRC § 501(c)(3) that provides to the police department proof that the vehicle passed a state vehicle inspection.
- (7) *Insurance.* Maintain liability insurance coverage for the commercial quadricycle containing the limits of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage, issued by a company authorized to do business in the state. A certificate of insurance for liability coverage for the calendar year specific to each commercial quadricycle shall be filed with the city clerk.
- (h) *Police Department Vehicle Review.* The police department shall affix a license sticker to the rear of each inspected commercial quadricycle if the department determines that the commercial quadricycle is:
- (a) licensed with the city clerk.
  - (b) certified in safe working condition as required by subsection (g) (6) of this ordinance.
  - (c) insured as required by subsection (g) (7) of this ordinance.
  - (d) Conspicuously displaying on the exterior driver and passenger side of the vehicle:
    - (i) The name or trade name of the public vehicle business.
    - (ii) The phone number of the public vehicle business.
    - (iii) A unique number assigned by the commercial quadricycle business that identifies the particular vehicle.

(e) Conspicuously displaying within the front passenger compartment:

- (i) A display holder within which commercial quadricycle operators can show their licenses while operating the commercial quadricycle.

### **37.04 – Commercial quadricycle operator's license application process.**

- (1) *Application.* A person wishing to obtain a commercial quadricycle operator's license shall apply to the city clerk using a common council approved form and pay to the clerk the proper license fee and submit an acceptable passport-sized photo. The clerk shall forward the application to the police department for review. If the police department approves the application, it shall forward its recommendation to the clerk. The police department shall deny the application if any of the following applies:
  - (a) The circumstances of a pending criminal charge against the applicant substantially relate to the licensed activity.
  - (b) The applicant has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the particular job or licensed activity.
  - (c) The applicant made a false statement on the application.
  - (d) The applicant is under 18 years old.
- (2) *Appeal.* If the police department denies an application for a commercial quadricycle operator's license, the applicant may appeal within 15 days after the police department mails a notice of denial to the applicant. If the applicant files a timely appeal with the clerk, the clerk shall schedule an appeal hearing before the community protection and services committee. The committee shall approve the application only if the applicant is qualified under this section and may place conditions upon approval. The common council shall affirm, reverse or modify the committee's decision.
- (3) *Issuance.* The clerk shall issue a commercial quadricycle operator's license if the applicant has been approved by the police and fire departments or the common council and has satisfied all other provisions of this section.

### **37.05 – Commercial quadricycle regulations. The owner and operator of a commercial quadricycle are both responsible for ensuring compliance with this subsection.**

- (1) *Deviation From Plan of Operations.* Licensees must adhere to the routes specified in their submitted Plan of Operations. New routes must be applied for and approved by the common council before a licensee may use the new routes. Temporary

routes must be applied for and approved by the chief of police or his or her designee. A temporary route application must be submitted in writing and include a proposed map no later than ten business days prior to the applicant's proposed first date of operation of the temporary route. No licensee shall operate a commercial quadricycle on a street closed off to public traffic regardless of whether the street is included in an approved route. Any deviation from a new or temporary route without approval shall be a violation of this section.

- (2) *Hours of Operation.* Commercial quadricycle operation is permitted between the hours of 10:00 am and 10:00 pm. Commercial quadricycle operation does not include the use of a commercial quadricycle for maintenance, inspection, or without passengers.
- (3) *Limitation on Location.* It is unlawful for any person to operate or to permit another to operate a commercial quadricycle at other times or in other locations than those approved by the common council or the chief of police or his or her designee.
- (4) *Operations without License.* No public commercial quadricycle operator shall drive, or be permitted by a public commercial quadricycle operator to drive, a commercial quadricycle without a valid Wisconsin driver's license or a valid driver's license issued by any other state in the United States.
- (5) *Limitation on Possession.* Passengers on a commercial quadricycle may possess on or carry onto the commercial quadricycle no more than 36 ounces of fermented malt beverages as defined in Wis. Stat. § 125.02(6). No other alcohol beverages, as defined in Ch. 125, Wis. Stats., may be possessed on, carried upon, or consumed upon a commercial quadricycle.
- (6) *Prohibition of Glass Containers.* No glass containers may be carried on a commercial quadricycle.
- (7) *Application to All Use.* Restrictions on possession, transportation and consumption of alcohol beverages in the operation of commercial quadricycles upon city highways and public places shall apply to operation of commercial quadricycles when used for non-revenue producing events or transportation in addition to regular commercial activities.
- (8) *Driver Consumption.* No driver of a commercial quadricycle may consume alcohol while the commercial quadricycle is occupied by passengers.
- (9) *Driver Restriction.* No person may drive a commercial quadricycle with an alcohol concentration of more than 0.02.
- (10) *Beer and Fermented Malt Beverages Only.* No person may drive a commercial quadricycle on which any alcoholic beverages are carried or consumed other than beer or fermented malt beverages under this section.

- (11) *Delivery Prohibited.* No person may drive a commercial quadricycle on which alcoholic beverages are sold and may not transport alcoholic beverages on a commercial quadricycle for the purposes of sale or delivery upon sale.
- (12) *Notice of Restrictions.* Passengers shall be advised by the operator, driver or other person responsible for the operation of the commercial quadricycle that no alcohol beverages shall be possessed on, carried upon, or consumed on a commercial quadricycle in violation of city ordinance or state statute, and shall conspicuously post a notice of these restrictions upon the commercial quadricycle in a form and manner approved by the city.
- (13) *License Required.* The operator of the commercial quadricycle shall hold a valid operator's license pursuant to subsection 37.01(1) City of Sturgeon Bay Code of Ordinance.
- (14) *Traffic Laws.* The operator of the commercial quadricycle shall operate the vehicle at all times in compliance with applicable local and state traffic and parking laws.
- (15) *Grounds for License Action.* Failure of a person to comply with the regulations of this section or to operate in accordance with the approved plan of operation shall constitute grounds for suspension or revocation of license.
- (16) *Council May Amend.* The common council may adopt and from time to time amend the regulations relating to commercial quadricycles and their operations, including, but not limited to, hours of operations, routes, vehicle markings and safety equipment.

### **37.06 Suspension and Revocation.**

- (1) *Intent.* Commercial Quadricycle Licenses or Commercial Quadricycle Operator's License may be suspended or revoked by the common council upon first affording the license holder an opportunity for a public evidentiary hearing as provided in this ordinance.
- (2) *Hearing form.* The Community Protection and Services Committee shall conduct any hearing or prehearing as described in this subsection.
- (3) *Grounds.* Licenses may be the subject of hearings as described in this provision for any violation of a provision of this ordinance or any other violation of ch. 125 Wis. Stats., or the Code of Ordinances deemed pertinent to the licenses regulated by this ordinance including, for purposes of illustration, but not limited to:
- (a) Licensee or operator directly interfering with police officers or otherwise violating the law in a manner substantially related to the operation of the licensed operation.

- (b) Traffic code violations including disorderly conduct with a motor vehicle or other action deemed unsafe in the judgement of the committee.
- (c) Disorderly or disruptive conduct by customers not controlled by licensee
- (d) Operating off route
- (e) Operating outside of permitted hours
- (f) Serving an underrated person
- (g) Violation of the Commercial Quadricycle Plan of Operation
- (h) Failure to maintain the qualifications required for a license under this ordinance.

(4) *Prehearing.* Any state or city agency may, by communication to the common council, bring allegations of any violation of state liquor laws or any violation referenced above before the Community Protection and Services Committee for prehearing as an item in the regular meeting of said committee. Conduct of such prehearing shall be informal, allowing the committee an opportunity to hear the allegations and permitting the accused licensee to respond if they so wish. The purpose of such prehearing will be to determine if the allegations are of such magnitude, importance, or otherwise of such nature to require a formal evidentiary hearing as provided by (5) below. After hearing the allegations and any response, the committee shall determine whether to recommend to the common council that: a formal evidentiary hearing be held based on the factors listed below. Nothing in this subsection shall prohibit a person from filing a verified complaint with the Community Protection and Services Committee and proceeding directly to a hearing as provided in subsection (6) below.

- (a) The licensee's history of convictions, charges, or complaints and the relationship of such history to licensed activities.
- (b) The length of time since such conviction, charge, or complaint.
- (c) The circumstances and seriousness surrounding the complaint(s) before the committee.
- (d) The degree of personal rehabilitation since the last incident involving the licensee.
- (e) The community's standards or interests to be protected.
- (f) The need for formal hearing to clarify the facts in regard to factors listed above.



(5) *Hearing.* If a prehearing is conducted, as provided in subsection (4), and a formal evidentiary hearing is ordered by the community protection and welfare committee, the city attorney's office, or a special prosecutor appointed for such hearing, shall draft a formal complaint and see to it that such complaint is served with a summons as provided in subsection (6) below. The complaint may include any alleged violation of state or municipal liquor law occurring in the preceding license year which was not the subject of a hearing under this section. Such complaint shall be issued in the name of the complainant and shall state specific violations complained of and may include any other violations involving the licensee in the past two license years which have not been the subject of a formal hearing. The complaint shall be served with a summons as provided in subsection (6) below. Any formal evidentiary hearing shall be held in conformity with the procedures in subsection (6) below.

(6) *Hearing procedures.*

(a) Upon a verified complaint filed with the city clerk that any person licensed hereunder has violated the provision of ch. 125, Wis. Stats., the criminal code of the state, or any provision of the Code of Ordinances, including those referenced in subsection (3) above, or any other provision of this chapter or ch. 125, Wis. Stats., the common council shall issue a summons signed by the clerk directed to any peace officer or constable therein, commanding the person so complained of to appear before the protection and welfare committee on a day and at a place named in such summons, not less than three days nor more than ten days from its date, and show cause why the license should not be suspended or revoked. Such summons shall be served at least three days before the time in which such person is commanded to appear, and shall be served as provided at ch. 801, Wis. Stats.

(b) The licensee may be represented by counsel at their own expense, present and examine witnesses, and have prepared at the licensee's expense a transcript of the hearing.

(c) The licensee and complainant shall be allowed the right to call and cross-examine witnesses under oath, present evidence and arguments.

(7) *Recommendations.* At the conclusion of the evidentiary hearing, which may be held in open or executive session depending on the nature of the evidence to be produced, the committee, following deliberation in open or executive session, shall consider the factors listed at subsection (4) and shall thereupon make specific findings of fact and conclusions of law, and forward one or more of the following recommendations to the common council:

(a) No action should be taken due to insufficiency of the evidence.

(b) No action should be taken at present because of an accommodation on the



part of the license holder has been reached.

(c) A warning letter be issued and the original thereof be retained in the licensee's file kept in the office of the city clerk.

(d) A suspension of not less than ten days nor more than 90 days be imposed.

(e) The license be revoked or invalidated.

(f) The licensee be placed on probation, and the committee shall set conditions therefore.

(g) The complaint be tabled pending disposition of pending criminal or municipal court code violations, at which time the matter will be considered and a recommendation made.

(8) *Consideration and Appeal.* The common council shall consider and take action on the recommendation of the Community Protection and Services Committee within 45 days after the Committee adjourns the hearing. The common council may adopt, reject, modify, or remand the recommendation to the Committee for further deliberations. Appeal from the decision of the Council shall be to the Door County circuit court.

### **37.07 Penalties:**

In addition to any penalty specifically provided for or ordered under this chapter, any person who violates any provision of this chapter shall be subject to a penalty as provided in section 25.04 of this Municipal Code.

### **SECTION 2.**

All ordinances or resolutions in conflict with this ordinance is hereby revoked.

### **SECTION 3.**

This Ordinance shall take effect upon passage by majority vote of the membership of the Common Council and publishing as provided by law.

Approved: David J. Ward, Mayor  
Attest: Stephanie Reinhardt, City Clerk  
Date of 1<sup>st</sup> Reading: 07/16/19  
Date of 2<sup>nd</sup> Reading: 08/06/19  
Publication: 08/10/19  
Effective Date: 08/11/19

