

Ordinance 0008-21 – Commercial Quadricycles

An ordinance to create Sections 22-1264 through 22-1276 and amend Section 2-263 of the Municipal Code of the City of Racine, Wisconsin.

Part 1: To create Sections 22-1264 through 22-1276 of the Municipal Code of the City of Racine, Wisconsin, to state as follows:

Article XXXV, Chapter 22. – COMMERCIAL QUADRICYCLES.

Section 22-1264. – Definitions.

For purposes of this article, the following definitions shall apply:

Chief of police means the City of Racine Chief of Police, or his or her designee.

City attorney means the City of Racine City Attorney, or his or her designee.

Commercial quadricycle or *quadricycle* has the meaning given in Wis. Stat. § 340.01(8m).

Commercial quadricycle business license means a license issued by the city clerk to operate a commercial quadricycle business in the city pursuant to the rules of this article.

Commercial quadricycle business owner or *owner* means any person, entity or other enterprise that owns a commercial quadricycle business or manages the operation of a commercial quadricycle business for profit or not for profit.

Commercial quadricycle operator's license means a license issued by the city clerk to operate or drive a commercial quadricycle in the city pursuant to the rules of this article.

Commercial quadricycle operator or *operator* means any person who operates or drives a commercial quadricycle.

State Law reference– Words and phrases defined, Vehicles – General Provisions, Wis. Stat. § 340.01.

Section 22-1265. – License required; term.

a) License required.

1. No person may engage in or permit the operation of a commercial quadricycle business without first obtaining a commercial quadricycle business license from the city clerk as required under this article.

2. No person may operate a commercial quadricycle without first obtaining a commercial quadricycle operator's license from the city clerk as required under this article.
- b) Term. Licenses issued under this article shall expire on December 31 of each year, unless sooner suspended or revoked.
 - c) Transfer prohibited. No license issued under this article may be transferable.

Section 22-1266. – Commercial quadricycle business license.

- a) Application. Applicants for a commercial quadricycle business license shall submit a sworn application on a form provided by the city clerk and pay the fee as determined by the budget as set forth in the fee schedule and established by the common council.
- b) Plan of operation. As part of the application, each applicant shall submit and file with the city clerk a plan of operation to include: the hours of operation; a detailed map showing the exact route(s) and depots or terminals where passengers may be picked up or dropped off, along with written permission from each property owner where such depots or terminals will be located; the number of quadricycles to be operated, along with the serial number of each quadricycle; and such other information as the city clerk may require. The plan of operation may be subsequently amended to add additional commercial quadricycles not listed on the original application, provided all of the requirements under section 22-1269 of this code are met. All other amendments require approval of the public safety and licensing committee.
- c) Background check. The city clerk shall forward the application to the police department for an investigation of all individuals and entities listed on the application, including a background check. The police department shall notify the public safety and licensing committee of the results of such investigation. Applicants who have an arrest or conviction record, the circumstances of which substantially relate to the licensed activity, are deemed disqualified subject to Wis. Stats. §§ 111.321, 111.322 and 111.335.
- d) Hearing and referral process. The public safety and licensing committee shall afford the applicant an opportunity to present arguments in favor of the granting of the license. The committee may recommend approval of any application for a commercial quadricycle business, provided it meets all of the requirements set forth in this article, and may place reasonable conditions upon approval. The item shall thereafter be referred to the common council for its final decision. The common council, by a majority vote of the members present, may affirm, reverse or modify the decision of the committee.
- e) Denial. Upon denial of such application by the common council, the city clerk shall provide written notice to the applicant stating reasons for the denial.
- f) Issuance of license. Upon approval of such application by the common council, proof of payment of the required license fee, and satisfaction of all relevant inspections and requirements under this article, the city clerk shall issue to the applicant a commercial quadricycle business license. Such license shall state the date of issuance, the date of expiration, the name of the licensee, and any conditions of the license.

State Law reference– Prohibited bases of discrimination, Wis. Stat. § 111.321; Discriminatory actions prohibited, Wis. Stat. § 111.322; Arrest or conviction record; exceptions and special cases, Wis. Stat. § 111.335.

Section 22-1267. – Commercial quadricycle operator’s license.

- a) Application. Applicants for a commercial quadricycle operator’s license shall submit a sworn application on a form provided by the city clerk, an acceptable passport-sized photo, and pay the fee as determined by the budget as set forth in the fee schedule and established by the common council.
- b) Eligibility. Every commercial quadricycle operator shall meet and maintain the following requirements in order to hold a commercial quadricycle operator's license or operate a commercial quadricycle:
 - 1. At all times, possess a valid driver's license issued by the state in which they reside and maintain eligibility to drive in the State of Wisconsin.
 - 2. Be at least 18 years of age.
 - 3. Does not provide a materially false statement on the license application.
 - 4. Does not have an arrest or conviction record which substantially relates to the licensed activity, subject to Wis. Stats. §§ 111.321, 111.322, and 111.335.
- c) Background check. The city clerk shall forward the application to the police department for an investigation of the applicant, including a background check. Applicants who have an arrest or conviction record, the circumstances of which substantially relate to the licensed activity, are deemed disqualified subject to Wis. Stats. §§ 111.321, 111.322 and 111.335.
- d) Issuance. Provided the applicant meets all of the requirements set forth above, the city clerk shall issue to the applicant a commercial quadricycle operator’s license. Such license shall state the date of issuance, the date of expiration, and the name and photo of the licensee.
- e) Denial and appeal. The city clerk shall summarily deny an application for failure to meet the requirements of this section. Upon denial, the city clerk shall send written notice to the applicant stating reasons for the denial. An applicant who is aggrieved by a decision of the city clerk may appeal to the public safety and licensing committee by submitting written notice to the city clerk within ten days of the date of notice of denial. The committee may affirm or reverse the decision of the city clerk.

State Law reference– Prohibited bases of discrimination, Wis. Stat. § 111.321; Discriminatory actions prohibited, Wis. Stat. § 111.322; Arrest or conviction record; exceptions and special cases, Wis. Stat. § 111.335.

Section 22-1268. – Renewal process.

- a) An application for renewal of a license under this article must be filed with the city clerk no later than November 15 of every year, along with the renewal fee as determined by the budget as set forth in the fee schedule and established by the common council.

- b) A renewal application may be denied, provided there is cause for nonrenewal of a license under section 22-1274(b) of this code. Upon motion by the public safety and licensing committee to deny a renewal application, the city clerk shall send written notice to the applicant stating reasons for the denial.
- c) An applicant who has been denied renewal under subsection (b) of this section may request a due process hearing pursuant to section 22-1274 of this code by submitting a written request to the city clerk within ten days of the date of notice of denial.

Section 22-1269. – Vehicle inspection and equipment.

- a) Certificate of inspection. Before a commercial quadricycle may be operated within the city, the applicant shall obtain a certificate of inspection by a mechanic certified by the National Institute for Automotive Service Excellence (ASE). The ASE mechanic must provide certification that the quadricycle is in sound mechanical working condition and that it meets the requirements set forth below, to the satisfaction of the police department.
 - 1. Tires. Tires shall be of a size appropriate for the vehicle with no mismatched tires per the design of the vehicle. There shall be no cuts to the tire, localized worn spots that expose the ply, or visible tread wear indicators.
 - 2. Operational horn. The commercial quadricycle shall be equipped with a fully operational horn or bell.
 - 3. Brakes. The commercial quadricycle shall be equipped with a front and rear braking system capable of being manipulated by the operator from the operator's normal position of operation and capable of causing a commercial quadricycle with a loaded passenger compartment to come to a complete stop in a linear path of motion when each wheel of the vehicle is in contact with the ground on dry, level, clean pavement. The braking system controlling the rear wheels shall be a hydraulic disc braking system, which are unaffected by rain or wet conditions. An emergency brake shall also be provided in addition to the hydraulic disc braking system.
 - 4. Headlights, taillights, mirrors, turn signals, and other requirements. Every commercial quadricycle shall be equipped with the following operational equipment:
 - (a) A headlight capable of projecting a beam of white light for a distance at a minimum of 300 feet which shall be clearly visible during darkness and must be illuminated at all times during darkness.
 - (b) A side-mounted mirror or a wide-angle rearview mirror affixed to the commercial quadricycle to reflect to the operator a view of the street for a distance of at least 200 feet from the rear of the commercial quadricycle.
 - (c) A red light and brake light affixed to the rear of the commercial quadricycle which must be visible for a distance of at least 200 feet from the rear of the commercial quadricycle and must be illuminated at all times during darkness. Turn signals must be affixed to the front and rear of the vehicle.
 - (d) All commercial quadricycles shall have reflectors on the frame and a red reflector mounted on each side of the rear of the vehicle, at least one inch from the outer

edge and centered vertically. In addition, the international slow-moving triangle must be displayed on the rear of the commercial quadricycle.

- b) Police department review. The police department shall affix a license sticker to the rear of each inspected commercial quadricycle if it determines that the quadricycle is:
1. Licensed with the city clerk;
 2. Defined as a commercial quadricycle under Wis. Stat. § 340.01(8m);
 3. Certified to be in safe working condition as required under subsection (a) above;
 4. Insured as required by section 22-1270 of this code;
 5. Conspicuously displayed on the exterior driver and passenger side of the vehicle the name and phone number of the commercial quadricycle business owner, and a unique number assigned by the commercial quadricycle business that identifies that particular vehicle; and
 6. Conspicuously displayed within the front passenger compartment a display holder, within which the commercial quadricycle operator must display their operator's license while operating the commercial quadricycle.

State Law reference— Words and phrases defined, Vehicles – General Provisions, Wis. Stat. § 340.01.

Section 22- 1270. – Insurance required; indemnification.

- a) Insurance. The commercial quadricycle business shall, at its sole expense, maintain in effect at all times, commercial general liability insurance. As evidence of such, the commercial quadricycle business shall furnish to the city to be reviewed by the city attorney a certificate of insurance coverage, which shall name the City of Racine, its elected and appointed officials, officers, employees, authorized representatives, or volunteers, and each of them, as additional insureds, and each with not less than \$1,000,000 per occurrence (\$2,000,000 aggregate) for bodily injury, personal injury, and property damage.

Each policy, as applicable, shall identify each commercial quadricycle covered by the policy. Whenever such policy or coverage is cancelled, not renewed, or materially changed, the licensee shall notify the city by certified mail.

- b) Indemnification. The commercial quadricycle business shall indemnify, defend, and hold harmless the City of Racine, its elected and appointed officials, officers, employees, authorized representatives, or volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind of nature and in any manner directly or indirectly caused, occasioned, or contributed to, in whole or in part, or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of the commercial electric scooter business or of anyone acting under the commercial electric scooter business's direction or control or on its behalf caused by, resulting from, in connection with, or incident to the activities for which a license may be granted.

- c) Suspension. Failure to comply with the requirements of this section shall result in the immediate suspension of the licensee's rights and privileges to operate a commercial quadricycle business within the city.

Section 22-1271. – Restrictions pursuant to plan of operation.

- a) Plan of operation. Licensees must adhere to the plan of operation as approved by the common council; including the hours of operation, routes, and location of depots or terminals. Deviation from the approved plan of operation constitutes grounds for suspension, revocation or nonrenewal of the license.
- b) Approved routes only. All commercial quadricycle businesses shall operate only upon approved routes as indicated on the business plan of operation on file. Any new route must be applied for and approved by the common council in advance. Temporary routes with a specified end date must be applied for and approved by the chief of police. A temporary route application must be submitted in writing and include a proposed map no later than three business days prior to the applicant's proposed first date of operation of the temporary route. No quadricycle operator may operate a commercial quadricycle on a street closed off to public traffic regardless of whether the street has been included in an approved route.
- c) Approved sites only. All commercial quadricycle businesses shall operate tours, pick up, and drop off passengers only from approved depots or terminals as indicated on the business plan of operation on file.

Section 22-1272. – Inspection of commercial quadricycles.

- a) It shall be a condition of any license under this article that a commercial quadricycle may be stopped and inspected by any police officer at any time in order to ensure compliance with the provisions of this article.
- b) Refusal by the operator or owner to immediately stop the commercial quadricycle or permit inspection as required under this section shall be deemed a violation and further constitute grounds for nonrenewal, suspension, or revocation of the license.

Section 22-1273. – Commercial quadricycle regulations and restrictions.

- a) Responsibility. The owner and operator of a commercial quadricycle are each responsible for ensuring compliance with this article. An owner and operator may each be cited and convicted for any violation of this article. A violation of any provision of this article by a duly authorized agent or employee of the owner shall be considered a violation by the owner, and may further constitute grounds for nonrenewal, suspension, or revocation of the commercial quadricycle business license or commercial quadricycle operator's license.
- b) Traffic laws. The operator of a commercial quadricycle shall operate the quadricycle at all times in compliance with local and state traffic laws.

- c) **Parking.** No person shall stop, park or permit the parking of a commercial quadricycle upon any sidewalk or in any place not specifically designated for parking. A commercial quadricycle may occupy up to two designated parking stalls, but shall pay the appropriate parking fee (including a metered parking fee) for both stalls.
- d) **Loading and unloading.** No driver may stop to load or unload passengers or their belongings, or allow passengers to disembark in the intersections of any street, in a crosswalk, or in any manner or other location that would be considered unsafe. No driver shall load or unload in such a manner that will in any way impede or interfere with the orderly flow of vehicular traffic.
- e) **Time of operation.** No person may operate or permit the operation of a commercial quadricycle occupied by passengers, except between the hours of 10:00 a.m. and 10:00 p.m.
- f) **Display of licenses.** No person may operate a commercial quadricycle unless said quadricycle is conspicuously displaying the information required under sections 22-1269(b)(5) and 22-1269(b)(6) of this code.
- g) **Sale or delivery of alcoholic beverages prohibited.** No person may sell, serve or deliver any alcoholic beverages to any passengers on a commercial quadricycle; nor shall any person transport alcoholic beverages on a commercial quadricycle for the purposes of sale or delivery upon sale.
- h) **Fermented malt beverages only.** No passenger on a commercial quadricycle may possess or carry onto the quadricycle more than 36 ounces of fermented malt beverages, as defined in Wis. Stat. § 125.02(6); nor shall any passenger possess, carry on or consume any other alcoholic beverages upon a commercial quadricycle, except fermented malt beverages. In addition to the owner and operator, any person who violates this subsection may be cited.
- i) **Restrictions on operators.**
 - 1. No operator of a commercial quadricycle may consume alcohol or have a blood alcohol concentration of more than 0.0 while operating a commercial quadricycle.
 - 2. No commercial quadricycle operator shall text or use a cell phone or any other type of electronic device while driving a commercial quadricycle. This restriction does not apply to non-hand held microphones and mounted global positioning system or guidance devices.
- j) **Underage persons.** No alcohol beverages, including fermented malt beverages shall be possessed, carried on, or consumed on a commercial quadricycle if any passenger on the commercial quadricycle has not attained the legal drinking age as defined in Wis. Stat. § 125.02(8m), unless that passenger is accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- k) **Glass containers.** No glass containers may be carried or used on a commercial quadricycle.

- l) Trash disposal. The owner and operator of a commercial quadricycle shall dispose of garbage and pick up refuse during and after every transport of passengers to ensure that no garbage or refuse is left behind on any public or private property.
- m) Condition of quadricycles and equipment violations. All commercial quadricycles shall be kept clean, free of damage, rust, stains or other signs of deterioration, and maintained in a good state of repair at all times while in operation pursuant to section 22-1269(a) of this code. Passenger compartments shall be free of trash, refuse and odor and must be inspected before each transport of passengers.
- m) Capacity. No commercial quadricycle may operate in the city unless the number of occupants on the quadricycle does not exceed the maximum capacity for occupants according to the quadricycle's instruction manual.
- n) Noise restrictions. No excessive noise, including but not limited to conversation, music or amplified sound, may originate from a commercial quadricycle in violation of article v of chapter 42; nor shall any person make or permit any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof or in such a manner that it constitutes a public nuisance.
- o) Notice to passengers. The operator of a commercial quadricycle shall advise all passengers that no alcohol beverages shall be possessed, carried upon, or consumed on a commercial quadricycle in violation of any city ordinance or state statute, and shall conspicuously and legibly post a notice of these restrictions upon the commercial quadricycle.
- p) Behavior of passengers. It is the responsibility of the operator and owner to actively and affirmatively manage the conduct of passengers while on board, both while the vehicle is in motion and at a stop. Conduct which shall be prohibited and prevented include, but is not limited to, violations of state law and local ordinances, indecent exposure, disorderly conduct, public urination and littering.

State Law reference– Definitions, Alcohol Beverages, Wis. Stat. § 125.02.

Cross reference– Noises, § 42-111 et seq.

Section 22-1274. – Nonrenewal, revocation or suspension of a license.

- a) Due process hearing. Any license under this article may be suspended or revoked for cause after notice to the licensee and a hearing in front of the due process board. In cases of nonrenewal, the licensee may request a due process hearing pursuant to section 22-1268(c) of this code. Nothing in this section prohibits the immediate and temporary suspension of a commercial quadricycle business license for failing to meet the insurance requirements under section 22-1270 of this code.
- b) Grounds. Licenses under this article may be suspended, revoked or denied renewal for any of the following causes:

1. The person does not possess the qualifications to hold the license under this article.
 2. The person violated any provisions of this article, or any provisions of chapter 6 of this code, or any provisions of Wis. Stats. ch. 125.
 3. The person failed to operate the commercial quadricycle business in accordance with the plan of operation as approved by the common council, or failed to operate the business according to the conditions of the license.
 4. The commercial quadricycle business is operated in such a manner that it constitutes a disorderly premises or a public nuisance.
 5. Any other factors that reasonably relate to public health, safety and welfare.
- c) Complaint. Disciplinary proceedings may be initiated by the office of the city attorney, with or without a referral from the public safety and licensing committee, provided there is cause to suspend or revoke a license under this article. The city attorney shall file a complaint with the city clerk setting forth allegations against the licensee as grounds for suspension or revocation.
- d) Summons and service. When a complaint has been filed with the city clerk or a hearing has been requested pursuant to section 22-1268(c) of this code, the city clerk shall issue a summons demanding that the licensee appear before the due process board to show cause as to why the license should not be revoked, suspended or denied renewal. Such summons shall be served upon the licensee, along with a copy of the complaint or notice of denial.
- e) Hearing. The due process board shall convene at the date and time designated in the summons for purposes of taking evidence and making findings of fact and conclusions of law. The licensee may be represented by counsel at his or her expense, present and examine witnesses under oath, and have prepared at the licensee's expense a transcript of the hearing. Within five days of the conclusion of the hearing, the board shall make specific findings of fact and conclusions of law, and forward one or more of the following recommendations to the common council:
1. No action should be taken due to the insufficiency of the evidence.
 2. The license should be suspended for not less than 10 days nor more than 90 days.
 3. The license should be revoked or denied renewal.
 4. The licensee should be placed on probation, along with specific conditions for a period of time.
- f) Failure to appear. If the licensee fails to appear before the board at the date and time designated in the summons, the allegations in the complaint or notice of denial shall be taken as true, and if the board finds the allegations sufficient, the board shall recommend to the common council that the license be revoked or denied renewal.
- g) Common council action. The common council, after considering the report and recommendations of the board, along with any written arguments submitted by the licensee, may affirm, reverse or modify the recommendations of the board. The city clerk shall give notice of each suspension, revocation or nonrenewal to the licensee within ten days of such disciplinary action.

State Law reference— Alcohol Beverages, Wis. Stats. Ch. 125.

Cross reference— Alcoholic Beverages, ch. 6; Due Process Board, § 2-261 et seq.

Section 22-1275. – Restrictions upon denial, nonrenewal or revocation of license.

- a) Whenever an application for a commercial quadricycle business license or commercial quadricycle operator's license is denied, denied renewal, or revoked, no other license issued under this article may be granted to such persons or entity within 12 months of the date of such denial.
- b) When a person or entity surrenders a license issued under this article in lieu of pending nonrenewal, suspension or revocation proceedings, no other license issued under this article may be granted to such persons or entity within 12 months of the date of such surrender and no refund of the fee paid therefor shall be made.

Section 22-1276. – Penalties.

- a) Any person violating this article shall, upon conviction for a first offense, forfeit not less than \$100.00. Each and every day that the violation continues shall constitute a separate offense.
- b) Any person violating this article shall, upon conviction for a second or subsequent offense within one year, forfeit not less than \$200.00. Each and every day that the violation continues shall constitute a separate offense.

Cross reference— Continuing violation, § 1-18.

Part 2: To amend section 2-263, Division 8, Article III, Chapter 2 of the Municipal Code of the City of Racine by adding subsection (d) to state as follows:

- (e) Conduct due process hearings regarding the nonrenewal, suspension and/or revocation of any licenses issued under article xxxv of chapter 22, relating to commercial quadricycles. Within five days after such hearing, the board shall file a report with the city clerk containing any findings of fact, conclusions of law, and recommendations as to the license or licensee, to be forwarded to the common council.

Cross reference—Commercial Quadricycles, § 22-1264 et seq.

Part 3: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: N/A

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication

otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.