



**CITY OF ELKHORN  
SPECIAL COMMON COUNCIL MEETING AGENDA**

**January 3, 2024 - 5:30 p.m.**

**Council Chambers, City Administration Offices, 311 Seymour Ct., Elkhorn, Wisconsin**

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4) **Public Comment** *Public comments are limited to three minutes each. The public may speak on any item of City concern whether or not the topic is included on this agenda. However, if the topic does not pertain to an item listed on the Council agenda, the Council is not permitted to address or discuss the matter during this meeting. Under open meeting laws, the Council must notice an item on the agenda to allow discussion on that matter. If Council is not permitted to discuss your concerns, your comments will be considered and may be placed on a future agenda for further discussion.*
- 5) **Consent Agenda** *(One motion & a second will approve all of the following items listed. Any item may be pulled from the list and handled separately.)*
  - a) Council Meeting Minutes from December 18, 2023
  - b) Revised Pay Application No. 7 (Final) from Hydro-Klean, LLC for the 2022 Sewer Rehabilitation Project in the amount of \$51,455.31
- 6) **Report of City Officers**
  - a) Mayor
  - b) City Administrator
- 7) **Unfinished Business**
  - a) Discussion and possible decision regarding drafting City ordinance to authorize use of ATVs/UTVs on City streets
- 8) **New Business**
  - a) Discussion and possible decision regarding advertising the 2024 Northeast Water Treatment Plant Water and Sewer Extension Project for bids
  - b) Discussion and possible decision regarding proposal from Teska Associates, Inc. to provide professional planning services for the creation of a land use plan and ordinance for the City's ETZ in the Town of Sugar Creek
  - c) Discussion and possible decision regarding proposed Resolution No. 24-01: A Resolution Opposing Senate Bill 691 and Assembly Bill 768, Which Authorize the Creation of Urban Towns
  - d) Discussion and possible decision regarding canceling Council meeting scheduled for January 8, 2024
- 9) **Adjourn into Closed Session**
  - a) Pursuant to Wisconsin Statute 19.85(1)(c), a closed session to consider employment, promotion, compensation or performance evaluation of data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- 10) **Reconvene in Open Session for possible action on Closed Session items**
- 11) **Adjourn**

DATED at Elkhorn, Wisconsin, this 29th day of December 2023

Lacey L. Reynolds, City Clerk

Should you have any questions or comments regarding any items on this agenda, please contact the City Clerk's office at 723-2219. Upon reasonable notice to the City Clerk, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services.

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**CITY OF ELKHORN COMMON COUNCIL**  
**MEETING MINUTES**  
**December 18, 2023**  
**COUNCIL CHAMBERS, 311 SEYMOUR CT., ELKHORN, WI 53121**

The Common Council meeting was called to order by Mayor Lechner at 5:30 p.m. in the Council Chambers, followed by the Pledge of Allegiance.

**ROLL CALL**

Present: Mayor Bruce Lechner, Aldermen Tim Shiroda, Gary Lee Payson Jr., Ron Dunwiddie, Scott McClory, Ken Meinel, Karel Young.

Others present: City Administrator Adam Swann, Attorney Ward Phillips, City Clerk Lacey Reynolds, Police Chief Joel Christensen, Director of Public Works Matthew Lindstrom, Fire Chief Rod Smith, Finance Director Corrie Daly, Recreation Director Karl Sorvick, Utility Field Office Coordinator Dawn Gall, Library Director Chad Robinson, City Engineer Mike Timmers, Chris Clapper, Dennis Karbowski, Frank Boggs, other interested persons.

**PUBLIC COMMENT**

Dennis Karbowski of 5531 Amos Rd. referenced item 11e on the agenda and asked the Council to approve ATV/UTV riding on city streets.

**CONSENT AGENDA**

*Motion (McClory/Dunwiddie) to approve the Meeting Minutes for the Legislative & Regulatory Committee and Common Council - December 4, 2023, the temporary Class "B" Beer licenses for the Walworth County Agricultural Society at the Walworth County Fairgrounds, Rodeos attached list of event dates and times and Pay Request No. 6 from Rock Road Companies for the 2023 E. Centralia Street Reconstruction project in the amount of \$649,461.80. Roll call vote: McClory, yes; Dunwiddie, yes; Payson Jr., yes; Shiroda, yes; Young, yes; Meinel, yes. Motion carried.*

**BILLS PAYABLE**

*Motion (Dunwiddie/Meinel) to approve the City and Utility Bills in the amount of \$3,556,016.51. Roll call vote: Dunwiddie, yes; Meinel, yes; Young, yes; McClory, yes; Shiroda, yes; Payson Jr., yes. Motion carried.*

**REPORT OF CITY OFFICERS**

**MAYOR'S REPORT** – None.

**CITY ADMINISTRATOR'S REPORT** – Administrator Swann informed the Council, Window Well Experts, the DNR and City staff met to discuss the property purchased on N. Church St. Residents will receive a notice in their utility bills regarding the water rate adjustment and the PSC set a public hearing for January 16, 2024. Creekside, City engineers and City staff met regarding the Deere Rd. intersection. The WEDC meeting and tour took place today, stops included J. Roberts Menswear, A+ Power Sports and Duesterbecks. WI Park and Recreation Association awarded the City of Elkhorn Park and Rec an award for their escape room. Public Works Director Lindstrom reminded everyone garbage and recycle collection will be delayed a day the week of Christmas and the carts will be picked up the same week. LRS carts should have been delivered and residents should not use them until the first week in January.

**REPORTS OF CITY BOARDS AND COMMUNITY PARTNERS**

Fire Advisory Board – The next meeting will be the last week of January 2024.

Library Board – Alderman Shiroda announced the library's circulation total is 191,135 which is an increase from previous years.

Recreation Advisory Board – Recreation Director Sorvick announced voting closed for the pet mayor and the winner will be announced on Wednesday. Proceeds will be split between Lakeland Animal Shelter and Elkhorn Food Pantry. The next park and rec meeting will be January 24<sup>th</sup>.

Chamber of Commerce – Chris Clapper shared WEDC Deputy Secretary Ridders chose Elkhorn because of the Vibrant Spaces Grant and to support shop local as well as economic development. The Christmas parade had 92 entries and the Christmas Community meal is set to provide over 425 meals this year.  
Community Grant Writer – No report.

### **COMMITTEE REPORTS**

Legislative and Regulatory – Mayor Lechner stepped down and turned the meeting over to Council President Tim Shiroda.

Alderman Meinel reported on the items reviewed by the L&R committee December 4, 2023 and informed the Council new applicant Calabria decided to change their name to Ricky's Place Restaurant. The public notice for Ricky's Place Restaurant needed to be noticed in the paper again and will be on a council agenda in January. The L&R committee made a motion to approve the application for Lechner Enterprises.

Consider New Application for Lechner Enterprises, LLC dba Station 20 Pub N Grub "Class B" Liquor/ Class "B" Fermented Malt Beverage, 20 S Wisconsin St. Agent: Sarah Lechner. *Motion (Meinel/Dunwiddie) to approve the new application for Lechner Enterprises, LLC dba Station 20 Pub N Grub "Class B" Liquor/ Class "B" Fermented Malt Beverage, 20 S. Wisconsin St. Agent: Sarah Lechner. Voice vote, all approved, motion carried.*

### **UNFINISHED BUSINESS**

Discussion and possible decision regarding proposed Resolution 23-29: A Resolution Establishing Wages for Part-Time, Limited-Term and Seasonal Employees in 2024, and Providing Uniform Allowance for Certain General Full-Time Employees in 2024. *Motion (Shiroda/Young) to approve Resolution 23-29: A Resolution Establishing Wages for Part-Time, Limited-Term and Seasonal Employees in 2024, and Providing Uniform Allowance for Certain General Full-Time Employees in 2024. Roll call vote: Shiroda, yes; Young, yes; Payson Jr., yes; Meinel, yes; Dunwiddie, yes; McClory, yes. Motion carried.*

### **NEW BUSINESS**

Discussion and possible decision regarding Council meeting schedule in January, February, and April.

Discussion took place regarding changing meeting dates due to holidays and elections. City Clerk Reynolds will update the meeting calendar to include January 8<sup>th</sup> & 15<sup>th</sup>, February 5<sup>th</sup> & 21<sup>st</sup>, April 3<sup>rd</sup> & 16<sup>th</sup>.

Approval of appointments of Election Inspectors for the 2024-2025 election cycle. *Motion (McClory/Young) to approve the appointments of Election Inspectors for the 2024-2025 election cycle. Voice vote, all approved, motion carried.*

Discussion and possible decision regarding execution of Change Order No. 2 in the amount of \$4,353.32 and approval of Pay Request No. 1 (Final) in the amount of \$676,585.50 for the 2023 Wright Street Partial Reconstruction project. *Motion (Dunwiddie/Meinel) to approve change order no. 2 in the amount of \$4,353.32 and approval of pay request no. 1 (Final) in the amount of \$676,585.50 for the 2023 Wright Street Partial Reconstruction project. Roll call vote: Dunwiddie, yes; Meinel, yes; McClory, yes; Payson Jr., yes; Shiroda, yes; Young, yes. Motion carried.*

Discussion and possible decision regarding execution of Contract Change Order No. 4 for the E. Centralia Street Reconstruction project in the amount of \$30,663.20. *Motion (McClory/Payson Jr.) to approve contract change order no. 4 for the E. Centralia Street Reconstruction project in the amount of \$30,663.20. Roll call vote: McClory, yes; Payson Jr., yes; Young, yes; Dunwiddie, yes; Shiroda, yes; Meinel, yes. Motion carried.*

Discussion and possible decision regarding drafting City ordinance to authorize use of ATVs/UTVs on City streets. Discussion took place regarding community impact, required signage, safety, crash data, arrests,

DUI's and road access. Council asked staff to research the various issues and options regarding ATV/UTV's to present to the Council.

Discussion and possible decision regarding Walworth County request for support from City to support a study on how to increase coordination of fire and emergency medical services in Walworth County. *Motion (Dunwiddie/Young) to approve Walworth County request for support from City to support a study on how to increase coordination of fire and emergency medical services in Walworth County. Voice vote, all approved, motion carried.*

**ADJOURN TO CLOSED SESSION**

*Motion (Dunwiddie/McClory) to adjourn to closed session pursuant to Wisconsin Statute 19.85(1)(e), a closed session for the purpose of deliberating an offer to purchase a City parcel in the business park (tax key number YV SE 00024) and pursuant to Wisconsin Statute 19.85(1)(g), a closed session for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Voice vote, all approved, motion carried. Adjourned to closed session at 6:13 p.m.*

**RECONVENE IN OPEN SESSION**

Reconvened in open session at 6:22 p.m.

Resolution 23-31 Approving Settlement with Alexis Rodriguez. *Motion (Payson Jr./Young) to approve Resolution 23-31 Approving Settlement with Alexis Rodriguez. Roll call vote: Payson Jr., yes; Young, yes; Shiroda, yes; Meinel, yes; Dunwiddie, yes; McClory, yes. Motion carried.*

**ADJOURN**

*Motion (Dunwiddie/Young) to adjourn at 6:23 p.m. Voice vote, all approved, motion carried.*

Lacey L. Reynolds  
City Clerk

<b>Applicant</b>	<b>Location</b>	<b>License type</b>	<b>Name of event, date of event and serving times</b>	<b>Day of the week</b>
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 2, 2024 from 1-10 pm	Fri
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 3, 2024 from 1-10 pm	Sat
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 4, 2024 from 1-9 pm	Sun
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 9, 2024 from 1-10 pm	Fri
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 10, 2024 from 1-10 pm	Sat
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 11, 2024 from 1-9 pm	Sun
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 16, 2024 from 1-10 pm	Fri
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 17, 2024 from 1-10 pm	Sat
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 18, 2024 from 1-9 pm	Sun
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 23, 2024 from 1-10 pm	Fri
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 24, 2024 from 1-10pm	Sat
Wal Cty Ag Society	Fairgrounds	Beer	Rodeo, February 25, 2024 from 1-9 pm	Sun



December 22, 2023

Mr. Matthew Lindstrom  
Director of Public Works  
City of Elkhorn  
311 Seymour Court  
Elkhorn, WI 53121

Re: 2022 Sewer Rehabilitation Project  
Hydro-Klean, LLC Pay Applications No. 7 (Final)

Dear Mr. Lindstrom,

Hydro-Klean, LLC has previously submitted an invoice for Pay Application No. 7, for the City of Elkhorn 2022 Sewer Rehabilitation Project. We have reviewed the work and invoice and compared it to the inspections performed. Based on this comparison, we feel that the work completed associated with this invoice is \$99,620. However, a portion of the invoice was previously paid when payment for pay application #6 was processed. The total completed work to date is \$422,846.77. This amount represents the extent of the work completed and we believe the project may now be closed out. In addition, the City has been holding 5% retainage on the first 50% of the work, per the Contract Documents, in the amount of \$13,705.31.

Based on previous payments and withholding, we feel that \$51,455.31 may be released as final payment for the project. Refer to attached spreadsheet for details.

Work items included in this invoice include: Urethane seals in Basins 2, 4, and 5, sealing active leaks in Basins 2 and 4, and manhole rehabilitation in Basins 2 and 4.

Please call if you have any questions or comments regarding the above.

Sincerely,  
Applied Technologies, Inc.



William A. Hein, P.E., P.L.S.  
C A S Department Manager

Attachments

cc: Bob Doeringsfeld, ATI  
Amber Ogren, Hydro-Klean

Elkhorn		pay app #1	pay app #2	pay app #3	pay app #4	pay app #5	pay app #6	spread check	description	Thru Pay App 6	Pay App 7
Section 1											
	Bid Qty										
1	900	129.03	193.79	241.85	21.23	228.02		813.92	rehab	\$ 102,350.44	
2	160					60	73	133	flex seal	\$ 70,490.00	
3	40					18	19	37	extra flex seal	\$ 13,320.00	
4	10		7	1	1			9	seal leaks	\$ 2,700.00	
5	20	4	2	6		1		13	chimney recon	\$ 33,540.00	
6	20	8						8	lid replace	\$ 2,640.00	
7	\$ 10,000					5000		5000	point repair	\$ 5,000.00	Credit (actual cost) \$ 1,230.00
										\$ 230,040.44	
Section 2											
1	300			8.4	61.52	212.42		282.34	rehab	\$ 35,504.26	
2	30						10	10	flex seal	\$ 5,300.00	
3	10						5	5	extra flex seal	\$ 1,800.00	
4	5							9	seal leaks	\$ 2,700.00	
5	20	1	12	3				16	chimney recon	\$ 41,280.00	
6	15	2						2	lid replace	\$ 660.00	
7	\$ 10,000							0	point repair	\$ -	
										\$ 87,244.26	
Section 3											
1	150				35.84	110.26		146.1	rehab	\$ 18,372.08	
2	95						12	12	flex seal	\$ 6,360.00	62 \$ 32,860.00
3	15						8	8	extra flex seal	\$ 2,880.00	17 \$ 6,120.00
4	5							5	seal leaks	\$ 1,500.00	
5	20	2	5	8				15	chimney recon	\$ 38,700.00	
6	5							0	lid replace	\$ -	
7	\$ 10,000							0	point repair	\$ -	
										\$ 67,812.08	
									Compl. Work thru Pay App 6	\$ 385,096.77	Final Pay App (7) \$ 37,750.00
									Paid thru Pay App 6	\$ 371,391.47	Retainage \$ 13,705.31
											<b>FINAL PAYMENT \$ 51,455.31</b>
									CHECK	\$ 385,096.78	\$ 422,846.77



PAY APPLICATION INFORMATION							P1107466	*quantities no longer tie out in Acumatica - shipped qty*															
NO.	ITEM	Unit	Quantity	Bid		Completed to Date		pay app 1 - invoice 081883	pay app 2 - invoice 082749	pay app 3 - invoice 083325	pay app 4 - invoice 083689	pay app 5 - invoice 084035A	Will's total paid	pay app 6 - invoice 085008A									
				Unit Price	Total Bid	Quantity	Amount																
SR Monoform	SR001	Section 1 - Basin 2 (S1/B2)																					
SR Monoform	SR002	S1/B2-Rehabilitate Manholes	Foot	822.43	\$ 125.75	\$ 103,420.57	813.92	\$ 102,350.44	129.03	\$ -	193.79	\$ 24,369.09	241.85	\$ 30,412.64	21.23	\$ 2,669.67	228.02	\$ 28,673.52	813.92	\$ 102,350.44	-	\$ -	
subcontract	SR003	S1/B2-Install Internal Urethane Rubber Chimney Seal	Each	146	\$ 530.00	\$ 77,380.00	133.00	\$ 70,490.00		\$ 16,225.52		\$ -		\$ -		\$ -	60.00	\$ 31,800.00	60.00	\$ 31,800.00	73.00	\$ 38,690.00	
subcontract	SR004	S1/B2-Additional VF Urethane Rubber Chimney Seal	Each	76	\$ 360.00	\$ 27,360.00	37.00	\$ 13,320.00		\$ -		\$ -		\$ -		\$ -	18.00	\$ 6,480.00	18.00	\$ 6,480.00	19.00	\$ 6,840.00	
SR Monoform	SR005	S1/B2-Seal Active Leaks	Each	10	\$ 300.00	\$ 3,000.00	10.00	\$ 3,000.00		\$ -	7.00	\$ 2,100.00	1.00	\$ 300.00	1.00	\$ 300.00	4.00	\$ 1,200.00	13.00	\$ 3,900.00	(3.00)	\$ (900.00)	
SR Monoform	SR006	S1/B2-MH Chimney Reconstruction, including external chimney seal	Each	13	\$ 2,580.00	\$ 33,540.00	13.00	\$ 33,540.00	4.00	\$ -	2.00	\$ 5,160.00	6.00	\$ 15,480.00	-	\$ -	1.00	\$ 2,580.00	13.00	\$ 33,540.00	-	\$ -	
SR Monoform	SR007	S1/B2-Lid Replacement	Each	23	\$ 330.00	\$ 7,590.00	8.00	\$ 2,640.00	8.00	\$ 10,320.00		\$ -		\$ -		\$ -		\$ -	8.00	\$ 2,640.00	-	\$ -	
SR Monoform	SR008	S1/B2-Point Repair Allowance	Each	1	\$ 10,000.00	\$ 10,000.00	0.50	\$ 5,000.00		\$ 2,640.00		\$ -		\$ -		\$ -	0.50	\$ 5,000.00	0.50	\$ 5,000.00	-	\$ -	
SR Monoform	SR009	Section 2 - Basin 4 (S2/B4)																					
SR Monoform	SR010	S2/B4-Rehabilitate Manholes	Foot	282.34	\$ 125.75	\$ 35,504.26	282.34	\$ 35,504.26		\$ -	8.40	\$ 1,056.30	61.52	\$ 7,736.14	212.42	\$ 26,711.82	282.34	\$ 35,504.26	282.34	\$ 35,504.26	-	\$ -	
subcontract	SR011	S2/B4-Install Internal Urethane Rubber Chimney Seal	Each	9	\$ 530.00	\$ 4,770.00	10.00	\$ 5,300.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	10.00	\$ 5,300.00	
subcontract	SR012	S2/B4-Additional VF Urethane Rubber Chimney Seal	Each	41	\$ 360.00	\$ 14,760.00	5.00	\$ 1,800.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	5.00	\$ 1,800.00	
SR Monoform	SR013	S2/B4-Seal Active Leaks	Each	5	\$ 300.00	\$ 1,500.00	6.00	\$ 1,800.00		\$ -	1.00	\$ 300.00		\$ -	4.00	\$ 1,200.00	5.00	\$ 1,500.00	5.00	\$ 1,500.00	1.00	\$ 300.00	
SR Monoform	SR014	S2/B4-MH Chimney Reconstruction, including external chimney seal	Each	17	\$ 2,580.00	\$ 43,860.00	16.00	\$ 41,280.00	1.00	\$ -	12.00	\$ 30,960.00	3.00	\$ 7,740.00		\$ -	16.00	\$ 41,280.00	16.00	\$ 41,280.00	-	\$ -	
SR Monoform	SR015	S2/B4-Lid Replacement	Each	6	\$ 330.00	\$ 1,980.00	2.00	\$ 660.00	2.00	\$ 2,580.00		\$ -		\$ -		\$ -	2.00	\$ 660.00	2.00	\$ 660.00	-	\$ -	
SR Monoform	SR016	S2/B4-Point Repair Allowance	Each	1	\$ 10,000.00	\$ 10,000.00	-	\$ -		\$ 660.00		\$ -		\$ -		\$ -		\$ -		\$ -	-	\$ -	
SR Monoform	SR017	Section 3 - Basin 5 (S3/B5)																					
SR Monoform	SR018	S3/B5-Rehabilitate Manholes	Foot	146.1	\$ 125.75	\$ 18,372.08	146.10	\$ 18,372.08		\$ -		\$ -	35.84	\$ 4,506.88	110.26	\$ 13,865.20	146.10	\$ 18,372.08	146.10	\$ 18,372.08	-	\$ -	
subcontract	SR019	S3/B5-Install Internal Urethane Rubber Chimney Seal	Each	75	\$ 530.00	\$ 39,750.00	74.00	\$ 39,220.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	74.00	\$ 39,220.00	
subcontract	SR020	S3/B5-Additional VF Urethane Rubber Chimney Seal	Each	26	\$ 360.00	\$ 9,360.00	25.00	\$ 9,000.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	25.00	\$ 9,000.00	
SR Monoform	SR021	S3/B5-Seal Active Leaks	Each	5	\$ 300.00	\$ 1,500.00	5.00	\$ 1,500.00		\$ -		\$ -		\$ -	5.00	\$ 1,500.00	5.00	\$ 1,500.00	5.00	\$ 1,500.00	-	\$ -	
SR Monoform	SR022	S3/B5-MH Chimney Reconstruction, including external chimney seal	Each	18	\$ 2,580.00	\$ 46,440.00	15.00	\$ 38,700.00	2.00	\$ -	5.00	\$ 12,900.00	8.00	\$ 20,640.00		\$ -	15.00	\$ 38,700.00	15.00	\$ 38,700.00	-	\$ -	
SR Monoform	SR023	S3/B5-Lid Replacement	Each	6	\$ 330.00	\$ 1,980.00	-	\$ (600.00)		\$ 5,160.00		\$ -		\$ -		\$ -		\$ -		\$ -	-	\$ -	
		Change order 2 - MH 1-73		3	\$ 340.00	\$ 1,020.00	4.00	\$ 1,360.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	4.00	\$ 1,360.00	
				15	\$ 35.00	\$ 525.00	15.00	\$ 525.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	15.00	\$ 525.00	
		Change order 2 - MH 5-5		3	\$ 340.00	\$ 1,020.00	4.00	\$ 1,360.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	4.00	\$ 1,360.00	
				15	\$ 35.00	\$ 525.00	15.00	\$ 525.00		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -	15.00	\$ 525.00	
						\$ 495,156.90		\$ 426,046.77		\$ -		\$ 75,489.09		\$ 75,928.94		\$ 15,212.69		\$ 119,010.53		\$ 323,226.77		\$ 104,020.00	
									paid	\$ 35,706.25	paid	\$ 71,714.64	paid	\$ 72,132.49	paid	\$ 129,968.10							
								balance	\$ 1,879.28	balance	\$ 3,774.45	balance	\$ 3,796.45	balance	\$ 4,255.12								

previously paid point repair cost

actual point repair cost= \$3,770



# MEMO

TO: Mayor Bruce Lechner  
Alderman Ronald Dunwiddie  
Alderman Scott McClory  
Alderman Ken Meinel  
Alderman Gary Payson, Jr.  
Alderman Tim Shiroda  
Alderman Karel Young

FROM: Adam Swann

DATE: December 28, 2023

RE: Common Council Meeting on January 3, 2024

## City Administrator Report

- **Safe Drinking Water Fund and Clean Water Fund Loan Closings for 2023 S. Wright St. Partial Reconstruction Project and 2023 Centralia St. (Phase 1) Reconstruction Project**

Finance Director Corrie Daly and Utility Field Operations Coordinator Dawn Gall have been working with the engineers and contractors on the 2023 S. Wright St. Partial Reconstruction Project and 2023 Centralia St. (Phase 1) Reconstruction Project to prepare the necessary documentation for closing on the Safe Drinking Water Fund and Clean Water Fund Loans for these projects. The Council will be presented with a proposed resolution authorizing the loan closings at the Council meeting on January 15, 2024. As a reminder, the Sewer Fund and Electric Fund provided the Water Fund with short-term financing to cover the costs of the projects until the loans were approved and finalized, so these loans will be used in part to reimburse the Sewer Fund and Electric Fund.

## Unfinished Business

- **Discussion and possible decision regarding drafting City ordinance to authorize use of ATVs/UTVs on City streets**

*Economic and Safety Impacts*

While discussing this issue at the last Council meeting, the Council requested additional information about the economic and safety impacts of authorizing ATVs/UTVs on City streets. I contacted several chambers of commerce in communities where ATVs/UTVs had been approved—i.e., Whitewater, Columbus, Prairie du Chien, and Delavan—and asked about whether there had been any economic benefits. I received one response from Prairie du Chien; they indicated that they had observed financial benefits. A copy of the email is in the Council packet. Unfortunately, I didn't receive any other responses.

I found a July 12, 2022 *Spectrum News* article by Nathan Phelps in which he reported that the Wisconsin ATV/UTV Association estimated that ATVs/UTVs in the state had increased “from 192,000 in 2003 to about 495,000 in March [2022]” and that “the association estimated the statewide economic impact of the sport at about \$1.1 billion,” an increase “from \$295 million 19 years ago.” The article discussed their popularity at campgrounds and parks. Unfortunately, I couldn't find any articles or information quantifying the economic impact of a city like Elkhorn approving the use of ATVs/UTVs on City streets.

The State of Wisconsin publishes annual safety information for recreational vehicles, including ATVs/UTVs. Page seven of the report shows there has been an increase in the number of ATV/UTV crashes statewide since 2012, particularly among UTVs, where crashes increased from 4 in 2012 to 103 in 2022—and UTV injuries increased from 6 in 2012 to 131 in 2022. (ATV injuries and crashes have shown a decline during this period according to page 9 of the report, perhaps showing that UTV usage is replacing ATV usage.) According to page 13 of the report, 38.38% of ATV/UTV crashes occurred on public highways and routes, and 52% of fatal crashes occurred on public highways and road routes. (Unfortunately, the report doesn't explain what distinguishes a public highway from a public road route.) Police Chief Joel Christensen was unable to locate any ATV/UTV crashes in Walworth County within the past 10 years.

*Additional Background Information*

The Council packet includes a recent article about ATVs/UTVs that was published in the November 2023 League of Wisconsin Municipality’s monthly magazine. Based on the information in the article and my conversations with Walworth County Public Works Director Richard Hough and Police Chief Joel Christensen, here is some relevant information about which roads in the City can be approved for ATV/UTV usage.

The City of Elkhorn has the authority to approve ATVs/UTVs on any City streets with speed limits of 35 mph or less. In addition, due to the County ordinance approved last year, if a city approves ATVs/UTVs within their jurisdiction, “any rules and regulations...will apply to County Highways regardless of posted speed limits along the highway.” See Walworth County Code § 66-218. The Walworth County Code incorporates the definition of a “highway” as defined in Wis. Stat. § 340.01(22).

The Council packet includes a copy of a map prepared by Walworth County showing on which public roads ATVs/UTVs may be used. The map needs to be updated to include the Town of Sugar Creek.

## **New Business**

- **Discussion and possible decision regarding advertising the 2024 Northeast Water Treatment Plant Water and Sewer Extension Project for bids**

The 2024 Northeast Water Treatment Plant Water and Sewer Extension Project was included in the 2024-2028 Capital Improvement Plan. This project is necessary to operate the NEWTP at full capacity, and this project is possible as a result of the easements that were obtained from W&W Ventures in 2023. If the Council approves advertising for bids, the City would start advertising on January 11, 2024, and bids would be opened February 1, 2024. Council would then be presented the bids to review and possibly approve in February. The project has been approved for Clean Water Fund Loans but not Safe Drinking Water Fund Loans, so the water extension portion of the project will be bid as alternates.

- **Discussion and possible decision regarding proposal from Teska Associates, Inc. to provide professional planning services for the creation of a land use plan and ordinance for the City’s ETZ in the Town of Sugar Creek**

Teska Associates has provided the City with a proposal to provide the City with planning services during the planning process for the new ETZ in the Town of Sugar Creek. The proposal is in the amount of \$13,770 based on four meetings with the Joint ETZ Committee and one meeting with the City's Plan Commission. The City would be billed for additional meetings. The costs for Teska's services would be charged to the Community Development Fund. The first Joint ETZ Committee meeting for Sugar Creek is scheduled for January 4, 2024 at 5:00 p.m.

- **Discussion and possible decision regarding proposed Resolution No. 24-01: A Resolution Opposing Senate Bill 691 and Assembly Bill 768, Which Authorize the Creation of Urban Towns**

On December 27, 2023, the City received an emergency email from the League of Wisconsin Municipalities about Wisconsin Senate Bill 691 and Assembly Bill 768, which would allow towns above 5,000 people to designate themselves as "urban towns" and access municipal water and sewer services—in addition to some other negative changes. According to a list provided by the LWM, both the Town of Geneva and Town of Delavan would qualify.

This matter is urgent because there is going to be a Senate hearing on the bill on January 10, 2024. The Council packet includes copies of the email from the League of Wisconsin Municipalities and a memo that was sent by the LWM to the Wisconsin State Legislature in September opposing the creation of urban towns. If the mayor or Council want to represent the City at the hearing on January 10, 2024, please let me know. If not, I will plan on attending—assuming the mayor and Council want the City to take an official position on the proposed legislation. The LWM provided me with a sample resolution, which I used to tailor a resolution for Council's consideration.

- **Discussion and possible decision regarding canceling Council meeting scheduled for January 8, 2024**

At the last Council meeting, the Council voted to move the January 3, 2024 meeting to January 8, 2024. Due to the need to hold a special meeting on January 3, 2024, would Council like to cancel the meeting on January 8, 2024? Based upon feedback from the mayor, City staff added all the business for January 8 to the January 3 meeting to the extent possible. City staff have confirmed with the DNR and Quarles & Brady that the City can still close on its Clean Water Fund and Safe Drinking Water Fund loans if the documentation is approved by the Council at the next regularly scheduled meeting on January 15, 2024.

**From:** [Robert Moses](#)  
**To:** [Adam Swann](#)  
**Subject:** ATV's/UTV's on Public Roads  
**Date:** Wednesday, December 20, 2023 11:40:25 AM

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Adam,

Good morning. In answer to your questions about the economic benefits for allowing ATVs on public roads, the answer is YES. We have seen more ATV's and UTV's leaving their campsites or campgrounds to come into Prairie du Chien to restaurants, bar etc. We have seen an economic impact. We are also finding more and more ATV ride events where multiple ATV's ride across Crawford County and stop at local bars and restaurants.

It is a definite WIN WIN!

Appreciate you reaching out.

Bob

Robert Moses, President/CEO  
Prairie du Chien Area Chamber of Commerce &  
Prairie du Chien Tourism Council  
211 S. Main Street  
Prairie du Chien, WI 53821  
608-326-8555 ext 12



# 2022 Wisconsin Recreational Vehicle Safety Education & Enforcement Report



Wisconsin Department of Natural Resources  
Division of Public Safety and Resource Protection

Pub-314-2023

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## PROGRAM SCOPE

The Division of Public Safety and Resource Protection provides response and presence for all recreational vehicle activities. Our belief is grounded in the overarching goal that safety is our No. 1 priority – and that the public has safe and enjoyable experiences recreating in our state’s waters and on our trails. We continue to promote recreational vehicle safety and enjoyment through education and enforcement initiatives, recreational vehicle regulation compliance and safety, and reducing crashes and fatalities through education, community involvement, outreach, and enforcement. Our duties and responsibilities with ATVs/UTVs, off-highway motorcycles (OHMs), snowmobiles, and boats include:

- Crash investigation and reconstruction, reporting, and administration
- Enforcement
- Search and rescue
- Safety education
- Operations
- Public outreach and safety marketing
- Municipal boating ordinance review and administration
- Waterway marker permitting and administration

## RECREATIONAL VEHICLE PROGRAM CONTACTS

<p><b>Major April Dombrowski</b>                  Recreational Safety &amp; Outdoor Skills Section Chief                  608-852-9456  <a href="mailto:April.Dombrowski@wisconsin.gov">April.Dombrowski@wisconsin.gov</a></p>	
<p><b>Lieutenant Jacob Holsclaw</b>                  Off-highway Vehicle Administrator                  715-491-0283  <a href="mailto:Jacob.Holsclaw@wisconsin.gov">Jacob.Holsclaw@wisconsin.gov</a></p> <p><b>Ryan Serwe</b>                  Off-highway Vehicle Program Specialist                  608-225-2310  <a href="mailto:Ryan.Serwe@wisconsin.gov">Ryan.Serwe@wisconsin.gov</a></p>	<p><b>Lieutenant Darren Kuhn</b>                  Boating Law Administrator                  920-615-6075  <a href="mailto:Darren.Kuhn@wisconsin.gov">Darren.Kuhn@wisconsin.gov</a></p> <p><b>Adrienne Sullivan</b>                  Boating Program Specialist                  608-720-0615  <a href="mailto:Adrienne.Sullivan@wisconsin.gov">Adrienne.Sullivan@wisconsin.gov</a></p>

## PROGRAM SUMMARY

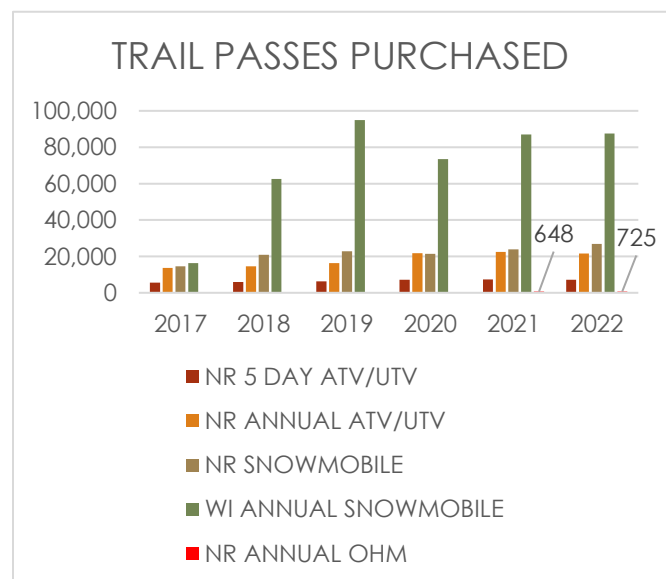
### RECREATIONAL VEHICLE REGISTRATIONS

#### REGISTRATION REQUIREMENTS

- **ATVs & UTVs** operating in Wisconsin must be registered for public or private use unless exempt from registration.
- **Snowmobile** registration is required for the operation of any snowmobile in Wisconsin unless the operation is exempt from registration.
- **Off-highway motorcycles (OHMs)** must be registered with the DNR if any of the following apply: An OHM is used for recreational purposes on public lands, recreational purposes on private lands held open to the public, or private agricultural purposes.
- **Boats** must be registered to operate legally in Wisconsin waters. Exceptions to the requirement to register a recreational vessel include:
  - 1) Sailboats 12 feet in length or less and not equipped with a motor
  - 2) Sailboards
  - 3) Manually propelled vessels not equipped with a motor or sail
  - 4) Vessels registered in another state and using Wisconsin waters for less than 60 consecutive days

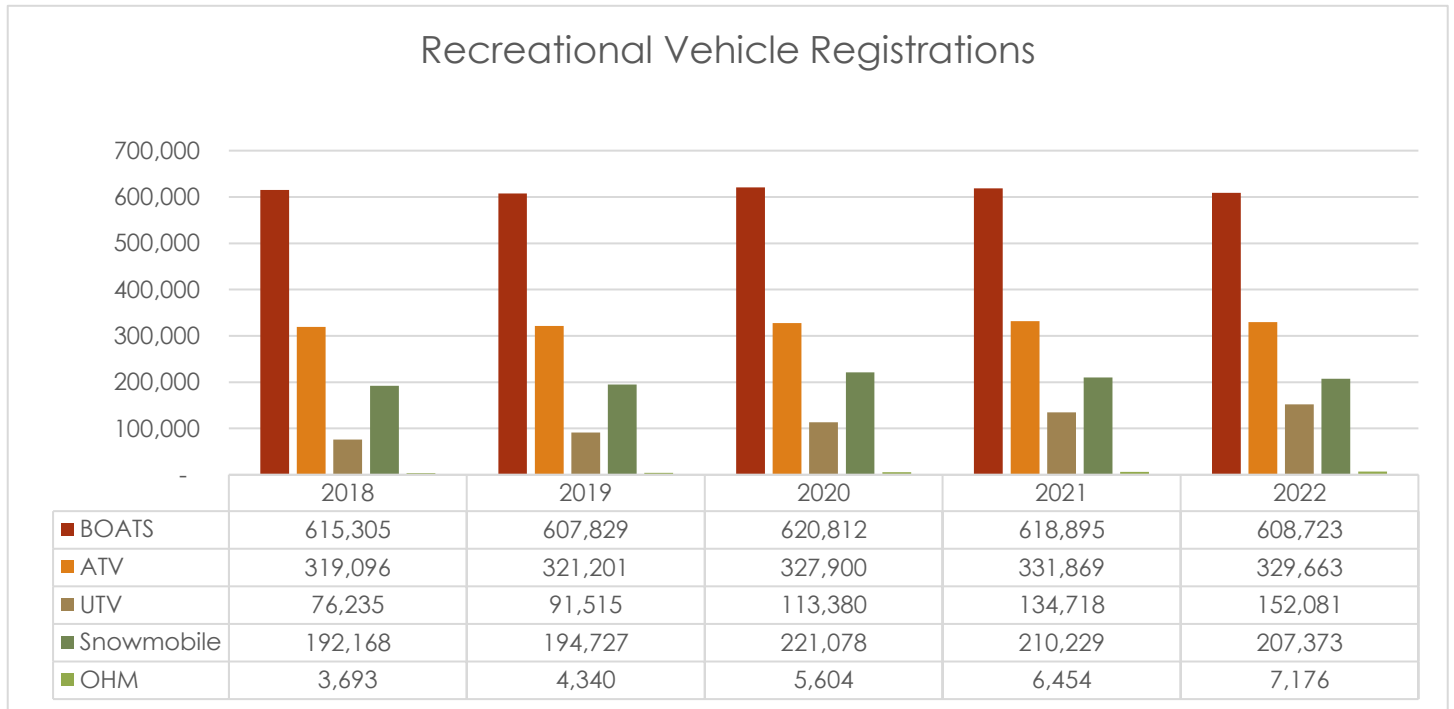
#### TRAIL PASS REQUIREMENTS

- **Snowmobile Trail Pass:** All snowmobiles operating on a Wisconsin snowmobile trail or corridor must display a valid snowmobile trail pass, whether registered in Wisconsin or another state. For more information regarding snowmobile trail pass requirements, visit the [Snowmobile Trail Pass webpage](#).
- **Nonresident ATV/UTV Trail Pass:** Wisconsin law requires those who use Wisconsin ATV or UTV trails to display either Wisconsin registration or a nonresident trail pass. Funds from this program will be designated as trail aids and related costs to enhance Wisconsin's ATV and UTV recreation. If the ATV or UTV is kept in Wisconsin, it must be registered in



Wisconsin. Visit the [Nonresident ATV and UTV Trail Passes webpage](#) for more information.

- **Nonresident OHM Trail Pass:** Nonresidents can operate their OHM for recreational use with either a nonresident OHM trail pass affixed to the OHM or a valid nonresident 5-day trail use receipt, which must be in the possession of the operator. Nonresidents who keep their OHM in Wisconsin must register their OHM in Wisconsin.



UTV registrations have been the fastest growing registrations over the past five years, nearly doubling the number of 2018 registrations in 2022.

## CRASH REPORTING, INVESTIGATION AND STATISTICS

### RECREATIONAL VEHICLE CRASH REPORTING REQUIREMENTS

**An ATV/UTV or snowmobile crash** is any incident (regardless of the number of vehicles involved) resulting in a fatality or an injury requiring a physician’s medical treatment. Wisconsin law requires every ATV, UTV and snowmobile operator involved in a crash to report the incident without delay to law enforcement officials. The operator must also submit a written report to the DNR within 10 days of the crash.

**An OHM crash** is any incident (regardless of the number of vehicles involved) resulting in a fatality or an injury requiring a physician’s medical treatment that occurs on public land. Wisconsin law requires every OHM operator involved in a crash to give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and submit a written report to the department within 10 days of the crash.

**A reportable boat incident** is any incident (regardless of the number of boats involved) resulting in loss of life, injuries that require medical treatment beyond first aid, boat or property damage of more than \$2,000,

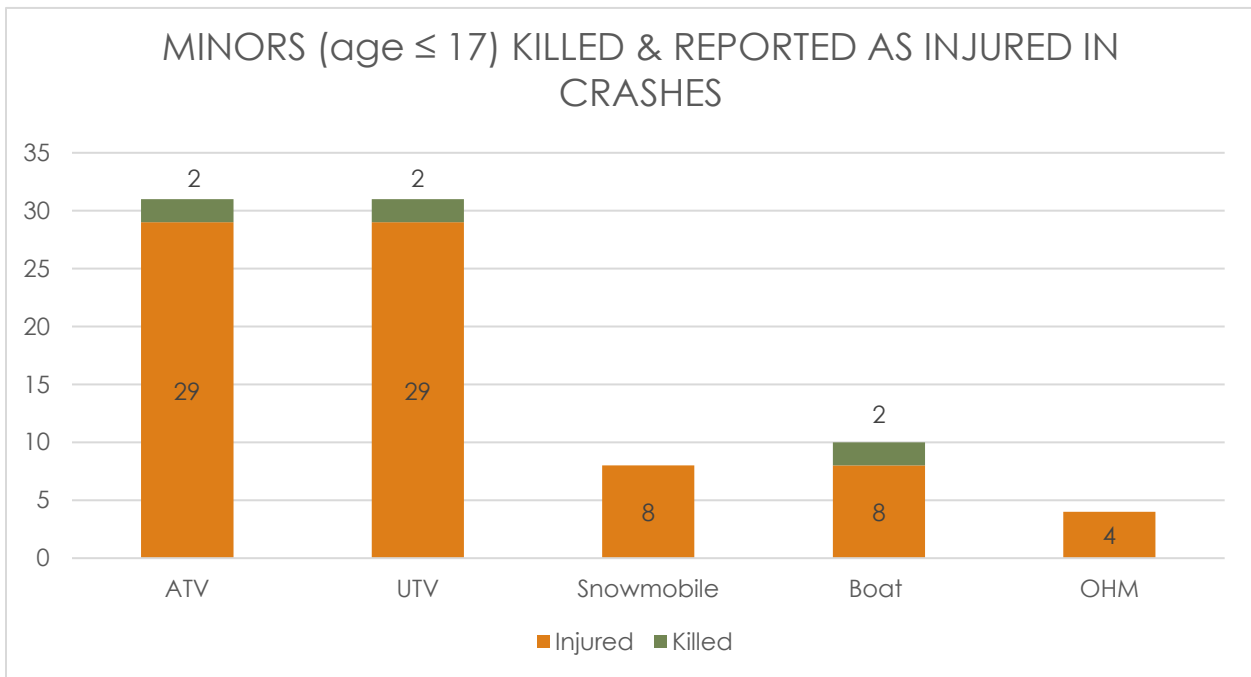
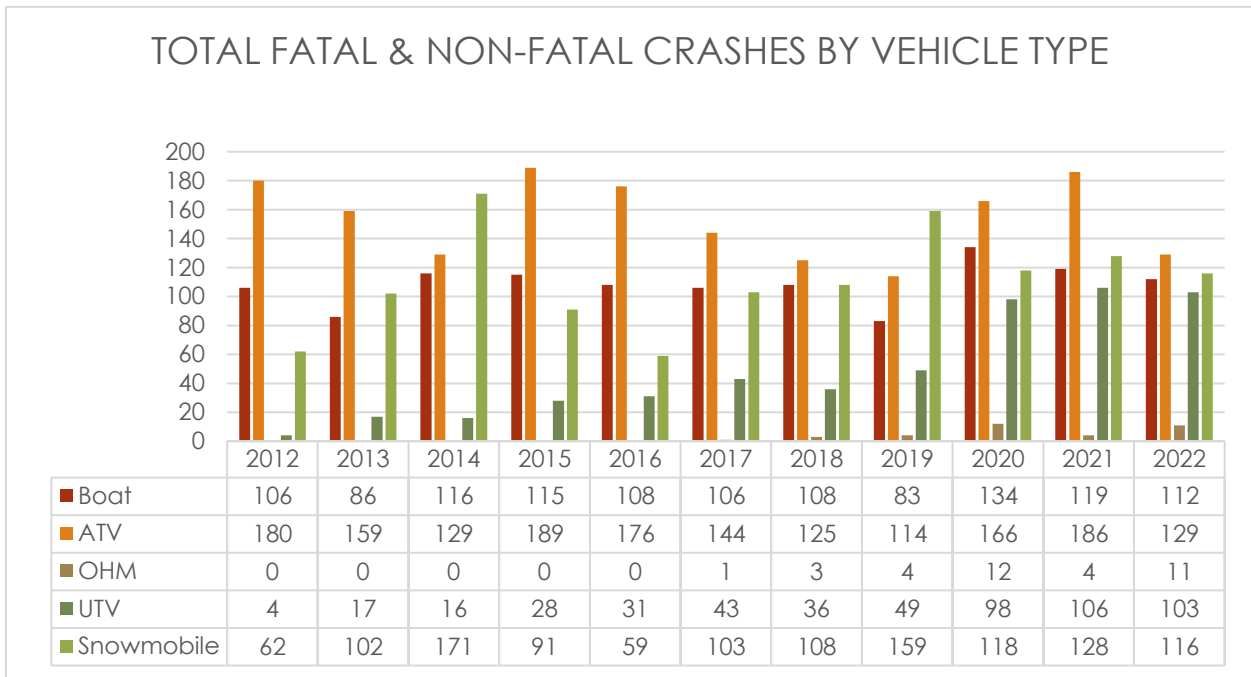
or complete loss of a boat. Wisconsin law requires every boat operator involved in a reportable boat incident to report the incident without delay to law enforcement officials. The operator must also submit a written report to the DNR within 10 days of the crash. The department is required by state and federal law to gather boat incident reports and convey the information to the United States Coast Guard by entering the incident information into the Coast Guard's Boating Accident Report Database (BARD).

### CRASH STATISTICS OVERVIEW

When reviewing crash statistics, it is important to note that law enforcement officials investigate 100% of fatal recreational vehicle crashes, resulting in high confidence in the data. In some cases, non-fatal crashes may not be investigated by law enforcement officers. The data collected is based on the operator's crash report. Of the 2022 reported non-fatal crashes, only 58% were investigated by a law enforcement officer. In addition, non-fatal incidents may be under-reported because operators are unaware of the reporting requirements or are unwilling to report. It should be noted that statute requires all boating crashes, both fatal and reportable injury, to be investigated by law enforcement.

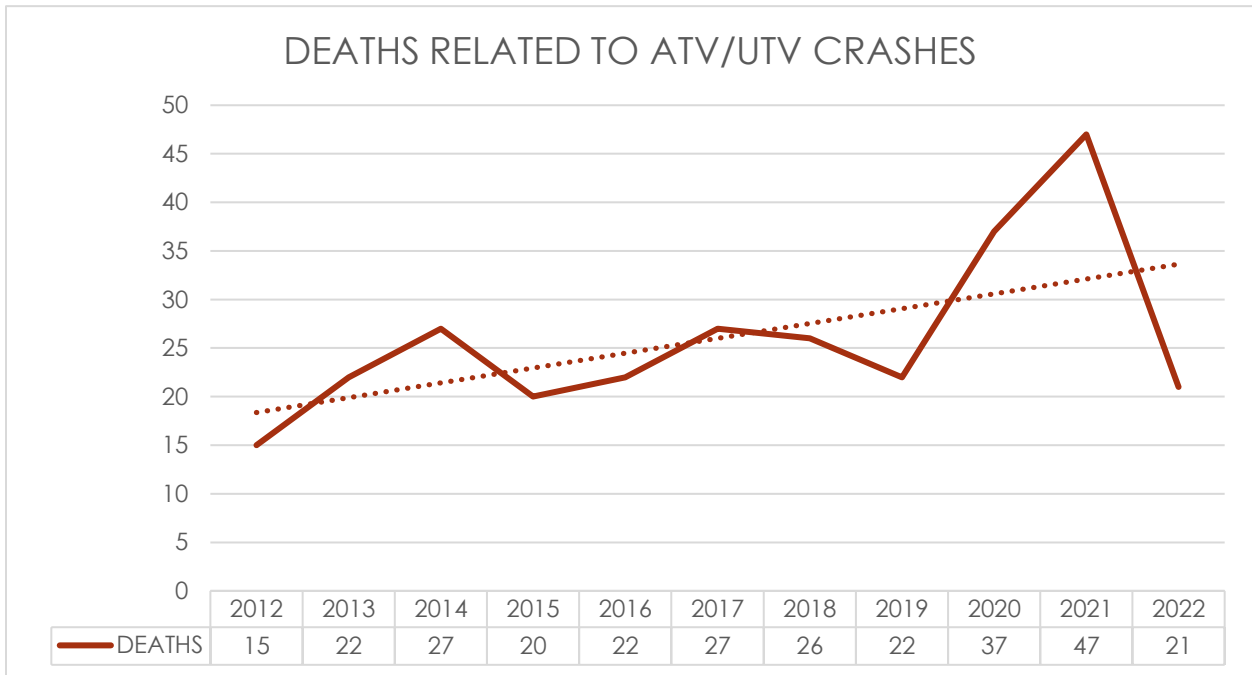
2022 Percentage of Reported Non-Fatal Crashes Investigated by Law Enforcement			
Crash Type	Reported Non-Fatal Crashes	Non-Fatal Crashes Investigated by Law Enforcement	Percentage of Non-Fatal Crashes Investigated by Law Enforcement
ATV	116	67	58%
Boat	92	77	84%
OHM	11	9	82%
Snowmobile	100	38	38%
UTV	95	48	51%
Total	414	239	58%

2022 Crash-Related Fatalities and Injuries		
Crash Type	Crash Deaths	Reported Injuries in Non-fatal Crashes
ATV	13	124
Boat	20	68
OHM	0	11
Snowmobile	16	100
UTV	8	131
Total	57	434

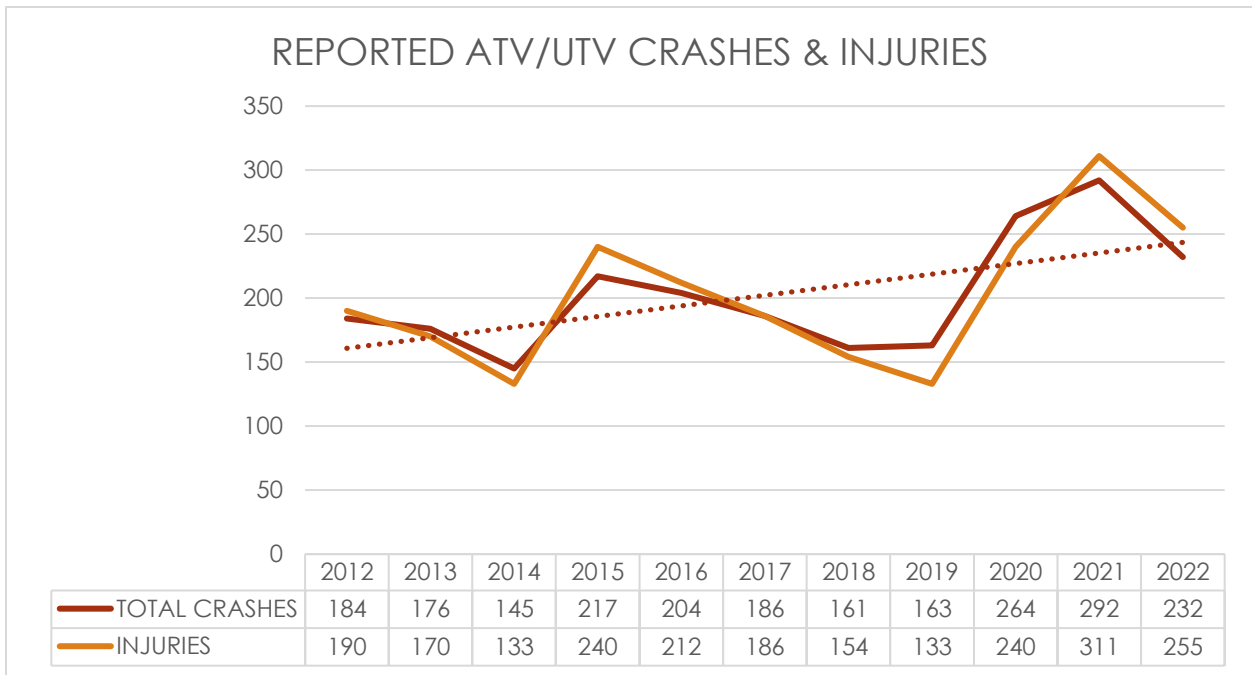


As the number of registered vehicles and recreational opportunities grows, so does the number of reported injuries and crash-related deaths. The program continues to focus on public education through the *Saving Lives* initiative, which includes targeted enforcement weekends, safety marketing campaigns, and safety education classes.

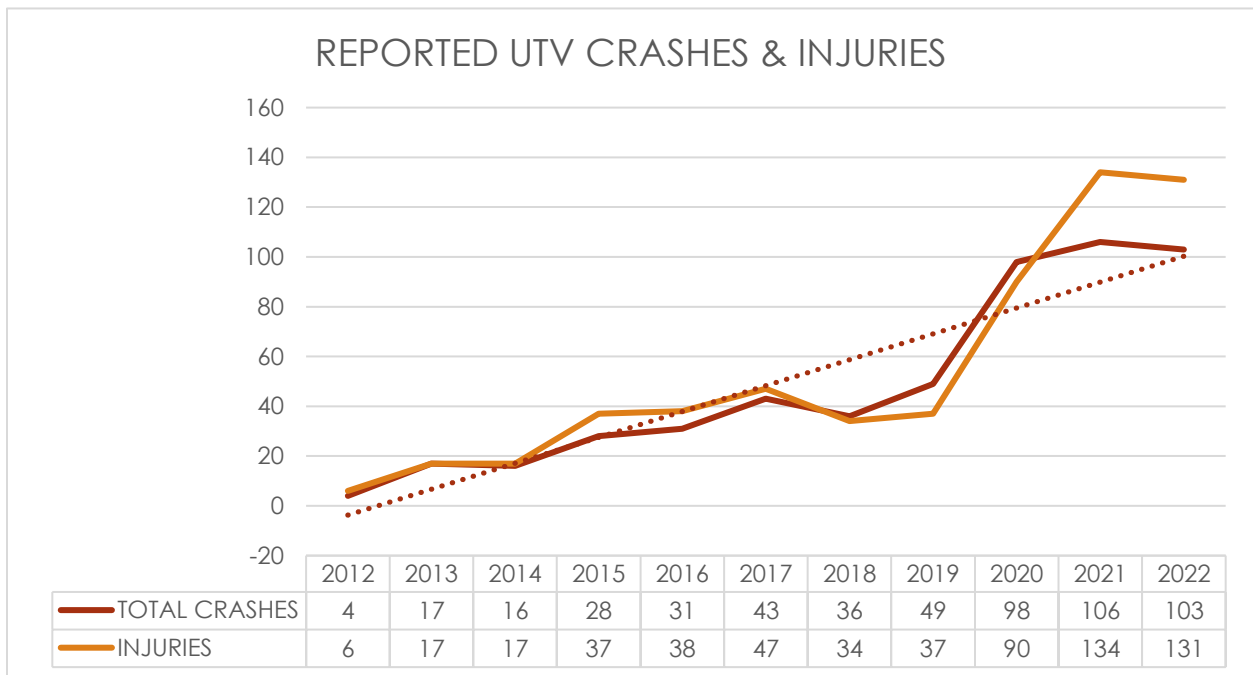
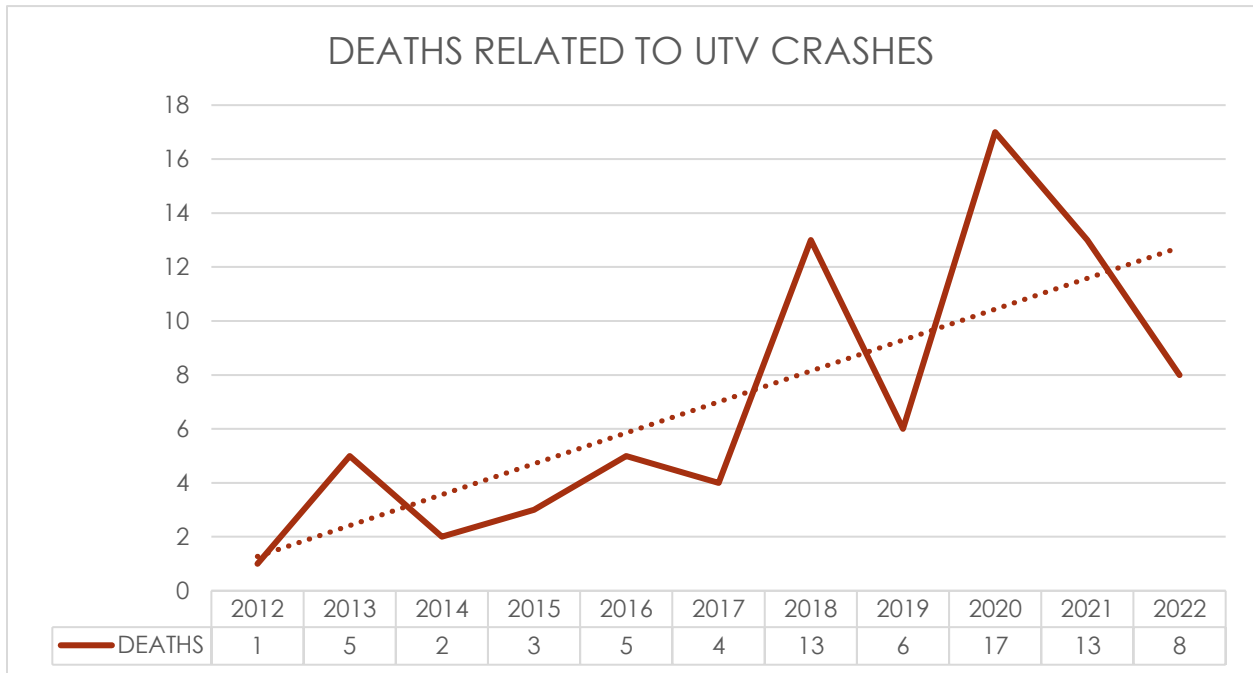
ATV & UTV CRASH STATISTICS

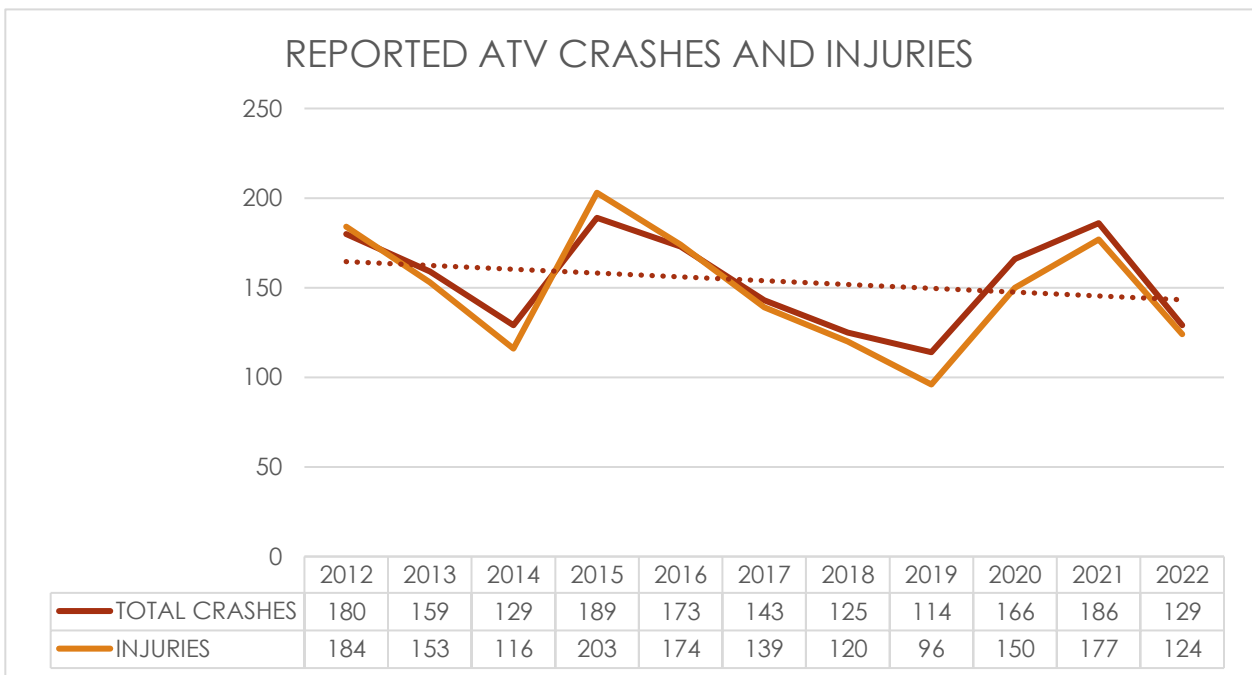
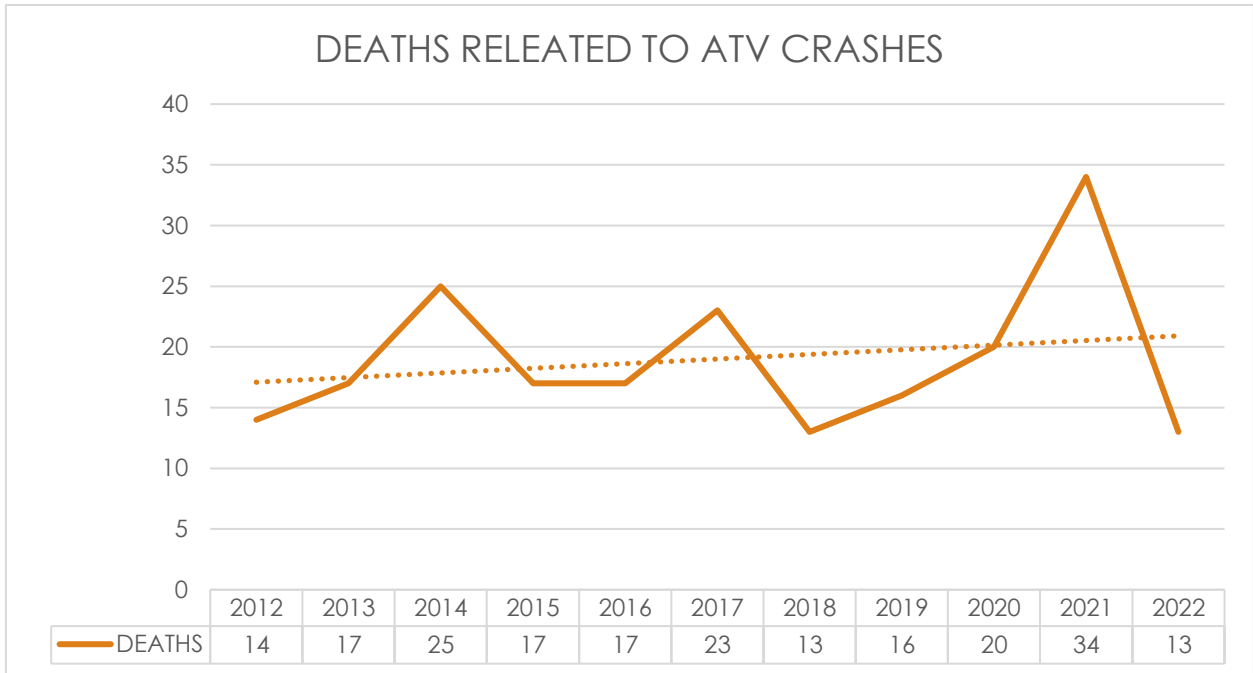


In 2022, three of the fatal victims in ATV/UTV crashes were passengers.



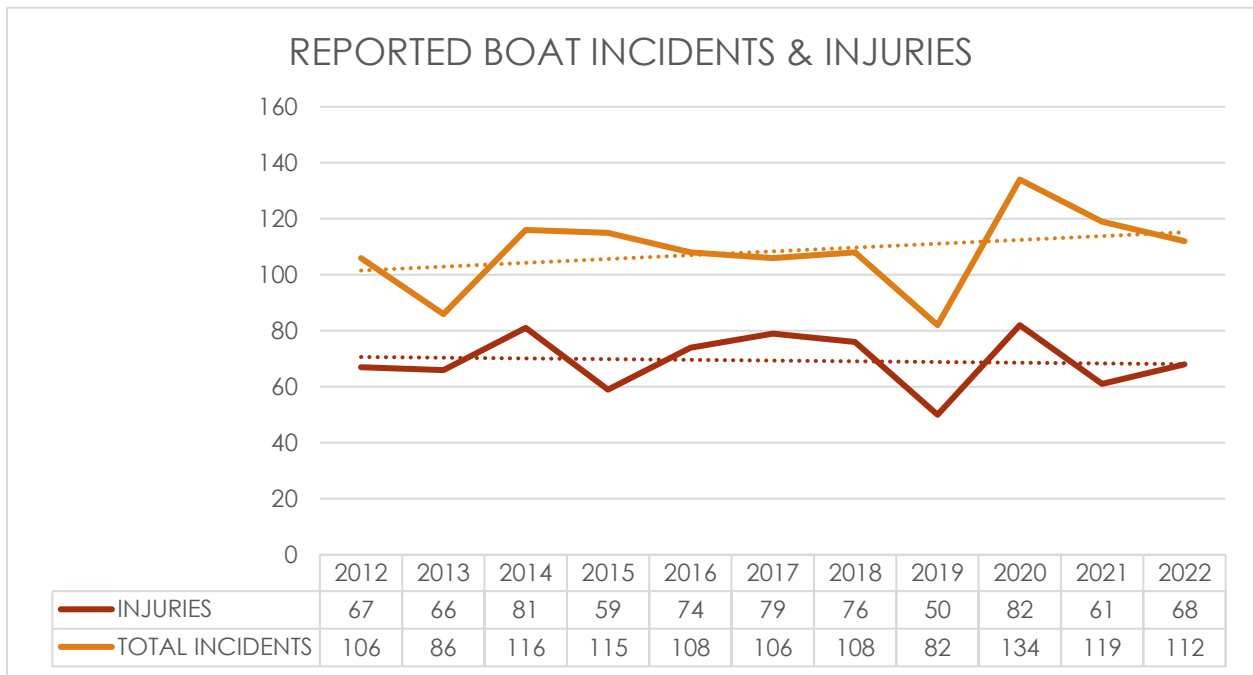
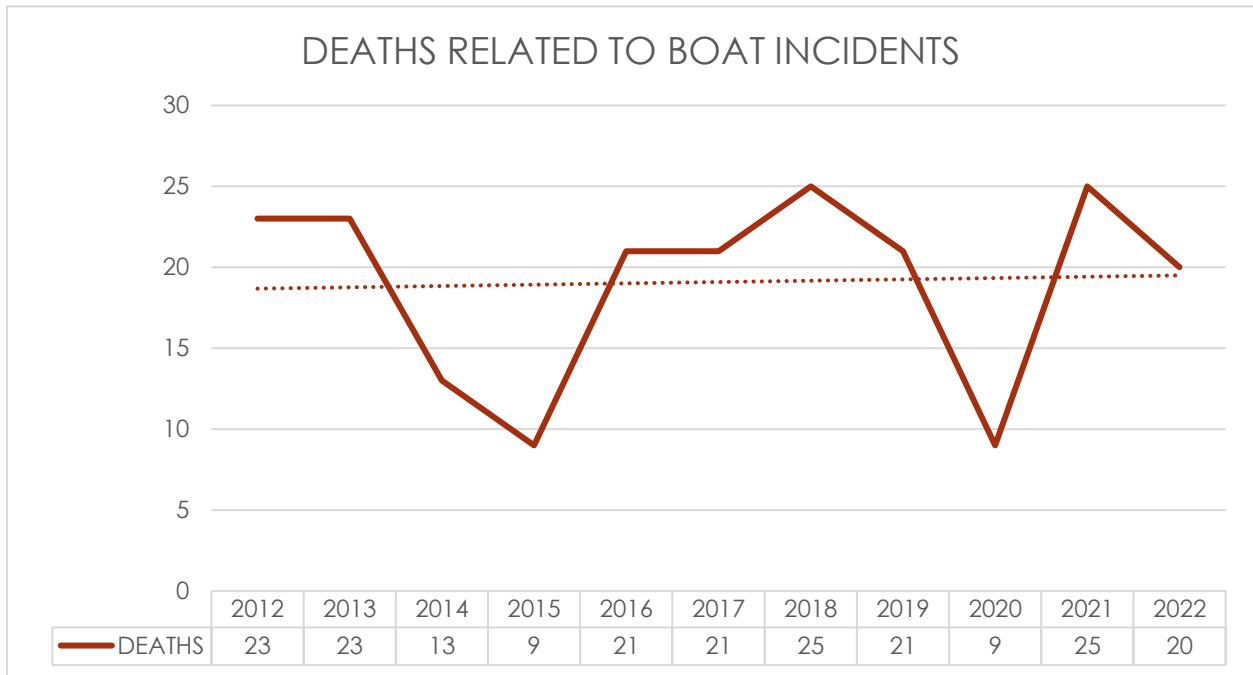
83 passengers were injured in ATV/UTV crashes.



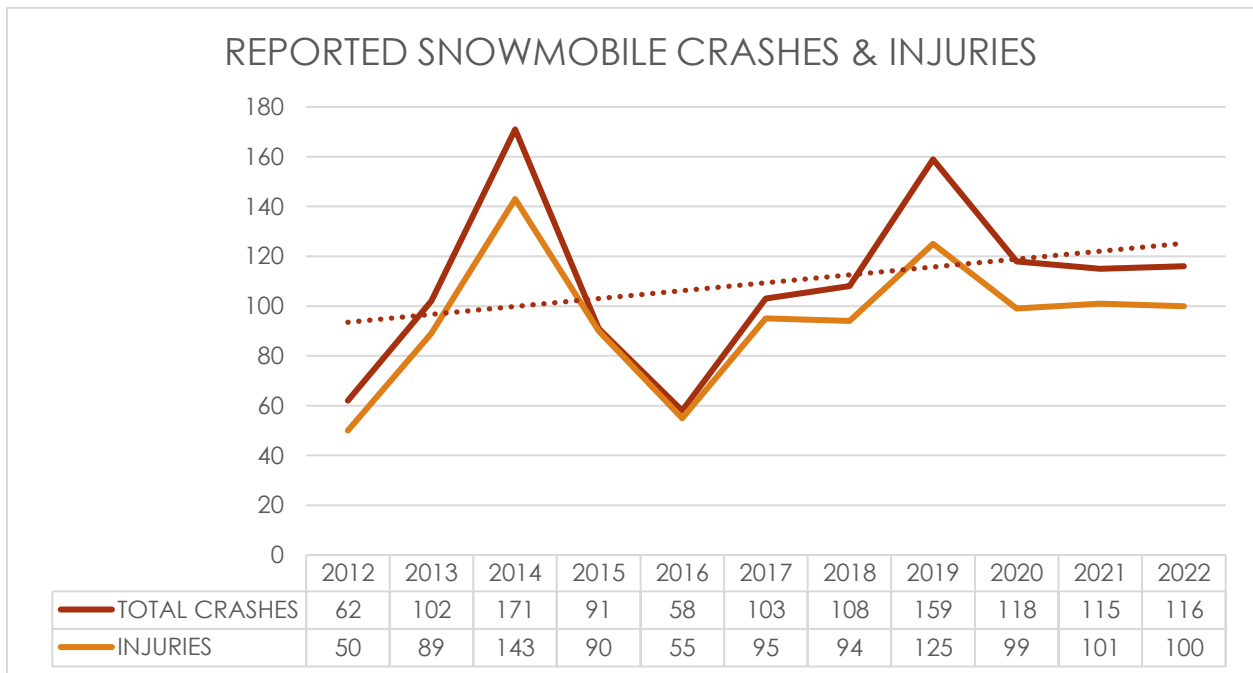
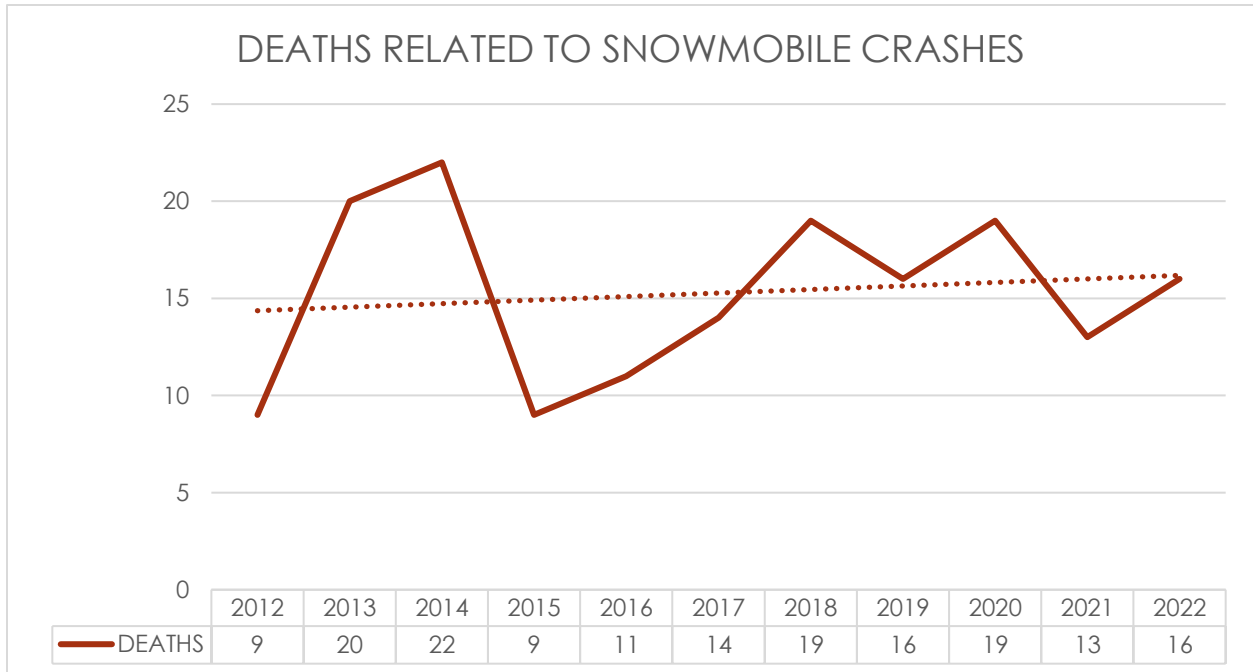




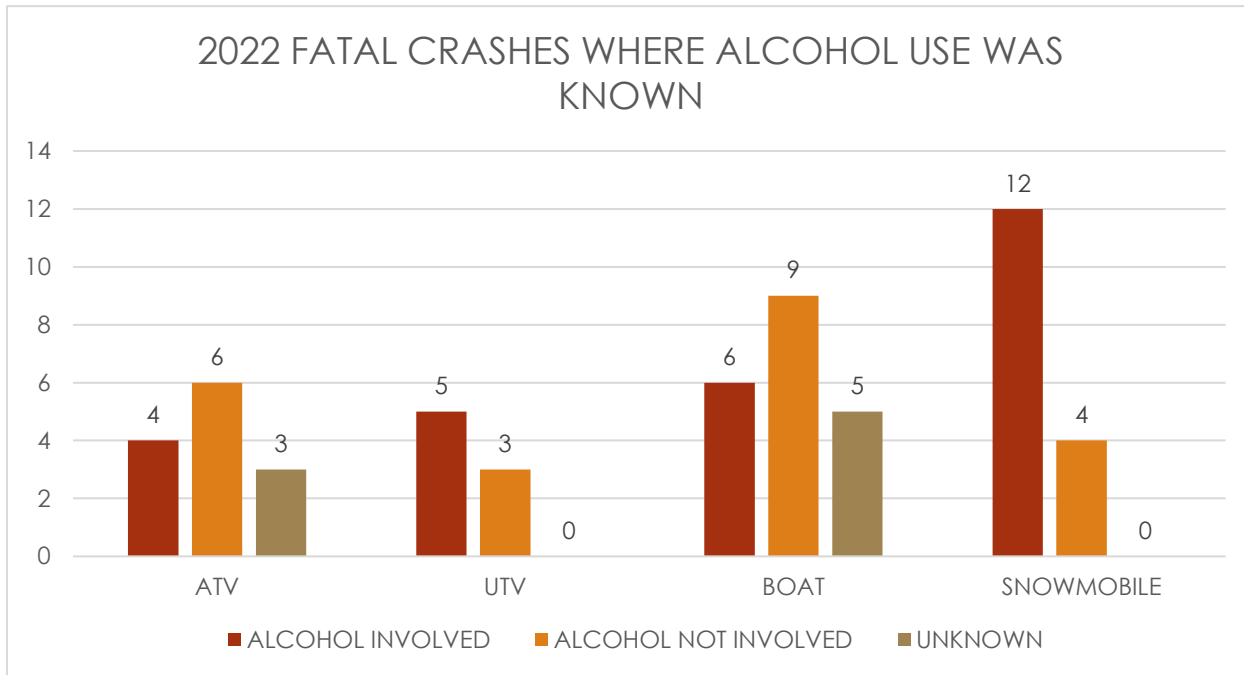
BOATING INCIDENT STATISTICS



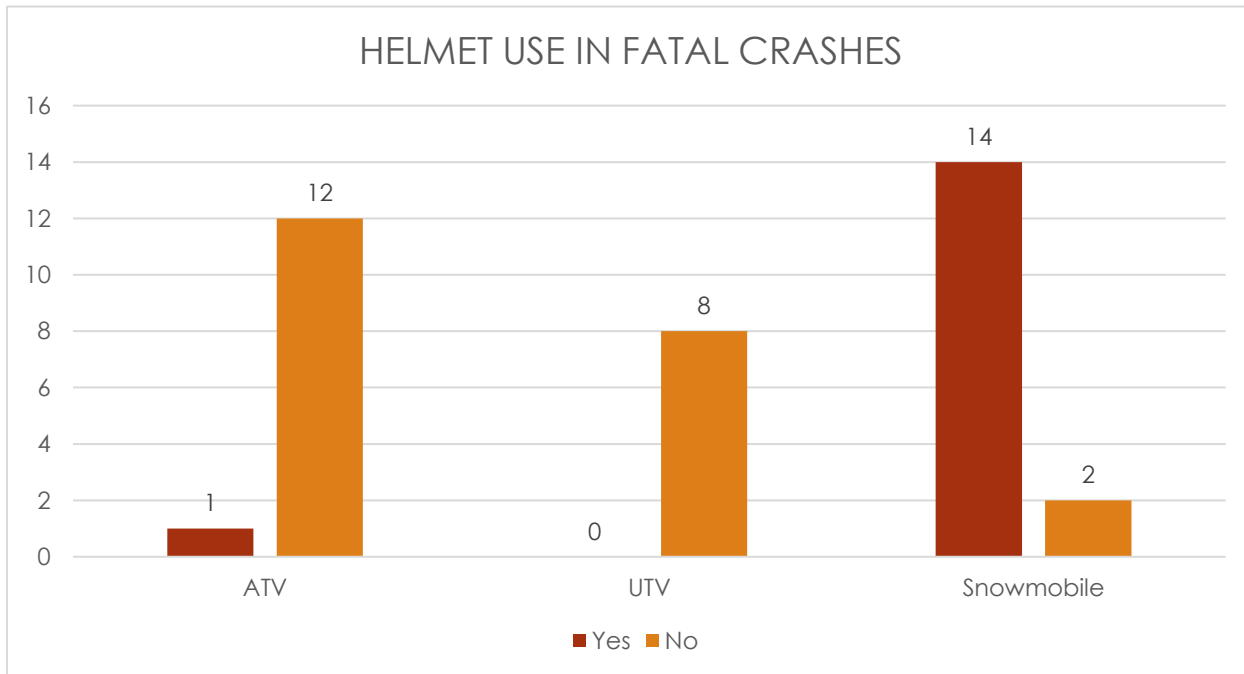
SNOWMOBILE CRASH STATISTICS



CRASH FACTORS & CONDITIONS

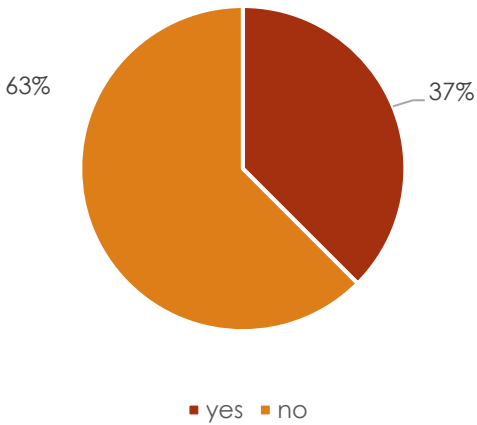


At least 27 fatal recreational vehicle crashes involved alcohol in 2022. In eight crashes, alcohol involvement was unknown.



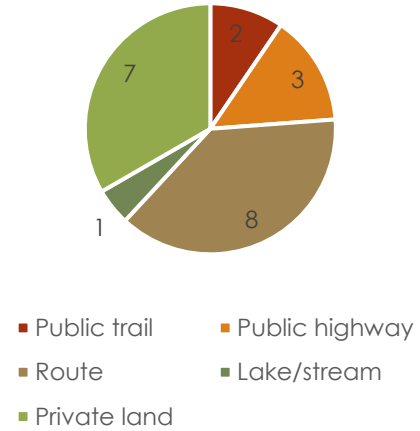
Over 95% of fatal ATV/UTV crash victims were not wearing a helmet at the time of the crash.

### UTV SEATBELTS WORN IN FATAL CRASHES



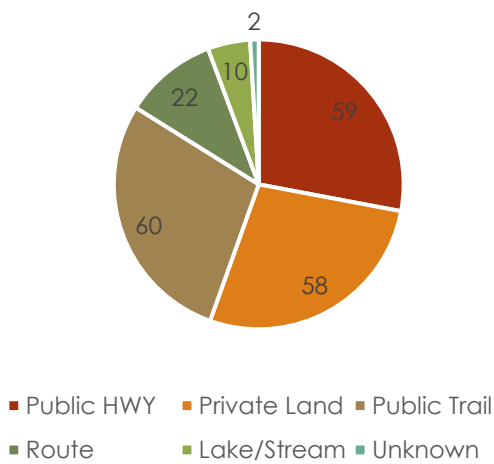
In 2022, 63% of fatal crash victims were not wearing a seatbelt at the time of the crash.

### ATV/UTV FATAL CRASH LOCATIONS



A combined 52% of crashes occurred on public highways and road routes.

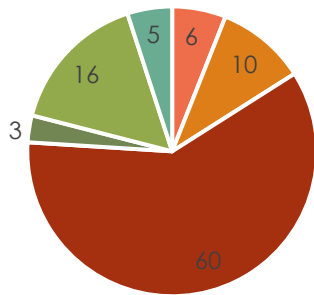
### ATV/UTV NON-FATAL CRASH LOCATIONS



Over 80 non-fatal crashes occurred on public highways in 2022.

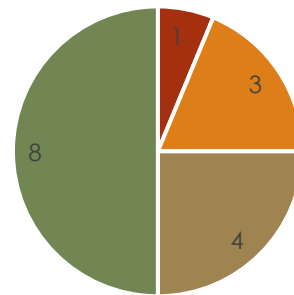


### SNOWMOBILE NON-FATAL CRASH LOCATIONS



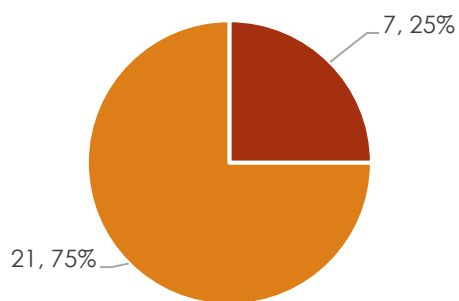
- Public HWY
- Private Land
- Public Trail
- Route
- Lake/Stream
- Unknown

### SNOWMOBILE FATAL CRASH LOCATIONS



- Route
- Public Highway
- Lake/Stream
- Public trail

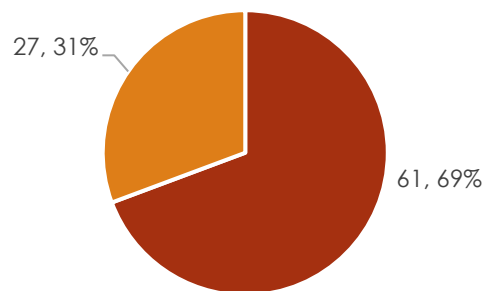
### SNOWMOBILE OPERATOR SAFETY EDUCATION COMPLIANCE



- NO
- YES

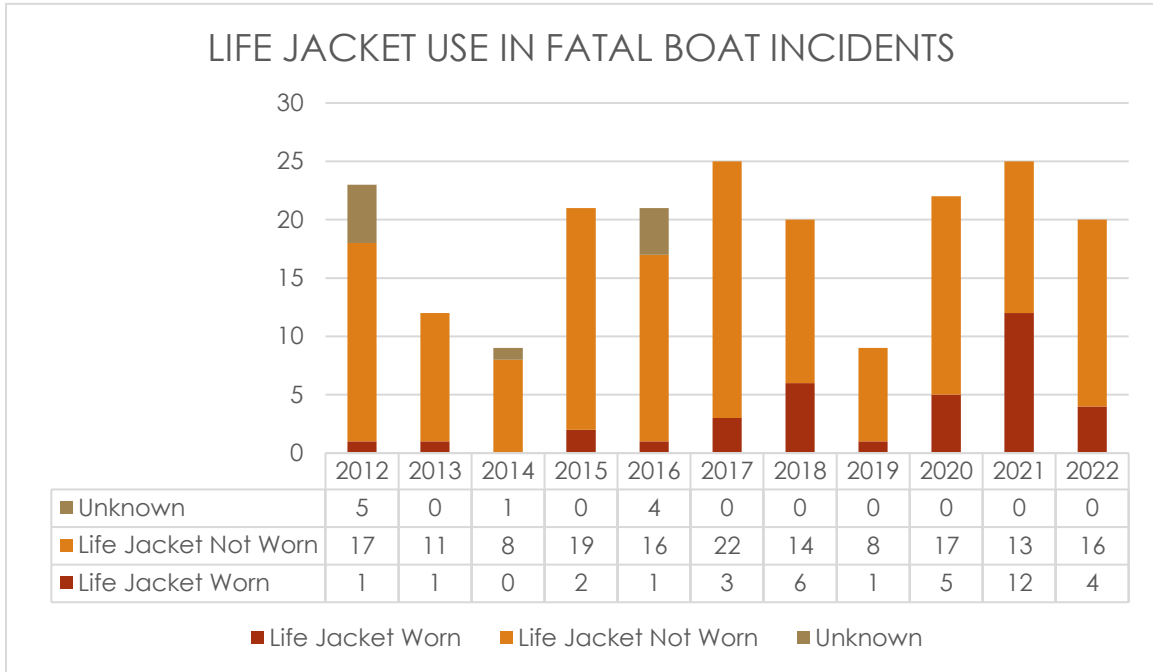
Of the 28 operators required by law to have a valid snowmobile safety certification, 21 had completed the required training.

### ATV/UTV OPERATOR SAFETY EDUCATION COMPLIANCE



- NO
- YES

Of the 88 operators required by law to have a valid ATV safety certification, only 27 had completed the required training.



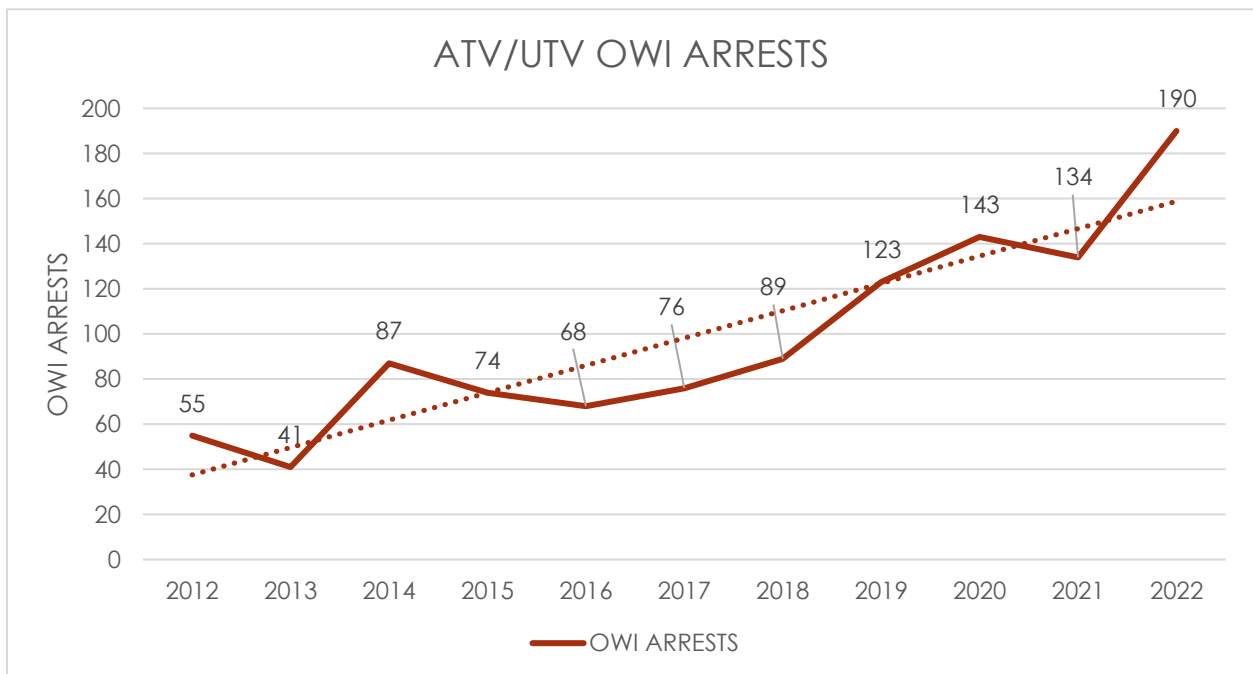
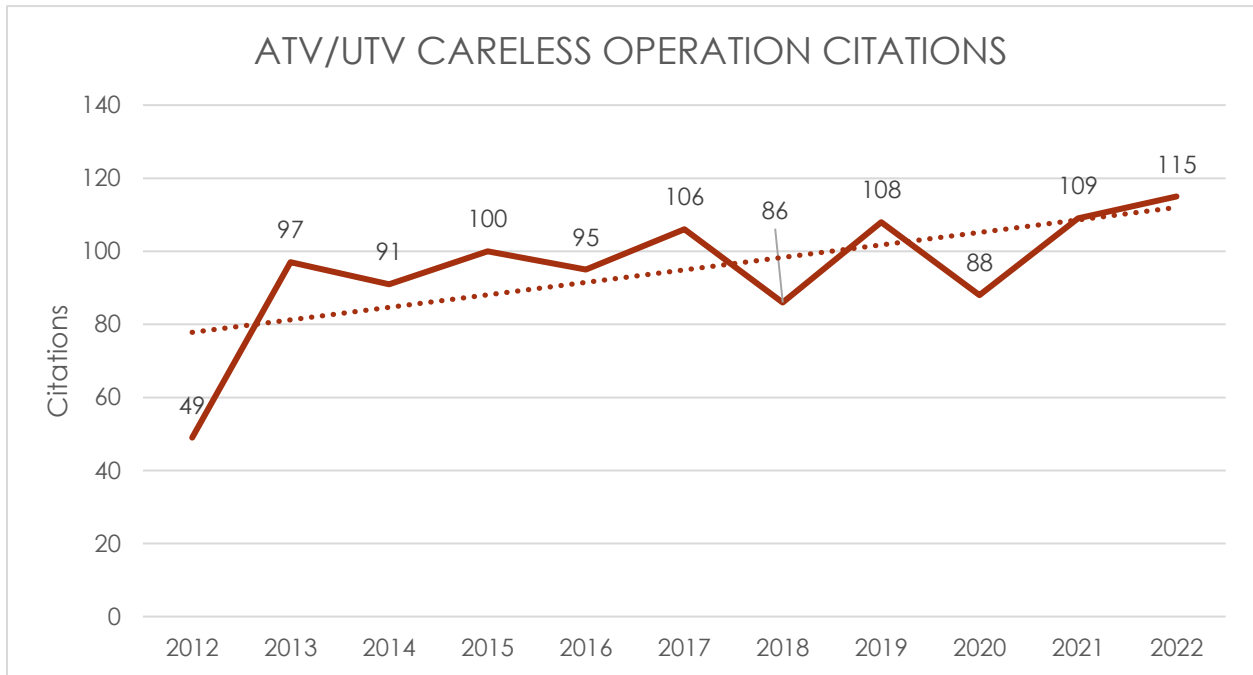
Top 3 Factors In Non-Fatal Crashes	
ATV	1. Careless/reckless operation 2. Alcohol use 3. Sharp turn
UTV	1. Alcohol use 2. Careless/reckless operation 3. Excessive speed
Snowmobile	1. Alcohol use 2. Excessive speed 3. Inattention
Boat	1. Careless/reckless operation 2. Operator inattention 3. Skier/tuber behavior

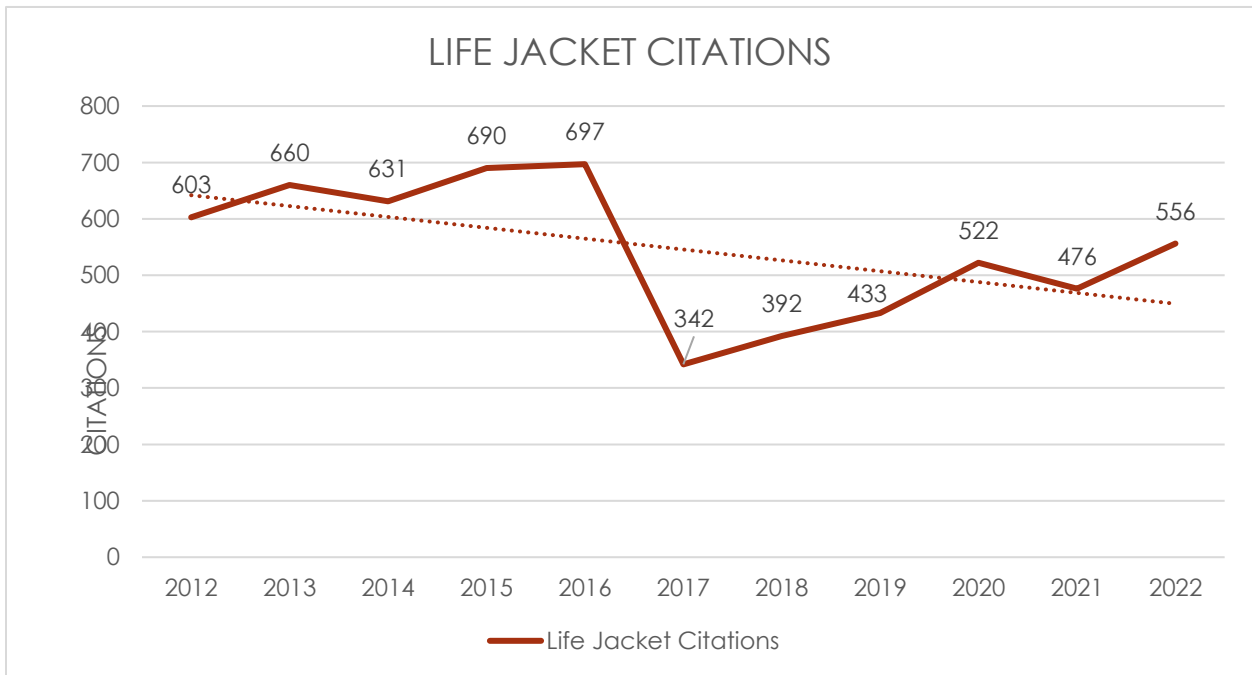
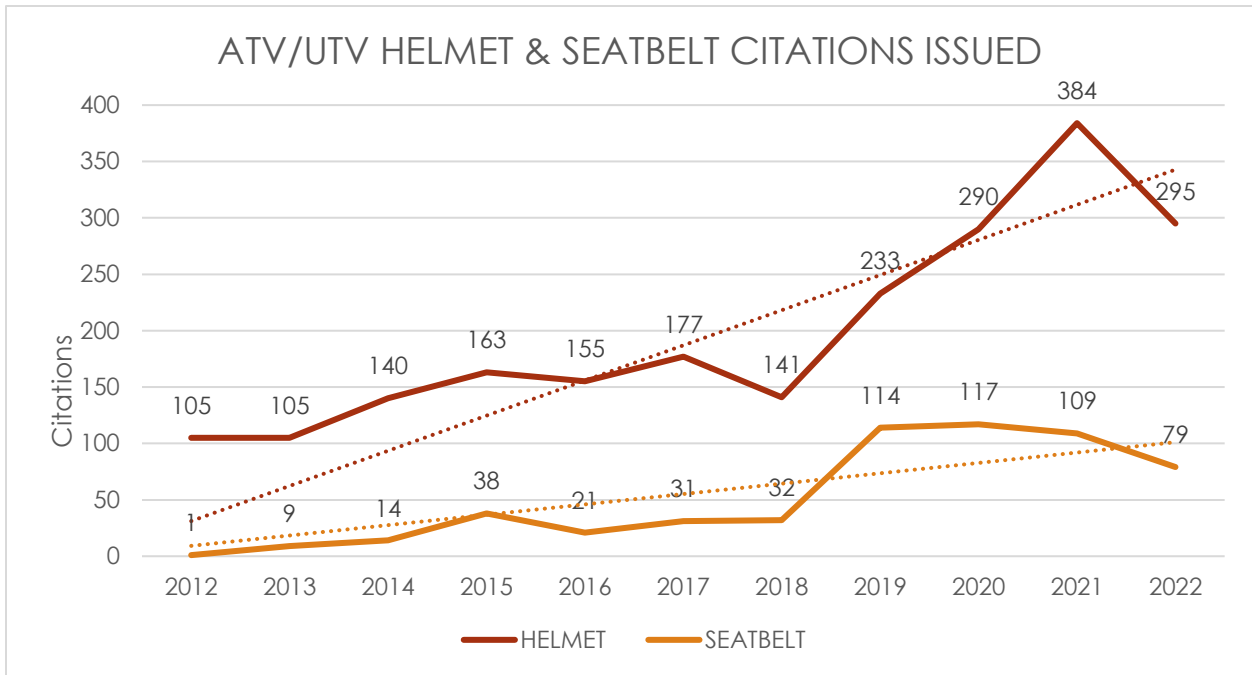
Top 3 Factors In Fatal Crashes	
ATV	1. Alcohol use 2. Excessive speed 3. Careless/reckless operation
UTV	1. Alcohol use 2. Excessive speed 3. Sharp turn
Snowmobile	1. Alcohol use 2. Excessive speed 3. Careless/reckless operation
Boat	1. Alcohol use 2. Weather 3. Sharp turn

Alcohol, excessive speed, and reckless operation are the top contributing factors in recreational vehicle crashes.

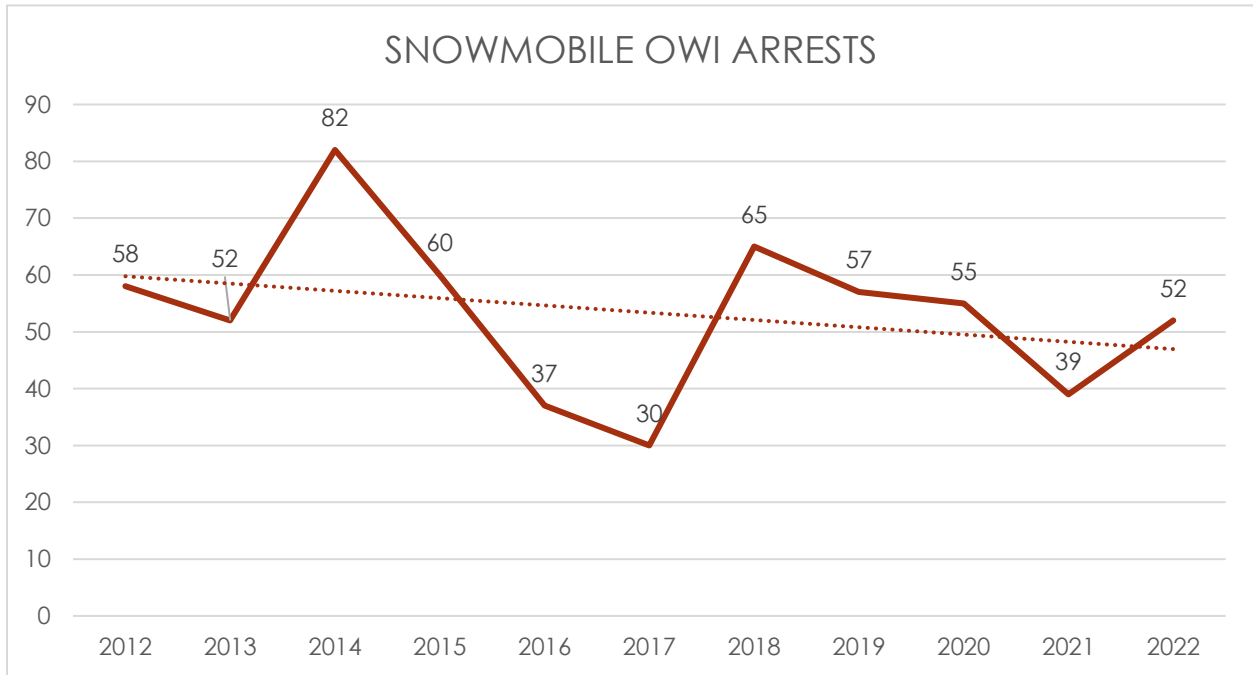
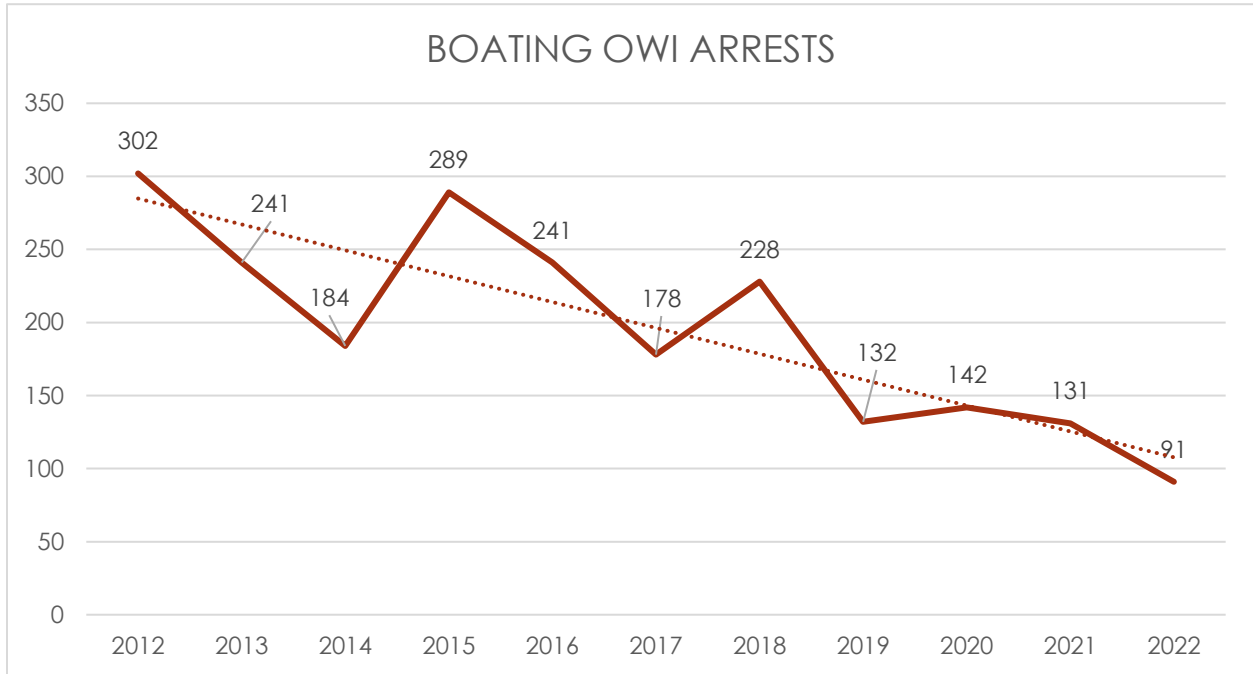
**ENFORCEMENT**

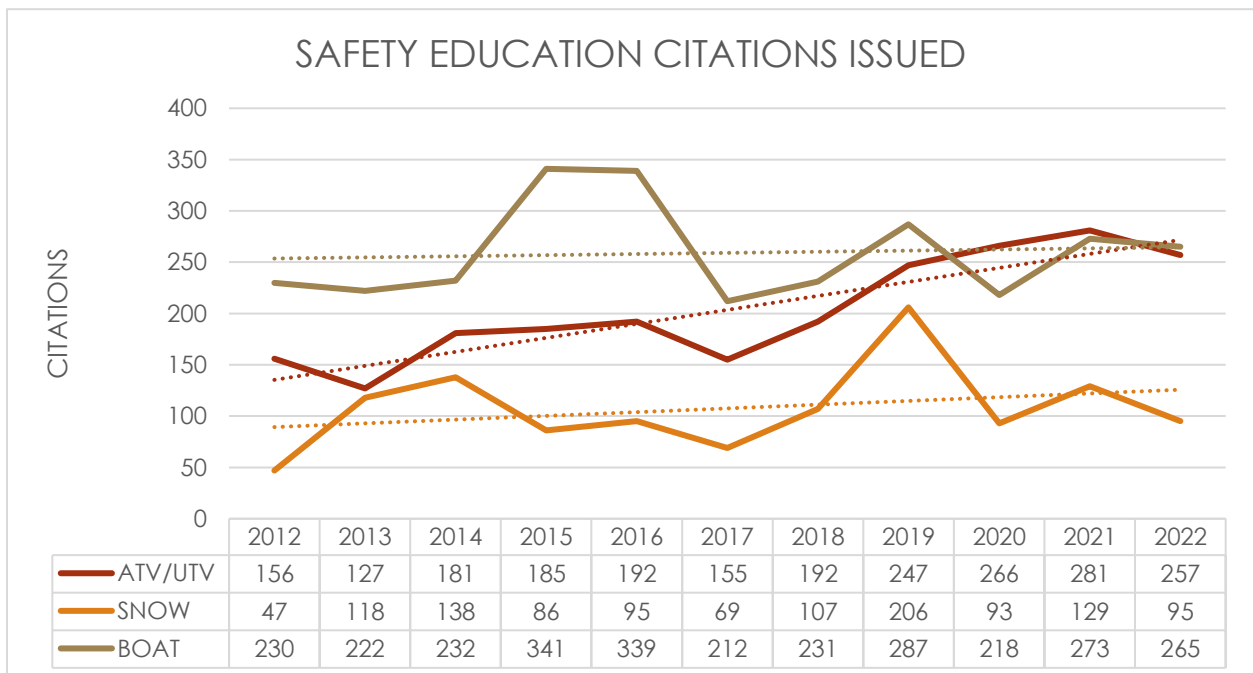
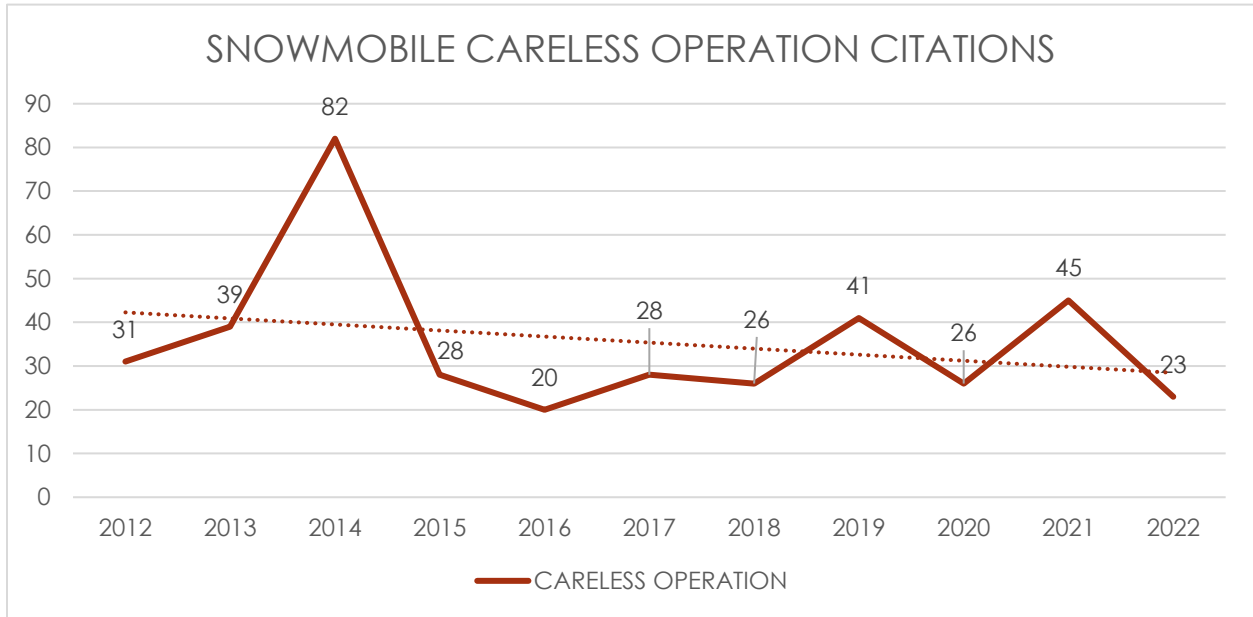
State conservation wardens and local law enforcement officers provide enforcement of recreational vehicles. The DNR administers funding to county and municipal enforcement patrols to reimburse part of their operating expenses. Citations issued by those patrol agencies are included in the figures below.











## TOP TEN CITATIONS ISSUED

2022 Top 10 ATV/UTV Citations	
COUNT	STATUTE DESCRIPTION
384	Unauthorized operation of an all-terrain vehicle or utility terrain vehicle on or in the vicinity of highways
295	Operated or rode an all-terrain vehicle or utility terrain vehicle without required headgear
209	Gave permission to operate an all-terrain vehicle or utility terrain vehicle without valid registration
190	Operated an ATV/UTV while under the influence of an intoxicant
170	Operated an all-terrain vehicle without a valid safety certificate
115	Operated an all-terrain vehicle or utility terrain vehicle in a careless manner
88	Operated an all-terrain vehicle or utility terrain vehicle on public property posted closed or where otherwise prohibited by law
87	Operated a utility terrain vehicle without a valid safety certificate
79	Operated a UTV without passengers wearing safety belts
77	Failed to affix public use registration decals to each side of an ATV or UTV in a clearly visible location forward of the operator

2022 Top 10 Boating Citations	
COUNT	STATUTE DESCRIPTION
354	Failed to carry the required number/type of readily accessible PFD for each person on board or being attended by boat
131	Operated a boat without a valid certificate of number
128	Operated at speed in excess of posted notice established by regulatory markers
124	Operated a personal watercraft greater than slow-no-wake within 100' of another boat
114	Operated motorboat while age 16 or older without a valid safety certificate (born on/after 1-1-89)
100	Operated a personal watercraft while age 16 or older without a valid safety certificate (born on/after 1-1-89)
84	Operated a motorboat while under the influence of an intoxicant
75	Failed to display certification/registration decal on the boat properly
65	Failed to have required fire extinguishing equipment aboard
65	Allowed riding on decks or gunwales

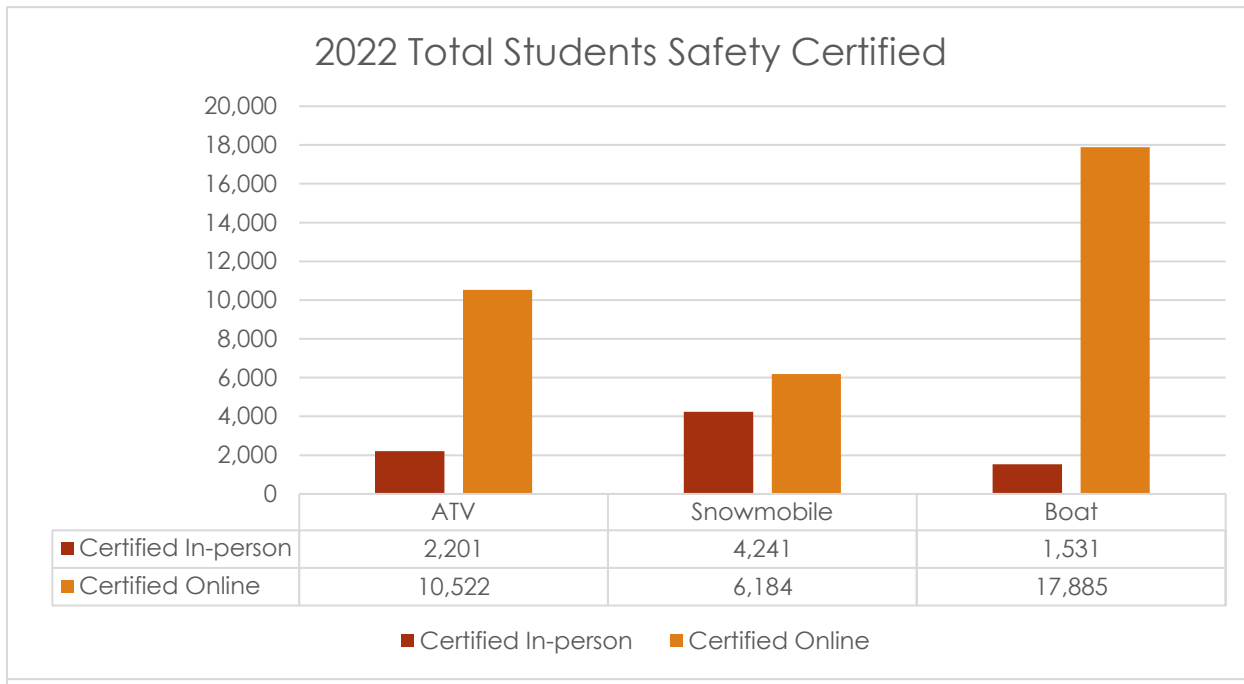
2022 Top 10 Snowmobile Citations	
COUNT	STATUTE DESCRIPTION
179	Failed to comply with regulatory signs
154	Owner operated/gave permission to operate a snowmobile on public corridor/trail without trail use sticker/valid proof of temporary trail use receipt
103	Gave permission to operate a snowmobile without a valid registration
95	Operated a snowmobile without a valid safety certificate
52	Operated a snowmobile while under the influence of an intoxicant
41	Operated a snowmobile on private property without owners' consent
33	Modified a snowmobile so the total vehicle noise exceeded the manufactured noise level
33	Failure of the owner to properly display the registration decal or trail use sticker on a snowmobile
30	Operated a snowmobile on public property posted closed or where otherwise prohibited by law
27	Operated a snowmobile illegally on or in the vicinity of highways

2022 Top 10 Off-Highway Motorcycle Citations	
COUNT	STATUTE DESCRIPTION
45	Unauthorized operation of a limited-use OHM on a roadway
15	Operated an OHM without a required safety certificate
9	Operated an OHM on public property posted closed or where prohibited by law
8	Operated an off-highway motorcycle without valid registration
4	Failed to exhibit valid proof of OHM registration to a law enforcement officer
4	Operated an OHM in a careless manner
4	Operated an OHM at an unreasonable speed
2	Unauthorized operation of an OHM adjacent to a roadway
2	Operated an OHM while under the influence of an intoxicant
2	Operated an OHM without a properly affixed and maintained valid registration decal that is clearly visible

## SAFETY EDUCATION

- **ATV/UTV** operators at least age 12 and born on or after Jan. 1, 1988, must possess a valid ATV safety certificate issued by Wisconsin or any other state or province. Operators must be in possession of this certificate while operating in areas open to the public, such as trails, routes, and frozen waterways, and display it to a law enforcement officer upon request. Operators of any age are eligible to take the online-only safety class.
- **Boat** operators born on or after Jan. 1, 1989, are required to obtain and carry a valid boaters' safety certificate when operating a boat or personal watercraft. Operators of any age are eligible to take the online-only safety class.
- **OHM** operators at least 12 years of age and born after Jan. 1, 1998, must possess a valid Wisconsin ATV/OHM combination safety certificate or a valid certificate from another state. Students who complete the Wisconsin ATV safety online course automatically receive OHM safety certification. A free OHM safety short course is available on the DNR website for those who have completed ATV safety in person.
- **Snowmobile** operators born after Jan. 1, 1985, and who have reached the age of 12 must have obtained and carry a valid snowmobile safety certificate when operating a snowmobile in Wisconsin. Operators under 16 are required to take an in-person safety class.

Visit the [DNR website](#) for more information or to enroll in a class.



**Students who complete online ATV certifications also receive OHM safety certification.**

## LAW ENFORCEMENT OPERATIONS & SAVING LIVES INITIATIVE

### COUNTY AND MUNICIPAL PATROLS

In addition to Wisconsin conservation wardens enforcing recreational vehicle laws, the DNR administers a law enforcement aids program for counties and local patrol agencies across the state, providing enforcement on Wisconsin trails and waterways. Counties may receive law enforcement aids for up to 100% of the net costs for the operation and maintenance of snowmobile and ATV patrol units. Municipalities may receive law enforcement aids for up to 75% of the net costs for operating and maintaining a water safety patrol unit.

In 2022, law enforcement officers and staff statewide logged a total of 171,294 hours of recreational vehicle activities, including law enforcement, education and outreach, incident investigation, training, and program administration.

Vehicle Type	Number Of Hours	Full-Time Position Equivalent	Notes
ATV/UTV	30,859	15	Includes hours logged by 41 county sheriff's offices
Boat	114,177	55	Includes hours logged by 97 county and municipal patrol agencies
Snowmobile	26,258	13	Includes hours logged by 40 county sheriff's offices

Total hours logged include DNR and county sheriff's offices.

### SAVING LIVES INITIATIVE

The Division of Public Safety and Resource Protection provides response and presence for all outdoor recreation activities in the state. Our belief is grounded in the overarching goal that safety is our No. 1 priority. The *Saving Lives Initiative* is a statewide effort to prevent deaths and injuries across all types of outdoor recreation, including hunting, ATV/UTVing, snowmobiling, boating and more. The *Saving Lives Initiative* encompasses all the work done by the division to make outdoor recreation safer for everyone. These efforts include safety communication planning, safety marketing, weekend-long campaigns (Operation Dry Water, Think Smart Before You Start), presence at public events and expos, and more.



## OPERATION DRY WATER

Operation Dry Water (ODW) is a national outreach and enforcement campaign to spread awareness about the dangers of boating under the influence (BUI) and the effort to remove impaired operators from our nation's waterways. It's an annual coordinated effort to create a heightened national awareness and enforcement campaign. The three-day campaign typically runs near the Fourth of July, and last year, Operation Dry Water weekend was July 2 – 4, 2022.



Launched in 2009 by the National Association of State Boating Law Administrators (NASBLA) in partnership with the United States Coast Guard, Operation Dry Water has been a highly successful effort to draw public attention to the dangers of boating under the influence of alcohol and drugs. NASBLA is a national nonprofit organization that develops public policy for recreational boating safety, and it represents the recreational boating authorities of all 50 states and the U.S. territories.

Law enforcement agencies participating in Operation Dry Water are asked to increase BUI enforcement during the targeted enforcement weekend and to work with their local media, businesses, and recreational boaters to spread the message and raise awareness of the dangers of boating under the influence.

In 2022, 92 Wisconsin DNR conservation wardens participated in this national campaign. We cannot report the number of lives saved from this effort, but the experiences shared by law enforcement patrolling the waters show it is making a difference:

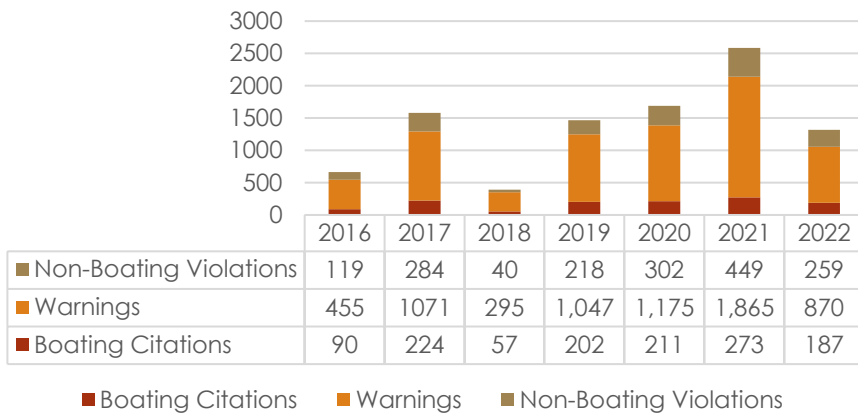
*While patrolling during Operation Dry Water in Walworth County, Wardens Sanidas and Ziarek intervened when a stand-up paddle boarder was in jeopardy of being stuck by an inattentive pontoon boat operator. The wardens activated emergency lights, sounded auditory signals, and used verbal commands to gain the operator's attention. The wardens contacted the pontoon boat operator and immediately recognized that he was highly intoxicated. The individual was subsequently arrested for operating a motorboat while intoxicated.*

During the Jul. 4 weekend, DNR wardens on the water concentrated their efforts on the following:

- Boating under the influence enforcement
- Drug enforcement
- Safety compliance checks
- Search and rescue
- Saturation patrol
- Heightened awareness during normal patrol
- Education
- Public disturbance and disorderly conduct



### Operation Dry Water Boating Violations



Wardens contacted 2,552 boats and conducted six media contacts during the weekend.

Wardens removed 29 impaired boaters from the water, assisted stranded boaters, responded to accidents, and partnered with local law enforcement agencies and the United States Coast Guard.

### THINK SMART BEFORE YOU START CAMPAIGN



RECREATION | SAFETY | SNOWMOBILE

## SNOWMOBILERS: THINK SMART BEFORE YOU START THIS SEASON

The Wisconsin Department of Natural Resources (DNR) is reminding snowmobilers that safety is an important part of the ride. Whether you were gifted a snowmobile over the holidays or are a veteran of the ride, the department asks all riders to be in the know and review Wisconsin’s snowmobile safety rules and regulations before heading out this winter.

The Think Smart Before You Start campaign is an all-out, hands-on-deck ATV/UTV/snowmobile safety and enforcement campaign. The idea behind the Think Smart campaign was to create an off-highway vehicle equivalent to the annual boating Operation Dry Water weekend. During these weekend-long events, division staff partner with county sheriff’s offices to focus on heightened law enforcement presence and deterrence on our state’s trails and roadway routes. The campaign aims to raise awareness and promote safe off-highway vehicle operations. Seatbelt, helmet use, and intoxicated operation are the main focuses during the events. In 2022, the division led two events; one on snowmobiles and one on ATVs/UTVs.



The division was also successful in partnering with several statewide off-highway vehicle organizations. Partners included the Wisconsin ATV/UTV Association (WATVA), the Trail Ambassador Program, the Association of Wisconsin Snowmobile Clubs (AWSC), and the Wisconsin Off-Highway Motorcycle Association (WOHMA). Trail ambassadors, conservation wardens, and sheriff deputies distributed coupons for free treats and a thank you safety memo to recreators displaying safe and responsible off-highway vehicle use, including helmet/seatbelt use and trail stewardship, and responsible operation. The coupons and memos were made possible by a donation from Kwik Trip.

## THINK SMART BEFORE YOU START



## THANK YOU

for being safe while finding  
your adventure in Wisconsin



RECREATION | SAFETY | OUTDOOR RECREATION

## ATV AND UTV OPERATORS: THINK SMART BEFORE YOU START

The Wisconsin Department of Natural Resources (DNR) reminds ATV and UTV enthusiasts to operate responsibly and think smart before they start.

FRI, 08/05/2022 - 09:01

## WISCONSIN STATE FAIR

In 2022, the recreational vehicle safety education and awareness theme extended to the Wisconsin State Fair. The Division of Public Safety and Resource Protection was there to answer questions from the public and promote safe recreational vehicle operation and the use of safety equipment. The DNR theme for the fair was OutWiGo, and the division displayed banners with campaign safety slogans: “Wear It Wisconsin” and “Think Smart Before You Start.” Conservation wardens and division staff distributed safety messaging trinkets to kids attending the fair.



## KIDS DON'T FLOAT! LIFE JACKET LOANER BOARD



The Kids Don't Float! Life Jacket Loaner Board program is a cooperative program between the DNR and community partners that places life jacket loaner stations at boat landings around Wisconsin. The stations provide life jackets for boaters to borrow if they do not have the appropriate amount or size for everyone in their boat. Boaters return their borrowed life jackets to the station at the end of their voyage.



There are over 100 stations in the Life Jacket Loaner Board program, with nine stations added in 2022. At the end of the season, staff at several stations reported positive interactions during the busy summer months and said they look forward to displaying them each year.

Partners in this program represent a variety of government and service organizations. The DNR provides the construction instructions, signage and life jackets. Partners are responsible for obtaining permission to place the structure, construction materials, constructing and maintaining the station, over-winter storage, and periodically checking the stations for damage, theft, or other issues.



Each station has three infant, eight child, eight youth, eight adult, five adult XL life jackets, and four Type IV throwables.

Station partners have received donated life jackets, which are evaluated and included in the inventory as appropriate. Several partners opt to fund their own stations, helping us expand the program further and cover more high-use boating landings.

The program also provides a visual reminder to boaters to make sure they have a life jacket when boating. The Life Jacket Loaner Board program continues to grow in Wisconsin thanks to the efforts of the partners involved.

## BOATING SAFETY WELCOME CENTERS

To reduce the trend in boating-related fatalities this boating season, the DPSRP committed resources to *Boating Safety Welcome Centers*, which successfully promoted lifejacket wear, responsible boating practices, and water safety marketing.

To expand safe and responsible boating messaging in 2022, the DPSRP created the boating “Welcome Centers.” Supplies, including Wear It Wisconsin corn hole boards, attention-grabbing flags, tables, and screen-printed tents, were displayed and staffed primarily by DPSRP Outdoor Skills Trainers (OSTs) and Community Service Officers (CSO). These welcome centers provided an opportunity to interact with DPSRP staff and boaters to discuss safe boating and the importance of wearing life jackets. In the program’s first season, we deployed at 22 venues, primarily throughout SER and SCR. We will continue to expand this program statewide in 2023.

Highlights consist of:

- 22 events held consisting of 4 National Night Out events, 14 boat ramp/lake locations, one job fair, one air and water show, and two kids fishing events
- Over 1,000 contacts with the boating public
- 74 Kwik Trip treat coupons given to people “caught” wearing their life jackets.
- Provided over 100 safety demonstrations



# Exploring Municipal Regulation of ATVs and UTVs

Derek PUNCHES, Attorney, Stafford Rosenbaum LLP



## Introduction

Off-road vehicles like all-terrain vehicles<sup>1</sup> (“ATVs”) and utility terrain vehicles<sup>2</sup> (“UTVs”) have a rich history in Wisconsin. Each year, tens of thousands of residents and nonresidents operate ATVs and UTVs for recreational, agricultural, and other purposes throughout the state, including on thousands of miles of trails and road routes designated for use by ATVs and UTVs.

Municipalities play an important role in permitting and regulating the operation of ATVs and UTVs within their boundaries. In doing so, municipalities should consider how to weigh the potential economic benefits and enhanced recreational opportunities that ATVs and UTVs may bring against competing concerns related to safety, enforcement, community compatibility, in addition to legal and regulatory issues. To help address these concerns, this article explores municipal regulation of ATVs and UTVs and discusses common concerns that might arise when considering whether to authorize the operation of ATVs and UTVs within the municipality.

## Designating ATV Routes and Trails

Municipalities may seek to connect their communities with nearby trail systems by permitting the operation of ATVs and



UTVs within two distinct areas: all-terrain vehicle routes and trails. An all-terrain vehicle route (“ATV route”) is “a highway or sidewalk designated for use by ATV operators by the governmental agency having jurisdiction as authorized under [Wis. Stat. § 23.33].”<sup>3</sup> In contrast, an all-terrain vehicle trail (“ATV trail”) is defined as “a marked corridor on public property, in a highway right-of-way, or on private lands subject to public easement or lease, designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction, but excluding [certain] roadways of highways[.]”<sup>4</sup>

**Routes.** Municipalities may permit the operation of ATVs and UTVs on all or some of the highways under its jurisdiction by designating such highways as ATV routes by ordinance.<sup>5</sup>

Municipalities may only designate state trunk highways or connecting highways as ATV routes with the approval of the DOT.<sup>6</sup> They may, however, enact an ordinance to authorize the operation of ATVs and UTVs 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 municipality regardless of whether the municipality has jurisdiction over the highway.<sup>7</sup> Unless it has been designated as an ATV route or trail, a person may not operate an ATV or UTV on the roadway portion of any highway except under limited circumstances, such as the incidental crossing of a roadway, bridge, culvert, or railroad right-of-way, among others.<sup>8</sup>

1. Wis. Stat. § 23.33(1)(b); Wis. Stat. § 340.01(2g).

2. Wis. Stat. § 23.33(1)(ng).

3. Wis. Stat. § 23.33(1)(c). The term “highway” is exceptionally broad and includes “the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel.” See Wis. Stat. § 340.01(22).

4. Wis. Stat. § 23.33(1)(d).

5. Wis. Stat. § 23.33(8)(b)1., 2.

6. Wis. Stat. § 23.33(8)(b)3.

7. Wis. Stat. § 23.33(11)(am)4.

8. Wis. Stat. § 23.33(4)(d).

**Trails.** Municipalities may also designate corridors through land that it owns or controls, or for which the municipality has obtained leases, easements, or permission for use as ATV trails by ordinance.<sup>9</sup> Because property cannot be acquired by condemnation to establish or extend a “recreational trail,” municipalities likely cannot acquire the property interests needed to establish or extend an ATV trail through condemnation.<sup>10</sup>

A municipality may specify the period during which ATVs and UTVs may use designated ATV routes or ATV trails, or it may prohibit the operation of ATVs or UTVs on such routes or trails during certain periods of the year.<sup>11</sup> It may also designate ATV routes and ATV trails under their jurisdiction on which the use of UTVs is permitted or prohibited.<sup>12</sup> By default, no person may operate a UTV on any ATV route or trail unless the municipality has expressly permitted the operation of UTVs on that route or trail.<sup>13</sup>

## Signing ATV Routes and Trails

If a municipality designates any highways under its jurisdiction as ATV routes, the municipality must install signage in accordance with certain statutory and administrative requirements, including requirements related to the location, position, shape, size, and contents of the signs.

In cooperation with the Department of Transportation, the Department of Natural Resources (DNR) has promulgated administrative rules that establish requirements for all ATV route signs. These rules expressly state that “all signing shall be done by or under the direction of and is the responsibility of

the unit of government which designates the all-terrain vehicle route.”<sup>14</sup> In addition, all signs placed upon highways to regulate, warn, guide, or inform traffic must comply with the Wisconsin Manual of Uniform Traffic Control Devices (WMUTCD).<sup>15</sup> Although private parties may pay the cost to purchase and install signs, municipalities should perform the installation and maintenance themselves to limit the risk of potential liability if the signs are not installed or maintained correctly.

Signs installed on ATV trails are subject to different regulations than those for ATV routes. If they are not placed in the highway right-of-way, such signs need not conform with the WMUTCD. DNR has promulgated administrative rules that establish requirements for signs and standards on ATV trails.<sup>16</sup> DNR has also issued extensive guidelines for signing off-highway vehicle trails, including ATV trails.<sup>17</sup>

## Municipal Regulation and Enforcement

In addition to designating ATV routes and trails, municipalities are authorized by statute to adopt ordinances that regulate the operation of ATVs and UTVs on ATV routes and ATV trails.<sup>18</sup> Another provision, however, states that municipalities “may enact an ordinance that is in strict conformity with this section and rules promulgated by the department under [Wis. Stat. § 23.33] if the ordinance encompasses all aspects encompassed by [Wis. Stat. § 23.33],” subject to limited exception.<sup>19</sup> Although the answer is not clear, this language suggests that municipalities may not impose more restrictive regulations than state law on those matters addressed

by Wis. Stat. § 23.33. But, even for those seeking to regulate the operation of ATVs and UTVs in a manner *not* contemplated by that section, there is tension between these provisions that is difficult to reconcile.

Of course, a municipality may adopt the applicable provisions of Wis. Stat. § 23.33 in its entirety. Wis. Stat. § 23.33 provides many “tools” that municipalities should consider to address safety, noise, and other concerns. This includes provisions related to registration, training, compliance with traffic and regulatory signs, protective headgear, and vehicle lighting and equipment requirements, in addition to others. Because questions related to age restrictions, speed limits, and the intoxicated operation of ATVs and UTVs are regularly raised, further discussion on these topics are set forth below.

**Age Restrictions.** No person under 16 years of age may operate an ATV on a designated ATV route unless the person is accompanied by a parent or guardian or someone who is at least 18 years old who is designated by the parent or guardian.<sup>20</sup> To be “accompanied,” that person must be “subject to continuous verbal direction or control.”<sup>21</sup> Therefore, certified operators between 12 and 16 years of age may operate an ATV on designated ATV routes, including roadways, if so “accompanied.”<sup>22</sup> Except under limited circumstances, no person under 12 years of age may operate an ATV on designated ATV trails.

The age restrictions applicable to UTVs are somewhat higher, in part because such vehicles are larger and can carry additional passengers. In general, no person under 16 years of age may operate a UTV on any ATV route or ATV trail.<sup>23</sup>

9. Wis. Stat. § 23.33(8)(c).

10. See Wis. Stat. § 32.015.

11. Wis. Stat. § 23.33(8)(d).

12. Wis. Stat. § 23.33(1m)(b).

13. Wis. Stat. § 23.33(1m)(c).

14. Wis. Admin. Code § NR 64.12(7)(d).

15. Wis. Stat. § 349.065.

16. Wis. Admin. Code § NR 64.14(6)(c).

17. WIS. DEPT OF NAT. RES., TRAIL SIGNING HANDBOOK: GUIDELINES FOR SIGNING OFF-HIGHWAY VEHICLE TRAILS (2019).

18. Wis. Stat. § 23.33(11)(a).

19. Wis. Stat. § 23.33(11)(am)1.

20. Wis. Stat. § 23.33(5)(a)4.

21. Wis. Stat. § 23.33(1)(a).

22. Wis. Stat. § 23.33(5)(a)1.

23. Wis. Stat. § 23.33(5)(am).

**Speed.** In general, the operation of ATVs and UTVs on an ATV route is subject to the same posted speed limit applicable to regular vehicular traffic on that highway.<sup>24</sup> Because the law was previously unclear, the Legislature enacted 2021 Act 164 to clarify that local governments may indeed impose a speed limit for ATV and UTV traffic on all or part of any ATV route that is lower than the applicable speed limit for regular motor vehicles.<sup>25</sup> When deciding whether to designate a highway as an ATV route and whether to impose a reduced speed limit, municipalities should assess the type and amount of other traffic on that highway, as well as the applicable speed limit for regular vehicular traffic.

**Intoxicated Operation.** Wis. Stat. ch. 346 regulates the “rules of the road” on all highways. Although some of the provisions of Wis. Stat. ch. 346 apply to ATVs and UTVs, the laws related to operating a motor vehicle under the influence of drugs and alcohol (OWI) are not applicable.<sup>26</sup>

Instead, Wis. Stat. § 23.33 includes several provisions related to the intoxicated operation of an ATV or UTV that are analogous to the OWI provisions under Wis. Stat. ch. 346. For example, like Wis. Stat. § 346.63, Wis. Stat. § 23.33(4) prohibits the operation of an ATV or UTV while under the influence of an intoxicant or while the person has a restricted controlled substance in their blood or an alcohol concentration of 0.08 or more.<sup>27</sup> However, the penalties for violating the applicable provisions of Wis. Stat. § 23.33 are generally less severe than the penalties for OWI violations, even when those violations occur on roadways.<sup>28</sup> Violations of the ATV or UTV prohibitions do not count

towards the relevant number of OWI offenses for purposes of calculating the applicable penalty under Wis. Stat. § 346.65 nor vice versa. In addition, the prohibition against possessing an open alcohol beverage container under Wis. Stat. § 346.935(2) does not apply to the operation of ATVs and UTVs.<sup>29</sup>

**Enforcement.** Upon the adoption of an ATV ordinance, the municipal clerk must immediately send a copy of the ordinance to the DNR, the State Patrol, and any law enforcement agency having jurisdiction over any of the highways to which the ordinance applies.<sup>30</sup> In addition to conservation wardens, State Patrol officers, and county sheriff deputies, local law enforcement has the authority and jurisdiction to enforce Wis. Stat. § 23.33 and municipal ordinances enacted in accordance with that section.<sup>31</sup> As such, a municipality seeking to integrate ATVs and UTVs into its community may wish to consider the role of and potential impact to local law enforcement resources prior to enacting any ordinance.

### Municipal Liability

One common question is whether the municipality could be liable for accidents that occur if the governing body permits the operation of ATVs and UTVs within the municipality. In general, a municipality will not be liable for such accidents under either of two potential theories of immunity: recreational immunity and governmental immunity.

**Recreational Immunity.** Municipalities are shielded by recreational immunity under certain circumstances. Wis. Stat. § 23.33(10) expressly states that recreational immunity applies to that section. Although a full discussion



is outside the scope of this article, recreational immunity protects an owner from liability for the death of, any injury to, or any death or injury caused by, a person engaging in a recreational activity on the owner’s property under certain circumstances.<sup>32</sup> The definition of “owner” includes “a governmental body... that owns, leases or occupies property.”<sup>33</sup> The definition of “recreational activity” expressly includes “operating an all-terrain vehicle or utility terrain vehicle.”<sup>34</sup> Therefore, municipalities should not be liable for injuries arising from the operation of ATVs and UTVs on ATV routes or ATV trails if they own, lease, or occupy such property. Because this immunity applies only to those duties owed that are enumerated in Wis. Stat. § 895.52(2)(a), however, recreational immunity may not apply in all cases.

**Governmental Immunity.** In general, municipalities are also shielded by governmental immunity, which protects them from liability arising from certain discretionary acts, including the exercise of the governing body’s legislative authority.<sup>35</sup> The decision by a local governing body to designate ATV routes and ATV trails is an exercise of

24. Wis. Stat. § 23.33(4)(d).

25. Wis. Stat. § 349.11(1).

26. See Wis. Stat. § 346.02(1).

27. Wis. Stat. § 23.33(4)(c).

28. Compare Wis. Stat. § 23.33(13)(b) with Wis. Stat. § 346.65(2)(am).

29. Wis. Stat. § 346.02(1).

30. Wis. Stat. § 23.33(11)(b).

31. Wis. Stat. § 23.33(12)(a).

32. Wis. Stat. § 895.52(2)(b).

33. Wis. Stat. § 895.52(1)(d).

34. Wis. Stat. § 895.52(1)(g); see also *WEA Prop. & Cas. Ins. Co. v. Krisik*, 2013 WI App 139, ¶ 19, 352 Wis. 2d 73 (holding that no additional analysis is necessary to determine whether an activity qualifies as “recreational” if that activity is specifically enumerated in the statute).

35. Wis. Stat. § 893.80(4).

legislative authority that is protected by governmental immunity.

This immunity is not absolute. There is no immunity against liability associated with the performance of a “ministerial” (or nondiscretionary) duty imposed by law or a “known and compelling danger” that gives rise to a ministerial duty.<sup>36</sup> A “ministerial” duty is one that “is absolute, certain and imperative, involving merely the performance of a specific task when the law imposes, prescribes and defines the time, mode and occasion for its performance with such certainty that nothing remains for judgment or discretion.”<sup>37</sup> Certain provisions in Wis. Stat. § 23.33 arguably impose ministerial duties on municipalities. For example, as discussed above, the statutes require that municipalities that designate an

ATV route perform certain actions, including installing and maintaining ATV-related signs in accordance with statutory and regulatory requirements. These requirements could be considered a “ministerial” duty for which immunity does not apply.

Because of the highly fact-intensive nature of immunity defenses, municipalities should consult with their legal counsel and insurance provider to evaluate the risk of liability in specific circumstances.

### Conclusion

Designating ATV routes and trails and permitting the operation of ATVs and UTVs can provide communities with economic benefits and enhanced recreational opportunities. Municipalities,

however, must weigh these benefits against questions related to safety, enforcement, and other local concerns. If the municipality desires to open the community to ATVs and UTVs, there are a number of tools and strategies available to help address these concerns.

### Streets and Alleys 650

#### About the Author:

Derek PUNCHES is an attorney in the Madison office of Stafford Rosenbaum LLP where he practices municipal and environmental law. Derek worked in the State Legislature for more than 10 years where he focused on issues relating to local government and transportation policy, amongst others. Contact Derek at [dpunches@staffordlaw.com](mailto:dpunches@staffordlaw.com)

36. *Lodl v. Progressive Northern Insurance Co.*, 2002 WI 71, ¶ 24, 253 Wis. 2d 323 (citation omitted).

37. *Lister v. Board of Regents*, 72 Wis. 2d 282, 299, 240 N.W.2d 610 (1976).

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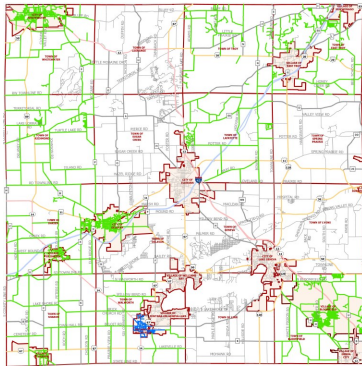




# ATV/UTV Road Map



**For Additional Information  
Contact the Public Works  
Department  
(262) 741-3114**



ATV/UTV Road Use Authorized (Green)  
Road Map at [www.walworth.wi.us](http://www.walworth.wi.us)

## Municipalities Authorizing ATV or UTV Use

Village/Town of Bloomfield, Village/Town of Darien, City of Delavan, Town of East Troy, Town of LaFayette, Town of Troy, Village/Town of Sharon, Town of Walworth, City/Town of Whitewater, and Village of Walworth (UTV Only).  
**Know their Local Ordinances**



County Roads will have appropriate signage identifying authorized ATV (Road) Routes

## Wisconsin Department of Natural Resources—ATV/ UTV Course Requirements

Anyone who operates an ATV/UTV on public riding areas—trails, frozen waters, routes, permitted county and/or forested lands—who is at least age 12 years of age and was born on or after Jan. 1, 1988, must complete a safety certification course. ATV/UTV operators must carry their safety certification card and display it to law enforcement when requested.

For further information or to register go to: <https://dnr.wisconsin.gov/Education/OutdoorSkills/SafetyEducation>

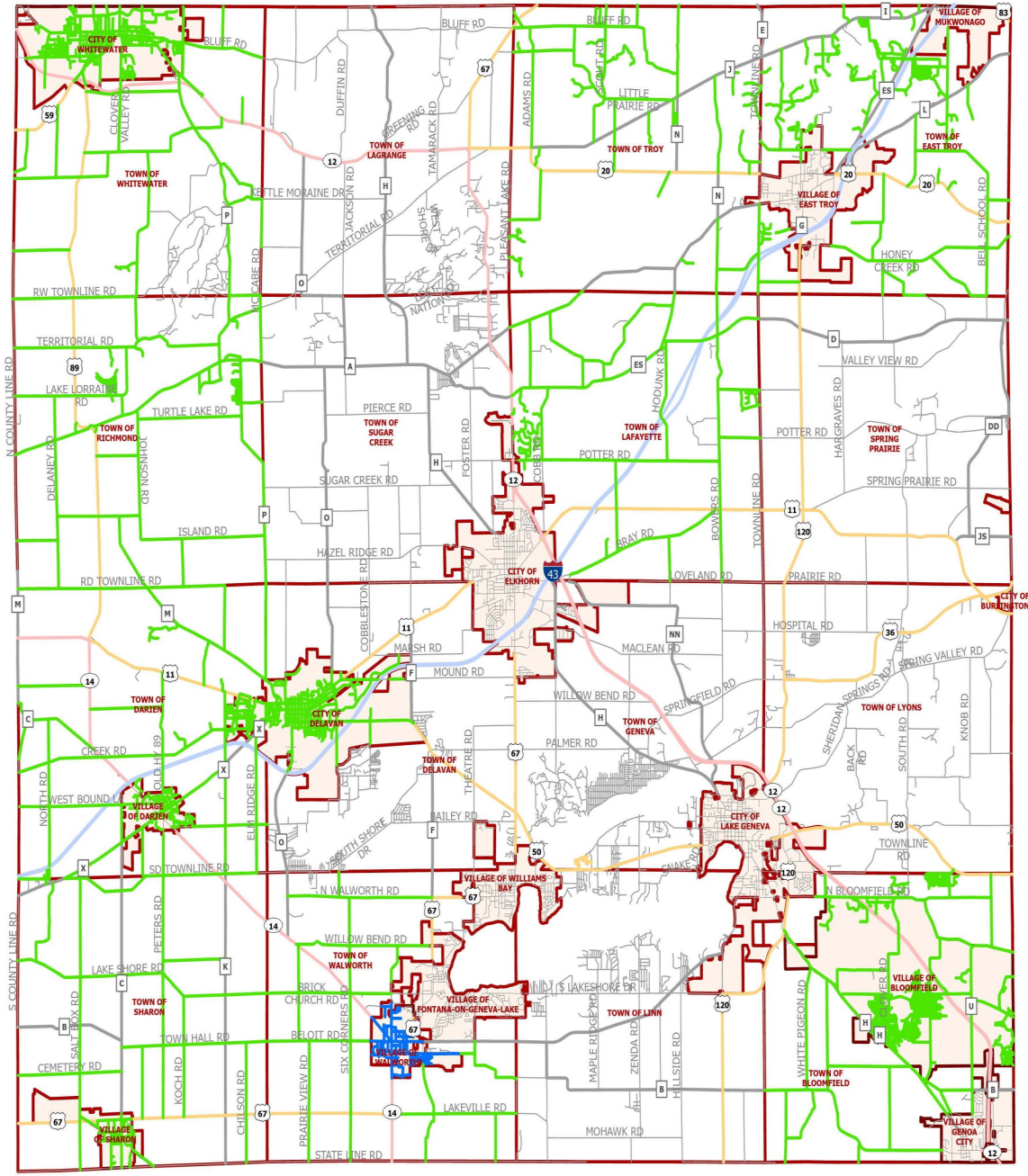
## Summary of the County Ordinance

When a municipality passes an ordinance authorizing the use of ATV/UTVs on local roads, County and State roads with posted speed limits up to 35 mph are authorized per state statute only if appropriately signed. The Walworth County ordinance allows municipalities to include County roads within their boundaries regardless of the posted speed limit, as long as the road is appropriately signed in coordination with the County Highway Commissioner.

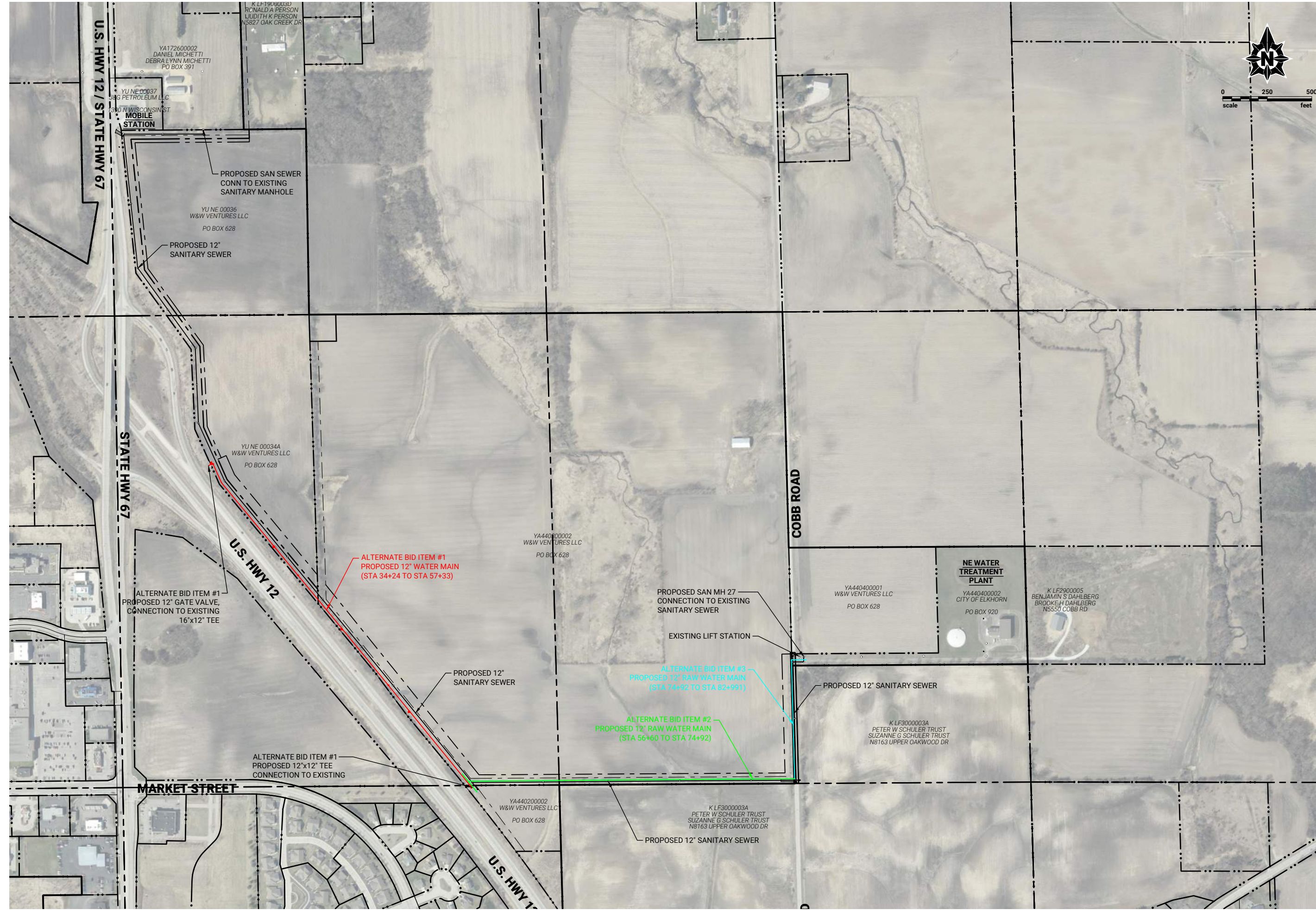
# ATV/UTV Routes

## Walworth County

Revised 8/8/2023



- ATV/UTV Route
- UTV Only Route
- City/Village
- Town
- City Road
- Local road
- County Road
- State Highway
- US Highway
- Interstate Highway



PREPARED FOR:



PREPARED BY:



OFFICE OF ORIGINATION:

Foth Infrastructure & Environment, LLC  
7044 S. Ballpark Drive, Suite 200  
Franklin, WI 53132  
Phone (414) 336-7900

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**NE WATER TREATMENT PLANT  
SEWER & WATER EXTENSIONS**

**OVERVIEW PLAN**

ELKHORN, WISCONSIN

CAD FILE: C:\pwworking\pwworking\dwg\12152023\12152023\05C1.00 OVERVIEW.dwg

APPROVED BY:

DESIGNED: TLD	DRAWN: PCG	CHECKED: GMS
BID DATE: 02/01/2024	PRINT DATE: 12/15/2023	
PROJECT NO: 0021E010.02	SHEET NO: <b>05C1.00</b>	



Adam Swann, City Administrator  
City of Elkhorn  
311 Seymour Ct  
Elkhorn, WI 53121

12/19/2023

Mr. Swann,

In response to the recent request for a building permit from the Town of Sugar Creek for a commercial use on property outside the City of Elkhorn limits, and the subsequent decision by the City of Elkhorn Common Council to establish an Extraterritorial Zoning District as allowed under Wisconsin Statutes 62.23(7a), the City intends to call a meeting of the Sugar Creek Joint Extraterritorial Zoning Committee. With this letter, we offer to provide professional services, working with City Staff toward the preparation of documents, and advice and guidance toward the adoption of an ETZ Plan and Ordinance.

We would suggest the following steps as a scope of services for Teska Associates:

- With City Staff, prepare an Agenda for the Initial and subsequent Joint ETZ Committee Meetings
- Attend Initial JETZ Committee Meeting
- Prepare initial draft land-use plan for the area within the ETZ district
- Present initial draft land use plan to the Joint ETZ Committee
- Prepare draft comprehensive zoning plan for ETZ Committee (and Elkhorn Plan Commission) review
- In conjunction with the City staff and Legal Counsel, prepare initial comprehensive zoning plan and zoning ordinance for Joint ETZ Committee review.
- Present the Draft plan and Zoning Ordinance to the JETZ Committee
- Prepare revisions, if requested, in response to JETZ Committee review
- Present the Draft District Plan Zoning Ordinance at a JETZ Committee Public Hearing
- Prepare Final Draft Extraterritorial zoning ordinance for Elkhorn Plan Commission Review and Common Council Adoption

There are significant unknowns regarding the number of meetings and the potential for multiple sub-areas / zoning districts which may or may not mirror language in the City's other ETZ or City Zoning Ordinance. As such, our best estimate is a fee to complete the above tasks is \$13,770. This would include 4 meetings with the Joint Committee and 1 meeting with the City's Plan Commission. If, however, additional meetings are necessary, we would seek your authorization to exceed that estimate on a time and materials basis. Our billing rates for 2024 would be

Principals	\$170-\$190/hr
Senior Associates	\$130-\$150/hr
Associates	\$110-\$130/hr

Sincerely,

Lee M. Brown, FAICP, President

Michael Blue, FAICP, Principal

**From:** [Toni Herkert](#)  
**To:** [Toni Herkert](#)  
**Subject:** League URGENT ACTION ALERT  
**Date:** Wednesday, December 27, 2023 4:23:12 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image007.png](#)  
[Towns over 5k.xlsx](#)

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Good Afternoon Mayors, Managers, Administrators, and Presidents,

The League of Wisconsin Municipalities is **URGENTLY requesting your attendance** at a public hearing to oppose [Senate Bill 691](#), related to the ability for certain towns to self-designate as an “urban town.” The Senate Transportation and Local Government Committee **is planning to hold a public hearing on SB 691 on January 10, 2024**. This hearing has not been noticed to date, but we wanted to provide as much notice as possible to allow several communities to attend in person and voice opposition to this growth killing legislation.

**IT IS ABSOLUTELY ESSENTIAL that a substantial number of local municipal leaders attend the hearing and oppose this wrong-headed approach to land use.**

SB 691 is a one-sided proposal which gives towns over 5,000 the ability to self-designate as an “Urban Town” **without review or approval** by affected adjacent cities and villages, the Department of Administration, a regional planning commission, or another board or agency. The bill REMOVES city or village review of growth near their boarder and will force cities and villages to extend water and sewer services outside their boundaries to serve properties within the town. Under the bill, the urban town may even dictate the point on the water or sewerage system from which the municipality must extend service or provide connection.

Not only does this legislation provide towns the extraordinary ability to self-designate as an urban town without incorporation and without any review or approval, but it also exempts an urban town from extraterritorial plat approval and zoning and requires any future city or village annexations into those urban towns to be unanimous annexations. To ensure growth that is consistent with community objectives, neighboring cities and villages that have extraterritorial plat approval jurisdiction review for compliance with municipal ordinances, local master or comprehensive plans, and official maps. To remove this important check may mean sprawl without regard to existing patterns of development. In addition, unanimous annexation places a higher value on the property rights of a minority of property owners *above* the over one-half majority of owners that want to annex into a city or village.

**PLEASE mark your calendar to attend the public hearing in Madison on January 10<sup>th</sup>. The League remains [strongly opposed](#) to this legislation.**

In addition, consider [contacting your legislators](#) today to explain how this legislation is a critical problem and relies on a handful of town-municipal disputes to justify the creation of a one-size fits all approach to local land use decisions across the state. A list of the towns that could qualify as urban towns is attached for your review. In addition to your legislators, please contact the members of the [Senate Transportation and Local Government Committee](#) to convey your strong concerns and opposition.

**Senate Transportation and Local Government Committee:**

- Chair – Senator Tomczyk - [Sen.Tomczyk@legis.wisconsin.gov](mailto:Sen.Tomczyk@legis.wisconsin.gov)
- Vice Chair – Senator Cowles - [Sen.Cowles@legis.wisconsin.gov](mailto:Sen.Cowles@legis.wisconsin.gov)
- Member – Senator Hutton - [Sen.Hutton@legis.wisconsin.gov](mailto:Sen.Hutton@legis.wisconsin.gov)
- Member – Senator - [Sen.Carpenter@legis.wisconsin.gov](mailto:Sen.Carpenter@legis.wisconsin.gov)
- Member - [Sen.Pfaff@legis.wisconsin.gov](mailto:Sen.Pfaff@legis.wisconsin.gov)

If you have any questions, please feel free to contact me at your convenience. If you plan to attend the hearing, please email to confirm you (or someone from your municipality) will attend in opposition. Additional information for attendees will follow from the League.

As always thank you for your commitment to your municipality and support for the League. We appreciate you!

Kind Regards,  
Toni



**Toni Herkert**  
 Director of Government Affairs  
 League of Wisconsin  
 Municipalities

**Phone:** 608-267-2380  
**Email:** [therkert@lwm-info.org](mailto:therkert@lwm-info.org)



316 West Washington Ave.  
 Suite 600  
 Madison, WI 53703

[www.lwm-info.org](http://www.lwm-info.org)



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<b>Town</b>	<b>County</b>	<b>Census 2020</b>
Algoma	Winnebago	6,866
Beloit	Rock	7,721
Brookfield	Waukesha	6,477
Buchanan	Outagamie	6,857
Burlington	Racine	6,465
Cedarburg	Ozaukee	6,162
Delafield	Waukesha	8,095
Delavan	Walworth	5,273
Freedom	Outagamie	6,216
Genesee	Waukesha	7,171
Geneva	Walworth	5,390
Grand Chute	Outagamie	23,831
Grand Rapids	Wood	7,576
Hudson	St. Croix	8,671
Hull	Portage	5,287
Ixonia	Jefferson	5,120
Lafayette	Chippewa	6,197
Lawrence	Brown	6,306
Ledgeview	Brown	8,820
Little Suamico	Oconto	5,536
Merton	Waukesha	8,277
Middleton	Dane	6,792
Minocqua	Oneida	5,062
Mukwonago	Waukesha	7,781
Norway	Racine	7,916
Oconomowoc	Waukesha	8,836
Onalaska	La Crosse	5,835
Saratoga	Wood	5,060
Sheboygan	Sheboygan	8,136
Troy	St. Croix	5,518
Washington	Eau Claire	7,662
Waterford	Racine	6,514



316 W. Washington Ave., Suite 600  
Madison, WI 53703  
Phone: 608-267-2380  
Fax: 608-267-0645  
Email: [league@lwm-info.org](mailto:league@lwm-info.org)  
Website: [lwm-info.org](http://lwm-info.org)

To: Wisconsin State Legislature

From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities  
Katie Scott, Government Affairs Specialist, League of Wisconsin Municipalities

Date: September 25, 2023

RE: LRB 4336 Related to requiring water and sewerage system connections and annexation of territory and extraterritorial zoning in certain urban towns.

Senators and Representatives,

The League of Wisconsin Municipalities, representing over 600 cities and villages, large and small, throughout the state urges you **to not cosponsor LRB 4336** related to the creation of urban towns. The bill enables certain urban towns over 5000 in population to force cities and villages to extend water and sewer services outside their boundaries to serve properties within the town. Under the bill, the urban town may even dictate the point on the water or sewerage system from which the municipality must extend service or provide connection. Along with requiring mandatory extension and connection to sewer and water systems, the bill also exempts an urban town from extraterritorial zoning or extraterritorial plat approval by a neighboring city or village. This minimizes the compatibility of uses and planned organizational growth into these boundary areas. Additionally, if requirements are met, certain significantly developed territory of an urban town may not be annexed to a city or village except by unanimous approval of all the property owners of the property to be annexed.

There are many significant issues with LRB 4336.

- First, Wisconsin is experiencing a housing crisis. We need 130,000 units in the coming years. The Legislature just passed a significant housing incentives package that allocates \$525 million for workforce and senior housing. These incentives are all based on municipalities modifying zoning ordinances to increase density and decrease lots sizes to more expeditiously add to our housing stock. Mandatory extension of city services into towns which typically have lots sizes of 2, 5, 10, or 20 acres does not help solve our housing crisis.

In addition, the requirement to connect sewer or water does not financially account for the original costs of establishing a water or sewer utility and all the associated infrastructure costs that were solely funded by city and village residents. This bill only requires the town residents to pay for connection.

We also have concerns that the connection costs may not include things like pumps or lift stations because the legislation does not contemplate the geographical variations in the state. Sewer or water lines will most likely need to account for increases or decreases in topography. The cost to actually provide the water will be greater than just a connection cost. In addition, the bill also provides that a landowner may request a lateral connection to the water or sewerage system of a governmental unit or



urban town. There is no way to account for these requests, how much they tax the system, or the amount of capacity required.

Subsequently, by forcing utility connection and resulting unplanned expansion into towns, sanitary sewer systems are subject to increased impact from inflow and infiltration from lengthy connections to town residents. This will occur without city and village control and could drastically increase costs for all users and place additional infrastructure repair and maintenance burdens on cities and villages.

- Second, towns already have options for obtaining water and sewer service for their residents. They can incorporate to provide additional services, or they can start or join a sanitary district or water utility. A couple towns that could meet the definition of an urban town, Ledgeview and Lawrence, are already members of the Central Brown County Water Authority and the Town of Scott receives its drinking water from the Green Bay Water Utility. Town sanitary districts can be created to provide sewer, water and solid waste collection services. Sanitary district powers include administration, regulatory and taxing powers.
- Third, LRB 4336 significantly undermines the ability of cities and villages to plan for their growth and future economic development opportunities.

Under the bill, utility connections are required if the utility has sufficient capacity at the time of the town request. This mandate severely impacts city or village plans for extra capacity to be used for future growth or economic development. Having additional capacity to support businesses growth is economic development incentive municipalities use to attract and retain businesses. Many are greatly reliant on water and sewer services. In Wisconsin think brewers, paper mills, and manufacturing. Eroding the planned capacity reserve will crush economic development in our cities and villages.

Moreover, unplanned and unanticipated town growth will put heavy strains on city infrastructure with city and village residents footing the bill. Without appropriate zoning towns can, for example, place a factory right next to a residential area of a city. That will negatively impact property values, erode community cohesion, and create additional compatibility and service concerns.

In addition, LRB 4336 removes all incentives for collaboration in planning among local units of government, the exact concern the innovation fund in Act 12 was created to incentivize. The inevitable outcome is vastly increased litigation among adjacent units.

- Finally, the bill upends existing boundary agreements and limits property rights. Mandating unanimous approval removes property rights. What if 90% of a subdivision wants to annex into the city to receive increased services and 10% does not? Ninety percent of the residents have now lost their property rights due to the unanimous requirement for annexation. Another example includes a property owner wanting to sell land to a developer to fund retirement. Just one property owner could jeopardize the long-term planned return on investment for the sale of that private property.

Instead of mandating utility extensions and connections, unanimous approval annexations and unilaterally eliminating extraterritorial zoning and plat review, the Legislature should consider creating a process that brings towns, cities, and villages to the bargaining table when controversy arises. Arbitration would be more appropriate than changing laws statewide to account for a very few communities that are unable to resolve boundary and development issues. A prudent approach would be to allow local control in these situations, but guide the process when stalemates occur.

The League of Wisconsin Municipalities and our 607 cities and villages statewide ask you not to cosponsor this legislation. If we can be of further assistance, please do not hesitate to contact us at your convenience.

**CITY OF ELKHORN  
RESOLUTION NO. 24-01**

**A RESOLUTION OPPOSING SENATE BILL 691 AND ASSEMBLY BILL 768, WHICH  
AUTHORIZE THE CREATION OF URBAN TOWNS**

**WHEREAS**, on November 21, 2023, Wisconsin state senators introduced Senate Bill 691; and

**WHEREAS**, on December 8, 2023, Wisconsin state representatives introduced the companion bill, AB 768; and

**WHEREAS**, Senate Bill 691 and AB 768 grant broad new powers to about 30 towns in Wisconsin, giving these towns the ability to self-designate as a new category of government (aka “urban towns”) without any review or approval; and

**WHEREAS**, these new powers allow towns to demand that an adjacent municipality surrender to them any available sewer and water service capacity; and

**WHEREAS**, the proposed legislation requires all annexations in those same towns to be unanimous and exempts them from longstanding extraterritorial zoning and platting laws—laws that ensure development adjacent to municipalities is compatible with current development patterns and comprehensive planning and does not jeopardize future community growth; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 nullify existing intergovernmental boundary agreements and other cooperative agreements and zoning ordinances; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 are unjust to municipal property taxpayers and utility ratepayers who have invested billions of dollars in local sewer and water systems that would be freely available for purchase by those who did nothing to create or maintain them; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 jeopardize future economic development by allowing non-taxpayers to seize a municipality’s municipal sewer and water capacity at any time and at any connection point; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 are inconsistent with both the letter and spirit of Wisconsin land use laws, cooperative agreements, utility statutes, DNR sewer service area planning, comprehensive planning statutes, and years of land use practices; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 will result in significant litigation and regulatory confusion as local leaders attempt to comply with its vague and untested new provisions; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 work against regional cooperation by allowing towns to demand municipal services without concession or consideration beyond paying for the “costs of providing the service”; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 will worsen Wisconsin’s housing shortage by causing precious and expensive municipal services to be diverted from logical, planned development and by interfering with the ability of cities to grow existing businesses and attract new economic development and business opportunities; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 will also be economically inefficient by allowing municipal services to be used by lower-density, non-taxpaying development further from other community services; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 will cause direct financial harm to cities by undermining their ability to generate net new construction, which is a core component of the levy limit; and

**WHEREAS**, Senate Bill 691/Assembly Bill 768 will directly harm the City of Elkhorn because two of its bordering towns—i.e., the Town of Delavan and the Town of Geneva—have populations exceeding 5,000 and will therefore be eligible to declare themselves “urban towns.”

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Elkhorn, Walworth County, Wisconsin that the City opposes Senate Bill 691 and Assembly Bill 768 and urges Senator Steve L. Nass and Representative Ellen L. Schutt to oppose the passage of these companion bills.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Bruce Lechner, Mayor

ATTEST:

\_\_\_\_\_  
Lacey L. Reynolds, City Clerk

Approved:

Adopted: