

ORDINANCE NO. OR07-02

**AN ORDINANCE AMENDING THE MUNICIPAL CODE,
CHAPTER 94, TRAFFIC AND VEHICLES
ARTICLE VII, ATV'S,
SECTION 94-446, OPERATION RESTRICTED,
AS IT RELATES TO THE OPERATIONS OF ATV'S IN THE CITY OF BRILLION,
CALUMET COUNTY, WISCONSIN**

The Common Council of the City of Brillion do ordain as follows:

SECTION I – INTENT

The City of Brillion, Calumet County adopts the following ordinance creating an all-terrain vehicle route for the operation of all-terrain vehicles upon the roadways listed herein.

Following due consideration of the value to provide recreational opportunities and weighted against the possible dangers, public health, liability aspects, terrain involved, traffic density and history of automobile traffic, this route has been created.

Chapter 94, Traffic and Vehicles: Is hereby created, pursuant to section 23.33(8) and 23.33(11) of the Wisconsin statutes, Chapter 94, Traffic and Vehicles: Article IV, ATV's Section 94-646 through 94-653, All-Terrain Vehicles (ATV's).

SECTION II - STATUTORY AUTHORITY

This route is created pursuant to City authority as authorized by 23.33(8)(b), Wis. Stats. This ordinance is intended to facilitate the implementation of sections 23.33(8) and 23.33(11) of the Wisconsin Statutes. To the extent necessary to accomplish this, section 23.33 of the Wisconsin Statutes is hereby adopted by reference. In the event that any provision of this ordinance is inconsistent, or conflicts with such statutes or any of them, that statute, and not this ordinance, shall control and be applied.

SECTION III – CONDITIONS

As a condition of the use of this ATV route, the following requirements shall apply to all operators and passengers.

Ch. 94-446. Speed & Equipment.

- (a) **Speed** - No person shall operate an ATV within the City of Brillion or on any trail or street or other public way designated in Section 94-450 of this Chapter at a speed in excess of any posted limit.
- (b) **Restriction on Equipment** - No ATV may be operated on any street within the City limits unless it conforms to all noise, registration and other equipment requirements as stated in the Wisconsin statutes or the Municipal Code of the City of Brillion.
- (b) **Headlight** - Every ATV operating within the City must display a lighted headlight and taillight at all times, day or night and said lights must conform to the requirements of the current Wis. Statutes and city ordinance requirements for ATV'S.

Ch. 94-447. Unattended Vehicles.

No person shall leave or allow any ATV owned or operated by him/herself to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

Ch. 94-448. Operation on Sidewalks Prohibited.

No person shall operate an ATV upon any sidewalk, pedestrian way or upon the (skirt) area between the sidewalk and the curb line of any street in the City, except as specifically authorized for the purpose of legally crossing the street, from an area of private property with prior permission, to obtain immediate access to an authorized area of operation.

Ch. 94-449. Restrictions on operators of ATV'S

(a) Operation by non licensed or youthful operators provided under Ch. 23.33(5) Wis. Stat.

(b) No person shall operate an ATV upon City streets, alley or public right-of-way within the corporate limits of Brillion unless such person shall have a valid motor vehicle operator's license.

(c) No person under the age of 12 years of age may operate an ATV on a roadway for any reason.

(d) No person 12-15 years may operate an ATV on a roadway unless, the ATV is registered as an implement of husbandry and must either be accompanied by a person at least 18 years of age, on the same machine or closely followed in another vehicle;

OR, the ATV is registered for public use and the operator is in possession of an ATV safety course completion certificate and may only operate an ATV if wearing approved headgear designed for that purpose.

(e) No persons under 18 years of age may operate or be a passenger on an ATV without wearing protective headgear with a chinstrap, which is properly attached.

SECTION IV - ROUTES

Ch. 94-450. ATV Routes and Trails Designated.

1. **Routes Designated** - Except as provided in Wis. Stats., or herein stated, no person shall operate any ATV upon any public right-of-way, in any public park or cemetery or on any other public or private property in the City except upon ATV routes and trails designated by the City Council. There shall be certain established routes or streets within the City limits. These ATV routes shall be designated as ATV routes and are to be used only for that purpose, under any circumstances or at any time of day or night.

2. Operation prohibited in certain areas:

(a) **No person may operate an ATV for any reason on the following streets:**

1. USH-10 / East Ryan St. on its entire length
2. USH-10 / West Ryan St. on its entire length
3. Any street where operation is prohibited by a posted sign

Note: Any of the above streets may be driven across from one side to the other, from a legal area to reach a street which is legal to operate upon.

(b) **No person may operate an ATV in the following areas, unless authorization is first obtained from the City Council:**

1. Any city parks except on those paved areas that are legal for motor vehicle operation
2. Any city cemeteries
3. Any property owned or leased by the City which is not accessible by motor vehicles

4. On the grass skirt area between the street and sidewalk of any street or highway.

(c) ATV routes are described as follows:

(1) Trail Markers - The Director of Public Works and City of Brillion law enforcement officers are directed and authorized to procure, erect and maintain appropriate ATV route, trail and speed limit signs and markers as approved by the State Department of Natural Resources under Wis. Stats.

(2) Trail status - City of Brillion Law Enforcement officers shall have the power to declare the stated ATV routes and trails either open or closed. This information may be posted on the City of Brillion website www.ci.brillion.wi.us and in the Brillion News.

(3) Signs and Markers to be Obeyed - No person shall fail to obey any route or trail sign, marker or speed limit or other control device erected in accordance with this Section or traffic sign or signal under authority of Wis. Stats.

Ch. 94-451. ATV Travel within the City Limits.

(a) Statutory Authority – State law allows towns, cities and villages to enact local regulations allowing ATV's to travel designated routes and trails.

(b) ATV Travel upon City streets – Operation of ATV's within the city limits shall be strictly limited to traveling along the extreme right side of city streets designated for that purpose. The authority to enact local ATV residential access regulations is found in the Wis. Stats. By authority of the Wis. Stats. The City of Brillion does hereby provide for ATV access into and from residential areas, stores and lodging establishments within the City limits of Brillion according to the guidelines set herein.

(c) Operation Authorized – This Section allows for the operation of an ATV on a street, roadway and / or shoulder of a street or highway by persons residing in or staying at a lodging establishment, shopping at local businesses or obtaining personal needs, within the limits of the City of Brillion, Calumet County, Wisconsin or to travel to or from an established ATV trail or route within or connected to the Corporate limits of the City of Brillion.

(d) Conditions - This Section designates the roadways and / or shoulders of specific streets and highways for ATV travel by persons residing in the City, patronizing business or staying at a lodging establishment within the limits of the City of Brillion, Calumet County Wisconsin, to travel for the distance that is necessary to reach an ATV trail or route from that residence, business or lodging establishment subject to the following conditions:

(e) Permit to operate on City owned property

An annual permit fee of \$25.00 will be charged allowing ATV's to be operated upon property owned by the City of Brillion. A sticker will be issued for this purpose and shall be plainly displayed on the exterior of the machine.

Uniformity - For the purpose of uniformity in this document the term ATV will have the same meaning as the term All Terrain Vehicle.

1. **ATV's** shall be operated on the extreme right side of the roadway and travel with the flow of traffic.
2. **ATV'S** shall be operated in single file with headlights and taillights in operation at all times, day or night. If a trailer is towed behind an ATV, the trailer must conform to all lighting

requirements for ATV's.

3. **ATV** operators shall yield the right-of-way to all other vehicular traffic and pedestrians.
4. **ATV'S** violating any of the above conditions will be subject to the penalties outlined in Wis. Stats., and City Ordinance.
5. **Speed** – **ATV'S** operated on any portion of any roadway or shoulder of a highway pursuant to this Section shall observe the posted speed limit for that roadway.
6. **Any ATV** unable to reach a maximum speed of 25 MPH, must display a slow moving vehicle triangle, visible on the rear of such vehicle according to Wisconsin state statutes governing the SMV emblems at all times while in operation on any roadway.

SECTION V - ENFORCEMENT

- (a) **Enforcement** – This Section shall be enforced by any law enforcement officer of the City of Brillion, Calumet County, Wisconsin, or such other local, county or state law enforcement officers.
- (b) **Uniform traffic citation** - The uniform traffic citation promulgated under the Wisconsin State Statutes, shall be used for violations of this Chapter relating to highway use except as herein provided.
- (c) **Parking Violations** - The special standardized City parking ticket shall be used for enforcement of violations of rules of the road relating to parking of vehicles.
- (d) **Other Violations** - All violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Wis. Stats. Stipulations of guilt or no contest may be made as provided in Wis. Stats. in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Payment may also be made under Wis. Stats. Such deposits shall include the City of Brillion municipal court costs listed in Chapter 3 of this Code of Ordinance.

SECTION VI – State forfeiture laws and penalties

Ch. 94-452. Penalty.

All provisions of section 23.33 of the Wisconsin Statutes describing and defining regulations with respect to all-terrain vehicles of which the penalty is a forfeiture only shall be incorporated by reference. Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not more than \$500.00, together with the costs of prosecution and, in default of payment thereof, may be imprisoned in the county jail for a term not to exceed ten days, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wis. Stats., for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Chapter 94 of this Code of Ordinances. Except as otherwise provided in Wis. Stats. and the deposit schedule adopted by the State Board of Circuit Court Judges hereunder, required penalties and deposits or bail not including costs or fees for violation of this Chapter shall be as established by the schedule adopted by the City of Brillion Common Council.

SECTION VII – SEVERABILITY

The provision of this ordinance shall be deemed severable and it is expressly declared that the City would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held

invalid, the remainder of the ordinance and the application of such provisions to other persons circumstances shall not be deemed affected.

SECTION VIII – EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR07-02 introduced and its adoption moved by Alderperson Unbehaun; and seconded by Alderperson Edinger.

Upon a poll vote thereon, the result was as follows:

<u>7</u>	Votes Cast
<u>7</u>	Votes Yes
<u>0</u>	Votes No

The Mayor declared Ordinance Number OR07-02 adopted, approved and signed the same this 26th day of February, 2007.

Gerald Sonnabend, Mayor

Attested:

Lori M. Gosz, City Clerk/Treasurer