

ORDINANCE NO. OR07-_____

AN ORDINANCE AMENDING THE MUNICIPAL CODE,
CHAPTER 95, TRAFFIC AND VEHICLES
ARTICLE VI, ATV'S,
SECTION 95-446, 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 95, 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 95-446 through 95-453, operation restricted.

SECTION II - STATUTORY AUTHORITY

This route is created pursuant to City authority under section 11.1.01 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. 95-446. 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 95-450 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.
- (c) **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.
- (d) **Registration / Inspection**– In addition to any other registration requirements that may be imposed by the State, an annual Municipal trail use permit is required to operate any ATV upon City streets or other City property, within the City limits. The fee for this permit shall be reviewed annually and published by the City Clerk. and published by the City Clerk on the City web site www.ci.brillion.wi.us and in the Brillion News.

1. Upon successful inspection of an ATV, a trail use permit shall be issued allowing it to be operated upon City streets for a period of one year. Such permit shall be plainly visible by placing it directly under or next to the State registration sticker on the ATV or the front cowling as to be plainly seen by a passing patrol officer.

(a) The annual trail use permit shall be valid from May 1st. through April 31st. of each consecutive year.

(b) The trail use permit fee for the 2007 / 2008 season shall be \$25.00

2. Inspection requirements.

(a) The ATV owner shall have proof of ownership and insurance covering the unit to be registered, present at time of inspection.

(b) The application form for that purpose must be completed and signed by the owner.

(c) The proper fee must be paid to the City Clerk, and proof shown prior to inspection.

(d) The vehicle must meet all inspection requirements prior to any permit being issued.

NOTE – Permit requirements can be obtained in advance from a member of the Brillion Police Department or Brillion City Clerk. The permit application fee is a service fee in payment for the inspection of ATV vehicles and the related paperwork. The application fee is nonrefundable.

Ch. 95-447. 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. 95-448. 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. 95-449. Restrictions on operators of ATV'S

Operation by non licensed or youthful operators restricted to Ch. 23.33(5) Wis. Stat.

(a) No person who is under current driver's license Suspension, Revocation or cancellation for any reason, may operate an ATV upon City streets within the corporate limits of Brillion.

(b) *Age restriction.* § 23.33(5) (a)

No person under 12 years of age may operate an all-terrain vehicle unless he or she is operating the all-terrain vehicle for an agricultural purpose and he or she is under the supervision of a person over 18 years of age or unless he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated by the department and he or she is accompanied by his or her parent. No person who is under 12 years of age may operate an all-terrain vehicle which is an implement of husbandry on a roadway under any circumstances. No person who is under 12 years of age may operate an all-terrain vehicle on a roadway under the authorization provided under [sub. \(4\) \(d\) 6.](#) under any circumstances. No person who is under 12 years of age may rent or lease an all-terrain vehicle. For purposes of this paragraph, supervision does not require that the person under 12 years of age be subject to continuous direction or control by the person over 18 years of age.

(c) Anyone 16-17 years of age may operate an ATV if headgear is being worn and regular driving privileges for a motor vehicle have not been suspended or revoked by a court of law or cancelled for any reason.

(d) Persons under 18 years of age may not operate or be a passenger on an ATV without wearing protective headgear with a chinstrap, which is properly attached.

SECTION IV - ROUTES

Ch. 95-450. 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: (City property need not be posted, ATV operators must know who's property they are operating upon before entering any property)

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. 95-451. 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 upon City streets.

§23.33(8) Routes and trails.

23.33(8)(a)

(a) *Department authority.* The department shall encourage and supervise a system of all-terrain vehicle routes and trails. The department may establish standards and procedures for certifying the designation of all-terrain vehicle routes and trails.

23.33(8)(b)

(b) *Routes.* A town, village, city or county may designate highways as all-terrain vehicle routes. No state trunk highway or connecting highway may be designated as an all-terrain vehicle route unless the department of transportation approves the designation.

23.33(8)(c)

(c) *Trails.* A town, village, city, county or the department may designate corridors through land which it owns or controls, or for which it obtains leases, easements or permission, for use as all-terrain vehicle trails.

23.33(8)(d)

(d) *Restrictions.* The designating authority may specify effective periods for the use of all-terrain vehicle routes and trails and may restrict or prohibit the operation of an all-terrain vehicle during certain periods of the year.

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. 95-452. Penalty.

(a) 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. The penalty for violation of any provision of this Article VI shall be a forfeiture as provided in section 23.33(13) of the Wisconsin Statutes, together with the costs of prosecution.

(b) **Forfeited Penalties and Deposits** - 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- ____ introduced and its adoption moved by Alderperson _____; and seconded by Alderperson _____.

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

____ Votes Cast
____ Votes Yes
____ Votes No

The Mayor declared Ordinance Number OR03- ____ adopted, approved and signed the same this _____ day of _____, 2007.

Gerald Sonnabend, Mayor

Attested:

Lori M. Gosz, City Clerk/Treasurer

CITY OF BRILLION
ATV INSPECTION REQUIREMENTS

{**NOTICE**} Before going through the inspection process, here are a few tips to save you some time and money.

- No racing or High performance type ATV's will be allowed on City streets.
- No dirt bikes or any vehicle that cannot be registered, as an ATV will be allowed.
- Bring proper identification and proof of registration and insurance with you to the inspection. (You will not be issued a permit if you are not the owner of the ATV, or the ATV is uninsured or if the owner of the ATV has a Suspended, cancelled or Revoked driver's license in any state) (Deleted Golf cars fro this document)
- Make sure that you have a functioning muffler on your vehicle, of the type originally installed by the manufacturer. No tuned or expansion type mufflers will be allowed.
- Make sure that all of the original lights work and are visible.
- If your vehicle will not meet the minimum 25 MPH speed requirement you are required to install an approved slow moving vehicle triangle on the rear of your vehicle prior to operation on streets. (SMV sign must be mounted on ATV at time of inspection)
- Check the brakes, tires and other safety equipment to assure that you will pass inspection.

We will be checking to see that:

1. There are no broken, loose or unsafe parts hanging from your vehicle.
2. The ATV owner's driver's license is not suspended or revoked.
3. The ATV is currently registered with the State of Wisconsin.
4. All of the required lights function properly.
5. All of the equipment required to operate your vehicle is present and in good working condition.
6. There are no modifications that would make operation of your vehicle illegal or unsafe.
7. The vehicle has an original manufacturers functioning muffler and is quiet.
8. The ATV is in generally good condition and will not be a hazard.

NOTICE – Under this provision, local city resident Owners of ATV's will be issued a permit to operate within the City of Brillion only. Any operation outside of the City of Brillion or upon any private property must conform to the appropriate State and local laws governing those areas. City of Brillion trail use permits do not apply to any other area what-so-ever. Make sure that you are familiar with all regulations governing the use of ATV's. If you are unsure, contact the local Law Enforcement authority for the area you intend to operate in. Children are not allowed to operate an ATV on any city street.

You will be held strictly responsible for knowing all laws and restrictions associated with the operation of ATV's within the City of Brillion.