

CITY OF BERLIN COMMITTEE OF THE WHOLE MEETING AGENDA  
TUESDAY, SEPTEMBER 6, 2022, 7:00 PM  
COMMON COUNCIL CHAMBERS  
<https://us02web.zoom.us/j/89319308907>  
Meeting ID: 893 1930 8907 - Password: 123456  
1 312 626 6799 US TOLL-FREE

1. Roll Call
2. Virtual Attendees Seated (if necessary)
3. General Public Comments. Registration card required (located at podium in Council Chambers).
4. Approval of Minutes. RECOMMENDATION: Approve the minutes from the August 2<sup>nd</sup>, 2022 Committee of the Whole meeting.
5. Resolution 22-05 Authorizing Execution of the Department of Natural Resources Principal Forgiven Financial Assistance Agreement. RECOMMENDATION: Recommend to Common Council to approve Resolution 22-05 Authorizing Execution of the Department of Natural Resources Principal Forgiven Financial Assistance Agreement and authorize signatures.
6. Memorandum of Understanding Between the City of Berlin and the Berlin Professional Police Association. RECOMMENDATION: Recommend to Common Council to approve the presented Memorandum of Understanding Between the City of Berlin and the Berlin Professional Police Association.
7. UTV/ATV Ordinance Discussion. RECOMMENDATION: Discussion and action as appropriate.
8. Virtual Equipment Update. RECOMMENDATION: Discussion with recommendation to Common Council as appropriate.
9. Adjourn.

*Note: In adherence to the City of Berlin Public Meeting Participation Policy, public participation will be allowed under each agenda item at the discretion of the presiding officer, with the exception of the Consent Agenda. Attendees must register their intention to participate on either a general comments section or a specific agenda item prior to the meeting by filling out a Registration Card, which can be obtained from the Internet, City Clerk's office or in the City Hall Council Chambers at the podium. Registration Cards should be turned in prior to the meeting to either the presiding officer or City Clerk.*

CITY OF BERLIN COMMITTEE OF THE WHOLE MEETING MINUTES  
TUESDAY, August 2, 2022 7:00 PM  
COMMON COUNCIL CHAMBERS

Mayor Bruessel called the Committee of the Whole meeting to order at 7:01 p.m. Present: Ald Boeck, Nigbor, Erdmann, Burgess, and Stobbe. Staff present: Sara Rutkowski, Midge Seaman, and Attorney Chier.

There were no virtual attendees.

Boeck made a motion to seat Alderperson Dretske. The motion was seconded by Burgess and passed on a voice vote.

The Mayor had several comment cards, mostly for item #6 on the Agenda and one for item #5. All spoke during the item discussion.

Erdmann made a motion to accept the Minutes from the Committee of the Whole meeting held on July 5, 2022. Boeck seconded the motion which carried on a voice vote.

Next the Mayor called upon City Administrator Sara Rutkowski to introduce her Market Square Presentation. She asked members of the Committee to refer to the Map included in the packet and spoke on her vision for the future of Market Square. She would like to utilize it as a gathering space to include bathrooms and a three-sided information board as well as hold activities such as Beer Garden, Ice Skating, Green Space with room to enjoy Native Plants and possibly concerts, etc. She would like to attract people in this center of the city to encourage shopping at local businesses, eating at our restaurants and growing our retail. Also spend time enjoying our beautiful park system. Rutkowski stated several times this is purely the "beginning" stages and absolutely nothing is set in stone and no promises have been made to anyone in any way, shape or form. She stated she is seeking permission from Council to go ahead with applying for grants to fund the project. There was only slight opposition from one Committee Member and one audience member. Burgess stated she feels there are many other projects that would benefit from the amount of money this major project would take. Zachary Bays, who owns a business on the current Market Square stated he was most concerned about eliminating parking. Stobbe made a motion to allow Rutkowski to look into funding and permitting for the "Market Square" update. Dretske seconded the motion which passed unanimously.

The Mayor then invited Dave Schmidt, representative from the Fox River Wheelers ATV Club to the podium for his presentation on ATV/UTV use in the City of Berlin. Schmidt introduced himself and gave his speech on the benefits of ATV/UTV in Cities. Dretske asked a question regarding Accessibility in Berlin, Roads vs Trails vs designated Roads. Schmidt stated they would prefer open access which he said was better for Police Patrol. Secondly Dretske asked Schmidt to elaborate on the 2022 report of 9 safety incidents, 3 or 4 being out of State operators and out of the 9, no one had a safety Certificate. Schmidt commented that there are more machines on the road than ever due to more communities opening up and that in the whole scheme of things, 9 is really very miniscule. He stated having trail ambassadors helps that tremendously. He also stated that those types of menaces are menaces to all no matter what form of vehicle they are driving. The last question Dretske asked was about road tires versus trail tires. Schmidt commented that road tires are becoming more popular due to driving more on roads vs trails. Other speakers in favor of ATV/UTV trails were Ron Harke, Resident of City of Berlin, Gerald M. Downen, resident of town of Seneca, and Zach Bays, resident of town of Berlin. Speaking neutrally to the

ATV/UTV was Ed Marks, Resident of the City of Berlin. He made comments regarding the noise, speed, safety and education of the operators.

Burgess, Nigbor, Dretske and the Mayor were in favor of moving forward with granting Atty Chier to draw up an ordinance allowing ATV/UTV's to operate in the city limits of Berlin. Boeck stated she thinks this is what families want. She stated she has concerns about Safety and especially on our Main Street which has already been determined to be dangerous in areas of the city. Stobbe and Erdmann both passed on giving their opinion initially and when the opportunity came around again, Stobbe asked a couple of clarifying questions, one being if there was feedback from any of the Department Heads.

After further discussion led by the Mayor and commented on by Atty Chier and several alderpersons about how to proceed with getting this passed as quickly as possible, Erdmann addressed the Mayor and questioned why Council was only taking the comments made by a few at this meeting into consideration when we held a referendum only a couple years ago for the same thing and the majority of the residents of Berlin voted ATV/UTV usage in the City of Berlin down? She stated the Mayor and the Council are not thinking of the people that do not want this at all. She further stated we have a main street project coming up in only a couple short years and that would main street would be torn up and unusable which would force traffic into alternate routes. There would only be one bridge open and everybody would be using it. Boeck made the point that when she visualizes UTV/ATVs being used in the city, she thinks of them as taking over the city, but in all actuality, there will be less of them than cars. The majority of Aldermen requested this item to be placed on Council's agenda for the following week so a motion could be made to create an ordinance.

The Mayor moved on to item number 7, which was a presentation by Rutkowski on the Security Cameras on City property. She went through the companies that gave quotes and talked about what the quotes entailed.

Item number 8 was a virtual equipment update. Rutkowski stated the Microphones are working now pretty well, however, there is still some equipment that is not. The equipment that is not working is a different company than the microphones. Atty Chier will work on drafting a Resolution to allow members to attend virtually.

At 8:15pm there was a motion made by Burgess to adjourn the meeting. This was seconded by Dretske and passed on a voice vote.

Midge Seaman, Deputy Clerk



**RESOLUTION # 22-05**

---

**Resolution Authorizing Execution of the Department of Natural Resources  
Principal Forgiven Financial Assistance Agreement**

---

WHEREAS, the City of Berlin (the "Municipality") wishes to undertake a project to replace private lead service lines at residences, pre-k -12 schools and licensed and/or certified daycare centers, identified as DNR No. 5466-09 (the "Project"); and

WHEREAS, the Municipality has applied to the Safe Drinking Water Loan Program (the "SDWLP") for financial assistance in the form of a loan made by the SDWLP to the Municipality of which all the principal will be forgiven at the time that loan disbursements are made to the Municipality, pursuant to the DNR Financial Assistance Agreement; and

WHEREAS, the SDWLP has determined that it can provide a loan with principal forgiveness in an amount up to \$1,125,000 that it has identified as being eligible for SDWLP funding;

NOW, THEREFORE, the City Mayor and City Clerk are authorized by and on behalf of the Municipality to execute the Principal Forgiven Financial Assistance Agreement that contains the terms and conditions of the SDWLP award for the Project. The Principal Forgiven Financial Assistance Agreement is incorporated herein by this reference.

Passed, approved and adopted this 13<sup>th</sup> day of September, 2022.

ROLL CALL VOTE:

CITY OF BERLIN

\_\_\_\_\_ AYES

BY: \_\_\_\_\_

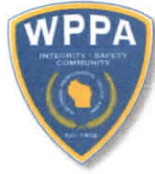
Joel Bruessel, Mayor

\_\_\_\_\_ NAYS

\_\_\_\_\_ ABSENT

ATTEST: \_\_\_\_\_

Sara Rutkowski  
Administrator, Clerk/Treasurer



**Memorandum of Understanding  
Between  
The City of Berlin  
and the  
Berlin Professional Police Association**

This is a voluntary agreement between the **City of Berlin** and the **Berlin Professional Police Association, Wisconsin Professional Police Association/Law Enforcement Employee Relations Division**. The City and the Association are parties to a collective bargaining agreement (“CBA”) expiring December 31, 2024.

**WHEREAS** the City of Berlin and members of the Berlin Professional Police Association are desirous of making a change to **APPENDIX A – CITY OF BERLIN - WAGES**.

**THEREFORE**, be it resolved that the parties do hereby agree to the following provisions and to modify the Collective Bargaining Agreement during the time period stated in the document:

**PROVISIONS OF THE AGREEMENT**

The purpose of this Memorandum of Understanding is to establish changes to the job titles listed in Appendix A and throughout the Collective Bargaining Agreement.

As of this date the job title of Investigator and Corporal will be removed from Appendix A. The job title of Corporal Detective will be added maintaining the same wage as the current Investigator. All references to “Investigator” within the CBA will be changed to Corporal Detective in the next updated CBA.

1. This represents the complete understanding of the parties on this issue. Any amendments or modifications to this agreement must be made in writing.
2. This agreement shall expire on date of ending of the collective bargaining agreement.
3. This agreement is effective on the last date signed below. Authentic fax or email signatures are as valid as an original.
4. All other provisions of the CBA shall remain in force, and the parties may renew this Agreement for the term of the successor CBA, or may incorporate the modifications herein in such successor CBA, or may terminate this Agreement by mutual consent of the parties.

**City of Berlin**

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

*Kevin R Sorenson*

Kevin R Sorenson, Business Agent  
For the WPPA/LEER

**Berlin Professional Police Association**

By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX A**

**CITY OF BERLIN**

**WAGES (modify the 2021 wages below as follows)**

	<b>(2.00%) 2022 Jan. 1</b>	<b>( 3.00%) 2023 First Pay Period of July</b>	<b>( 3.00%) 2024 First Pay Period of July</b>
<b>PATROL OFFICERS:</b>			
Starting	26.68	27.48	28.31
After 1 year	27.67	28.50	29.36
After 3 years	29.70	30.59	31.51
After 5 years	30.33	31.24	32.18
After 7 years	30.92	31.84	32.80
After 15 years	31.69	32.64	33.62
<b>CORPORAL:</b>	32.64	33.62	34.63
After 15 years	33.36	34.37	35.40
<b>INVESTIGATOR:</b>	32.64	33.62	34.63
After 15 years	33.37	34.38	35.41
<b>SERGEANT:</b>	33.52	34.52	35.56
After 15 years	34.27	35.30	36.36

**Sara Rutkowski**

---

**To:** legalsolutions@chierlaw.com  
**Subject:** RE: COB ORDINANCES ATV & UTV

**From:** Chier Law Office LLC <legalsolutions@chierlaw.com>  
**Sent:** Tuesday, August 16, 2022 6:34 PM  
**To:** Sara Rutkowski <srutkowski@cityofberlin.wi.gov>  
**Subject:** RE: COB ORDINANCES ATV & UTV

**This email message (including all attachments) may contain confidential, proprietary, privileged, and/or private information intended only for the use of the individual or entity named above as the recipient. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us by telephone, return the original message to us at the below address via the U.S. Postal Service, and delete it from your computer. Although Chier Law Office LLC attempts to prevent the passage of viruses via email and attachments thereto, Chier Law Office LLC does not guarantee that either are virus free, and accepts no liability for any damage sustained as a result of any such viruses.**

Sara:

Attached is a draft ordinance for you to present to the COTW (I presume?), otherwise the Common Council directly.

Some additional comments I would ask that you present to the Council (you may print and include a copy of this e-mail in the agenda packet):

In regard to the Definitions in Section 70-63, please note that the Waupun ordinance separately defined ATV and UTV in comparison to state statutes. I personally don't see a reason to have separate definitions. It is usually my preference to pick up the statutory definitions (which is how I drafted this ordinance so far), because if the statutes ever change, no ordinance change is needed. However, perhaps Waupun had some good reasons for including different definitions. Please let me know if you would prefer to have special definitions for each of these. I don't have sufficient expertise to determine if the differences in these definitions would have significant meaning out on the road. For example, please note the weight difference in the definition of UTVs between 2,000 pounds and 3,000 pounds. I'm not sure what type of unit having a lower weight limit of 2,000 pounds would prevent in reality, or whether that is based on strong reasoning. I advise the Council to seek out such expertise from someone who understands these differences if possible.

The following are the differences in the definitions:

Waupun's definition of ATV:

"All-terrain vehicle" or "ATV" means a commercially designed and manufactured motor driven device that has a weight, without fluids, of 900 pounds or less, has a width of 50 inches or less, is equipped with a seat designed to be straddled by the operator, and travels on three or more low-pressure or non-pneumatic tires.

Statute definition of ATV:

"All-terrain vehicle" means a commercially designed and manufactured motor-driven device that has a weight, without fluids, of 900 pounds or less, has a width of not more than 50 inches as



measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation, is equipped with a seat designed to be straddled by the operator, and travels on 3 or more tires.

Waupun's definition of UTV:

"Utility terrain vehicle" or "UTV" means any of the following:

1. A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with all of the following: a weight, without fluids of 2,000 pounds or less; four or more low-pressure or non-pneumatic tires; a cargo box installed by the manufacturer; a steering wheel; a taillight; a brake light; two headlights; a width of not more than 65 inches; a system of seatbelts or a similar system for restraining each occupant of the device in the event of an accident; and a system of structural members designed to reduce the likelihood that an occupant would be crushed as a result of a rollover of the device.

2. A commercially designed and manufactured motor driven device that has all of the following: a weight, without fluids, of more than 900 pounds but not more than 2,000 pounds; a width of 50 inches or less; is equipped with , a seat designed to be straddled by the operator; and travels on three or more low-pressure or non-pneumatic tires.

Statute definition of UTV:

"Utility terrain vehicle" means any of the following:

**1.** A commercially designed and manufactured motor driven device that does not meet federal motor vehicle safety standards in effect on July 1, 2012, that is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle, that is designed to be used primarily off of a highway, and that has, and was originally manufactured with, all of the following:

**a.** A weight, without fluids, of 3,000 pounds or less.

**b.** Four or more tires.

**d.** A steering wheel.

**e.** A tail light.

**f.** A brake light.

**g.** Two headlights.

**h.** A width of not more than 65 inches as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.

**j.** A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.

**k.** A system of structural members designed to reduce the likelihood that an occupant would be crushed as the result of a rollover of the device.

**2.** A commercially designed and manufactured motor driven device to which all of the following applies:

**a.** It does not meet federal motor vehicle safety standards in effect on July 1, 2012; is not a golf cart, low-speed vehicle, dune buggy, mini-truck, or tracked vehicle; is designed to be used primarily off of a highway; and has, and was originally manufactured with, a weight, without fluids, of not more than 3,000 pounds.

**b.** It has a width of 65 inches or less as measured laterally between the outermost wheel rim on each side of the vehicle, exclusive of tires, mirrors, and accessories that are not essential to the vehicle's basic operation.

**c.** It is equipped with a seat designed to be straddled by the operator.

**d.** It travels on 3 or more tires.

**e.** It is not an all-terrain vehicle, as defined in s. 340.01 (2g).

Also, in regard to the first paragraph of Section 70-64, the Waupun ordinance has additional language that prohibits operation on "any land within the City that is zoned residential," with the exception of designated trails and routes. In other words, their default rule is that nobody may operate an ATV or UTV on their own private land in the city limits if the property is zoned residential. We didn't have such a rule

previously in the City of Berlin, and I'm not thinking the Council was looking to establish such a rule here, so I excluded this language. I just wanted the Council to be aware of this difference with the Waupun ordinance on which this ordinance is based.

Lastly, please note that in Sec. 70-64(a) I included language that requires approval by the WDOT for designation of any state trunk highways or connecting highways as ATV or UTV routes per Wis. Stat. § 23.33(8)(b)3. I'm assuming all portions of Hwy 49 will accordingly require this approval; however, I'm a little unclear on the definition of a state trunk highway or connecting highway, so perhaps Scott Zabel can help clarify how Hwy 49 is designated. Also, if this approval is required, I'm not familiar with the process for getting this approval, so I'm thinking Sara or Scott will likely have to make contact with the WDOT to check on this accordingly.

Thanks Sara. Please let me know if you have any questions. If the Council approves the ordinance, we will finalize and send you a clean version for signature, and we will also send an MS Word version to you to provide the codifier. I would normally send you all those versions right away, but Sheri (my assistant working on this file) will be out until next week, and I wanted to get at least this draft version out to you in the meantime.

---Matt

Sincerely,

Matthew G. Chier  
Berlin City Attorney



CHIER LAW OFFICE LLC  
137 E. Huron Street  
Berlin, WI 54923  
Telephone: 1-920-361-9740

---

**AN ORDINANCE ESTABLISHING NEW REGULATIONS FOR  
ALL-TERRAIN VEHICLES AND OFF-ROAD MOTOR VEHICLE OPERATION**

---

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

Chapter 70, Article II of the Code of Ordinances of the City of Berlin is hereby repealed and readopted as follows:

**ARTICLE II. - ALL-TERRAIN VEHICLES, UTILITY TERRAIN VEHICLES, AND OFF-ROAD MOTOR VEHICLE OPERATION**

**Sec. 70-61. – Purpose and Intent**

The City of Berlin adopts the following all-terrain vehicle trails and routes and restrictions for the operation of all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) on roadways and city-owned property throughout the City of Berlin. Following due consideration of the recreational value to connect trail opportunities, and weighed against the possible dangers, public health, liability issues, terrain, traffic density and history of vehicular traffic, these routes and trails have been established

**Sec. 70-62. – State Laws Adopted**

Except as otherwise specifically provided in this Code, the statutory provisions in Wis. Stats. § 23.33, describing and defining regulations with respect to vehicles, traffic and powers of state and local authorities, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are adopted and by reference made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any regulation incorporated in this section by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutory regulations in Wis. Stats. § 23.33 incorporated in this section are intended to be made part of this section in order to secure, to the extent legally practicable, uniform statewide regulation of all-terrain vehicle operation in the state. Any person who shall, within the city, violate any provision of any statute incorporated by reference in this section shall be deemed guilty of an offense under this section.

**Sec. 70-63. – Definitions**

The following definitions shall apply with respect to this ordinance:

- (a) "Off road vehicles" shall include, without limitation, off-highway motorcycles and minibikes, all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs).
- (b) All applicable words and phrases defined in Wis. Stats. § 23.33 and § 340.01 of the Wisconsin Statutes are incorporated by reference in this Article.

## **Sec. 70-64. – Designation of ATV and UTV Routes**

No person shall operate an off-road vehicle on any City street, alley, park or parking lot, on any public lands or parking lots held open to the public, except as provided below:

- (a) In accordance with Wis Stats. § 23.33(8)(b)2 of the Wisconsin Statutes and unless otherwise posted, all streets, roads and public alleys within the City are designated ATV and UTV routes, including all state trunk highways or connecting highways if the Wisconsin Department of Transportation approves such a designation as required pursuant to Wis Stats. § 23.33(8)(b)3.
- (b) In accordance with Wis. Stats. § 23.33(11)(am)(4), the City authorizes the operation of ATVs and UTVs on all approved ATV and UTV routes within the City as identified in the above subsection.
- (c) The City or its designee reserves the right to close or modify ATV and UTV routes within its jurisdiction at any time.
- (d) All ATV and UTV routes shall be signed in accordance with Wis. Stats. § 23.33(8)(e) and Wis. Admin. Code NR § 64.12 and NR § 64.12(7)(c). The City or its designee shall maintain all ATV and UTV route signs within the City, including without limitation, on state trunk highways within the City which have been approved as routes by the Wisconsin Department of Transportation pursuant to Wis Stat. § 23.33(8)(b)3.

## **Sec. 70-65. – Conditions and Restrictions on Operation**

In addition to the provisions contained in Wis. Stats. § 23.33 and Chapters 340 to 348, and as a condition for the use of ATV and UTV routes designated and authorized herein, the following conditions and restrictions shall apply to all ATV and UTV operators and passengers, as applicable.

- (a) All ATV and UTV units shall be registered for public use in accordance with Wisconsin Department of Natural Resources (hereinafter referred to in this section as "DNR") regulations, and proof of registration shall be displayed as required by statute during all times of operation.
- (b) All ATV and UTV operators shall observe all applicable rules of the road governing motorized vehicles operating on municipal streets in accordance with Wis. Stats. § 23.33 and Chapter 346.
- (c) No person shall operate an ATV or UTV within the City from 10:00 p.m. to 6:00 a.m., except as permitted in Wis. Stats. § 23.33, or as otherwise authorized in writing by the City or its designee on a temporary basis.
- (d) No ATV or UTV shall be operated on any trail or route at a speed greater than the maximum permitted speed limit for motor vehicles on that trail or route.
- (e) All ATV and UTV operators are subject to and shall abide by applicable provisions of the Wisconsin Statutes and DNR regulations pertaining to age, safety and safety certificate requirements.

- (f) No person shall operate an ATV or UTV on any trail or route without fully functional headlights, taillights and brake lights. All operators shall display a lighted headlight and taillight at all times while on the trail or route.
- (g) No person shall operate an ATV or UTV on any trail or route where the vehicle does not meet state or municipal noise and exhaust restriction requirements.
- (h) No person shall operate an ATV or UTV within any municipal park or on any sidewalk, designated bicycle or pedestrian lane, gravel shoulder, ditch or other area of any street right-of-way other than on the paved roadway, unless specifically designated and posted otherwise by the City or its designee.
- (i) No person shall leave or allow any ATV or UTV owned or operated by that person to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.
- (j) No person shall operate an ATV or UTV on any trail or route unless the owner or operator has in effect at the time a liability policy insuring operation of the ATV or UTV which meets the same carrier and coverage requirements specified for operators of motor vehicles under Wis. Stats. § 344.61. No person shall operate an ATV or UTV without having proof of such liability insurance coverage readily available.
- (k) No person who is under 18 years of age may operate or ride upon an ATV or UTV on any trail or route unless the person is wearing protective headgear of a type which meets the standards established for motorcycle operation in 49 CFR 571.218 and the chin strap is properly fastened.
- (l) No person may operate an ATV or UTV on any trail or route when carrying a passenger under 18 years of age unless the passenger is wearing protective headgear of a type which meets the standards established for motorcycle operation in 49 CFR 571.218 and the chin strap is properly fastened.
- (m) No person shall operate an ATV or UTV on any trail or route unless that person is 16 years of age or older and holds a valid driver's license issued by the Wisconsin Department of Transportation, or another state driver's licensing authority.
- (n) No person may operate or ride upon an ATV or UTV on any trail or route in possession of an open intoxicant while the ATV or UTV is in operation.
- (o) No person shall operate an ATV or UTV while under the influence of an intoxicant, a restricted controlled substance, a controlled substance analog, or any combination of these elements, to a degree which renders the person incapable of safely operating the ATV or UTV.

**Sec. 70-66. – Enforcement**

The penalty for any violation identified in Section 23.33(13) or Chapters 340 through 347 of the Wisconsin Statutes shall be as set forth in the Wisconsin Statutes. Deposit amounts for such

violations shall be as set forth in the current Revised Uniform State Traffic Deposit Schedule. The penalty for any violation of this article not addressed in Wis. Stats. § 23.33(13) or Chapters 340 through 347 shall be subject to the general penalty provisions in section 1-16 of this Code.

**Secs. 70-67—70-95. - Reserved.**

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ROLL CALL VOTE:

CITY OF BERLIN

\_\_\_\_ AYES  
\_\_\_\_ NAYS  
\_\_\_\_ ABSENT

BY: \_\_\_\_\_  
Joel E. Bruessel, Mayor

APPROVED AS TO FORM:

ATTEST: \_\_\_\_\_  
Sara L. Rutkowski,  
City Administrator/City Clerk

\_\_\_\_\_  
Matthew G. Chier, City Attorney