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

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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Chapter 70, Article II of the Code of Ordinances of the City of Berlin is hereby repealed and readopted as follows: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, except if the maximum permitted speed limit for motor vehicles on a trail or route exceeds 35 miles per hour, then the maximum speed at which an ATV or UTV may be operated on that trail or route shall be 35 mile per hour.

- (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.

**Sec. 70-67. – Referendum and Sunset.**

- (a) The city administrator/clerk shall take all necessary action to include the following referendum question on the ballot in the city at the November 5, 2024 general election:

*Do you wish for the City to continue to designate all streets, roads and public alleys within the City as ATV and UTV routes?*

*Answer: Yes or No*

- (b) The provisions of subsection 70-64(a) shall sunset and terminate on November 30, 2024, unless the common council adopts an ordinance to renew such provisions and repeal this section 70-67.

**Secs. 70-68—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 13 day of September, 2022

ROLL CALL VOTE:

CITY OF BERLIN

4 AYES  
2 NAYS  
0 ABSENT

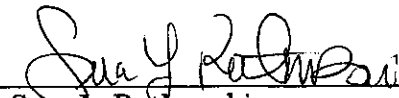
BY:

  
Joel E. Bruessel, Mayor

APPROVED AS TO FORM:

ATTEST:

  
Matthew G. Chier, City Attorney

  
Sara L. Rutkowski,  
City Administrator/City Clerk