

ORDINANCE NO. 2021-01

VILLAGE OF BROWNSVILLE, DODGE COUNTY, WISCONSIN

An Ordinance Authorizing and Regulating use of All-Terrain Vehicles (ATV's) and Utility Terrain Vehicles (UTV's) on Village Roads and Village-Owned/Controlled Property

WHEREAS, the village board of the Village of Brownsville desires to repeal and re-create section 10.11 of the Brownsville Municipal Code to authorize and regulate use of all-terrain vehicles (ATV's) and utility terrain vehicles (UTV's) on Village roads and on property owned or controlled by the Village.

WHEREAS, following due consideration of the public purpose of promoting recreational opportunities by connecting trails, and considering public health, terrain, traffic density and village history of vehicular traffic, these routes and trails routes, and these restrictions are established by this ordinance.

NOW, THEREFORE, the Village Board of the Village of Brownsville do ordain as follows:

I. Section 10.11 of the Brownsville Municipal Code is hereby repealed and re-created to read as follows:

10.11 OFF ROAD VEHICLES INCLUDING ATV AND UTV VEHICLES

(1) **PURPOSE AND INTENT.** The Village of Brownsville ("Village" or "village") adopts the following all-terrain vehicle trails and routes and restrictions as set forth in this section 10.11 ("this section") for the operation of all-terrain vehicles (ATV's) and utility terrain vehicles (UTV's) on roadways and village-owned property throughout the village.

(2) **APPLICABILITY.** This section applies exclusively upon Village highways and Village streets except as otherwise expressly provided in this section.

(3) **STATUTORY AUTHORITY/ STATE LAWS ADOPTED.** Operation of ATV's and UTV's on village streets is authorized in Wis. Stats. sec. 23.33(8)(b). The statutory provisions of Wis. Stats. Sec. 23.33 (All-terrain vehicles and utility terrain vehicles) are adopted herein by reference as if fully set forth herein. The Wisconsin Administrative Code provisions of Wis. Admin. Code Chapter NR 64(All-terrain vehicles) are adopted herein by reference as if fully set forth herein. The portions of Chapters 340 to 348 of Wis. Stats., establishing definitions and regulations with respect to ATV's and UTV's, are adopted herein by reference as if fully set forth herein. Unless otherwise specifically provided herein, any act required to be performed or which is prohibited by any such Wisconsin statute or administrative code provision incorporated herein, is required or prohibited by this ordinance, as applicable. To the full extent

allowed by law, any future amendments, revisions or modifications of such applicable Wisconsin Statutes or Wisconsin Administrative Code provisions incorporated herein are made a part of this ordinance in order to secure uniform statewide regulation of ATV's and UTV's.

(4) DEFINITIONS. The following definitions shall apply with respect to this ordinance:

(a) "All-terrain vehicle route" means a highway or sidewalk designated for use by all-terrain vehicle operators by the governmental agency having jurisdiction as authorized under this section.

(b) "All-terrain vehicle trail" means a marked corridor on public property 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 roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

(c) "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.

(d) "Off road vehicles" shall include, without limitation, all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs).

(e) "Operate" means to exercise physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or to physically manipulate or activate any of the controls of the vehicle necessary to put it in motion.

(f) "Operation" means the exercise of physical control over the speed or direction of an all-terrain vehicle or utility terrain vehicle or the physical manipulation or activation of any of the controls of the vehicle necessary to put it in motion.

(g) "Operator" means a person who operates an all-terrain vehicle or utility terrain vehicle, who is responsible for the operation of an all-terrain vehicle or utility terrain vehicle or who is supervising the operation of an all-terrain vehicle or utility terrain vehicle.

(h) "Owner" means a person who has lawful possession of an all-terrain vehicle or utility terrain vehicle by virtue of legal title or equitable interest in the vehicle which entitles the person to possession of the vehicle.

(i) "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. A weight, without fluids, of 2,000 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.
- i. A system of seat belts, or a similar system, for restraining each occupant of the device in the event of an accident.
- j. 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 2000 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 Wis. stats. sec. 340.01 (2g).

(j) "Village" means the Village of Brownsville, a Wisconsin municipal corporation. All references to the Village in this ordinance shall apply only within the jurisdictional limits of the Village of Brownsville, and the Village makes no attempt to exercise authority outside of the jurisdictional limits of the Village of Brownsville.

(k) All other applicable words and phrases defined in Wis. Stats. Sec. 23.33 and Sec. 340.01, and of Wis. Admin Code sec. NR 64.02 are incorporated herein by reference in this ordinance. In the event of a conflict between these ordinance definitions and the statutes and administrative code provisions cited in the previous sentence, the applicable statute or administrative code provision shall apply.

(5) DESIGNATION OF ATV AND UTV ROUTES. Village Routes and Trails Designated.

(a) The Village Board may, by resolution, designate highways within the Village as all-terrain vehicle routes, except that no state trunk highway or connecting highway may be designated as an all-terrain vehicle route except with Wisconsin Department of Transportation approval of any such designation.

(b) Any designations made hereunder are incorporated by reference with the same force and effect as if fully set forth herein.

(c) The Village Board 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.

(d) No person shall operate an ATV or UTV on any Village street, alley, park or parking lot, on any public lands or parking lots held open to the public, or on any land within the Village that is zoned residential or used for residential purposes, except as provided below:

(1) In accordance with Wis. Stats. sec. 23.33(8)(b)2 and unless otherwise posted, all streets, roads and public alleys within the Village are designated ATV and UTV routes, except all county highways, state trunk highways or connecting highways with a speed of 40 MPH or greater; provided, however, that county highways, state trunk highways or connecting highways may be allowed as ATV and UTV routes as stated in next subsection 10.11(5)(d) (2).

(2) In accordance with Wis. Stats. sec. 23.33(11)(am)(4), the Village authorizes the operation of ATVs and UTVs on all approved ATV and UTV routes within the Village as identified in subsection (a) above, and on all county highways, state trunk highways or connecting highways with a speed limit of 35 MPH or less where the applicable county or state authority approves such a designation.

(3) The Village by its designee reserves the right to close or modify ATV and UTV routes within its jurisdiction at any time.

(4) All ATV and UTV routes shall be signed in accordance with NR 64.12 and NR 64.12(7)(c) of the Wisconsin Administrative Code. The Village or its designee shall maintain all ATV route signs within the Village, including without limitation, on state trunk highways within the Village.

(5) The Village Board 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.

(6) Any designations and periods for use specified hereunder shall be made in and by the Village Board's adoption of resolution(s) with same being published in the same manner prescribed for other official actions of the Board.

(7) On all roads shared with another jurisdiction the most restrictive Ordinance shall apply.

(8) The Village reserves the right to open or close routes by a simple Board motion.

(6) CONDITIONS AND RESTRICTIONS ON OPERATION. In addition to the provisions contained in Wis. Stats. sec. 23.33, Wis. Stats. Chapters 340 to 348, and Wis. Admin Code chapter NR 64, as applicable, and as a condition for the use of ATV and UTV routes designated and authorized above, the following conditions and restrictions shall apply to all ATV and UTV operators and passengers, as applicable:

(a) Equipment Requirements. The equipment requirements specified under Wis. Stats. sec. 23.33(6) are hereby adopted and the same by reference are incorporated with the same force and effect as if fully set forth herein.

(b) All ATV and UTV units shall be registered for public use in accordance with Wisconsin Department of Natural Resources ("DNR") regulations, and proof of registration shall be displayed as required by statute during all times of operation.

(c) All ATV and UTV operators shall observe all applicable rules of the road governing motorized vehicles operating on municipal streets in accordance with Section 23.33 and Chapter 346 of the Wis. Stats.

(d) No person shall operate an ATV or UTV within the Village other than during the time period from 8:00 a.m. to sundown as indicated by data from the U.S. Naval Observatory, except as permitted in Sec. 23.33(4)(f) of the Wisconsin Statutes, or as otherwise authorized in writing by the Village or its designee on a temporary basis. Off road vehicles owned by the Village of Brownsville or the Brownsville Fire Company are exempt from this restriction regarding permitted hours of operation.

(e) No person shall operate an ATV or UTV upon an all-terrain vehicle route or areas identified in subsection (6)(n) unless the operator 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. Instruction Permit's do not meet the criteria for a valid operators license. Such operators license shall be in the immediate possession of the operator and shall be displayed upon demand from any law enforcement officer.

(f) Operation of an ATV or UTV on roadways which are designated as ATV and UTV routes is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway which is safe given prevailing conditions.

(g) Approved hand signals are required whenever the operator intends to change direction of travel if vehicle is not equipped with turn signals.

(h) All ATV and UTV operators must ride single file when on public streets.

(i) No ATV or UTV shall be operated at a speed greater than 15 mph or the maximum permitted speed limit if the posted speed limit is less than 15 mph. ATV or UTV operation at speeds in excess of 15 mph is only allowed if a higher ATV/UTV speed limit is specifically posted for that area.

(j) 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.

(k) The operator of an ATV or UTV shall display a lighted headlight, tail lamp and working brake light on the ATV/UTV and display the registration license plate at all times.

(l) ATV and UTV operators or passengers under the age of 18 years of age shall wear protective headgear as required under Wis. Stats. sec. 347.485(1)(a), with a chin strap securely fastened, at all times of operation.

(m) 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.

(n) 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 Village or its designee. Parking lots designed for normal vehicular traffic for parks, playgrounds or other municipal utilities are allowable for ATV and UTV operation, as long as the ATV or UTV does not leave the paved or gravel surface. Operation of an ATV or UTV within Dale R. Michels Park is permitted only on the paved or graveled roads and parking areas. The Superintendent of Public Works or his designee may authorize use of an ATV or UTV on other than the paved areas of the park for special events. Express written permission is required for such operation and must be carried by the operator of the ATV or UTV and be presented to any authorized law enforcement officer upon request.

(o) 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.

(p) No ATV or UTV operator or passenger shall be in possession of an open intoxicant while the ATV or UTV is in operation. No operator or passenger of an ATV or UTV may possess in or on an ATV or UTV on any street in the Village, any bottle or receptacle containing alcoholic beverages if the bottle or receptacle has been opened, the seal has been broken, or the contents of the bottle or receptacle have been partially removed or released. 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.

(q) ATV and UTV operation is at the risk of the operator. The Village of Brownsville has no liability for any damage or injury to persons, real property or personal property, arising out of the operation of an ATV or UTV on designated routes.

(r) No person shall operate an ATV or UTV within the Village pursuant to the provisions contained in this section unless operation is on private property not regulated by this section, unless the owner or operator has in effect at the time a liability policy insuring the operation of the ATV or UTV and which policy meets the carrier and coverage requirements specified in Section 344.61 of the Wis. Stats. No person shall operate an ATV or UTV without having proof of such liability insurance coverage readily available.

(7) PARKING RESTRICTIONS. Parking of an ATV or UTV on Village streets shall only be allowed during the time period from 8:00 a.m. to sundown as indicated by data from the U.S. Naval Observatory, except as permitted in Sec. 23.33(4)(f) of the Wisconsin Statutes, or as otherwise authorized in writing by the Village or its designee on a temporary basis. Off road vehicles owned by the Village of Brownsville or the Brownsville Fire Company are exempt from this parking restriction.

(8) ENFORCEMENT.

(a) The Village Marshal, an officer of the state traffic patrol under Wis. Stats. sec. 110.07(1), an authorized inspector under Wis. Stats. sec. 110.07(3), a conservation warden appointed by the Department of Natural Resources under Wis. Stats. sec. 23.10, the county sheriff or sheriff deputy, or a Village municipal peace officer, has authority and jurisdiction to enforce this section.

(b) No operator of an ATV or UTV may refuse to stop after being requested or signaled to do so by a law enforcement officer or other person authorized to enforce this section.

(9) PENALTIES

The penalty for any violation identified in Section 23.33(13) or Chapters 340 through 348 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 ordinance not addressed in Section 23.33(13) or Chapters 340 through 348 of the Wis. Stats. shall be a forfeiture as set forth in Chapter 25 of this Code, together with all applicable costs, surcharges and assessments.

(10) SEVERABILITY If any section, clause, provision, or portion of this ordinance or and underlying statute or administrative code section adopted by reference herein is adjudicated

unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

II. This ordinance shall become effective upon passage and publication according to law.

Passed by the Village Board of the Village of Brownsville in the County of Dodge, in the State of Wisconsin this 12 day of May, 2021.



A handwritten signature in blue ink, which appears to read "T. Kemmel", is written over a horizontal line.

Timothy J. Kemmel, Village President

ATTEST:

A handwritten signature in blue ink, which appears to read "Marifyn Halley", is written over a horizontal line.

Marifyn Halley, Village Clerk