

ORDINANCE NO. 1 - 2019
TOWN OF BIRNAMWOOD, SHAWANO COUNTY, WISCONSIN
ATV/UTV ROUTES

SECTION I - TITLE AND PURPOSE

The title of this Ordinance is “ATV/UTV Routes.” The purpose of this Ordinance is to establish all-terrain vehicle and utility terrain vehicle routes in the Town of Birnamwood and to regulate the operation of all-terrain vehicles and utility terrain vehicles in the Town of Birnamwood.

SECTION II – AUTHORITY & DEFINITIONS

The Town Board of the Town of Birnamwood (“Town”) has authority pursuant to Wis. Stat. §§ 23.33(8)(b) & (11) to enact this Ordinance. Definitions of terms contained within this Ordinance shall be the same as those found within Wis. Stat. § 23.33 and Wis. Adm. Code ch. NR 64, which are adopted by reference into this Ordinance. Within this Ordinance, “ATV” shall mean all-terrain vehicle, and “UTV” shall mean utility-terrain vehicle.

SECTION III - ADOPTION OF ORDINANCE & LAWS

This Ordinance is hereby adopted by a majority of the Town Board on a roll call vote with a quorum present and voting, and proper notice having been given.

Wisconsin Stat. § 23.33 and Wis. Adm. Code ch. NR 64 and, as from time to time amended, are hereby adopted by reference into this Ordinance as if fully set forth herein.

SECTION IV – OPERATION OF ATVS and UTVS

Pursuant to Wis. Stat. § 23.33(4)(d)4, except as otherwise provided in Wis. Stat. § 23.33(4), no person may operate an ATV or UTV on the roadway portion of any highway except on roadways that are designated as ATV/UTV routes by this Ordinance. Operation of ATVs and/or UTVs on a roadway in the Town that is an ATV/UTV route is authorized only for the extreme right side of the roadway except that left turns may be made from any part of the roadway that is safe given prevailing conditions.

SECTION V – DESIGNATION OF ATV/UTV ROUTES AND OTHER USAGE

- (1) The following are hereby designated ATV/UTV routes in the Town: all Town highways.
- (2) For a roadway, or for a portion of a roadway, that is located within the territorial boundaries of the Town, the Town hereby authorizes the operation of ATVs and/or UTVs with snow removal devices attached on the roadway, or adjacent to the

roadway, if the applicable roadway speed limit is greater than 45 miles per hour, and regardless of whether the Town has jurisdiction over the roadway.

- (3) The Town hereby authorizes the operation of ATVs and/or UTVs on any highway bridge in the Town that is not part of the national system of interstate and defense highways, that is 1,000 feet in length or less, and that is located within the territorial boundaries of the Town regardless of whether the town has jurisdiction over the highway. Any person crossing a bridge shall be required to do all of the following:
 - (a) Cross the bridge in the most direct manner practicable and at a place where no obstruction prevents a quick and safe crossing.
 - (b) Stay as far to the right of the roadway or shoulder as practicable.
 - (c) Stop the vehicle prior to the crossing.
 - (d) Yield the right-of-way to other vehicles, pedestrians, and electric personal assistive mobility devices using the roadway or shoulder.
 - (e) Exit the highway as quickly and safely as practicable after crossing the bridge.
- (4) The Town hereby authorizes the operation of ATVs and/or UTVs on a highway that is not part of the national system of interstate and defense highways, that has a speed limit of 35 miles per hour or less, and that is located within the territorial boundaries of the Town regardless of whether the Town has jurisdiction over the highway.

SECTION VI – CONDITIONS APPLICABLE TO ATV/UTV ROUTES

The following conditions are placed on the use of the Town ATV/UTV routes:

- (1) Routes shall be marked with official ATV/UTV route signs in accordance with Wis. Stat. § 23.33(8)(e) and Wis. Adm. Code § NR 64.12(7).
- (2) Operation shall be subject to all provisions of Wis. Stat. § 23.33 and Wis. Adm. Code ch. NR 64, which are adopted into this Ordinance by reference.
- (3) ATVs and/or UTVs shall observe a maximum speed limit of 35 miles per hour, or a posted roadway speed limit, whichever is lower.
- (4) ATV and UTV routes are open 365 days / year with no hours of restrictions.
- (5) Off- road auxiliary lighting shall not be used on designated routes.

SECTION VII – ENFORCEMENT

- (1) This Ordinance may be enforced by any law enforcement officer having authority and jurisdiction to do so.
- (2) Non-moving violations in SECTION VIII of this Ordinance may also be enforced by the Town Board or its designee.

SECTION VIII – NON-MOVING VIOLATIONS

It shall also be a non-moving violation of this Ordinance for any person to do any of the following:

- (1) Intentionally remove, damage, deface, move, or obstruct any ATV and/or UTV route or trail sign or standard or intentionally interfere with the effective operation of any ATV and/or UTV route or trail sign or standard if the sign or standard is legally placed by the Town, or any other highway authority or authorized person, or on behalf of the Town or any other highway authority or authorized person.
- (2) Possess any official ATV and/or UTV route or trail sign or standard of the type established by the Wisconsin Department of Natural Resources for the warning, instruction, or information of the public, unless he or she obtained the official ATV and/or UTV route or trail sign or standard in a lawful manner. Possession of an official ATV and/or UTV route or trail sign or standard creates a rebuttable presumption of illegal possession.

SECTION IX – PENALTIES FOR VIOLATIONS

- (1) Any person violating this Ordinance is subject to the penalties listed under Wis. Stat. § 23.33(13), which is adopted into this Ordinance by reference. If there is any instance where a penalty under Wis. Stat. § 23.33(13) cannot be determined and/or applied, then there shall be a forfeiture of \$100 for a violation of this Ordinance.
- (2) Every day that a violation of this Ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Ordinance shall also pay the fees and costs of prosecution incurred in the enforcement of this Ordinance.
- (3) The issuance of a citation under this Ordinance shall not preclude the Town from proceeding under any other ordinance or law, or from the use of any other enforcement method including, but not limited to, a court-imposed injunction in order to enforce this Ordinance.

SECTION X – EFFECTIVENESS

- (1) If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is found invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.
- (2) All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.
- (3) This Ordinance shall be in full force and effect from and after its date of passage and publication as required by law.
- (4) The Town Clerk shall properly publish this Ordinance pursuant to Wis. Stat. § 60.80.
- (5) The Town Clerk shall send a copy of this Ordinance to the following: Wisconsin Department of Natural Resources, Shawano County Sheriff's Department, and Wisconsin Highway Patrol.

Adopted this 14th day of May, 2019.

TOWN OF BIRNAMWOOD

By: _____
Mike Fandrey, Chairperson

ATTEST:

By: _____
Dennis Knaak, Town Clerk

Adopted: _____

Noticed: _____