

## Town of Berne

### Introductory Local Law No. \_\_\_ of the Year 2023

#### *A local law Regulating Use of Limited Use Vehicles and All-Terrain Vehicles on Town Highways*

Be it enacted by the Town Board of the Town of Berne as follows:

**Section 1.** Title and Authority. This local law shall be known as the Town of Berne ATV Law. It is adopted pursuant to Sections 10 and 20 of the Municipal Home Rule Law.

**Section 2.** Legislative Intent. Upon examination of Town highway usage and safety issues, and with the intent to provide lawful operators of limited use vehicles and all-terrain vehicles with suitable locations for their use, to encourage tourism but to discourage unlawful trespass on private lands and unsafe operation of limited use vehicles and all-terrain vehicles, the Town Board enacts this law regulating limited use vehicles and all-terrain vehicles on town roads. The Town Board shall also have the option to install signs prohibiting the operation of ATV and LUV on certain roads. It is the specific intent of the Town to maximize the use of its roads for ATV and LUV

**Section 3.** Definitions.

a. LUV. "LUV" shall mean "Limited Use Vehicles" as defined by Article 48-a of the Vehicle and Traffic Law.

b. ATV. "ATV" shall mean "All Terrain Vehicles" as defined by Article 48-c of the Vehicle and Traffic Law shall also include vehicles commonly referred to as "dirt bikes," "trail bikes," or "quads." "ATV" shall also include any self-propelled vehicle manufactured for sale for operation primarily on off-highway trails or off-highway competitions, but can be operated on town highways provided that such , is capable of seating passengers side-by-side according to manufacture specifications and is equipped with safety features included, but not limited to, seat belts and roll-over bars. This latter vehicle shall also be referred to as a side-by-side.

c. Town Highways. "Town Highways" shall mean those roads shown on the inventory of town highways of the Town of Berne.

d. SHOULDER – that portion of a highway or road immediately adjacent to the right side of a roadway, customarily used for emergency travel or parking.

e. OHV. "OHV" shall mean off highway vehicle.

**Section 4.** Use. Pursuant to Section 1660 and Section 2405 of the Vehicle and Traffic Law, Appendix 1 lists those Town Highways and Roads which permit and prohibit LUV and ATV use. Appendix 1 may be revised from time to time by the Highway Superintendent upon notice to the public and approved by the town board after a public hearing.

**Section 5.** Rules and Regulations.

- a. No LUV or ATV shall be operated on any Town Highways except in accordance with the provisions of the Vehicle and Traffic Law of the State of New York.
- b. No LUV or ATV shall be operated on any Town Highway unless it is properly licensed, registered and insured as required by the Vehicle and Traffic Law of the State of New York. If state law does not require registration, then proof of insurance must be furnished to the Town.
- c. No person shall operate an LUV or ATV on a Town Highway at a rate of speed in excess of twenty miles per hour (20 mph).
- d. All operators of LUVs and ATVs shall proceed in single file when driving upon or crossing a Town Highway.
- e. Hours of operation. During weekdays, no person shall operate an LUV or ATV for recreational purposes within 200 feet of a dwelling between the hours of 10 p.m. and 7 a.m. During weekends, no person shall operate an LUV or ATV for recreational purposes within 200 feet of a dwelling between the hours of 11 p.m. and 7 a.m.
- f. Operation of LUV or ATV's on private property. No LUV or ATV shall be operated upon the property of another in the Town of Berne without the written consent of the owner or lessee thereof.
- g. Each person operating an LUV or ATV on any town highway or street shall strictly observe all vehicular traffic signs and signals and all other rules and regulations applicable to vehicular traffic and shall obey all the orders and directions of any state or local law enforcement officer authorized to direct or regulate traffic.
- h. Position on the road. It shall be unlawful to operate an LUV or ATV on a public street or highway in the town in any manner other than single file and as near to the righthand curb or shoulder as safely practicable and in the same direction as traffic.
- i. Any ATV or LUV operating on town highways or roads must comply with the equipment requirements set forth in Article 48-C of the VTL. In addition, all ATVs must have at least one (1) handlebar mirror. Said mirror shall be mounted on the left handlebar of the ATV/LUV. Lights must be on at all times when operating on a town highway or road if equipped.

j. Local Registration.

Town of Berne will integrate with a partner Organization to manage membership/credentialing program. Partnering organizations will be mandated to give the Town of Berne quarterly membership updates. Owners wishing to operate an ATV or LUV on town highways or roads shall obtain a sticker from the partnering organization which shall be prominently displayed on the ATV/LUV. One sticker per ATV/LUV is required. The cost and duration shall be established. Stickers must remain visible, unobstructed and clean.

k. Registration Requirements.

Any ATV or LUV owner wishing to operate an ATV or LUV on town highways or roads must provide proof of ownership, insurance, licensing and, registration (if required by state law) during the application process and as a prerequisite to obtaining a sticker.

If New York State approves a law requiring registration of side-by-sides, then the owner must also provide proof of licensing, registration and insurance.

Proof of same shall be provided upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of use of such vehicle by any such owner or operator.

The failure to produce such proof shall be presumptive evidence of operating the vehicle without insurance against public liability.

Any operator or ATV/LUV owner who obtains a sticker shall be deemed to know and understand its provisions before riding and shall be responsible for communicating the law's requirements to any person operating his or her ATV or LUV.

l. It shall be unlawful for any person without a valid state driver's license to operate an ATV or LUV on designated town roads, unless if under the age of sixteen, accompanied by a parent or legal guardian. Anyone with a suspended driver's license may not operate an ATV on the designated roads.

m. No person shall operate an ATV on a designated road in such a manner as to create loud, unnecessary, or unusual noise so as not to unreasonably disturb or interfere with the peace and quiet of Town residents.

n. No person shall operate an ATV or LUV or ride as a passenger on an ATV or LUV unless he is wearing a protective helmet of a type that is DOT approved.

o. No person shall operate an ATV or LUV in a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto.

p. An ATV or LUV must have OEM factory exhaust unmodified in proper working condition.

**Section 6. Signage.**

a. When installing signs designating roads upon which ATVs or LUVs may ride, the Superintendent of Highways of the Town of Berne shall post Town Highways in the manner provided by the rules and regulations of the Commissioner of Motor Vehicles.

**Section 7. Filing.** The Town Clerk is authorized to file a copy of this Local Law with the Commissioner of Motor Vehicles, in addition to appropriate filing with the Secretary of State.

**Section 8. Violation and Penalties.**

a. Any person convicted of a violation of any of the provisions of this local law shall be guilty of an offense and shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) or by imprisonment for not more than fifteen days, or by both such fine and imprisonment; and for a second or subsequent conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than Seven Hundred Fifty Dollars (\$750.00) or by imprisonment for not more than fifteen days, or by both such fine and imprisonment. Each violation of any provision of this Section shall be deemed a separate and distinct offense. A person may be charged with more than one offense and shall be subject to imposition of a fine for each such offense. A person who is convicted, or negotiates a civil compromise, as a result of being cited for violating this local law three (3) times within a five (5) year period shall have their privilege to utilize town highways and roads for ATV and LUV use purposes revoked.

b. It shall be an aggravated offense if the use of an ATV or LUV in violation of this local law results in injury to any person, damage to crops or nursery stock or otherwise involves damage to agricultural business stock. The person found to have committed an aggravated offense shall be subject to doubling of the fines set forth in this Section.

c. A law enforcement officer may impound any ATV or LUV if: 1. The identity of the operator or owner of the ATV or LUV is unknown to the officer, and the ATV or LUV operator has no evidence of permission to operate the vehicle on private property, or 2. The

operator is in violation of Section 5 (b), is travelling in excess of fifteen (15) MPH of the speed limit set forth in Section 5(c), or in violation 5(j)(k)(l) or (n), or 3. The ATV or LUV is involved in an accident causing serious injury or death, or 4. The ATV or LUV operator is caught causing significant damage to private or public property.

d. The period of impoundment for the ATV or LUV shall be for such time period as necessary for law enforcement purposes, which shall include use of the vehicle for identification in any court action. Any person wishing to have an ATV or LUV released from impoundment must make a motion before a court of competent jurisdiction, and said ATV or LUV shall be released upon court order. Upon receipt of said court order, the ATV or LUV shall be released by the authority of the Town Attorney or Town Supervisor upon payment of all impoundment fees that may apply and upon direct payment of all towing and storage charges imposed by private towing concerns which the Town may use for the purpose of impoundment.

e. Civil Compromise. The Town Justice is empowered to approve an enter an order on consent as a civil compromise between the Town and any person consenting to the imposition of a civil penalty not exceeding \$750.00 per offense and suspending prosecution until all conditions imposed in the civil compromise are completed by the defendant within the time frames established by the order.

**Section 9.** State Lands. This local law will have no effect upon the Department of Environmental Conservation policies regarding ATV use on state land. ATV and LUV riders who trespass on state forests, including forest roads, will be ticketed and prosecuted. This will include parking of such vehicles off the legal right-of-way of the public highway. Certain roads have been specifically excluded from ATV and LUV use to discourage such trespass.

**Section 10.** Severability. Should any Section or provision of this Local Law be declared invalid, such decision shall not affect the validity of the remaining portions hereof.

**Section 11.** Effective Date. This Local Law shall become effective upon filing with the Secretary of State of the State of New York as provided by the Municipal Home Rule Law.

Adopted this \_\_\_th day of \_\_\_\_ 2023.

By Order of the Berne Town Board

I, KRISTIN DE OLIVERIA, Town Clerk of the Town of Berne, Albany County, New York, DO HEREBY CERTIFY that the foregoing local law was approved by the Town Board of the Town of Berne on \_\_\_\_\_, 2023 and that the foregoing is a true and correct transcript of the original

local law and of the whole thereof and that said original local law is on file in the Town Clerk's office.

I DO FURTHER CERTIFY that each of the members of the Town Board had due notice of the said Town Board meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Berne this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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KRISTIN DE OLIVERIA, Town Clerk Town of Berne

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**APPENDIX -1**