

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA AMENDING AND RESTATING CHAPTER 70, SECTIONS 70.70 THROUGH 70.83 OF THE BERNE CITY CODE INCLUDING PROVISIONS REGARDING THE AUTHORIZATION AND REGULATION OF USE OF GOLF CARTS AND OFF-ROAD VEHICLES ON THE STREETS AND ALLEYS OF THE CITY OF BERNE, INDIANA

WHEREAS, the Common Council of the City of Berne has the authority under the Indiana Code to authorize and regulate the operation of golf carts on the City's streets and to make necessary regulations to protect and preserve the rights, property, health, safety and welfare of its citizens; and

WHEREAS, the City of Decatur, the Town of Geneva, and the Town of Monroe have heretofore passed ordinances relating to utilization of golf carts upon the streets in such municipalities, which said ordinances vary to some extent in content and regulatory provisions; and

WHEREAS, upon occasion, individuals holding registration from other communities in Adams County, Indiana, have desired to utilize their golf cart(s) in the City of Berne; and

WHEREAS, the City of Berne has heretofore passed an ordinance relating to utilization of golf carts and off-road vehicles on and along such streets and alleys of the City of Berne; and

WHEREAS, House Bill 1491 and House Bill 1200 were passed in the state legislature, which said bills add additional restrictions to the operation of golf carts and off road vehicles; and

WHEREAS, the Berne Board of Public Works and Safety has recommended a revision of the City Ordinance which authorizes and regulates both the use of golf carts and off-road vehicles on and along City streets and alleys to comply with House Bill 1491 and House Bill 1200; and

WHEREAS, the Common Council of the City of Berne has determined that it is in the best interest of the citizens of the City of Berne to revise the Ordinance that authorizes and governs the operation of both golf carts and off-road vehicles on and along the City streets and alleys;

NOW THEREFORE, BE IT RESOLVED AND ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA THAT CHAPTER 70, SECTIONS 70.70 THROUGH 70.83 OF THE BERNE CITY CODE BE AMENDED AND RESTATED IN ITS ENTIRETY AS FOLLOWS:

§70.70 Definitions. For the purpose of this Ordinance, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

City. The City of Berne, Indiana

Driver's License. A valid license to operate a motor vehicle issued by the State of Indiana or any other state.

Financial Responsibility. Liability insurance coverage on a golf cart and off-road vehicle in an amount not less than required by Indiana law for motor vehicles operated on public highways in the State of Indiana.

Golf Cart. A four (4) wheeled vehicle originally and specifically designed and intended to transport one (1) or more individuals and golf clubs for the purpose of playing golf on a golf course.

Highway. The entire width between the boundary lines of a US Highway under the jurisdiction and control of the State of Indiana and/or the United States Federal Government, including US 27 and State Highway 218.

Municipal Annexation. The existing Corporate Limits of the City of Berne and future annexations thereto.

Street. The entire width between the boundary lines of any street, alley, park or parking area under the jurisdiction and control of the City of Berne when any part thereof is open to the use of the public for purposes of vehicular travel.

Off-Road Vehicle. A motor driven vehicle capable of cross country travel without the benefit of a road or trail, on or immediately over land, water, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, amphibious machine, ground effect air cushion vehicle, or other means of transportation deriving power from a source other than muscle or wind. It does not include a farm vehicle being used for farming or a vehicle used for military or law enforcement purposes, a construction, mining, or other industrial related vehicle used in performance of its common function, a snowmobile, a golf cart, a registered aircraft, or any other vehicle properly registered by the Indiana Bureau of Motor Vehicles, and any watercraft which is registered pursuant to Indiana Statutes.

Operate. To ride in or on and to exercise any physical control over the function or movement of a golf cart or off-road vehicle.

Operator of Golf Cart. Any person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state, or any person at least sixteen (16) years and one hundred eighty (180) days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo exempt identification card.

Operator of Off-Road Vehicle. Any person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state.

§70.71 Purposes. The purpose of this Ordinance is:

A. To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another state), or any person at least sixteen (16) years and one hundred eighty (180) days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo exempt identification card, to operate golf carts registered with the City of Berne Police Department over and upon the City's streets and alleys.

B. To authorize persons holding a valid Indiana motor vehicle driver's license (or a valid motor vehicle license from another state) to operate off-road vehicles registered with the Indiana Bureau of Motor Vehicles and the City of Berne Police Department over and upon the City's streets and alleys.

C. To establish rules and regulations for the operation of golf carts and off-road vehicles over and upon the City's streets and alleys.

D. To promote the safety of persons and property, responsible enjoyment in and connected with the use and operation of golf carts and off-road vehicles, and understanding consistent with the rights of all citizens of the City of Berne.

§70.72 Operation of a Golf Cart or Off-Road Vehicle. The operation of a golf cart or off-road vehicle on and along the streets and alleys within the municipal boundary of the City is hereby authorized only so long as the golf cart or off-road vehicle is registered, operated, insured and equipped as hereinafter required. Failure to register, operate, insure and equip a golf cart or off-road vehicle as required herein shall constitute a violation of this Ordinance and any subsequent codification of this Ordinance in the City of Berne Code of Ordinances. Violations shall be punishable by fines, costs and penalties as hereinafter set forth. The operation of a golf cart or off-road vehicle over and upon the streets and alleys of the City shall be solely for the purpose of reaching a predetermined destination. The operation of a golf cart or off-road vehicle in the City of Berne shall be subject to the following additional restrictions on such operation:

A. No golf cart or off-road vehicle may be operated on a highway, as defined herein, except for the purpose of crossing a highway, perpendicularly, at an intersection within a City street.

B. An Operator of a golf cart or off-road vehicle must operate said golf cart or off-road vehicle at a rate of speed which is not greater than is reasonable and proper, having due regard for the conditions then existing, shall obey posted speed limits and may not operate said golf cart or off-road vehicle in excess of 30 M.P.H. An Operator of a golf cart or off-road vehicle shall abide by all traffic laws and signs governing the operation of motor vehicles in the City and as set forth in the Indiana Code.

C. Golf carts and off-road vehicles shall be operated as close to the right edge of the street or alley as possible, and may not impede the flow of normal traffic.

D. No golf cart or off-road vehicle may be operated or parked on City sidewalks.

E. No golf cart or off-road vehicle shall be operated on a City street or alley between 12:00 a.m. and 5:00 a.m. During permitted hours, headlights and tail lights shall be lighted between sunset and sunrise.

F. No golf cart or off-road vehicle shall be operated on the frozen surface of public waters within one hundred (100) feet of an individual not in or upon a vehicle.

G. No gas powered golf cart or off-road vehicle shall be operated unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

H. Any and all operators and riders of an off-road vehicle who are under the age of eighteen (18) years shall wear helmets at all times while said off-road vehicle is in operation.

I. No golf cart or off-road vehicle shall be operated within one hundred (100) feet of a dwelling between 9:00 p.m. and 6:00 a.m. except on the individual's own property or property under the individual's control or as an invited guest.

J. No golf cart or off-road vehicle shall be operated on any private property without the consent of the property owner.

K. No operator shall operate a golf cart or off-road vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

§70.73 Operator. Only a person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state, or any person at least sixteen (16) years and one hundred eighty (180) days of age who holds an identification card issued by the Bureau of Motor Vehicles, including a photo

exempt identification card, shall be authorized to operate a golf cart on a City street or alley, which license or identification must be in possession of the operator while operating the golf cart. Only a person who holds a valid license to operate a motor vehicle issued by the State of Indiana or another state shall be authorized to operate an off-road vehicle on a City street or alley, which license must be in possession of the operator while operating the off-road vehicle. Authorization or permission by the golf cart or off-road vehicle owner to a person who does not qualify to operate a golf cart or off-road vehicle on a City street or alley pursuant to this section shall constitute a violation of this section. Operators of golf carts or off-road vehicles shall obey all Federal, State and Local laws, regulations and ordinances governing passenger motor vehicles, including but not limited to laws, regulations and ordinances pertaining to licensing of operators and traffic regulation.

§70.74 Equipment.

A. Off-road vehicles shall be equipped with the minimum safety equipment as set forth in IC 14-16-1 et. seq. in order to be registered and operated on City streets and alleys. Unless otherwise exempted herein, all golf carts shall be equipped with the following minimum safety equipment in order to be registered and operated on City streets and alleys:

1. Factory seating for all occupants;
2. A rear view mirror;
3. Head lights;
4. Tail lights;
5. Brake lights;
6. Turn signals; (front and back); and
7. A Slow Moving Vehicle sign attached to the rear of the golf cart.

B. All safety equipment shall be maintained in good operating order. Lights shall be used when time of day or weather conditions necessitate such use in order for the golf cart or off-road vehicle to be visible from a distance of at least five hundred (500) feet. Failure to equip, maintain and use such equipment as required herein shall constitute a violation of this Ordinance.

§70.75 Occupancy of Golf Carts and Off-Road Vehicles. Maximum occupancy of a golf cart or off-road vehicle in use on a City street or alley shall be limited to the number of factory manufactured seats installed on the golf cart or off-road vehicle. When in motion, all occupants must be seated, one to a manufactured seat. Occupants shall keep all parts of their body within the perimeter of the golf cart or off-road vehicle while the golf cart or off-road vehicle is being operated. Failure by the Operator of a golf cart or off-road vehicle on a City street or alley to ensure compliance with the provisions of this section shall constitute a violation of this Section by the Operator.

§70.76 Financial Responsibility. At all times during the operation of a golf cart or off-road vehicle on City streets, proof of financial responsibility covering the golf cart or off-road vehicle and its operation shall be kept in or on the golf cart or off-road vehicle. Failure to keep such proof of financial responsibility in or upon the golf cart shall constitute a violation of this Section by the owner of the golf cart or off-road vehicle. Failure to produce proof of financial responsibility, when requested by a law enforcement officer, shall constitute a violation of this Section by the Operator. All golf carts or off-road vehicles operated on and upon the streets and alleys of the City must be insured in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred Thousand Dollars (\$300,000.00) per occurrence using against injury to persons and damage to property arising from the insured and operation of such golf cart or off-road vehicle.

§70.77 Registration. Unless otherwise exempted herein, no golf cart or off-road vehicle may be operated on a City street or alley until the golf cart or off-road vehicle is registered with the City of Berne Police Department. In addition, an off-road vehicle shall not be operated on a City street or alley unless it is duly registered with the Indiana Bureau of Motor Vehicles and meets all of the standards, requirements, and regulations set forth in IC 14-16-1 et. seq. The City of Berne Police Department shall register all golf carts or off-road vehicle to be operated on City streets and alleys in the name of the owner upon the owner applying for such registration, upon the owner providing proof of financial responsibility covering the golf cart or off-road vehicle, upon an inspection of the golf cart or off-road vehicle by the Police Department which confirms that the golf cart or off-road vehicle is equipped as required by this Ordinance and/or Indiana Statute, and upon the owner signing an acknowledgement that he or she received and read a copy of this Ordinance. The registration of a golf cart or off-road vehicle shall be effective as of the date of registration and shall expire on December 31st of the year of registration. Upon being registered, a registration sticker for the current calendar year shall be issued by the City, which sticker shall be affixed to the left side of the rear of the golf cart or off-road vehicle as proof of registration.

§70.78 Registration Fee. Unless otherwise exempted herein, the Owner of a golf cart shall pay a registration fee of twenty-five dollars (\$25.00) to the City of Berne Police Department at the time of registration of a golf cart. The registration fee may hereafter be amended from time to time by Resolution adopted by the City Common Council. All registration fees shall be deposited in the City of Berne General Fund.

§70.79 City's Right to Restrict Operation on Designated City Streets and Alleys. The City Council may restrict golf cart and off-road vehicular traffic on City streets, alleys, parks or parking areas by designating such streets, alleys or areas as unsuitable for golf cart or off-road vehicular traffic and by posting signs on such designated streets, alleys or areas. It shall be a violation of this Ordinance to operate a golf cart or off-road vehicle on a street, alley or area so designated and posted.

§70.80 Exempt Vehicles. The City's Board of Public Works and Safety and/or the City's Common Council may exempt public safety personnel and/or the use of golf carts or off-road vehicle during special events from compliance with this Ordinance, provided that any operator of a golf cart or off-road vehicle so exempted must have a valid driver's license and provided proof of financial responsibility is provided for an exempted golf cart or off-road vehicle.

§70.81 Penalties. Any violation of this Ordinance, after its adoption and publication as required by law, shall constitute a Class C infraction. Multiple violations may be cited as separate offenses. Each time of an offense shall constitute a new and separate offense. Each violation shall carry a minimum fine of fifty dollars (\$50.00), not to exceed a fine of one hundred dollars (\$100.00), the maximum penalty allowed by law. In addition to civil penalties imposed herein, a person cited for violation of this Ordinance shall be responsible for all court costs. Payment of fine and costs imposed shall be made to the Clerk-Treasurer of the City of Berne. In the event an operator or owner of a registered golf cart or off-road vehicle is cited a second time in a calendar year for a violation(s) of this Ordinance, unrelated to the first offense, in addition to the imposition of a fine and court costs, the registration of the golf cart or off-road vehicle operated at the time of the second offense shall be revoked by the City Police Department if such golf cart or off-road vehicle was being operated at the time of the first citation. The golf cart or off-road vehicle may be impounded by the law enforcement officer. In the event of impoundment, the golf cart or off-road vehicle shall not be released until the basis of the violation has been corrected and all towing and impoundment fees incurred as a result of the impoundment of the golf cart or off-road vehicle have been paid by the owner or operator of the golf cart or off-road vehicle.

§70.82 Reciprocity. By this ordinance, the City of Berne grants reciprocity to the citizens of the City of Decatur, the Town of Geneva, and the Town of Monroe to operate their golf cart within the City of Berne. Prior to the utilization of a golf cart that is registered in one of the aforementioned municipalities, the owner of said golf cart shall submit his or her golf cart to the City of Berne Police Department for inspection. Said golf cart shall comply in all respects with the requirements that the City has imposed in this ordinance before permission to operate the same shall be granted by the issuance of a certificate permitting the operation of such golf cart without the procurement of an additional registration fee. Residents of the City of Berne shall procure their registration through the City of Berne, and shall not procure a registration from another city or town in order to operate the golf cart within the City of Berne. Anyone operating a golf cart within the City of Berne utilizing a registration other than that issued by the City of Berne shall be subject the penalties set forth in Section 13 above in the same manner and to the same extent as that imposed upon all residents of the City of Berne procuring a registration to operate a golf cart within the City.

§70.83 Severability/Modification. Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause or phrase, and the finding or holding of any section, subsection, sentence, clause or phrase to be unconstitutional, void, or ineffective for any cause shall not affect another section, subsection, sentence, clause or phrase or part thereof. The City Council may modify this Ordinance as deemed necessary.

Applicability and Effective Date of Ordinance. This Ordinance shall apply only to the incorporated areas of the City of Berne, Indiana, and shall be in full force and effect from and after its passage and publication as required by law.

Adopted by the Common Council of the City of Berne, Indiana on July ____, 2017.

COMMON COUNCIL OF THE CITY OF BERNE

Gregg A. Sprunger, President

Ronald N. Dull

Philip E. Provost

Curtis L. Wurster

Mark D. Wynn

MAYOR and PRESIDING OFFICER

William F. McKean

ATTEST:

Gwen Maller, Clerk-Treasurer