

Ordinance No. 2021- _____

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR THE OPERATION OF
OFF-ROAD VEHICLES IN BROWN COUNTY, INDIANA**

WHEREAS, a number of citizens of Brown County, Indiana desire to operate off-road vehicles upon the county highways and roadways in Brown County; and,

WHEREAS, the Board of Commissioners of the County of Brown desire to allow and permit the safe and reasonable operation of off-road vehicles upon the county highways and roadways in the County of Brown; and,

WHEREAS, it is in the public interest to establish reasonable rules for the operation of such vehicles on and along county highways; and,

WHEREAS, pursuant to J.C. 14-16-1-22, the Brown County Board of Commissioners are vested with the authority to authorize and allow the operation of off-road vehicles upon the county highways and roadways in Brown County;

NOW THEREFORE LET IT BE ORDAINED, by the Board of Commissioners of the County of Brown that the following provisions regulate the operation of off-road vehicles in Brown County, To wit:

SECTION ONE: DEFINITIONS. The following definitions shall apply to all provisions of this ordinance, unless otherwise provided.

SECTION 1.1 "Off-road vehicle"

- (a) Means a motor driven vehicle capable of cross-country travel
 - 1. without benefit of a road; and
 - 2. on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.
- (b) The term includes the following:
 - 1. a multi-wheel drive or low-pressure tire vehicle
 - 2. an amphibious machine
 - 3. a ground effect air cushion vehicle
 - 4. an all-terrain vehicle (as defined herein)
 - 5. a recreational off-highway vehicle (as defined herein)
 - 6. other means of transportation deriving motive power from a source other than muscle or wind
 - 7. snowmobile (as defined herein)
- (c) The term does not include the following:
 - 1. a farm vehicle being used for farming, included but not limited to, a farm wagon (as defined in J.C. 9-13-2-60(2))
 - 2. a vehicle used for military or law enforcement purposes
 - 3. a construction, mining, or other industrial related vehicle used in the performance of the vehicle's common function, including, but not limited to, a farm wagon (as defined in LC. 9-13-2-60(2))
 - 4. a registered aircraft
 - 5. any other vehicle property registered by the Bureau of Motor Vehicles
 - 6. any watercraft that is registered under Indiana statutes
 - 7. a golf cart

SECTION 1.2 "All-terrain vehicle" means a motorized, off-highway vehicle that:

1. is fifty (50) inches or less in width;
2. has a dry weight of twelve hundred (1,200) pounds or less;
3. is designed for travel on at least three (3) nonhighway or off-highway tires; and
4. is designed for recreational use by one (1) or more individuals

The term includes parts, equipment, or attachments sold with the vehicle.

SECTION 1.3 "Recreational off-road vehicle" means a motorized, off-highway vehicle that:

1. is sixty-five (65) inches or less in width;
2. has a dry weight of two thousand (2,000) pounds or less;
3. is designed for travel on at least four (4) nonhighway or off-highway tires; and
4. is designed for recreational use by one (1) or more individuals.

SECTION 1.4 "Snowmobile" means a motor driven vehicle:

1. designed for travel primarily on snow or ice; and
2. of a type that uses:
 - (a) sled type runners or skis;
 - (b) an endless belt or tread; or
 - (c) any combination of these or other similar means of contact with the surface upon which the vehicle is operated.

SECTION 1.5

"County Highway" shall refer to any public way for vehicular traffic, including the area within the right-of-way located within the unincorporated areas of Brown County and is not maintained or owned by the State of Indiana or the United States. Nothing in this ordinance permits the operation of off-road vehicles within the limit of the Town of Nashville. A public way means the entire width between the boundary lines of a way:

1. that is publicly maintained; and
2. when any part of the way is open to the use of the public for purposes of vehicular travel.

SECTION 1.6 "Operate" means to:

1. ride in or on; and
2. be in actual physical control of the operation of; a vehicle.

SECTION 1.7 "Operator" means an individual who:

1. operates; or
2. is in the actual physical control of an off-road vehicle or a snowmobile.

SECTION 1.8 "Owner" means a person, other than a lienholder, who:

1. has the property in or title to; and
2. is entitled to the use or possession of; an off-road vehicle or a snowmobile.

SECTION 1.9 "Department" shall refer to the Indiana Department of Natural Resources.

SECTION 1.10 "Bureau" refers to the Indiana Bureau of Motor Vehicles

SECTION TWO: Persons Authorized to Operate Off-Road Vehicles on Brown County Roads.

SECTION 2.1

All persons at least eighteen (18) years old who hold a valid motor vehicle driver's license are hereby authorized to operate an off-road over and upon county roads under the conditions set forth in this ordinance.

SECTION 2.2

No person shall operate an off-road vehicle on any county road without a motor vehicle driver's license.

SECTION THREE: Registration of Off-Road Vehicles and Snowmobiles.

SECTION 3.1

An off-road vehicle shall not be operated on a Brown County road unless it is duly registered with the Indiana Bureau of Motor Vehicles and meets all the requirements and standards set forth in Indiana Code 9-18.1-14-1 et seq.

SECTION 3.2

The Bureau will charge a fee to register the off-road vehicle or snowmobile and the fee shall be deposited in the off-road vehicle and snowmobile fund established by J.C. 14-16-1-30.

SECTION 3.3

Upon registration, the Bureau shall issue to the applicant a certificate of registration and two (2) decals. The certificate of registration must accompany the off-road vehicle or snowmobile and be made available for inspection upon demand by a law enforcement officer. The decals issued shall be attached and displayed on the forward half of the off-road vehicle or snowmobile. Failure to carry or produce the registration or to display the decals as prescribed by the Bureau is a Class C infraction per LC. 9-18.1-14-5.

SECTION FOUR: Proof of Financial Responsibility

SECTION 4.1

A person may not operate an off-road vehicle on or upon a Brown County highway if financial responsibility is not in effect with respect to the off-road vehicle. A person who operates an off-road vehicle must provide proof of financial responsibility as required by LC. 9-25 et seq. Proof of financial responsibility means proof of ability to respond to damages for each off-road vehicle registered by a person for liability that arises out of ownership, maintenance or use of the off-road vehicle in the following amounts:

- I. One hundred thousand dollars (\$100,000.00) because of bodily injury or death of any one (I) person.
2. Subject to the limit in subdivision (I) three hundred thousand dollars (\$300,000.00) because of bodily injury to or death of two (2) or more persons in any one (I) accident.
3. One hundred thousand dollars (\$100,000.00) because of injury to or destruction of property in any one (I) accident.

SECTION 4.2

Any person who operates an off-road vehicle over and upon county roads shall carry proof of such insurance on his or her person at all times when operating an off-road vehicle on county roads.

SECTION FIVE Off-Road Vehicles-Permitted Roads

SECTION 5.1

The Brown County Board of Commissioners may restrict an off-road vehicle on any county roads by designating such roads as unsuitable for off-road vehicular traffic and by posting signs on such designated roads.

SECTION 5.2

An off-road vehicle may be operated on or upon a county highway located within Brown County, subject to all local ordinances, state laws, state regulations, and all the requirements contained in this ordinance. The following county highways are EXEMPT from this ordinance and no off-road vehicle shall be operated on or upon the following Brown County Highways.

1. Place Holder..

It shall be a violation of this ordinance to operate an off-road vehicle on any county road so designated and posted.

SECTION SIX Restrictions on Operation

SECTION 6.1

(a) A person shall not operate an off-road vehicle:

1. At a rate of speed greater than reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another
2. While:
 - a. under the influence of an alcoholic beverage; or
 - b. unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.
3. During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.
4. In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.
5. On the frozen surface of public waters within:
 - a. One hundred (100) feet of an individual not in or upon a vehicle; or
 - b. One hundred (100) feet of a fishing shanty or shelter; except at a speed of not more than five (5) miles per hour.
6. 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.
7. Within one hundred (100) feet of a dwelling between midnight and 6:00am, except on the individual's own property or the property under the individual's control or as an invited guest.
8. On any property without the consent of the landowner or tenant.
9. While transporting on or in the vehicle a firearm, unless the firearm is:
 - a. unloaded; and

- b. securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.
- 10. On or across a cemetery or burial ground.
- 11. Within one hundred (100) feet of a slide, ski, or skating area except for the purpose of servicing the area.
- 12. On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.
- 13. In or upon a flowing stream, river, or creek except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.
- 14. An individual shall not operate a 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.

Subsection (a)(9) does not apply to a person who is carrying a firearm if:

- 1. The firearm is a handgun and
 - a. the person has been issued an unlimited handgun license to carry a handgun under I.C. 35-47-2 or
 - b. the person is not required to possess a license to carry a handgun under I.C. 35-47-2-2 or
 - c. If the person carrying the firearm is operating the vehicle on property the person:
 - 1. owns
 - 2. has a contractual interest in
 - 3. otherwise legally possesses or
 - 4. has permission from a person described in sections 1 through 3 to possess a firearm on.

SECTION SEVEN: Operating on County Roads. A person shall comply with the following while operating an off-road vehicle on a county highway.

SECTION 7.1

The operator of an off-road vehicle shall abide by all traffic laws governing the operation of motor vehicles in the State of Indiana, set forth in Titles 9, 14 and 35 in the Indiana Code.

SECTION 7.2

The operator of an off-road vehicle may not cross a county road or enter upon a county road other than at right angles.

SECTION 7.3

The operator of an off-road vehicle shall bring his off-road vehicle to a complete stop before proceeding onto or across a county road and shall yield the right-of-way to all traffic.

SECTION 7.4

No passengers are permitted on single seat off-road vehicles. Passengers on all other off-road vehicles are limited to the number of seats on the vehicle. No passenger may be under the age of six (6) years old. An individual less than eighteen (18) years of age who is riding on an off-road vehicle shall wear a helmet.

SECTION EIGHT Enforcement of the Ordinance

SECTION 8.1

Unless otherwise prohibited by State law, all law enforcement officers having jurisdiction in Brown County, Indiana, including officers of the Indiana Department of Natural Resources, shall have the authority to enforce the provisions of this ordinance.

SECTION NINE Penalties for Violations

SECTION 9.1

Pursuant to Indiana Code 14-16-1-29 a person who violates Section 6.1(a)(1) and Section 6.1(a)(2) of this ordinance commits a Class B misdemeanor. Pursuant to Indiana Code 14-16-1-25 the prosecuting attorney has the power to approve, file, and prosecute an affidavit charging a violation under LC. 14-16-1-29.

SECTION 9.2

Pursuant to Indiana Code 14-16-1-29, a person who violates any other provision of Section 6.1 of this ordinance commits a Class C infraction.

SECTION 9.3

A person who violates any other provision shall be fined the sum of one hundred dollars (\$100.00) per violation.

SECTION 9.4

A person who is found to violate any provision of this ordinance a second time in one (1) year of a previous violation shall be fined the sum of two hundred and fifty (\$250.00) dollars.

SECTION 9.5

A person who is found to have violated any provision of this ordinance a third time within one (1) year of two previous violations shall be fined a sum of five hundred (\$500.00) dollars.

SECTION TEN Severability

SECTION 10.1

The various provisions of this ordinance are to be considered severable and if any part or portion of this ordinance shall be held invalid by any court of competent jurisdiction, such holding or decision shall not effect the validity of the remaining provisions of this ordinance which shall remain in full force and effect.

SECTION ELEVEN Repeal

SECTION 11.1

This ordinance supersedes all other ordinances or parts of ordinances which are in conflict with its provisions any such ordinances are hereby repealed. All prior ordinances and resolutions in conflict or inconsistent herewith are expressly repealed.

SECTION TWELVE Applicability and Effective Date

SECTION 12.1

This ordinance shall apply to the unincorporated areas of Brown County, Indiana.

SECTION 12.2

This ordinance shall not be construed to permit the use of off-road vehicles on State Highways.

SECTION 12.3

This ordinance shall be in full force and effect immediately upon its adoption and publication as required by law.

Passed and adopted by the Board of Commissioners of Brown County, State of Indiana in a regular meeting held on the _____ day of _____, 2021.

BROWN COUNTY BOARD OF COMMISSIONERS:

Jerry Pittman President

Diana Biddle Vice President

Chuck Braden Commissioner

Attest: _____
Julie Reeves, Auditor