

ORDINANCE NO 21-10
VILLAGE OF VERNON

OPERATING OFF ROAD VEHICLES ON VILLAGE STREETS

An ordinance authorizing and regulating the operation of Off-Road Vehicles (ORVs) on streets in the Village of Vernon that also provides penalties for the violation thereof, and is enacted pursuant to or in response to Michigan Compiles Law (MCL) 324.81129, MCL 324.81131 and/or Shiawassee County Ordinance 18-07-05.

THE VILLAGE OF VERNON ORDAINS:

Section 1. Definitions. As used in this ordinance, the following definitions apply:

- (A) "Direct Supervision" means the direct, visual observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.
- (B) "Driver's License" means an operator's or chauffeur's license or permit issued to an individual by the Michigan Secretary of State under MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- (C) "Maintained portion" means the street and any shoulder of the street whether paved or unpaved.
- (D) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- (E) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- (F) "Off Road Vehicle", or "ORV" means a motor-driven, off-road recreational vehicle capable of cross-country travel with benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. An ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, or a ground-effect air cushion vehicle, or other means of transportation deriving motive power from other than muscle or wind including, for the purpose of this Ordinance, a golf cart. ORV does not include a snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned by a utility company, oil or gas company, or railroad when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in the performance of its common function, or a registered aircraft.

- (G) "Street" means a Village roadway designated as either a major or local street, but does not include an alley.
- (H) "Safety Certificate" means a certificate issued pursuant to MCL 324.81130, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Section 2. Designated Street.

- (A) An ORV may be operated under this Ordinance on all Village major and local street, except as otherwise prohibited or limited in this ordinance.
- (B) An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State highway, M-71 within the Village limits.
- (C) A person operating an ORV on a designated Village Street may cross an excluded road as described in paragraph (b) of this section for the sole purpose of continuing travel on the designated Village Street. The crossing of the excluded road shall only be performed if the operation can be done safely and only at a right angle. The operator shall bring the vehicle to a complete stop before proceeding across the excluded road and shall yield the right-of-way to any approaching traffic.

Section 3. Operating Conditions.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a designated streets in the Village:

- (A) A person may only operate an ORV with the flow of traffic on the far right of the maintained portion of the street.
- (B) A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit.
- (C) In a manner that interferes with traffic on the street.
- (D) During daylight hours only; specifically, not later than one-half hour after sunset and not earlier than one-half hour before sunrise.
- (E) Traveling single file, except when overtaking and passing another ORV and after yielding the right of way to all roadway traffic.
- (F) While displaying a securely attached white-lighted headlight and red-lighted taillight, except that golf carts without such lights need only be marked by a slow-moving vehicle sign as defined in this ordinance.
- (G) When equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour.

- (H) With a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- (I) When equipped with at least one mirror securely mounted and positioned on the ORV in such a manner to be able to clearly view traffic approaching from behind.
- (J) Each operator and passenger of an ORV other than a golf cart must wear a crash helmet approved by the U.S. Department of Transportation unless the vehicle is equipped with a roll-bar or other such roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt. For golf carts under this ordinance, this provision does not apply to operators and passengers who are 18 years of age or older unless otherwise required by another law or ordinance.
- (K) While the ORV, if powered by an internal combustion engine, is equipped with a spark arrester type U.S. Forest Service approved muffler in good working order and in constant operation so as to meet all applicable noise emission standards and regulations.
- (L) ORVs shall not be operated in a manner that will cause damage to the Street surface or shoulder. In this regard, prohibited activity includes but is not limited to actions such as “fishtailing” and any spinning of tires that disperses gravel or creates ruts or other damage.

Section 4. License; Safety Certificate. A person less than 18 years of age shall not operate an ORV unless the person is in possession of a valid driver’s license or unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV Safety Certificate. A person less than 16 years of shall not operate on ORV on the Village Streets under this ordinance.

Section 5. Registered Motor Vehicle. Unless a person possesses a valid driver’s license, a person shall not operate an ORV on a Village Street if the ORV is registered as a motor vehicle, and either is more than 65 inches wide or has three wheels.

Section 6. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a street pursuant to the Michigan Motor Vehicle Code, was in a collision on a roadway with an ORV that is not registered under the Code, the operator of the ORV shall be considered prima facie negligent.

Section 7. Penalties. Any person who violates this ordinance is guilty of a municipal civil infraction, and shall pay a civil fine of not more than \$500.00, except as is otherwise specifically set by resolution of the Village Council. In addition, a court may order the person to pay full restitution for any damage to the environment, a street, alley, or public or private property damaged as a result of the violation.

- Section 8. Repeal Clause.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.
- Section 9. Savings Clause.** This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any Ordinance, Resolution, Order or parts thereof, hereby repealed, and this Ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the County, or other person, either criminal or civil, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order or policy, or any part thereof, hereby repealed.
- Section 10. Validity and Severability.** Should any portion of this Ordinance be found invalid for any reason, such as holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.
- Section 11. Effective Date.** This Ordinance shall be effective immediately after publication of notice of its adoption.



Robert Mac Neill, Village President



Krista E. Goodman, Village Clerk

- Section 12. Immunity Clause.** Subject to Section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a county board of commissioners, and a local unit of government are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained portion or un-maintained portion of a highway, road, or street, of an ORV. The immunity provided by this subsection does not apply to actions of an employee of this state, and employee of a board of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

Village Council Member Ethington offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Village Council Member Pfeiffer, and upon being put to a vote, the vote was as follows:

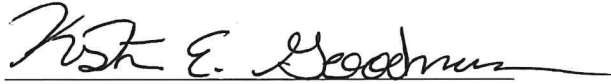
Robert Mac Neill, President

Yes

Carah Warren, President Pro-Temp	Yes
Scott Ethington, Trustee	No
Carolyn Pfeiffer, Trustee	Yes
John Rosser, Trustee	Yes
Linda West, Trustee	Yes

The President thereupon declared this Ordinance approved and adopted by the Village Council of the Village of Vernon this 28th day of July, 2021.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 21-10 adopted by the Village Council of the Village of Vernon, County of Shiawassee, Michigan, at a special meeting held on July 28, 2021.



Krista E. Goodman, Village Clerk