

## CHAPTER 72: OFF ROAD VEHICLES (ORVs)

### Section

- 72.01 Definitions
- 72.02 Purpose
- 72.03 Chapter 72 Created
- 72.04 Severability
- 72.05 Ordinances Repealed
- 72.06 Effective Date
- 72.07 Streets or Highways Closed to ATV/ORV Traffic
- 72.08 Operating Rules
- 72.09 Careless or Reckless Operation
- 72.10 Driver's License Requirement
- 72.11 Notice of Accident
- 72.12 Penalties

### 72.01 DEFINITIONS

As used in this Chapter, the following words are hereby defined as follows:

(A) **Driver's License** means any driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, and the Dominion of Canada pertaining to the licensing of person to operate motor vehicles.

(B) **Maintained Portion** means that portion of a road or street improved, designated or ordinarily used for vehicular traffic.

(C) **Operate** means to ride in or on, and to be in actual physical control of the operation of an ORV/ATV.

(D) **Operator** means a person who operates, or is in physical control of the operation of an ORV.

(E) **ORV** or **Vehicle** means a motor driven off-road recreation vehicle capable of cross country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, 4-wheel, or 6-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle

does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(F) **Road** means a county primary road or county local road as described in section 5 of 1951 PA 1951, MCL 247.655. Road does not include private road.

(G) **Road Commission** means the Board of County Road Commissioners for Sanilac County.

(H) **Safety Certificate** means a certificate issued pursuant Public Act 451 of 1994, as amended, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(I) **Shoulder** means that portion of the road contiguous to the roadway generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.

(J) **Street** means a village major street or local street as described in section 9 of 1951 PA 51, MCL 247.659.

(K) **Visual Supervision** means the direct 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.

## **72.02 PURPOSE**

The purpose of this Ordinance is to create Chapter 72 of the Codified Ordinances of the Village of Port Sanilac. This new Chapter is adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORV's) on the roads and highways in the Village of Port Sanilac, and for the purpose of providing penalties for the violation thereof.

## **72.03 CHAPTER 72 CREATED**

Chapter 72.02 of the code of the Village of Port Sanilac is hereby amended to read as shown on the attached "*Exhibit A.*"

## **72.04 SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, or portion of this Ordinance is found for any reason to be invalid or unconstitutional by any **court** of competent jurisdiction,

such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

## **72.05 ORDINANCES REPEALED**

All ordinances and/or parts of ordinances inconsistent with this Ordinance are hereby repealed.

## **72.06 EFFECTIVE DATE**

This Ordinance shall take effect and be in force upon the expiration of 7 days of the date when the notice of adoption for this Ordinance is published in a newspaper of general circulation in the Village of Port Sanilac. This Ordinance and attached document shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the Village of Port Sanilac.

## **72.07 STREETS OR HIGHWAYS CLOSED TO ATV/ORV TRAFFIC**

All public streets in the Village of Port Sanilac shall be open to ATV/ORV traffic via this ordinance.

## **72.08 OPERATING RULES**

1. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road in the Village of Port Sanilac:

- (A) At a speed of not more 25 miles per hour, or a lower posted ORV speed limit.
- (B) A child that is at least 12 years of age but less than 16 years of age shall not operate an ORV on a road or street in the Village unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- (C) With the flow of traffic.
- (D) In a manner which does not interfere with traffic on the road.
- (E) While traveling single-file, except when overtaking or passing another ORV or golf cart.
- (F) While displaying a lighted headlight and a lighted taillight at all times.

(G) When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

(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) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

(J) 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, a brake light brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of ½ hour after sunset and ½ hour before sunrise.

(K) Pursuant to noise and emission standards defined by law.

(L) Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road or street in the Village if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

2. An ORV shall be operated on the far right of the maintained portion of a street within the Village with these exceptions:

(A) All County Primary (asphalt) Roads, however allowing ingress and egress to a destination, not to exceed one mile, or first Secondary road.

(B) Provided however, that in the event that either the Road Commission has CLOSED certain road(s) to ORV use, pursuant to MCL 324.8113(4), operation otherwise permitted under this Ordinance shall not be considered authorized, with respect to such closed road(s).

## **72.09 CARELESS OR RECKLESS OPERATION**

In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to MCL 257.923, is involved in a collision with an ORV on a road, the driver of the ORV involved in the collision shall be considered prima facie negligent.

## **72.10 DRIVER'S LICENSE REQUIREMENT**

A person less than 18 years of age shall not operate an ORV on a road in the Village of Port Sanilac unless the person is in possession of a valid driver's license or is under the direct visual supervision of an adult and the person has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

## **72.11 NOTICE OF ACCIDENT**

The operator of an ORV/ATV involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of \$100 or more, or some person acting for him/her, or the owner of ORV/ATV having knowledge of the accident shall immediately by the quickest means of communication notify Sanilac County Central Dispatch.

## **72.12 PENALTIES**

(A) A person who violates any provisions of this ordinance shall be responsible for a municipal civil infraction and shall be subject to a civil fine of not more than Five Hundred and 00/100 (\$500.00) Dollars.

(B) In addition to the fine specified above, the court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV/ATV to pay full restitution for that damage above and beyond the penalties for civil fines.  
(Ord. passed 8-15-2017)