

ORDINANCE NO. 2012-02

**VILLAGE OF ASHLEY
ORV ORDINANCE**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles {ORVs} on Streets in the Village of Ashley, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE VILLAGE OF ASHLEY ORDAINS:

Sec. 1: As used in this ordinance, the following definitions shall apply:

- a) "Village" means Village of Ashley.
- b) "Drivers license" means an operator's or chauffeur's license or permit issued to an individual by the Secretary of State under chapter III of the Michigan Vehicle Code, 1949 PA 300, 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) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV. [MCL 324.81101 (m)]
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV. [MCL 324.81101 (n)]
- 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 or vehicle includes, but is not limited to, a golf cart, a multitrack or multiwheel 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. [MCL 324.81101 (o)]
- f) "Council" means the Board of Commissioners for the Village of Ashley.
- g) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- h) "Street" means a City or village major Street or road or City or village local Street or road as described in section 9 of 1951 PA 51, MCL 247.659.

i) "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. [MCL 324.81101 (w)]

Sec. 2: The Village Council, at its discretion, may close any Village Street to protect the environment, or if the operation of ORVs pose a particular and demonstrable threat to public safety.

Sec. 3: An ORV shall not be operated on any state trunkline or business loop (M-57) right-of-way. [MCL 324.81131 (15) (d); (e)]

Sec. 4: Except as set forth herein or otherwise provided by law, an ORV, meeting all of the following conditions, may be operated on a road or Street in the Village:

- a) On the far right of the maintained portion of a road within the Village. [MCL 324.81131 (6)]
- b) At a reasonable and proper speed of no more than 25 miles per hour or a lower posted ORV speed limit. [MCL 324.81131 (6)], [MCL 324.81133 (a)]
- c) By a person not less than 12 years of age. [MCL 324.81131 (9)]
- d) With the flow of traffic. [MCL 324.81131 (6)]
- e) In a manner which does not interfere with traffic on the road or Street. [MCL 324.81131 (6)]
- f) While traveling single file except when overtaking or passing another ORV. [MCL 324.81131 (6)]
- f) While displaying a lighted headlight and a lighted taillight at all times. [MCL 324.81131 (8)]
- 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. [MCL 324.81133 (b)]
- 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. [MCL 324.81133 (d)]
- 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. [MCL 324.81133 (g)]
- 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 1/2 hour after sunset and 1/2 hour before sunrise. [MCL 324.81133 (g)]
- k) Pursuant to noise and emission standards defined by law. [MCL 324.81133 (g)]

Sec. 5: In a court action in this state where competent evidence demonstrates that a vehicle is permitted to be operated on a roadway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent. [MCL 324.81131 (12)]

Sec. 6: A person less than 18 years of age shall not operate an ORV on a Street in the Village unless the person is in possession of a valid drivers 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. [MCL 324.81129 (1i)]

Sec. 7: Unless a person possesses a valid drivers 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. [MCL 324.81131 (6)]

Sec. 8: Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00. [MCL 324.81131 (6)]

Sec. 9: A court may order a person who causes damages to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines. [MCL 324.81131 (13)]

Sec. 10: The Village Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated the ORV Fund. The Village of Ashley Council shall appropriate revenue in the ORV fund as follows:

- a) Fifty percent to the Village DPW for repairing damage to roads and environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.
- b) Fifty percent to the Gratiot County Sheriff's Department for ORV enforcement and training. [MCL 324.81131 (14)]

Sec. 11: Effective Date:

- a) This ordinance shall take effect and be in force **fifteen (15)** days from and after its enactment as provided by the Village Council.

Passed and approved by the Village Council of the Village of Ashley, Michigan, in regular session, held **July 10, 2012**.

We, the undersigned, President and Clerk of the Village of Ashley, Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. **2012-02** of the Village of Ashley, Michigan, was introduced at a regular meeting of the Village Council, held on **June 12, 2012**, and was thereafter passed at a regular meeting on **July 10, 2012**, and published in a newspaper circulated within the Village on **July 15, 2012**, not less than fifteen days having elapsed between adoption and publication.

Dated at Ashley, Michigan, this **10th** day of **July, 2012**.



President



Clerk