

VILLAGE OF SHEPHERD
ORV ORDINANCE

An ordinance adopted for the purpose of authorizing and regulating the operation of the Off Road Vehicles (ORV's) on roads in the Village of Shepherd, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 P 240, MCL 324.81131.

THE VILLAGE OF SHEPHERD ORDAINS:

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

- a) "Village" means Village of Shepherd
- b) "Driver's License" means an operators or chauffeurs 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 the 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.
- d) "Operator" means a person who operates or in actual physical control or 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 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.
- f) "Road" means a village primary road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Village Council" means the Board of the Village of Shepherd.

h) "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 province of Canada.

i) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659.

j) "Village" means an individual village within the County of Isabella.

k) "Visual Supervision" means the direct observation of the operator with the unaided or normal corrected eye, where the observer is able to come to the immediate aid of the operator.

Sec. 2 An ORV shall not be operated on Wright Ave. between First street and Chippewa street unless allowed by village ordinance.

Sec. 3 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.

- a) On the far right of the maintained portion of a road within the village.
- b) At a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- c) By a person no less than 16 years of age.
- d) With the flow of traffic
- e) In a manner which does not interfere with traffic on the road or street.
- f) While traveling single file expect when overtaking or passing another ORV.
- g) While displaying a lighted headlight and lighted taillight when the vehicle is operated during the hours of ½ hour after sunset and ½ hour before sunrise.
- h) 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 roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger in wearing a properly adjusted and fastened safety belt.
- i) 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.
- j) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- k) 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.
- l) Pursuant to noise and emission standards defined by law.

Sec. 4 In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated in a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 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.

Sec. 5 A person less than 18 years of age shall not operate an ORV on a road in the village 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 of a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province or Canada.

Sec. 6 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.

Sec. 7 Any person who violates this ordinance is responsible for a municipal civil infraction and may be ordered to pay a fine of not more than \$500.00.

Sec. 8 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.

Sec. 9 The village Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated the ORV fund. The village council shall appropriate revenue in the ORV fund.

Sec. 10 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.

Sec. 11 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 no manner affect any rights, claims, privileges, immunities or causes of action of the village or other person, either criminal or civil, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order to policy, or any part thereof, hereby repealed.

Sec. 12 Should any portion of the 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.

Sec. 13 This ordinance shall be effective immediately after publication of notice of its adoption.

CERTIFICATION:

I, *Gina L Gross*, Clerk of the Village of Shepherd, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Village of Shepherd Village Council at a meeting held on May 19, 2014 and is on file in the Clerk's office.

Dated: *May 19, 2014*

Gina L Gross
Village Clerk