

**STATE OF MICHIGAN
VILLAGE OF HOPKINS
ORV ORDINANCE**

An Ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Hopkins Village, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, as amended, which is incorporated by reference in its entirety.

THE VILLAGE OF HOPKINS ORDAINS:

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

- a) "Village" means the Village of Hopkins, Allegan County, Michigan.
- b) "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.
- c) "Driver's 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, as amended, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d) "Maintained portion" means the roadway and any shoulder of a road.
- e) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- f) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- g) "ORV" 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 multitrack or multiwheel drive vehicle, an ATV, a golf cart, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation. ORV 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 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 the performance of its common function, or a registered aircraft.

- h) "Road" means a county primary road or county local road as described in Section 5 of 1951 PA 51, as amended, MCL 247.655, or that portion of a street improved, designed, or ordinarily used for vehicular traffic in the Village of Hopkins.
- i) "Safety Certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81130, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- j) "Sidewalk" means that portion of a street between the curb lines or lateral lines of the street and the adjacent property lines intended for the use of pedestrians.
- k) "Street" or "Road" means the entire width between the boundary lines of a way publically maintained when any part of the way is open to the use of the public for purposes of vehicular travel, except a state road.

Section 2. Designated Roads.

- a) An ORV may be operated only on the far right on the maintained portion of a road within Hopkins Village but does not include the sidewalk.
- b) An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway in Hopkins Village.
- c) A person operating an ORV on a Village road may cross an excluded road as indicated in paragraph (b) of this section for the sole purpose of continuing travel on the designated Village road. 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 oncoming traffic.

Section 3. Prohibited Conduct.

- a) No person shall operate an ORV on a sidewalk constructed for the use of pedestrians.
- b) A person operating an ORV shall not pass between the lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a 2-way street.
- c) No person shall operate an ORV upon any Village property including parks, DPW property, or wastewater facilities, except in the parking areas for the specific purpose of parking or as otherwise permitted by the Village for special functions and/or temporary periods of time.

- d) All ORVs are required to display on the rear of the vehicle a reflective slow moving vehicle triangle.

Section 4. 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 road in the Village:

- a) At a speed of no more than 25 miles per hour, or a lower posted ORV speed limit.
- b) With the flow of traffic.
- c) In a manner which does not interfere with traffic on the road.
- d) Traveling single file, except when overtaking and passing another ORV.
- e) While displaying a securely attached white-lighted headlight and red-lighted taillight with brake light at all times.
- f) By a person not less than 12 years of age.
- g) An ORV shall not be operated pursuant to this ordinance during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- h) A child who is less than 16 years of age shall not operate a 3-wheeled ORV.
- i) The ORV shall be 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 red brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated, and 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) The ORV shall be 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.
- k) Each operator and passenger must wear a crash helmet and protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with a 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.

- l) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- m) Pursuant to noise emission standards defined by law.
- n) ORVs must not be operated in a manner that will cause damage to the road surface or shoulder. In this regard, prohibited activity includes but is not limited to actions such as "fishtailing" and spinning of tires that disperses gravel and creates ruts and other damage.

Section 5. License; Safety Certificate. 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 unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV Safety Certificate.

Section 6. Registered Motor Vehicle. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road in the Village if the ORV is registered as a motor vehicle, and either is more than 65 inches wide or has three wheels.

Section 7. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to the Michigan 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 8. Penalties. Any person who violates this ordinance is guilty of a municipal civil infraction, and shall pay a civil fine of not less than \$250.00 and not more than \$500.00. In addition, a court may order the person to pay full restitution for any damage to the environment, a road, or public or private property damaged as a result of the violation.

Section 9. ORV Fund. The Village Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The Village shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the Village of Hopkins, for repairing damage to roads and the 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 Village of Hopkins Police Department for ORV enforcement and training.

Section 10. Master Map. The Village shall maintain a master map of all roads under the jurisdiction of the Village of Hopkins upon which shall be indicated those roads and parts or sections thereof upon which the operation of ORVs is permitted and prohibited pursuant to this

Ordinance. The Village shall make such master map available for interested groups or organization to make copies for distribution to the general public, but shall have no obligation to incur any expense associated with the making of such copies.

Section 11. Repealer 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 12. 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 Village, 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 13. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 14. Effective Date. This Ordinance shall be effective immediately after publication of notice of its adoption.

Section 15. 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 commissioner, 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 unmaintained 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, an employee of a 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.

This Ordinance was adopted by action of the Village of Hopkins on Aug 10th, 2015.

VILLAGE OF HOPKINS

By: Mike Aiberda
MIKE AIBERDA CLERK

By: Mary Howard
MARY HOWARD PRESIDENT