

CITY OF LUDINGTON
MASON COUNTY, MICHIGAN

ORDINANCE NO. 310-15

**AN ORDINANCE TO AMEND CHAPTER 58, ARTICLE V
OF THE LUDINGTON CITY CODE TO
AUTHORIZE THE OPERATION OF OFF-ROAD RECREATION VEHICLES
ON CERTAIN CITY STREETS PURSUANT TO MCL 324.81131, PENALTIES FOR
THE VIOLATION THEREOF, AND THE DISTRIBUTION OF PUBLIC FUNDS
RESULTING FROM THOSE PENALTIES AND TO REPEAL ALL ORDINANCES IN
CONFLICT HEREWITH**

THE CITY OF LUDINGTON ORDAINS:

Section 1. Chapter 58, Article V is hereby amended to read as follows:

Sec. 58-177. Operation of off-road recreation vehicles (ORVs) on city streets.

(a) Definitions.

As used in this ordinance:

- (1) "ATV" means a vehicle with 3 or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.
- (2) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- (3) "Operator" means an individual who operates or is in actual physical control of the operation of an ORV.

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, a side-saddle 4-wheel vehicle or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a golf cart,

registered snowmobile, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel or 6-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, 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)]*

(4) "Street" means a city major street or city local street as described in section 9 or 1951 PA 51, MCL 247.659, or a segment thereof.

(b) Except as set forth herein or otherwise provided by law, an individual may operate an ORV on city streets subject to the following restrictions:

- (1) ORVs may be operated from May 1 to October 31 during the hours of 6:00 a.m. to 9:00 p.m., and from November 1 to April 30 during the hours of 8:00 a.m. to 5:00 p.m.
- (2) No person under 12 years of age shall operate an ORV.
- (3) A person under the age of 18 years of age shall not operate an ORV unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to Part 811 of the Michigan Natural Resources and Protection Act or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. These requirements are in addition to any applicable requirements of state law in MCL 324.81129, as may be amended.
- (4) All ORV operators 18 years of age or older shall have in their immediate possession a valid driver license.
- (5) A person shall not operate an ORV at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the street. In no event shall a person operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner, having due regard for conditions then existing.
- (6) Unless the person possesses a valid driver license pursuant to MCL 257.25, as amended, a person shall not operate an ORV if the ORV is registered as a motor vehicle and either is more than 65 inches wide or has three (3) wheels.

- (7) ORVs shall travel single file except that an ORV may travel abreast of another ORV when it is overtaking or passing, or being overtaken and passed by, another ORV.
- (8) ORVs shall display a lighted headlight and lighted taillight at all times.
- (9) A person shall operate an ORV with the flow of traffic on the far right of the maintained portion of the street, in a manner that does not interfere with traffic on the street.
- (10) Operation of ORVs is not allowed on any roadway within the city cemetery.
- (11) A person shall not transport any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
- (12) A person shall not operate an ORV unless the vehicle is 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 the taillight, visible from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise; 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.
- (13) An individual who is operating or is a passenger on an ORV shall wear a crash helmet and protective eyewear that are approved by the United States department of transportation. This subsection does not apply to an individual wearing a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets or exceeds United States department of transportation standards for a crash helmet.
- (14) An ORV shall not be operated on any state trunkline (i.e., US-10, M-116) right-of-way, except that the operator of a vehicle may cross a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a street, county road, or highway, and shall yield the right-of-way to oncoming traffic.
- (15) These requirements are in addition to any applicable requirements of state law in Part 811 of Act 451 of 1994, the Natural Resources and Environmental Protection Act, as may be amended.

- (c) A person who violates this ordinance is responsible for a civil infraction and subject to a fine of not more than \$500.00.
- (d) In addition to the fine provided for herein, a court shall order violators of this ordinance to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation pursuant to MCL 324.81131(17).
- (e) The City Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund." City council shall appropriate revenue in the ORV Fund as follows:
 - a. Fifty percent to the Ludington Police Department for ORV enforcement and training.
 - b. Fifty percent to the Ludington Public Works Department to be used for repairing damage to streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets are open or closed to the operation of ORVs under this ordinance.

Section 2. If any portion of this ordinance is held 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 remaining portions of the ordinance, it being the intent of the city that this article shall be fully severable.

Section 3. All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 4. This ordinance can be repealed or modified at any time, has a sunset provision, and is not effective one (1) year after enactment unless reauthorized by ordinance of City Council.

Section 5. This Ordinance shall be effective twenty (20) days after its adoption and publication as provided in Section 7.2 of the City of Ludington Charter.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LUDINGTON, MASON COUNTY, MICHIGAN, THIS ____ DAY OF _____, 2015.

ENACTMENT DATE: _____