

OFF ROAD VEHICLE OPERATION

VILLAGE OF CHESANING, SAGINAW COUNTY, MICHIGAN

ORDINANCE NO. 2012-03

PREAMBLE

AN ORDINANCE authorizing the use of Off Road Vehicles (ORV) on Village Streets, as authorized by Part 811 of the Michigan Natural Resources and Environmental Protection Act (hereinafter referred to as "Act"), as amended, being MCL 324.81131, *et seq.*

WHEREAS, pursuant to the statute described above, Saginaw County is an 'eligible' county authorized to enact an ordinance allowing ORV use as described herein; and

WHEREAS, the people of the Village of Chesaning desire to establish an ordinance allowing the use of ORV's on Village Streets.

NOW THEREFORE:

THE VILLAGE OF CHESANING, MICHIGAN ORDAINS:

SECTION I PURPOSE AND INTENT

1.1 This ordinance is adopted pursuant to the authority granted to the Chesaning Village Council under the Act, to allow operation of ORV's on public roadways within the Village of Chesaning, with the powers, duties and limitations provided by the Act and subject to the terms and conditions of this ordinance and any future amendments thereto.

SECTION II DEFINITIONS

2.1 For purpose of this Ordinance, the definitions of the following words or terms shall control:

- A. **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, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- B. **Operate** – means to ride in or on, and be in actual physical control of the operation of an ORV.

- C. **Operator** – means a person who operates or is in actual physical control of the operation of an ORV.
- D. **ORV** – for the purposes of this ordinance means a motor driven off road recreational vehicle or golf cart capable of cross-country travel without benefit of a road or trail, on or immediately over land, or other natural terrain. ORV or vehicle includes a multi-wheel drive vehicle. ORV or vehicle does not include a snowmobile, a farm vehicle being used for farming, a vehicle for military, fire, emergency or law enforcement purposes, a motorcycle, a 3-wheeled vehicle, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on its facilities or on property operated by a utility company or construction or logging vehicle used in performance of its common function.
- E. **Road** – means a village/city major street or village/city local street as described in Section 5 of 1951 PA 51, being MCL 247.655.
- F. **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.
- G. **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 aid of the operator.

SECTION III ORV OPERATION

3.1 An ORV may be operated only with the flow of traffic on the far right of the maintained portion of the Village Roads listed in attached Schedule 'A'; provided:

- A. A person shall not operate an ORV at a speed greater than 18 miles per hour, or lower if posted, and in no event shall an ORV be operated in a manner that interferes with traffic on a road or street or at a speed greater than conditions allow;
- B. Unless the person possesses a license as defined in Section 25 of the Michigan Vehicle Code, Act 300, Michigan Public Acts of 1949; MCL 257.25, *et. seq.* a person shall not operate an ORV if the ORV is registered as a motor vehicle under Chapter II of the Michigan Vehicle Code, Act 300, Michigan Public Acts of 1949; MCL 257.201 to 257.259, and either is more than 60 inches wide or has 3 wheel;
- C. Any ORV operated in the allowed portion of the road shall travel single file, except when passing or being overtaken by another ORV;
- D. A person shall not operate an ORV on roads described herein unless displaying a lit headlight and lit taillight;
- E. No person shall operate an ORV on roads described herein who is not at least 18 years of age, unless that person is in possession of a valid driver's 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 Act, or a comparable

- certificate issued under the authority of another state, or a province of Canada;
- F. No person under the age of 16 may operate an ORV on any road described herein;
 - G. Any ORV operated on a right of way shall be fitted with a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
 - H. While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
 - I. Must 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 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 before sunrise. Must either have a slow moving vehicle triangle or an orange flag.
 - J. Pursuant to noise emission standards defined by law.
 - K. In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan Vehicle Code, 1949 PA 300, NCK 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.

3.2 Schedule 'A' may be amended and/or replaced by action confirming to the passage of ordinances by the Chesaning Village Council upon passage of a resolution amending this Ordinance.

SECTION IV VIOLATIONS

4.1 A person who violates this Ordinance shall be responsible for a civil infraction, and shall pay a fine of up to \$500.00, and in addition may be charged with and ordered to pay the cost of full restitution for damages to the environment, a road or other property resulting from that person's operation of an ORV.

4.2 Any fines collected pursuant to this Ordinance shall be deposited with the Village Treasurer and shall be distributed pursuant to the statute provided therefor.

4.3 An ORV shall not be operated on any state trunkline right-of-way.

**SECTION V
AUTHORIZING STATUTE**

5.1 Should any term of this ordinance be found to be inconsistent with the authorizing statute; MCL 324.81131, as amended, the provisions of the statute, including any amendments thereto shall apply.

**SECTION VI
REVENUE**

6.1 All revenue derived from enforcement of this Ordinance shall be distributed consistent with the authorizing statute, MCL 324.81131, as amended.

**SECTION VII
EFFECTIVE DATE**

7.1 This Ordinance is effective June 26th, 2012.

Adopted by action of the Chesaning Village Council, this 15th day of May, 2012.

**SECTION VIII
PRIOR ORDINANCES OR RESOLUTIONS**

8.1 All Village ordinances and resolutions or a part thereof, insofar as the same may be in conflict herewith, are hereby repealed.

**SECTION IX
SEVERABILITY**

9.1 If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

**SECTION X
EFFECTIVE DATE**

10.1 This Ordinance shall take effect 30 days from the date of its publication.

This Ordinance is hereby declared to have been adopted by the Village of Chesaning, Village Council, County of Saginaw, State of Michigan, at a regular meeting held on the 15th day of May, 2012 and ordered to be given publication in the manner prescribed by law.

PUBLICATION: May 27, 2012

1st READING: May 15, 2012

ADOPTED: May 15, 2012

EFFECTIVE: June 26, 2012

YEAS: Gross, Frasier, Cicalo, Boyd, Sedlar

NAYS: Swartzmiller

ABSENT: Zubek

Joseph F. Sedlar, Village President

Denise Ebenhoeh, Village Clerk

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. **2012-03** duly adopted by the Village Council of the Village of Chesaning at a regular meeting held on May 15, 2012. I further certify that Frasier moved the adoption of said Ordinance and that Gross supported said motion.

I further certify that the following members voted for the adoption of said Ordinance:

Gross, Frasier, Cicalo, Boyd, Sedlar

The following members voted against the adoption of said Ordinance:

Swartzmiller

I further certify that the said Ordinance has been recorded in the Ordinance Book of the Village and that such recording has been authenticated by the signatures of the Village President and the Village Clerk and that notice of said meeting was conducted in conformity with Act 267 of the Public Acts of 1976, as amended, and that the minutes of said meeting were kept and have been or will be made available to the public as required by said Act.

Denise Ebenhoeh, Village Clerk