

ORDINANCE NO. 294 -18
VILLAGE OF BANCROFT
(Enacted August 8, 2018)

OPERATING OFF ROAD VEHICLES ON VILLAGE STREETS

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on streets within the Village of Bancroft that also provides penalties for the violation thereof and is enacted pursuant to or in response to Michigan Compiled Law (MCL) 324.81129, MCL 324.81131 and/or Shiawassee County Ordinance 18-07-05.

THE VILLAGE OF BANCROFT ORDAINS:

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

- (A) "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.
- (B) "Driver's license" means an operator's or chauffeur's license or permit issued to an individual by the Michigan Secretary of State under 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) "Maintained portion" means the street and any shoulder of the street whether paved or unpaved.
- (D) "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) "Off Road Vehicle" or "ORV" means a motor-driven, off-road recreational vehicle capable of cross-country travel with benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. An ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheeled vehicle, a vehicle with 3 or more wheels, an amphibious machine, or a ground-effect air cushion vehicle, or other means of transportation deriving motive power from other than muscle or wind, including, for the purposes of this ordinance, a golf cart. ORV does not include a 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, oil or gas company, or railroad 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) "Street" means a Village roadway designated as either a major or local street, but does not include an alley.
- (I) "Safety Certificate" means a certificate issued pursuant to MCL 324.81130, or a

comparable ORV safety certificate issued under the authority of another state or a Canadian province.

- (J) "Slow-moving vehicle sign" as used herein, means a securely-attached, reflective device that is an equilateral triangle in shape, at least 16 inches wide at its' base and at least 14 inches in height, with a dark red border that is at least 1-3/4 inches wide and made of highly reflective material, and containing a center triangle with at least 12-1/4 inches on each side of yellow-orange fluorescent material, that is securely mounted on the rear of the vehicle, broad base down, not less than 3 feet, nor more than 5 feet above the ground and as near the center of the vehicle as possible.

Section 2. Designated Streets. An ORV may be operated under this ordinance on all Village major and local streets, subject to the limits and conditions outlined in this Ordinance, except Lansing Road within the Village limits which is controlled by the County.

Section 3. Conditions of Operation.

- (A). A person may only operate an ORV with the flow of traffic on the far right of the maintained portion of the street.
- (B). 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.
- (C). Unless in possession of a license as defined in MCL 257.25, a person shall not operate an ORV if the ORV is registered as a motor vehicle under MCL 257.201 to 257.259.
- (D). ORVs being operated shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.
- (E). A person shall not operate an ORV without displaying a white-lighted headlight and red-lighted taillight, except that golf carts without such lights need only be marked by a slow-moving vehicle sign as defined in this ordinance.
- (F). 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.
- (G). 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.
- (H). When 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.
- (I). While the ORV, if powered by an internal combustion engine, is equipped with a spark arrester type, U.S. Forest Service approved muffler in good working order and in constant operation so as to meet all applicable noise emissions standards and regulations.

- (J). ORVs operated on Village streets must comply with all federal and state ORV regulations with regard to any prescribed equipment or registration requirements as may be applicable to the vehicle being operated.
- (K). Each operator and passenger of an ORV, other than a golf cart, must wear a crash helmet approved by the U.S. Department of Transportation unless the vehicle is equipped with a roll-bar or other such 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. For golf carts under this ordinance, this provision does not apply to operators and passengers who are 18 years of age or older unless otherwise required by another law or ordinance.
- (L). An ORV shall not be operated in a careless or negligent manner likely to endanger any person or damage any property, including in a manner likely to damage the surface or shoulder of a street. Prohibited operations include, but are not limited to, actions such as "fish-tailing" or spinning tires that disperse gravel, or create ruts, or cause other damage.
- (M). A person under 16 years of age shall not operate an ORV on any street in the Village.
- (N). A person at least 12, but under 16 years of age may cross a street or county road while operating an ORV if the operator has an ORV safety certificate in his or her immediate possession.
- (O). An operator of an ORV must obey all traffic laws and comply with all Village ordinances which include, but are not limited to the Village of Bancroft's adoption of and Michigan's Motor Vehicle Code, the Village of Bancroft's adoption of and Michigan's Uniform Traffic Code.

Section 4. License; Safety Certificate. A person under 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.

Section 5. Registered Motor Vehicle. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a Village street if the ORV is registerable as a motor vehicle under the Michigan Motor Vehicle Code, being MCL 257.1 et seq.

Section 6. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a street pursuant to the Michigan Motor 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 7. Penalties. A violation of this ordinance is a municipal civil infraction. A person responsible for such a violation shall, in addition to any applicable court costs and fees, pay a civil fine to be determined by the Court of not more than \$500.00, except as is otherwise specifically set by resolution of the Village Council. In addition, the court shall order the person to pay the cost of repairing any damages to the environment, a street, alley, or public property as a result of the violation.
- Section 8. Effective Date: This ordinance and any related rules, regulations, provisions, requirements, resolutions, orders and matters established shall take effect September 25, 2018.
- Section 9. Repealer. All ordinances, or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give all provisions of this ordinance full effect.
- Section 10: Severability: If any section, subdivision, clause or phrase of this ordinance is deemed invalid, such invalidity shall not affect the validity of the remained of the ordinance as a whole or any part other than the part deemed invalid.
- Section 11: Immunity Clause. Subject to MCL 691.1405(5), this state, a board of county road commissioners, a county board of commissioners, 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 un-maintained 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 county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitutes gross negligence. "Gross negligence" as used in this subsection, means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

Enacted at a regular meeting of the Bancroft Village Council August 8, 2018.

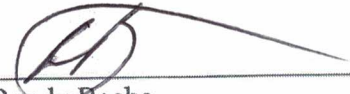
Moved by: B. Barnum Seconded by: A. Miller

YEAS: T. Terpening, B. Barnum, R. Miller, M. St. Louis, A. Miller, R. Beeb

NAYS: K. Bible


ABSENT: None

VILLAGE OF BANCROFT

By: 
Randy Beebe
Village President

CLERK'S CERTIFICATION

I certify that the above is a true and complete copy of Ordinance No. 294-18 adopted by the Village Council at a meeting held on the 8th day of August, 2018 and published in the Argus Press on August 17, 2018.


Karen Cole
Village Clerk

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