

VILLAGE OF ONTONAGON

ORDINANCE NO. 2005-04

An ordinance adopted by the Ontonagon Village Council pursuant to MCL 324.8113(1) as amended, for the purpose of authorizing the establishment of access routes along streets under its jurisdiction, for use by Off Road Vehicles (ORVs); for the purpose of establishing the terms and conditions upon which such access routes may be utilized by the operators of ORVs; and, for the purpose of providing for the violation thereof.

THE VILLAGE OF ONTONAGON ORDAINS:

Section 1. Definitions

When used in this ordinance, the following words or terms shall have the following meanings:

1. AATV@ or AAll Terrain Vehicle@ means a 3, 4, or 6 wheeled vehicle designed for off-road use that has low pressure tires, has a seat or seats that conform to the manufacturer=s capacity recommendations, and is powered by a gasoline engine, or an engine using other fuels or energy sources in combination.
2. AVillage@ means that area within the political/geographic boundaries of the Village of Ontonagon.
3. ACouncil@ means the Ontonagon Village Council.
4. AHigh Risk Erosion Area@ shall include beaches, sand dunes, river banks, bogs, wetlands, or other areas so designated by Chapter 4, Subchapter 6, part 811 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.81101 et seq, as amended.
5. AStreet@ means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for the purposes of vehicular travel.
6. AOperate@ means to ride in or on, and be in actual physical control of, the operation of an ORV.
7. AOperator@ means a person who operates or is in actual physical control of the operation of an ORV.
8. AORV@ or AOff Road 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. AORV@ or AOff Road Vehicle@ includes but is not limited to, a multi-track or multi-wheel drive vehicle, an All Terrain Vehicle, 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. It does not include a registered snowmobile, a farm vehicle being used for activities related to 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 of 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.

9. ARoadway@ means that portion of a street improved, designated, or ordinarily used for vehicular travel, not including the Shoulder. If a street includes two or more separate Roadways, the term Roadway refers to a Roadway separately, but not to all Roadways collectively.

10. AShoulder@ means that portions of the street contiguous to the Roadway, generally extending the contour of the Roadway, not specifically designed for vehicular travel, but maintained for the temporary accommodation of disabled or stopped vehicles which are otherwise permitted on the roadway.

Section II. Designation of Streets for ORV Use

1. Except as limited or otherwise provided by this Ordinance, all streets within the Village of Ontonagon which are under the jurisdiction of the Village of Ontonagon are hereby designated to be access routes upon which ORVs may be operated except:

1. Between December 1 through December 31, and January 1 through March 31, of each calendar year, and
2. Those areas specified in Sec. 1V of this Ordinance.

Such access routes do not include or involve state or federal highways.

2. The Village of Ontonagon shall maintain a master map of all streets under the jurisdiction of the Village, upon which shall be indicated those streets and parts of sections thereof upon which the operations of ORVs is permitted and prohibited pursuant to this Ordinance. The Village shall make such master map available for interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make, or to assume any expense associated with the making of, such copies.

3. The Village shall update the master map once annually, between January 1 and March 31 of each year, to incorporate any changes in the designation of any streets, or parts or sections thereof, upon which the operation of ORVs is permitted or prohibited pursuant to this Ordinance. With respect to such updating:

1. It shall be the responsibility of the Village Planning Commission to advise in writing the Village Council, prior to January 1 of each year, of any changes to be incorporated into the master map for that year, along with their reasons for said change(s), however, the Village Council shall have the final power of determination as to which changes shall be incorporated, and,
2. If the Village Council determines that any changes in the designations of streets under the jurisdiction of the Village Council, or any parts of sections thereof, upon which the operation of ORVs is prohibited, no such changes shall be deemed effective until incorporated into an updated master map, and operators of ORVs shall be apprized of changes of such designations, in which event such changes shall become effective upon the posting of appropriate notices and/or signage.

Section III. Regulations Governing ORV Operation

1. An ORV operated on any Street which is under the jurisdiction of the Village Council, or any part or section thereof, where the operation is permitted pursuant to this Ordinance, shall at all times be operated:

1. By persons age sixteen (16) or older, and
 2. For the sole purpose of gaining access to or from areas outside the Ontonagon Village Limits where ORV operation is permitted under the applicable laws, ordinances, rules or regulations of the State of Michigan and any of its political subdivisions; and,
 3. Within a lane consisting of the outermost five (5) feet of the street, in situations where operation is not reasonably safe or not reasonably possible in that location due to obstructions, unsuitable terrain, or for other safety reasons, or in situations where such operation is prohibited by the provisions of Subsection III.C.1. of this Ordinance, then such operation shall be within a lane consisting of that outer five (5) feet of the improved roadway, including pavement, where an ORV may be operated safely and in compliance with Subsection III.C.1., and which is furthest from the real or customary centerline of the Roadway, and,
 4. In a single file, in the same direction as the flow of traffic upon the Roadway, and maintaining a distance of at least thirty (30) feet between ORVs; while underway, and,
 5. At a rate of speed which is reasonable and proper having due regard for conditions then and there existing, but in no event greater than fifteen (15) miles per hour in operating on the Roadway or the Shoulder of a Street; and,
 6. At a rate of speed of not greater than ten (10) miles per hour after dusk and before sunrise, at any location upon the Highway; and,
 7. Yielding the right of way to all motor vehicle traffic, pedestrians, equine, and non-motorized vehicles within the Street; and,
 8. In a manner that will not cause damage to the Street. In this regard, prohibited activity includes, but is not limited to, actions such as Afishtailing@ and spinning of tires which disperses gravel and creates ruts and other damage; and,
 9. In compliance with any and all other statutes, rules, regulations, and ordinances applicable to ORVs, including but not limited to Chapter 4, Subchapter 6, Part 811 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.8110-1 et seq, as amended.
2. An ORV may be operated on the roadway of any Street under the jurisdiction of the Village Council, whether or not such Street has been designated as an access route pursuant to Section II.A of this Ordinance, if such operation is in compliance with MCL 324.81122 and the applicable subsections thereof, as amended.
 3. An ORV may not be operated:
 1. On any part of a Street occupied by ditches including the front and back slopes thereof; or,
 2. Within Village owned parks, high risk erosion areas, as defined, or industrial zones within the Village; or,
 3. Upon, along, or within the federal or state highways, within the Village, unless authorized by federal, state, or local municipal laws, rules, regulations, or ordinances; or,

4. On those Shoulders specifically designated as non-motorized facilities.

5. Between the hours of 12:00 a.m. (Midnight) to 6:00 a.m.

Section IV. Applicability

This Ordinance shall be applicable to all Streets under the jurisdiction of the Village Council within the Village except such Streets as designated below and except for such Streets, and parts or sections thereof:

1. Parker Avenue between Airport Road & Greenland Road (M-38).

2. South Seventh Street between Parker Avenue & Greenland Road (M-38).

Section V. Violations & Penalties

1. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than Five Hundred (\$500) Dollars, or both.

2. In addition to the penalties described in Section V. A., if the violation for which an Operator of an ORV has been convicted, has caused damage to real or personal property, the Operator so convicted, as well as the registered owner(s), provided said ORV was being used with the consent and knowledge of the owner, may also be ordered by the Court to pay restitution for the full amount of such damage.

Section VI. Effective Date

This Ordinance shall become effective the day following publication of notice of its adoption in a newspaper of general circulation in the Village.

This Ordinance is adopted by action of the Ontonagon Village Council this 11th day of April, 2005.