

## ORDINANCE NO. 1260

### CHAPTER I

Division 6 of the Escanaba Code of Ordinances is hereby amended by adding an Ordinance adopted for the purpose of authorizing and regulating the operation of Side by Sides on roads in City of Escanaba, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81 131 which is incorporated by reference in its entirety.

THE CITY OF ESCANABA ORDAINS THE FOLLOWING:

#### **SEC. 27.412: DEFINITIONS**

As used in this Ordinance, the following definitions shall apply:

- a. **“Driver 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 a Side by Side,
- c. **“Operator”** means a person who operates or is in actual physical control of the operation of a Side by Side.
- d. **“Side by Side”** means a motor driven off road recreational, self-propelled, operator controlled, non-articulated vehicle intended primarily to travel on unpaved surfaces on four or more wheels; in addition, it is designed to transport persons and/or cargo and pull and push equipment and controlled by a steering wheel and pedals, designed for recreational or utility purposes and shall carry no more than 6 people including the driver, sitting side by side on one or more non-straddle seats. Side by Side may be registered and licensed pursuant to 2018 PA 680, MCL 257.217i.
- e. **“Road”** means a City Major road or City Local road as described in section 5 of 1951 PA 51, MCL 247.655,
- f. **“City Council”** means the City of Escanaba City Council.
- g. **“County”** means the County of Delta.
- h. **“Maintained portion”** means on a: 1. Paved Road with fog lines – between the lines, white line to white line. 2. Paved road without fog lines – edge of asphalt to edge of asphalt. 3. Gravel road – bladed portion of the road.
- i. **“Trailhead”** means state, county or city designated trail or route for licensed/permitted ORV’s to operate on the trail or route.
- j. **“City”** means the City of Escanaba.
- k. **“Street”** may be used interchangeably with **“road”**.

#### **SEC. 27.413: OPERATION 1**

A Side by Side shall only be operated on City streets using the most direct route from the trailhead to and from lodging, to obtain food at restaurants or stores, to obtain fuel and repairs, and to a residence, on the far right of the maintained portion of a roadway, and where available the gravel portion of paved roads, within the City except for the following:

- a. As designated by the map, attached **Exhibit A**, with special attention to the following roads that shall not be accessible or traveled by a Side by Side: Ludington Park roadways except access is permitted onto Beaumier Way to the north parking lot to allow access to the ice on Little Bay De Noc; Loren W Jenkin Memorial Drive to Sand Island to access the ice on Lake Michigan; and Bath House Rd to the parking lot east of the Bandshell for access to the ice on Lake Michigan.

- b. A Side by Side shall not operate on the City streets from December 1 through March 31, except to access the Lake Michigan shoreline for the purpose of ice fishing and actively removing snow following a snow event.
- c. A Side by Side shall not operate on any roadway, shoulder, or right-of-way of any State or Federal highway including but not limited to US 2 including US 41, M 35.
- d. A Side by Side operated on the permitted City streets shall follow all traffic laws - State, local, and county. Side by Sides shall not operate on sidewalks, paths or trails unless otherwise posted.

#### **SEC 27.414: OPERATION 2**

Except as set forth herein or otherwise provided by law, a Side by Side meeting all of the following conditions may be operated on a street or road in the City:

- a. At a speed of no more than 25 miles per hour or a lower posted Side by Side speed limit.
- b. By a person of 16 years of age or older in possession of a valid Michigan Driver's License or a comparable valid driver's license of another state or province of Canada.
- c. With the flow of traffic and obey all traffic signs and signals.
- d. In a manner which does not interfere with traffic on the or street or road.
- e. Traveling single file except when overtaking and passing another Side by Side, where passing is allowed by law and can be done safely taking into account other traffic on the street or road.
- f. Operation hours: 1/2 hour before sunrise until 1/2 hour after sunset or 9:00pm, whichever is later.
- g. While displaying a lighted headlight(s) and lighted taillight(s) at all operational hours.
- h. While the operator and each passenger are wearing a crash helmet and protective eyewear approved by the United States Department of Transportation (DOT) unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet, a windshield and the operator and each passenger are wearing a properly adjusted and fastened seat belt.
- i. 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.
- j. While the Side by Side is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- k. Pursuant to noise emission standards defined by law.

#### **SEC. 27.414: AGE**

- A person less than 16 years of age shall not operate a Side by Side on a road in the City.
- A person 16 years of age or older shall not operate a Side by Side in the City unless in the possession of a valid driver's license issued by the State of Michigan, another state, or a province of Canada.

#### **SEC. 27.415: INSURANCE**

Any Side by Side shall only be operated on City streets and pursuant to this Ordinance if insured by the owner of the Side by Side under either a personal or commercial insurance policy. The insurance coverage shall include comprehensive and collision coverages and liability coverage. Proof of owners name and address and insurance shall be kept in the Side by Side at all times and produced upon the request.

**SEC. 27.416: CIVIL FINE**

Any person who violates this Ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

**SEC. 27.417: DAMAGE RESTITUTION**

In any action involving the issuance of a municipal civil infraction under Sec. 27:416, the court shall order a person who causes damage to the environment, a street or road, or other property as a result of the operation of a Side by Side to pay full restitution for that damage above and beyond the penalties paid for civil fines.

**SEC. 27.416: FINE ALLOCATION**

The City Treasurer shall deposit all fines and damages collected under this Ordinance into a fund to be designated as the Side-by-Side Fund. The City Council shall appropriate revenue in the Side-by-Side Fund as follows:

- a. Fifty percent to the Escanaba Department of Public Works for repairing damage to roads and the environment that may have been caused by Side by Sides, and for posting signs indicating Side by Side speed limits or indicating whether roads are open or closed to the operation of Side by Sides.
- b. Fifty percent to Escanaba Public Safety enforcement and training.

**SEC. 27.417: MASTER MAP MAINTENANCE**

The City shall maintain a master map of all roads upon which shall be indicated those roads and parts of sections thereof upon which the operation of Side by Sides is permitted and prohibited pursuant to this Ordinance. The City shall make such a 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.

- a. The City shall update the master map once annually, between January 1 and February 28 of each year, to incorporate any changes to the designation of any road, or parts or sections thereof, upon why the operation of Side by Side is permitted or prohibited pursuant to this Ordinance.
- b. It shall be the responsibility of the respective City Council to determine, prior to January 1 of each year, any changes to be incorporated into the master map for the year.

**CHAPTER II**  
**SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

**CHAPTER III**  
**CONFLICTING ORDINANCES REPEALING CLAUSE**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**CHAPTER IV**  
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

\_\_\_\_\_  
**Lisa Vogler**  
City Attorney

Date Approved: May 19, 2022

Date Published: May 25, 2022

APPROVED:

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**Mark Ammel**  
Mayor

Attest

\_\_\_\_\_  
**Phil DeMay**  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Regular Meeting held on the 19<sup>th</sup> day of May, 2022, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on Wednesday, May 25, 2022, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

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**Phil DeMay**  
City Clerk