

**STATE OF MICHIGAN**

**CITY OF CLARE Ordinance Number 2020 - 001**

**ORV ORDINANCE**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on certain roads in the City of Clare, 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 324.81131(5).

**THE CITY COMMISSION OF THE CITY OF CLARE,**

**COUNTY OF CLARE, MICHIGAN,**

**ORDAINS:**

**Sec. 1** As used in this ordinance, the following definitions shall apply:

- a) "City" means the City of Clare.
- b) "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.
- c) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "ORV" 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, but is not limited to, a multi-track or multi wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-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.
- f) "Road" means a city street, or road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "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."

**Sec. 2** Subject to the conditions contained in this ordinance, and state law, an ORV may be operated on the far right of the maintained portion of a road within the city with these exceptions:

McEwan Street, and 5<sup>th</sup> Street

**Sec. 3** An ORV may be operated on the far right of the maintained portion of the street:

- a) If there is a shoulder for the road, on the right shoulder of the road.
- b) If there is not a right shoulder, or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
- c) On the far right of the right traffic lane of the road, if necessary, to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.
- d) To cross McEwan or 5<sup>th</sup> Street, by the shortest route available, only when opposing and/or cross traffic is not present, and in a manner that causes neither damage to the road, to personal property of any person, or to human life.

**Sec. 4** Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the city:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person having a validly issued drivers' license.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) while displaying a lighted headlight and lighted taillight at all hours.
- h) while the operator and each passenger are wearing a crash helmet and protective eyewear approved by the United States department of transportation unless the vehicle is equipped with a 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.
- 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 ORV 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. 5** 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. 8** A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

**Sec. 9** The City Treasurer/Finance Director shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The treasurer of the City of Clare shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the department responsible for street maintenance, for repairing damage to roads and the environment that may have been caused by ORVs, and for posting sign

indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.

- b) Fifty percent to the City of Clare Police for ORV enforcement and training.

**Sec. 10** This ordinance shall become effective on the date upon which notice of its adoption is published in a newspaper of general circulation in the City of Clare.

Passed by the City Commission of the CITY OF CLARE on July 6, 2020, at its regular meeting with five commissioners in attendance, three voting aye, and two nay. Adopted by the City Commission of the City of Clare this 6<sup>th</sup> day of July, 2020.

Signed: Pat Humphrey, Mayor.

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I hereby certify that the foregoing was duly adopted by the CITY COMMISSION of CITY OF CLARE, Michigan, at its regular meeting on the 6<sup>th</sup> day of July, 2020, that of five members of the City Commission, five were in attendance and three voted for the adoption of the Ordinance. I further certify that the above and foregoing ordinance is recorded in Ordinances for the CITY OF CLARE.

Effective Date: July 10, 2020

This Ordinance shall take effect thirty (30) days following date of publication as required by law. All Ordinances or part Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Diane Lyon, City Clerk