

RESOLUTION NO.

AUTHORIZING FIRST READING & SETTING A PUBLIC HEARING FOR THE PROPOSED ADDITION OF ARTICLE X, *OFF-ROAD RECREATION VEHICLES*, TO CHAPTER 33, TRAFFIC AND MOTOR VEHICLES, OF THE CODE OF ORDINANCES TO GOVERN THE USE OF ORVS IN THE CITY

WHEREAS, the City of Owosso, Shiawassee County, Michigan, does not have an ordinance for the operation of Off-Road Vehicles on city streets; and

WHEREAS, Public Act 491 of 2014 recently amended Public Act 300 of 1949, commonly known as the Michigan Vehicle Code, being MCL 257.1 through MCL 257.923; and,

WHEREAS, Public Act 491 of 2014 created a new section to the Michigan Vehicle Code which allows for the limited and regulated use of Off-Road Vehicles on public streets and highways, which is found at MCL 257.657a; and,

WHEREAS, under the amended Michigan Vehicle Code, local units of government may allow for the limited and regulated use of Off-Road Vehicles on their streets and highways under the terms and conditions specified in MCL 257.657a via the adoption of an Ordinance; and,

WHEREAS, the City of Owosso desires to allow for the limited use of Off-Road Vehicles on its streets and highways as permitted and regulated by MCL 257.657a; and,

WHEREAS, it is the long-standing practice of the City Council to hold a public hearing to receive citizen comment regarding any and all proposed ordinance amendments.

NOW, THEREFORE, BE IT RESOLVED, THAT THE CITY OF OWOSSO ORDAINS THAT:

SECTION 1. ADDITION. That Article X, *Off-road Recreation Vehicles*, be added to Chapter 33, Traffic and Motor Vehicles, of the Code of Ordinances of the City of Owosso as follows:

ARTICLE X. – OFF-ROAD RECREATION VEHICLES

Sec. 33-186. - Definitions.

As used in this section:

ATV means a vehicle with three or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.

Operate means to ride in or on, and be in actual physical control of, the operation of an ORV.

Operator means an individual who operates or is in actual physical control of the operation of an ORV.

ORV or 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. ORV or vehicle includes, a side-saddle four-wheel vehicle or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a golf cart, registered snowmobile, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related two-wheel, three-wheel or six-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, a farm vehicle being used for 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 on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft. [MCL 324.81101 (o)]

Street means a city major street or city local street as described in section 9 or 1951 PA 51, MCL 247.659, or a segment thereof.

Sec. 33-187. - Operation of off-road recreation vehicles (ORVs) on city streets.

Except as set forth herein or otherwise provided by law, an individual may operate an ORV on city streets subject to the following restrictions:

- a) ORVs may be operated from May 1 to October 31 during the hours of 6:00 a.m. to 9:00 p.m., and from November 1 to April 30 during the hours of 8:00 a.m. to 5:00 p.m.
- b) No person under 12 years of age shall operate an ORV.
- c) A person under the age of 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 issued pursuant to Part 811 of the Michigan Natural Resources and Protection Act or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. These requirements are in addition to any applicable requirements of state law in MCL 324.81129, as may be amended.
- d) All ORV operators 18 years of age or older shall have in their immediate possession a valid driver license.
- e) 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. In no event shall a person operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner, having due regard for conditions then existing.
- f) Unless the person possesses a valid driver license pursuant to MCL 257.25, as amended, a person shall not operate an ORV if the ORV is registered as a motor vehicle and either is more than 65 inches wide or has three wheels.
- g) ORVs shall travel single file except that an ORV may travel abreast of another ORV when it is overtaking or passing, or being overtaken and passed by, another ORV.
- h) ORVs shall display a lighted headlight and lighted taillight at all times.
- i) A person shall operate an ORV with the flow of traffic on the far right of the maintained portion of the street, in a manner that does not interfere with traffic on the street.
- j) Operation of ORVs is not allowed on the James Miner Trail or the Riverwalk Trail.
- k) A person shall not transport any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
- l) A person shall not operate an ORV unless the vehicle is 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 the taillight, visible from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of one-half hour after sunset and one-half hour before sunrise; and 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.
- m) An individual who is operating or is a passenger on an ORV shall wear a crash helmet and protective eyewear that are approved by the United States department of transportation. This subsection does not apply to an individual wearing a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets or exceeds United States department of transportation standards for a crash helmet.

- n) An ORV shall not be operated on any state trunkline (i.e., M-52, M-21 and M-71) right-of-way, except that the operator of a vehicle may cross a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a street, county road, or highway, and shall yield the right-of-way to oncoming traffic.
- o) These requirements are in addition to any applicable requirements of state law in Part 811 of Act 451 of 1994, the Natural Resources and Environmental Protection Act, as may be amended.

It is lawful for city employees or city contractors to operate a city-owned ORV for any purposes within the scope of city operations.

Sec. 33-188. – Responsibility.

- a) The operator of an ORV involved in any accident resulting in any property damage, personal injury, or death shall report such accident to the local police immediately.
- b) The operator of the vehicle is liable for damages to private property caused by operation of the vehicle under this chapter, including, but not limited to, damage to trees, shrubs, or growing crops, injury to other living creatures, or erosive or other ecological damage. The owner of the private property may recover from the individual responsible nominal damages of not less than the amount of damage or injury.

Sec. 33-189. – Penalties.

- a) A person who violates this section is responsible for a civil infraction and subject to a fine of not more than \$500.00 and/or impoundment of the vehicle. In the event an ORV is impounded, the owner of the ORV must pay the cost of transportation, towing, storage, and prove ownership of the ORV before it is released to that owner.
- b) In addition to the fine provided for herein, a court shall order violators of this section to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation pursuant to MCL 324.81131(17).
- c) The city treasurer shall deposit fines and damages collected for violations of this section into a fund to be designated as the "ORV Fund." City council shall appropriate revenue in the ORV Fund as follows:
 - 1) Fifty percent to the Owosso Police Department for ORV enforcement and training.
 - 2) Fifty percent to the Owosso Public Works Department to be used for repairing damage to streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets are open or closed to the operation of ORVs under this section.

SECTION 2. PUBLIC HEARING. A public hearing is set for Monday, July 19, 2021 at 7:30 p.m. for the purpose of hearing citizen comment regarding the proposed addition to the Code of Ordinances.

SECTION 3. EFFECTIVE DATE. This amendment shall become effective twenty days after passage.

SECTION 4. AVAILABILITY. This ordinance may be purchased or inspected in the city clerk's office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.