

CITY OF DURAND

ORDINANCE NO. 2020-08-03

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DURAND, MICHIGAN BY ADDING ARTICLE V – ORV TO CHAPTER 74, AND DEFINE SPECIFIC PROVISIONS WITHIN THE CODE TO BE MUNICIPAL CIVIL INFRACTIONS. SHORT TITLE; PURPOSES; AMENDMENTS; EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF DURAND HEREBY ORDAINS AS FOLLOWS:

**Short Title.** This ordinance shall be known and may be cited as the “On-Street ORV Ordinance”

**Public Purpose.** The purpose of this Ordinance is to create Article V of Chapter 74 of the Codified Ordinances of the City of Durand. This new Article is adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on the roads and highways of the City of Durand, and for the purpose of providing penalties for the violation thereof.

**Amendments.** The code of the City of Durand is here amended to include:

ARTICLE V – ORV

DIVISION 1 - GENERALLY

Section 74-200 – Definitions.

For the purposes of this Article the following definitions shall apply:

- a) *Driver’s License* means any driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, and the Dominion of Canada pertaining to the licensing of person to operate motor vehicles.
- b) *Operate* means to ride in or on, and to be in actual physical control of the operation of an ORV/ATV.
- c) *Operator* means a person who operates, or is in physical control of the operation of an ORV.
- d) *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 includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, 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 **which is capable of speeds in excess of 20 miles per hour**. ORV or vehicle does not include a registered snowmobile, 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.

- e) *Road* means a Major or Local Street owned and maintained by the City of Durand.
- f) *Safety Certificate* means a certificate issued pursuant Public Act 451 of 1994, as amended, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- g) *Shoulder* means that portion of the road contiguous to the roadway generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.
- h) *Visual Supervision* means the direct 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.
- i) *Golf Cart* means a vehicle manufactured or assembled for the purpose of playing the game of golf which is incapable of being operated at a speed in excess of twenty (20) miles per hour.

## DIVISION II – REGULATIONS

### Section 74-201 - Operating Rules.

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

- a) At a speed of not more than 25 miles per hour, or a lower posted ORV speed limit.
- b) On the far right-hand side of the maintained portion of the roadway.
- c) Not within any City of Durand Park, except a designated driveway or parking area.
- d) With the flow of traffic and on the shoulder or to the far right of the street surface
- e) In a manner which does not interfere with traffic on the road.
- f) While traveling single-file, except when overtaking or passing another ORV or golf cart.
- g) While displaying a lighted white-headlight and a lighted red-taillight at all times.
- h) When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety 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, if powered by internal combustion engine, is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

k) 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.

l) 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.

m) In a manner that is not careless or negligent including prohibition of activities that may endanger any person or property such as towing, fishtailing, or spinning or tires to disperse gravel or create ruts.

m) Pursuant to noise and emission standards defined by law; and all Federal and State ORV regulations with regard to any prescribed equipment or registration requirements as may be applicable to the vehicle being operated.

#### Section 74-202 – Careless or Reckless Operation

In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV on a road, the driver of the ORV involved in the collision shall be considered prima facie negligent.

#### Section 74-203 – License Requirement

A person less than 18 years of age shall not operate an ORV on a road in the City of Durand unless the person is in possession of a valid driver's license or is under the direct visual supervision of an adult and the person has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

#### Section 74-204 – Notice of Accident

The operator of an ORV/ATV involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of \$100 or more, or some person acting for him/her, or the owner of the ORV/ATV having knowledge of the accident shall immediately by the quickest means of communication notify Shiawassee County Central Dispatch

#### Section 74-205 – Penalties

a) A person who violates any provisions of this ordinance shall be responsible for a municipal civil infraction and shall be subject to a civil fine of not more than Five Hundred and 00/100 (\$500.00) Dollars or penalty as otherwise defined in Section 2-505. The schedule of fines for violations herein may be established annually by the Chief of Police, and may also include fines for failure to comply with City of Durand On-Street Golf Cart Ordinance or other golf cart related state and local regulations.

b) In addition to the fine specified above, the 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/ATV to pay full restitution for that damage above and beyond the penalties for civil fines.

**Severability.** Should any section, clause or provision of this ordinance be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than the parts so declared to be invalid.

**Repeal of Conflicting Ordinances.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**Publication.** The City of Durand Clerk is hereby directed to cause this Ordinance to be published.

**Effective Date.** This Ordinance and the rules, provisions, orders and matters established and adopted hereby shall take effect and be in full force and effect fifteen (15) days from and after the date of its final passage and adoption.

ORDINANCE DECLARED ADOPTED AUGUST 31, 2020.