

**VILLAGE OF PENTWATER  
OCEANA COUNTY, MICHIGAN  
ORV ORDINANCE**

**Ordinance No 2 of 2020**

AN ORDINANCE AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD VEHICLES (ORVs) ON VILLAGE STREETS WITHIN THE VILLAGE OF PENTWATER, OCEANA COUNTY, MICHIGAN, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF FINES AND COSTS RESULTING FROM THOSE PENALTIES PURSUANT TO 2009 PA 175, MCL 324.81131.

THE VILLAGE OF PENTWATER ORDAINS:

**Section 1.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Chapter 74, which shall be titled as follows:

CHAPTER 74: ORV REGULATIONS

**Section 2.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.00, which shall provide as follows:

**§ 74.00 Purpose.** These regulations are intended to secure, protect, and preserve the public peace, health, safety, and welfare of the residents and property owners of the Village of Pentwater.

**Section 3.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.01, which shall provide as follows:

**§ 74.01 Definitions.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“County” means Oceana County, Michigan.

“Direct Supervision” means the direct visual observation of the operator with the unaided or normally correct eye, where the observer is able to come to the immediate aid of the operator.

“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 persons to operate motor vehicles.

“Maintained portion” means that portion of a road, street, or public right-of-way that is improved, designated, or ordinarily used for vehicular traffic.

“Operate” means to ride in or on and be in actual physical control of the operation of an ORV/ATV.

“Operator” means a person who operates or is in actual physical control of the operation of an ORV/ATV.

“ORV” or, unless the context implies a different meaning, “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. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. 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.

“Sidewalk” means that portion of a street between the curb lines or lateral lines of the street and the adjacent property lines intended for the use of pedestrians.

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

“Sunset” and “sunrise” mean that time as determined by the National Weather Service on any given day.

“Township” means the Township of Pentwater, Oceana County, Michigan.

“Village” means the Village of Pentwater, Oceana County, Michigan.

**Section 4.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.02, which shall provide as follows:

**§ 74.02 Operation of ORVs on Village Streets.** An individual may operate an ORV on all streets, roads, and highways located within the Village as designated on the Master Map provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion of the street, road, or highway, subject to the following regulations:

(A) 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.

(B) ORVs shall travel single-file, except when passing or being passed by another ORV.

(C) All ORVs operating shall at all times display a lighted headlight and taillight.

(D) Unless a person possess a drivers license, a person shall not operate an ORV on a street if the ORV is registered as a motor vehicle under the Michigan Vehicle Code, and the ORV is either more than 65 inches wide or has three wheels.

(E) A person under the age of 12 shall not operate an ORV on a street.

(F) A person under the age of 18 shall not operate an ORV on a street unless the person is in possession of a valid drivers license or is under the direct supervision of a parent or guardian and the person has in his or her possession an ORV safety certificate issued by Michigan or another state or province of Canada.

(G) All operators must, upon demand by a law enforcement officer, present either an ORV safety certificate or drivers license.

(H) Neither an owner or a person in control or charge of an ORV shall allow an ORV to be operated by an individual who is intoxicated or incompetent to operate a vehicle because of a mental or physical disability.

(I) A child less than 16 years of age shall not operate a 3-wheeled ORV or ATV.

(J) A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.

(K) A person shall not operate or ride on an ORV unless such person is wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the ORV 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 safety belt.

(L) A person shall not operate an ORV during the hours of ½ hour before sunset and ½ hour after sunrise without a working brake light that is brighter than the taillight.

(M) All ORVs shall conform to the noise emission levels established by the United States Environmental Protection Agency under the Noise Control Act of 1972, 42 USC 4901 to 4918.

(N) No person who is an operator or passenger on an ORV shall transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken.

(O) An ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

(P) An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and

Environmental Protection Act, MCL 324.81101, et seq.

(Q) An ORV shall not be operated upon any portion of a state highway, including Business US Highway 31 also known as 6<sup>th</sup> Street and Hancock Street, unless specifically authorized by the Michigan Department of Transportation pursuant to MCL 324.81131(6) and (7).

(R) An ORV shall not be operated upon any portion of a sidewalk within the Village.

(S) The operator of an ORV shall obey all sections pertaining to traffic in the Michigan Vehicle Code, the Uniform Traffic Code, and Village Ordinances.

**Section 5.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.03, which shall provide as follows:

**§ 74.03 Parking regulations.**

The parking, stopping, and standing regulations provided in the Village Code as applied to motor vehicles shall also apply to ORVs within the Village.

**Section 6.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.04, which shall provide as follows:

**§ 74.04 No Village Duty to Maintain Roads or Streets.** Despite the provisions contained in this Ordinance allowing ORVs to operate upon roads and streets in the Village, the Village shall have no duty, and undertakes no duty, to maintain a road or street within its boundaries in a condition that is reasonably safe and convenient for the operation of ORVs. Pursuant to MCL 324.81131, the Village shall be immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained or unmaintained portion of a highway, road, or street of an ORV.

**Section 7.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.05, which shall provide as follows:

**§ 74.05 Careless or Reckless Operation.** In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a road, street, or highway pursuant to the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV, the operator of the ORV involved in the collision shall be considered prima facie negligent.

**Section 8.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.06, which shall provide as follows:

**§ 74.06 Operation of ORV by Child.** Neither a parent or guardian of a child less than 16 years of age nor an owner of an ORV shall permit or allow the child to violate any provision

of this Ordinance.

**Section 9.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.07, which shall provide as follows:

**§ 74.07 Enforcement.**

(A) A violation of this Ordinance is a municipal civil infraction, and a person responsible for a civil infraction under this Ordinance shall pay a fine of not less than \$175.00 nor more than \$500.00 plus costs and actual reasonable attorney fees incurred by the Village in enforcing this Ordinance. In addition, the Court may order the defendant to pay the cost of repairing any damage to the environment, a road, a street, or public property damaged as a result of the violation.

(B) Officers and agents of the Village of Pentwater Police Department are authorized to enforce this Ordinance and to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in Court.

(C) The Village Treasurer/Clerk shall deposit fines and costs collected under this Ordinance under the applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the “ORV Fund.”

(D) The Village Treasurer/Clerk shall appropriate revenue in the ORV Fund as follows:

(1) Fifty percent for repairing damage to roads, streets, and the environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORVs.

(2) Fifty percent to the Village of Pentwater Police Department for ORV enforcement and training.

**Section 10.** The Village of Pentwater, Michigan, Code of Ordinances, is hereby amended to add Section 74.08, which shall provide as follows:

**§ 74.08 Master Map.** The Village shall maintain a Master Map that conspicuously indicates those roads, streets, and highways and parts or sections thereof where the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The Village shall make such Master Map available to the public. Nothing in this section requires the Village to bear the costs or expenses associated with distributing copies of the map to the public.

**Section 11. Severability.** If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance, which shall be given effect without the invalid portion or application.

**Section 12. Effective Date.** This Ordinance shall become effective twenty (20) days after notice of adoption is published in a newspaper of general circulation within the Village.

AYES: Members: Michelle Angell-Powell, Pam Burdick, Jared Griffis Dan Nugent Don Palmer, Claudia Ressel-Hodan, Jeff Hodges.

NAYS: Members: None.

ABSENT: Members: None.

ORDINANCE DECLARED ADOPTED.

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Jeffrey Hodges, Village President  
Village of Pentwater

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Rande S. Listerman, Village Clerk  
Village of Pentwater

STATE OF MICHIGAN     )  
  ) ss.  
COUNTY OF OCEANA     )

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on July 13, 2020, and I further certify that public notice of such meeting was given as provided by law.

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Rande S. Listerman, Village Clerk  
Village of Pentwater