

ORDINANCE NO. 20200413-1
VILLAGE OF SHELBY
COUNTY OF OCEANA
STATE OF MICHIGAN

THE VILLAGE OF SHELBY HEREBY ORDAINS:

SHORT TITLE: ORV ORDINANCE

AN ORDINANCE AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD VEHICLES (ORVs) ON VILLAGE MAJOR STREETS AND VILLAGE LOCAL STREETS IN SHELBY VILLAGE, 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.

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a. County means Oceana County, Michigan.
- b. 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.
- c. 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.
- d. Maintained Portion means that portion of road, improved, designated, and/or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.
- e. Operate, means to ride in or on and be in actual physical control of the operation of an ORV/ATV.
- f. Operator means a person who operates or is in actual physical control of the operation of an ORV/ATV.
- g. ORV or, unless the context implies a different meaning, A 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 multi-wheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 4 or more wheels, a golf cart, 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. An "ORV" does not include a three-wheeler, dune buggy, or a sandrail.

- h. Road means a County primary road or County local road as described in section 5 of 1951 PA 51, MCL 247.655.
- i. Road Commission means the Council of County Road Commissioners for the County of Oceana.
- j. Safety Certificate means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.1129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- k. Street means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.
- l. Village means the Village of Shelby.

Section 2. Operation of ORVs on Village Streets. An individual may operate an ORV on all streets located within the Village provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion, of the road, 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 road.
- b. ORVs shall travel single-file, except when passing or being passed by another ORV.
- c. All ORVs operating shall display a lighted headlight and taillight when equipped.
- d. Unless a person possesses a driver's license, a person shall not operate an ORV on a road 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 road.
- f. A person under the age of 18 shall not operate an ORV on a road unless the person is in possession of a valid driver's 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 driver's license.

- h. An owner or person in control or charge of an ORV shall not allow an ORV to be operated by an individual who is 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 they are 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 1/2 hour before sunset and 1/2 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 M- 20 and Old US-31 also known as Oceana Drive, 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 freeway.
- s. The operation of three-wheels, dune buggies, and/or sandrails on streets within the Village is prohibited under this Ordinance.
- t. An ORV shall not be parked on Michigan Avenue between 2nd and 4th Streets. An ORV is only permitted to park in Village owned parking lots or properly along side streets.

Section 3. No Village Duty to Maintain County Roads. Despite the provisions contained in this Ordinance allowing ORVs to use portions of County roads, the Village shall have no duty, and undertakes no duty, to maintain a road within its boundaries in a condition that is reasonably safe and convenient for the operation of ORVs. Pursuant to MCL 324.81131 and MCL 691.1405, 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 4. 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 5. Operation of ORV by Child. A parent or guardian of a child less than 16 years of age shall not permit or allow the child to violate any provision of this Ordinance.

Section 6. 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, or public property damaged as a result of the violation.
- b. Officers, deputies, members, and/or agents of the Village of Shelby 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 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 shall appropriate revenue in the ORV Fund as follows:
 - i. Fifty percent to the Village of Shelby Department of Public Works 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.
 - ii. Fifty percent to the Village of Shelby Police Department for ORV enforcement and training.

Section 7. Master Map. The Village shall maintain a master map that conspicuously indicates those 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 8. 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 9. Effective Date. This Ordinance shall take effect and be in force upon the expiration of 30 days of the date when the notice of adoption of this Ordinance is published in a newspaper of general circulation with the Village. This Ordinance and any attached documents shall be codified, edited for typos and grammatical errors, and enumerated in accordance with the codification procedure of the Village.

This ordinance adopted:

AYES: Harris, Crothers, Wynn, Zakerl, Sutton, Near, and Inglis.

NAYS: X

ABSENT: X

Adoption Date: April 13, 2020
Published Date: April 23, 2020
Effective Date: May 3, 2020

We, Crystal Budde, Village of Shelby Clerk/Treasurer, and Paul Inglis, Village of Shelby President, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 20200413-1 of the Village of Shelby, Michigan, was introduced and passed at a regular meeting of the Village Council, held on April 13, 2020 by an affirmative vote of the majority of the Village Council members.



Crystal Budde
Clerk/Treasurer, Village of Shelby



Paul Inglis,
President, Village of Shelby

Adopted 4-13-2020

VILLAGE OF SHELBY
RESOLUTION: 2020-04-13-01
RESOLUTION AUTHORIZING GOLF CARTS ON VILLAGE STREETS
VILLAGE OF SHELBY, OCEANA COUNTY, MICHIGAN

Authorization of Golf Carts on Village Streets

At a Regular Meeting of the Common Council of The Village of Shelby, Oceana County, Michigan, held at the Village of Shelby Hall at 218 N. Michigan Ave, Shelby, Michigan, at 6:30 P.M. on April 13, 2020, the following Resolution was offered.

WHEREAS, Public Act 491 of 2014 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 Golf Carts 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 Golf Carts on their streets and highways under the terms and conditions specified in MCL 257.657a via the adoption of a Resolution; and,

WHEREAS, the Village of Shelby desires to allow for the limited use of Golf Carts on its streets and highways as permitted and regulated by MCL 257.657a; and,

NOW THEREFORE BE IT RESOLVED: that under the conditions contained in Michigan Vehicle Code, as amended, being MCL 257.657a, the Village of Shelby does hereby allow for the use of Golf Carts on the streets and highways of the Village of Shelby which conform to the requirements of Public Act 491 of 2014; and,

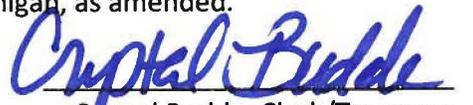
NOW THEREFORE BE IT FURTHER RESOLVED: The Village of Shelby reserves the right to rescind this Resolution if, in the future, it is determined that the limited and regulated use of Golf Carts on the Villages streets and highways has become a safety hazard or is deemed to be a nuisance.

Ayes: Andy Near, Dan Zaveri, Wyns, Crothers, Sutton, Harris, and Inglis.

Nays: Ø

Absent: Ø

I, Crystal Budde, Clerk do hereby certify that the foregoing is a true and original copy of a Resolution duly made and passed by the Common Council of The Village of Shelby at their regular meeting held on the 13th day of April 2020, in the Village of Shelby, Oceana County, State of Michigan, with a quorum present. Public notice of said meeting was given pursuant to and in compliance with Act No. 267 of the Public Acts of Michigan, as amended.


Crystal Budde, Clerk/Treasurer
Village of Shelby

