

AN ORDINANCE TO AMEND THE CHEBOYGAN CITY CODE OF ORDINANCES OF THE CITY OF CHEBOYGAN BY ENACTING A NEW CHAPTER 75 WHICH SHALL PERTAIN TO ATV/ORV USE WITHIN THE CITY, PROVIDE DEFINITIONS, OPERATING RULES, IMPOUNDMENT, PRESUMPTION OF OWNERSHIP, PENALTIES, CLOSED HIGHWAYS/STREETS, ACCESS TO DOWNTOWN AREA AND OTHER AREAS, CITY RESIDENT ACCESS, DRIVER'S LICENSE REQUIREMENT, REGISTRATION AND SPEED.

CHAPTER 75
ATV/ORV ORDINANCE
THE CITY OF CHEBOYGAN
Effective November 29, 2009

1. The City of Cheboygan hereby enacts Chapter 75 of the Cheboygan Code of Ordinances which shall read as follows:

75.01 Definitions

- a) **ATV** means a 3 or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.
- b) **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.
- c) **Far Right of the Maintained Portion of the Road** means the shoulder of the road when the roadway is improved by pavement, tar and chips, concrete or other similar materials and means the extreme right of the open portion of the right-of-way when the roadway is not improved by pavement, tar and chips, concrete or other similar materials.
- d) **Operate** means to ride in or on and to be in actual physical control of the operation of an ORV/ATV.
- e) **Operator** means a person who operates an ORV/ATV.
- f) **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 includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, a golf cart, a motorcycle or related 2-wheel, 3-wheel or 4-wheel vehicle, an amphibious machine or other means of transportation deriving motive power from a source other than muscle or wind. ORV, however, 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.

g) **Resident ORV/ATV Street Permit** means a written permit from the Department of Public Safety giving a direct route from person's residence to a designated ORV/ATV street.

h) **Road** means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.

i) **Roadway** means that portion of a road improved, designed or ordinarily used for vehicular travel. In the event a road includes two (2) or more separate roadways, the term "roadway", used herein, shall refer to any such roadway separately, but not to all such roadways collectively.

j) **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.

k) **Street** means the entire width between the boundary lines of every way publicly maintained within the city when any part thereof is open to the use of the public for purposes of vehicular travel including the shoulders and non-paved areas thereof.

75.02 Streets or Highways Opened or Closed to ATV/ORV Traffic

a) Closed Streets or Highways

1. State highways

US 23 (Mackinaw Avenue and E. State Street), M-27 (Main Street), M-33, M-68, M-212 are not open to ORV or ATV operation or travel.

b) Open Streets or Highways

The following streets shall be open to ORV/ATV traffic:

1. West Side

- a. Court Street from the west City Limits to Huron Street
- b. Division Street from Watson Street east to Water Street
- c. Dresser Street from Division to Elm Street
- d. West Elm Street from Dresser to Water Street
- e. Huron Street from Stempky Street north to West First Street
- f. Lincoln Avenue from the west City Limits to Eastern Avenue on the east side including the Lincoln Avenue Bridge
- g. Mill Street
- h. Pinehill Avenue from the west City Limits to Court Street
- i. Pine Street from Huron Street to east end of Pine Street
- j. Stempky Street
- k. West State Street from the west City Limits to Huron Street
- l. Water Street from Elm to West State Street

- m. Western Avenue from the south City Limits to North Western Avenue at the road end
2. **East Side**
 - a. Butler Road from Vanyea Road to Elliott Street
 - b. Eastern Avenue from Vanyea Road north to Harrison Avenue
 - c. Elliott Street from Butler Road to Harrison Avenue
 - d. Harrison Avenue from Elliott Street to Eastern Avenue
 - e. Lafayette Avenue from the south City Limits at Vanyea Road to US 23
 - f. Vanyea Road from Butler Road to Lafayette Avenue
 3. **City Resident Access**

City residents with 4-wheelers are permitted to access the dedicated ORV/ATV streets by receiving a free written permit from the Department of Public Safety which describes the most direct route from a residence to a designated ORV/ATV street. Visitors to the City of Cheboygan are restricted to designated ORV/ATV streets.
 4. **Driver's License Requirement**

All ORV/ATV operators in the City of Cheboygan shall be required to be at least sixteen (16) years of age and possess a valid motor vehicle operator's license or state identification card and an ORV/ATV safety certificate.
 5. **Registration**
 - a. Michigan ORV/ATVs shall be legally registered in accordance with state and federal laws.
 - b. It shall be considered prima facie evidence if the operator of an ORV/ATV in violation of this chapter cannot be identified, the registered owner shall be deemed to be the operator of the ORV/ATV and responsible for the violation.
 - c. All ORV/ATVs operating on city streets other than the designated ORV/ATV route streets shall be subject to investigation by any peace officer.
 6. **Speed**

ORV/ATVs shall not be operated at a speed greater than necessary to maintain a forward motion or not to exceed 15 MPH.

75.03 Operating Rules

- a) ORV/ATV operator and each passenger shall wear a crash helmet and protective eyewear approved by the United States Department of Transportation, unless the ORV/ATV is equipped with a roof that meets or exceeds the standards for a crash helmet and the operator and each passenger wears a properly adjusted and fastened seatbelt.
- b) ORV/ATVs shall be operated on the extreme right-hand side of the roadway.
- c) ORV/ATVs shall be operated with the flow of traffic on the roadway.
- d) ORV/ATVs shall be operated in a manner that does not interfere with traffic on the streets.

- e) ORV/ATVs shall be operated in single file formation.
- f) ORV/ATVs shall be operated displaying a lighted headlight and lighted taillight visible in all weather conditions.
- g) ORV/ATV operators are required to use proper hand signals when making right or left hand turn, if ORV/ATV is not equipped with mechanical turn signals.
- h) ORV/ATVs shall be equipped 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.
- i) ORV/ATVs shall be equipped with an arrester type United States Forest Service approved muffler in good working order and in constant operation.
- j) The ORV/ATV shall be in full compliance with all noise emission standards defined by law.
- k) The ORV/ATV shall be legally licensed in accordance with state, federal and local law and the license shall be permanently attached to the vehicle in the manner prescribed and in the location designated by state, federal and local law.

75.04 Signs

With the consent of the City Council, the City shall procure and post all city streets at the city boundaries. Signs shall conform to the requirements of the State Manual of Specifications for Uniform Traffic Control Devices that provide notice to the public that the operation of ORV/ATVs on designated city streets is permitted under this Ordinance.

75.05 Careless or Reckless Operation

No person shall operate an ORV/ATV in the city in a reckless, negligent or careless manner likely to endanger any persons or property.

75.06 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 the Police Department.

75.07 Owner's Liability

- a) Any ORV/ATV operated within the city shall be presumed to be operated with the consent of the owner.

b) The owner of an ORV/ATV may be held jointly and severally liable with the operator thereof for damages arising out of the neglect or improper operation of his/hers ORV/ATV.

c) The owner of an ORV/ATV may be held jointly and severally liable to a property owner for three (3) times the amount of damages to trees, shrubs, landscaping or personal property occurring on private property and caused by the ORV/ATV where the ORV/ATV is operated without the consent of the property owner or his agent.

75.08 Impoundment of ORV/ATVs

Any ORV/ATV operated contrary to or in violation of any provisions this ordinance or of the Public Acts of the State of Michigan or being operated with defective equipment may be impounded at the discretion of the Police Department of the city. In the event an ORV/ATV is impounded, the owner of the ORV/ATV must pay the cost of transportation, towing and storage and prove ownership of the ORV/ATV before it will be released to him.

75.09 Presumption of Ownership

It is hereby declared that, for the purposes of this chapter, it is presumed that the ORV/ATV registered to an owner is being operated by the owner and, unless the presumption is rebutted, the owner shall be liable under the penalty and impoundment clauses as herein provided.

75.10 Hours of Operation

6:00 A.M. to 10:00 P. M.

75.11 Penalties

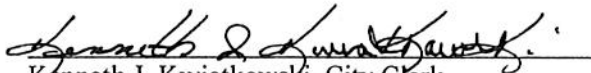
a) A person who violates any provisions of this ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994 amending Public Act 236 of 1961, being Section 600.101-600.9939 of Michigan Compiled Laws and shall be subject to a civil fine of not more than Five Hundred and 00/100 (\$500.00) Dollars.

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.

2. The City Clerk for the City of Cheboygan shall publish a notice of adoption of this amendment to ordinance in the manner required by MCL 117.3(K) and shall at the same time publish the fact that complete copies of the Code as hereby amended are available at the office of the Clerk for inspection by and distribution by purchase to the public from 9:00 AM to 4:00 PM, Mondays through Fridays.
3. Any ordinance or part of ordinances in conflict herewith are subordinate hereto and this ordinance shall be deemed controlling.
4. This Ordinance is effective as of 20 days of the date of passage by the City Council.

CLERK'S CERTIFICATE

Kenneth Kwiatkowski, City Clerk for the City of Cheboygan, does hereby certify that the foregoing amendment to Ordinance was adopted at a regular meeting of the City Council of the City of Cheboygan on the 10 day of November, 2009, and notice thereof was caused to be published in the Cheboygan Daily Tribune on the 13 day of November, 2009; and, also, the fact that complete copies of the Code as hereby amended are available at the Office of the Clerk for inspection by and distribution to the public from 9:00 AM to 4:00 PM, Mondays through Fridays.


Kenneth J. Kwiatkowski, City Clerk