

**Ordinance 123 - 11**

**CODE OF ORDINANCES, VILLAGE OF PORT AUSTIN, MICHIGAN**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off-Road Vehicles (ORVs) on roads in the Village of Port Austin, Huron County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

**THE VILLAGE OF PORT AUSTIN ORDAINS:**

Section 1. As used in this ordinance, the following definitions shall apply:

- (a) “Driver license” means an operator’s or chauffeur’s license or permit issued to an individual by the Secretary of State under chapter III of the Michigan Vehicle Code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- (b) “Operate” means to ride in or on, and be in actual physical control of the operation of an ORV.
- (c) “Operator” means a person who operates or is in actual physical control of the operation of an ORV.
- (d) “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 or vehicle includes, but is not limited to, a multi-track or multi-wheel vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle or other means of transportation deriving motor power from a source other than muscle or wind. 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 Village primary road or Village local road as described in

section 5 of 1951 PA 51, MCL 247.655.

- (f) “Safety Certificate” means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- (g) “Village” means the Village of Port Austin, Huron County, Michigan.
- (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.

Section 2. An ORV may be operated on the far right of the maintained portion of a public road within the Village; however an ORV may **not** be operated on M-53 (Commonly referred to as Van Dyke) or M-25 (Commonly referred to as Port Austin Road).

Section 3. An ORV may not be operated on the road surface, roadway, shoulder, or right-of-way of any state highway in the Village.

Section 4. 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 Village:

- (a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- (b) by a person not less than 14 years of age.
- (c) with the flow of traffic on the far right of the maintained portion of the road.
- (d) in a manner which does not interfere with traffic on the road.
- (e) traveling single file except when overtaking and passing another ORV.
- (f) while displaying a lighted headlight and lighted taillight at all hours.
- (g) while the operator and each passenger is wearing a crash helmet and protective eye wear approved by the United States department of transportation unless the vehicle 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 seat belt.
- (h) unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on a level ground at a speed of 20 miles per hour; a brake light, brighter than the

taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of ½ hour after sunset and ½ 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.

- (i) while the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- (j) pursuant to noise emission standards defined by law.

Section 5. A person less than 18 years of age shall not operate an ORV on a road in the Village unless the person is in possession of a valid driver license or is under the direct visual supervision of a parent or guardian and the person has in his or her immediate possession a Michigan issued ORV safety certificate issued under the authority of another state or a province of Canada.

Section 6. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road or street in the Village if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Section 7. Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Section 8. A court shall order a person who causes damage to the environment, a road, or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 9. The Village Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The Village Council shall appropriate revenue in the ORV Fund as follows:

- (a) Fifty (50%) percent to the Village of Port Austin for repairing damage to roads and the environment that may have been caused by ORVs and for posting sign(s) indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.
- (b) Fifty (50%) percent to the Village of Port Austin Police Department for ORV enforcement and training.

Section 10. This ordinance shall take effect after notice of the adoption is published in a

newspaper of general circulation in the Village. The Clerk of the Village of Port Austin shall engross this ordinance and it shall be signed by the Village President and certified by the Village Clerk.

Effective Date. This ordinance shall become effective 20 days after publication in a newspaper of general circulation with the Village of Port Austin.

Date of Adoption:

Date of Publication:

Effective Date:

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VILLAGE PRESIDENT

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VILLAGE CLERK