

**VILLAGE OF ROTHBURY
OCEANA COUNTY, MICHIGAN
ORDINANCE NO. _____**

THE VILLAGE COUNCIL OF THE VILLAGE OF ROTHBURY HEREBY ORDAINS:

1. Chapter 97 of the Code of Ordinances of the Village of Rothbury, Michigan, concerning Off Road Vehicles is amended to read as follows:

CHAPTER 97: OFF ROAD VEHICLES

An ordinance authorizing and regulating the operation of Off-Road Vehicles ("ORVs") on Village primary and Village local roads within the Village of Rothbury, Oceana County, 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.

§ 97.01 DEFINITIONS.

- (A) "Village" means the Village of Rothbury, Oceana County.
- (B) "County" means Oceana County.
- (C) "Driver's 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.
- (D) "Maintained Portion" means that portion of a road improved, designated 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.
- (F) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- (G) "ORV" means a motor driven off-road recreation vehicle capable of cross-country travel without the 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 all-terrain vehicle, a motorcycle, golf cart 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 motive power from a source other than muscle or wind. ORV 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.

- (H) "Road" means a Village primary road or a Village local road as described in Section 5 of 1951 PA 51, MCL 247.655.
- (I) "Road Commission" means the Board of County Road Commissioners for the County of Oceana.
- (J) "Safety Certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or province of Canada.
- (K) "Visual Supervision" means 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.
- (L) "Village Board" means the Village Council of the Village of Rothbury.

§ 97.02 OPERATION OF ORVs ON VILLAGE ROADS.

An individual may operate an ORV on a road within the Village subject to the following regulations:

1. The ORV shall be operated only with the flow of traffic, on the far right of the maintained portion of the road.
2. An ORV shall not be operated on the road surface, roadway, shoulder, or right of way of US Highway 31 and Business US 31, also known as Michigan Ave, in the Village of Rothbury. An operator may cross Michigan Ave only at a 90-degree angle, adhering to all traffic laws, and yielding to all other road, bicycle, and pedestrian traffic. US Highway 31 may only be crossed using existing highway overpasses and underpasses.
3. 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.
4. ORVs shall travel single file, except when passing or being passed by another ORV.
5. All ORVs operating must have a lighted headlight and taillight.
6. Unless a person possess a valid 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 60 inches wide or has three wheels.

7. A person under the age of 12 shall not operate an ORV on a road.
8. 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 visual supervision of a parent or guardian and such operator has in his possession an ORV Safety Certificate issued by Michigan, another state, or a province of Canada.
9. All operators must, upon demand by a law enforcement officer, present either an ORV Safety Certificate or driver's license.
10. An owner or person in 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.
11. A child less than 16 years of age shall not operate a 3-wheeled ORV.
12. 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.
13. A person shall not operate or ride an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United State Department of Transportation. This section does not apply if 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 safety belt.
14. A person shall not operate an ORV without a braking system.
15. A person shall not operate an ORV during the hours of ½ hour after sunset and ½ hour before sunrise without a working brake light that is brighter than the taillight.
16. All ORVs shall conform to the noise emission levels established by the United States Environmental Protection Agency under the noise control act of 1912, 42 USC 4901 to 4918.
17. No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
18. No person shall operate an ORV with an opened container of alcohol unless it is in a trunk, separate compartment, or is encased or enclosed.
19. The ORV is 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.

20. The ORV is equipped with spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
21. 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.

§ 97.03 NO VILLAGE DUTY TO MAINTAIN VILLAGE ROADS.

Despite the terms of the Ordinance allowing ORVs to use portions of Village Roads, the Village has no duty to, and undertakes no duty to, maintain a Road within its boundaries in a condition reasonably safe and convenient for the operation of ORVs.

§ 97.04 ENFORCEMENT.

A violation of this ordinance is a municipal civil infraction, and a responsible person shall pay a fine of not more than \$500. In addition, a court may order the defendant pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the violation.

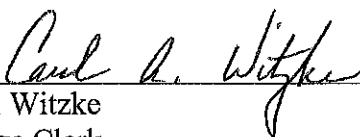
§ 97.05 EVIDENCE.

In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road pursuant to state law was in a collision with an ORV which was not being operated on the far right of the maintained portion of the road as required by this ordinance, the operator of the ORV shall be considered negligent per se.

CERTIFICATE

The undersigned, being the duly qualified Clerk of the Village of Rothbury, Oceana County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Rothbury, at a regular meeting of the Village Council on the __18th__ day of __July_____, 2023 ____, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: July 19, 2023



Carol Witzke
Village Clerk

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**VILLAGE OF ROTHBURY
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on July 18, 2023 the Village Council of the Village of Rothbury adopted Chapter 97 of the Village of Rothbury Code of Ordinances concerning Off-Road Vehicles, summarized as follows:

That Chapter 97 be adopted authorizing and regulating the operation of Off-Road Vehicles (“ORVs”) on Village primary and Village local roads within the Village of Rothbury, Oceana County, 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.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Village Office of the Village Clerk in the Village Office, 7804 S. Michigan Avenue, Rothbury, Michigan, during regular business hours. The full ordinance is also available to view on the Village website at villageofrothbury.org.

This ordinance amendment is effective ten (10) days from the date of this publication.

Published: _____, 202__

VILLAGE OF ROTHBURY

By Carol A. Witzke
Carol Witzke
Village Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE