

**Village of Bellaire
Ordinance #03 of 2012**

An Ordinance pursuant to Act 240 of the Public Acts of 2008 authorizing and regulating the operation of off-road vehicles on streets within the Village of Bellaire, providing penalties for violations thereof, and providing for the distribution of public funds resulting from those penalties.

The Village of Bellaire ordains:

Section 1. Title.

This Ordinance shall be known as the Village of Bellaire ORV Ordinance.

Section 2. Definitions. As used in this Ordinance,

“**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 gasoline engine or an engine using other fuels.

“**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, the Dominion of Canada, or any province or territory of the Dominion of Canada pertaining to the licensing of persons to operate motor vehicles.

“**Far Right of the Maintained Portion of the Roadway**” means the shoulder of the street, but does not include the sidewalk.

“**Official state personal identification card**” means the official identification card issued by the Michigan Secretary of State under Act 222 of the Public Acts of 1972, as amended, or issued under a comparable statute by any state, territory, or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, the Dominion of Canada, or any province or territory of the Dominion of Canada to a person who is not legally blind and who has not currently had his or her driver’s license suspended, revoked, or restricted.

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

“**Operator**” means a person who operates an ORV.

“**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.

“Roadway” means that portion of a street improved, designed, or ordinarily used for vehicular travel.

“Safety Certificate” means a certificate issued pursuant to Section 81129 of Act 451 of the Public Acts of 1994, as amended, being MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

“Shoulder” means that portion of the street 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.

“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” or **“Road”** means the entire width between the boundary lines of a way publically maintained when any part of the way is open to the use of the public for purposes of vehicular travel, except a state road as defined herein.

“State Road” means M-88.

“Village” means the Village of Bellaire.

“Visual Supervision” means the direct observation of the operator of an ORV with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

“Walking Path” means the 8’ to 10’ wide asphalt path, its bridges, boardwalks, and adjacent shoulders that was constructed primarily on former railroad right-of-way. The northern portion of the walking path runs southerly from East Fourth Street and ends at East Broad Street. The southern portion of walking path begins at the south side of the Area Seniors parking lot on the south side of Thayer Lane, continues southerly to the village limits, then continues east along the north side of the Antrim County-owned property in an easement as described in Liber 671, page 686 of the Antrim County Register of Deeds. The north and south portions together are considered the walking path.

Section 3. Prohibited Conduct.

- (a). No person shall operate an ORV on the roadway, shoulder, sidewalk, or any other portion of a state road within the Village.
- (b). No person shall operate an ORV on the village’s walking path.
- (c). No person shall operate an ORV on the former railroad bridge that crosses the Intermediate River.
- (d). Except as permitted under Section 4 of this Ordinance, no person shall operate an ORV on the roadway, shoulder, sidewalk or any other portion of a street within the Village.

Section 4. Permitted ORV Operations.

- (a). A person may operate an ORV on the far right of the maintained portion of the roadway on all streets within the Village except as restricted under Section 3.
- (b). When operating an ORV as authorized under this Ordinance, the operator shall comply with all of the following regulations:
 - (1). The operator shall be a person 12 years of age or older.
 - (2). The operator and each passenger shall wear a crash helmet and protective eyewear approved by the United States Department of Transportation, unless the ORV 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.
 - (3). If the operator is a person 12 years of age or older, but less than 16 years of age, then the operator shall be under the direct visual supervision of a parent or guardian and shall have in his or her immediate possession a safety certificate.
 - (4). If the operator is a person 16 years of age or older, but less than 18 years of age, then the operator shall have in his or her immediate possession a valid driver's license or a valid official state personal identification card and a safety certificate or he or she shall be under the direct visual supervision of a parent or guardian and shall have in his or he immediate possession a safety certificate.
 - (5). If the operator is a person 18 years of age or older, then the operator shall have in his or her immediate possession a valid driver's license or a valid official state personal identification card.
 - (6). If the ORV is a 3-wheeled ATV, then the operator shall be a person 16 years of age or older.
 - (7). If the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels, then the operator shall have in his or her immediate possession a valid driver's license.
 - (8). The ORV shall not be operated at a speed greater than 25 miles per hour or at a speed greater than any posted speed limit.
 - (9). The ORV shall be operated with the flow of traffic on the street.
 - (10). The ORV shall be operated in a manner that does not interfere with traffic on the street.

- (11). All ORVs shall be operated in a single-file formation, except when overtaking and passing another ORV or when being overtaken and passed by another ORV.
- (12). The ORV shall at all times be operated displaying a lighted headlight and lighted taillight.
- (13). The ORV 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.
- (14). The ORV shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. No ORV operated within the village limits shall have the baffles of its muffler removed, destroyed, or damaged, nor shall any ORV operated within the village limits have a muffler cutout, bypass, or similar device.
- (15). The ORV shall be licensed by the Michigan Department of Natural Resources, and the license shall be permanently attached to the vehicle in the manner prescribed and in the location designated by the Michigan Department of Natural Resources in accordance with state law.

Section 5. Penalties.

- (a). A person who violates any provision 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 Sections 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 in subsection (a) above, the court may order a person who causes damage to the environment, a street, or other property as a result of the operation of an ORV, to pay full restitution for that damage.
- (c). The Village Treasurer shall deposit all fines and damages received by the Village from the Courts under Section 5 of this Ordinance into the Public Safety Fund.

Section 6. Enforcement Officers.

Officers of the Bellaire Police Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 7. Validity.

If any section, provision, or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 8. Effective Date.

This Ordinance shall become effective twenty (20) days after its enactment.

VILLAGE OF BELLAIRE

By: _____
David L. Schulz, President

By: _____
Janet Koch, Clerk