

ORDINANCE NO. 833

AN ORDINANCE AMENDING CHAPTER 54 OF THE ORDINANCES OF THE CITY OF ALMA, AMENDING THE PREVIOUSLY ENACTED ORV ORDINANCE REGULATING THE OPERATION OF OFF ROAD VEHICLES (ORVS) ON CERTAIN STREETS WITHIN THE CITY OF ALMA, FOR THE PURPOSE OF PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF PUBLIC FUNDS RESULTING FROM THOSE PENALTIES PURSUANT TO CURRENT STATE STATUTES

The City of Alma Ordains:

Chapter 54, Article VII is amended to read as follows:

Article VII. Off Road Vehicles

Sec. 54-224: As used in this ordinance, the following definitions shall apply:

“*City*” means City of Alma.

“*Driver’s license*” means an operator’s or chauffeur’s license, or permit issued to an individual by the Secretary of State under the applicable provisions of the Michigan Vehicle Code, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

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

“*Operator*” means a person who operates or is in actual physical control of the operation of an ORV.

“*ORV*” or, unless the context implies a different meaning, “vehicle” means a motor-driven off-road recreation vehicle, not including a golf cart, 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 multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, 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.

“*Commission*” means the city commission for the City of Alma.

“*Safety Certificate*” means an ORV Safety Certificate issued pursuant to 1994 PA 451 as amended, or a comparable ORV Safety Certificate issued under the authority of another state or a province of Canada.

“*Street*” means a city major street, road or alley or city local street, alley or road as described in Section 9 of 1951 PA 51, MCL 247.659.

“*Visual supervision*” means the direct observation of the operator with the unaided or normally corrected eye, by an observer who is able to come to the immediate aid of the operator.

“*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.

Sec. 54-225: [Street Closure]

The city commission, by resolution and at its discretion, may close any city street to operation of an ORV, to protect the environment, or if the operation of ORVs pose a particular and demonstrable threat to public safety.

Sec. 54-226: [Areas prohibited for ORV operation]

- a) An ORV shall not be operated on any state trunkline or business loop (US-127) right-of-way. The operator of a vehicle may cross a public highway or designated street other than a limited access highway, at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway and shall yield the right-of-way to oncoming traffic.
- b) An ORV shall not be operated on the Fred Meijer Heartland Trail.
- c) An ORV shall not be operated on the Alma River Walk.
- d) An ORV shall not be operated in any public park; provided, however, that nothing contained herein shall prohibit the parking of an ORV in any designated parking area within or adjacent to any public park.
- e) An ORV shall not be operated in Riverside Cemetery.

Sec. 54-227: [Seat requirement]

An ORV cannot be operated anywhere while transporting a passenger without a seat as designed by the manufacturer.

Sec. 54-228: [Conditions for operation]

Except as set forth herein or otherwise provided by law, an ORV, meeting all of the following conditions, may be operated on a Street in the city May 1 - October 31 from 6:00 a.m. - 10:00 p.m., and November 1 - April 30 from 8:00 a.m. - 5:00 p.m.:

- 1) With the flow of traffic, on the far right of the maintained portion of a Street within the city.
- 2) At a reasonable and proper speed of no more than 25 miles per hour or a lower posted speed limit.
- 3) By a person at least 18 years of age, unless the person is in possession of a valid driver's license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV Safety Certificate issued pursuant to Michigan statutes, or a comparable ORV Safety Certificate issued under the authority of another state or province of Canada. A person under 12 years of age shall not operate an ORV as authorized pursuant to this section. The requirements of this subsection are in addition to any applicable requirements contained within state law.
- 4) With the flow of traffic.
- 5) In a manner which does not interfere with traffic on the road or Street.
- 6) While traveling single file except when overtaking or passing another ORV.
- 7) While displaying a lighted headlight and a lighted taillight at all times.
- 8) When the person and any passenger in or on the vehicle is wearing on his or her head, a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet, and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

- 9) 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.
- 10) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- 11) When equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour, and a brake light brighter than a tail-light, visible when the brake is activated to the rear of the vehicle.
- 12) Pursuant to noise and emission standards defined by law.
- 13) While displaying proper and current registration (ORV license/sticker).

Sec. 54-229: [Collision with ORV on roadway]

In a court action in this state where competent evidence demonstrates that a vehicle is permitted to be operated on a roadway pursuant to the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent.

Sec. 54-230: [Driver possession of valid license of identification]

An ORV operator, 16 years and older, shall have in their immediate possession a valid driver's license or a valid official state personal identification card.

Sec. 54-231: [Requirements to operate on a street in the city]

Unless a person possesses a valid driver's license, a person shall not operate an ORV on a Street in the City if the ORV is registered as a motor vehicle and is either more than 65 inches wide or has three wheels.

Sec. 54-232: [Violation; fine]

Any person who violates this article is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00 together with the cost of any damage done to the environment, street, county road or highway or public property as a result of the violation.

Sec. 54-233: [Damages caused by ORV]

A court may order a person who causes damages 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.

Sec. 54-234: [ORV fund]

The City Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The City of Alma city commission shall appropriate revenue in the ORV Fund as follows:

- 1) Fifty percent to the City DPW for repairing damage to roads and environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.
- 2) Fifty percent to the City Police Department for ORV enforcement and training.

Sec. 54-235: [Effect of article]

This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of and Ordinance, Resolution, Order or parts thereof, hereby repealed, and this Ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the city, or other person, either civil or criminal, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order or policy, or any part thereof, hereby repealed.

Sec. 2. Separability. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Sec. 3. Ordinances Repealed. All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

Sec.4. Effective Date. This ordinance shall take effect and be in force 30 days from and after its enactment as provided by the City Charter.

Passed and approved by the City commission of the City of Alma, Michigan, in regular session, held _____, 2022.

We, the undersigned, Mayor and Clerk of the City of Alma, Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 833 of the City of Alma, Michigan, was introduced at a regular meeting of the City commission, held on September 13, 2022, and was thereafter passed during a regular meeting on _____, 2022, at least two weeks elapsing between the introduction and the enactment.

Dated at Alma, Michigan, this ____ day of _____, 2022.

Greg Mapes Mayor

Sara Anderson Clerk