

VILLAGE OF CASS CITY
6506 Main Street, Cass City, Michigan 48726 (989) 872-2911

PROPOSED ORDINANCE NO. 188

AN ORDINANCE TO AMEND VILLAGE OF CASS CITY MUNICIPAL CODE

**CHAPTER 38, TRAFFIC AND VEHICLES,
ARTICLE IV (4), OFF ROAD VEHICLES (ORV)**

for the purpose of authorizing and regulating the operation of Off-Road Vehicles
on the streets in the Village of Cass City
and for the purpose of providing penalties for the violation

THE VILLAGE OF CASS CITY HEREBY ORDAINS:

Chapter 38: TRAFFIC AND VEHICLES

ARTICLE IV (4): OFF-ROAD VEHICLES (ORVs)

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

- A. **“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.
- B. **“Far Right of the Maintained portion of the road”** means the shoulder of the portion of the road improved, designated, or ordinarily used for vehicular traffic and does not include within its meaning the shoulder or right-of-way.
- C. **“Operate”** means to ride in or on, and to be in actual physical control of the operation of an Off-Road Vehicle.
- D. **“Operator”** means a person who operates or is in actual physical control of the operation of an Off-Road Vehicle.
- E. **“Off-Road Vehicle”** 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. Off-Road Vehicles include, but are not limited to, a multi-track or multi-wheeled drive vehicle, an ATV, a motorcycle or related two-

wheel, three-wheel, or four-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. Off-Road 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.

- F. **“Road”** means a county primary road or county local road as described in Section 5 of 1951 PA 1951, MCL 247.655.
- G. **“Road Commission”** means the Board of County Road Commissioners for the County of Tuscola.
- H. **“Safety certificate”** means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or comparable Off-Road Vehicle safety certificate issued under the authority of another state or a province of Canada.
- I. **“Street”** means a city or village major street, or village local street as described in Section 9 of 1951 PA 1951, MCL 247.659.
- J. **“Sunrise”** and **“Sunset”** mean that time determined by the National Weather Service on any given day.
- K. **“Village”** means the Village of Cass City.

Section 2: An Off-Road Vehicle may be operated on the far right of the maintained portion of a road or street within the Village with these exceptions:

- A. In the event that either the Road Commission has closed or in the event the Village has adopted an ordinance or resolution that closed certain roads to Off-Road Vehicle pursuant to MCL 324.81131(4), operation otherwise permitted under this ordinance shall not be considered authorized with respect to such closed road(s).
- B. This ordinance does not authorize the operation of an off-road vehicle on a road, street, or highway which is under jurisdiction of a government entity other than the Village.

Section 3: An Off-Road Vehicle shall not be operated on the road surface, roadway, shoulder, or right-of-way of any State or Federal highway, including but not limited to M-81, or any other State or Federal highway in the Village.

- A. The Off-Road Vehicle shall not be operated on a road or street in a negligent manner, endangering any person or property, or obstructing, hindering, or impeding the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks.
- B. The Off-Road Vehicle shall not be operated on any sidewalks, paths, trails, walkways, or parks.
- C. The Off-Road Vehicle shall not be operated on private property without the property owner's permission.

Section 4: Except as set forth herein or otherwise provided by law, an Off-Road Vehicle meeting all of the following conditions may be operated on a street in the Village:

- A. At a speed of no more than twenty-five (25) miles per hour or a lower posted Off-Road Vehicle speed limit.
- B. By a person not less than sixteen (16) years of age.
- C. With the flow of traffic and traveling single file, except when overtaking or passing another Off-Road Vehicle.
- D. In a manner which does not interfere with traffic on the road or street.
- E. Between one-half hour after sunrise and one-half hour before sunset.
- F. When visibility is not substantially reduced due to weather conditions, unless displaying a lighted headlight and lighted taillight.
- G. While displaying a lighted headlight and lighted taillight at all hours.
- H. While the operator and each passenger is wearing a crash helmet and protective eyewear 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.
- I. With a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

J. While the Off-Road Vehicle is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

K. Pursuant to noise emission standards defined by law.

Section 5: A person less than sixteen (16) years of age shall not operate an Off-Road Vehicle on a road or street in the Village unless the person is in possession of a valid driver's license.

Section 6: Unless a person possesses a valid driver's license, a person shall not operate an Off-Road Vehicle on a street in the Village if the Off-Road Vehicle is registered as a motor vehicle and is either more than sixty (60) inches wide or has three wheels.

Section 7: The Village is immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation of use of an Off-Road Vehicle on maintained or un-maintained streets, shoulders, and rights-of-way over which the Village has jurisdiction.

Section 8: In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a street pursuant to the code was in a collision with an Off-Road Vehicle required to be operated on the far right of the maintained portion of a road or street pursuant to this ordinance, the operator of the Off-Road Vehicle shall be considered prima facie negligent.

Section 9: 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 one hundred dollars (\$100.00).

Section 10: In addition to the penalties under Section 9 of this ordinance, a court may order a person who causes damage to the environment, a street, or other property as a result of the operation of an Off-Road Vehicle to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 11: The operation of an Off-Road Vehicle must be in compliance with the Village of Cass City Noise Ordinance No. 167, Article IX, "Unnecessary Noise."

Section 12: Should a portion of this ordinance be found invalid for any reason; such holding shall not be construed as affecting the validity of the remaining portions of this ordinance.

Section 13: This ordinance shall take effect thirty (30) days from and after approval and publication in a newspaper of general circulation, by the Village of Cass City.

At a Regular Meeting of the Village of Cass City Council on the _____ day of _____, 2020,

A MOTION TO ADOPT VILLAGE OF CASS CITY, MI PROPOSED ORDINANCE #188, "AN ORDINANCE TO AMEND VILLAGE OF CASS CITY MUNICIPAL CODE CHAPTER 38, TRAFFIC AND VEHICLES, ARTICLE IV (4) TO BE AMENDED TO READ "OFF ROAD VEHICLE (ORV) ORDINANCE,

Was offered by Trustee _____ and supported by Trustee _____

Ayes: Nays:

Resolution: Approved / Not Approved

President, Village of Cass City

Clerk/Treasurer, Village of Cass City

CERTIFICATION

I, _____, Clerk of the Village of Cass City, do hereby certify that this is a true and correct copy of the ordinance duly adopted by the Village of Cass City on the _____ day of _____, 2020.

Village Clerk