

**CITY COUNCIL
CITY OF WHITE CLOUD
Newaygo County, Michigan**

Council member Tiernan, supported by Council member Dault, moved the adoption of the following Ordinance:

**CITY OF WHITE CLOUD
ORDINANCE NO. 2012-15**

**AN ORDINANCE FOR THE ADDITION OF CHAPTER 73, TO TITLE VII
TRAFFIC CODE OF THE CODE OF ORDINANCES OF THE CITY OF
WHITE CLOUD, MICHIGAN, REGARDING OFF ROAD VEHICLES (ORV).**

THE CITY OF WHITE CLOUD ORDAINS:

Article 1. **Addition.** Chapter 73, TITLE VII Traffic Code, Section 73.01 -73.10 , of the Code of Ordinances of the City of White Cloud, Michigan is hereby added as follows:

Sec. 73-01. Definitions.

- A. "City" means the City of White Cloud.
- B. "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
- C. Law Enforcement officer means any city police officer, any deputy sheriff, the county Sheriff, the Chief of Police or any other city enforcement officer
- D. "Operate" means to ride in or on and be in actual physical control of the operation of an ORV.
- E. "Operator" means a person who operates or is in actual physical control of the operation of an ORV
- F. "ORV" means a motor driven off street recreation vehicle capable of cross country travel without benefit of a street 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 drive vehicle, an ATV, golf cart, a motorcycle or related 2-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 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.
- G. "Street" means a City street, street, right-of-way, roadway, alley, public parking lot or any parking lot or any other area that is generally accessible to the public.

Section 73.02. Allowable ORV Operation Locations.

An ORV may be operated on the far right of the maintained portion of designated streets within the City, along or upon the gravel shoulder wherever possible. If a gravel shoulder is not available then at the extreme right of the maintained portion of the street/roadway.

In accordance with all other provisions of this ordinance, it shall be lawful to operate an ORV on the following streets only: State Road from the southern city limits to James Street. James Street from State Road to Charles Street (M-37). Pine Hill from the western city limits to Charles Street (M-37). Benson Street from Pine Hill to Wilcox Avenue. Court Street from Benson Street to Charles Street (M-37) this being the same route for snowmobiles into and out of the city limits of White Cloud.

Operation of an ORV on any other street in the City of White Cloud is unlawful.

Section 73.03. Street Restrictions/Speed Limits.

The City Council, City Manager or the Chief of Police may close certain streets in the City to protect the environment or if the operation of ORV's pose a particular and demonstrable threat to public safety. The City Council may reduce the speed limit on any street where ORV's are authorized under this ordinance to 15 miles per hour if the City Council determines that such reduction is reasonable and necessary to public safety and provided such lowered speed limit is posted at reasonable intervals.

Section 73.04. Operation.

An ORV may not be operated on the street surface, street way, shoulder or right-of-way of any State or Federal highway in the City. (M-37 or M-120). An ORV may not be operated between the hours of 10:00 pm and 6:00 am.

Section 73.05 Conditions/Requirements.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on the aforementioned city streets:

- 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 16 years of age and possessing a valid, unrestricted driver's license;
- c) with the flow of traffic;
- d) in a manner which does not interfere with traffic on the street;
- e) traveling single file except when overtaking and passing another ORV;
- f) while displaying a lighted headlight and lighted taillight.
- g) 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. Protective Eyewear must be worn unless a United States Department of Transportation approved windshield is in place upon the vehicle;
- h) 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;

- i) while the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operations;
- j) the ORV must have a current ORV registration sticker/permit affixed in the manner provided by state law;
- k) while being operated upon city streets, ORV's shall at all times yield the right of way to registered motor vehicles, pedestrians and bicycles. ORV's shall be prima facie at fault in any crash upon a roadway or street.
- l) pursuant to noise and emission standards defined by law;
- m) operated in a manner that does not cause damage to the environment, a street or other property; and,
- n) an ORV shall not be operated:
 - 1) Within the City owned parks, natural areas or cemetery properties.
 - 2) On or upon a city sidewalk or non motorized pathway intended for pedestrian or bicycle use only;
 - 3) On private property without written permission from the owner;
 - 4) In any other area closed by a governmental authority;
 - 5) By anyone under the influence of intoxicating liquor or any controlled substance or by anyone whose ability to operate said ORV may be impaired thereby;
 - 6) On or upon any body of water or wetland frozen or otherwise;
 - 7) By anyone transporting thereon a firearm, unless the same is unloaded and securely encased;
 - 8) In any manner that is not in compliance with State of Michigan laws and regulations pertaining to off-road vehicles;
 - 9) With any passenger unless the ORV is specifically designed to carry passengers;

Section 73.06. Noise.

ORV operation will be treated the same as other motor vehicles and be subject to the noise, smoke and emission provisions of the Michigan Motor Vehicle Code 257.707, 257.707a, 257.707b, 257.707c and 257.707d.

Section 3.07. Impoundment of ORV's

A law enforcement officer may impound any ORV used or operated in violation of any provisions of this ordinance for a period not-to-exceed thirty (30) days, and the owner or operator of the ORV shall be responsible for all costs involved in the storage and/or removal of the impounded ORV. If the operator of the impounded ORV is not the owner the law enforcement officer shall notify the owner of such impoundment by telephone, letter or personal contact as soon as practical, but within 48 hours unless extenuating circumstances prevent contact within that time frame. All ORV's not reclaimed by the owner within the time frames set by law shall be disposed of in accordance with 257.252a-g.

Section 73.08. Violations.

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 \$200 per offense. A City Police Officer, a County Sheriff Deputy or the County Sheriff and any enforcement officer for the City of White Cloud may enforce this ordinance. If an enforcement officer determines that there is probable cause that this ordinance has been violated, the officer is authorized to issue and serve municipal civil

infraction notice upon a person or entity violating this ordinance. The citation may be paid at the 78th District of Newaygo County pursuant to White Cloud Ordinance 2008-06 (Section 6 Civil Infraction Enforcement Procedures g, I – Municipal Civil Infractions).

Section 73.09. Restitution.

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 ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 73.10. Law Enforcement Exempted.

Any law enforcement officer while enforcing provisions of this ordinance, are exempt from the provisions thereof.

Article 2. Effective Date. This ordinance and any amendments thereto shall become effective upon approval by the City Council and after proper notice and publication as required by law.

YEAS: Council members: Tiernan, Dault, Dix, Miller, Becker and Barnhard

NAYS: Council members: None

ABSENT: Council members: None

ABSTAIN: Council members: None

Ordinance No. 2012 - 15 declared adopted.

Introduced: August 6, 2012
Adopted: August 20, 2012
Published: August 29, 2012
Effective: August 29, 2012

Lora Kalkofen, City Clerk

CERTIFICATION

I, Lora Kalkofen, hereby certify the foregoing to be a true copy of an Ordinance adopted at a regular meeting of the City Council of the City of White Cloud on August 20, 2012, held pursuant to the required statutory procedures and notice.

Lora Kalkofen, City Clerk