

AN ORDINANCE TO AMEND THE BROWN CITY CODE BY ADDING A NEW SECTION WHICH SHALL BE KNOWN AS SECTION 72 OF TITLE VII TRAFFIC CODE OF SAID CODE.

THE CITY OF BROWN CITY ORDAINS:

Section 72.00: AN ORDINANCE ADOPTED FOR THE PURPOSE OF AUTHORIZING AND REGULATING THE OPERATION OF OFF ROAD VEHICLES (ORVs) AND ALL-TERRAIN VEHICLES (ATVs) ON CERTAIN STREETS WITHIN THE CITY OF BROWN CITY, FOR THE PURPOSE OF PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF PUBLIC FUNDS RESULTING FROM THOSE PENALTIES PURSUANT TO 2008 PA 240, MCL 324.81131.

Section 72.01 Definitions:

- a) "City" means City of Brown City.
- 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) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV. [MCL 324.81101 (m)]
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV. [MCL 324.81101 (n)]
- e) "ORV", "ATV" or "vehicle" means a motor-driven off-road recreation vehicle or all-terrain 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, ATV or vehicle includes, but is not limited to, a golf cart, a multi-track or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, 4-wheel, or 6-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, ATV 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. [MCL 324.81101 (o)]

- f) "City Council" means the City Council for the City of Brown City, Michigan.
- g) "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 a province of Canada.
- h) "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.
- i) "Visual supervision" means the 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. [MCL 324.81101 (w)]
- j) "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.

Section 72.02: The City Council, by resolution and at its discretion, may close any City street to protect the environment, or if the operation of ORVs, ATVs or vehicles pose a particular and demonstrable threat to public safety.

Section 72.03: ORV/ATV Operations:

- a) An ORV/ATV shall not be operated on any state trunkline (M-90) right-of -way. [MCL 324.81131 (15) (d); (e)] The operator of a vehicle may cross a public highway or designated street (see 5a below), 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. [MCL 324.81122- (a)]
- b) An ORV/ATV shall not be operated in any public park except on the existing roads; 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.
- c) An ORV/ATV shall not be operated in Evergreen Cemetery except on the existing roads; provided, however, that nothing contained herein shall prohibit the parking of an ORV in any designated parking area within or adjacent to the cemetery.

Section 72.04: An ORV/ATV cannot be operated anywhere while transporting a passenger without a seat as designed by the manufacturer.

Section 72.05: Except as set forth herein or otherwise provided by law, an ORV/ATV, 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.:

- a) On the far right of the maintained portion of a Street within the City [MCL 324.81131 (6)], [324.81133 (l)]
- b) At a reasonable and proper speed of no more than 25 miles per hour or a lower posted speed limit. [MCL 324.81131 (6)], [MCL 324.81133 (a)]
- c) By a person not less than 16 years of age.
- d) With the flow of traffic. [MCL 324.81131 (6)]
- e) In a manner which does not interfere with traffic on the road or Street. [MCL 324.81131 (6)]
- f) While traveling single file except when overtaking or passing another ORV. [MCL 324.81131 (6)]
- g) While displaying a lighted headlight and a lighted taillight at all times. [MCL 324.81131 (8)]
- h) 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. [MCL 324.81133 (b)]
- i) 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. [MCL 324.81133 (d)]
- j) While the ORV/ATV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation. [MCL 324.81133 (g)]
- k) 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. [MCL 324.81133 (g)]

- l) Pursuant to noise and emission standards defined by law. [MCL 324.81133 (g)]
- m) While displaying proper and current registration (ORV license/sticker). [324.81122 (1a)]

Section 72.06: 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/ATV on a roadway, the driver of the ORV/ATV involved in the collision shall be considered prima facie negligent. [MCL 324.81131 (12)]

Section 72.07: A person less than 18 years of age shall not operate an ORV on a Street in the City unless the person is in immediate possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession a Michigan issued ORVS Safety Certificate or a comparable ORV Safety Certificate issued under the authority of another state or a province of Canada. [MCL 324.81131(9)]

Section 72.08: An ORV/ATV operator, 18 years and older, shall have in their immediate possession a valid driver's license or a valid official state personal identification card.

Section 72.09: Unless a person possesses a valid driver's license, a person shall not operate an ORV/ATV on a Street in the City if the ORV/ATV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels. [MCL 324.81131 (6)]

Section 72.10: 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 \$500.00. [MCL 324.81131 (6)]

Section 72.11: 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/ATV to pay full restitution for that damage above and beyond the penalties paid for civil fines. [MCL 324.81131 (13)]

Section 72.12: 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 Council shall appropriate revenue in the ORV Fund as follows: [MCL 324.81131 (18)]

- a) 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.
- b) Fifty percent to the City Police Department for ORV enforcement and training.

Section 72.13: This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of an 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.

Section 72.14: Severability: If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 72.15: Ordinances Repealed: All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 72.16: Effective Date Of Ordinance: This ordinance shall take effect and be in force 30 days from and after its enactment as provided by the City Charter.

INTRODUCTION:

Ordinance Section 72 was introduced by Councilmember _____ on _____, 202X, during a Regular Meeting of the City Council. The Public Hearing thereon was held on _____, 202X.

MOTION AND VOTE:

Motion by Councilmember _____, seconded by Councilmember _____, to adopt Ordinance Section 72.00: An ordinance adopted for the purpose of authorizing and regulating the operation of off road vehicles (ORVs) and all-terrain vehicles (ATVs) on certain streets within the City of Brown City, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

Roll Call vote on this Ordinance, ____ () members being present, was as follows:

CM Biel-____, CM Jacobson-____, CM Lee-____, CM McIvor-____, CM Navock-____, CM Robison-____.

Yeas: _____

Nays: _____

Abstaining: _____

Absent: _____

CERTIFICATION:

I hereby certify that the foregoing constitutes a true and complete copy of Brown City Code Section 72, adopted as an Ordinance by the Brown City Council at a Regular Meeting of the City Council held at the City Hall on the ____ day of _____, 202X.

I do hereby further certify that the said Brown City Code Section 72 was published as required by the Brown City Charter in *The Banner*, a newspaper published and circulated in the City of Brown City, County of Sanilac, Michigan, on the ____ day of _____, 202X.

Witness my official signature this ____ day of _____, 202X.

Rhonda Johnson
City Clerk