

VILLAGE OF ELLSWORTH
Ordinance No. 20 of 2011

AN ORDINANCE PURSUANT TO ACT 3 OF THE PUBLIC ACTS OF 1895, AS AMENDED, TO REGULATE ACTIVITIES ON THE RECREATION TRAIL WITHIN THE VILLAGE AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE VILLAGE OF ELLSWORTH ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Village of Ellsworth Recreation Trail Ordinance.

Section 2. Definitions. As used in this Ordinance,

- (a) "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 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.
- (b) "Electric Personal Assistive Mobility Device" means a self-balancing nontandem 2-wheeled device, designed to transport only 1 person at a time, having an electrical propulsion system with average power of 750 watts or 1 horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.
- (c) "Motor Vehicle" means every vehicle which is self-propelled. Motor vehicle, however, does not include an ATV, electric personal assistive mobility device, ORV and snowmobile.
- (d) "Operate" means being in actual physical control of a vehicle regardless of whether or not the person is licensed as an operator or chauffeur under the Michigan vehicle code, being Act No. 300 of the Public Acts of 1949, as amended.
- (e) "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 multitrack or multiwheel 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.
- (f) "Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- (g) "Recreation Trail" means the abandoned railroad corridor traveling generally north-south within the Village of Ellsworth which has a north terminus at the north village limits and a south terminus at Center Street.
- (h) "Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any

combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, being Act No. 300 of the Public Acts of 1949.

- (i) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power.

Section 3. Regulations.

No person shall do any of the following on the recreation trail:

- (a) Operate a motor vehicle, as defined in this Ordinance, except as authorized under Section 4 of this Ordinance.
- (b) Cause or create any obstruction, hindrance, or impediment in the normal movement or use of the recreation trail.
- (c) Construct or maintain any fence, wire, or other barrier that obstructs, hinders or impedes movement on the recreation trail.
- (c) Cause littering on the recreation trail or on adjoining property.
- (d) Permit or engage in activities that result in trespassing on adjoining property.
- (e) Unreasonably interfere with the use and enjoyment of the recreation trail by other persons.
- (f) Create, permit, or engage in any activity that results in the temporary or permanent defacing or damage to the surface of the recreation trail, including but not limited to, any writing, graffiti, or other defacement of the recreation trail surface.
- (g) Permit a dog on the recreation trail, unless the dog is on a leash no more than six (6) feet in length and the dog is at all times under the immediate control of the person bringing the dog onto the recreation trail. The person bringing the dog onto the recreation trail shall also be responsible for removing from the recreation trail and properly disposing of all dog feces deposited by his or her dog.

Section 4. Operation of Authorized Motor Vehicles on Bicycle Path.

Motor vehicles may be operated on the bicycle path under the following circumstances:

- (a) The motor vehicle is being operated by a police officer in the discharge of his or her official duties.
- (b) The motor vehicle is being operated by a member of an organized fire department or emergency services organization in the discharge of his or her official duties.

- (c) The motor vehicle is being operated by a person performing maintenance on the recreation trail as authorized by the Ellsworth Village Council, or its designated representative.
- (d) The motor vehicle is an electric powered scooter, wheelchair, or other electric powered personal mobility device being operated by a person with a disability who needs such device to reasonably accommodate his or her disability.

Section 5. Posting of Regulations on Recreation Trail.

The Village Council shall designate a village official to post and maintain a sign of the regulations contained in this Ordinance near each principal entrance to the recreation trail.

Section 6. Violations and Penalties.

- (a) Any person who violates Section 3(a) of this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine of up to Five Hundred and 00/100 Dollars (\$500.00), by imprisonment in the county jail for not more than ninety (90) days, or by both.
- (b) Any person who violates any provision of this Ordinance other than Section 3(a) 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 the following fines:
 - (1) For a first offense, the offender shall pay a fine of One Hundred and 00/100 Dollars (\$100.00).
 - (2) For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 Dollars (\$250.00).
 - (3) For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 Dollars (\$500.00).
- (c) Each day this Ordinance is violated shall be considered a separate violation.

Section 7. Enforcement Officials.

The Village Ordinance Enforcement Officer and Village Police Officers are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. Nuisance Per Se

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 9. Separate Court Action

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village Council may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 10. Validity.

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

Section 11. Effective Date.

This Ordinance shall become effective twenty (20) days after its enactment, or after the posting of the signs required under Section 5 of this Ordinance, whichever is later.

VILLAGE OF ELLSWORTH

By: _____
Hugh Campbell, President

By: _____
Hellen Allen, Clerk