



## CITY OF DOVER PROPOSED ORDINANCE #2024-23

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 106 – Traffic and Vehicles, Article 1 – In General, Section 106-14. Off-road motor vehicle regulations be amended by inserting the text indicated in bold, blue, italics and deleting the text indicated in red strikeout as follows:

**Sec. 106-14. Off-road motor vehicle regulation**

- (a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Off-road vehicle, **or ORV, is interchangeable with the 21 Del. C. term of “Off-Highway Vehicle”, or OHV, and** means any motor vehicle or other motorized vehicle not licensed to travel on the public roads of the state or permitted to travel on the public roads of the state. **It also means a motor driven off-road 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. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related 2-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, including dirt bikes and all-terrain vehicles. ORV does not include a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law-enforcement purposes, a construction or logging vehicle used in performance of its common function, electric personal assistive mobility device or a registered aircraft. However, nothing in this section shall be construed to include snowmobiles or electric bikes, scooters, etc., incapable of speeds exceeding 20 mph.**

**Victim Services means the support of victims and/or survivors of crime, fire, or serious traumatic injuries of any mechanism occurring within the city limits.**

- ~~(b) Regulations. All off road motor vehicles shall comply with the following regulations:~~

~~(1) City License. The operator must obtain a license from the city in order to operate the vehicle within the corporate limits of the city, which license shall be issued according to regulations adopted by the city regarding the amount of the fee, display of the license, proof of insurance coverage, etc.~~

~~(2) Muffler. The vehicle must have a muffler system which limits engine noises to state noise violation standards.~~

~~(3) Place of operation; approval. The operator must have in his possession written approval of the owner of the property upon which he operates the vehicle, or he must operate the vehicle on a site that is licensed and designated for such purpose.~~

~~(e) — Violations. If any person witnesses a violation of subsection (b)(1), (b)(2), or (b)(3) of this section by a person on or in a motor vehicle and the identity of the offender is not otherwise apparent, there shall be a rebuttable presumption that the person in whose name such motor vehicle is registered committed such a violation.~~

~~(d) — Penalties. Anyone violating any provision of this section shall be fined as provided for in Appendix F Fees and Fines. Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.~~

#### **(b) Ownership, Control, or Possession**

**(1) A person may own and/or control and/or possess an ORV so long as they adhere to all of the owner and/or operator provisions of 21 Del. C. § 6801 through § 6813, § 6825, § 6827, and § 6830 in publication at the time of the adoption of this Section, and any future revisions by the Delaware General Assembly regarding owner or operator responsibilities; and,**

**(2) A person may own and/or control and/or possess an ORV in the City so long as the vehicle is securely locked or otherwise immobilized by a wheel clamp or other object, device, method, or mechanism, whether attached to the vehicle or not, that:**

- i. prevents the vehicle from being freely moved; and**
- ii. cannot be removed or deactivated without the assistance of the vehicle's owner.**

#### **(c) Use, Driving or riding vehicle**

**(1) A person may use and/or drive and/or ride an ORV, on private property only, so long as they adhere to all of the owner and/or operator provisions of 21 Del. C. § 6814(a), § 6821(a), and § 6823 in publication at the time of the adoption of this Section, and any future revisions by the Delaware General Assembly regarding owner or operator responsibilities; and,**

**(2) A person may use and/or drive and/or ride an ORV so long as they adhere to all of the owner and/or operator restrictions of 21 Del. C. § 6815 through § 6820, § 6822 and § 6824 in publication at the time of the adoption of this Section, and any future revisions by the Delaware General Assembly regarding owner or operator responsibilities; and,**

- 82 (3) No person may use and/or drive and/or ride an ORV, on public property  
83 anywhere in the City. The provisions of 21 Del. C. § 6814(a) (1) do not apply to  
84 the movement of an ORV from one private property to another. The provisions  
85 of 21 Del. C. § 6814(a) (2) will apply to any public event with an approved City  
86 permit.
- 87 (4) City license. The owner of a private property must obtain a license from the city  
88 in order to operate, or allow the operation, of ORV's on said private property  
89 within the corporate limits of the city, which license shall be issued according to  
90 regulations adopted by the city regarding the amount of the fee, display of the  
91 license, proof of insurance coverage, etc.
- 92 (5) Muffler. Any ORV operated under the umbrella of a city license must have a  
93 muffler system which limits engine noises to state noise violation standards.

94  
95 (d) Penalties.

- 96  
97 (1) Civil Penalty. Any person who violates any part of sub-sections (b) or (c) (4) or (c)  
98 (5) is subject to a civil fine of five hundred dollars (\$500) for the first offense and  
99 one thousand dollars (\$1,000) for every additional offense.
- 100 (2) Civil Penalty. Any person who violates any part of sub-sections (c) (1), (c) (2) or  
101 (c) (3) is subject to a civil fine of two thousand dollars (\$2,000) for the first offense  
102 and an additional one thousand dollars (\$1,000) for every additional offense  
103 documented prior to the identification of the offender and seizure of the  
104 unlawfully driven ORV. After an adjudication favorable to the City of the first  
105 recorded case, any person who violates any provision of these sub-sections, and  
106 charged a second or subsequent time, is subject to a civil fine of four thousand  
107 dollars (\$4,000) for the first offense and an additional two thousand dollars  
108 (\$2,000) for every additional offense
- 109 i. Any owner to whom a penalty is issued may, within forty-eight (48)  
110 hours of being fined, agree to forfeit the vehicle in lieu of contesting  
111 the violation and in lieu of any other fines or penalties.
- 112 ii. It should be considered a mitigating factor during judicial  
113 proceedings if an individual charged under this Section, and who  
114 has contested such charge, can provide proof that, after the time of  
115 a violation, the vehicle in question has since been properly  
116 registered and an appropriate immobilization device and  
117 transportation mechanism have been secured in order to ensure  
118 future compliance with this Section.
- 119
- 120 (3) Confiscate. In addition to any civil fines a police officer may issue pursuant to this  
121 section, whenever a police officer has probable cause to believe that an ORV is  
122 being used in violation of this section and either the ORV is not registered or the  
123 ORV does not bear a valid registration decal pursuant to state law, the officer may  
124 confiscate the ORV, either on view or upon execution of a lawfully obtained search

warrant, whereupon the Police Department shall comply with the remaining provisions of this chapter.

- (4) Disposition. Any confiscated or forfeited ORV will be disposed of by a city-approved vendor at auction. Revenues returned from the disposed ORVs will be directed to a special City account and can only be used for purposes related to victim services. A standing committee that includes the Mayor, the President of Council, the Emergency Management Coordinator, the Fire Chief and the Police Chief will inform the City Manager of authorized expenditures from the fund.

(Code 1981, § 13-15; Ord. of 9-13-1982, § 2; Ord. of 9-22-2003; Ord. No. 2009-09, 6-22-2009)

ADOPTED: \*

### SYNOPSIS

This Ordinance amends Chapter 106 of the Dover Code to add to the definition of Off-road vehicle (ORV), adopting language included in Title 21 of the Delaware State Code pertaining to such motor-driven vehicles. This ordinance forbids the operation of Off-road vehicles within Dover with the only exceptions being authorized persons, in complete compliance with owner/operator provisions of the Delaware Code Title 21, Chapter 68. This ordinance also requires that off-road vehicles possessed or stored within Dover be locked or otherwise immobilized when not being used in accordance with state law. The intent of this ordinance is to prevent Off-road vehicles from being operated on the streets of Dover in violation of State law and jeopardizing public safety.

(SPONSORS: ANDERSON, PILLSBURY, AND NEIL)

### Action History

07/09/2024 – Scheduled for First Reading – City Council

06/24/2024 – First Reading – City Council

06/11/2024 – Introduction – Council Committee of the Whole/ Legislative, Finance, and Administration Committee