

STATE OF MICHIGAN
COUNTY OF SHIAWASSEE
OFF-ROAD VEHICLES

An ordinance authorizing and regulating the operation of Off-Road Vehicles (ORVs) on roads in Shiawassee County, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, as amended, which is incorporated by reference in its entirety.

THE COUNTY OF SHIAWASSEE ORDAINS:

Sec. 1. Definitions. As used in this ordinance, the following definitions apply:

- (a) "County" means the County of Shiawassee
- (b) "Direct supervision" means the direct visual 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.
- (c) "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, as amended, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- (d) "Maintained portion" means the roadway and any shoulder of the road whether paved or unpaved.
- (e) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- (f) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- (g) "ORV," or "off-road vehicle" means a motor-driven off-road recreation vehicle capable of cross-country travel with 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 multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, or a ground-effect air cushion vehicle, or other means of transportation deriving motive power from other than muscle or wind, including, for the purpose of this Ordinance, a golf cart. ORV does not include a snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned 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 the performance of its common function, or a registered aircraft.
- (h) "Road," means a county primary road or county local road as described in Section 5 of 1951 PA 51, as amended, MCL 247.655.
- (i) "Safety Certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81130, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- (j) "Slow-moving vehicle sign," as used herein, means a securely-attached reflective device that is an equilateral triangle in shape, at least 16 inches wide at the base and at least 14 inches in height, with a dark red border that is at least 1-3/4 inches wide of highly

reflective beaded material, and containing a center triangle with at least 12-1/4 inches on each side of yellow-orange fluorescent material, that is securely mounted on the rear of the vehicle, broad base down, not less than 3 feet nor more than 5 feet above the ground and as near the center of the vehicle as possible.

Sec. 2. Designated Roads.

- (a) An ORV may be operated under this Ordinance on all county primary and county local roads except as otherwise prohibited or limited in this ordinance.
- (b) An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway, including I-69, M-13, M-21, M-52, M-71, the old section of M-78 (Lansing Road) from M-52 to the Clinton County line, or any other State or Federal highway in Shiawassee County.
- (c) An ORV may not be operated on any road surface, roadway, shoulder, or right-of-way within the boundaries of any city or village unless otherwise authorized by ordinances of the respective city or village.
- (d) A person operating an ORV on a designated County Road may cross an excluded road as described in this section, other than a limited access highway, for the sole purpose of continuing travel on the designated County Road. The crossing of the excluded road shall only be performed if the operation can be done safely and only at a right angle. The operator shall bring the vehicle to a complete stop before proceeding across the excluded road and shall yield the right-of-way to any approaching traffic. Such crossing must at all times comport with all federal and state laws and regulations.
- (e) Pursuant to MCL 324.81131(4), and only if necessary to protect the environment or if the operation of ORVs poses a particular and demonstrable threat to public safety, the township board of a township in this County may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORVs otherwise permitted by this ordinance. Likewise, if necessary to protect the environment or if the operation of ORVs poses a particular and demonstrable threat to public safety, the board of county road commissioners may close specific county roads to the operation of ORVs provided, however, that the road commission may not close more than 30% of the linear miles of county roads otherwise authorized for ORVs under this ordinance. Other than crossing a road as described in paragraph (d) of this section, it is a violation of this ordinance to operate an ORV upon any county road that has been closed to the operation of ORVs by a duly-enacted township ordinance or action of the county road commission as described in this subsection.

Sec. 3. Operating Conditions. Except as otherwise set forth in this Ordinance or otherwise provided by law, an ORV may be operated on a designated road in the County under the following conditions:

- (a) At a speed of no more than 25 miles per hour, or a lower posted ORV speed limit.
- (b) During daylight hours only; specifically not later than one-half hour after sunset and not earlier than one-half hour before sunrise.
- (c) With the flow of traffic and only on the shoulder of the road (or the far right of the road surface where there is no shoulder), in a manner that does not interfere with traffic on the road.
- (d) Traveling single file, except when overtaking and passing another ORV and with yielding the right of way to all roadway traffic.

- (e) While displaying a securely attached white-lighted headlight and red-lighted taillight, except that golf carts without such lights need only be marked by a slow-moving vehicle sign as described in subsection 1(j) of this ordinance.
- (f) 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.
- (g) 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.
- (h) When equipped with at least one mirror securely mounted and positioned on the ORV in such a manner to be able to clearly view traffic approaching from behind.
- (i) While the ORV, if powered by an internal combustion engine, is equipped with a spark arrester type U.S. Forest Service approved muffler in good working order and in constant operation so as to meet all applicable noise emission standards and regulations.
- (j) ORVs operated under on county roads under this this ordinance must comply with all federal and state ORV regulations with regard to any prescribed equipment or registration requirements as may be applicable to the vehicle being operated.
- (k) Each operator and passenger of an ORV other than a golf cart must wear a crash helmet approved by the U.S. Department of Transportation unless the vehicle is equipped with a roll-bar or other such 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. For golf carts under this ordinance, this provision does not apply to operators and passengers who are 18 years of age or older unless otherwise required by another law or ordinance.
- (l) An ORV shall not be operated in a careless or negligent manner likely to endanger any person or damage any property, including in a manner likely to damage the surface or shoulder of the roadway. Prohibited operation includes but is not limited to actions such as "fishtailing" or spinning of tires that disperses gravel or creates ruts or other damage.

Sec. 4. License; Safety Certificate. A person less than 18 years of age shall not operate an ORV on a road in the County unless the person is in possession of a valid driver's license or unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV Safety Certificate. A person less than 16 years of shall not operate on ORV on the county roads under this ordinance.

Sec. 5. Registered Motor Vehicle. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road in the County if the ORV is registered as a motor vehicle under Michigan's Motor Vehicle Code (Act 300 of 1949, as amended).

Sec. 6. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to Michigan's Motor Vehicle Code (Act 300 of 1949, as amended) was in a collision on a roadway with an ORV that is not registered under the Code, the operator of the ORV shall be considered prima facie negligent.

Sec. 7. Penalties. A violation of this ordinance is a municipal civil infraction. A person responsible for such violation shall, in addition to any applicable court costs, pay a civil fine to be determined by the court of not more than \$500.00, except as is otherwise specifically provided in the schedule of fines below. In addition, the court shall order the person to pay the cost of repairing any damage to the environment, a road, or public property as a result of the violation.

Schedule of Fines:

- (a) Exceeding the ORV speed limit by 1 to 5 miles per hour: \$100.00
- (b) Exceeding the ORV speed limit by 6 to 10 miles per hour: \$150.00
- (c) Exceeding the ORV speed limit by 11 to 15 miles per hour: \$200.00
- (d) Exceeding the ORV speed limit by more than 15 miles per hour: Court
- (e) Operating in hours of darkness, specifically: later than one-half hour after sunset or earlier than one-half hour before sunrise: \$250.00
- (f) Operating upon any road, other than a limited access highway, that has not been authorized for ORVs under section 2 of this ordinance: \$250.00
- (g) Operating within the right of way of a limited access highway: \$350.00
- (h) Operating upon any road otherwise authorized for ORVs under this ordinance, but which has been specifically closed to ORVs by a duly-enacted township ordinance or county road commission action pursuant to MCL 324.81131(4) as described in Subsection 2(e) of this ordinance: \$200.00
- (i) Operating against the flow of traffic, failing to operate only on the shoulder of the road (or the far right of the road surface where there is no shoulder), or operating in a manner that interferes with regular traffic on any roadway: \$250.00
- (j) Failing to travel single file, except when overtaking and passing another ORV and with yielding the right of way to all roadway traffic: \$250.00
- (k) Failing to display a white-lighted headlight and red-lighted taillight; except for golf carts without such lights: failing to display a slow-moving vehicle sign as described in subsection 1(j) of this ordinance: \$200.00
- (l) Operating an ORV without a properly operating brake, throttle, mirror, or muffler as required by subsections 3(f)-(i) of this ordinance, or that does not comply with all federal and state ORV regulations with regard to any prescribed equipment or registration requirements as may be applicable to the specific vehicle: \$150.00
- (m) Failing to meet the requirements of subsection 3(k) of this ordinance pertaining to required safety helmets and exceptions: \$150.00
- (n) Careless or negligent operation likely to endanger any person or damage any property, including in a manner likely to damage the surface or shoulder of the road: \$350.00

Sec. 8. ORV Fund. The County Treasurer shall deposit all fines collected under MCL 600.8379 and all damages collected under Section 7 of this ordinance into a fund to be designated as the "ORV Fund." The Shiawassee County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- (a) Fifty percent to the Shiawassee County Sheriff for ORV enforcement and training.
- (b) Fifty percent to the Shiawassee County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.

Sec. 9. Repeal Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

- Sec. 10. Savings Clause. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any 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 County, or other person, either criminal or civil, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order or policy, or any part thereof, hereby repealed.
- Sec. 11. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.
- Sec. 12. Effective Date. This Ordinance shall be effective immediately after publication of the notice of its adoption.
- Sec. 13. Immunity Clause. Subject to Section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a count board of commissioners, and a local unit of government are immune from tort liability for injuries or damages sustained by any person arising in a any way out of the operation or use, on the maintained portion or unmaintained portion of a highway, road, or street, of an ORV. The immunity provided by this subsection does not apply to actions of an employee of this state, and employee of a board of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

This Ordinance was adopted by the Shiawassee County Board of Commissioners on _____.

Commissioners voting "Yes":

Commissioners voting "No":

Commissioners abstaining:

Commissioners absent:

Date

Jeffrey R. Bartz, Chairman
Shiawassee County Board of Commissioners