

COUNTY OF EMMET
ORDINANCE NO. 09- 02

AN ORDINANCE ADOPTED PURSUANT TO 2008 PA 240 AUTHORIZING AND REGULATING THE OPERATION OF OFF ROAD VEHICLES (ORVs) ON CERTAIN ROADS IN EMMET COUNTY, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND PROVIDING FOR THE DISTRIBUTION OF PUBLIC FUNDS RESULTING FROM THOSE PENALTIES

THE COUNTY OF EMMET ORDAINS:

Section 1. Short Title. This Ordinance may be known and referred to as the "Emmet County ORV Ordinance."

Section 2. Definitions. For the purposes of this Ordinance, the terms listed shall have the following meanings:

- 2-1. "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.
- 2-2. "Driver's license" means any driving privileges, license, temporary instruction permit, or temporary license issued to a resident or driving privileges conferred on nonresidents under the laws of 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 of the dominion of Canada pertaining to the licensing of persons to operate motor vehicles.
- 2-3. "County" means the County of Emmet.
- 2-4. "County primary road" or "County local road" means a road described in section 5 of 1951 PA 51, as amended, being MCL 247.655.
- 2-4. "Forest road" means a hard-surfaced road, gravel, or dirt road, or other route capable of travel through state owned land by a 2-wheel drive, 4-wheel conventional vehicle designed for highway use that is not a state or federal highway or County primary road or County local road.
- 2-5. "Forest trail" means a designated path or way capable of travel through state owned land only by a vehicle less than 50 inches wide.
- 2-6. "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- 2-7. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- 2-8. "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 or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-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 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 oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle in the performance of its common function, or a registered aircraft.

- 2-9. "Road Commission" means the Board of the Emmet County Road Commission.
- 2-10. "Roadway" means that portion of a highway improved, designated or ordinarily used for vehicular travel. If a highway includes 2 or more separate roadways, the term roadway refers to a roadway separately, but not to all roadways collectively.
- 2-11. "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.
- 2-12. "Visual supervision" means the direct observation of the operator of the ORV with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

Section 3. Prohibited Conduct.

- 3-1. No person shall operate an ORV on the road surface, roadway, shoulder, or right-of-way of any state or federal highway, or forest road or forest trail in the County, except as permitted under subsection 3.3 of this Ordinance or as otherwise provided by law. The state highways in Emmet County are M-68, M-108 and M-119. The federal highways in Emmet County are US-31 and US-131.
- 3-2. No person shall operate an ORV on the road surface, shoulder, or right-of-way of any County primary road or County local road except as permitted under this Ordinance or as otherwise provided by law. County roads that are open to the operation of ORVs under this Ordinance shall be shown on the Emmet County ORV Road Map which is adopted by reference. The Map shall show all County primary roads and County local roads, and shall designate those roads that have been closed by the Emmet County Road Commission in accordance with Section 6 of this Ordinance.
- 3-3. The operator of an ORV may cross a road or highway, other than a limited access highway, at a right angle for the purpose of getting from one side of the road to the other, if the operation can be done in safety. The operator shall bring the ORV to a complete stop before proceeding across the road or highway, and shall yield the right-of-way to oncoming traffic.

Section 4. Permitted ORV Operations. Any person operating an ORV on a County primary road or County local road under this Ordinance, shall comply with the following regulations:

- 4-1. The ORV shall be operated on the far right of the maintained portion of the road, including the maintained shoulder of the road.
- 4-2. The ORV shall be operated at a speed of not more than 25 miles per hour or a lower posted ORV speed limit.
- 4-3. The ORV shall be operated by a person 12 years of age or older.
- 4-4. A child 12 years of age or older but less than 16 years of age shall not operate an ORV on a road in the County unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- 4-5. A person 16 years of age or older but 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 under the direct supervision of a parent or guardian and the person has in his or her immediate possession a Michigan issued ORV safety certificate or comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- 4-6. If the ORV is a 3-wheeled ATV, then the operator shall be 16 years of age or older.
- 4-7. If the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels, then the operator shall have in his or her immediate possession the operator's valid driver's license.
- 4-8. The ORV shall be operated with the flow of traffic.
- 4-9. The ORV shall be operated in a manner that does not interfere with traffic on the road.
- 4-10. ORVs shall be operated traveling single file except when overtaking and passing another ORV, or when being overtaken or passed by another ORV.
- 4-11. The ORV shall be operated displaying a lighted head light and lighted tail light when visibility is substantially reduced due to weather conditions, during the time one-half hour after sunset and one-half hour before sunrise, and at all times beginning January 1, 2010.
- 4-12. The operator of an ORV and each passenger shall wear 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.
- 4-13. The ORV shall be equipped 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.

- 4-14. The ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- 4-15. The ORV shall be operated in accordance with noise emission standards defined by law.
- 4-16. The ORV shall be licensed by the Michigan Department of Natural Resources, and the license shall be permanently attached and visibly displayed in the manner prescribed by the Michigan Department of Natural Resources in accordance with State law.

Section 5. Application of Township Ordinance. A township board of a township in the County may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORVs permitted by the County. This Ordinance shall not apply in any township in the County that has adopted an ordinance authorizing the operation of ORVs on the maintained portion of one or more roads located within the township pursuant to MCL-324.81131(3):

Section 6. Road Closure by Road Commission. The Road Commission may close up to 30% of the total linear miles of roads in the County to protect the environment or if the operation of ORVs poses a particular or demonstrable threat to the public safety.

Section 7. Signage. Subject to approval of the Road Commission and other governmental agencies with jurisdiction, the County shall have signs posted on roads at the County boundaries notifying the public that the operation of ORVs is permitted on County primary roads and County local roads under the terms and conditions of this Ordinance. The signs shall conform to the state manual and specifications for a uniform system of traffic-control devices.

Section 8. Enforcement. The Emmet County Sheriff and Sheriff's deputies shall have the authority to enforce this Ordinance and to issue and serve municipal civil infraction citations for violations of this Ordinance.

Section 9. Penalties.

- 9-1. Any person who violates this Ordinance is responsible for a municipal civil infraction and shall be subject to a civil fine of not more than \$500.00.
- 9-2. In addition to the civil fine, the court may order a person who causes damage to the environment, a road, or other property as a result of the operation of an ORV to pay restitution for that damage.

Section 10. ORV Fund. The County Treasurer shall deposit all fines and restitution for damages collected under this Ordinance into a fund designated as the ORV Fund. The Emmet County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- (a) 50% to the Emmet County Road Commission for repairing damage to roads and the 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) 50% to the County Sheriff's Office for ORV enforcement and training.

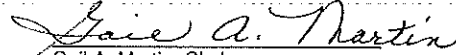
Section 11. Severability. The invalidity of any clause, sentence, paragraph or part of this Ordinance shall not affect the validity of the remaining parts of the Ordinance.

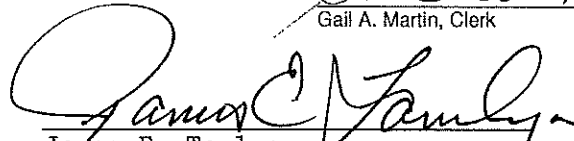
Section 12. Effective Date. This Ordinance shall be effective sixty (60) days after its publication.

State of Michigan)
County of Emmet)

I, Gail A. Martin, Clerk of the County of Emmet and of the Emmet County Board of Commissioners, do hereby certify that the foregoing ordinance was adopted by a majority vote of the Board on August 13, 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County of Emmet this 13th day of August, 2009, at Petoskey, Michigan.


Gail A. Martin, Clerk


James E. Tamlyn
Chairman, Emmet County Board of Commissioners