

CHEBOYGAN COUNTY
Ordinance No. ____ of 2009

AN ORDINANCE PURSUANT TO ACT 240 OF THE PUBLIC ACTS OF 2008
AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD
VEHICLES ON ROADS WITHIN CHEBOYGAN COUNTY, PROVIDING
PENALTIES FOR VIOLATIONS THEREOF, AND PROVIDING FOR THE
DISTRIBUTION OF PUBLIC FUNDS RESULTING FROM THOSE PENALTIES

THE COUNTY OF CHEBOYGAN ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Cheboygan County ORV Ordinance.

Section 2. Definitions. As used in this Ordinance,

"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.

"County" means the County of Cheboygan.

"County Primary Road" and "County Local Road" mean those roads as described in section 5 of Act 51 of the Public Acts of 1951, as amended, being MCL 247.655.

"Driver's License" means any driving privileges, license, temporary instruction permit, or temporary license issued 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 or territory of the Dominion of Canada pertaining to the licensing of persons to operate motor vehicles.

"Far Right of the Maintained Portion of the Road" means the shoulder of the road when the roadway is improved by pavement, tar and chips, concrete, or other similar materials and means the extreme right of the open portion of the right-of-way when the roadway is not improved by pavement, tar and chips, concrete, or other similar materials.

"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, except a state or federal road or a county primary or county local road.

"Forest trail" means a designated path or way capable of travel through state owned land only by a vehicle less than 50 inches in width.

"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.

"Operate" means to ride in or on and to be in actual physical control of the operation of an ORV.

"Operator" means a person who operates of an ORV.

"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. ORV, however, 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.

"Road" means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.

"Road Commission" means the Board of County Road Commissioners for the County of Cheboygan.

"Roadway" means that portion of a road improved, designed, or ordinarily used for vehicular travel. In the event a road includes two (2) or more separate roadways, the term "roadway," as used herein, shall refer to any such roadway separately, but not to all such roadways collectively.

"Safety Certificate" means a certificate issued pursuant to Section 81129 of Act 451 of the Public Acts of 1994, as amended, being MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

"Shoulder" means that portion of the road contiguous to the roadway generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped vehicles otherwise permitted on the roadway.

"State or Federal Road" means I-75, US 23, M-27 (N. Straights Highway), M-33, M-68, and M-212.

"Visual Supervision" means the direct observation of the operator of an 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.

- (a). No person shall operate an ORV on the roadway, shoulder, or any other portion of a state or federal road or a forest road or forest trail in Cheboygan County.
- (b). Except as permitted under Section 4 of this Ordinance, no person shall operate an ORV on the roadway, shoulder, or any other portion of a county primary road or a county local road in Cheboygan County.

Section 4. Permitted ORV Operations.

- (a). A person may operate an ORV on the far right of the maintained portion of all county primary and county local roads.
- (b). When operating an ORV as authorized under this Ordinance, the operator shall comply with all of the following regulations:
 - (1). The operator shall be a person 12 years of age or older.
 - (2). The operator and each passenger shall wear a crash helmet and protective eyewear approved by the United States Department of Transportation, unless the ORV is equipped with a roof that meets or exceeds the standards for a crash helmet and the operator and each passenger wears a properly adjusted and fasten seatbelt.
 - (3). If the operator is a person 12 years of age or older, but less than 16 years of age, then the operator shall be under the direct visual supervision of a parent or guardian and shall have in his or her immediate possession a safety certificate.
 - (4). If the operator is a person 16 years of age or older, but less than 18 years of age, then the operator shall have in his or her immediate possession a valid driver's licence or a valid official state personal identification card and a safety certificate or he or she shall be under the direct visual supervision of a parent or guardian and shall have in his or her immediate possession a safety certificate.
 - (5). If the operator is a person 18 years of age or older, then the operator shall have in his or her immediate possession a valid driver's licence or a valid official state personal identification card.
 - (6). If the ORV is a 3-wheeled ATV, then the operator shall be a person 16 years of age or older.
 - (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 a valid driver's license.
 - (8). The ORV shall not be operated at a speed greater than 25 miles per hour or at a speed greater than any posted ORV speed limit.
 - (9). The ORV shall be operated with the flow of traffic on the road.
 - (10). The ORV shall be operated in a manner that does not interfere with traffic on the road.
 - (11). All ORVs shall be operated in a single-file formation, except when overtaking and passing another ORV or when being overtaken and passed by another ORV.
 - (12). The ORV shall be operated displaying a lighted headlight and lighted taillight when visibility is substantially reduced due to weather conditions, during the time one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, and at all times beginning January 1, 2010.

- (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.
- (14). The ORV shall be equipped with an arrester type, United States forest service approved muffler in good working order and in constant operation.
- (15). The ORV shall be operated in full compliance with all noise emission standards defined by law.
- (16). The ORV shall be licensed by the Michigan Department of Natural Resources, and the license shall be permanently attached to the vehicle in the manner prescribed and in the location designated by the Michigan Department of Natural Resources in accordance with state law.

Section 5. Signs.

With the consent of the road commission or the Michigan Department of Transportation, whichever has jurisdiction, the county shall procure and have posted on all roads at the county boundaries signs conforming to the requirements of the state manual and specifications for a uniform system of traffic-control devices that provide notice to the public that the operation of ORVs on county primary and county local roads is permitted under the terms and conditions of this Ordinance.

Section 6. Penalties.

- (a). A person who violates any provision of this Ordinance 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 a civil fine of not more than Five Hundred and 00/100 (\$500.00) Dollars.
- (b). In addition to the fine specified in subsection (a) above, 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 full restitution for that damage.

Section 7. Enforcement Officers.

Deputies of the Cheboygan County Sheriff are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 8. ORV Fund.

The County Treasurer shall deposit all fines and damages collected under Section 6 of this Ordinance into a fund to be designated as the "ORV Fund." The county board of commissioners shall appropriate revenue in the ORV Fund as follows:

- (a). Fifty percent (50%) to the Cheboygan 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 and/or indicating whether roads are open or closed to the operation of ORVs.

- (b). Fifty percent (50%) to the Cheboygan County Sheriffs Department for ORV enforcement and training.

Section 9. Validity.

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

Section 10. Effective Date.

This Ordinance shall become effective thirty (30) days after its first publication.

COUNTY OF CHEBOYGAN

By: _____
Linda Socha, Chairperson

By: _____
Mary Ellen Tryban, County Clerk