

ORDINANCE NO. 14

MIDLAND COUNTY ORDINANCE
OFF ROAD VEHICLE OPERATION

Ordinance Adopted as of December 20, 2011

PREAMBLE

AN ORDINANCE authorizing the use of Off Road Vehicles (ORV) on County Roads, as authorized by Part 811 the Michigan Natural Resources and Environmental Protection Act (hereinafter referred to as "Act"), as amended, being MCL 324.81131, *et seq.*

WHEREAS, pursuant to the statute described above, Midland County is an 'eligible' county authorized to enact an ordinance allowing ORV use as described herein; and

WHEREAS, the people of Midland County desire to establish an ordinance allowing the use of ORV's on County Roads.

NOW THEREFORE:

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE COUNTY OF MIDLAND:

**SECTION 1
PURPOSE AND INTENT**

1.1 This ordinance is adopted pursuant to the authority granted to the Midland County Board of Commissioners under the Act, to allow operation of ORV's on public highways within the County of Midland, with the powers, duties and limitations provided by the Act and subject to the terms and conditions of this ordinance and any future amendments thereto.

**SECTION 2
DESIGNATION**

2.1 This Ordinance shall be known as the Off Road Vehicle (ORV) On Road Operation Ordinance.

**SECTION 3
DEFINITIONS**

3.1 As used in this ordinance, the following definitions shall apply:

- a) "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, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

- b) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- c) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- d) "ORV" for the purposes of this ordinance means a motor driven off road recreational vehicle or golf cart capable of cross-country travel without benefit of a road or trail, on or immediately over land, or other natural terrain. ORV or vehicle includes a multi-wheel drive vehicle. ORV or vehicle does not include a snowmobile, a farm vehicle being used for farming, a vehicle for military, fire, emergency or law enforcement purposes, a motorcycle, a 3 wheeled vehicle, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on its facilities or on property operated by a utility company or a construction or logging vehicle used in performance of its common function.
- e) "Road" or "County Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, being MCL 247.655
- f) "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.
- g) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the aid of the operator.

SECTION 4 ORV OPERATION

4.1 An ORV may be operated only with the flow of traffic on the far right of the maintained portion of the County Roads listed in attached Schedule 'A'; provided:

- a) A person shall not operate an ORV at a speed greater than 25 miles per hour, or lower if posted, and in no event shall an ORV be operated in a manner that interferes with traffic on a road or street or at a speed greater than conditions allow;
- b) Unless the person possesses a license as defined in Section 25 of the Michigan Vehicle Code, Act 300, Michigan Public Acts of 1949; MCL 257.25, *et. seq.* a person shall not operate an ORV if the ORV is registered as a motor vehicle under Chapter II of the Michigan Vehicle Code, Act 300, Michigan Public Acts of 1949; MCL 257.201 to 257.259, and either is more than 60 inches wide or has 3 wheels;
- c) Any ORV operated in the allowed portion of the road shall travel single file, except when passing or being overtaken by another ORV;
- d) A person shall not operate an ORV on roads described herein unless displaying a lit headlight and lit taillight;
- e) No person shall operate a ORV on roads described herein who is not at least 18 years of age, unless that 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 an ORV safety certificate issued pursuant to Part 811 of the Act, or a comparable certificate issued under the authority of another state, or a province of Canada;
- f) No person under the age of 12 may operate an ORV on any road described herein;

- g) When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- h) Any ORV operated on a right of way shall be fitted with a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- i) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- j) 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; a brake light, brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise.
- k) Pursuant to noise emission standards defined by law.
- l) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan Vehicle Code, 1949 PA 300, NCK 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent.

4.2 Schedule 'A' may be amended and/or replaced by action conforming to the passage of ordinances by the Midland County Board of Commissioners upon passage of a resolution amending this Ordinance.

SECTION 5 VIOLATIONS

5.1 A person who violates this Ordinance shall be responsible for a civil infraction, and shall pay a fine of up to \$500.00, and in addition may be charged with and ordered to pay the cost of full restitution for damages to the environment, a road or other property resulting from that persons operation of an ORV.

5.2 Any fines collected pursuant to this Ordinance shall be deposited with the County Treasurer and shall be distributed pursuant to the statute provided therefor.

5.3 An ORV shall not be operated on any state trunkline right-of-way or on any street within incorporated cities and villages unless allowed by city or village ordinance.

SECTION 6 AUTHORIZING STATUTE

6.1 Should any term of this ordinance be found to be inconsistent with the authorizing statute; MCL 324.81131, as amended, the provisions of the statute, including any amendments thereto shall apply.

**SECTION 7
REVENUE**

7.1 All revenue derived from enforcement of this Ordinance shall be distributed consistent with the authorizing statute, MCL 324.81131, as amended.

**SECTION 8
EFFECTIVE DATE**

8.1 This Ordinance is effective Dec 20, 2011.

Adopted by action of the Midland County Board of Commissioners, this 20th day of December, 2011.

Commissioners voting "Aye":

Schoenherr, Leigeb, Keenan, Geisler
McQuaid + Bone

Commissioners voting "Nay":

Bradley

Commissioners Absent:

None

Attest:

**SECTION 9
PRIOR ORDINANCES OR RESOLUTIONS**

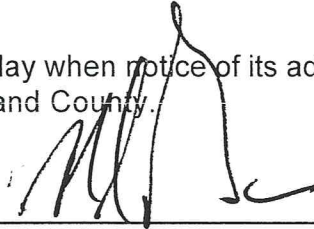
9.1 All county ordinances and resolutions or a part thereof, insofar as the same may be in conflict herewith, are hereby repealed.

**SECTION 10
SEVERABILITY**

10.1 If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

**SECTION 11
EFFECTIVE DATE**

11.1 This ordinance shall be effective on the day when notice of its adoption is published in a newspaper of general circulation in Midland County.

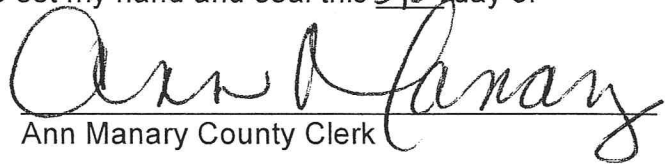


Mark C. Bone, Chairman

CERTIFICATION

I, Ann Manary, Clerk of Midland County, hereby certify that the foregoing is a true and correct copy of the Ordinance made and passed by the Midland County Board of Commissioners on the 20th day of December, 2011.

In Testimony Whereof, I have hereunto set my hand and seal this 20th day of December, 2011.



Ann Manary County Clerk

SCHEDULE "A"

All County primary or local roads as described in Section 5 of 1951 PA 51, MCL 247.655.