

STATE OF MICHIGAN  
COUNTY OF SHIAWASSEE  
ORV ORDINANCE

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:

Section 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," as used herein, 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.

Section 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, or any other State or Federal highway in Shiawassee County.
- (c) A person operating an ORV on a designated County Road may cross an excluded road as described in paragraph (b) of this section 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.
- (d) 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 the 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 a county road to the operation of ORVs otherwise permitted by this ordinance. The road commission, however, may not close more than 30% of the linear miles of county roads to ORVs otherwise authorized under this ordinance.
- (e) This ordinance does not permit the operation of ORVs 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.

Section 3. Operating Conditions. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a designated road in the county:

- (a) With the flow of traffic and only on the far right of the maintained portion of a designated road.
- (b) At a speed of no more than 25 miles per hour, or a lower posted ORV speed limit.
- (c) In a manner which does not interfere with traffic on the road.
- (d) During daylight hours only; specifically not later than one-half hour after sunset and not earlier than one-half hour before sunrise.
- (e) Traveling single file, except when overtaking and passing another ORV and after yielding the right of way to all roadway traffic.
- (f) While displaying a securely attached white-lighted headlight and red-lighted taillight.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) 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.

- (k) 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.
- (l) ORVs shall not be operated in a manner that will cause damage to the road surface or shoulder. In this regard, prohibited activity includes but is not limited to actions such as “fishtailing” and any spinning of tires that disperses gravel or creates ruts or other damage.

Section 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.

Section 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, and either is more than 65 inches wide or has three wheels.

Section 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 the Michigan Vehicle Code 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.

Section 7. Penalties. Any person who violates this ordinance is guilty of a municipal civil infraction, and shall pay a civil fine of not more than \$500.00. In addition, a court may order the person to pay full restitution for any damage to the environment, a road, or public or private property damaged as a result of the violation.

Section 8. ORV Fund. The County Treasurer shall deposit all fines and damages collected under 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 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) Fifty percent to the Shiawassee County Sheriff for ORV enforcement and training.

Section 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.

Section 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.

Section 11. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such as holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 12. Effective Date. This Ordinance shall be effective immediately after publication of notice of its adoption.

Section 15. 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 action of 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