

**STATE OF MICHIGAN
COUNTY OF KALKASKA
ORV ORDINANCE**

ORDINANCE No. 2009-01

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Kalkaska County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE COUNTY OF KALKASKA ORDAINS:

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

- a) "County" means the County of Kalkaska.
- b) "Driver 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.
- c) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "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 multi track or multi wheel 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.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Kalkaska.
- h) "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."
- i) "Township" means an individual township within the County of Kalkaska.
- j) "Township Board" means a board of trustees of any township within the County of Kalkaska.
- k) "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 immediate aid of the operator.

Sec. 2 An ORV may be operated on the far right of the maintained portion of a road within the county.

Sec. 3 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. Beginning July 17, 2009, the township board of a township in the county may adopt an ordinance authorizing the operation of ORVs: on the maintained portion of 1 or more roads located within the township," pursuant to MCL 324.81131 (3).

Sec. 4 The county road commission may close no more than 30% of the total linear miles of roads in the county to protect the environment or if the operation of OR V s pose a particular and demonstrable threat to public safety. The road commission may not close a municipal street to ORVs opened under Section 5 of this ordinance.

Sec. 5 an ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the county.

Sec. 6 Except as set forth herein or otherwise provided by law, an OR V meeting all of the following conditions may be operated on a road or street in the county:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) 1/2 hour before sunrise until 1/2 after sunset unless displaying a lighted headlight and lighted taillight.
- h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.
- i) while the operator and each passenger is wearing 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.
- j) 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.
- k) while the OR V is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- l) pursuant to noise emission standards defined by law.

Sec. 7 A child 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 a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Sec. 8 Unless a person possesses a valid drivers license, a person shall not operate an ORV on a road or street in the county if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Sec. 9 Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Sec. 10 A 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 above and beyond the penalties paid for civil fines.

Sec. **11** The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The County of Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

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

Sec. 12 This ordinance becomes effective after publication on April 1st, 2009.

This Ordinance is adopted by action of the Kalkaska County Board of Commissioners this the 10th day of February, 2009.

Commissioners voting "Aye": McCullen, Crambell Jr., Kimball, Nemeth, Sexton, Shetler

Commissioners voting "Nay": None

Commissioners absent: Wood

Commissioners abstaining: None

George Shetler, Chairperson
Kalkaska County Board of Commissioners

Certification

I, Deborah L. Hill, Clerk of the County of Kalkaska, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Kalkaska County Board of Commissioners on the 10th day of February, 2009.

Deborah L. Hill, County Clerk