

**STATE OF MICHIGAN
COUNTY OF OGEMAW
ORV ORDINANCE**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off-Road Vehicles (ORV's) on roads located in Ogemaw County except as herein noted, providing for penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to MCL 324.81101 *et seq.*

THE COUNTY OF OGEMAW ORDAINS:

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

- a) "County" shall mean the County of Ogemaw.
- 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 a road.
- 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" means a motor driven off-road recreational vehicle with forward movement made possible by the use of two, three, four, or six wheels with surface contact made by rubber tires. The vehicle must have a measurement from ground surface to base of seat height greater than eighteen inches. On three, four or six wheeled vehicles the wheel rims may not exceed thirteen inches.
- h) "Road" means a county primary road or county local road as described in Section 5 of 1951 PA 51, as amended, MCL 247.655.
- i) "Road Surface" means that portion of a roadway improved, designated, or ordinarily used for vehicular travel, and does not include within its meaning the shoulder or right-of-way.

- j) "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.
- k) "Shoulder" means that portion of a street, road or highway to the immediate right of the road surface while facing the direction of travel, which is not generally used for vehicular travel.

Sec. 2. Operation of ORV. Except as set forth herein, a person may operate an ORV with the flow of traffic on the far right of the maintained portion of a county road. A person may operate an ORV with the flow of traffic as follows:

- (a) On the right shoulder of the road.
- (b) If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
- (c) On the far right of the right traffic lane of the road, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.

The operator of an ORV may cross a public road at right angles, for the purpose of getting from one area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public road, and shall yield the right-of-way to oncoming traffic.

Sec. 3. Adoption of MCL 324.81101, et seq. Any ORV being operated on a road in Ogemaw County pursuant to this ordinance must operate at all times in accordance with Sections 324.81101 through 324.81150 of the Michigan Compiled Laws, being part of the Natural Resources and Environmental Protection Act, P.A. 1994, No. 451, as amended, which is adopted herein by reference.

Sec. 4. State Highways. An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State highway including but not limited to I-75, M-30, M-33, M-55, or other State highways in Ogemaw County. An ORV may not be operated within city limits of the City of West Branch or City of Rose City unless the governing body of those municipalities specifically permits such use.

Sec. 5. Violations. Any person who violates this ordinance is guilty of a civil infraction, punishable by a fine of not more than \$500.00 plus the total cost of prosecution. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation.

Sec. 6. Damages. Any person who causes damage to any street, road, highway, or other property as a result of the operation of an ORV, in an area permitted by this ordinance, is guilty of a civil infraction, punishable by a fine of not more than \$500.00. The Court may also order that the individual pay full restitution for any damage.

Sec. 7. Limitations on Operation. Except as set forth herein or otherwise provided by law, a person operating an ORV on a road in Ogemaw County pursuant to this ordinance must comply with the following requirements:

- (a) Not exceed a rate of speed greater than 25 MPH or lower posted ORV speed limit, or in a manner that interferes with traffic on the street, county road, or highway.
- (b) Operate an ORV on roads only between the hours of 5:00 AM and 11:00 PM.
- (c) Display a white lighted headlight and red lighted taillight at all hours.
- (d) The operator and each passenger must 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.
- (e) 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.
- (f) The ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- (g) The ORV shall be 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, and a red brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated.
- (h) Pursuant to noise emission standards defined by law.

Sec. 8. Age and Licensure Requirements. A person shall operate an ORV only if in compliance with the following age and licensure requirements:

- (a) A person under 18 years of age shall not operate an ORV as authorized pursuant to this section 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 an ORV safety certificate issued pursuant to MCL 324.81101 *et seq.*, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

- (b) A person under 12 years of age shall not operate an ORV as authorized pursuant to this ordinance.
- (c) 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.

Sec. 9. Limitations. The legislative body of a township or municipality 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), or to close any roads within the boundaries of the township to the operation of ORVs permitted by the County, pursuant to MCL 324.81131(4).

Sec. 10. 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 County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- (a) Fifty percent to the 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 County Sheriff for ORV enforcement and training.

Sec. 11. 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.

Sec. 12. 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.

Sec. 13. Repealer 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.

Sec. 14. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Sec. 15. Periodic Review. Periodically and/or as the need arises, the County Board of Commissioners may review this ordinance and take whatever action by ordinance it deems in the best interest of the citizens of Ogemaw County.

Sec. 16. Sunset. This ordinance shall expire and be of no further effect one (1) year from the effective date unless the County Board of Commissioners takes formal action to re-enact the same.

Sec. 17. Effective Date. This ordinance becomes effective .