

**COUNTY OF ALCONA
STATE OF MICHIGAN
ORV ORDINANCE**

ORDINANCE NO. 09-01

AN ORDINANCE adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORV's) on roads in Alcona 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 ALCONA ORDAINS:

Section 1. Definitions.

As used in this Ordinance, the following definitions shall apply:

County: The County of Alcona.

Driver License: 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.

Operate: To ride in or on, and be in actual physical control of the operation of an ORV.

Operator: A person who operates or is in actual physical control of the operation of an ORV.

ORV: A motor driven off road recreation vehicle capable of cross-county 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.

Road: A County primary road or County local road as described in Section 5 of 1951 PA 51, MCL 247.655.

Road Commission: The Board of County Road Commissioners for the County of Alcona.

Safety Certificate: 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.

Township: An individual township within the County of Alcona.

Township Board: A Board of Trustees of any township within the County of Alcona.

Visual Supervision: 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.

SECTION 2.

An ORV may be operated on the far right of the County-maintained portion of a road, i.e.; the shoulder of the road when the roadway is improved by pavement, tar and chips, concrete or other similar materials and 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 within the County. Exceptions are:

- A. Roads which the townships and/or cities have designated closed;
- B. Roads designated closed by the Alcona County Road Commission; and
- C. All identified U.S. Forest Service roads and State lands.

SECTION 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 ORV's 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 ORV's on the maintained portion of one (1) or more roads located within the Township, pursuant to MCL 324.81131(3).

SECTION 4.

The County Road Commission may close no more than thirty (30%) percent of the total linear miles of roads in the County to protect the environment or if the operation of ORV's pose a particular and demonstrable threat to public safety. The Road Commission may not close a municipal street to ORV's opened under Section 5 of this Ordinance.

SECTION 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.

SECTION 6.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the County:

- A. At a speed or 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 a lighted taillight;
- G. One half (1/2) hour before sunrise until one half (1/2) hour after sunset unless displaying a lighted headlight and a lighted taillight;
- H. While displaying a lighted headlight and a 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 ORV 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; and
- M. Complying with all requirements in PA 240 of 2008.

SECTION 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.

SECTION 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 sixty (60) inches wide or has three (3) wheels.

SECTION 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.

SECTION 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.

SECTION 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 Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- A. Fifty (50%) percent to the County Road Commission for repairing damage to roads and the environment that may have been caused by ORV's, and

for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORV's.

- B. Fifty (50%) percent to the County Sheriff for ORV enforcement and training.

SECTION 12.

Within three (3) years, a review will take place by the County Board of Commissioners, the County Road Commission, the Park and Recreation Board and other local governmental boards to determine if the ORV Ordinance has accomplished its economic objectives, address problems and determine whether or not to continue the existing Ordinance.

Section 13.

This Ordinance becomes effective upon publication of the Notice of Adoption.

This Ordinance is adopted by action of the Alcona County Board of Commissioners this 3rd day of June 2009.

Commissioners voting "Aye": Vichunas, Thompson, Phillips, Brummund and Boyat

Commissioners voting "Nay": None

Commissioners Absent: None

Kevin Boyat, Chair
Alcona County Board of Commissioners

CERTIFICATION:

I, Patti Truman, Clerk of the County of Alcona, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Alcona County Board of Commissioners on the 3rd day of June 2009.

Patti Truman
Alcona County Clerk