

COMMISSIONER ORDINANCE NO. CO-2024-_____

AN ORDINANCE AMENDING THE ELKHART COUNTY CODE REGARDING
CHAPTERS 74 AND 76: OFF-ROAD VEHICLES AND SNOWMOBILES

WHEREAS I.C. 36-1-3 permits any county in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its county or internal affairs which is not prohibited by the Constitution of the United States or the Constitution of the State of Indiana or denied or pre-empted by any other law or is not expressly granted by any other law to another governmental entity;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana is the County legislative body and is by law authorized to adopt ordinances and resolutions with respect to public health, safety, and welfare;

WHEREAS I.C. 9-21-1-3, I.C. 9-21-1-3.3, and I.C. 14-16-1-20 grant the County the authority to regulate the use of Off-road Vehicles and Snowmobiles on public roads in a county road system outside the corporate limits of a city or town;

WHEREAS it has been recommended that the Elkhart County Code be amended with respect to the Chapters pertaining to Off-road Vehicles and Snowmobiles;

WHEREAS the Board of Commissioners of the County of Elkhart, Indiana, as the executive and legislative body of Elkhart County Government and as the head of the Elkhart County Highway Department which has jurisdiction over the public roads in the county road system for the purposes of I.C. 14-16-1-20, desires to adopt an ordinance consistent with I.C. 14-16-1-1 et seq. relative to Off-road Vehicles and Snowmobiles on public roads within the Elkhart County road system;

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, RESOLVED, AND ORDAINED by the Board of Commissioners of the County of Elkhart, Indiana as follows:

1. Amendment of Elkhart County Code, Section 74.01 ADOPTION OF STATE LAW is hereby repealed and replaced to read as follows:

§ 74.01 ADOPTION OF STATE LAW.

This chapter adopts all mandatory provisions of state law relating to Regulated Vehicles, including those set forth at I.C. 14-16-1.

2. Further Amendment of Elkhart County Code, Section 74.02 DEFINITIONS is hereby repealed and replaced to read as follows:

§ 74.02 DEFINITIONS.

The following definitions apply throughout this Chapter:

COUNTY ROAD means any highway, road, street, or other right-of-way open to the public for travel under the jurisdiction of the Elkhart County Highway Department.

OFF-ROAD VEHICLE has the meaning set forth in I.C. 14-8-2-185. This definition excludes farm vehicles being used for farming.

REGULATED VEHICLE means an Off-road Vehicle or Snowmobile.

SNOWMOBILE has the meaning set forth in I.C. 14-8-2-261.

3. Further Amendment of Elkhart County Code, Section 74.03 OPERATION ON HIGHWAYS AND STREETS is hereby repealed and replaced to read as follows:

§ 74.03 OPERATION ON COUNTY ROADS.

(A) The Elkhart County Highway Department hereby designates all County Roads for the operation of Regulated Vehicles, subject to the requirements of this Chapter and applicable law.

(B) Regulated Vehicles may be operated on County Roads subject to the requirements of this Chapter and applicable law.

4. Further Amendment of Elkhart County Code. Section 74.04 REGULATION OF OFF-ROAD VEHICLES AND SNOWMOBILES is hereby added to read as follows:

§ 74.04 REGULATION OF OFF-ROAD VEHICLES AND SNOWMOBILES

(A) When operating a Regulated Vehicle on a County Road, an individual shall:

(1) Have financial responsibility in effect for the Regulated Vehicle consisting of at least the following types in the following amounts:

- i. Twenty-five thousand dollars (\$25,000) for bodily injury to or the death of one (1) individual;
- ii. Fifty thousand dollars (\$50,000) for bodily injury to or the death of two (2) or more individuals in any one (1) accident; and
- iii. Twenty-five thousand dollars (\$25,000) for damage to or the destruction of property in one (1) accident.

(2) Obey all applicable traffic laws as if the Regulated Vehicle were a passenger motor vehicle as defined in I.C. 9-13-2-123; and

(3) Have no more passengers than the number of seats for which the Regulated Vehicle is rated by its manufacturer.

(B) When more than one Regulated Vehicle is present, the Regulated Vehicles shall travel in single file except when passing or overtaking another vehicle.

(C) An Off-road Vehicle which is only operated at twenty-five (25) miles per hour or less shall display the slow-moving vehicle emblem described by I.C. 9-21-9-2.

(D) An individual may not transport a bow in a Regulated Vehicle unless the bow is secured in a case.

(E) Except as otherwise provided, this Ordinance does not affect the rights, responsibilities, or duties of individuals operating or owning a Regulated Vehicle under Indiana law, including those with respect to:

(1) Operating a vehicle at speeds compliant with posted speed limits or at reduced speeds when required by law;

(2) The prohibition on operating:

- i. At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another;
- ii. Without proper registration;

- iii. While under the influence of an alcoholic beverage or unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulating drug;
- iv. Without displaying a lighted headlight and a lighted taillight during the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise or when other conditions limit visibility;
- v. Without a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke;
- vi. Within one hundred (100) feet of another's dwelling between midnight and 6:00 a.m.;
- vii. While transporting on or in the vehicle a firearm, except as provided by state law;
- viii. Without adequate brakes and lights;
- ix. On a public highway or street without a valid motor vehicle driver's license;
- x. Without a helmet if less than eighteen (18) years of age; or
- xi. To hunt, pursue, worry, or kill a wild bird or a domestic or wild animal.

(3) The duty to notify a conservation or law enforcement officer with jurisdiction where an accident involving a Regulated Vehicle occurs by the quickest means of communication.

5. Further Amendment of the Elkhart County Code. Section 74.99 PENALTY is hereby repealed and replaced to read as follows:

§ 74.99 PENALTY.

- (A) Any person who violates 74.04(A)(1) of this Chapter while on a County Road will be deemed to have committed an ordinance violation and may be fined as if the person had violated I.C. 9-25-8-2 but in no case be fined more than a maximum of \$2,500.00.
- (B) Any person who violates 74.04(A)(2) of this Chapter while on a County Road will be deemed to have committed an ordinance violation and may be fined as if the offense had been committed with a passenger motor vehicle as defined in I.C. 9-13-2-123 but in no case be fined more than a maximum of \$2,500.00.
- (C) Any person who violates 74.04(C) of this Chapter while on a County Road will be deemed to have committed an ordinance violation and may be fined as if the person had violated I.C. 9-21-9-2 but in no case be fined more than a maximum of \$2,500.00.

(D) Any person who violates any provision of this Chapter for which a penalty is not otherwise provided will be deemed to have committed an ordinance violation and may be fined not more than \$500 for each offense.

(E) This Ordinance does not affect the sanctions and penalties for violating a state statute or regulation concerning Regulated Vehicles, including the provisions of I.C. 14-16-1.

6. Further amendment of Elkhart County Code, Chapter 76 Schedule VIII OFF-ROAD VEHICLES AND SNOWMOBILES is hereby repealed.

7. Effective Date. This Ordinance will be effective April 15, 2024, subject to publication in accordance with applicable legal requirements and the posting of the regulations as required by I.C. 9-21-1-3(b).

BOARD OF COMMISSIONERS OF
THE COUNTY OF ELKHART, INDIANA

By: _____
Bradley D. Rogers, President

By: _____
Suzanne M. Weirick, Vice President,

By: _____
Bob Barnes, Member

ATTEST:

By: _____
Patricia A. Pickens, Auditor