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COUNTY OF VAN BUREN

STATE OF MICHIGAN

ORV ORDINANCE

AN ORDINANCE adopted for the purpose of authorizing and regulating the operation of Off-Road Vehicles (ORV's) on the designated roads in Van Buren 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 VAN BUREN ORDAINS:

SECTION 1 – Definitions

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

- A. **"County"** means the County of Van Buren
- 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 P.A. 300, MCL 257.301 to 257.329, for the individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- C. **"Operate"** means to ride on or in 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 ORV.
- E. **"Off-Road Vehicles" or "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, march, 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 or other means of transportation deriving motive power from a source other than muscle or wind. **A golf cart, snowmobile, or farm equipment shall not be considered an ORV under this ordinance.**
- F. **"Road"** means a County 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 Van Buren.
- H. **"Township"** means an individual township within the County of Van Buren.
- I. **"Township Board"** means a Board of Trustees of any township within the County of Van Buren.

Section 2- ~~County Maintained~~ Roads for ORV Operation; Exceptions

An ORV may be operated on the far right of the County-maintained portion of the road. Exceptions are: (Also, see Appendix A)

A. Roads designated closed by townships, cities and villages.

~~B.~~ Roads designated closed by the Van Buren County Road Commission.

~~B.C.~~ ~~This includes~~ Red Arrow Highway and Blue Star Highway~~S.~~

~~C.D.~~ All CR (County Primary) roads are closed to ORV traffic unless they are approved by resolution of the township board and approved by the County Road Commission and the County Board of Commissioners.

~~D.E.~~ 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.

~~E.F.~~ Roads closed by order of law enforcement officers.

~~F.G.~~ Notwithstanding the above, a person may operate an ORV on a closed road for the purpose of accessing the nearest open road from a residence which cannot be more than ½ mile from said open road. This does not include any roads of townships that have opted out of this ordinance.

Section 3-Township Opt-Out

A Township Board of a Township in the County may adopt an ordinance to completely opt out of this ordinance or to close any roads within the boundaries of the Township to the operation of ORV's permitted by the County. Following the adoption of this ordinance, a Township Board of a Township in the County may adopt an ordinance authorizing the operation of ORV's on the maintained portion of one or more roads located within the Township pursuant to MCL 324.81131(3)

Section 4- Closed Roads

The County Road Commission may close a County Road to the operation of ORV's otherwise authorized pursuant to this Ordinance and operation of an ORV on said roads is prohibited under this Ordinance. The County Road Commission may not close more than (30%) percent of the total linear miles of roads in the County to the operation of ORV's otherwise authorized pursuant to this Ordinance except for when the County Road Commission does so to protect the environment or if the operation of ORV's poses a particular and demonstrable threat to public safety.

Section 5- ORV Operator's Responsibility to Know if Road is Closed to ORV Operation

It is the responsibility of the ORV operator to verify with specific townships, cities, villages and the Van Buren County Road Commission which roads or townships are closed for ORV traffic according to this ordinance.

Section 6- Operating Conditions

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

- A. A person must be no less than 16 years of age and have a valid driver's license to operate an ORV on a road in the County.
- B. At a speed of not more than 25 miles per hour or a lower posted ORV speed limit.
- C. With the flow of traffic.
- D. In a manner which does not interfere with traffic on the road or street.
- E. With a current ORV sticker issued from the DNR and permanently affixed to the ORV.
- F. ~~With a 12" X 12" safety flag affixed to the ORV that extends 10' from the surface of the ground.~~
- G. With a working headlight and taillight that must be illuminated at all times.
- H. With a working brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated.
- I. Can be used only after sunrise and before sunset.
- J. Cannot be used during times of extreme weather conditions where visibility is substantially reduced.
- K. Traveling single file except when overtaking and passing another ORV.
- L. While the operator and each passenger are wearing a crash helmet approved by the United States Department of Transportation, unless the vehicle is equipped with a roof or roll bar that meets or exceeds government standards and the driver, and each passenger is wearing a properly adjusted and fastened seat belt.
- M. With the number of passengers that the ORV was originally designed for and with a seated position for each passenger.
- N. While the operator and each passenger are wearing protective eyewear approved by the United States Department of Transportation unless the vehicle is equipped with an approved windshield.
- O. 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.
- P. With the ORV equipped with a spark arrestor type, United States Forest Service approved muffler in good working order and in constant operation.
- Q. Pursuant to noise emission standards detailed by law.
- R. Complying with all requirements in 2008 PA 240, MCL 324.81131.

Section 7-Penalties

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 and be subject to revocation of their ORV registration. This revenue shall be split with 50% going to the Sheriff or Police Department responsible for law enforcement and the other 50% to the Van Buren County Road Commission, or in the case of a city or village, to the department responsible for street

maintenance in that jurisdiction to help pay for damage to streets, roads or highways and the environment, or for posting signs indicating speed limits or whether roads are open or closed to the operation of ORVs..

Section 8-Resitution for Damage to Private or Public Property

An operator of an ORV may be required – pursuant to court order - to pay restitution to a property owner for any damage to the owner’s property caused by the operator’s operation of the ORV above and beyond the penalties found in Section 7 of this ordinance.

Section 9-Validity and Severability

If any part of this ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this ordinance, and the rest shall remain in full force and effect.

Section 10-Immunity Clause

Subject to section 5 of 1964 PA 170, MCL 691.1405, the Road Commission, the County Board of Commissioners, the County of Van Buren and any township or municipality are all immune from tort liability for injuries or damages sustained by any person arising out of the operation or use of an ORV on maintained or unmaintained roads, streets, shoulders, and rights of way over which they have jurisdiction.

Section 11-Board Review and Revision

The Board of Commissioners may review or revise this ordinance as may be necessary.