

**STATE OF MICHIGAN
COUNTY OF MONTCALM
ORV ORDINANCE**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Montcalm 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 324.811131.

THE COUNTY OF MONTCALM ORDAINS:

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

- a) "County" means the County of Montcalm
- b) "Drivers 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" for the purposes of this ordinance means a motor driven off road recreational vehicle or golf cart capable of cross-country travel without benefit of a road or trail, on or immediately over land, or other natural terrain. ORV or vehicle includes a multi-wheel drive vehicle. ORV or vehicle does not include a snowmobile, a farm vehicle being used for farming, a vehicle for military, fire, emergency or law enforcement purposes, a motorcycle, a 3 wheeled vehicle, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on its facilities or on property operated by a utility company or a construction or logging vehicle used in performance of its common function.
- f) "Road" means a county primary road or country 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 Montcalm.
- 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 Montcalm.
- j) "Township Board" means a board of trustees of any township within the County of Montcalm.
- 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 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. A State of Michigan ORV license is also required of ORVs used in areas open to public operations, regardless of whether the ORV is owned by a resident or nonresident of Michigan.

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 ORVs 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 shall not be operated on any state trunkline right-of-way or on any street within incorporated cities and villages unless allowed by city or village ordinance.

Sec. 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 of no more than 25 miles per hour or a lower posted ORV speed limit or at a rate of speed greater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.
- 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 or passing another ORV.
- f) While displaying a lighted headlight and lighted taillight at all times.
- g) When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- h) With a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- i) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- j) When 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; a brake light, brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of ½ hour after sunset and ½ hour before sunrise.
- k) Pursuant to noise emission standards defined by law.
- l) In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, NCK 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent.

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 driver's 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 Montcalm 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. 12 This ordinance becomes effective August 25, 2010.

This Ordinance is adopted by action of the Montcalm County Board of Commissioners this 28th day of June, 2010.

Commissioners voting "Aye": Blanding, Lindeman, Retzlöff, Johansen, Baker,
Carr, Caris, Crouse

Commissioners voting "Nay": Paepke

Commissioners Absent:

Patrick Q. Carr, Chair
Montcalm County Board of Commissioners

STATE OF MICHIGAN)
) SS
COUNTY OF MONTCALM)

CERTIFICATION: The undersigned, being the Clerk of Montcalm County does hereby certify that this is a true and correct copy of the duly adopted by the Montcalm County Board of Commissioners on the 28th day of June, 2010.

Kristen Millard, Montcalm County Clerk and Clerk
for the Montcalm County Board of Commissioners