

## RESOLUTION 16-25

### COUNTY OF ST. CLAIR BOARD OF COMMISSIONERS

#### OPERATION OF OFF ROAD VEHICLES ON COUNTY ROADS ORDINANCE

An Ordinance adopted for the purpose of authorizing and regulating operation of off road vehicles ("ORVs") on roads in St. Clair County pursuant to Michigan Public Act 1975 of 2009.

##### Section 1. Definitions

- a) County shall mean St. Clair County.
- b) Driver's License means a license, permit, or temporary license issued under the laws of the State of Michigan pertaining to the licensing of persons to operate motor vehicles.
- c) Municipality means a city or village located within St. Clair County.
- d) Operate means to ride in or on and/or to physically control an ORV.
- e) Operator means a person who operates and/or is in actual physical control of an ORV.
- f) 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, marsh, swampland, or other natural terrain. ORV includes, but is not limited to, a multitrack or multiwheel 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 power from a source other than muscle or wind. ORV does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire emergency or law enforcement purposes, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on said company's facilities or on property over which said company has an easement, a construction or logging vehicle used in performance of its common function or a registered aircraft.
- g) Road means a county primary road or county local road as described in MCL §247.655.
- h) Road Commission means the St. Clair County Road Commission.
- i) Safety Certificate means a certificate issued pursuant to Michigan Public Act 451 of 1994 as amended, MCL §324.81129, or a comparable ORV safety certificate issued under the authority of another State or a province of Canada.
- j) Street means a city or village major street or a village local street as described in MCL §247.659.
- k) Township means a township within St. Clair County.

- l) Township Board means a board of trustees of a township within St. Clair County.
- m) 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 immediate aid of the operator.

## **Section 2. Operation of Off Road Vehicles**

Subject to the following conditions, an ORV may be operated on the far right of the maintained portion of Roads within the County:

- a) An ORV may not be operated on paved or asphalted Roads that have a speed limit of 45 miles per hour or more. Provided ORVs may utilize such Roads for ingress and egress purposes to a destination for a distance not to exceed one mile so long as the ORVs are operated consistent with all other provisions of this Ordinance.
- b) In the event the Road Commission closes, or in the event a Township or Municipality adopts an Ordinance closing certain Roads to ORV use, as permitted pursuant to MCL §324.81131(4), operation of an ORV on such Roads is prohibited under this Ordinance.
- c) This Ordinance does not authorize the operation of an ORV on a Street or highway under the jurisdiction of a Municipality or upon a State Trunkline Highway.
- d) ORVs may only be operated on Roads between the hours of 5:00 a.m. and 10:00 p.m.
- e) Municipalities and Townships shall have the right to opt out of the application of this Ordinance with respect to Roads located within their jurisdiction pursuant to MCL §324.81131

## **Section 3. Limitation on closure of roads.**

The Road Commission may close Roads to the operation of ORVs in order to protect the environment and/or if the operation of ORVs poses a particular and demonstrable threat to public safety. Provided, the Road Commission may not close more than 30% of the linear miles of Roads to the operation of ORVs pursuant to this provision. The Road Commission may not close a Street to operation of ORVs that has been authorized for ORV use by a Municipality pursuant to MCL §324.81131 (5).

## **Section 4. Compliance with state and federal laws.**

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 5. Requirements for operation.**

Subject to the following conditions and, except as set forth herein or otherwise provided by law, an ORV may be operated on a Road in the County:

- a) The ORV is operated at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) A person under 18 years of age shall not operate an ORV on a Road unless the person is in possession of a valid Driver License or under the direct supervision of a parent or guardian and the person has in his or her immediate possession a valid Safety Certificate. A person under 12 years of age shall not operate an ORV under this Ordinance.
- c) The ORV is operated with the flow of traffic.
- d) The ORV is operated in a manner which does not interfere with traffic on the Road.
- e) ORVs must travel single file except when overtaking and passing another ORV.
- f) An ORV is not operated when visibility is substantially reduced due to weather conditions.
- g) The ORV has working and visible lighted headlight and lighted taillight.
- h) The operator and each passenger of the ORV must wear a crash helmet and protective eyewear approved by the United States Department of Transportation unless the ORV 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.
- i) The ORV is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically idle.
- j) The ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- k) The ORV is operated consistent with noise and emission standards defined by law.

### **Section 6. Operation by minors.**

A minor less than 16 years of age shall not operate an ORV on a Road unless the minor is under the direct visual supervision of an adult and the minor has in his or her

immediate possession a valid Safety Certificate. A person under 12 years of age shall not operate an ORV under this Ordinance.

**Section 7. ORV registered as a motor vehicle.**

Unless a person possesses a valid Driver's License, a person shall not operate an ORV on a Road if the ORV is required to be registered as a motor vehicle with the State of Michigan and is either more than 60 inches wide or has three wheels.

**Section 8. Immunity.**

The Road Commission, the County Board of Commissioners, the County of St. Clair as well as any Township or Municipality are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained or unmaintained Roads, streets, shoulders, and rights of way over which the Road Commission, the County Board of Commissioners, the Township or Municipality have jurisdiction.

**Section 9. Prima Facie negligence.**

In a court action in the state of Michigan, if competent evidence demonstrates that a vehicle, which is permitted to operate on a Road pursuant to Michigan law, was involved in a collision with an ORV required to be operated on the far right of the maintained portion of a Road pursuant to this Ordinance, the operator of the ORV shall be considered prima facie negligent.

**Section 10. Violation.**

Any person who violates this Ordinance is guilty of a civil infraction and may be ordered to pay a civil fine of up to \$500.00.

**Section 11. Restitution**

A court may order a person who causes damages to 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 12. Allocation of fines and damages.**

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 specified by MCL §324.81131:

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

(b) Fifty percent to the Board of the St. Clair County Road Commissioners to be used 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 under this section.

**Section 13. Enforcement of Ordinance.**

This Ordinance shall be enforced by the St. Clair County Sheriff Department.

**Section 14. Severability.**

The phrases, sentences, sections and provisions of this Ordinance are severable; if any portion of this Ordinance is found to be unconstitutional or otherwise unenforceable, the remaining sections of the Ordinance shall remain in full force and effect.

**Section 15. Repeal.**

All other Ordinances, parts of Ordinances or amendments to such Ordinances which conflict with this Ordinance are repealed to the extent of such conflict.

This Ordinance was adopted by the St. Clair County Board of Commissioners on 9-15-, 2016 and shall be effective when published in a newspaper of general circulation

