



STATE OF MICHIGAN
COUNTY OF NEWAYGO
ORV ORDINANCE

ORDINANCE No. 01/2012

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Newaygo County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to, MCL 324.81131 as amended. This ordinance applies to all roads within Newaygo County, with the exception of state or federal highways or trunk-lines (M-37, M-82, M-20, M-120). It does not apply to any streets within the Cities of Fremont, Grant, Newaygo, or White Cloud or the Village of Hesperia.

THE COUNTY OF NEWAYGO ORDAINS:

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

- a) "County" means the County of Newaygo.
- 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 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" 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 or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, golf cart, 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. ORV or vehicle 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 or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- f) "Road" means a county primary road or county 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 Newaygo.
- 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 Newaygo.
- j) "Township Board" means a board of trustees of any township within the County of Newaygo.
- 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 immediate aid of the operator.

Section 2 An ORV may be operated on the far right of the maintained portion of a Road within the County. This ordinance applies to all roads within Newaygo County, with the exception of state or federal highways or trunk-lines (M-37, M-82, M-20, M-120). It does not authorize the operation of an ORV on any streets within the Cities of Fremont, Grant, Newaygo, or White Cloud or the Village of Hesperia.

Section 3 If this County Ordinance authorizing the use of ORVs on Roads is repealed, a Township Board may adopt an ordinance, subject to Section 4, authorizing the operations of the ORVs on the maintained portion of 1 or more Roads located within the Township pursuant to MCL 324.81131(3).

Section 4 The 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 MCL 324.81131 subsection 5. The Road Commission may reduce the speed limit on any road where ORVs are authorized under this Ordinance to 15 miles per hour if the Road Commission determines that such reduction is reasonable and necessary to public safety and provide such lowered speed limit is posted at reasonable intervals.

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 in the County:

- a) at a speed of 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) while displaying a lighted headlight and lighted taillight;
- g) 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;
- h) 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;
- 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) pursuant to noise emission standards defined by law; and,
- k) operated in a manner that does not cause damage to the environment, a Road or other property.

Section 7 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 visual supervision of an adult and the person 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. A person under 12 years of age shall not operate an ORV pursuant to this ordinance. The requirements of this section are in addition to any applicable requirements of MCL 324.81129.

Section 8 Unless a person possesses a valid drivers license, a person shall not operate an ORV on a Road in the County if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three 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. The Newaygo County Sheriff and his or her deputies as well as any township or municipal police officer with jurisdiction over a road or street in that township or municipality may enforce the

Ordinance, as "Enforcement Officers." If an Enforcement Officer determines that there is probable cause that this Ordinance has been violated, the Officer is authorized to issue and serve an Appearance Ticket upon a person or entity violating this Ordinance. The Appearance Ticket shall direct the recipient to appear in Newaygo County District Court to respond to the alleged violation.

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

- a) Fifty percent of the fine income to the Road Commission for repairing damage to Roads and the environment that may have been caused by ORVs, and for posting sign indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs;
- b) Fifty percent of the fine income to the Newaygo County Sheriff for ORV enforcement and training;
- c) Any damage income to the public entity or person whose road way or property was damaged.

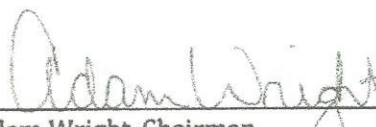
Section 12 This Ordinance and any Amendments thereto shall become effective upon approval by the Board of Commissioners after a properly notice public hearing is held as provided in MCL 324.81131 and then after the expiration of fifty (50) days after the publication of a summary of the adopted Ordinance or Amendment is made by the County Clerk in a newspaper of general circulation as provided in MCL 46.11(j), provided no petition is filed with the County Clerk pursuant to the latter statute within that fifty (50) day period. If such a petition is timely filed, the effective date shall be immediately after certification of approval by the electorate after an election is held thereon.

This Ordinance is adopted by action of the Newaygo County Board of Commissioners this 22nd day of February, 2012.

Commissioners voting "Aye": Gardner, Geno, Trapp, Maike, Nieboer, Scholtens, Wright

Commissioners voting "Nay": None

Commissioners Absent: None



Adam Wright, Chairman
Newaygo County Board of Commissioners

[SEAL]

Certification

I, Laurel J. Breuker, Clerk of the County of Newaygo, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Newaygo County Board of Commissioners on the 22nd day of February, 2012.



Laurel J. Breuker
Newaygo County Clerk