

**STATE OF MICHIGAN
COUNTY OF WEXFORD
ORV ORDINANCE**

ORDINANCE No. 41

An ordinance adopted to authorize and regulate the operation of Off Road Vehicles (ORVs) on roads in *Wexford* County, to provide penalties for violations of the ordinance, and to distribute public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE COUNTY OF WEXFORD ORDAINS:

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

- a) "County" means the County of Wexford.
- 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 be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who 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 vehicle 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, .
- 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 Wexford.
- h) "Road surface" means that portion of a roadway improved, designated or ordinarily used for vehicular travel, and does not included within its meaning the shoulder or right-of-way.
- i) "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.
- j) "Shoulder means that portion of a street or highway to the immediate right of the road surface while facing the direction of travel which is not generally used for vehicular travel.
- k) "Township" means an individual township within the County of *Wexford*.
- l) "Township Board" means a board of trustees of any township within the County of Wexford.
- 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.

Sec. 2 An ORV may be operated on the far right of the maintained portion of an unpaved road and upon the gravel or dirt shoulder portion of a paved road within the county. The operator of an ORV may cross a public road, street or alley, other than a limited access highway, at right angles, to get from one area to another if the operation can be done in safety. The operator shall bring the ORV to a complete stop before proceeding across a public road and shall yield the right of way to all oncoming traffic. The following exceptions to operation apply:

- a) An ORV may not be operated on the road surface, shoulder or right-of-way of within the city limits of Buckley, Cadillac, Harrietta, Manton, or Mesick unless those municipalities specifically permit such use.

- b) An ORV may not be operated in the ditch of any road including the front and back slopes of the ditch and including paths in any ditches of any road, except designated and signed ORV trails.

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 Wexford County Road Commission may close any road or part or section of road opened to ORV operation by this ordinance to protect the environment or if the Wexford County Road Commission determines that ORV operation on that road or part or section poses a particular and demonstrable threat to public safety. However, the Wexford County Road Commission may close no more than 30% of the total linear miles of roads located within the county under this subsection.

Sec. 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.

Sec. 6 The following requirements and restrictions apply to ORV operation allowed under this ordinance.

- a) Speed must not exceed 25 miles per hour or any lower posted ORV speed limit.
- b) ORVs must be operated with the flow of traffic.
- c) ORVs must be operated in a manner that does not interfere with traffic on the road or street.
- d) ORVs must be operated in single file except when overtaking and passing another ORV and with a safe distance between ORVs.
- a) ORVs must yield the right of way to all motor vehicle traffic, pedestrians and non-motorized vehicles within the roadway
- e) ORVs must not be operated when visibility is substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- f) ORVs must not be operated 1/2 hour after sunset until 1/2 before sunrise unless displaying a lighted headlight and lighted taillight.
- g) ORVs must not be operated at any time after January 1, 2010 unless displaying a lighted headlight and lighted taillight.
- h) Each operator and passenger must wear 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.
- i) Each ORV must be equipped 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.
- k) Each ORV must be equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- l) Each ORV must be operated within noise emission standards defined by law
- m) ORVs must not be operated within 100’ of a dwelling at a speed greater than (idle) the minimum required to maintain forward movement
- n) ORVs must not be operated in a manner that will cause damage to the road, road surface or shoulder. In this regard, prohibited activity includes but is not limited to actions such as “fishtailing” and spinning of tires that disperses gravel and creates ruts and other damage
- o) ORVs must be operated in compliance with MCL324.81133 as amended from time to time and with other applicable statutes, rules, and regulations.

Sec. 7 A person less than 18 years of age shall not operate an ORV unless the person is in possession of a valid driver license or under the direct visual supervision of a parent or guardian on a road in the county and the minor 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 section.

Sec. 8 Unless a person possesses a valid drivers 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 If a collision occurs on a public roadway between an ORV and a vehicle that is permitted to operate on a public roadway, the operator of the ORV is considered prima facie negligent in a court of law.

Sec. 10 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 for each infraction.

Sec. 11 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 12 The County Treasurer shall deposit all fines, fees and damages collected under this ordinance into a fund to be designated as the ORV Fund. Revenues in the ORV Fund shall be disbursed 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 sign 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. 13 This ordinance becomes effective on April 24, 2009.

This Ordinance is adopted by action of the Wexford County Board of Commissioners on April 15, 2009.

Commissioners voting "Aye": Bullock, Copley, McKeever, Akers, and Housler;

Commissioners voting "Nay": Saari, Rabun, Beck, and Stump;

Commissioners Absent: None

_____, Chairman, Board of Commissioners
Michael Stump

Certification

I, Elaine Richardson, Wexford County Clerk, certify that this is a true and correct copy of the Ordinance adopted by the Wexford County Board of Commissioners on April 15, 2009.

_____, County Clerk
Elaine L. Richardson