

**STATE OF MICHIGAN
COUNTY OF LEELANAU
ORV ORDINANCE
ORDINANCE No. 2012-001**

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Leelanau County, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, as amended, which is incorporated by reference in its entirety.

THE COUNTY OF LEELANAU ORDAINS:

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

- a) "County" means the County of Leelanau.
- b) "Direct supervision" means the direct visual 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.
- c) "Driver's 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, as amended, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- e) "Operator" means a person who operates or is in actual physical control of the operation 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 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 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 the performance of its common function, or a registered aircraft.

- g) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- h) "Road Commission" means the Board of County Road Commissioners for the County of Leelanau.
- 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.

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Section 2. Designated Roads.

- a) An ORV may be operated only on the far right on the maintained portion of a road within the County.
- b) An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway, or on any road closed to the operation of ORV's by the Road Commission or pursuant to a township ordinance.

Section 3. Operating Conditions. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a designated 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.
- e) Traveling single file, except when overtaking and passing another ORV.
- f) While displaying a lighted headlight and lighted taillight at all hours.

Section 4. License; Safety Certificate. A person less than 18 years of age shall not operate an ORV on a road in the County unless the person is in possession of a valid driver's license, or unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV safety certificate or a comparable ORV Safety Certificate issued under the authority of another state or province of Canada.

Section 5. Registered Motor Vehicle. Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road in the County if the ORV is registered as a motor vehicle, and either is more than 60 inches wide or has three wheels.

Section 6. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road pursuant to state law was in a collision with an ORV required to be operated on the far right of the maintained portion of the road pursuant to this ordinance, the operator of the ORV shall be considered prima facie negligent.

Section 7. Penalties. Any person who violates this ordinance is guilty of a municipal civil infraction, and shall pay a civil fine of not less than \$250.00 and not more than \$500.00. In addition, a court may order the person to pay full restitution for any damage to the environment, a road, or public property damaged as a result of the violation.

Section 8. ORV Fund. The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The Leelanau County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the Leelanau 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 Leelanau County Sheriff for ORV enforcement and training.

Section 9. Repealer Clause. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 10. Savings Clause. This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any Ordinance, Resolution, Order or parts thereof, hereby repealed, and this Ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the County, or other person, either criminal or civil, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order or policy, or any part thereof, hereby repealed.

Section 11. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 12. Effective Date. This Ordinance shall be effective immediately after publication of notice of its adoption.

This Ordinance is adopted by action of the Leelanau County Board of

Commissioners this 21st day of August 2012.

Commissioners voting "Aye": Shiflett, Watkoski, Lautner, Schmuckal, Van Pelt

Commissioners voting "Nay": Marshall

Commissioners Absent: Schaub

/s/ Tom Van Pelt
Tom Van Pelt, Chairperson
Leelanau County Board of Commissioners

Motion #206-08212012 Regular Session

MOTION BY SCHMUCKAL TO ADOPT THE ORV ORDINANCE, SUBJECT TO THE CORRECTIONS THAT WERE STATED EARLIER AND ALSO SUBJECT TO CORPORATE COUNCIL REVIEW. SECOND LAUTNER.

Discussion.

ROLL CALL:

SHIFLETT – YES; WATKOSKI – YES; LAUTNER – YES; MARSHALL – NO;
SCHMUCKAL – YES; VAN PELT – YES.

AYES – 5 NO – 1 ABSENT – 1 (SCHAUB) MOTION CARRIED.

State of Michigan
County of Leelanau

I, Michelle L. Crocker, Clerk of said County and Clerk of Circuit Court for said County, the same being a Court of record having a seal, do hereby certify that the above is a true copy of the Record now remaining in my office and of the whole thereof. In Testimony whereof, I have hereto set my hand and affixed the seal of the Circuit Court the 24th day of August 2012.

/s/ Michelle L. Crocker
Michelle L. Crocker, Leelanau County Clerk

The above is a complete copy of the ORV Ordinance as adopted. The Ordinance can also be viewed on the County's website: leelanau.cc
Copies may be obtained through the Leelanau County Clerk's office.

Published September 6, 2012
Michelle L. Crocker
Leelanau County Clerk