

S T A T E O F M I C H I G A N

BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEGAN

**BOARD OF COMMISSIONERS - ADOPT OFF ROAD VEHICLE ORDINANCE**

**WHEREAS**, a public hearing, duly noticed, was held virtually and in the Board Room, County Services Building on June 10, 2021 at 1:00 PM, to allow public comment.

**THEREFORE BE IT RESOLVED** that upon hearing public comment, the Board of Commissioners hereby adopts the Off Road Vehicle (ORV) Ordinance as presented; and

**BE IT FURTHER RESOLVED** that the ORV Ordinance #1015 shall take effect July 1, 2021 after publication of notice of its adoption; and

**BE IT FURTHER RESOLVED** that notice of said ordinance shall be published in a newspaper of general circulation in Allegan County; and

**BE IT FURTHER RESOLVED** County Administration shall post the said ordinance under the Board of Commissioners webpage; and

**BE IT FINALLY RESOLVED** that the Clerk is authorized to publish and post notices of this ordinance to inform the general public of its adoption.

Moved by Commissioner Kapenga, seconded by Commissioner Cain to take immediate action and adopt the Off Road Vehicle Ordinance #1015 as presented. Motion carried by roll call vote. Yeas: Kapenga, Storey, DeYoung, Jessup and Cain. Nays: Thiele and Dugan.

Moved by Commissioner Dugan, seconded by Commissioner Jessup to have the ordinance take effect and be published on July 1, 2021. Motion carried by roll call vote. Yeas: 7 votes. Nays: 0 votes.

ATTEST, A TRUE COPY



\_\_\_\_\_, Clerk-Register

APPROVED: June 10, 2021

cc: Admin. - Finance - Human Resources

## ALLEGAN COUNTY

### ORV ORDINANCE #1015.0

This ordinance authorizes, and regulates the operation of Off-Road Vehicles (“ORVs”) on county roads in Allegan County, as authorized by Part 811 of the Michigan Natural Resources and Environmental Protection Act 451 of 1994 (“Act”) as amended, being MCL 324.81131 *et. seq.*

#### ARTICLE I – Purpose and Designation

**Section 101. Purpose and Intent.** This ordinance is adopted to allow operation of ORVs on county roads within the County of Allegan, with the powers, duties, and limitations provided by the Act and subject to the terms and conditions of this Ordinance and any future amendments thereto.

**Section 102. Designation.** This Ordinance shall be known as, The Allegan County ORV Ordinance.

#### ARTICLE II – Definitions

**Section 201. Definitions.** When the following terms are used in this Ordinance, the following definitions apply:

- a. “County” means the County of Allegan.
- b. “County road” means a county primary road or county local road, as described in section 5 of 1951 PA 51, MCL 247.655, or a segment thereof, under the jurisdiction of the Allegan County Road Commission.
- c. “Highway” means a state trunk line highway or a segment of a state trunk line highway.
- d. “License” means any driving privileges, license, temporary instruction permit, commercial learner’s permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles. MCL 257.25
- e. “Local unit of government” means a county, township, or municipality.
- f. “Maintained portion” means the roadway and any shoulder of a street, county road, or highway.

g. "Municipality" means city or village.

h. "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.

i. "Operator" means an individual who operates or is in actual physical control of the operation of an ORV.

j. "ORV" or, unless the context implies a different meaning, "vehicle" means a motor-driven off-road recreation vehicle capable of cross-county travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. 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.

k. "ORV safety certificate" means an ORV safety certificate issued under the Act or a comparable safety certificate issued under the authority of another state or province of Canada.

l. "Roadway" means the portion of a street, county road, or highway improved, designed, or ordinarily used for travel by vehicles registered under the Michigan vehicle code. Roadway does not include the shoulder.

m. "Road commission" means the Allegan County Road Commission.

n. "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye by an observer who is able to come to the immediate aid of the operator.

### **ARTICLE III – ORV Operation**

**Section 301. ORV Operation.** Subject to Section 402, a person may operate an ORV with the flow of traffic on the far right of the maintained portion of all county roads within Allegan County; provided that:

a. A person shall not operate an ORV at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the county road or at a speed greater than conditions allow.

b. A person possesses a license as defined in Section 25 of the Michigan Vehicle Code, MCL 257.25.

c. ORVs operated as authorized shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.

d. A person shall not operate an ORV without displaying a lighted headlight and lighted taillight.

e. No person under 18 years of age may operate an ORV unless the person is in possession of a valid license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate.

f. No person under the age of 12 may operate an ORV on any road described herein.

g. An individual who is operating or is a passenger on an ORV shall wear a crash helmet and protective eyewear that are approved by the United States Department of Transportation unless the ORV is equipped with a roof that meets or exceeds United States Department of Transportation standards for a crash helmet and the individual is wearing a properly adjusted and fastened safety belt.

h. The ORV is fitted 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. The ORV is equipped with a spark arrester type United States Forest Service approved muffler, in good working order and in constant operation.

j. The ORV is 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 the taillight, visible from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise.

k. The ORV is operated pursuant to noise emission standards defined by law.

1. The ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway.

#### **ARTICLE IV - Authorization**

**Section 401. Authorization.** Should any term of this ordinance be found to be inconsistent with the authorizing statute; MCL 324.81131, as amended, the provisions of the statute, including any amendments thereto shall apply.

**Section 402. Closed Roads.** The board of the road commission may close a county road to the operation of ORVs otherwise authorized pursuant to this Ordinance and operation of an ORV on said roads is prohibited under this Ordinance. The road commission shall not close more than 30% of the linear miles of county roads located within the county to the operation of ORVs otherwise authorized pursuant to this Ordinance.

#### **ARTICLE V – Violations and Penalties**

**Section 501. Penalties.** A person who violates this Ordinance is guilty of a municipal civil infraction and shall pay a civil fine not more than \$500.00. In addition the court shall order the defendant to pay the cost of repairing any damage to the environment, a street, county road, or highway, or public property as a result of the violation.

**Section 502. ORV Fund.** The treasurer of the county shall deposit fines and damages collected for violations of this Ordinance into a fund to be designated as the “ORV fund”. The Allegan County Board of Commissioners shall appropriate revenue in the ORV fund consistent with the authorizing statute, MCL 324.81131, as amended.

#### **ARTICLE VI – Severability and Immunity**

**Section 601. Severability.** If any part of this Ordinance shall be determined to be unenforceable by a court of competent jurisdiction, that part shall be deemed to be severed and removed from the body of this Ordinance, and the rest shall remain in full force and effect.

**Section 602. Immunity.** The road commission, the County Board of Commissioners, the County of Allegan and any township or municipality are all immune from tort liability for injuries or damages sustained by any person arising out of the operation or use of an ORV on maintained or unmaintained roads, streets, shoulders, and rights of way over which they have jurisdiction.

**ARTICLE VII – Prior Ordinances and Effective Date**

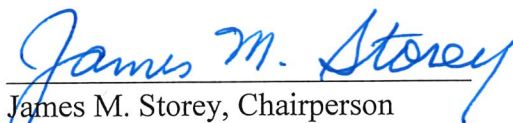
**Section 701. Repealer Clause.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 702. 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. 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 703. Effective Date.** This Ordinance shall be effective immediately after publication of notice of its adoption.

**ADOPTION**

Adopted by action of the Allegan County Board of Commissioners this 10th day of June, 2021.

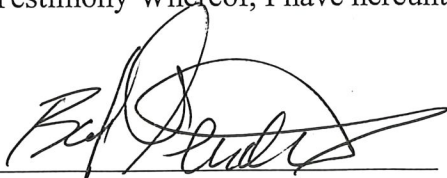


James M. Storey, Chairperson  
Board of Commissioners  
Allegan County, Michigan

**CERTIFICATION**

I hereby certify that the foregoing is a true and correct copy of the Ordinance made and passed by the Allegan County Board of commissioners on the date above.

In Testimony Whereof, I have hereunto set my hand and seal this 18 day of June, 2021.



Bob Genetski, County Clerk/Register  
Allegan County, Michigan