

**STATE OF MICHIGAN
COUNTY OF MASON
TOWNSHIP OF HAMLIN
ORV ORDINANCE**

An Ordinance authorizing and regulating the operating of Off Road Vehicles (ORV'S) on county primary and county local roads in Hamlin Township, Mason County, providing penalties for the violation thereof, and for the distribution of fines and costs resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE TOWNSHIP OF HAMLIN ORDAINS:

1. Definitions:

- A. "Township" means the Township of Hamlin, Mason County.
- B. "County" means Mason County.
- C. "Drivers 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.
- D. "Maintained Portion" means that portion of a road improved, designated or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.
- E. "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- F. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- G. "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 multi track or multi wheel 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 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.

- H. "Road" means a County primary road or county local road as described in Section 5 of 1951 PA 51, MCL 247.655.
- I. "Road Commission" means the Board of County Road Commissions for the County of Mason.
- J. "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.
- K. "Visual Supervision" means 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.
- L. "Township Board" means the Township Board of Hamlin Township.
- M. "Equestrian or Horse and Rider" means an equine animal accompanied by a human being, whether mounted or on foot.
- N. "Pedestrian" means a human being on foot.
- O. "Bicyclist or Bicycle Rider" means a human being riding or walking a vehicle moved by human peddle power regardless of the number of wheels.

2. Operation of ORV'S on County Roads:

An individual may operate an ORV on a road within Hamlin Township provided that the ORV is operated only with the flow of traffic, on the far right of the maintained portion of the Road, subject to the following additional regulations.

- 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 the traffic on the road.
- B. ORV'S shall travel in single file, except when passing or being passed by another ORV.
- C. All ORV'S operating must have a lighted headlight and taillight and working brake light.
- D. Unless a person possesses a drivers license, a Person shall NOT operate an ORV on a road if the ORV is registered as a motor vehicle under the Michigan Vehicles Code and the ORV is either more than 62 inches wide or has three wheels.

- E. A person under the age of 12 shall not operate an ORV on a Road; nor shall a person under the age of 18 operate an ORV on a Road unless the person is in possession of a valid driver's license, or is under the direct supervision of a parent or guardian who possesses a valid driver's license, or the person has in his/her possession an ORV Safety Certificate issued by Michigan, another state, or a province of Canada.
- F. ALL OPERATORS, must, upon demand by a law enforcement officer, present either an ORV Safety Certificate or driver's license.
- G. An owner or person in charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of mental or physical disability.
- H. A child less than 16 years of age shall not operate a 3-wheeled ATV.
- I. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.
- J. A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the vehicle is equipped with a roof that meets or exceeds the standard for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- K. A person shall not operate an ORV without a braking system including a working brake light.
- L. A person shall not operate an ORV between the hours of 11:00 PM and 6:00 AM.
- M. No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
- N. All ORV'S shall conform to the noise emission levels established by the United States Environmental Protection Agency under the noise control Act of 1972, 42 USC 4901 to 4918.
- O. No person shall operate an ORV with an opened container of alcohol unless it is in a trunk, separate compartment or is encased or enclosed.
- P. 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 return to idle. No mechanism for locking the throttle at a set speed shall be installed on the ORV.

- Q. The ORV is equipped with a spark arrester type United State Forest Service approved muffler in good working order and in constant operation.
- R. The ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.
- S. An ORV shall not be operated on the road surface, roadway, shoulder or right of way of M-116 in Hamlin Township.
- T. No person shall operate an ORV on private lands without the written consent of the owner, owner's agent or lessee. The operator of the vehicle is liable for damage to private property.
- U. No person shall operate an ORV in or on the waters of any stream, river, bog, wetland, swamp, marsh or quagmire except over a bridge, culvert or similar structure.
- V. No person shall operate an ORV to hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill an animal, whether wild or domesticated.
- W. No person shall operate an ORV in a manner so as to leave behind litter or other debris or on the frozen surface of public waters within one hundred feet (100') of a person not in or upon a vehicle, or within one hundred (100') of a fishing shanty or shelter or an area cleared of snow for skating purposes.
- X. No person shall operate an ORV within one (100') feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control, on which the operator is an invited guest.
- Y. No person shall operate an ORV in an area on which public hunting is permitted during the regular November firearm deer season from 7 AM until 11 AM and from 2 PM until 5 PM, except during an emergency or for law enforcement purposes or to go to or from a permanent residence or hunting camp otherwise inaccessible.
- Z. ORV operators must yield to equestrian, pedestrian and bicycle traffic.

3. No Township Duty to Maintain County Roads:

Despite the terms of this Ordinance allowing ORV'S to use portions of County Roads, the Township has no duty to, and undertakes no duty to, maintain a road within its boundaries in a condition reasonably safe and convenient for the operation of ORV'S.

Hamlin Township is 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 and unmaintained roads, streets, shoulders, and rights-of-way within the township, except in cases of gross negligence. "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for injury results.

4. Enforcement:

- A. A violation of this ordinance is a civil infraction, and the guilty party/parties or person/persons shall each pay a fine of not more than \$500.00. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a Road, or public or private property damaged as a result of the violation.
- B. The Township Treasurer shall deposit fines and damage costs collected under this ordinance and under applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the "ORV Fund".
- C. The Township Board shall appropriate revenue in the ORV fund as follows:
 - a. Fifty percent to the Township ORV Fund to be distributed to the Mason County Sheriff's Department or to be distributed to a Township fund to cover the costs of the Township Constable, or both, responsible for ORV enforcement and training.
 - b. Fifty percent to the Mason County Road Commission for repairing damage to roads or streets and the environment that may have been caused by ORV'S and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORV'S under this ordinance, within Hamlin Township.

Effective Date: This Ordinance shall be effective 30 days after its first publication. The ordinance will be reviewed 30 days prior to one year after its effective date to determine its continuation. A public hearing shall be held not more than thirty days nor less than 10 days prior to the expiration of this ordinance. The hearing location, date and time shall be posted on the Township's web site and with all local news organizations at least 10 days prior to the hearing. Such hearing shall gather comments from the public in order to inform the Hamlin Township Board of Trustees of public sentiment and issues occurring from allowing ORV use on public roads. The Hamlin Township Board of Trustees shall vote to extend, or not to extend, this ordinance at the scheduled public hearing.

This ordinance is adopted by the Hamlin Township Board on this, the 22nd day of October, 2012 on the motion of L. Rees, supported by C. Lewis.

ROLL CALL:

Supervisor:	N. Vandervest -	Aye
Treasurer	M. McCarthy -	Aye
Clerk:	C. Lewis -	Aye
Trustee:	L. Rees -	Aye
Trustee:	J. Gurzynski -	Aye

This Ordinance was published in the Ludington Daily News on Monday, October 29, 2012 and will be effective 30 days from publication.