

DRAFT 08/27/23

TOWNSHIP OF GOLDEN COUNTY OF OCEANA STATE OF MICHIGAN

Ordinance No. xyz

ORV ORDINANCE

AN ORDINANCE AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD VEHICLES (ORVs) ON COUNTY PRIMARY AND COUNTY LOCAL ROADS IN GOLDEN TOWNSHIP, OCEANA COUNTY, MICHIGAN, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF FINES AND COSTS RESULTING FROM THOSE PENALTIES PURSUANT TO 2009 PA 175, MCL 324.81131.

THE TOWNSHIP OF GOLDEN ORDAINS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- County means Oceana County, Michigan.
- Driver's License means any valid driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, and the Dominion of Canada pertaining to the licensing of persons to operate motor vehicles.
- Maintained Portion means that portion of road, improved, designated, and/or ordinarily used for vehicular traffic.
- Operate, means to ride in or on and be in actual physical control of the operation of an ORV.
- Operator means a person who operates or is in actual physical control of the operation of an ORV.
- An ORV for the purpose of this Ordinance is specifically aimed at "side by side" style vehicles.
- ORV, or Vehicle, for the purpose of this Ordinance is means a Side By Side (SXS) or UTV vehicle, unless the context implies a different meaning, "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. An "ORV" or "vehicle" does not include any ATV, a two-wheeler (dirtbike), three-wheeler, four-wheeler (quad), golf cart, dune buggy, or a sandrail for the purpose of this Ordinance..

- ORV Map means the Golden Township ORV Open Road Map as published by the Township. The ORV Map shall conspicuously indicate those roads, and parts or sections thereof, where the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The ORV Map may be occasionally updated by the Township and only the most recent map may be used for enforcement under this ordinance. The Township shall make such master map available to the public.
- Road means a County primary road or County local road as described in section 5 of 1951 PA 51, MCL 247.655. Road Commission means the Board of County Road Commissioners for the County of Oceana.
- Township means the Township of Golden.

Section 2. Operation of ORVs on County Roads. An individual may operate an ORV on all roads located within the Township provided that the ORV is operated only with the flow of traffic, on the far right of the vehicular lane of the road, subject to the following regulations:

- 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 road or in a careless manner having undue regard for conditions.
- ORVs shall travel single-file, except when passing or being passed by another ORV.
- All ORVs operating shall always display a lighted headlight and taillight and have an operating rear brakelight.
- Unless a person possess a driver's license a person shall not operate an ORV on a road.
- All operators must, upon demand by a law enforcement officer, present driver's license.
- An owner or person in control or charge of an ORV shall not allow an ORV to be operated by an individual who does not possess a valid driver's license or is incompetent to operate a vehicle because of a mental or physical disability.
- A person shall not operate an ORV at a rate of speed greater than 25 mph, or a lower posted ORV speed limit..

- A person shall not operate an ORV during the hours of 1/2 hour after sunset and until 1/2 hour after sunrise.
- All ORVs 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.
- No person who is an operator or passenger on an ORV shall transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken.
- An ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- An 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.
- An ORV shall only be operated on Township roads so designated for ORV use on the ORV Map and must obey all road signs as posted.

Section 3. No Township Duty to Maintain County Roads. Despite the provisions contained in this Ordinance allowing ORVs to use portions of County roads, the Township shall have no duty, and undertakes no duty, to maintain a road within its boundaries in a condition that is reasonably safe and convenient for the operation of ORVs. Pursuant to MCL 324.81131 and MCL 691.1405, the Township shall be immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained or unmaintained portion of a highway, road, or street, of an ORV.

Section 4. Careless or Reckless Operation. In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a road, street, or highway pursuant to the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV, the operator of the ORV involved in the collision shall be considered prima facie negligent.

Section 5. Operation of ORV by Child. A parent or guardian of a child less than 16 years of age shall not permit or allow the child to violate any provision of this Ordinance.

Section 6. Enforcement.

- A violation of this Ordinance is a municipal civil infraction, and a person responsible for a civil infraction under this Ordinance shall pay a fine per infraction of not less than \$250.00 nor more than \$500.00 plus costs and actual reasonable attorney fees incurred by the Township in enforcing this Ordinance. In addition, the Court may order the defendant to pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the

violation.

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- Officers, deputies, members, and/or agents of the Oceana County Sheriff's Department are authorized to enforce this Ordinance and to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in Court.
- The Township Treasurer shall deposit fines and costs collected under this Ordinance under the applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the ORV Fund.
- The Township Treasurer shall appropriate revenue in the ORV Fund as follows:
 1. Fifty percent to the Oceana 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.
 2. Fifty percent to the Oceana County Sheriff's Department for ORV enforcement and training.