



Calhoun County Corporation Counsel

315 West Green Street
Marshall, MI 49068

Voice 269-781-0917

Fax 269-781-0140

Email: jdyer@calhouncountymi.gov

Via Certified Mail, Return Receipt Requested

January 4, 2023

Re: **Notice of Public Hearing on proposed adoption of the Calhoun County Off-Road Vehicle (ORV) Ordinance; Resolution 185-2022.**

On November 17, 2022, the Calhoun County Board of Commissioners adopted a resolution supporting the proposed Calhoun County Off-Road Vehicle (ORV) Ordinance, as permitted by Part 811 of the Michigan Natural Resources and Environmental Protection Act, specifically MCL 324.81131 (2). This statute requires a public hearing, and a 45-day notice period for all Townships, and Municipalities in Calhoun County, as well as the Michigan Department of Transportation.

The public hearing will be held on Thursday, March 2, 2023, at 7:00p.m., or shortly thereafter, in the County Commission Chambers at the Calhoun County Administration Building, 315 West Green Street, 3rd Floor, Marshall, Michigan 49068.

Enclosed is a formal notice of public hearing, which you are receiving pursuant to the attached resolution. The County is holding the public hearing as required by MCL 324.81131(3).

At the hearing, you will have an opportunity to express your views and recommendations on the proposed Ordinance. After the public hearing, the County Commission may approve or reject the proposed Ordinance or approve it with modifications as allowed by the state.

The ordinance will not take effect until the final text, and the list of restricted streets, is approved by the Calhoun County Commission, and the Ordinance is published in a local newspaper.

You will also notice that the proposed ordinance closely follows the state statute in most respects concerning the required equipment, and the means of operating the ORV. Also, the proposed ordinance assumes that all roads are open to ORV operation, unless specifically identified in the ordinance as closed to ORV operation. The County is particularly interested in your input regarding which roads should be open, or closed, to ORV use in your jurisdiction. We also are looking for input on any additional permissions, conditions, or restrictions that you believe are appropriate to the operation of ORV's under this County ordinance.

Notice of Proposed County Ordinance
And Public Hearing
January 4, 2023
Page 2

To assist in the discussion at the public hearing, you may submit any comments before the hearing by mail, email, or phone call directly to me

If you have any questions about this letter, the ORV ordinance, or the Public hearing please call or email me at (269) 781-0917 or jdyer@calhouncountymi.gov. We look forward to hearing from you soon.

Very truly yours,

James Dyer
Corporation Counsel

Enclosures: Public Hearing Notice
Mailing List
Copy of Resolution 185-2022
Copy of Calhoun County ORV Ordinance

**BOARD OF COMMISSIONERS
CALHOUN COUNTY, MICHIGAN**

**NOTICE OF PUBLIC HEARING
ON PROPOSED TEXT OF THE
CALHOUN COUNTY OFF-ROAD VEHICLE (ORV) ORDINANCE**

PUBLIC NOTICE IS HEREBY GIVEN that the Calhoun County Board of Commissioners will hold a public hearing on the proposed text of the Calhoun County Off-Road Vehicle (ORV) Ordinance as required by MCL 324.81131(3). **The hearing will be held on Thursday, March 2, 2023, at 7:00 p.m., local time (or shortly thereafter) at the Calhoun County Administration Building, Board Chambers 3rd Floor, 315 West Green Street, Marshall, Michigan 49068.**

The proposed Calhoun County ORV Ordinance and Resolution 185-2022 are attached to this Notice for reference, and copies are available in the Administration Office on the third Floor of the County Administration Building. All aspects of the proposed ordinance and any other information that the Board of Commissioners deems appropriate, are open for discussion at the public hearing. At the hearing, citizens, taxpayers, property owners, and representatives of affected taxing jurisdictions may be heard with regard to the proposed ordinance text. Written comments concerning the proposed text may be submitted to Calhoun County Corporation Counsel, Jim Dyer, Calhoun County Administration Building, 316 West Green Street, Marshall, Michigan 49068, up to the time of the public hearing.

Authorized by the Calhoun County Board of Commissioners on the 17th day of November 2022.

Dated: January 4, 2022

Steve Frisbie
Board Chair

Susan M. Connolly
Deputy Clerk and Secretary
Calhoun County Board of Commissioners

See attached service list

ALBION TOWNSHIP
CLERK
28051 F DRIVE SOUTH
ALBION TWP, MI 49224

ATHENS TOWNSHIP
CLERK
130 E BURR OAK
ATHENS TWP, MI 49011

BEDFORD TOWNSHIP
CLERK
115 S ULDRICKS
BEDFORD TWP, MI 49037

BURLINGTON TWP
CLERK
135 ELM ST
BURLINGTON TWP, MI 49029

CITY OF ALBION
CLERK
112 W CASS ST
ALBION, MI 49224

CITY OF BATTLE CREEK
CLERK
10 N DIVISION ST, ROOM 111
BATTLE CREEK, MI 49014

CITY OF MARSHALL
CLERK
323 W MICHIGAN AVE
MARSHALL, MI 49068

CITY OF SPRINGFIELD
CLERK
601 AVENUE A
SPRINGFIELD, MI 49037

CLARENCE TOWNSHIP
CLERK
27052 R DRIVE N
CLARENCE TWP, MI 49284

CLARENDON TOWNSHIP
CLERK
PO BOX 275
TEKONSHA, MI 49092

CONVIS TOWNSHIP
CLERK
19500 15 MILE RD
MARSHALL, MI 49068-9467

ECKFORD TOWNSHIP
CLERK
21000 F DRIVE SOUTH
MARSHALL, MI 49068

EMMETT CHARTER TOWNSHIP
CLERK
621 CLIFF ST
BATTLE CREEK, MI 49014

VILLAGE OF TEKONSHA
CLERK
537 N CHURCH ST
PO BOX 301
TEKONSHA, MI 49092

FREDONIA TOWNSHIP
CLERK
8803 US HIGHWAY 27 S
MARSHALL, MI 49068

HOMER TOWNSHIP
CLERK
130 E MAIN
HOMER, MI 49245

LEE TOWNSHIP
CLERK
23045 21 MILE RD
OLIVET, MI 49076

LEROY TOWNSHIP
CLERK
8156 4 MILE RD
EAST LEROY, MI 49051

MARENGO TOWNSHIP
CLERK
14021 23 MILE RD
ALBION, MI 49224-8504

MARSHALL TOWNSHIP
CLERK
13551 MYRON AVERY DR
MARSHALL, MI 49068

NEWTON TOWNSHIP
CLERK
7988 G Dr South
CERESCO, MI 49033-9661

PENNFIELD CHARTER TWP
CLERK
20260 CAPITAL AVE NE
BATTLE CREEK, MI 49017

SHERIDAN TOWNSHIP
CLERK
13355 29 MILE RD
ALBION, MI 49224

TEKONSHA TOWNSHIP
CLERK
166 SPIRES PARKWAY
TEKONSHA, 49092-0091

MICHIGAN DEPT OF
TRANSPORTATION
PAUL C. AJEGBA, P.E.
425 WEST OTTAWA STREET
LANSING, MI 48909

VILLAGE OF ATHENS
CLERK
129 E BURR OAK ST
ATHENS, MI 49011

VILLAGE OF HOMER
CLERK
130 EAST MAIN ST
PO BOX 155
HOMER, MI 49245

VILLAGE OF UNION CITY
CLERK
101 S BROADWAY ST
UNION CITY, MI 49094

VILLAGE OF BURLINGTON
CLERK
FIRE HALL, MARSHALL ST
BURLINGTON, MI 49029



At a Regular Session of the Calhoun County Board of Commissioners, held in Board Chambers, Calhoun County Building, 315 West Green Street, Marshall, Michigan, on Thursday, November 17, 2022, with Chair Steve Frisbie presiding, the following action was taken:

RESOLVED that the Calhoun County Board of Commissioners does hereby approve the proposed text of the Calhoun County Off-Road Vehicle (ORV) Ordinance; authorize the Calhoun County Sheriff and Road Department to create a proposed list of County roads to be closed to ORV use for inclusion as Appendix A of the Ordinance; schedule a public hearing on the ORV Ordinance not sooner than 45 days after notice of the proposed ordinance is given as provided by law, and provide certified mail notice to the Michigan Department of Transportation and to all townships and municipalities within the County, as required by MCL 324.81131 (3).

Res.185-2022

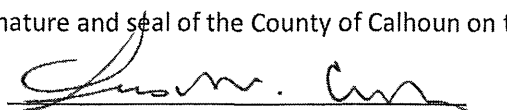
“Moved Comr. King, second by Comr. Miller to approve the proposed text of the Calhoun County Off-Road Vehicle (ORV) Ordinance; authorize the Calhoun County Sheriff and Road Department to create a proposed list of County roads to be closed to ORV use for inclusion as Appendix A of the Ordinance; schedule a public hearing on the ORV Ordinance not sooner than 45 days after notice of the proposed ordinance is given as provided by law, and provide certified mail notice to the Michigan Department of Transportation and to all townships and municipalities within the County, as required by MCL 324.81131 (3), as presented.”

On a **ROLL CALL VOTE**, Yes – 5, Comrs. Tompkins, Smith, Frisbie, King, and Miller.
Absent - 1, Comr. Hatcher. Excused – 1, Comr. Vette.
Motion **CARRIED**.

STATE OF MICHIGAN)
) SS
COUNTY OF CALHOUN)

I, Susan M. Connolly, Calhoun County Deputy Clerk and Secretary to the Board of Commissioners, do hereby certify that the foregoing is a true and complete copy of Board Resolution No.185-2022, adopted by the Calhoun County Board of Commissioners on November 17, 2022, the original of which is on file in my office.

IN WITNESS WHEREOF, I have hereunder affixed my signature and seal of the County of Calhoun on this 17th day of November 2022.


Deputy Clerk and Secretary to the
Board of Commissioners

Dated: November 17, 2022

CALHOUN COUNTY ORV ORDINANCE

Adopted by the Calhoun County Board of Commissioners on November 17, 2022.

AN ORDINANCE authorizing and regulating the operation of Off-Road Vehicles (ORVs) on roads in Calhoun 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 PEOPLE OF THE COUNTY OF CALHOUN, MICHIGAN, DO ORDAIN:

SECTION 1. DEFINITIONS.

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

- A. "County" means the County of Calhoun.
- B. "Board of County Road Commissioners" means the Calhoun County Board of Commissioners, acting in the capacity of a County Road Commission, as provided by MCL 224.6
- C. "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.
- D. "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.
- E. "Maintained portion" means the roadway and any shoulder of a road.
- F. "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- G. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- H. "ORV" means a motor-driven off-road recreation vehicle, including a golf cart, 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 multi-wheel drive vehicle, an ATV, 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. ORV does not include, a 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.
- I. "Road" means a county primary road or county local road as described in Section 5 of 1951 PA 51, as amended, MCL 247.655.
- J. "Safety Certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81130, or a comparable ORV safety certificate issued under the authority of another state of a province of Canada.

SECTION 2. DESIGNATED ROADS.

- A. An ORV may be operated only on the far right on the maintained portion of any County Primary or Local road, other than those roads listed in Appendix A, which shall be closed to ORV use as provided by MCL 324.813. Appendix A may be amended, from time to time, by resolution of the Calhoun County Board of Commissioners, is incorporated here by reference

- B. An ORV may not be operated on the road surface, roadway, shoulder, or right-of-way of any State or Federal highway in Calhoun County, including but not limited to I-94, I-69, I-194, Business Loop I-94, Dickman Road, Michigan Avenue (west of Partello Road and East of 25 ½ Mile Road), 25 ½ Mile Road (Between I-94 and Michigan Avenue), Old US 27, M-37, M-60, M-66, M-78, M-89, M-99, M227 and M-311, except as indicated in paragraph (C) of this section.
- C. A person operating an ORV on a designated County Road may cross an excluded road as indicated in paragraph (B) of this section for the sole purpose of continuing travel on the designated County Road. The crossing of the excluded road shall only be performed if the operation can be done safely and only at a right angle. The operator shall bring the vehicle to a complete stop before proceeding across the excluded road and shall yield the right-of-way to oncoming traffic.
- D. A township board of a township in the County may adopt an ordinance authorizing the operation of ORV's on the maintained portion of 1 or more roads located within the township, pursuant to MCL 324.81131(3), or to close any roads within the boundaries of the township to the operation of ORVs permitted by the County, pursuant to MCL 324.81131(4).
- E. An ORV may not be operated on any City or Village road surface, roadway, shoulder, or right-of-way in Calhoun County, unless allowed by City or Village ordinance.
- F. An ORV may not be operated within any State Game Area or State Park and Recreation Area located in Calhoun County, except for those roads listed herein or unless allowed by the State Game Area or State Park and Recreation Area.
- G. An ORV may not be operated on any linear trail park, such as the Ott Preserve, Iron Belle or , in Calhoun County.
- H. The Board of County Road Commissioners may close up to 30% of the linear miles of county roads located within the county to the operation of ORV's that would otherwise be authorized for ORV operation pursuant to this ordinance, or a township Ordinance under MCL 324.81131(3), but only when the Road Commission determines closing is necessary to protect the environment or if the operation of ORV's poses a particular and demonstrable threat to public safety.

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. With the flow of traffic.
- C. In a manner which does not interfere with traffic on the road.
- D. Traveling single file, except when overtaking and passing another ORV.
- E. While displaying a securely attached white-lighted headlight and red-lighted taillight with brake light at all times.
- F. By a person not less than 16 years of age, while operated on a County Road under the authority of this Ordinance.
- G. An ORV shall not be operated pursuant to this ordinance during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- H. A child who is less than 16 years of age shall not operate a 3-wheeled ORV.
- I. The ORV shall be 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 red brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated, and 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.
- J. The ORV shall be equipped with at least one mirror securely mounted and positioned on the ORV in such a manner to be able to clearly view traffic approaching from behind.

- K. 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.
- L. While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- M. Pursuant to noise emission standards defined by law.
- N. ORVs must not be operated in a manner that will cause damage to the 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.

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.

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 65 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, street, or highway pursuant to the Michigan Vehicle Code was in a collision on a roadway with an ORV that is not registered under the Code, 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 or private 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 Calhoun County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- A. Fifty percent to the Calhoun 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 Calhoun County Sheriff for ORV enforcement and training.

SECTION 9. MASTER MAP.

The County shall maintain a master map of all roads under the jurisdiction of the Calhoun County Road Commission upon which shall be indicated those roads and parts or sections thereof upon which the operation of ORV's is permitted and prohibited pursuant to this Ordinance. The County shall make such master map available for interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to incur any expense associated with the making of such copies.

SECTION 10. 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 11. 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 12. 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 13. EFFECTIVE DATE.

This Ordinance shall be effective on _____, 2022.

SECTION 14. IMMUNITY CLAUSE.

Subject to section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a county board of commissioners, and a local unit of government are 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 portion or unmaintained portion of a highway, road, or street, of an ORV. The immunity provided by this subsection does not apply to actions of an employee of this state, an employee of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

APPENDIX A

(Insert a list of all County Roads designated as closed for ORV use)