

**Hamilton Township – Clare County
Harrison Michigan 48625**

ORV ORDINANCE

Amended: February 12, 2019

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in the Township of Hamilton, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

The Township of Hamilton, Clare County Ordains:

**Section 1
Definitions**

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

- a) "**Township**" means the Township of Hamilton.
- b) "**Driver 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.
- c) "**Operate**" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "**Operator**" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "**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. A golf cart as defined by State law (MCL 257.25b) being a four-wheel motor vehicle whose speed attainable in one mile is more than twenty miles per hour but not more than twenty-five miles per hour on a paved level surface is defined as an ORV in accordance with MCL 324.8 1101.
- f) "**Road**" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL247.655 and private roads.
- g) "**Road Commission**" means the Board of County Road Commissioners for the County of Clare.
- h) "**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.
- i) "**Visual supervision**" means the 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.

**Section 2
Operating Locations**

- 1) An ORV may be operated on the far right of the maintained portion of a road within the Township of Hamilton.
- 2) An ORV may not be operated on the road surface, roadway, shoulder or right- of-way of any state

or federal highway in the county. At no time shall an ORV be operated upon the sidewalk.

Section 3 Operating Regulations

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the Township.

- 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 or street.
- e) Traveling single file except when overtaking and passing another ORV.
- f) When visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) 1/2 hour before sunrise until 1/2 hour after sunset unless displaying a lighted headlight and lighted taillight.
- h) While displaying a lighted headlight and lighted taillight at all hours.
- i) While the operator and each passenger is wearing 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.
- j) 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.
- k) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- l) Pursuant to noise emission standards defined by law.

Section 5 Age Restrictions

A child less than 16 years of age shall not operate an ORV on a road in the county unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Section 6 License Requirements

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

Section 7
Penalties

- A. First Violation is a Municipal Civil Infraction. A violation of this Ordinance, first offense, is a municipal civil infraction. Any property owner or legally responsible party who violates this Ordinance shall, as a first offense, be responsible for a civil infraction, for which the fine shall be \$250.00 plus fines, costs and restitution.
- B. Second Violation (within two years after municipal civil infraction). A second or repeat violation (within two years after a municipal civil infraction) is a misdemeanor. Any property owner or legally responsible party who violates any provision of this Ordinance a second time within 24 months of the date a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction and in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense
- C. Third Violation (within two years after municipal civil infraction) Any property owner or legally responsible party who violates any provision of this Ordinance a third time within 24 months of the date of a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or some other offense under this Ordinance) shall upon conviction in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00 and/or Imprisonment for a period of not more than 93 days, plus court costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.
- D. Enforcement. Enforcement of the provisions of this Ordinance shall be the Hamilton Township Zoning Ordinance Enforcement Officer (or such other Hamilton Township Official as may be designated by the Hamilton Township Board), the Hamilton Township Zoning Administrator, the Hamilton Township Attorney, the Clare County Sheriff's Department and/or the Michigan State Police.
- E. Continuing Offense. Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense.
- F. Remedies Not Exclusive. In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought.
- G. Judge or Magistrate. The Judge or Magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.
- H. Civil Contempt.
 - 1. If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the District Court, upon motion of Hamilton Township or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
 - 2. If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or

- expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for a payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
 4. If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.

**Section 9
Severability**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part of portion thereof.

**Section 10
Repeal**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

**Section 11
Conforming**

This Ordinance shall conform to all applicable county, state, and federal laws.

**Section 12
Effective Date**

The Ordinance shall become effective immediately upon publication as required by law following adoption by the Hamilton Township Board