

**STATE OF MICHIGAN
COUNTY OF GRATIOT
TOWNSHIP OF WHEELER**

ORV/OHV ORDINANCE

ORDINANCE NO. 1-2011

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORV) and Off Highway Vehicles (OHV) on the roads of Wheeler Township and the County of Gratiot, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2009 PA 240, MCL 324.81131.

THE TOWNSHIP OF WHEELER ORDAINS;

Section 1 - As used in this ordinance, the following definitions shall apply:

- a) "County shall mean the County of Gratiot.
- 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/OHV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV/OHV.
- e) ORV/OHV 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. Vehicles include but are 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, registered snowmobile, 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/OHV or vehicle does not include, 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.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Gratiot.

- h) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129.
- i) "Township" means Wheeler Township.
- j) "Township Board" means the board of trustees of Wheeler Township within the County of Gratiot.
- k) "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 - An ORV/OHV may be operated on the far right of the maintained portion of the designated route(s) within the township.

Section 3 - The township board may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORV/OHVs. Beginning July 17, 2009, the township board may adopt an ordinance authorizing the operation of ORV/OHV; on the maintained portion of 1 or more roads located within the township pursuant to MCL 324.81131 (3).

Section 4 - The county road commission may close no more than 30% of the total linear miles of roads within the township, in the county, to protect the environment or if the operation of ORV/OHV's pose a particular and demonstrable threat to public safety. The road commission may not close a municipal street to ORV/OHV opened under Section 5 of this ordinance.

Section 5 - An ORV/OHV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the township, within the county.

Section 6 - Except as set forth herein or otherwise provided by law, an ORV/OHV 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 an hour.
- 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/OHV.
- f) While displaying a lighted headlight and taillight at all hours beginning January 1, 2010.
- g) 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 and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- h) 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) While the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- j) Pursuant to noise emission standards defined by law.

Section 7 - A child less than 16 years of age shall not operate an ORV/OHV on a road in the township within the county unless the child is under direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV/OHV safety certificate.

Section 8 - Unless a person possesses a valid drivers license, a person shall not operate an ORV/OHV on a road or street in the township, within the county, if the ORV/OHV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Section 9 - Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Section 10 - A court may order a person who causes damage to the environment, a road or other property as a result of an operation of an ORV/OHV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 11 - This ordinance becomes effective on JUNE 20, 2011 30 days after publication in the Gratiot County Herald, a paid circulation newspaper within the County of Gratiot.

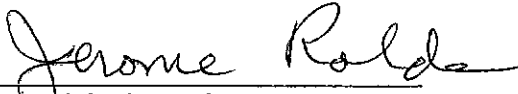
This Ordinance is adopted by action of the Wheeler Township Board of Trustees on motion by BRIAN GOWANS supported by DON GILLIS

Trustees voting "Aye": ALL

Trustees voting "Nay":

Trustees absent:

The supervisor declared Ordinance No. 1-2011 was adopted.


Jerome Rohde, Supervisor

Certification:

I certify that at a regularly scheduled meeting of the Wheeler Township Board of Trustees held on Tuesday, AP 12, 2011 with a quorum present, that the above Ordinance was passed by a majority vote and that this is a true and correct copy of the said Ordinance.


Kelly Bushue, Township Clerk