

STATE OF MICHIGAN COUNTY

ORV ORDINANCE No. 24 – AMENDMENT 5/13/15

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Lake County, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, which is incorporated by reference in its entirety.

THE COUNTY OF LAKE ORDAINS:

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

- a) "County" means the County of Lake.
- b) "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.
- 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 includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a golf cart, 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 from a source other than muscle or wind. ORV 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 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.
- 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 Lake.
- 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) "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.
- J) "Maintained Portion of the Road" means the portion of the road improved, designated, or ordinarily used for vehicular traffic and does not include within its meaning the shoulder or right-of-way.

Section 2. Designated Roads.

- a) An ORV may be operated only on the far right on the maintained portion of a road on the designated county roads listed in #3, Section 9, incorporated by reference, year-round (January 1 through December 31), with the exception that beginning December 1st of each year and ending March 31st of each year, safety/warning flags shall be mounted on a staff that is securely bolted, welded or secured to the vehicle. The warning flag shall maintain a minimum 7-foot height at standstill.
- b) The warning flag shall be mounted on the top-most end of the staff. The flag shall be rectangular – or- triangle shape, bright orange in color, with a minimum length on the supporting side of five inches and a minimum length on the base side of 10 inches.
- c) An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway, including but not limited to M 37, US 10, or any other State or Federal highway in Lake County.

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) 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.
- e) Traveling single file, except when overtaking and passing another ORV.
- f) While displaying a lighted headlight and lighted taillight at all hours.
- g) 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 windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- h) Unless 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 brake light, brighter than the taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; 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.
- 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.
- k) The ORV shall be licensed by the Michigan Department of Natural Resources, and the ORV license/sticker shall be permanently attached and visibly displayed in the manner prescribed by the Michigan Department of Natural Resources in accordance with State law.

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 or a comparable ORV Safety Certificate issued under the authority of another state or a province of Canada.

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 pursuant to state law was in a collision with an ORV required to be operated on the far right of the maintained portion of the road pursuant to this ordinance, 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 \$175.00 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 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 Lake County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the Lake 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 Lake 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 Road Commission upon which shall be indicated those roads and parts or sections thereof upon which the operation of ORVs 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.

- a) The County shall update the Master Map and #3, Section 9 once annually, between January 1 and February 28 of each year, to incorporate any changes to the designation of any road, parts or sections of upon which ORV travel is permitted or prohibited pursuant to this Ordinance.
- b) It shall be the responsibility of each Board, Commission or Council within Lake County to submit in writing no later than February 1 of each year, any changes to be incorporated into the Master Map and #3, Section 9 for that year.

Section 10. Repealed 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 immediately after publication of notice of its adoption.

As amended by action of the Lake County Board of Commissioners on the 13th day of May 2015

"The information contained in this section is valid as of the date of the initial adoption of this Ordinance. This information is subject to further amendment by the County Board of Commissioners, the County Road Commission and may otherwise be modified by local laws adopted by a township government."

3. **Section 9, Master Map**

Effective May 13, 2015

ALL TOWNSHIPS ARE OPEN

3. The amendments shall take effect on May 13, 2015

The Amendments are adopted by action of the Lake County Board of Commissioners this 13th day of May, 2015.

Commissioners voting "Aye" 6

Commissioners voting "Nay"

Commissioners Absent: Commissioner Fairbanks

Karl Walls, Chairperson

Lake County Board of Commissioners

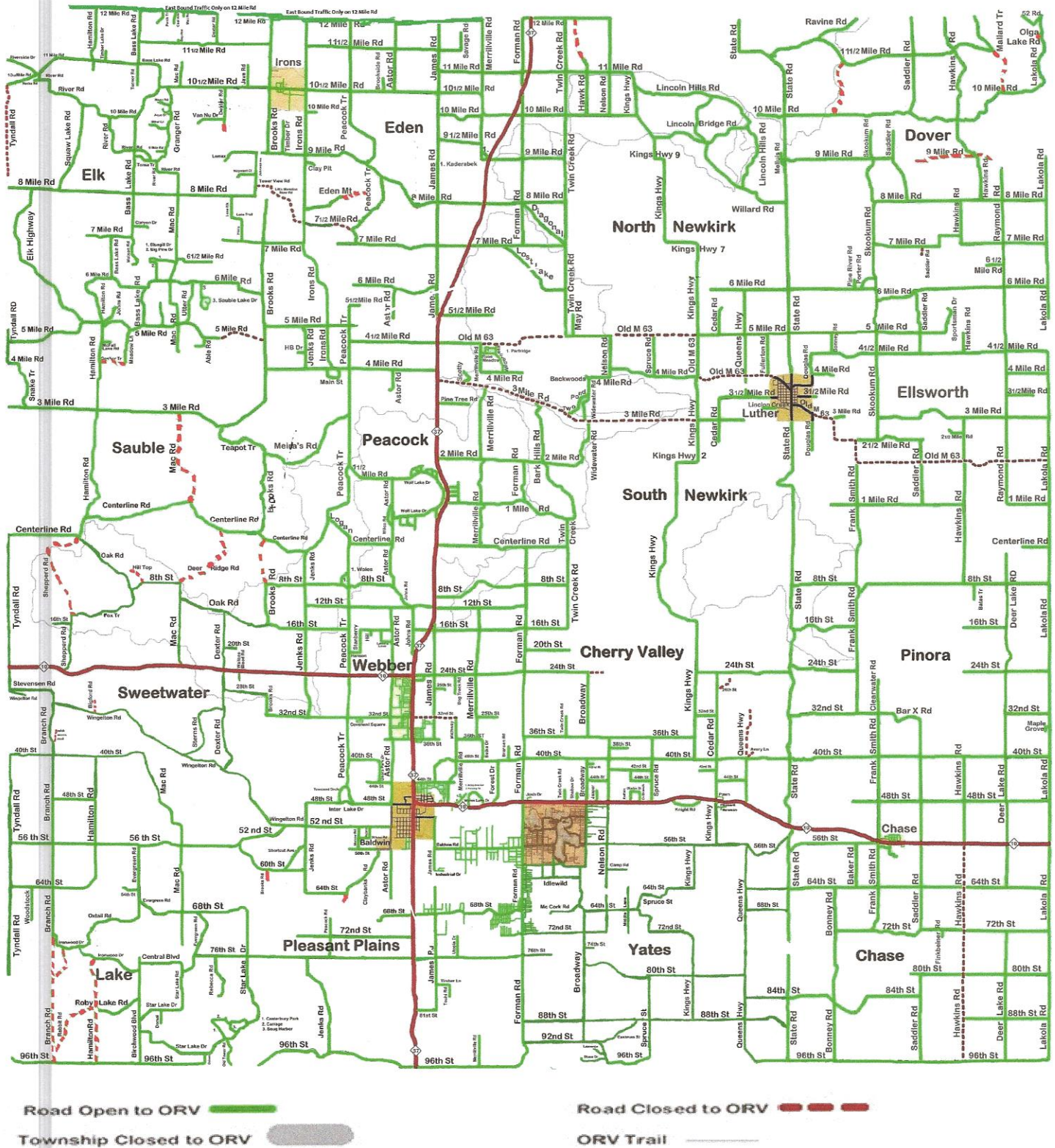
Handwritten signature of Karl Walls in blue ink.

I, Shelly Myers, Clerk of the County of Lake, do hereby certify that this is a true and correct copy of the Ordinance Amendments duly adopted by the Lake County Board of Commissioners on the 13th day of May, 2015.

Handwritten signature of Shelly Myers in black ink.

Shelly Myers, County Clerk

LAKE COUNTY 2015 ORV MAP



US Forest Service and Michigan DNR Two Tracks and Trail are **CLOSED** to ORV use unless Designated OPEN. ORV Ordinance opens to ORV use designated County Roads **ONLY** (not included: US 10, M 37 or Village streets)

"This map is valid as of the date of adoption of this Ordinance. ORV trails are approximate. Information is subject to further amendment by the County Board of Commissioners, the County Road Commission and may otherwise be modified by local laws adopted by a Township government"