

**ORDINANCE 7-2007**

**AN ORDINANCE ENACTING A PILOT PROGRAM FOR THE USE OF CLARK COUNTY ROADS BY OWNERS OF "OFF-ROAD VEHICLES"**

**WHEREAS**, the Board of Commissioners of Clark County ("Board") is the County Executive under I. C. 36-2-2-2 and also functions as the County legislative body under I. C. 36-1-2-9(1);

**WHEREAS**, there are several owners of "off-road vehicles" (defined in I.C. 14-8-2-185(a) in Clark County, Indiana:

**WHEREAS**, it is the desire of the Board to adopt this enabling ordinance to allow the owners of "off-road vehicles" to use Clark County roads under certain terms and conditions. This is a Pilot Program, to measure that feasibility and study safety matters and issues pertaining to usage of off-road vehicles in areas of Clark County, Indiana;

**IT IS HEREBY ORDAINED AS FOLLOWS:**

**A. DEFINITIONS AND COUNTY PERMITTED AREAS OF USE**

1. Vehicles that are subject to the provisions of this Ordinance may be operated on Clark County roads only in the following townships ("designated areas"):

Wood, Carr, Silver Creek, Union, Monroe, Charlestown, Bethlehem, Oregon, Owen, Utica and Washington

2. The vehicles authorized for operation under this Ordinance shall only include those vehicles defined by I.C. 14-8-2-185 (a) & (b), as follows:

**14-8-2-185 "Off-road vehicle"**

(a) "Off-road vehicle," for purposes of I.C. 14-16-1 and I.C. 14-19-1-0.5, means a motor vehicle capable of cross-country travel:

- 1. without benefit of a road; and
- 2. on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

- 1. A multi-wheel drive or low pressure tire vehicle
- 2. An amphibious machine
- 3. A ground effect air cushion vehicle

4. Other means of transportation deriving motive power from a source other than muscle or wind
3. Vehicles NOT AUTHORIZED for operation hereunder include vehicles defined under I.C. 14-8-2-185(c), to-wit:
  1. A farm vehicle being used for farming
  2. A vehicle used for military or law enforcement purposes
  3. A construction, mining or other industrial-related vehicle used in performance of the vehicle's common function
  4. A snowmobile (as defined by Section 261 of this chapter)
  5. A registered aircraft
  6. Any other vehicle properly registered by the bureau of motor vehicles
  7. Any watercraft that is registered under Indiana statutes
  8. A golf cart vehicle

This Ordinance does not provide terms and provisions for operation of golf carts or other vehicles to the extent regulation of usage thereof is provided by state law.

4. The operator of an off-road vehicle may operate such vehicle on highways and roadways, as designated above and pursuant to the provisions of I.C. 14-16-1-20 and I.C. 14-16-1-23, inclusive, to-wit:

**Operation on highways and roads**

(a) An individual may not operate a vehicle required to be registered under this chapter upon a public highway, street, or rights-of-way thereof or on a public or private parking lot not specifically designated for the use of vehicles, except under the following conditions:

(1) A vehicle may be operated on the public right-of-way adjacent to the traveled part of the public highway, except a limited access highway, if there is sufficient width to operate at a reasonable distance off and away from the traveled part and in a manner so as not to endanger life or property.

(2) The operator of a vehicle may cross a public highway, other than a limited access highway, at right angles for the purpose of getting from one (1) area to another when the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a public highway and shall yield the right-of-way to all traffic.

(3) Notwithstanding this section, a vehicle may be operated on a highway in a county road system outside the corporate limits of a city or town if the highway is designated for this purpose by the county highway department having jurisdiction.

(4) A law enforcement officer of a city, town or county or the state may authorize use of a vehicle on the public highways, streets and rights-of-way within the officer's jurisdiction during emergencies when conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(5) A vehicle may be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. The event may be conducted on the frozen surface of public waters only under permit from the department.

(b) An individual less than fourteen (14) years of age may not operate a vehicle without immediate supervision of an individual at least eighteen (18) years of age, except on land owned or under the control of the individual or the individual's parent or legal guardian.

(c) An individual may not operate a vehicle on a public highway without a valid motor vehicle driver's license.

(d) A vehicle may not be used to hunt, pursue, worry or kill a wild bird or a domestic or wild animal.

## **B. SCOPE**

This Ordinance does not authorize operation of such vehicles in places other than the designated areas above in Clark County, Indiana and to the extent otherwise permitted by state law, to-wit:

### **Restrictions on operation**

(a) An individual shall not operate a vehicle under any of the following conditions:

(1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions or in a manner that unnecessarily endangers the person or property of another.

(2) While:

(A) under the influence of an alcoholic beverage; or

(B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.

(3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.

(4) In a forest nursery, a planting area, or public land posted or reasonably identified

as an area of forest or plant reproduction and when growing stock may be damaged.

(5) On the frozen surface of public waters within:

(A) one hundred (100) feet of an individual not in or upon a vehicle; or

(B) one hundred (100) feet of a fishing shanty or shelter;

except at a speed of not more than five (5) miles per hour.

(6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a handgun if the person:

(1) has been issued an unlimited handgun license to carry a handgun under IC 35-47-2; or

(2) is not required to possess a license to carry a handgun under IC 35-47-2-2.

### **C. COUNTY PERMIT**

1. In addition to State registration requirements under I.C. 14-16-1-9, all persons who desire to operate an off-road vehicle in the above designated areas of Clark County pursuant to this Ordinance, must annually obtain an adhesive Clark County owner's County Permit and registration number ("County Permit"). This is not a charge for a state fee or a license fee.

2. The County Permit shall be posted on the driver's side front fender, in plain and visible view, at all times and must be obtained before the operator uses an off-road vehicle pursuant to this Ordinance.

3. A County Permit shall be obtained at the office of the Sheriff of Clark County. The fee for the County Permit shall be \$25.00. The County Permit shall be

issued for purposes of assisting the Clark County Sheriff Department in meeting expenses for public and police education concerning off-road vehicles, expenses of regulation, training and administration of this Ordinance, as well as for assisting the Sheriff in record-keeping functions for maintaining a permanent local record of the owners of vehicles operating subject to the terms of this Ordinance.

4. Each person obtaining a County Permit will be required to sign an acknowledgement of such receipt and of having read a safety advisory statement approved by the Board and the Sheriff.

**D. COUNTY PERMIT RENEWALS**

In 2007, the County Permit must be purchased no later than June 15, 2007. County Permit renewals shall be obtained before January 31st of each ensuing year this Ordinance remains in effect.

**E. EQUIPMENT (LIGHTS AND BRAKES)**

Any "off-road vehicle" operated pursuant to this Ordinance shall have and maintain operable lights and brakes as required and as specified in I.C. 14-16-1-21.

**F. VIOLATIONS**

1. It shall be a violation of this Ordinance to not comply with any requirement hereof;

2. It shall be a violation of this Ordinance to operate an off-road vehicle in areas of Clark County, Indiana, not specified and designated in paragraph 1 above.

3. It shall be a violation of this Ordinance to operate an off-road vehicle in designated areas without a valid County Permit of the type described above.

4. It shall be a violation of this Ordinance to operate an off-road vehicle in the designated areas of Clark County, Indiana with an expired County Permit or without a valid County Permit.

5. It shall be a violation of this Ordinance to operate an off-road vehicle in the above-designated areas without being in compliance with all State registration requirements under I.C. 14-16-1-9.

**G. VIOLATION; COUNTY HIGHWAY DEPARTMENT POSTING; HELMET ADVISORY:**

The Clark County Highway Superintendent shall be permitted to post certain Clark County roadways for non-use of "off-road vehicles" by posting signs on said roads. It shall be a violation of this Ordinance to operate such vehicles on a roadway so posted.

**H.** The Board, as a public advisory, recommends that all operators of off-road vehicles wear helmets during operation.

**I. PROCEDURAL PROVISIONS**

1. All operators of "off-road vehicles" under the terms of this Ordinance shall be subject to all other Clark County Traffic Ordinances, in addition to the rules of the road as set forth in Indiana traffic regulations and statutes;

a. A person who operates an off-road vehicle in areas not authorized by this Ordinance or who does not comply with any requirements of the foregoing provisions may be issued a citation for Ordinance violation by any law enforcement officer of the State of Indiana. Thereafter, the following enforcement procedures shall apply:

b. Such citation shall be filed in a Clark Circuit or Superior Court and the person cited shall be required to appear for an initial hearing and advisement of the nature of the ordinance violation charged.

b. Thereafter, the court may schedule such pre-trial conferences or trial as the court shall determine.

c. At any trial the citation shall be civilly prosecuted as a ordinance violation, and not as a crime, by an attorney designated by the Board of Commissioners of Clark County for such duties;

d. Upon Clark County's attorney proving a violation of the ordinance by a preponderance of evidence, the person cited shall pay a judgment in an amount not less than \$100.00 nor more than \$500.00, plus costs of the action and attorney's fees incurred by County for legal services to prosecute the action;

e. Monies collected under the terms hereof shall be directed to the Office of the Auditor of Clark County, Indiana to be managed and used as determined by the Board in a separate Ordinance creating the "Off-road Vehicle Fund of Clark County, Indiana."

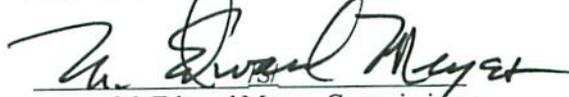
4. The term of this Ordinance shall be until May 20, 2008 to complete the pilot program authorized hereby. Prior to that time, the Sheriff of Clark County is requested to issue a written report of comments and recommendations as to whether this Board should extend this program for future years;

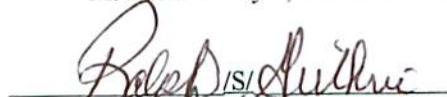
5. Notwithstanding any other provision hereof, this Board retains exclusive jurisdiction to amend, rescind or revoke this Ordinance at any time for any reason during the one (1)-year term hereof;

6. This Ordinance shall become effective after publication required by law on June 15, 2007.

**BE IT ORDAINED THIS 17 DAY OF MAY, 2007.  
THIS ORDINANCE PASSED and made effective JUNE 15, 2007.**

BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
M. Edward Meyer, Commissioner

  
\_\_\_\_\_  
Ralph Guthrie, Commissioner

  
\_\_\_\_\_  
Mike Moore, Commissioner

ATTEST:

  
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/s/ Barbara Bratcher Haas  
Barbara Bratcher Haas  
Clark County Auditor