

## ORDINANCE NUMBER 63

AN ORDINANCE TO GOVERN AND REGULATE THE OPERATION OF OFF ROAD VEHICLES WITHIN THE CITY OF CARSON CITY, AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

THE CITY OF CARSON CITY ORDAINS:

### CHAPTER 63.1 ESTABLISHMENT OF ORDINANCE

63.101 Short Title. This Ordinance shall be known as "The Carson City ORV Ordinance".

63.102 Purpose and Authority. The purpose of this Ordinance is to authorize and regulate the operation of Off Road Vehicles upon state trunk line right of ways and/or any City streets within the City of Carson City, pursuant to:

- A. MCL 324.81131;
- B. The Montcalm County ORV Ordinance;
- C. Chapter 2, Sections 2.1, 2.2, and 2.3 of the Charter of the City of Carson City; and
- D. Chapter 7 of the City Charter of the City of Carson City.

63.103 Jurisdiction. This Ordinance refers the use of right of ways and streets within the City of Carson City.

### CHAPTER 63.2 DEFINITIONS

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

63.201 "City" means the City of Carson City.

63.202 "Drivers 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.

63.203 "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.

- 63.204 "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- 63.205 "ORV" for the purposes of this Ordinance means a motor driven off road recreational vehicle or golf cart capable of cross-country travel without benefit of a road or trail, on or immediately over land, or other natural terrain. ORV or vehicle includes a multi-wheel drive vehicle. ORV or vehicle does not include a snowmobile, a farm vehicle being used for farming, a vehicle for military, fire, emergency or law enforcement purposes, a motorcycle, a 3 wheeled vehicle, a vehicle owned and operated by a utility company or an oil and gas company when performing maintenance on its facilities or on property operated by a utility company or a construction or logging vehicle used in performance of its common function.
- 63.206 "Public Works" means the Carson City Department of Public Works.
- 63.207 "Road or street" means a City primary street or state road as described in section 5 of 1951 PA 51 MCL 247.655.
- 63.208 "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.
- 63.209 "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 aid of the operator.

**CHAPTER 63.3**  
**OPERATION OF ORV**

- 63.301 An ORV may be operated on the far right of the maintained portion of a road within the county. A State of Michigan ORV license is also required of ORVs used in areas open to public operations, regardless of whether the ORV is owned by a resident or nonresident of Michigan.
- 63.302 An ORV may be operated on any state line right of way road or on any street within the incorporated jurisdiction of the City of Carson City. Unless otherwise closed to protect the environment or the operation of ORV'S pose particular in demonstrative threat to public

safety. This section is authorized pursuant to section 5 of the county of Montcalm ORV ordinance.

**CHAPTER 63.4**  
**CONDITIONS OF OPERATION OF ORVS**

Except as set forth herein or otherwise provided by law, an ORV meeting all the following conditions may be operated on a state trunk line right of way or any street within the City of Carson City:

- 63.401 At a speed of no more than 25 miles per hour or a lower posted ORV speed limit or at a rate of speed grater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.
- 63.402 By a person not less than 12 years of age, pursuant to Sections 63.209 or 63.501 of this Ordinance.
- 63.403 With the flow of traffic.
- 63.404 In a manner which does not interfere with traffic on the road or street.
- 63.405 Traveling single file except when overtaking or passing another ORV.
- 63.406 While displaying a lighted headlight and lighted taillight at all times.
- 63.407 When the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eye wear approved by the United States Department of Transportation. This subdivision does not apply if 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.
- 63.408 With a throttle so designated that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- 63.409 While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

- 63.410 When 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 mile per hour, a brake light, brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of ½ hour after sunset and ½ hour before sunrise.
- 63.411 Pursuant to noise emission standards defined by law and City Ordinances.
- 63.412 In a court action in this state where competent evidence demonstrates that a vehicle that is permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, NCK 257.1 to 257.923, collided with an ORV on a roadway, the driver of the ORV involved in the collision shall be considered prima facie negligent.

**CHAPTER 63.5**  
**PROHIBITED OPERATION OF ORVS**

- 63.501 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.
- 63.502 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.

**CHAPTER 63.6**  
**PENALTIES AND ENFORCEMENT**

- 63.601 Civil Infractions. Any person in violation of any subsection of this Ordinance shall be responsible for a civil infraction.
- 63.602 Penalties. Any admission or finding of responsibility, shall be subject to a fine not to exceed Five Hundred Dollars (\$500), as well as court costs to be determined by a court of

competent jurisdiction. The court may defer the penalty where appropriate.

63.602 Enforcement. The Carson City Police Department is authorized to issue civil infractions and citations for violations of this Ordinance.

63.603 Additional Enforcement. In addition to enforcement of violations as municipal civil infractions, enforcement of violations of this Ordinance may be accomplished by civil action, along with any other remedies provided by law. Violation of the ordinance is hereby declared a nuisance per se.

**CHAPTER 63.7**  
**SEVERABILITY**

Should any part or provision of this Ordinance be declared invalid or unenforceable by any court of competent jurisdiction, such invalid or unenforceable part or provision shall not affect the validity or enforceability of the remainder of the Ordinance, if the remainder thereof can be given effect without such part or provision thus declared to be invalid or unenforceable.

**CHAPTER 63.8**  
**CONFLICTING ORDINANCES AND AMENDMENTS SUPERSEDED**

Any City ordinance and/or amendments thereto or resolutions that are in conflict or parts thereof which conflict with any terms of this Ordinance are hereby rescinded. In case of conflict between this Ordinance and any such ordinances or resolutions, this Ordinance shall control. The catch line headings which proceed each section or subsection of the ordinance are for convenience and reference only and shall not be taken into consideration of any construction or interpretation of any of the provisions of this Ordinance.

**CHAPTER 63.9**  
**EFFECTIVE DATE**

This Ordinance shall become effective 30 days after publication of the Ordinance or 30 days after publication of a summary of its provisions in a local newspaper of general circulation.

**CHAPTER 63.10**  
**PUBLICATION**

A summary of this Ordinance shall be published in the Carson City Gazette on August 30, 2010 pursuant to Section 7.4(b) of the Charter of the City of Carson City.

**CERTIFICATION**

We the undersigned, as Mayor and City Comptroller of the City of Carson City, Michigan, do hereby certify that this Ordinance Number 63 of the City of Carson City, was introduced at a regular meeting of the City Council held on July 20, 2010, and was thereafter adopted at a regular meeting on August 17, 2010, by a vote of Six(6) for; Zero(0) against; Zero(0) abstaining; and Zero(0) being absent.

*Bruce Tasker*

\_\_\_\_\_  
Bruce Tasker, Mayor

*Bonnie Schafer*

\_\_\_\_\_  
Bonnie Schafer, City Comptroller

# Proof of Publication

Daily News, Rockford Independent P.O. Box 340 Greenville, MI 48838

Sue L. Carter, agent of Robert Stafford, Publisher of Carson City Gazette, a newspaper printed, published and circulated in the County of Montcalm, State of Michigan, being duly sworn, deposes and says that the annexed notice has been printed, published and circulated in said newspaper at least once each week for 1 successive week(s) and that the first publication thereof was on the 30th day of August A.D. 2010 and the last publication on the 30th day of August A.D. 2010.

Run Dates: 8/30/10

STATE OF MICHIGAN )  
County of Montcalm) SS.

PUBLICATION SUMMARY  
ORDINANCE NO. 63

On August 17, 2010, the City Council of Carson City approved an ordinance authorizing and regulating the operation of off road vehicles upon the trunk state trunk line right of ways and/or any City streets within the City limits of Carson City, pursuant to:

1. MCL 324.81131;
2. The Montcalm County ORV Ordinance;
3. Chapter 2, Sections 2.1, 2.2, and 2.3 of the Charter of the City of Carson City; and
4. Chapter 7 of the City Charter of the City of Carson City.

Ordinance No. 63, sets forth:

1. Certain definitions that apply to the operation of off road vehicles upon the trunk state trunk line right of ways and/or any City streets within the City limits of Carson City;
2. Where off road vehicles may be operated;
3. Condition of operation of ORVs;
4. Prohibited operations of ORVs; and
5. Penalties and Enforcement of the Ordinance.

That as City Comptroller of the City of Carson City, County of Montcalm, State of Michigan, I certify that this summary is authorized pursuant to Section 7.4(b) of the Charter of the City of Carson City which provides that in any case where an ordinance is over five hundred (500) words in length that a summary may be published of any ordinance, amendment or revision which is duly adopted by the City of Carson City, after the original is recorded in the Book of Ordinances of the City of Carson City, and that printed copies are available for inspection by, and distribution to the public at the office of the City Comptroller located at 123 E. Main Street, Carson City, Michigan.

I further certify that the summary of this Ordinance, after the passage thereof, shall be published in the Carson City Gazette, a newspaper circulating within the City of Carson City, pursuant to Section 17.4 of the Charter of the City of Carson City.

Dated: August 20, 2010  
Bonnie Shafer, City Comptroller  
8/30  
00150319

*Sue L. Carter*

Agent signature

Subscribed and sworn before me this the 31  
day of August A.D. 20 10

*Kimberly A. Mathewson*

Kimberly R. Mathewson  
Notary Public - Ionia County, Michigan  
My Commission Expires 6/19/2015  
Acting in the County of Montcalm

Account number: P0041301 Ad Number: 150319  
Legal/ORV Ord No. 63  
ORV Ordinance

PUBLISHER'S BILL Total cost: \$84.15

City of Carson City

123 E. Main St.

Carson City

MI 48811