

ORDINANCE NO. 2008- 132

**AN ORDINANCE AUTHORIZING THE OPERATION OF
OFF-ROAD VEHICLES ON THE TRAVELED PART OF CERTAIN
DEFINED PUBLIC HIGHWAYS IN THE UNINCORPORATED PORTIONS
OF ELKHART COUNTY, INDIANA FOR DEFINED PURPOSES (ONLY)**

WHEREAS, Indiana Code Section 14-16-1-1 et seq. sets forth certain definitions and standards under which "Off-Road Vehicles" may be operated within the State of Indiana;

WHEREAS, I.C. §14-16-1-20(a)(3) permits the operation of an Off-Road Vehicle on the "Traveled Part" of a highway in a county road system outside the corporate limits of a city or town if the county highway is designated for said purpose by the county highway department having jurisdiction over such highway;

WHEREAS, I.C. §14-16-1-22 authorizes a county government to pass an ordinance regulating the operation of Off-Road Vehicles if the ordinance meets substantially the minimum requirements of I.C. §14-16-1-1 et seq., and if such ordinance does not otherwise contravene the standards of I.C. §14-16-1-22;

WHEREAS, I.C. §36-1-3-1 et seq. permits any county in the State of Indiana to execute any power or perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not necessarily granted by any other law to another governmental entity;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana, as the executive and legislative body of Elkhart County Government, and as the head of the Elkhart County Highway Department having jurisdiction over the public highways in the Elkhart

County road system under I.C. §14-16-1-20(a)(3), desires to adopt an ordinance consistent with I.C. §14-16-1-1 et seq. relative to certain limited and defined uses and operations of Off-Road Vehicles on the Traveled Part of certain defined public highways (only) within the Elkhart County road system;

NOW, THEREFORE, BE IT ADOPTED AND ORDAINED by the Board of Commissioners of the County of Elkhart, Indiana as follows:

1. Definitions. For all purposes of this Ordinance, the definitions and standards set forth within I.C. §14-16-1-1 through 30, as currently in effect, or as amended from time to time hereafter, shall apply to this Ordinance. Additionally, the following definitions shall apply to this Ordinance:

A. "Agricultural Purpose" shall mean and include farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, animal husbandry, and poultry husbandry, consistent with the definition of "Agricultural Purpose" set forth in Indiana Code §14-21-1-24, as now in force and effect, and to include any subsequent alterations or amendments to I.C. §14-21-1-24 dealing with the definition of "Agricultural Purpose(s)."

B. "Business Purpose" shall mean and include buying, selling, manufacturing, assembling, developing, hauling or processing of products, supplies, or materials, or undertakings and activities associated therewith in furtherance of a business undertaking, enterprise, or other commercial activity.

C. "County Numbered Roads" shall mean, and be limited to, roads, rights-of-way, and/or highways owned, controlled, and maintained by the Board of Commissioners of

the County of Elkhart, Indiana in the unincorporated areas of Elkhart County, for motor vehicular and other traffic uses which Numbered County Roads bear an Arabic number or comparable designation, and which Numbered County Roads were established and/or platted as part of the original platting and/or formation of Elkhart County, or subsequent activities related or associated thereto; Numbered County Roads shall not include roads or streets in platted subdivisions, bicycle or pedestrian paths, recreational trails, or any other rights-of-way, dedicated roadways, or transportation corridors not part of such original platting and formation of Elkhart County or activities related thereto.

D. "Development Purpose" shall mean and include activities associated with the grading, subdividing, or development of real estate parcels, and the installation of water, sewer, and other utilities, roads, or infrastructure for the benefit of land development.

E. "Government Purpose" shall mean and include the activities of elected officials, government employees, governmental agents, independent contractors serving governmental units, and other persons in furtherance of defined governmental purposes and undertakings.

F. "Off-Road Vehicle" shall mean and include "Off-Road Vehicle" as such is defined in I.C. §14-8-2-185, as currently in force and effect, or as from time to time hereafter modified or amended.

G. "Professional Purpose" shall mean and include activities associated with surveying, soil testing, water testing, or other scientific, architectural, engineering, or environmental undertakings or enterprises.

H. "Traveled Part" shall mean and include that portion of a Numbered County Road upon which are operated conventional motor vehicles, properly licensed and authorized for such undertakings, which Traveled Part shall include traveled areas with paved or concrete surfaces, and conventional graded lanes for gravel roads, in or upon which conventional motor vehicle travel is routinely contemplated and allowed; Traveled Part does not include additional portions of the public right-of-way applicable to a Numbered County Road adjacent to the Traveled Part, within which adjacent portion of the public right-of-way the operation of Off-Road Vehicles is otherwise (as of date of adoption of this Ordinance) governed by the standards and provisions of I.C. §14-16-1-1 et. seq.

2. Designation of Traveled Portion of Certain Highways for Operation of Off-Road Vehicles. Consistent with I.C. §14-16-1-20(a)(3), the Board of Commissioners of the County of Elkhart, Indiana hereby specifically designates the Traveled Part of all County Numbered Roads in the Elkhart County highway system outside the corporate limits of a city or town as permitted areas upon which an otherwise eligible operator may operate an Off-Road Vehicle, subject to the following limitations:

A. All portions of County Road 6 and County Road 17, containing four (4) or more traffic lanes, shall be excluded from the designation for authorized operation of an Off-Road Vehicle thereon.

B. The operation of an Off-Road Vehicle shall be for an Agricultural Purpose, a Business Purpose, a Professional Purpose, a Governmental Purpose, or a Development Purpose, or otherwise such operation on a Traveled Part of Numbered County Roads is not authorized or permitted by this Ordinance.

C. The operation of an Off-Road Vehicle shall only be permitted on the Traveled Part of a Numbered County Road if the operator has a designated or defined destination point established and to which such operator shall be proceeding or from which such operator shall be returning for such operation to be authorized or permitted by this Ordinance.

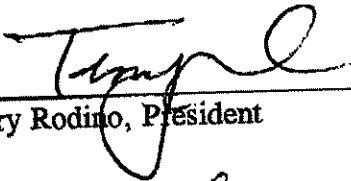
3. Other Standards to Apply. All other terms, provisions, standards, and requirements of I.C. §14-16-1-1 through 30, pertaining to the operation of an Off-Road Vehicle, shall, in all respects, apply as and to the operation of an Off-Road Vehicle on a Traveled Part of a Numbered County Road designated by paragraph 2 above.

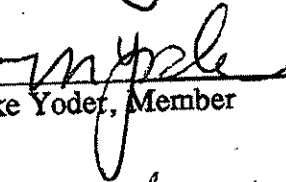
4. Violations. Violation of the provisions of I.C. §14-16-1-1 through 30, or violation of the provisions of this Ordinance, by any person operating an Off-Road Vehicle upon the Elkhart County highway system outside the corporate limits of any city or town within Elkhart County, shall be subject to the sanctions and penalties set forth in I.C. §14-16-1-29.


5. Effective Date. This Ordinance shall be effective immediately upon its adoption.

Duly adopted and enacted this 7th day of April, 2008 by the Board of Commissioners of the County of Elkhart, Indiana.


BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By 
Terry Rodino, President

By 
Mike Yoder, Member

By 
Frank Lucchese, Member

ATTEST:


David L. Hess
Elkhart County Auditor