

ORDINANCE NO. #23-107 "Tabled"

MARSHALL COUNTY NON-HIGHWAY VEHICLE ORDINANCE

WHEREAS, the County of Marshall has determined that the operation of non-highway vehicles, also known as qualified recreational off-highway vehicles, as hereinafter defined, should be, under certain conditions/restrictions, allowed on the roads under the jurisdiction of Marshall County, Illinois.

WHEREAS, the County of Marshall is authorized, by virtue of 624 ILCS 5/11-1426.1(d), to enact an ordinance to permit non-highway vehicles to operate on the roads under the jurisdiction of the County if it determines that public safety would not be jeopardized.

WHEREAS, the County of Marshall has considered the volume, speed and character of the traffic on the roads within its jurisdiction and has determined that, subject to the conditions stated herein and the provisions of 624 ILCS 5/11-1426.1(d), that qualified recreational off-highway vehicles, may be safely operated on the roads within the jurisdiction of Marshall County Illinois.

WHEREAS, the County of Marshall shall enact this Ordinance, which shall allow qualified recreational off-highway vehicles to operate on the roads within the jurisdiction of Marshall County, Illinois, upon the terms and conditions stated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD, MARSHALL COUNTY ILLINOIS, as follows:

SECTION 1: Non-highway vehicles, as defined and qualified herein, shall be allowed on roads within Marshall County Illinois and under the jurisdiction of the County under the conditions stated herein.

SECTION 2: Definitions.

1. In this Ordinance, a "non-highway vehicle" is defined as a motor vehicle not specifically designed to be used on a public highway, including:
 - (a) A "recreational off-highway vehicle" shall be defined as any motorized device designed to travel primarily off-highway, 64 inches or less in width, having a manufacturer's weight of 3,000 pounds or less, traveling on four or more tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers as defined by 625 ILCS 5/1-168.8
2. "Roads" means any of the roadways, streets or other thoroughfares within the boundaries and under the jurisdiction of Marshall County, Illinois.

SECTION 3: Requirements.

1. A person may not operate a non-highway vehicle upon County roads unless he or she is 18 years of age and has a valid Illinois driver's license issued in his or her name by the Illinois Secretary of State or foreign jurisdiction.
2. Any person who is 16 or 17 years of age and has a valid Illinois driver's license may operate a non-highway vehicle if they are in company of legal guardian.
3. Any person who drives or is in actual physical control of a non-highway vehicle on a County road shall be subject to the mandatory insurance requirements of Article VI of

Chapter 7 of the Illinois Vehicle Code, *625 ILCS 5/7-601 et seq.*, and shall carry proof of current liability insurance in or upon such vehicle.

4. Any person who drives or is in actual physical control of a non-highway vehicle while under the influence is subject to *625 ILCS 5/11-500 through 11-502*.
5. Any person who drives or is in actual physical control of a non-highway vehicle on County road must have a permit to do so issued by Marshall County.
6. A non-highway vehicle must have a decal issued by Marshall County, Illinois on the rear of the vehicle at all times when operating on County roads.
7. Any person who drives or is in actual physical control of a non-highway vehicle on a County road shall obey all traffic laws of the State of Illinois and Ordinances of the County.
8. Non-highway vehicles shall not be operated on sidewalks, bike paths, in cemeteries or parks, other than in designated parking areas.
9. Non-highway vehicles may not be operated on highways, streets and roads under the jurisdiction of the Illinois Department of Transportation or, except as allowed by statute.
10. Non-highway vehicles operating on a County or township road at any time between one-half hour before sunset and one-half hour after sunrise must be equipped with headlamps and tail lamps, and the headlamps and tail lamps must be lighted.
11. Non-highway vehicles that have Marshall County permit shall not be operated in the City limits of towns and villages in Marshall County unless they have permit from said town or village.
12. A non-highway vehicle operating on County roads must have the following in working order:
 - (a) Brakes.
 - (b) Factory installed steering wheel.
 - (c) Tires.
 - (d) Rearview mirror.
 - (e) Slow moving emblem as required for other vehicles under the provisions of *625 ILCS 5/12-709*.
 - (f) Headlight that emits a white light visible from a distance of 500 feet to the front, which is illuminated during operation.
 - (g) Taillight that emits a red light visible from at least 100 feet from the rear of which is illuminated during operation.
 - (h) Brake lights.
 - (i) Turn signals.
 - (j) Seatbelts.
 - (k) Horn.
 - (l) Any additional requirements as required by *625 ILCS 5/11-1426.1* now in effect or as hereafter amended.
13. It shall not be unlawful for any person to drive or operate a non-highway vehicle on a county or township road for the purpose of conducting farming operations to and from the home, farm, farm buildings and any adjacent or nearby farm land.
 - (a) Any non-highway vehicle operating under paragraph 11 of SECTION 3 shall not be subject to paragraphs 2 or 8 of SECTION 3, or the subparagraphs thereunder.

However, if the non-highway vehicle, as used in paragraph 2 of SECTION 3, is not covered under a motor vehicle insurance policy, the vehicle must be covered under a farm, home of non-highway vehicle insurance policy issued with coverage amounts no less than the minimum amounts set for bodily injury or death and for destruction of property under 625 ILCS 5/7-203.

SECTION 4: Permits and Decals.

1. No person shall operate a non-highway vehicle without first obtaining a permit from the Marshall County Sheriff's Office as provided herein. Permits shall be granted for a period of one (1) year beginning June 1 of each year and ending on May 31 the following year. The fee for the initial permit is \$75.00 thereafter will be \$50.00 annually. This money will go to the Marshall County Sheriff's Office "Traffic Safety Fund". This permit shall be renewed annually. Insurance coverage shall be verified by the Marshall County Sheriff's Office when obtaining or renewing permits. Upon the granting of a permit, if any, the applicant shall be furnished with a County decal to be placed on the vehicle.
2. Every application for a permit shall be completed on a form supplied by the Marshall County Sheriff's Office and contain the following information:
 - (a) Name and address of the applicant, who shall be the owner of the vehicle.
 - (b) Name of liability insurance carrier and policy number.
 - (c) The serial number, make, model and description of the non-highway vehicle.
 - (d) Assigned and notarized Waiver of Liability of applicant releasing Marshall County, Illinois and agreeing to indemnify and hold Marshall County, Illinois harmless from any and all claims resulting from the operation of the non-highway vehicle on the roads of Marshall County.
 - (e) A photocopy of applicable insurance coverage card for the vehicle to be operated subject of the permit.
3. The vehicle must be inspected and certified by the Marshall County Sheriff's Office.
4. The Marshall County Sheriff's Office may suspend or revoke a permit granted hereunder upon a finding that the permit holder had violated any provision of this Ordinance or evidence demonstrates that the permit holder cannot safely operate the non-highway vehicle safely.

SECTION 5: Penalties. Any violation of this Ordinance shall be punishable by a minimum fine of not less than two hundred fifty dollars (\$250.00), but no more than seven hundred (\$750.00), except a violation of the insurance requirements of this Ordinance shall be punishable by a minimum fine of not less than five hundred dollars (\$500.00).

SECTION 6: Severability. If any section, subdivision thereof or sentence of this Ordinance is held invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7: Effective date. This Ordinance shall become effective _____.

TOIRMA Update

By Jim Donelan

TOIRMA Executive Director



ATVs “Non-Highway Vehicles” on Local Roads

TOIRMA HAS BEEN RECEIVING CALLS from our membership with questions relating to the use of All-Terrain Vehicles (ATVs) on road district roads. This topic was recently discussed at the annual meeting of the Western Illinois Highway Commissioners Association in La Harpe, IL. When asked if any of the highway commissioners had been approached by entities or individuals about allowing the operation of ATVs on their roadways, well over a majority raised their hands. The following questions and answers have been developed to help township officials better understand the serious considerations regarding the use of “non-highway vehicles” on road district roads.

Question 1: Do “non-highway vehicles” alter liability exposures on road district roads?

Answer: Yes. The mixing of vehicles such as automobiles, trucks, and “non-highway vehicles” logically creates considerations that were not in place when roads were designed and constructed. This alone creates a possibility of a loss for which there may be consequences.

Question 2: What is a “non-highway vehicle”?

Answer: According to the Illinois Vehicle Code [625 ILCS 5/11-1426.1] a “non-highway vehicle” means a motor vehicle not specifically designed to be used on a public highway including:

- (1) “all-terrain vehicles,” as defined by [625 ILCS 5/1-101.8]
- (2) a “golfcart,” as defined by [625 ILCS 5/1-123.9]
- (3) an “off-highway motorcycle,” as defined by [625 ILCS 5/1-153.1]
- (4) a “recreational off-highway vehicle,” as defined by [625 ILCS 5/1-168.8]

Question 3: Do road districts have the authority to allow “non-highway vehicles” on road districts roads?

Answer: The Illinois Vehicle Code [625 ILCS 5/11-1426.1] provides road districts with the ability to allow “non-highway vehicles” on road district roads. However, there are specific steps that must be considered (see question 6).



Question 4: Does a highway commissioner have a choice on whether to allow the use of “non-highway vehicles” on road district roads?

Answer: Yes. Highway commissioners have the ability to not exercise the statutory authority, or to follow the statutory requirements, then decide whether to proceed or not.

Question 5: Can a road district allow the use of “non-highway vehicles” on *any* road district road?

Answer: No. There are specific statutory requirements outlined below that must be followed. Further, “non-highway vehicles” may be operated only on roads where the posted speed limit is 35 miles per hour or less.

Question 6: What are the statutory requirements relating to the use of “non-highway vehicles” on road district roads?

Answer: According to the Illinois Vehicle Code [625 ILCS 1426.1(b)], a road district (highway commissioner) may authorize, by ordinance or resolution,

the operation of "non-highway vehicles" on roadways under its jurisdiction if:

- (1) The unit of government (road district) determines that public safety will not be jeopardized.
- (2) Before allowing the operation of "non-highway vehicles" on its roadways a road district must consider:
 - a. **Volume** of the traffic on the roadway
 - b. **Speed** of the traffic on the roadway
 - c. **Character** of the traffic on the roadway; and
 - d. Determine whether "non-highway vehicles" may safely travel on or cross the roadway.

TOIRMA strongly recommends the involvement of a licensed engineer when evaluating the volume, speed, and character of the roadways, when assessing that public safety will not be jeopardized, and when determining that "non-highway vehicles" may safely travel on or cross the roadway.

Question 7: Does a road district have the ability to allow only certain types of "non-highway vehicles" as defined above on road district roads?

Answer: Yes. The unit of government (road district) may restrict the types of "non-highway vehicles" that are authorized to be used on its roads (i.e., "golfcart" only).

Question 8: Are there signing considerations when allowing "non-highway vehicles" on road district or township roads?

Answer: Yes. The statute requires that appropriate signs be posted when determining that "non-highway vehicles" may safely operate on a roadway. The highway commissioner would need to receive written approval from the county engineer to post the appropriate 35 mile per hour speed limit signs and "non-highway vehicle" warning signs along the applicable roads.

Question 9: Should a highway commissioner contact TOIRMA when considering/evaluating "non-highway vehicles" on road district roads?

Answer: Yes. As your risk partner, **prior to** allowing "non-highway vehicles," TOIRMA needs to see the professional evaluation as outlined in Question 6 above. Also, TOIRMA would like to review any draft ordinance or resolution before its adopted.

Question 10: People are already using "non-highway vehicles" on road district roads, why shouldn't the

highway commissioner adopt an ordinance or resolution?

Answer: The operator of the "non-highway vehicle" is doing so at their own risk and the liability is on them, not the road district.

Question 11: Are "non-highway vehicles" presently allowed for use on road district roads for farming purposes?

Answer: Yes. There is no need for a road district to adopt an ordinance or resolution for farming purposes for existing statute [625 ILCS 1426.1(h)] allows the operation of "all-terrain vehicles" and "recreational off-highway vehicles" on road district roads for the purpose of conducting farm operations to and from the home, farm, farm buildings, and any adjacent or nearby farmland. Note that this does not apply to "golfcarts" and "off-highway motorcycles."

Thank you for your attention to these matters. As always, if you have any additional questions, please feel free to contact me toll-free at (888) 562-7861 or by email at jdonelan@toirma.org.

Think Safe ... Drive Safe ... Work Safe



Save The Date!

Michael W. Frerichs
Illinois State Treasurer

Cordially Invites you to

Local Officials Day
at the Illinois State Fair

Saturday - August 20, 2022
11:30am - 1:30pm

Illinois State Fairgrounds
Director's Lawn
801 East Sangamon Avenue
Springfield, IL

Register at: <https://www.eventbrite.com/e/local-officials-day-2022-tickets-358886534287>

Join us for great food, speakers,
entertainment and more!
For questions please contact:
IllinoisFunds@Illinoistreasurer.gov

HOPE TO SEE YOU THERE!

Jill Kenyon

To: Mental Health Board
Subject: FW: Non-Highway Vehicles
Attachments: Non-Highway Vehicles.pdf

From: Patrick Sloan <psloan@marshallcountyillinois.gov>
Sent: Tuesday, October 10, 2023 12:11 PM
To: Jill Kenyon <coclerk@marshallcountyillinois.gov>
Cc: Catherine Terando <cterando@marshallcountyillinois.gov>; Henry Gauwitz <hgauwitz@marshallcountyillinois.gov>
Subject: Non-Highway Vehicles

Jill,

Please pass this along to the Board:

It recently came to my attention that there is a resolution concerning the use of non-highway vehicles on county roads. I have attached an article from TOIRMA which comments on this issue.

There are a number of problems with the ordinance. As well intentioned as it would appear, I would discourage its implementation (or at least tabling until these issues are addressed):

- The volume, speed and character of the traffic and safety issues should be evaluated by a licensed professional engineer (your county engineer or a consultant);
- The state law which is being used for this ordinance states that such operations can only take place on roads that have a posted speed limit of 35 mph or less. The county has no such roads.
- Each jurisdiction must approve the use, e.g. every township.
- Use is already approved for those involved in agriculture.
- People who operate non-highway vehicles and are not farm related do so at their own risk. If the ordinance is passed, the county opens itself to potential liability.

Highway safety is at the top of the list for concerns for the Highway Department. We conduct an inspection of all the county signs in the County every week. We are routinely called by dispatch to maintain signs that are knocked down or stolen. Passing of the ordinance will generate significant costs for our department and headaches that we do not need.

Will be glad to answer any questions on Thursday.

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