

## *Private Motorized Recreation Ordinance*

*Whereas the use of off-road vehicles is a popular and growing form of recreation within the \_\_\_\_\_.*

*Whereas the use of these vehicles may result in externalities deemed undesirable by other citizens of the \_\_\_\_\_.*

*Whereas it is prudent that the \_\_\_\_\_ provide for the reasonable regulation of motorized recreation.*

*Whereas the intent of regulation is to allow for the continuance of responsible motorized recreation while mitigating the concerns of citizens not engaged in motorized recreation.*

Therefore the *Motorized Recreation Act of \_\_\_\_\_* is hereby enacted.

### *Section I; Definitions*

- 1) Motorized Recreation is the legal operation of an off-highway (OHV) vehicle, such as an all-terrain vehicle (ATV) or off-highway motorcycle (OHM), for recreational purposes on either private or public lands, unless the operation is in conjunction with an organized competitive event.
- 2) A Private Motorized Recreation Property is any private holding which is used for motorized recreation by an owner or lessee, the family of an owner or lessee or anyone authorized to use the property by the owner or lessee. Motorized Recreation is an ancillary use of a Private Motorized Recreation Property and does not generate revenue for an owner or lessee, or any agent, through the sale of entry fees or membership dues, etc.
- 3) An Off-Highway Vehicle Park is a public or private facility designed to host the recreational and/or competitive use of off-highway vehicles by the public. An OHV Park may collect membership dues, gate fees or race entry fees in exchange for the use of its facilities.
- 4) In this act Stationary Sound Testing refers to the procedure of measuring a vehicle's sound level at a predetermined engine speed while the vehicle is in neutral. Specifically, the Society of Automotive Engineers procedure J-1287 is the approved test procedure for the in-use sound measurement of OHM and ATV.
- 5) LEQ is a technical reference to a weighted average of sound pressure over time.
- 6) A *type I* sound meter measures acoustical pressure and is accurate to plus or minus one decibel and provides the precision necessary for the enforcement of this act.

## Section II; *OHV Sound Regulation*

- 1) To be operated within the \_\_\_\_\_ an OHM or ATV must:
  - a) comply with the Federal Environmental Protection Agency's (EPA) noise emissions requirements for OHM and ATV; or
  - b) measure 96 decibels, or less, when measured by the SAE J-1287 stationary test procedure; or
  - c) be operated in an OHV Park that is complying with the requirements for an OHV Park.
  
- 2) It shall be unlawful for an OHV owner to operate, or to allow the operation, of any OHV outside of the hours established in the \_\_\_\_\_ for the operation of other sound generating devices (found elsewhere).

## Section III; *Private Motorized Recreation Property Regulation*

- 1) Motorized Recreation may occur on any private holding that
  - a) does not exceed a LEQ of 65 decibels when measured at any point on the property line over any thirty minute period; and
  - b) complies with hours of operation for other sound generating activities in the \_\_\_\_\_ (found elsewhere); and
  - c) is in compliance with landscaping permit requirements (found elsewhere); and
  - d) does not cause excessive dust.
  
- 2) Property owners may manage their land with adjacent property owners for motorized recreation, if their individual holdings are insufficient to qualify. Jointly managed Private Motorized Recreation Properties must meet the requirements of Paragraph 1.

## Section IV; *OHV Park Regulation*

- 1) OHV Parks shall comply with Section III.
  
- 2) The \_\_\_\_\_ may grant the operator of an OHV Park a variance for a limited number of special events that would otherwise exceed the LEQ standard of Sect. III.
  
- 3) OHV Parks must comply with any business, traffic and sanitation rules or permit requirements as applicable to comparable businesses (found elsewhere).

## Section V; *Enforcement*

- 1) Upon receipt of a complaint against an OHV owner an appropriately trained \_\_\_\_\_ authority will determine if a violation of Sect. II has occurred by interviewing the vehicle's owner and by arranging a vehicle inspection, to include, if necessary, a stationary sound test.

- a) If the OHV is equipped with a permanently labeled EPA compliant exhaust system (40 CFR Ch. 1 part 205 subparts D and E) it shall be prima-facie evidence that the OHV complies with Sect. II.
  - b) If an OHV doesn't have an EPA labeled exhaust, or if it has a labeled exhaust which appears to have been modified, the \_\_\_\_\_ authority will conduct a stationary sound test according to SAE J-1287. If the measured sound level is in excess of 96 decibels, the authority will inform the owner that the vehicle is out of compliance and that continued operation is unlawful.
  - c) After taking corrective action the OHV owner may request a stationary sound retest.
  - d) An OHV owner that continues to operate, or allows the operation of the OHV, that has failed a stationary sound test will be cited with a violation of this ordinance.
  - e) This section does not apply to an OHV being operated in an OHV Park that is in compliance with Sect. IV.
- 2) Upon receipt of a complaint against a Private Motorized Recreation Property or OHV Park an appropriately trained \_\_\_\_\_ authority will determine if a violation of Sect. IV has occurred by interviewing the property owner, or lessee; and by arranging a site inspection to include a property line LEQ measurement while OHV operation is occurring.
- a) If the property is found to be out of compliance the \_\_\_\_\_ authority will inform the owner that it is unlawful to continue operation.
  - b) After taking corrective action the property owner may request a LEQ retest.
  - c) A property owner that continues to operate, or allows the operation of OHV, on property that has failed an LEQ measurement will be cited with a violation of this ordinance.
  - d) This section does not apply to an OHV Park operating on the terms of a special use permit or variance.
- 3) Upon conviction, a person found in violation of this ordinance shall be fined not more than \$100; subsequent violations will be subject to a fine of not more than \$250.

*Draft Compiled by:*

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