

MARICOPA COUNTY ORDINANCE

P-28

**OFF-ROAD VEHICLE USE IN UNINCORPORATED AREAS
OF MARICOPA COUNTY**

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OF MARICOPA COUNTY**

SECTION 1 – GENERAL

- A. PURPOSE:** This ordinance limits particulate matter (PM₁₀) emissions into the ambient air from unrestricted operation of any vehicle on unpaved property.
- B. APPLICABILITY:** This ordinance applies to the operation of any vehicle in unincorporated areas within Maricopa County.

SECTION 2 – DEFINITIONS: For the purpose of this ordinance, the following definitions shall apply:

- A. DESIGNATED, MANAGED OR OPENED TRAIL SYSTEM** – Roads, highways, multiple use corridors, trails or routes that are part of a system of trails and routes that are designated, managed or opened to public motor vehicle travel by a government land management agency by rule, order, travel management plan, sign, and/or map approved by such agency.
- B. ENFORCEMENT OFFICER** - A person who enforces rules, ordinances, codes, or regulations including, but not limited to, Maricopa County Air Quality Department Inspectors, Building and Zoning Code enforcement, Certified Peace Officers including, but not limited to, Maricopa County Sheriff Deputies.
- C. ROAD OR HIGHWAY** - The entire width between the boundary lines of every way publicly maintained by the federal government, a city, state agency, town or county if any part of the way is generally open to the use of the public for purposes of vehicular travel. For purposes of this ordinance, the term “road or highway” also includes designated, managed or opened trail systems; service roads regardless of surface composition; and any private property dedicated or otherwise reserved for public or private street uses, as evidenced by a recorded document providing vehicular access to more than one property, or having thereon a public easement for such use.
- D. VEHICLE**— A self-propelled device and its appurtenances, excluding devices moved by human power or used exclusively on stationary rails or tracks.

SECTION 3 – RESTRICTIONS: Vehicles operating on either unpaved public or private properties in the unincorporated areas of Maricopa County shall remain on roads or highways. A person operating a vehicle on portions of these properties other than roads or highways shall comply with the following:

- A. UNPAVED PUBLIC PROPERTY:** A person operating a vehicle on unpaved public property shall obtain lawful authority. Lawful authority consists of one of the following: rules, regulations, or orders of a federal agency, this state, a county, or municipality. Determination of lawful authority shall be made available by any one of the options listed in Section 3(C) of this ordinance.
- B. UNPAVED PRIVATE PROPERTY:** A person operating a vehicle on unpaved private property shall obtain consent of the lawful owner. Consent of the lawful owner can be obtained by any one of the options listed in Section 3(C) of this ordinance.
- C. DETERMINATION OF LAWFUL AUTHORITY OR CONSENT OF THE LAWFUL OWNER:** Determination of lawful authority or consent of the lawful owner shall be made available by any one of the options listed below:
 - 1. A sign to designate the property is/as open. Such signs shall be in compliance with the standard travel management signing protocol used by each land managing agency which specifies the open roads and highways. The signs at a minimum shall be conspicuously placed at all points of vehicular access.
 - 2. Posting, publishing, or filing a rule, regulation, travel management plan, or order at the locations identified at the government agency’s office, or on its website.
 - 3. Current maps published and approved by a government land management agency.
 - 4. Virtual postings from a government land management agency.
 - 5. Prior written recreational access agreement originating from the lawful owner granting vehicular access shall contain the following:
 - (a) The name, address, and telephone number of the person or organization granting permission for the use of the property;
 - (b) A description of the interest the person or organization granting permission has in the property (i.e., property owner, lessee, or agent);
 - (c) If the person or organization granting permission is not the owner of the property, the written permission shall also contain the name, address, and telephone number of the property owner;

- (d) Specify the period of time for which permission for the use of the property is being granted and whether access is approved for any or a combination of OHV recreation, hunting, fishing, and/or trapping; and
 - (e) The signature of the person or organization representative granting permission for the use of the property.
6. Written permission of consent originating from the lawful owner granting vehicular access, shall contain the following:
- (a) The name, address, and telephone number of the person granting permission for the use of the property;
 - (b) A description of the interest the person granting permission has in the property (i.e., property owner, lessee, or agent);
 - (c) If the person granting permission is not the owner of the property, the written permission shall also contain the name, address, and telephone number of the property owner;
 - (d) Specify the period of time for which permission for the use of the property is being granted; and
 - (e) The signature of the person or organization representative granting permission for the use of the property.

D. PROOF OF LAWFUL AUTHORITY OR CONSENT: Whenever any person is stopped by an Enforcement Officer for a violation of Section 3 of this ordinance, such person shall, upon the request of the Enforcement Officer, identify or present proof of lawful authority or lawful owner consent as required in Section 3(C) of this ordinance.

SECTION 4 – PENALTIES AND NOTICES: Violations of this ordinance shall be punishable by civil or criminal penalties. The issuance of any lawful authority, consent of the lawful owner, or written permission, as allowed by this ordinance, shall not relieve any person subject to the requirements of this ordinance from complying with any federal laws, Arizona laws, or the Maricopa County Air Pollution Control Regulations.

- A. PENALTIES:** A person who violates this ordinance shall be subject to the following penalties:
1. For the first offense, a civil penalty of \$100.
 2. For the second offense within a three-year period, a civil penalty of \$250.

3. For the third or any subsequent offense within a three-year period, a Class 3 misdemeanor.
- B. ALTERNATIVE PENALTY:** In addition to or in lieu of a fine under Section 4 of this ordinance, a judge may order the person to perform at least eight (8) but not more than twenty-four (24) hours of community restitution, or to complete a safety and environmental ethics course according to A.R.S. § 28-1175 related to the off-highway operation of motor vehicles, or both.
 - C. NOTICES:** For violations of this ordinance, the Enforcement Officer shall use a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court. The Enforcement Officer may issue a citation to persons in violation of this ordinance.

SECTION 5 – EXEMPTIONS

- A.** This ordinance shall not apply during a period of emergency or if the operation is directed by a peace officer or other public authority.
- B.** This ordinance shall not apply to the property owner, or person entitled to immediate possession of the property provided such property owner or person does not violate any other applicable laws.
- C.** This ordinance shall not apply to operations directed by utilities for operation, distribution, and transmission systems and operations directed by railroad companies for operation and maintenance provided that both of the following conditions are met:
 1. Operations are performed in or using a marked company vehicle; and
 2. If operations are performed in or using a personal vehicle, then identification of the company shall be visible and readable by the public without having to be asked by the public (e.g., included in / posted on a sign that is visible on the vehicle or in the window of the vehicle).
- D.** This ordinance shall not apply to commercial farming practices including activities of a dairy, a beef cattle feed lot, a poultry facility and a swine facility.