

MARICOPA COUNTY ORDINANCE

P-28 OFF-ROAD VEHICLE USE IN UNINCORPORATED AREAS OF MARICOPA COUNTY

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MARICOPA COUNTY ORDINANCE

P-28

OFF-ROAD VEHICLE USE IN UNINCORPORATED AREAS OF MARICOPA COUNTY

SECTION 1 – GENERAL

- A. **PURPOSE:** This ordinance ~~restricts the~~ 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 sections within Maricopa County.

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

- A. **DESIGNATED OR OPENED TRAIL SYSTEM** – Roads or routes that are part of a system of trails and that are designated or opened by a government land management agency by order, 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.
- ~~B.~~ **C. ROAD OR HIGHWAY** – The entire width between the boundary lines of every way publicly maintained by the federal government, a city, state, a town or a 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 or opened trail systems; and service roads regardless of surface composition, ~~and~~ or any ~~other~~ 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.
- ~~C.~~ **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

- A. **UNPAVED PUBLIC PROPERTY:** A person ~~shall not access~~ must not operate any vehicle on unpaved public property ~~with any vehicle~~ within the unincorporated areas of

Maricopa County without lawful authority. Lawful authority ~~shall consist~~ consists of rules, regulations, or orders of a federal agency, this state, a county or municipality which ~~shall~~ must be made available to the public by any one of the following:

1. A sign to designate the property is/as open. Such sign ~~shall~~ must be in compliance with the standard travel management signing protocol used by southwest land management agencies and ~~shall~~ must at a minimum be conspicuously placed at all points of vehicular access and contain the following information: “Travel must remain on designated routes.” ~~Copies of the standard travel management signing protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004.~~
2. ~~Through orders of a government land management agency.~~ Posting, publishing, or filing the rule, regulation, or order at the locations identified as the government’s office, the government agency’s office, or on its website.
3. ~~Through~~ The most current maps approved by such government land management agency.
4. ~~Virtual~~ A virtual posting from a government land management agency.

B. **UNPAVED PRIVATE PROPERTY:** A person ~~shall~~ must not operate any vehicle on unpaved private property within the unincorporated areas of Maricopa County without the consent of the lawful owner. Consent of the lawful owner consists of ~~either or both one or all~~ of the following:

1. A sign to designate the property is/as open. Such sign ~~shall~~ must be in compliance with the standard travel management signing protocol used by southwest land management agencies and ~~shall~~ must at a minimum be conspicuously placed at all points of vehicular access and contain at least one of the following information statements: “Travel Must Remain on Designated Routes.” ~~Copies of the standard travel management signing protocol are available for review at the Maricopa County Air Quality Department, 1001 North Central Avenue, Phoenix, AZ, 85004.~~
 - (a) “Travel must remain on designated routes”; or
 - (b) “Landowner has entered into a recreational access agreement with an agency of the state of Arizona and property is indicated open to hunting, fishing, and trapping”.
2. ~~Prior written~~ Written permission, which contains 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 granting permission for the use of the property.
- 3. A written recreational access agreement, as described by one of the methods listed in Section 3(A) of this ordinance, between the private property owner and a public agency granting public vehicular access for hunting, fishing, and trapping.**

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

SECTION 4 – VIOLATIONS, NOTICES, AND PENALTIES **PENALTIES AND NOTICES:** Violations of this ordinance will 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, does 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. ~~A person who violates this ordinance is guilty of a class 3 misdemeanor.~~ **PENALTIES: A person who violates this ordinance is 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 ~~pursuant to this section under Section 4(A) of this ordinance,~~ a judge may order the person to perform at least eight but not more than twenty-four hours of a community restitution ~~course~~ or complete a safety and environmental ethics course according to A.R.S. § 28-1175(B) related to the off-highway operation of motor vehicles, or both.**

- C. **NOTICES:** For violations of this ordinance, the Enforcement Officer ~~shall~~ will 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 – ~~EXEMPTION~~ EXEMPTIONS

- A. This ordinance ~~shall~~ does not apply during a period of emergency or if the operation is directed by a peace officer or other public authority.
- B. The property owner, person entitled to immediate possession of the property, or invitee who has lawful authority may operate such vehicles on the property if such use does not violate any other applicable laws.
- C. For the purposes of this ordinance, unpaved public or unpaved private property does not include roads or highways.
- D. This ordinance ~~shall~~ does not apply to operations directed by utilities for operation, distribution, and transmission systems provided that both of the following conditions are met:
1. Operations are performed in ~~a/~~ or using a marked company vehicle; and
 2. If operations are performed in ~~a/~~ or using a personal vehicle, then identification of the company ~~shall~~ must be visible and readable by the public without having to be asked by the public (e.g., included in / posted ~~in~~ on a sign that is visible on the vehicle ~~or included / posted in a sign that is visible~~ in the window of the vehicle).