

## **ARTICLE R60**

### **SECTION R 60.01 REGULATING MOTOR VEHICLES IN DUNE AREA**

AN ORDINANCE TO REGULATE AND PROHIBIT UNDER PARTICULAR CIRCUMSTANCES THE USE OF CERTAIN MOTOR VEHICLES AND VEHICLES WITHIN CERTAIN SAND DUNE AREAS AND TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

THE TOWNSHIP OF FRUITLAND ORDAINS:

### **SECTION R 60.02 INTENT, PURPOSE AND SHORT TITLE**

The Fruitland Township Board recognizes and concludes that the sand dunes adjacent to and nearby Lake Michigan are a fragile natural resource which must be protected. One of the ways that sand dunes are damaged and degraded is by the improper use of motor vehicles (including, but not limited to, dune buggies, jeeps, ATVs, snowmobiles, motorcycles, and go-carts) being operated on or within the dunes. Accordingly, the Fruitland Township Board finds that it is in the best interests of the residents and property owners of Fruitland Township (the "Township") to adopt this Ordinance regulating vehicle usage within the sand dunes. Furthermore, the Township Board finds that this Ordinance will promote the public health, safety, and welfare of residents and property owners within the Township and will help protect the natural sand dunes within the Township. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable rules and regulations for the use of vehicles on and within the sand dunes within the Township.

This Ordinance shall be known and may be cited and referred to as the "Fruitland Township Sand Dune Transport Ordinance," and shall hereinafter be referred to as the "Ordinance."

### **SECTION R 60.03 SCOPE AND APPLICATION**

No motor vehicle, truck, item of construction equipment, dune buggy, jeep, ATV, snowmobile, motorcycle, go-cart, or similar vehicle shall be used, operated, or driven on or in any of the following locations within Fruitland Township:

- a. Between the waters of Lake Michigan (including the shoreline thereof) and the base of the first dune.
- b. In any dune or dune area where dune grass, any protected plant, or visible erosion is present.
- c. In or on any dune or dune area located between the waters of Lake Michigan and Scenic Drive or Murray Road, except on an improved public or private road, sidewalk, or improved trail.

### **SECTION R 60.04 EXEMPTIONS**

This Ordinance shall not apply in the following situations:

- a. Any motor vehicle or machinery utilized by any law enforcement, emergency personnel, or firefighter of any governmental unit or agency while engaged in their governmental duties.

- b. Construction equipment which is actively being utilized for excavation, construction, or dredging work which is lawful under all township, county, federal and state laws, regulations and statutes, and which is being done pursuant to a permit lawfully issued by Fruitland Township, the Michigan Department of Environmental Quality, or the U.S. Army Corps of Engineers. This exemption shall not apply (and the requirements of this Ordinance shall be fully applicable) if the excavation, construction, or dredging work is being done illegally or in an unlawful fashion or if the governmental permit or approval pursuant to which such work is being done is invalid or has expired or if the work is being done in violation of any such permit or approval.

**SECTION R 60.05 INTERPRETATION**

The terms and provisions of this Ordinance shall be interpreted and applied as minimum standards and requirements for the promotion and protection of the public health, safety and welfare, and for the public peace and preservation of natural resources and public and private property within the Township.

This Ordinance is intended to supplement other laws and ordinances. If this Ordinance imposes more stringent requirements than other ordinances, the provisions of this Ordinance shall govern, except as otherwise herein provided.

**SECTION R 60.06 PENALTIES AND ENFORCEMENT**

Violation of this Ordinance is a civil infraction, for which the fines shall be not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500) for the first offense and not less than Two Hundred Dollars (\$200) nor more than Two Thousand Five Hundred Dollars (\$2,500) for subsequent offenses, in the discretion of the Court, and in addition to all of the costs, damages and expenses provided by law. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed by the same person within twelve (12) months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one (1) weeks following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.

Upon a finding of responsibility for a civil infraction, the court shall also have the authority to issue any appropriate court order directing a person found responsible to do or not engage in a certain actions, uses, remediation’s or similar matters, as well as to award the Township its cost and reasonable attorney fees, together with such other remedies as are provided by law.

**SECTION R 60.07 INJUNCTION**

Any violation of this Ordinance is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this Ordinance by proceeding under Section R 60.06 above, the Township or any Township resident may institute an appropriate action in a court of general jurisdiction seeking injunctive or equitable relief.

**SECTION R 60.08 ENFORCEMENT AND ADMINISTRATION**

This Ordinance shall be enforced and administered by the Township Ordinance Enforcer, or such other Township official as may be designated from time to time by resolution by the Township Board. Furthermore, this Ordinance may also be enforced or administered by any member or official of the Muskegon County Sheriff Department, the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality, or the United States Army Corps of Engineers should the Township and any other such governmental unit or agency enter into an agreement or arrangement whereby any such official can also enforce this Ordinance (as well as issue civil infraction tickets pursuant to this Ordinance).

**SECTION R 60.09 SEVERABILITY**

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

**SECTION R 60.10 EFFECTIVE DATE**

The provisions of this Ordinance shall take effect thirty (30) days from the date of publication of the Ordinance or a summary of its provisions in accordance with law.

ADOPTED: July 16, 2007  
PUBLISHED: August 5, 2007  
EFFECTIVE: September 4, 2007