

May 26, 2010
State of Michigan
County of Mason
Township of Sherman
ORV Ordinance

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Sherman Township, Mason County, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE TOWNSHIP OF SHERMAN ORDAINS:

1. Definitions

- a. "Township" means township of Sherman, Mason County
- b. "Driver License" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- c. "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e. "ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated

by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

- f. "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655
- g. "Road Commission" means the Board of County Road Commissioners for the County of Mason.
- h. "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- i. "Visual Supervision" means direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.
- j. "Township Board" means a board of trustees of any township within the County of Mason.

- 2. An individual may operate an ORV only with the flow of traffic on the far right of the maintained portion of the roads and streets within Sherman Township.
 - a. A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit or in a manner that interferes with traffic on the road or street.
 - b. ORVs shall travel single file, except when passing or being passed by another ORV.
 - c. All ORVs operating under this ordinance must have a lighted headlight and taillight.
 - d. All operators must upon demand present either an ORV safety certificate or drivers license to any legal enforcement authority.
 - e. An individual may not operate an ORV on land on which public hunting is permitted during the regular November firearm deer season from 7AM to 11AM and from 2PM to 5PM, except during an emergency to get to and from a

permanent residence or a hunting camp, and to remove game taken by a valid license.

- f. When operating an ORV in an area zoned residential within 300 feet of a dwelling the maximum speed is the minimum required to maintain controlled forward movement, unless on a road or street authorized by this ordinance.

3. Prohibitions

- a. No parent, legal guardian or owner or person in charge of an ORV shall allow the following:

- i. A child less than 16 years of age to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued under the authority of any state or Canadian province.
- ii. A child less than 12 years of age to operate a 4-wheel ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This section does not apply to the operation of an ATV used in agricultural operations.
- iii. A child less than 16 years of age to operate a 3-wheeled ATV.
- iv. An individual who is incompetent to operate a vehicle because of mental or physical disability to operate an ORV.
- v. A child less than 12 years of age to cross a highway, road or street
- vi. Likewise no child prohibited above is allowed to engage in any of the prohibited activities.

- b. An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of US 31 in Sherman Township.

- c. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.

- d. A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States department of

- transportation. This section does not apply if vehicle is equipped with a roof that meets or exceeds standard for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
- e. A person shall not operate an ORV without a braking system.
 - f. A person shall not operate an ORV during the hours of ½ hour after sunset and ½ hour before sunrise without a working brake light that is brighter than the taillight.
 - g. A person shall not operate an ORV on the frozen surface of public waters within 100 feet of a person not in or upon a vehicle or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle.
 - h. All ORVs shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918.
 - i. No person shall operate an ORV within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest.
 - j. No person shall transport a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or quipped with and made imperative by a manufactured key locked trigger housing mechanism.
 - k. No person shall operate an ORV on or across a cemetery or burial ground.
 - l. No person shall operate an ORV on an operating or nonabandoned railroad or railroad or public utility right-of-way.
 - m. No person shall operate an ORV in or on the waters of any stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert, or similar structure.
 - n. No person shall operate an ORV to hunt, pursue, worry, kill or attempt to hunt, pursue, worry or kill an animal whether wild or domesticated.

- o. No person shall operate an ORV with an opened container of alcohol unless it is in a trunk, separate compartment or is encased or enclosed.
- p. No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
- q. No person shall operate an ORV on private lands without the written consent of the owner, owner's agent or lessee. The operator of the vehicle is liable for damage to private property, including, but not limited to vegetation and animals. The owner is not required to post or fence private property.

4. Township

- a. Sherman Township has no duty to maintain a road or street within its boundaries in a condition reasonably safe and convenient for the operation of ORVs.
- b. Sherman Township is immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained, unmaintained roads, streets, shoulders, and rights-of-way within the township, except in cases of gross negligence by Sherman Township. "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

5. Enforcement

- a. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road or street pursuant to the code was in a collision with an ORV required to be operated on the far right of the maintained portion of a road or street pursuant to this ordinance the operator of the ORV shall be considered prima facie negligent.
- b. A violation of this ordinance is a civil infraction, and a guilty person shall pay a fine of not more than \$500.00. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a road or street, or public property damaged as a result of the violation.

- c. The Sherman Township Treasurer shall deposit fines and fees collected under this ordinance into a fund designated as the "ORV Fund.
- d. The Sherman Township Board shall appropriate revenue in the ORV fund as follows:
 - i. Fifty percent to the Sherman Township Enforcement Fund responsible for ORV enforcement and training.
 - ii. Fifty percent to the Mason County Road Commission for repairing damage to roads or streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORVs under this ordinance, within Sherman Township.
- e. Upon conviction of a person for violation a court may order the ORV and any personal property on the ORV seized as a result of the violation.

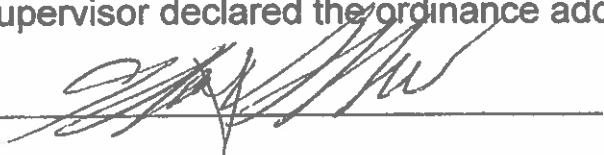
Effective Date: This ordinance shall be effective 1 AUGUST, 2010

This ordinance is adopted by action of the Sherman Township Board this 15 day of JUNE 2010

Upon a roll call vote the following voted "Aye"
JENSEN, LUBBEN, RANDLE, SAYR, MICKEVICH

"Nay"

The Supervisor declared the ordinance adopted.


 _____ Clerk

Certificate

I, Kurt D. Lubben, the duly elected and acting Clerk of Sherman Township, hereby certify that the foregoing ordinance was adopted by

the Township Board of said Township at the regular meeting of said Board held on 15 JUNE 2010, at which meeting a quorum was present, by a roll call vote said members as hereinbefore set forth; that said ordinance was ordered to take effect 1 AUGUST, 2010



Clerk