

**STATE OF MICHIGAN, COUNTY OF MASON, TOWNSHIP OF
LOGAN**

ORV ORDINANCE

At a regular meeting of the LOGAN Township Board, Mason County, Michigan, held at the Township Hall, seat of said Township, on the 24th day of January, 2011 at 7:30 P.M. Eastern Standard Time.

Present: Supervisor Burke, Clerk Kampfschulte and Trustee Pierson

Absent: Treasurer VerSluys and Trustee McCumber

Supervisor Burke proposed the following:

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads and streets in Logan Township, for the purpose of providing penalties for the violation thereof pursuant to 2008 PA 240, MCL 324.81131.

THE TOWNSHIP OF LOGAN ORDAINS:

Sec. 1 As used in this ordinance, the following definitions shall apply:

- a) "Township" means the Township of Logan.
- 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 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 multi wheel 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 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, 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 or 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 Road Commissioners for the County of Mason.
- h) "Safety certificate means a certificate issued pursuant to 1994 PA 451 as amended, PA 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada."
- i) "Township Board" means a board of supervisors of any township within the County of Mason.
- j) "Visual supervision" means the 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.

Sec. 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 Logan 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 overtaken and 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 where public hunting is permitted during the regular November firearm deer season from 7 A.M. to 11 A.M. and from 2 P.M. too 5 P.M., except during an emergency and 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.

Sec. 3 Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the Logan Township:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) a person shall not operate an ORV without a braking system.
- g) while displaying a lighted headlight and lighted taillight at all hours.
- h) A brake light, brighter than the taillight, during the hours that are ½ hour before sunrise and ½ hour after sunset.
- i) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States department of transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- j) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) while the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- l) pursuant to noise emission standards defined by the Noise Control Act of 1972, 42 USC 4901 to 4918.
- m) on the frozen surface of public waters 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.
- n) transport a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured key locked trigger housing mechanism.
- o) operate an ORV on or across a cemetery or burial ground.
- p) 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.
- q) operate an ORV to hunt, pursue, worry or kill an animal whether wild or domestic.
- r) operate an ORV with an open container of alcohol if it is in a trunk, separate compartment or is encased or enclosed.
- s) transport a passenger unless the manufacturing standards for the ORV make provisions for transporting passengers.
- t) operate an ORV on private land without the written consent of the property owner, owner's agent or lessee. The operator of the ORV is liable for damage to private property including, but not limited to, vegetation and animals. The property owner is not required to post or fence private property.

u) a current Michigan State issued ORV sticker is required.

Sec. 4 A child less than 16 years of age shall not operate an ORV on a road or street in the Logan Township unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Sec. 5 Unless a person possesses a valid drivers license, a person shall not operate an ORV on a road or street in the Logan Township if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Sec. 6 Any person who violates this ordinance is guilty of a civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Sec. 7 A court may order a person who causes damage to any street, highway, or other property as a result of the operation of an ORV in an area permitted by this ordinance to pay full restitution for that damage above and beyond the penalties paid for civil fines or misdemeanor violations.

Sec. 8 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.

Sec. 9 Logan Township:

- a) 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) Is immune from tort liability for injuries or damages sustained by any person arising in any way from the operation or use of an ORV on maintained roads, unmaintained roads, streets, shoulders, and rights of way within the Township, except in cases of gross negligence. "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

Sec. 10 This ordinance pertains only to Logan Township roads and streets and does not apply to United States Forest Service and Michigan Department of Natural Resources roads and trails.

Sec. 11 This ordinance becomes effective at adoption.

Proposed ORV O
rdinance seconded by Trustee Pierson

This Ordinance is adopted by action of the Logan Township Board this 24th day of January, 2011.

"Aye": Burke, Kampfschulte, Pierson

"Nay": None

Board members absent: Treasurer VerSluys, Trustee McCumber

State of Michigan

County of Mason

Logan Township

I, the undersigned, the duly qualified and acting Township Clerk for Logan Township, Mason County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Logan Township Board at a regular meeting held on the 24th day of January, 2011.

John Kampfschulte
Logan Township Clerk

