

BANGOR TOWNSHIP

VAN BUREN COUNTY, MICHIGAN

ORDINANCE NO. 2019- 27

ADOPTED: June 11, 2019

EFFECTIVE: July 11, 2019

OPERATION OF OFF ROAD VEHICLES (ORVs) ORDINANCE

An Ordinance regarding ORV use on roads within the Township, to designate roads on which ORV use will be permitted, to provide regulations for ORV use on roads within the Township, to provide penalties for violation of the ordinance, to provide for distribution of public funds from violations, to provide an effective date and to repeal all ordinances or parts of ordinances in conflict herewith.

**BANGOR TOWNSHIP
VAN BUREN COUNTY, MICHIGAN**

ORDAINS:

Section 1. Findings.

1. Bangor Township Board has determined it is appropriate to adopt an Ordinance permitting and regulating the operation of Off Road Vehicles (ORVs) on certain public roads within the Township pursuant to MCL 324.81131.
2. A public hearing on the Ordinance was held on June 11, 2019, as required by MCL 324.81131 (3).
3. Notice of the public hearing was sent by certified mail at least 28 days before said hearing to the county road commission, to the county board of commissioners, to the legislative body of every other township and municipality located within the county, to the state transportation department if the road intersects a highway.
4. The Township Board has determined that such Ordinance advances the public health, safety and welfare by allowing ORV use on certain public roads in the Township, while also adopting regulations for such operation, prescribing penalties for violation of the Ordinance and specifying the distribution of public funds resulting from those penalties, pursuant to PA 240 of 2008, as may be amended.
5. This Ordinance is to be construed as being consistent with State and Federal law and regulations.

Section 2. Definitions.

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

1. “Township” means the Township of Bangor.
2. “Operate” means to ride in or on, and be in actual physical control of the operation of an ORV.
3. “Operator” means a person who operates or is in actual physical control of the operation of an ORV.
4. “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, swamp land, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, or ORV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel or multi-wheel drive vehicle, or ORV, or other means of transportation deriving motor 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, a registered aircraft, an amphibious machine or a ground effect air cushion vehicle.
5. “Road” means a primary road or local road as described in section 5 of 1951 PA 51, MCL 247.655.
6. “Road Commission” means the Board of County Road Commissioners for the County of Van Buren.
7. “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.
8. “Direct Supervision” means the direct visual 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.
9. “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 257.325, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit. A suspended or revoked license or permit does not constitute a valid Driver License under this Ordinance.

Section 3. ORV Operation

An ORV may be operated on roads within the Township, subject to the conditions and limitations stated herein.

Section 4. _____ Closed Roads

A person may not operate an ORV on any road designated as closed to ORV operation on the official ORV Map referenced in Section 10. Notwithstanding the above, a person may operate an ORV on a closed road for the purpose of accessing the nearest open road from a residence which cannot be more than ½ mile from said open road. This does not apply to State and Federal Highways, roads exempt from opening by state statute, roads closed by action of the Van Buren County Road Commission, roads closed by Order of Law Enforcement Officers, and roads bordering municipalities which have not authorized the use of ORVs on public streets under MCL 324.81131 or other applicable law, At the time of adoption of this Ordinance all Township roads are open to ORV operation.

Section 5. _____ Closure by County Road Commission or Law Enforcement.

1. The Van Buren County Road Commission, Law Enforcement, and other state agencies and entities with power to close public roads located within the Township may close said roads to the operation of ORVs otherwise authorized pursuant this ordinance.
2. If a road is closed under subsection 1 of this section, the Bangor Township Board of Trustees shall, as necessary, adopt a resolution amending the official ORV Map designating such road(s) as closed, unless said closure is expected to last for less than six (6) months.

Section 6. _____ Conditions for Operation

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 Township:

1. At a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
2. By a person not less than 16 years of age.
3. With the flow of traffic and as follows:
 - a. On the right shoulder of the road.
 - b. If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
 - c. On the far right of the right traffic lane of the road, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.
4. In a manner which does not interfere with traffic on the road or street.
5. Traveling single file except when overtaking and passing another ORV.

6. Displaying a lighted headlight and lighted taillight.
7. Operation hours: one-half hour before sunrise until one-half hour after sunset.
8. 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.
9. With a rear viewing mirror.
10. 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.
11. With a United States Forest Service approved spark arrester and muffler, in good working order and in constant operation.
12. Pursuant to noise standards defined by law.
13. Obeying all other laws relating to the operation of a vehicle in public streets including but not limited to following turn signal requirements, yielding to traffic, etc.
14. There is no operation of an ORV on sidewalks, trails, or other surfaces designed for pedestrian travel. There is no operation of an ORV in a public park or other space customarily used by pedestrians.
15. While the operator is in possession of a valid Driver License.

Section 7. Persons Under 18

A person less than 18 years of age shall not operate an ORV on a road in the Township unless they are under the direct supervision of a parent or legal guardian and the person has in his or her possession an ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Section 8. *Prima Facie* Negligence

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 Michigan Vehicle Code was in a collision on a roadway with an ORV that is not registered under the Michigan Vehicle Code, the operator of the ORV shall be considered *prima facie* negligent.

Section 9. _____ Sanctions

1. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500 for the first offense and not less than \$250 nor more than \$500 for subsequent offenses, in the discretion of the Court.
2. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a street, county road or highway or public property as a result of the violation.
3. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
4. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township board from time to time.

Section 10. _____ Official ORV Map

The Township shall maintain a master map of all roads under its jurisdiction upon which shall be indicated those roads and parts of sections thereof which the operation of ORVs is permitted and prohibited pursuant to this Ordinance. Such map shall be known as the official ORV Map and the master copy shall be kept at the Bangor Township Hall. The Township shall make a copy of the ORV Map available to interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make or to assume any expense associated with the making of such copies. The official ORV Map on display at the Township Hall shall govern in the event of a dispute.

1. The first official ORV Map under this ordinance shall be published within 90 days of the adoption of this Ordinance.
2. The Bangor Township Board of Trustees may, by resolution, amend the official ORV Map as and when it deems it appropriate to do so.

Section 11. _____ Operation of ORVs for Agricultural Purposes

Operation of ORVs in the Township for agricultural purposes or for other purposes specifically proved for in MCL Section 81122 shall occur in accordance with the provisions of MCL 324.8112.

Section 12. _____ Funds

The Township Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund". The Township Board shall appropriate revenue in the ORV Fund as follows:

1. Fifty percent (50%) to the County Sheriff or Police Department responsible for law enforcement in the local unit of government for ORV enforcement and training.
2. Fifty percent (50%) to the County Road Commission to be used for repairing damage to streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets are open or closed to the operation of ORVs under this ordinance.

Section 13. Repeal

All other ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 14. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause of this Ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. This Ordinance is to be construed as being consistent with State and Federal law and regulations.

Section 15. Savings Clause

Legal proceedings presently pending under the prior ordinance or any ordinance provision that is hereby repealed or replaced may proceed to judgment or decision and shall not be affected by this Ordinance.

Section 16. Effective Date

This ordinance shall take effect 30 days after adoption by the Township Board and publication thereof.

Bangor Township Clerk

I hereby certify the foregoing constitutes a true and complete copy of the ordinance adopted by the Bangor Township Board of Trustees, County of Van Buren, Michigan, at a regular meeting held on June 11, 2019.

Date: 6/25/19



Linda Poland, Bangor Township Clerk

This Ordinance was published on June 20, 2019