

**TOWNSHIP OF GARFIELD**

**BAY COUNTY, MICHIGAN**

**ORDINANCE NO. 16**

**OFF ROAD VEHICLE (ORV) ORDINANCE**

An ordinance adopted for the purpose of authorizing and regulating the operation of off Road Vehicles (ORVs) on public roads in Garfield Township, Bay County, Michigan, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to the provisions of MCL 324.81131 et seq.

THE TOWNSHIP OF GARFIELD ORDAINS:

**Section 1:** As used in this ordinance, the following definitions shall apply:

- a) "Township" means the Township of Garfield, located Bay County, Michigan.
- b) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under the Michigan vehicle code, licensing 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, 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.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951, MCL 247.655. Road does not include a private road which is not in the Road Commission road system.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Bay.

- 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) "Township Board" means the board of trustees for Garfield Township.
- 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.

**Section 2:** An ORV may be operated on the far right of the maintained portion of a county road with these exceptions:

- a) The roads in which the township and/or cities have designated closed.
- b) Roads designated closed by the Bay County Road Commission.

**Section 3:** All sections of the Natural Resources and the Environmental Protection Act relative to off road vehicles shall apply and this township ordinance shall not infringe, modify or in any way reduce the authority of said act.

**Section 4:** An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the Township.

**Section 5:** Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a public road:

- 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 on the far right of the maintained portion of the road.
- 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) When visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) One-half (1/2) hour before sunrise until ½ hour after sunset unless displaying a lighted headlight and lighted taillight.
- h) 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 seatbelt.

- i) 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.
- j) While the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- k) Pursuant to noise emission standards defined by law.

**Section 6:** A child less than 16 years of age shall not operate an ORV on county roads 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.

**Section 7:** Unless a person possesses a valid driver's license, a person shall not operate an ORV on a county road or street if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

**Section 8:** Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00, together with Court costs; the Court may further order restitution. Fines and restitution shall be deposited by the County Treasurer into the ORV fund with such funds to be distributed to the agencies and for the purposes set forth in MCL 324.81131 (14).

**Section 9:** Any ordinance or part of an ordinance in conflict herewith is hereby repealed.

**Section 10:** This Ordinance shall become effective thirty (30) days from the date of publication.

#### **CERTIFICATION OF ADOPTION**

I, Kimberly Day, as Clerk for Garfield Township, Bay County, Michigan, hereby certify the following relative to the foregoing Ordinance:

1. That the Ordinance was introduced by the Garfield Township Board of Trustees on November 8, 2010.
2. That the Ordinance was adopted by the Garfield Township Board of Trustees on January 10, 2011, on the following vote:

3. The foregoing Ordinance was offered by James Dubay Seconded by Brad Dubay.

Ayes: Brad Dubay, Betty Monsion, Kimberly Day, James Herber, James Dubay

Nays: None

Abstain: None

4. That a **Notice of Adoption** of the Ordinance was published in the Pinconning Journal on January 5, 2011.

5. That the Ordinance will take effect on February 9, 2011.

DATED: January 10, 2011

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Kimberly Day

Garfield Township Clerk