

**ARLINGTON TOWNSHIP
VAN BUREN COUNTY, MICHIGAN
ORDINANCE NO. 2021-_____**
ADOPTED _____, 2021

OFF-ROAD VEHICLE ORDINANCE

An ordinance regulating the operation of off-road vehicles (ORVs) on public roads in the Township and establishing penalties for the violation of the ordinance, all in conformance with the provisions of 2008 P.A. 240, MCLA § 324.81131 and other relevant statutes and ordinances.

THE TOWNSHIP OF ARLINGTON ORDAINS:

Section 1. Definitions.

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

(a) "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 of the operator.

(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 257.325, 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.

(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 multi-track or multi-wheel drive vehicle, or ORV, a motorcycle or related two-wheel, three-wheel, or four-wheel vehicle, 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.

(f) "Road" means a primary road or local road as described in section 5 of 1951 PA 51, MCL 247.655.

(g) "Road Commission" means the Van Buren County Road Commission.

(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" means the Township of Arlington.

Section 2. ORV Operation

An ORV may be operated on roads within the Township, subject to the conditions and limitations described in this ordinance.

Section 3. 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 one-half-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 MCLA § 324.81131 or other applicable law, including but not limited to M-43. Operation of an ORV on those roads is not permitted under any circumstance.

Section 4. Closure by County Road Commission or Law Enforcement.

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.

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:

(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 16 years of age.

- (c) With the flow of traffic and as follows:
 - i. On the right shoulder of the road.
 - ii. If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
 - iii. 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.
- (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) Displaying a lighted headlight and lighted taillight.
- (g) Operation hours: one-half hour before sunrise until one-half hour after sunset.
- (h) By a person wearing a 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.
- (i) With a rear viewing mirror.
- (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) With a United States Forest Service approved, spark arrester and muffler, in good working order and in constant operation.
- (l) Pursuant to noise standards defined bylaw.
- (m) 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.
- (n) 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.
- (o) 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 the State of Michigan.

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

Any person found to have violated this chapter by a court of competent jurisdiction is responsible for a municipal civil infraction and is punishable by a fine of up to \$500.

Section 10. Official ORV Map

The Township shall maintain a master map of all roads under its jurisdiction indicating those roads and parts or sections thereof which the operation of ORVs is permitted and prohibited pursuant to this chapter. Such map shall be known as the "Official ORV Map," and the master copy shall be kept at the Arlington Township Town Hall. The Township shall post a copy of the map on the Township website. The Official ORV Map on display at the Township Hall shall govern in the event of a dispute.

(a) The Official ORV Map on file with the Township and adopted pursuant to the 1-10-2019 version of this Ordinance, shall be the Official ORV Map upon the effective date herein.

(b) The Arlington Township Board of Trustees may, by resolution, amend the official ORV Map as and when it deems it appropriate to do so.

Section 11. Agricultural.

Agricultural use of an ORV falls under State regulation MCL 324.81122.

Section 12. Funds.

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

(a) Fifty percent to the County Sheriff or Police Department responsible for law enforcement in the local unit of government for ORV enforcement and training.

(b) Fifty percent 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 chapter.

Section 13. Expiration

This Ordinance shall be effective 30 days after publication and shall continue until revoked. The permissions granted herein are subject to termination at any time by the revocation of this Ordinance. Nothing herein shall be construed so as to create a vested right, license, privilege or permit to operate any ORV within the Township.

SEVERABILITY. If more restrictive State or Federal Law or Regulations exist, they shall govern. The invalidity of any clause, sentence, paragraph, or part of this ordinance shall not affect the validity of the remaining parts of this ordinance. This Ordinance is to be construed as consistent with State and Federal Law and Regulations.

EFFECTIVE DATE. This ordinance shall take effect 30 days after the publication.

CERTIFICATION

I further certify that trustee _____ moved for adoption of said Ordinance No. _____, and that trustee, _____ seconded said motion.

I further certify that the following members voted for adoption of said Ordinance: _____ and that the following members voted against such Ordinance: _____.

I further certify that said Ordinance No. _____ has been recorded in the Ordinance Book of the Township of Arlington.

I do hereby certify that a synopsis of this Ordinance No. _____, in accordance with statutory requirements has been published and posted on the Township website.

Douglas De Leo
Arlington Township Clerk