

**CLAY TOWNSHIP
ST. CLAIR COUNTY, MICHIGAN
ORDINANCE NO. 138 – Off Road Vehicle (ORV) ORDINANCE**

AN ORDINANCE adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in the Township of Clay, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties, pursuant to 1994 PA 451 as amended and incorporated in its entirety herein, and pursuant to the specific authority granted by MCL 324.81131 to local townships and repealing all ordinances and/or resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF CLAY, COUNTY OF
ST. CLAIR, MICHIGAN, ORDAINS:**

SECTION 1. SHORT TITLE

This article shall be known and cited as the Clay Township ORV Ordinance.

SECTION 2. PURPOSE

The purpose of this Ordinance is to authorize and regulate the operation of Off Road Vehicles (ORVs) on certain roads in the Township of Clay, and provide penalties for the violation thereof, and for the distribution of public funds resulting from those penalties, pursuant to MCL 324.81131 (17) and (18).

SECTION 3. GENERAL PROVISIONS

A. As used in this Ordinance, and in accordance and addition to the definitions found pursuant to MCL 324.81101, the following definitions shall apply:

- 1) "Township" means the Township of Clay.
- 2) "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 licenser permit.
- 3) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- 4) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- 5) "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 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.

6) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655, which is not specifically exempted from Section "E" of this Ordinance.

7) "Safety certificate" means a certified 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) "Township" means an individual township within the County of St. Clair.

9) "Township Board" means a board of trustees of Clay Township.

10) "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.

B. An ORV may be operated on the far right of the maintained portion of certain county or local roads and the travel portion of paved county or local roads within Clay Township. From time to time, and after publication in a newspaper of general circulation within Clay Township, Clay Township may designate, by Resolution of the Township Board, that certain roads in the Township are exempt from this Ordinance, and that ORVs are prohibited on certain enumerated roads, effective thirty (30) days after publication.

C. An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the county.

D. 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 that are not specifically exempt under Section E of this Ordinance:

- 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.
- 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) While displaying a lighted headlight and lighted taillight at all hours.
- 7) 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
- 8) 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.
- 9) While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- 10) Pursuant to noise emission standards defined by law.

E. ORVs may not be operated on the following roads or streets at any time, except to cross-over to another eligible road or street:

- a. M-29 Highway
- b. M-154 Highway
- c. Marsh Road North of Jankow.

F. A child less than 16 years of age shall not operate an ORV on a road in the 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 province of Canada.

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

H. 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.

I. A court may order a person who causes damage to the environment, a road, or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

J. The treasurer of Clay Township shall deposit all fines and damages collected under this Ordinance in a fund to be designated as the ORV Fund. The treasurer of Clay Township shall distribute the revenue in the ORV Fund as follows:

1) Fifty percent of the funds to the Clay Township Police for ORV enforcement and training.

2) Fifty percent to the county road commission or municipal road maintenance department for repairing road or street damage and environmental damage caused by ORVs and for posting ORV speed limits or indicating whether roads or streets are open or closed to ORVs.

SECTION 4. REPEALING OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

SECTION 5. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is in conflict with the provisions of Public Act 451 of 1994, as amended, then the applicable provision of Public Act 451 of 1994, as amended, is controlling. In addition, if for any reason any provision of this Ordinance is held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 6. PUBLICATION

A true copy of this Ordinance or a summary thereof shall be published twice in a newspaper of general circulation in the Township of Clay.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after the publication of a true copy or summary thereof.

Motion by Karen Straffon supported by Cynthia Valentine to Adopt Off Road Vehicle (ORV) Ordinance No. 138

Upon Roll Call Vote, the vote was as follows:

AYES: J. Arthur Bryson, Cynthia Valentine, Thomas Krueger, Karen Straffon, John Horvath and Joanne Shirkey

NAYS: Thomas Fetter

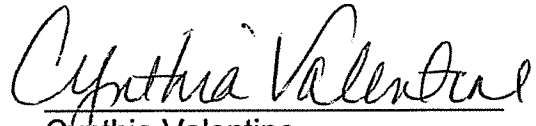
Ordinance No. 138 was adopted on August 3, 2015 at a regular Township Board Meeting.

CERTIFICATION

The undersigned Clerk of the Township of Clay, hereby certifies that the foregoing constitutes a true and complete copy of an Ordinance adopted by the Clay Township Board of Trustees of the Township of Clay, County of St. Clair, Michigan at a meeting held on August 3, 2015 at which seven (7) members of the Township Board were present and voted as indicated, that said meeting was held in accordance with the Open Meetings Act of the State of Michigan, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.



J. Arthur Bryson,
Clay Township Supervisor



Cynthia Valentine,
Clay Township Clerk

Adopted: August 3, 2015
Published: August 12th and 19th 2015
Effective: September 12, 2015