

**BROWN TOWNSHIP
MANISTEE COUNTY, MICHIGAN
ORDINANCE NO. 2022-2 ORV ORDINANCE**

An Ordinance to authorize and regulate the operation of off-road vehicles ("ORVs") in the Township of Brown, to provide penalties for the violation thereof, to provide for the appropriation of fines and damages resulting from the operation of ORVs and repeal all ordinances in conflict herewith.

The Township of Brown Ordains:

Section 1. Short Title

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

Section 2. Purpose

The purpose of this ORV Ordinance is to provide designated ORV riding opportunities, protect the health, safety and general welfare of Brown Township residents, preserve forest, farmland and the environment, and diminish conflicts among residents.

Section 3. Definitions

- A. "County" means Manistee County, Michigan
- B. "County Road Commission" means the Manistee County Road Commission
- C. "County Road" means a county primary road or county local road as described in Section 5 of Public Act 51 of 1951, MCL 647.655 or a segment thereof excluding all private roads, private property, open private property, seasonal roads and State of Michigan and United States lands.
- D. "Driver's License" means an operator's or chauffeur's license or permit 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.
- E. "Far right of the maintained portion of the road" means the shoulder of the road when the roadway is improved by pavement, tar and chips, concrete and other similar materials, and it means the extreme right of the roadway when it is not improved by pavement, tar and chips, concrete and other similar materials.
- F. "Operate" means to ride in or on, and be in actual physical control of an ORV.

- G. "Operator" means a person who is in actual physical control of an ORV.
- H. "ORV" means a motor driven recreation vehicle designed for off-road use and capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, wetland or other natural terrain. ORV includes but is not limited to a multi-track or multi-wheel drive vehicle, an amphibious machine, a golf cart, a ground effect air cushion vehicle, an ATV or other means of transportation deriving motor power from a source other than muscle or wind. This definition does not include snowmobiles.
- I. "Township" means Brown Township.
- J. "Safety Certificate" means a certificate issued under Section 81130 of the Natural Resources and Environmental Protection Act, 1994 PA 451 or comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- K. "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 4. Operation of an ORV on County Roads within Brown Township

- A. An individual may operate an ORV on all County Roads in the Township (provided that the ORV is licensed with the Department of Natural Resources or registered under the Michigan Vehicle Code and operated in compliance with all applicable Federal and State laws, rules and regulations), *except for* County Roads closed to ORV traffic by the Road Commission, including Coates Highway and *except for* roads within the Huron-Manistee National Forest that are for highway legal vehicles only (Seasonal Designation), and US-31, as posted. An individual may cross the above-mentioned roads at a right angle so long as the individual complies with **Section 5** of this Ordinance.
- B. The ORV must be operated on the far right of the maintained portion of the County Roads.

Section 5. Conditions and Regulations

- A. An ORV meeting every one of these conditions may be operated within the Township pursuant to Section 4. The ORV must have:
 - 1. A lighted headlight and taillight.
 - 2. A spark arrester type US Forest Service approved muffler in good working order. Noise emission levels established by US EPA must be met.

3. A throttle that will immediately return the engine speed to idle when pressure on the throttle is released.

B. An Operator shall:

1. Not travel at a speed greater than 25 miles per hour.
2. Operate with the flow of traffic.
3. Travel single file except when passing or being passed by another ORV.
4. Possess a valid driver's license or safety certificate.
5. Not allow a person to operate the ORV who is mentally or physically impaired or otherwise impaired due to use of alcohol or other substance.
6. Wear a helmet and protective eyewear approved by the US DOT, unless the ORV is equipped with a roof that meets or exceeds standards for a crash helmet and properly adjusted and fastened safety belts are worn.
7. Yield to horses, bikes and pedestrians.
8. Operate the ORV in full compliance with all noise emission standards defined by law.
9. When the ORV is operated within 100 feet of a dwelling, the ORV shall not be operated at a speed greater than the minimum speed required to maintain controlled forward movement of the ORV.

Section 6. Operation of ORV by a child

A parent or guardian of a child less than 16 years of age shall not permit, and a child less than 16 years of age, shall not operate an ORV on a County 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 certification or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A parent or guardian of a child less than 16 years of age shall otherwise not permit that child to violate any provision of this Ordinance.

Section 7. Enforcement and Penalties

- A. A violation of this Ordinance is a municipal civil infraction, and a person responsible for a civil infraction shall pay a fine of not more than \$500.00 plus costs and actual reasonable attorney fees incurred by the Township or County for enforcing this Ordinance. In addition, the court may order the defendant to pay the cost of repairing

any damage to the environment, a road or public property damaged as a result of the violation.

- B. Officers, deputies, members and/or agents of Manistee County law enforcement are authorized to enforce this Ordinance and to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.
- C. The Township Treasurer shall deposit all fines and damages collected under this Ordinance into a fund to be designated the "ORV Fund". The Township Board shall appropriate revenue in the ORV Fund as follows:
 - 1. Fifty (50) percent to the Manistee County Road Commission for repairing damage to streets, county roads, or highways and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets, county roads, or highways are open or closed to the operation of ORVs under this section.
 - 2. Fifty (50) percent to the Manistee County Sheriff for ORV enforcement and training.

Section 8. Repeal of Conflicting Ordinances

Any prior Township ORV ordinance or part of an ordinance in conflict with this Ordinance, is hereby repealed.

Section 9. Severability

If any section, paragraph or clause of this Ordinance is held to be invalid for any reason, the invalidity of any such section, paragraph or clause shall not affect the remaining provisions of this Ordinance.

Section 10. Review

The approved ORV Ordinance will be reviewed one year after its adoption.

Section 11. Effective Date

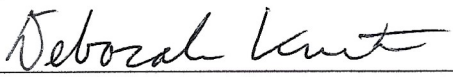
This Ordinance shall take effect thirty (30) days following its publication as required by law, following adoption by the Township Board.

Those voting in favor: Paul Adamski – yes; Deborah Knutson – yes; Lani Millsap – yes; Paul Wondolowski - yes

Those voting against: None

Those absent or abstaining: Tim Joseph – absent

Ordinance Declared Passed: Paul Adamski, Supervisor



Deborah Knutson, Clerk

CERTIFICATION

The undersigned Clerk of Brown Township hereby certifies that the foregoing is a true and correct copy of the Ordinance adopted by the Brown Township Board of Trustees at a regular meeting thereof, duly called, noticed and held on the 13th day of July, 2022 in accordance with Act 276 of the Public Acts of 1976, as amended.



Deborah Knutson, Clerk

Publication Date – July 29, 2022