

BARRY COUNTY ORV ORDINANCE

Adopted by the Barry County Board of Commissioners on January 26, 2016.

Amended March 23, 2016

Amended April 12, 2016

AN ORDINANCE authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Barry County, providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, as amended, which is incorporated by reference in its entirety.

THE PEOPLE OF THE COUNTY OF BARRY, MICHIGAN, DO ORDAIN:

SECTION 1. DEFINITIONS.

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

- A. "County" means the County of Barry.
- B. "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.
- C. "Driver's 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, as amended, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- D. "Maintained portion" means the roadway and any shoulder of a road.
- E. "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.
- F. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- G. "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 includes, but is not limited to, a multitrack or multi-wheel drive vehicle, an ATV, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation. ORV does not include a golf cart, a snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned 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 the performance of its common function, or a registered aircraft.

- H. "Road" means a county primary road or county local road as described in Section 5 of 1951 PA 51, as amended, MCL 247.655.
- I. "Safety Certificate" means a certificate issued pursuant to 1994 PA 451, as amended, MCL 324.81130, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

SECTION 2. DESIGNATED ROADS.

- A. An ORV may be operated only on the far right on the maintained portion of a road on the designated County roads listed in Appendix A, incorporated by reference.
- B. An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any State or Federal highway in Barry County, including but not limited to M-37, M-43, M-50, M-66, M-78, M-79, M-89 and M-179, except as indicated in paragraph (C) of this section.
- C. A person operating an ORV on a designated County Road may cross an excluded road as indicated in paragraph (B) of this section for the sole purpose of continuing travel on the designated County Road. The crossing of the excluded road shall only be performed if the operation can be done safely and only at a right angle. The operator shall bring the vehicle to a complete stop before proceeding across the excluded road and shall yield the right-of-way to oncoming traffic.
- D. A township board of a township in the County may adopt an ordinance authorizing the operation of ORV's on the maintained portion of 1 or more roads located within the township, pursuant to MCL 324.81131(3), or to close any roads within the boundaries of the township to the operation of ORVs permitted by the County, pursuant to MCL 324.81131(4).
- E. An ORV may not be operated on any City or Village road surface, roadway, shoulder, or right-of-way in Barry County, unless allowed by City or Village ordinance.
- F. An ORV may not be operated within any State Game Area or State Park and Recreation Area located in Barry County, except for those roads listed herein or unless allowed by the State Game Area or State Park and Recreation Area.
- G. An ORV may not be operated on any linear trail park, such as the Paul Henry Thornapple Trail, in Barry County.
- H. The Board of County Road Commissioners may close up to 30% of the linear miles of county roads located within the county to the operation of ORV's that would otherwise be authorized for ORV operation pursuant to this ordinance, or a township Ordinance under MCL 324.81131(3), but only when the Road Commission determines closing is necessary to protect the environment or if the operation of ORV's poses a particular and demonstrable threat to public safety.

SECTION 3. OPERATING CONDITIONS.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a designated road in the County:

- A. At a speed of no more than 25 miles per hour, or a lower posted ORV speed limit.
- B. With the flow of traffic.
- C. In a manner which does not interfere with traffic on the road.
- D. Traveling single file, except when overtaking and passing another ORV.
- E. While displaying a securely attached white-lighted headlight and red-lighted taillight with brake light at all times.
- F. By a person not less than 12 years of age.
- G. An ORV shall not be operated pursuant to this ordinance during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- H. A child who is less than 16 years of age shall not operate a 3-wheeled ORV.
- I. The ORV shall be equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a red brake light, brighter than the taillight, visible from behind the vehicle when the brake is activated, and 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. The ORV shall be equipped with at least one mirror securely mounted and positioned on the ORV in such a manner to be able to clearly view traffic approaching from behind.
- K. Each operator and passenger must wear 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.
- L. While the ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- M. Pursuant to noise emission standards defined by law.
- N. ORVs must not be operated in a manner that will cause damage to the road surface or shoulder. In this regard, prohibited activity includes but is not limited to actions such as "fishtailing" and spinning of tires that disperses gravel and creates ruts and other damage.

SECTION 4. LICENSE; SAFETY CERTIFICATE.

A person less than 18 years of age shall not operate an ORV on a road in the County unless the person is in possession of a valid driver's license or unless the person is under the direct supervision of a parent or guardian and has in his or her possession an ORV Safety Certificate.

SECTION 5. REGISTERED MOTOR VEHICLE.

Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road in the County if the ORV is registered as a motor vehicle, and either is more than 65 inches wide or has three wheels.

SECTION 6. EVIDENCE.

In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to the Michigan Vehicle Code was in a collision on a roadway with an ORV that is not registered under the Code, the operator of the ORV shall be considered prima facie negligent.

SECTION 7. PENALTIES.

Any person who violates this ordinance is guilty of a municipal civil infraction, and shall pay a civil fine of not less than \$250.00 and not more than \$500.00. In addition, a court may order the person to pay full restitution for any damage to the environment, a road, or public or private property damaged as a result of the violation.

SECTION 8. ORV FUND.

The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The Barry County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- A. Fifty percent to the Barry County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.
- B. Fifty percent to the Barry County Sheriff for ORV enforcement and training.

SECTION 9. MASTER MAP.

The County shall maintain a master map of all roads under the jurisdiction of the Barry County Road Commission upon which shall be indicated those roads and parts or sections thereof upon which the operation of ORV's is permitted and prohibited pursuant to this Ordinance. The County shall make such master map available for interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to incur any expense associated with the making of such copies.

SECTION 10. REPEALER CLAUSE.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 11. SAVINGS CLAUSE.

This Ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any Ordinance, Resolution, Order or parts thereof, hereby repealed, and this Ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the County, or other person, either criminal or civil, that may have already occurred, accrued or grown out of any Ordinance, Resolution, Order or policy, or any part thereof, hereby repealed.

SECTION 12. VALIDITY AND SEVERABILITY.

Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

SECTION 13. EFFECTIVE DATE.

This Ordinance shall be effective on May 1, 2016.

SECTION 14. IMMUNITY CLAUSE.

Subject to section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a county board of commissioners, and a local unit of government are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained portion or unmaintained portion of a highway, road, or street, of an ORV. The immunity provided by this subsection does not apply to actions of an employee of this state, an employee of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

APPENDIX A

(Insert a list of all County Roads designated for ORV use)

Permitted County Roads
for ORV Use

108TH ST
1ST ST
2ND ST
3 MILE RD
3RD ST
4 MILE RD
4TH ST
7 MILE RD
9 MILE RD
ACCESS LN
ACKERS DR
ACKERS POINT DR
ADAMS RD
AGAMING ST
ALTMAN RD
ANDERS RD
ANDRUS RD
APPLE ST
ARCHWOOD DR
ARHANA CREST DR
ARTHUR DR
ASHBY RD
ASSYRIA RD
ASSYRIA-DEVINE RD
AUBURN LN
AUTUMN RIDGE DR
BACHMAN RD
BACON RD
BALDWIN RD
BANFIELD RD
BARBER RD
BARBER-COATS RD
BARBER-WOODLAWN RD
BARGER RD
BARLOW LAKE RD
BARRYVILLE RD
BASS RD
BAUER RD
BAY DR
BAY VIEW DR
BAYNE RD
BAYOU CT
BEACON HILL DR
BEATRICE AVE
BEAUTERRA LN
BECKER RD
BEECH ST
BEECHWOOD DR
BENDER RD
BENDERE RD

BEVER RD
BIDDLE RD
BIG BEND CT
BIG PINE DR
BIRD RD
BIRGE THOMAS MEMORIAL RD
BIVENS RD
BLUFF DR
BONIFACE POINT DR
BOULDER DR
BOUMAN DR
BOWENS MILL RD
BOWER RD
BOWER-WOODS RD
BOWLER RD
BOYES RD
BOYSEN RD
BRADY RD
BREESE LN
BREEZY POINT DR
BRENTWOOD LN
BROADWAY-SAGER RD
BROOK ST
BROOKFIELD DR
BROOKLODGE RD
BROSS RD
BRYAN RD
BUDD RD
BUEHLER RD
BUNBURY LN
BURCHETTE RD
BURROUGHS RD
BUSH ST
BUTLER RD
CAIN CREEK DR
CAMBRIDGE ST
CAMPGROUND RD
CARGILL LN
CASE RD
CASGROVE RD
CASSIDY RD
CEDAR CREEK RD
CEDAR ST
CEDAR-SAGER RD
CENTER RD
CENTER ST
CENTRAL AVE
CHAIN-O-LAKES DR
CHARLTON-MAPLE RD
CHERRY LN
CHERRY VALLEY RD
CHIEF NOONDAY RD
CHIPPEWA TRL

CHURCH RD
CLELAND AVE
COATS GROVE RD
COATS-WOOLAND RD
COBB LAKE RD
COBB RD
COBURN RD
COGSWELL RD
COOK RD
COONEY RD
COOPER RD
CORDES RD
CORY DR
COTTAGE DR
COUNTRY CLUB DR
COUNTY LINE RD
COX RD
CRANE RD
CRANE-JOHNSON RD
CREEKRIDGE DR
CRESSEY RD
CRUM RD
CRYSTAL WAY CT
CULBERT DR
CULVER RD
CUNNINGHAM RD
CURTIS RD
DAISY HILL ST
DAISY LN
DAKOTA TRL
DAVENPORT RD
DAVIS RD
DAVISON RD
DEEP LAKE RD
DELTON RD
DENNISON RD
DEVINE RD
DEWBERRY DR
DIVISION AVE
DOSTER RD
DOUGLAS ST
DRAKE RD
DUNCAN LAKE RD
DUNN RD
DURKEE RD
E BARNUM RD
E BASELINE RD
E BRISTOL RD
E BROGAN RD
E BROWN RD
E CARLTON CENTER RD
E CASGROVE ST

E CLOVERDALE RD
E DAY RD
E DOWLING RD
E EDDY RD
E FREEPORT RD
E HICKORY RD
E HOBBS RD
E ICKES RD
E JONES RD
E KING RD
E LEINAAR RD
E MILL ST
E ORCHARD ST
E PIFER RD
E QUIMBY RD
E SAGER RD
E SCHREINER RD
E SHEFFIELD RD
E SHORE DR
E SISSON RD
E STATE RD
E TASKER RD
E VEDDER RD
EAGLE POINT RD
EAST AVE
EATON HWY
ECKERT RD
EDGE CREEK DR
ELKHORN DR
ENGLAND DR
ENGLE RD
ENZIAN RD
ERNEST LN
ERWAY RD
ETHEL DR
EVART RD
FAIR LAKE DR
FAIRVIEW DR
FARM LN
FARREL RD
FAWN AVE
FERRIS RD
FIELDSTONE CT
FIGHTER RD
FINEVIEW BLUFF DR
FINKBEINER RD
FISHER RD
FLORIA RD
FORD POINT RD
FORD RD
FOSTER RD
FOXGLOVE DR
FOXMOOR CT

FRANCES AVE
FREDERICK DR
FRUIN RD
FRUIN-HOLDEN RD
FRY RD
FURROW RD
GACKLER RD
GARBOW RD
GARDNER RD
GARY CARPENTER RD
GASKILL RD
GEETHING LN
GILKEY LAKE RD
GILKEY RD
GOLDENROD CT
GOODRICH RD
GOODWILL RD
GOULD RD
GRAHAM RD
GRAND CT
GRANGE RD
GRANITE CT
GREEN LAKE RD
GREGGS CROSSING RD
GROAT RD
GUN LAKE RD
GURD RD
GUY RD
HALL LAKE ACCESS TRL
HALL RD
HALLOCK RD
HAMILTON LN
HAMMOND RD
HARMONY DR
HARRINGTON RD
HARRIS CREEK RD
HART RD
HATHAWAY CT
HAVENS RD
HAVOC DR
HEAD LAKE RD
HEAD RD
HEATH RD
HENRY RD
HERBERT RD
HERMITAGE RD
HICKORY-ULDRICKS RD
HILL ST
HILLTOP DR
HILLTOP RD
HILLVIEW DR
HINE RD
HOLDEN RD

HOLMES RD
HOUVENER RD
HUBBLE RD
HUFF RD
HULL RD
HUMPHREY RD
HUTCHINSON RD
HYLAND RD
IGOWILD DR
INDIAN HILLS DR
INDIAN ISLE ST
INDIAN LANDING DR
INGENUITY LN
IROQUOIS TRL
ISLAND DR
JACKSON RD
JADEN DR
JARMAN RD
JEANNE DR
JEFFERSON ST
JENKINS RD
JOHNSON RD
JORDAN RD
KAISER RD
KANE RD
KATHRYN DR
KELLER RD
KELLOGG SCHOOL RD
KELLOGG ST
KELLY RD
KEYES RD
KIMBERLY DR
KINGSBURY RD
KISER RD
LACEY RD
LAKE CULVER DR
LAKE DR
LAKE POINT DR
LAKERIDGE DR
LAKESIDE DR
LAKEVIEW DR
LAKEWAY DR
LAKEWOOD DR
LAMMERS RD
LANDON RD
LANG RD
LAURABELLE DR
LAWRENCE RD
LEE SCHOOL LN
LEPPER RD
LETCHS LN
LEWIS RD
LINDBERG DR

LINDSEY RD
LITTLE BEND CT
LITTLE PINE LAKE RD
LITTS RD
LOCKSHORE RD
LOEHRS LANDING DR
LOFTUS RD
LONG POINT DR
LOON ECHO DR
LOVE RD
LOW ST
LOWER LAKE RD
LUCAS RD
LYNN AVE
MAIN ST
MANITOU LN
MANN RD
MANNING LAKE RD
MAPLE GROVE RD
MAPLE LN
MAPLE ST
MARGERY DR
MARSHALL RD
MARSHFIELD RD
MARTIN-VEDDER RD
MARY LOU DR
MATHISON RD
MC CANN RD
MC GLYNN RD
MC KEOWN RD
MC KIBBEN RD
MC KIBBIN RD
MEAD RD
MEAD ST
MEADOW LN
MEADOWVIEW DR
MERLAU AVE
MESSER RD
MEXINENE ST
MIDDLE LAKE DR
MIDWAY DR
MILL LAKE DR
MILL LAKE RD
MILL ST
MILLER RD
MILO RD
MISSION DR
MIXER RD
MOE RD
MOOR RD
MOORE RD
MOREY DR
MORGAN RD

MORGAN ST
MUD LAKE RD
MULLEN RD
N AIRPORT RD
N BASSETT LAKE RD
N BRIGGS RD
N BROADWAY RD
N CHARLTON PARK RD
N CLARK RD
N COVILLE RD
N CROOKED LAKE DR
N EATON RD
N HAGER RD
N IRVING RD
N KING RD
N LOOP RD
N MARTIN RD
N NOFFKE DR
N NORRIS RD
N PATTERSON RD
N PAYNE LAKE RD
N PEETS RD
N PRICE RD
N TASKER RD
N WELLMAN RD
N WHITMORE RD
N WOODLAND RD
N YANKEE SPRINGS RD
NAGLE RD
NASHVILLE RD
NEAR LN
NEW TOWER LN
NISSAKI ST
NOONAN RD
NORTH AVE
NORWAY AVE
OAK CREEK DR
OAK RD
OAK ST
OAKDALE RD
OAKRIDGE RD
OAKWOOD SHORES ST
OGIMAS ST
OJIBWA DR
OLD HEAD RD
OLD IROQUOIS TRL
OLD M-37 RD
OLD MILL RD
OLIVIA DR
ONYX CT
ORCHARD RD
OSBORNE RD
OSPREY DR

OTIS LAKE RD
OTTAWA TRL
OTTLAND SHORES ST
OX BOW DR
PANAMA DR
PARK DR
PARKER DR
PARKER RD
PARMALEE RD
PAUVERY DR
PEAKE RD
PEBBLESTONE DR
PENNY AVE
PINE BLUFF DR
PINE LAKE RD
PINE MEADOWS DR
PINE RD
PINECONE DR
PINEDALE DR
PINEHILL DR
PINEKNOLL DR
PINERIDGE DR
PINWOOD RD
PLEASANT LAKE RD
PODUNK LAKE RD
POMOSKA ST
POWELL RD
PRITCHARDVILLE RD
QUAIL RUN DR
QUAKER BROOK LN
QUAKEZIK ST
RACE ST
RAGLA RD
RANKIN RD
RAVINE DR
REA DR
REESE RD
REYNOLDS RD
RIDGEWOOD DR
RIDGEWOOD TRL
RIVER LN
RIVER RD
ROBERTSON RD
ROBINWOOD DR
ROOK RD
RORK RD
ROSEANNA DR
ROUSH RD
ROYAL CT
ROZELL DR
RUSH RD
RUSSELL RD
RYAN RD

S AIRPORT RD
S BASSETT LAKE RD
S BEDFORD RD
S BOULTER RD
S BRICKYARD RD
S BRIGGS RD
S BROADWAY RD
S CHARLTON PARK RD
S CLARK RD
S COVILLE RD
S DAMON ST
S EATON RD
S EDDY RD
S GUERNSEY LAKE RD
S HAGER RD
S HASTINGS POINT RD
S HAYWARD RD
S HERMITAGE POINTE RD
S ICKES RD
S INDIAN ISLE ST
S IRVING RD
S JONES RD
S MARSH RD
S MARTIN RD
S NORRIS RD
S OAK DR
S OAKLEIGH ST
S PATTERSON RD
S PAYNE LAKE RD
S PEETS RD
S PRICE RD
S ROSE RD
S SAGER RD
S SCHREINER RD
S SHAW RD
S WELLMAN RD
S WHITMORE RD
S WING RD
S WOODLAND RD
S YANKEE SPRINGS RD
SADDLEBAG LAKE RD
SADDLER RD
SAGENISH ST
SAGGIO RD
SANDY BEACH ST
SCENIC TRL
SCHAD RD
SCHOOLHOUSE DR
SCOTT PARK RD
SCOTT RD
SCRIBNER ST
SHADY LN
SHARON DR

SHAW LAKE RD
SHERWOOD DR
SHORELINE DR
SHORT ST
SHULTZ RD
SKILL DR
SLEEPY HOLLOW DR
SOLOMON RD
SOLOMON TRL
SOUTHGATE DR
SPRAGUE RD
SPRING POINT DR
SPRINGVIEW CT
STAMM RD
STANTON DR
STAR SCHOOL RD
STARR VIEW LN
STEVENS RD
STIMSON RD
STONE ST
STORYBROOK DR
STRICKLAND RD
STUCK RD
SUMMIT DR
SUN RIDGE CT
SUNRISE CT
SUNSET DR
SUNSET POINT DR
SUNSHINE DR
SUPERIOR DR
SWAN COVE DR
SWEETHEART LN
SWIFT RD
TAFT CT
TANNER LAKE RD
TARO RD
TEBO RD
TERRY LN
THERIS DR
THOMAS ST
THORNAPPLE DR
THORNAPPLE LAKE RD
THORNAPPLE VALLEY DR
THORNBIRD DR
THORPE RD
TILLOTSON LAKE RD
TIMMERMAN TRL
TISCHER RD
TO ARHANA CREST DR
TOBIAS RD
TRAILS END RD
TRATO RD
TRICK RD

TURTLE HEAD LN
U DR
ULDRIKS RD
UPJOHN DR
UPTON RD
USBORNE RD
VALLEY DR
VALLEY PINES DR
VALLEYVIEW DR
VELTE RD
VENTURE ST
VICKERY DR
VOLUNTEER DR
W AIRPORT RD
W BARNUM RD
W BASELINE RD
W BOULTER RD
W BRICKYARD RD
W BRISTOL RD
W BROGAN RD
W BROWN RD
W CARLTON CENTER RD
W CLOVERDALE RD
W DAMON ST
W DAY RD
W DOWLING RD
W FREEPORT RD
W GREEN ST
W GUERNSEY LAKE RD
W HASTINGS POINT RD
W HAYWARD RD
W HICKORY RD
W HOBBS RD
W IRVING RD
W LEINAAR RD
W LOOP RD
W MARSH RD
W NOFFKE DR
W OAK DR
W OAKLEIGH ST
W ORCHARD ST
W PIFER RD
W QUIMBY RD
W ROSE RD
W SAGER RD
W SHAW RD
W SHEFFIELD RD
W SISSON RD
W STATE RD
W VEDDER RD
W WING RD
WAKEMAL DR
WALDORF RD

WALL LAKE DR
WALL LAKE RD
WALTERS RD
WARNER RD
WASABINANG ST
WATER LILY LN
WATER ST
WAUBASCON RD
WAUKAZOO ST
WAYLAND AVE
WELCOME RD
WERTMAN RD
WESTLAKE RD
WESTVIEW LN
WHISKEY RUN DR
WHITNEY RD
WHITNEYVILLE RD
WILDFLOWER DR
WILDLIFE DR
WILDWOOD RD
WILKINS RD
WILLIAMS RD
WILLITTS RD
WINANS DR
WOLF RD
WOLFE AVE
WOOD SCHOOL RD
WOODLAWN BEACH DR
WOODLAWN RD
WOODRIDGE DR
WOODRUFF RD
WOODS RD
WOODWARD DR
WORGESS RD
WRIGHT RD
YECKLEY RD