

Approved Public Hearing and Special Meeting Minutes

Public Hearing

The Public Hearing on the ORV Ordinance and Special Board Meeting of the Manistee Township Board was held on Thursday, April 22, 2021 at 7:00 p.m. at the Manistee Township Hall. Board members present were Supervisor Dennis Bjorkquist, Trustee Guy Finout, Trustee John Dontz, Treasurer Connie Jankwietz, and Clerk Dianne Taylor. Also present were Zoning Administrator Karen Clouse, Dan Jankwietz, Richard Edmondson, Bob Meyers, Howard Campbell, Deb Mowry, Matt McShane, and Cody McShane.

Supervisor Bjorkquist called the Public Hearing to order and all attending stood and said the Pledge of Allegiance to the United States flag.

Supervisor explained the purpose of the Public Hearing and opened the floor to comments. Richard Edmondson stood and thanked the Board for their consideration and work on this ordinance. Deb Mowry asked for clarification on golf carts and requested they remain in the ordinance. Supervisor Bjorkquist explained that by standard definition, a golf cart is not considered an ORV. Bob Meyers stood and thanked the Board for allowing his input and to be able to assist with the ORV ordinance; he thanked the Board for specifically writing the ordinance for the specific needs of Manistee Township. Trustee Dontz commented on the need to define the differences between ORVs and golf carts. Dan Jankwietz noted that on road vehicles also go off road. Supervisor Bjorkquist offered copies of the State of Michigan ORV Handbook that he received; they are available at the Hall.

There being no further public comment, a motion was made by Trustee Finout and seconded by Treasurer Jankwietz at 7:15 p.m. to close the public hearing. All in favor; motion carried.

Special Meeting

The Special Meeting of the Manistee Township Board was called to order at 7:30 p.m. by Supervisor Bjorkquist.

Motion to approve the minutes from the April 8, 2021 Board meeting was made by Treasurer Jankwietz; Trustee Finout seconded. All voted in favor; motion carried.

A motion to adopt the Manistee Township ORV Ordinance as written was made by Trustee Finout and seconded by Treasurer Jankwietz. Discussion was opened. Trustee Finout made note of the need to define what constitutes a golf cart versus an ORV and suggested changing the wording of the ordinance to eliminate golf carts. Bob Meyers commented that there are townships that have separate golf cart ordinances and that ORVs and golf carts are two different things. A definition of an ORV states there must be a roll cage. After this discussion, Trustee Finout revised his motion to adopt the ORV ordinance with the words "a golf cart" being stricken from the ordinance in Section 1.g Definitions; seconded by Treasurer Jankwietz. In a roll call vote, the following members voted yea: Trustee Finout, Treasurer Jankwietz, Supervisor Bjorkquist; those members voting nay: Trustee Dontz, Clerk Taylor. The motion was approved.

**MANISTEE TOWNSHIP
STATE OF MICHIGAN**

Ordinance No. 2021-01

ORV ORDINANCE

AN ORDINANCE AUTHORIZING AND REGULATING THE OPERATION OF OFF-ROAD VEHICLES (ORVs) ON COUNTY ROADS IN THE TOWNSHIP OF MANISTEE, MICHIGAN, PROVIDING PENALTIES FOR THE VIOLATION THEREOF, AND FOR THE DISTRIBUTION OF FINES AND COSTS RESULTING FROM THOSE PENALTIES PURSUANT TO 2009 PA 175, MCL 324.81131.

THE TOWNSHIP OF MANISTEE ORDAINS:

Section 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a. “Township” means the Township of Manistee, Michigan.
- b. “Direct Supervision” means the direct visual observation of the operator with the unaided or normally correct eye, where the observer is able to come to the immediate aid of the operator.
- c. “Driver’s License” means any driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18 USC 1151, the District of Columbia, and the Dominion of Canada pertaining to the licensing of persons to operate motor vehicles.
- d. “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, or other similar materials and means the extreme right of the open portion of the right-of-way when the roadway is not improved by pavement, tar and chips, concrete or other similar materials.
- e. “Operate” means to ride in or on and be in actual physical control of the operation of an ORV/ATV.
- f. “Operator” means an individual who operates or is in actual physical control of the operation of an ORV/ATV.
- g. “ORV” or, unless the context implies a different meaning, a “vehicle” 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 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 may be an ORV. An ATV as defined in section 81101 of the Natural Resources and Environmental Protection act, 1994 PA 451, MCL 324.81101 is an ORV. “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, or a registered aircraft.

- h. “Road” means a County primary road or County local road as described in section 5 of 1951 PA 51, MCL 247.655.
- i. “Road Commission” means the Board of County Road Commissioners for the County of Manistee.
- j. “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.

Section 2. Operation of ORVs on County Roads. An individual may operate an ORV on all roads located within the Township provided that the ORV is licensed with the Michigan Department of Natural Resources or an ORV dealer, or registered under the Michigan Vehicle Code, operated in compliance with all applicable Federal and State laws, rules, and regulations, including rules and regulations administered by the Michigan Department of Natural Resources, and is operated on the far right of the maintained portion of the road, except for the following:

- a. Roads closed to ORV Traffic by the Manistee County Road Commission, which include Coates Highway, Eastlake Road, and Lakeshore Road/Crescent Beach Road.
- b. Any roadway, shoulder, or right-of-way of any State or Federal Highway including but not limited to M-22, M-55, US-31.
- c. Notwithstanding the prohibition set forth in Section 2(b), an individual may cross a State and Federal Highway at a right angle so long as said individual complies with Section 3 of this Ordinance.

Section 3. Operation Conditions and Regulations. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road within the Township:

- k. A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit or in a manner that interferes with traffic on the county road.
- l. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.
- m. ORVs shall operate with the flow of traffic
- n. ORVs shall travel single file, except when passing or being passed by another ORV.

- o. All ORVs operating shall display a lighted headlight and taillight.
- p. Unless a person possesses a driver's license, a person shall not operate an ORV on a road if the ORV is registered as a motor vehicle under the Michigan Vehicle Code and the ORV is either more than 65 inches wide or has three wheels.
- q. A person under the age of 12 shall not operate an ORV on a road.
- r. A person under the age of 18 shall not operate an ORV on a road unless the person is in possession of a valid driver's license or is under the direct supervision of a parent or guardian and the person has in his or her possession an ORV safety certificate issued by Michigan or another state or province of Canada. A person 18 years of age or older shall not operate an ORV on a road in Manistee Township without a valid driver's license.
- s. All operators must, upon demand by a law enforcement officer, present either an ORV safety certificate or driver's license.
- t. An owner or person in control or charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of a mental or physical disability.
- u. A child less than 16 years of age shall not operate a 3-wheeled ORV or ATV.
- v. A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States Department of Transportation. This section does not apply if the ORV 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 safety belt.
- w. A person shall not operate an ORV during the hours of 1/2 hour before sunset and 1/2 hour after sunrise without a working brake light that is brighter than the taillight.
- x. All ORVs shall conform to the noise emission levels established by the United States Environmental Protection Agency under the Noise Control Act of 1972, 42 USC 4901 to 4918.
- y. No person who is an operator or passenger on an ORV shall transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken.
- z. An ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
- aa. An ORV shall have 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.

- bb. An ORV shall be licensed with the Michigan Department of Natural Resources or an ORV dealer, or registered under the Michigan Vehicle Code.
- cc. An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.
- dd. An ORV shall not be operated upon any portion of a state highway unless specifically authorized by the Michigan Department of Transportation pursuant to MCL 324.81131(6) and (7).
- ee. An ORV shall not be operated upon any portion of a freeway.

Section 4. No Township Duty to Maintain County Roads. Despite the provisions contained in this Ordinance allowing ORVs to use portions of County roads, the Township shall have no duty, and undertakes no duty, to maintain a road within its boundaries in a condition that is reasonably safe and convenient for the operation of ORVs. Pursuant to MCL 324.81131 and MCL 691.1405, the Township shall be 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 or unmaintained portion of a highway or road, of an ORV.

Section 5. Careless or Reckless Operation. In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a road or highway pursuant to the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV, the operator of the ORV involved in the collision shall be considered prima facie negligent.

Section 6. Operation of ORV by Child. A parent or guardian of a child less than 16 years of age shall not permit or allow the child to violate any provision of this Ordinance.

Section 7. Enforcement and Penalties.

- ff. A violation of this Ordinance is a municipal civil infraction, and a person responsible for a civil infraction under this Ordinance shall pay a fine of not more than \$500.00 plus costs and actual reasonable attorney fees incurred by the Township or County in 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.
- gg. Officers, deputies, members, and/or agents of the Manistee County Sheriff's Office are authorized to enforce this Ordinance and to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in Court.
- hh. The Township Treasurer shall deposit fines and costs collected under this Ordinance under the applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the ORV Fund.
- ii. The Township Board shall appropriate revenue in the ORV Fund as follows:

- i. Fifty percent to the Manistee 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.
- ii. Fifty percent to the Manistee County Sheriff for ORV enforcement and training.

Section 8. Master Map. The Township shall maintain a master map that conspicuously indicates those roads and highways and parts or sections thereof where the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The Township shall make such master map available to the public. Nothing in this section requires the Township to bear the costs or expenses associated with distributing copies of the map to the public.

a. The Township shall update the master map once annually, between January 1 and February 28 of each year, to incorporate any changes to the designation of any road, or parts or sections thereof, upon why the operation of ORV is permitted or prohibited pursuant to this ordinance.

b. It shall be the responsibility of the respective Manistee Township Board to determine, prior to January 1 of each year, of any changes to be incorporated into the master map for the year.

Section 9. Agricultural. Agricultural use of an ORV falls under state regulation MCL 324.81122.

Section 10. Severability. The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of this ordinance which shall continue in full force and effect.

Section 11. Effective Date. This ordinance shall take effect thirty (30) days after its publication as required by law.

THOSE VOTING IN FAVOR: Finout, Jankwietz, Bjorkquist

THOSE VOTING AGAINST: Dontz, Taylor

THOSE ABSENT OR ABSTAINING: None

April 22, 2021

Date

Dianne Taylor
Manistee Township Clerk

CERTIFICATION

I, Dianne Taylor, being the Clerk of Manistee Township, certify that the above is a true and accurate copy of the ordinance adopted by the Manistee Township Board at the special meeting on April 22, 2021.

Dianne Taylor
Manistee Township Clerk

REMINDERS:

Manistee County MTA Meeting will be held Wednesday, April 28, 2021 at 7:00 p.m. at the Norman Township Hall, 1273 South Seaman Road, Wellston.

Special Election is scheduled for Tuesday, May 4, 2021 from 7:00 a.m. to 8:00 p.m. at the Manistee Township Hall.

Manistee Zoning Board of Appeals will meet Tuesday, May 4, 2021 at 6:00 p.m. at the Manistee Township Hall, if there is an appeal.

Manistee Township Planning Commission will meet Wednesday, May 5, 2021 at 9:00 a.m. at the Manistee Township Hall.

Next regular meeting of the Manistee Township Board will be held on Thursday, May 13, 2021 at 7:00 p.m. at the Manistee Township Hall, 410 Holden Street.

There being no further business or public comments to come before the board, it was moved by Treasurer Jankwietz, seconded by Trustee Dontz to adjourn the meeting at 7:43 p.m. All in favor; motion carried.

Respectfully submitted,

Dianne Taylor
Manistee Township Clerk

NOTICE OF SPECIAL MEETING
Manistee Township
410 Holden Street
Manistee, MI

Date of Meeting – April 22, 2021

Time of Meeting – 7:30 PM

Place of Meeting – Manistee Township Hall

Purpose of Meeting: A meeting of the Manistee Township Board to discuss, review, and possibly take action on a proposed ORV Ordinance, and any other matters that may be brought before the Board.

This notice is posted in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, MCL 41.72a(2) and (3), and the Americans with Disabilities Act because three (3) or more members of each Township Board may be present at this community meeting.

The Manistee Township Board will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting or public hearing upon a **5 day notice** to the Manistee Township Board. Individuals with disabilities requiring auxiliary aids or services should contact the Board by writing or calling the following:

Dianne Taylor
Manistee Township Clerk
410 Holden Street
Manistee, MI 49660
231 723 6507
Posted on 4/20/2021 @ 12:50 PM

Signature of Clerk _____

Copy of this notice is available in the Clerk's office