STATE OF MICHIGAN
COUNTY OF BARAGA
OFF ROAD VEHICLE ORDINANCE

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads and streets in Baraga County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE COUNTY OF BARAGA ORDAINS:

Section 1
As used in this ordinance, the following definitions shall apply:

a) "County" means the County of Baraga.

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 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.

c) "Local unit of government" means a county, township or municipality.

d) "Municipality" means a city of village.

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 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 multi-track 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.

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 Commissioners for the County of Baraga.

j) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, PA 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada."

k) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659.

l) "Township" means an individual township within the County of Baraga.

m) "Township Board" means a board of supervisors of any township within the County of Baraga.

n) "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 2
An ORV may be operated on the far right of the maintained portion of a road or street within the County.

Section 3
A township board of a township in the County may close any roads within the boundaries of the township to the operation of ORVs permitted by the County. Beginning July 17, 2009, the township board of a township in the County may adopt an ordinance authorizing the operation of ORVs pursuant to MCL 324.81131(3).

Section 4
The County Road Commission may close no more than 30% of the total liner miles of roads in the County to protect the environment or if the operation of ORVs pose a particular and demonstrable threat to public safety. The Road Commission may not close a municipal street to ORVs opened under Section 5 of this ordinance.

Section 5
The legislative body of a municipality in the county may adopt an ordinance authorizing the operation of ORVs on the maintained portion of 1 or more streets within the municipality pursuant to MCL 324.81131(5).

Section 6
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.

Section 7
Except as set forth herein or otherwise provided by law, an ORV which meets all of the following conditions may be operated on a road or street in the county:

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 12 years of age.
c) with the flow of traffic.
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) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
g) ½ hour before sunrise until ½ hour after sunset unless displaying a lighted headlight and lighted taillight.
h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.
i) while the operator and each passenger is wearing a crash helmet and protective eye wear 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.
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) while the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
l) pursuant to noise emission standards defined by law.

Section 8
A child less than 18 years of age shall not operate an ORV on a road or street in the county 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 a province of Canada.

Section 9
Unless a person possesses a valid driver's license, a person shall not operate an ORV on a road or street in the county if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Section 10
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.

Section 11
A court may order a person who causes damage to any street, highway, or other property as a result of the operation of an ORV in an area permitted by this ordinance to pay full restitution for that damage above and beyond the penalties paid for civil fines or misdemeanor violations.

Section 12
The treasurer of the local unit of government providing for the operation of ORVs on the roads and streets within its boundaries shall deposit fines collected by that local unit of government under MCL 600.8379 and Section10 of this ordinance and damages collected under Section 11 of this ordinance into a fund to be designated as the "ORV Fund". The legislative body of the local unit of government shall appropriate revenue in the ORV Fund as follows:

a) Fifty percent to the County Road Commission or, in the case of a city or village, to the department responsible for state maintenance in the city or village, for repairing damage to roads or streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORVs.

b) Fifty percent to the County sheriff or police department responsible for law enforcement in the local unit of government for ORV enforcement and training.

Section 13
This Ordinance repeals any and all previous County ordinances authorizing and/or regulating the operation of ORV's in the County.

Section 14
This ordinance becomes effective May 20, 2009.

This Ordinance is adopted by action of the Baraga County Board of Commissioners

this 11th day of May, 2009.

Commissioners voting "Aye": Eilola, Koskinen, Menge and Rolof

Commissioners voting "Nay": None

Commissioners absent: Tesanovich

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Wendy J. Goodreau, Clerk
Baraga County Board of Commissioners