



# Manistee County Board of Commissioners

Manistee County Courthouse • 415 Third Street • Manistee, Michigan 49660

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Duane Anderson  
Ervin Kowalski  
Glenn Lottie  
Carl Rutske  
Richard Schmidt

CLERK

Marilyn Kliber  
(231) 723-3331

CONTROLLER/ADMINISTRATOR

Thomas Kaminski  
(231) 398-3500

## **PUBLIC SAFETY COMMITTEE**

Tuesday, July 12, 2011  
2:30 P.M.

Manistee County Courthouse & Government Center  
Board of Commissioners Meeting Room

### **AGENDA**

- 1) Sheriff Items.
  - A) Proposed Law Enforcement Agreement between Manistee County, Manistee County Sheriff, and Manistee Township (APPENDIX A)
  - B) Other.
- 2) Emergency Management Coordinator Items.
- 3) Jail Administrator Items.
- 4) Miscellaneous Discussion/Information Items.
  - A) Continued discussion regarding the potential implementation of a countywide off-road vehicle ordinance. This topic was discussed by the Committee at its meeting on April 1, 2011, May 6, 2011 and June 3, 2011. The County Prosecuting Attorney has reviewed the previously written draft ordinance, which is attached under APPENDIX B. Ford Stone, Prosecuting Attorney, has been invited to attend this meeting for continued discussion regarding this topic.
  - B) Jail Expansion/Renovation Project Update.
  - C) Dog License Fees.
  - D) Other.
- 5) Other Items from Committee Members.
- 6) Adjournment.

[rn h:\agendas\PS 071211]

(APPENDIX A-1)

THIS AGREEMENT, made and entered into this 9th day of JUNE, 2011 by and between the Township of Manistee of 410 Holden Street, Manistee, MI. 49660 (hereafter the Township) and the County of Manistee of 415 Third Street, Manistee, MI 49660 (hereinafter the County):

Recitals:

**Whereas**, the maintenance and enforcement of law and order, and thus the preservation of the health, safety and general welfare of the residents of the Township, are of the utmost importance to the Township: and

**Whereas**, the Township wishes to call upon and to contract with the County to obtain and secure the performance of law enforcement services during the Manistee County Sheriff's regularly scheduled road patrol periods; and

**Whereas**, such contracts are authorized and provided for by the provisions of 1945 PA 246, as amended (MCL 41.181), 1851 PA 156, as amended (MCL 41.2);

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

**Article 1**  
**SERVICES TO BE PROVIDED**

- 1-1 The County agrees to provide, through the County Sheriff, at no cost to the Township, police protection and other law enforcement services within the geographical boundaries of the Township in the manner hereinafter set forth.
- 1-2 Except as may otherwise be hereinafter set forth, such police protection provided shall encompass the duties, responsibilities and functions within the jurisdiction of, and customarily rendered by the County Sheriff under the Constitution and laws of the State of Michigan, and the ordinances of the County and the ordinances of the Township as applicable;
- 1-3 Specifically, the police protection services provided pursuant to this Agreement shall be for the purposes of enforcing Township ordinances, and assisting and providing back up to the Township enforcement officers.
- 1-4 The County, through the Manistee County Sheriff, shall furnish all labor, supervision, equipment, communication and dispatching facilities, and supplies necessary to provide and maintain the level of service to be rendered to the Township pursuant to this Agreement; provided, however, that notwithstanding anything to the contrary contained herein, County or Sheriff shall not be required to hire additional officers, assign overtime to existing officers or increase or maintain

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the current level of police protection and law enforcement services in order to fulfill its obligations under this Agreement, it being the parties intent that all decisions regarding level of staffing and assignment of duties shall remain solely within the sound discretion of the County and Sheriff and that all police protection and law enforcement services to be provided to the Township pursuant to this Agreement shall be on an as and when available basis;

- 1-5 The County and Sheriff shall maintain the responsibility for all supervisory functions including but not limited to, the deployment of personnel, the standards of performance and the discipline of officers.
- 1-6 Preference shall be given to enforcement of Township ordinances as follows:
  - (a) The police protection provided pursuant to this Agreement shall be to enforce state laws and Township and County Ordinances, where applicable. When an arrest or the issuance of a civil infraction citation may be effected pursuant to either a state statute or a County or Township ordinance, where appropriate.
  - (b) The Township shall furnish the County and Sheriff with copies of applicable Township ordinances, as well as all Amendments thereof when and as they become effective.
  - (c) Arrests or civil infraction citations effected pursuant to Township ordinances shall be prosecuted by the Township attorney and any costs or fines collected as a consequence of a conviction so prosecuted shall be paid over to the treasurer of the Township as provided by law.
- 1-7 The County Sheriff will maintain daily patrol schedule reports and, upon request, supply a copy of the same, free of charge, to the Township on a monthly basis.

ARTICLE 2  
LIABILITY

- 2-1 Neither party to this Agreement, its officers, employees or agents shall be liable for intentional or negligent acts of the other party or any officer, employee, or agent thereof. Each party shall hold the other party harmless from damages, including the actual costs and fees incurred due to litigation, resulting from a party's own intentional or negligent acts or those of any officer, employee or agent of that party.
- 2-2 The Township shall not be liable for compensation or indemnity to any County or Sheriff Department employee for injury or sickness arising out his or her employment while performing services under this Agreement, and the County

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hereby agrees to hold the Township harmless against any such claims.

- 2-3 The Township agrees to hold the County and its Sheriff harmless against any claim or liability specifically arising out of the otherwise lawful enforcement of a Township ordinance held to be unconstitutional.

ARTICLE 3  
TERM

- 3-1 Unless terminated as herein provided, this Agreement will be effective from the date executed by both parties and will continue in effect for a term of one year after that date, and thereafter for consecutive one- year periods, unless terminated at the end of any such term pursuant to a notice given by either party to the other party at least ninety (90) days prior to the end of that term, or at such other time as may be mutually agreed.
- 3-2 Notwithstanding any other provisions herein, in the event the Township establishes its own police force, or establishes a police force jointly with any other municipal entity, or otherwise secures additional police protection services, the Township may terminate this Agreement upon written notice to the county not less than sixty (60) days prior to the effective date of such termination.

ARTICLE 4  
NON-DISCRIMINATION

- 4-1 The parties agree that neither will discriminate against an employee or applicant for employment of either party with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position or because of race, color, religion, national origin, age, sex, height, weight or marital status.

ARTICLE 5  
GENERAL PROVISIONS

- 5-1 This Agreement represents the total agreement between the parties and may be amended only in writing by mutual consent of both parties.
- 5-2 Any notices or communications shall be sent by first-class mail to the following parties and addresses:

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For Township: Township Supervisor  
John W. Anderson  
410 Holden St.  
Manistee, MI 49660


For County: Manistee County Sheriff  
1525 E. Parkdale Ave.  
Manistee, MI 49660

With Copy to: Manistee County Prosecuting Attorney  
415 Third St.  
Manistee, MI 49660

5-3 The waiver by either party of any breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision of the Agreement by either party.

**IN WITNESS WHEREOF**, the parties have executed this Agreement with the intent that it be effective on the day and year stated in the commencement.

MANISTEE TOWNSHIP:

  
\_\_\_\_\_  
John W. Anderson, Supervisor

MANISTEE COUNTY:

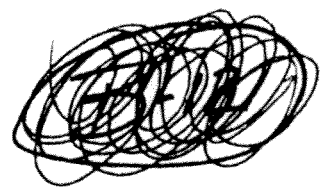
\_\_\_\_\_  
Sheriff: Dale Kowalkowski

\_\_\_\_\_  
Chairperson, Manistee County Board of Commissioners:  
Jim Krolczyk

(APPENDIX B-1)

4/09

STATE OF MICHIGAN  
COUNTY OF MANISTEE  
ORV ORDINANCE



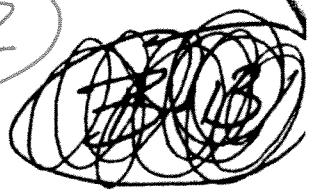
ORDINANCE NO: \_\_\_\_\_

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Manistee 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 MANISTEE ORDAINS:

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

- a) "County" means the County of Manistee.
- 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) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "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 or vehicle includes, but is not limited to, a multitrack or multiwheel 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.  
  
"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.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Manistee.
- h) "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

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another state or a province of Canada.

- i) "Township" means an individual township within the County of Manistee.
- j) "Township Board" means a board of trustees of any township within the County of Manistee.
- 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.

Sec. 2: An ORV may be operated on the far right of the maintained portion of a road within the county.

Sec. 3: A township board of a township in the county may adopt an ordinance to 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 "on the maintained portion of 1 or more roads located within the township." pursuant to MCL 324.81131 (3).

Sec. 4: The county road commission may close no more than 30% of the total linear 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.

Sec. 5: 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.

Sec. 6: 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 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) 1/2 hour before sunrise until 1/2 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 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.
- 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.

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**Sec. 7:** A child less than 16 years of age shall not operate an ORV on a road 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.

**Sec. 8:** Unless a person possesses a valid drivers 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.

**Sec. 9:** Any person who violated this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00

**Sec. 10:** 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.

**Sec. 11:** The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

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

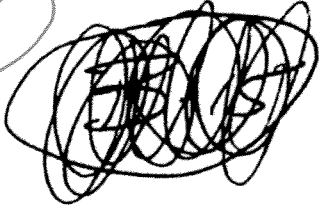
**Sec. 12:** This ordinance becomes effective: \_\_\_\_\_

This Ordinance is adopted by action of the Manistee County Board of Commissioners this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Commissioners voting "AYE": \_\_\_\_\_  
Commissioners voting "NAY": \_\_\_\_\_  
Commissioners Absent: \_\_\_\_\_

\_\_\_\_\_  
Allan O'Shea, Chairman  
Manistee County Board of Commissioners



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**Certification**

I, *Marilyn Kilber*, Clerk of the County of Manistee, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Manistee County Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Marilyn Kilber, Manistee County Clerk