

ORDINANCE NO. 38

SODUS TOWNSHIP, BERRIEN COUNTY, STATE OF MICHIGAN

SODUS TOWNSHIP ORV ORDINANCE

ADOPTED: Aug 13, 2019  
(Effective: Sept 21, 2019)

An Ordinance to define words; to permit the operation of Off Road Vehicles to use roads within the boundaries of Sodus Township pursuant to law as proposed under PA 78 of 1989 (MCL 41.181 *et seq*) as may be amended; to provide penalties for violation of this ordinance; to provide for severability; to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF SODUS, BERRIEN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Title

This ordinance shall be known as and may be cited as the "Sodus Township ORV Ordinance".

SECTION 2. Definitions

Words used herein shall have the definitions as provided for in MCL 324.81101 *et seq* as may be amended in addition to the following:

"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 multi-track or multi-wheel drive vehicle, or ORV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, or other means of transportation deriving motor 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, a registered aircraft, an amphibious machine or a ground effect air cushion vehicle.

"Township" means the Township of Sodus.

"Road Commission" means the Berrien County Road Department.

### **SECTION 3. ORV Operation**

Sodus Township hereby permits ORV's to operate within the boundaries of the Township pursuant to state law (MCL 324.81101 *et seq*) as may be amended and subject to conditions and limitations stated herein.

### **SECTION 4. Closed Roads**

A person may not operate an ORV on any road designated as closed to ORV operation on the official ORV Map referenced in Section 9. Notwithstanding the above, a person may operate an ORV on a closed road for the purpose of accessing the nearest open road from a residence which cannot be more than ½ mile from said open road. This does not apply to State and Federal Highways, roads exempt from opening by state statute, roads closed by action of the Berrien County Road Department, roads closed by Order of Law Enforcement Officers, and roads bordering municipalities which have not authorized the use of ORVs on public streets under MCL 324.81131 or other applicable law, including but not limited to Sodus Parkway south of Pipestone from Naomi Road to the Township southern border, US 31, and I-94, Naomi Road-East from Hillandale to the township line, River Road-from Pipestone to Naomi Road, and Hillandale Road-from Watson Road to Townline Road. Operation of an ORV on those roads is not permitted under any circumstance.

### **SECTION 5. Closure by County Road Department or Law Enforcement**

- a) The Berrien County Road Department, Law Enforcement, and other state agencies and entities with power to close public roads located within the Township may close said roads to the operation of ORVs otherwise authorized pursuant to this ordinance.
- b) If a road is closed under subsection a) of this section, the Sodus Township Board of Trustees shall, as necessary, adopt a resolution amending the official ORV Map designating such road(s) as closed, unless said closure is expected to last less than six (6) months.

### **SECTION 6. Conditions for Operation**

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 Township:

- 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 16 years of age.
- c) With the flow of traffic and as follows:

- i. On the right shoulder of the road.
  - ii. If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the road.
  - iii. On the far right of the right traffic lane of the road, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.
- 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) Displaying a lighted headlight, lighted taillight and brake light.
- g) Operation hours: one-half hour before sunrise until one-half hour after sunset.
- h) 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.
- i) With a rear viewing mirror.
- 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) With a United States Forest Service approved, spark arrester and muffler, in good working order and in constant operation.
- l) Pursuant to noise standards defined by law.
- m) Obeying all other laws relating to the operation of a vehicle in public streets including, but not limited to, following, turn signal requirements, yielding to traffic, etc.
- n) There is no operation of an ORV on sidewalks, trails, or other surfaces designed for pedestrian travel. There is no operation of an ORV in a public park or other space customarily used by pedestrians.
- o) While the operator is in possession of a valid Driver's License.

- p) Each ORV shall have a valid State of Michigan ORV sticker affixed to the ORV.

#### **SECTION 7.           Persons Under 18**

A person less than 18 years of age shall not operate an ORV on a road in the Township unless they are under the direct supervision of a parent or legal guardian and the person has in his or her possession an ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

#### **SECTION 8.           *Prima Facie* Negligence**

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

#### **SECTION 9.           Official ORV Map**

The Township shall maintain a master map of all roads under its jurisdiction upon which shall be indicated those roads and parts of sections thereof which the operation of ORVs is permitted and prohibited pursuant to this ordinance. Such map shall be known as the official ORV Map and the master copy shall be kept at the Sodus Township town hall. The Township shall make a copy of the ORV Map available to interested groups or organizations to make copies for distribution to the general public, but shall have no obligation to make, or to assume any expense associated with the making of such copies. The official ORV Map on display at the Township Hall shall govern in the event of a dispute.

- a) The first official ORV Map under this ordinance shall be published within 90 days of the adoption of this Ordinance;
- b) The Sodus Township Board of Trustees may, by resolution, amend the official ORV Map as and when it deems it appropriate to do so.

#### **SECTION 10.          Agricultural**

Agricultural use of an ORV shall be governed by MCL 324.81122.

#### **SECTION 11.          Funds**

The Township Treasurer shall deposit fines and damages collected for violations of this ordinance into a fund to be designated as the "ORV Fund." Township Board shall appropriate revenue in the ORV Fund as provided by law. (MCL 324.81131(14)).

**SECTION 12.**

~~Expiration~~

*effective*  
*Made Permanent on Aug 10, 2021*

~~This Ordinance shall cease to be effective and the permissions granted herein revoked two years after its effective date.~~

**SECTION 13.**

**Violations and Penalties**

- A. Any person who disobeys, neglects or refuses to comply with any provision of this ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this ordinance. A violation of this ordinance is deemed to be a nuisance per se.
- B. A violation of this ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction pursuant to MCL 600.8727. In addition, the Court shall order the Defendant to pay the costs of repairing any damage to the environment, a road or street, or public property damaged as a result of the violation.
- C. Each day during which any violation continues shall be deemed a separate offense.
- D. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this ordinance, and such other relief as may be provided by law.
- E. This ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

**SECTION 14.**

**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 such ordinance which shall continue in full force and effect.

**SECTION 15.**

**Repeal.**

All ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 16.**

**Effective Date.**

This ordinance shall take effect the 31<sup>st</sup> day after publication.



**SECTION 17. Publication, Recordation.**

This Ordinance or a summary shall be published as required by law in a newspaper of general circulation in the Township, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Township Supervisor and Township Clerk.

The above Ordinance was offered for adoption by Township Board Member David Chandler and seconded by Township Board Member Loyall Bennett, the roll call vote being as follows:

NAME	YES	NO	ABSENT
David Chandler	<u>✓</u>	<u>      </u>	<u>      </u>
Cheryl Andres	<u>✓</u>	<u>      </u>	<u>      </u>
Karen Morgan	<u>      </u>	<u>      </u>	<u>✓</u>
Ken Peters	<u>      </u>	<u>      </u>	<u>✓</u>
Loyall Bennett	<u>✓</u>	<u>      </u>	<u>      </u>

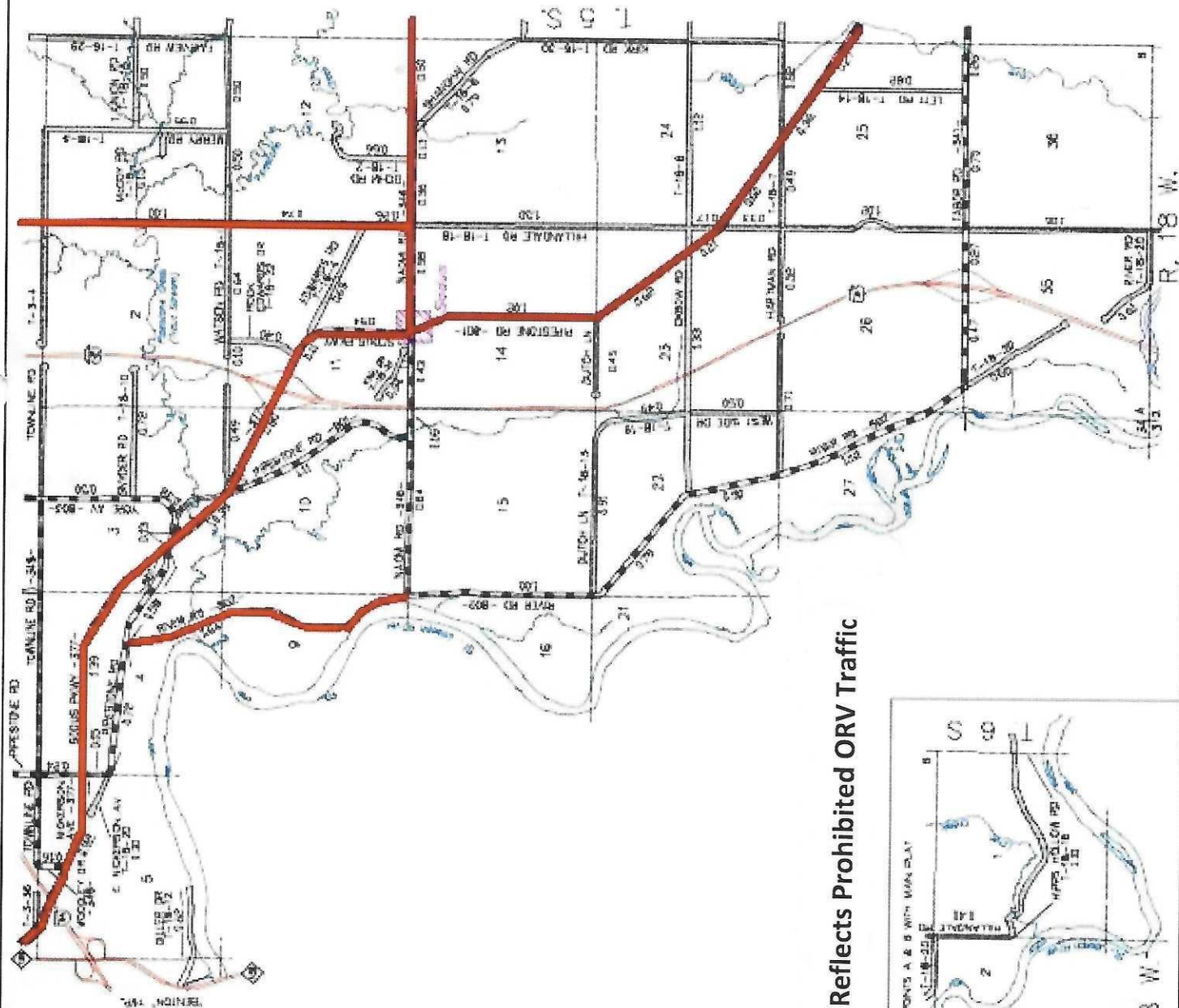
THE BOARD SUPERVISOR DECLARED THIS ORDINANCE ADOPTED THIS 13<sup>th</sup> DAY OF August, 2019.

**CERTIFICATION**

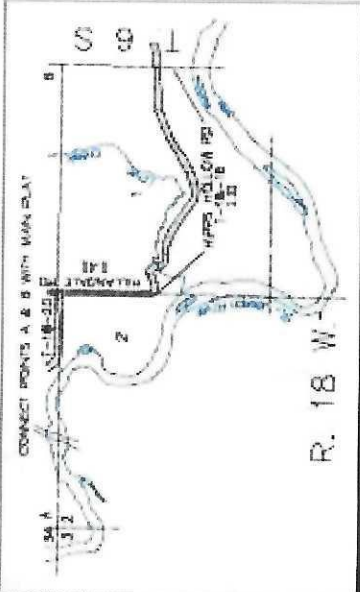
I certify that the foregoing is a true and complete copy of the Sodus Township ORV Ordinance adopted by the Township Board at a meeting held on the        day of       , 2019, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: Aug 13, 2019

Cheryl Andres  
Cheryl Andres, Township Clerk



Red Line Reflects Prohibited ORV Traffic



LEGEND

- ADJACENT TOWNSHIP
- STATE HIGHWAY
- COUNTY ROAD
- COUNTY ROAD
- COUNTY ROAD
- PRIVATE ROAD
- PUBLIC ROAD (NOT OPEN)
- ADJACENT COUNTY ROAD
- RAILROAD

PRIMARY ROAD SYSTEM IS 22.25 MILES  
LOCAL ROAD SYSTEM IS 32.44 MILES

SODUS TOWNSHIP  
BERRIEN COUNTY  
ROAD DEPARTMENT  
BENTON HARBOR, MICHIGAN  
BRAN & BERRIEN COUNTY MAP ENGINEER  
SCALE 1"=2000' DATE JANUARY 2009  
NO. 10

PUBLICATION

I hereby certify that a summary of the foregoing Ordinance was published in the  
The Journal Era on the 21<sup>st</sup> day of August, 2019.

Dated: Aug 13, 2019

Cheryl Andres  
Cheryl Andres, Township Clerk