

ORDINANCE: 386

**AN ORDINANCE TO REGULATE
AND CONTROL THE OPERATION OF OFF ROAD VEHICLES
WITHIN THE LIMITS OF THE CITY OF NORWAY
AND TO PROVIDE PENALTIES FOR VIOLATION THEREOF**

THE CITY OF NORWAY ORDAINS:

SECTION I. Title. The Ordinance shall be known and may be cited as the ORVs Ordinance of the City of Norway.

SECTION II. Purpose of Ordinance:

The purpose of this Ordinance is to regulate and control the operation of ORVs within the limits of the City of Norway; to provide for penalties for violation thereof, and except as otherwise provided herein, to incorporate and adopt the laws of the State of Michigan governing the use of ORVs, being Part 811 of Act No. 451 of the Public Acts of 1994, as amended and repeal Ordinance number 336..

Attached to this Ordinance and marked Appendix A is a map of the City of Norway identifying the designated areas for the use of ORVs.

SECTION III. Definitions. As used in this Ordinance, the following words shall be defined as follows:

(a) **Alley:** Any dedicated public way affording secondary means of access to abutting property.

(b) **Street or Highway:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(c) **Operator:** Any person who operates or is in physical control of an ORV.

(d) **Operate:** To ride in or on and to control the operation of an ORV.

(e) **ORV:** ORV means a motor driven off-road recreational 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. It includes, but is not limited to, a multi-tract or multi-wheel drive or low pressure tire vehicle, an amphibious machine, a ground effect air cushioned 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,

vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common functions, or a registered aircraft.

(f) **Roadway:** That portion of a street or highway ordinarily used for vehicular travel.

(g) **Right of Way:** That portion of a street or highway less the roadway and any shoulders.

SECTION IV. Operations:

(1) ORVs shall not be operated unless 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 the standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt, and,

(2) no ORV shall be operated:

- (a) except in single file;
- (b) in a careless or reckless manner, or operated in any way which endangers any person or any property;
- (c) at a rate of speed greater than 25 mph;
- (d) by anyone under the influence of intoxicating liquor or any controlled substance, or by anyone whose ability to operate said ORV may be impaired.
- (e) by anyone transporting thereon a firearm, unless the same is securely encased.
- (f) except from dawn to dusk.
- (g) Any person who violates any ordinance or state law relating to the operation of a motor vehicle, within the City of Norway may be charged with violation of a City Ordinance or State law.

SECTION V. Street Crossings. All ORVs shall come to a complete stop before proceeding, at right angles, across any public sidewalk, street or intersection. All ORVs shall yield the right-of-way to motor vehicle and pedestrian traffic. Towing of sleds, toboggans or other such device occupied by people is prohibited while crossing a public street.

SECTION VI. Operations Within City Limits.

(a) An ORV may be operated upon the designated streets of the City of Norway as

indicated on the Map of the City of Norway attached hereto and made a part hereof as Appendix A.

- (b) No ORV shall be operated in any alley except to access and return from designated streets or for purposes of storage of the vehicle.
- (c) There shall be no operations of ORVs on highways within the City of Norway.

SECTION VII. Beginning January 1, 2010, ORVs shall not be operated unless they are displaying a lighted headlamp and lighted tail light at all hours.

SECTION VIII. A person under 18 years of age shall not operate an ORV pursuant to this section unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A person under 12 years of age shall not operate an ORV pursuant to this section. The requirements of this subsection are in addition to any applicable requirements of State law.

SECTION IX. Duty to Stop. Upon request or signal of a police officer, an ORV operator shall immediately stop his or her ORV in a safe place and outside the flow of traffic.

SECTION X. Stock Mufflers, Lights, Helmet. All ORVs must be equipped with stock mufflers in good operating condition, except for special events authorized by special proclamation of the City Council. All ORVs shall be operated within the City with headlights on and working, and all operators and passengers shall wear helmets during operation.

SECTION XI. Responsibility. The operator of an ORV involved in any accident resulting in any property damage, personal injury or death shall report such accident to the local police immediately.

SECTION XII. Parental Responsibility. Any parent or guardian who knowingly permits or allows any minor to operate an ORV in violation of any provisions of this ordinance shall be in violation of this ordinance.

SECTION XIII. Impoundment of ORVs. A law enforcement officer may impound any ORV used or operated in violation of any provisions of this Ordinance for a period not to exceed thirty (30) days, and the owner or operator of the ORV shall be responsible to pay for all costs involved in the storage and/or removal of the impounded ORV. If the operator of the impounded ORV is not the owner, the law enforcement officer shall notify the owner of such impoundment by telephone, letter or personal contact as soon as practical, but within 24 hours.

SECTION XIV. Penalty-Civil Infraction/Misdemeanor. A person responsible for activity that violates this Ordinance shall be responsible of a civil infraction or guilty of a misdemeanor, or as provided below:

- (a) A person found responsible for a violation involving an ORV shall be guilty of a

civil infraction as defined by MCLA 600.113, punishable by civil fine according to the following schedule:

1. First offense within one year \$50.00 plus court costs, or
 2. Second offense within one year \$100 plus court costs.
- (b) Any person who commits three or more ORV-related violations within one year shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500, and/or imprisoned for not more than 93 days; plus court costs. The ORV shall be impounded for 30 days. The offender will pay a \$10.00 daily fee for the first 30 days; thereafter, a \$25.00 daily impoundment fee shall be paid. Payment of all impoundment fees shall be made to the City of Norway for release of the ORV. Failure to do so will result in a continued impoundment fee of \$25.00 daily until all fees are paid in full.
- (c) For purposes of computing the one-year period, time shall run from the date the first ticket was issued.

SECTION XV. Repeal of Ordinance #336. Ordinance number 336 is hereby repealed. This Ordinance shall be reviewed at a duly noticed public hearing, no later than August 1, 2010.

SECTION XVI. Severability. The several sections of this Ordinance shall be deemed severable, and should any section, clause or paragraph or provision thereof be declared unconstitutional or contrary to the laws of the State of Michigan and therefore voided by any court of competent jurisdiction, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than part or section so declared to be unconstitutional or invalid.

SECTION XVII. Recordation and Publication. Upon enactment, the Clerk of Council shall cause this Ordinance to be recorded in the Record of Ordinances.

SECTION XVIII. Effective Date. This Ordinance shall be in full force and effect fifteen (15) days after the date of publication.

Enacted by the City Council of the City of Norway this 20th day of July, 2009.

ADOPTED AND SIGNED THIS 20th day of July, 2009.

Signed _____
George Bal, Mayor

Signed _____
Trisha Plante, City Clerk

I HEREBY CERTIFY that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Norway, County of Dickinson, State of Michigan, at a regular meeting held on the 20th day of July, 2009, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: Bal, McCarthy, Hayes, Bubloni and Oja and that the following Members were absent: None.

I further certify that Member Oja moved for adoption of said Ordinance, and that said motion was supported by Member Bubloni.

I further certify that the following Members voted for adoption of said Ordinance: Bal, McCarthy, Hayes, Bubloni and Oja and that the following Members voted against adoption of said Ordinance: None.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and the City Clerk.

Trisha Plante, City Clerk