

State of Michigan

County of Marquette

Charter Township of Marquette

ORV Ordinance No. 17-_____

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

THE CHARTER TOWNSHIP OF MARQUETTE ORDAINS:

Section 1.

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

“ATV or “All-Terrain Vehicle” means a three (3), four (4), or six (6) wheeled vehicle designed for off-road use that has low pressure tires, has a seat designed to be straddled by the rider, or designed to accommodate more than a one rider either side-by-side or in-line, and is powered by a 50cc or greater, gasoline engine, an engine of comparable size using other fuels, or by electric propulsion;

“County” means the County of Marquette;

“Development District” means that area of the Charter Township of Marquette designated on the Marquette Township Official Zoning Map as “Development District” or “DD”;

“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;

“Operate” means to ride in or on, and be in actual physical control of the operation of an ORV;

“Operator” means a person who operates or is in physical control of the operation of an ORV;

“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, an ATV, a motorcycle or related 2, 3, 4, or 6-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 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;

“Road” means a County primary or County local road as described in Section 5 of 1951 PA 51, MCL 247.655, and does not include State or Federal highways or rights-of-way;

“Rural Residential” means that area of the Charter Township of Marquette designated on the Marquette Township Official Zoning Map as “Rural Residential” or “RR”;

“Safety Certificate” means a certificate of issue pursuant to 1994 PA 451 as amended, MCL 324.81129, or comparable ORV safety certificate issued under the authority of another state or province of Canada;

“Scenic Residential” means that area of the Charter Township of Marquette designated on the Marquette Township Official Zoning Map as “Scenic Residential” or “SR”;

“Township” means the Charter Township of Marquette;

“Township Board” means the board of trustees of the Charter Township of Marquette;

“Urban Residential” means that area of the Charter Township of Marquette designated on the Marquette Township Official Zoning Map as “Urban Residential” or “UR”; and

“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.

Permissible ORV Operation and Maps: An ORV may be operated on the far right of the maintained portion of a road within the Township with these exceptions:

- a) Roads closed to the operation of ORVs either by the Road Commission or by the Township pursuant to MCL 324.81131(4).
- b) The Township shall maintain a map that depicts all roads closed to ORV use, which map shall be posted on the Township website.

Section 3.

Road Commission Closure: Pursuant to MCL 324.81131(4), the Road Commission may close no more than thirty (30%) percent of the total linear miles of Roads in the County to protect the environment or if the operation of ORV poses a particular and demonstrable threat to public safety.

Section 4. Operation on State or Federal Highway Prohibited: An ORV may not be operated on the road surface, roadway, shoulder, or right-of-way of any state or federal highway in the Township.

Section 5 Conditions for ORV Operation: Except as otherwise set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on Roads in the Township:

- a) at a speed of no more than 25 miles per hour, or a lower posted speed limit;
- b) within any zoning district, except that an ORV may not be operated between the hours of 10:00 PM and 7:00 AM within any area zoned Urban Residential (UR), Scenic Residential (SR), Rural Residential (RR), or Development District (DD).
- c) by a person not less than twelve (12) years of age;
- d) with the flow of traffic;
- e) in a manner that does not interfere with traffic on the road;
- f) traveling single file except when overtaking and passing another ORV;
- g) while crossing a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from one area to another, after bringing the ORV to a complete stop before proceeding, if the operation can be done safely, while yielding the right-of-way to traffic on the street, country road, or highway;
- h) while displaying a lighted headlight and lighted taillight at all hours;
- 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 return to idle;
- k) while the ORV is equipped with a spark arrestor type United States Forest Service approved muffler in good working order and in constant operation;
- l) pursuant to noise emission standards defined by law; and
- m) consistent with all other applicable laws, rules, regulations, and ordinances.

Section 6.

Operation By Children Under Age 18 On Township Road: A child less than the age of eighteen (18) years shall not operate an ORV on a Road in the Township unless the child is in possession of a valid driver's license or under the direct visual supervision of an adult and the child has in his or her 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 7.

ORV Registered As Motor Vehicle: Unless a person possesses a valid driver's license, a person shall not operate an ORV on a Road in the Township if the ORV is registered as a motor vehicle and is either more than sixty (60) inches wide or has three (3) wheels.

Section 8.

Penalty: Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than Five Hundred (\$500.00) Dollars.

Section 9.

Restitution: 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 restitution for that damage above and beyond the penalties paid for civil fines.

Section 10.

- a) **Fines and Damages Allocation:** The County Treasurer, Township Treasurer, or other person charged with collecting fines and damages collected under this Ordinance shall deposit all such fines and damages into a fund to be designated as the ORV Fund. Revenue in the ORV Fund shall be appropriated as follows: Fifty (50%) percent to the 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; and,
- b) Fifty (50%) percent to the County Sheriff for ORV enforcement and training.

Section 11.

Severability: The provisions of this Ordinance are declared to be severable and if any section, provision or word is determined to be void or unenforceable for any reason by any court of competent jurisdiction, all remaining provisions of this Ordinance shall be fully effective, enforceable, and unaffected thereby.

Section 12.

Effective Date: This Ordinance shall become effective the day following publication of notice of its adoption in a newspaper of general circulation in the Township.

Section 13.

Repeal: All Ordinances or parts of Ordinances in conflict herewith are repealed.

By: Lyn J. Durant
Its: Supervisor

By: Randy Ritari
Its: Clerk

(Customary Ordinance Certification)