

**MARQUETTE COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_**

An Ordinance adopted by the Marquette County Board of Commissioners pursuant to MCL 324.81131(1) as amended, for the purpose of authorizing the establishment of access routes along Highways under its jurisdiction, for use by Off Road Vehicles (ORVs); for the purpose of establishing the terms and conditions upon which such access routes may be utilized by the operators of ORVs; and, for the purpose of providing penalties for the violation thereof.

**THE COUNTY OF MARQUETTE ORDAINS:**

**Section I. Definitions**

When used in this ordinance, the following words or terms shall have the following meanings:

- A. "ATV" or "All Terrain Vehicle" means a 3 or 4 wheeled vehicle designed for off-road use that has low pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500 cc gasoline engine or an engine of comparable size using other fuels.
- B. "County" means the County of Marquette.
- C. "County Board" means the Marquette County Board of Commissioners.
- D. "Highway" means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for the purposes of vehicular travel.
- 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" or "Off Road Vehicle" 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 "Off Road Vehicle" includes, but is not limited to, a multitrack or multiwheel drive vehicle, an All Terrain Vehicle, 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. It 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 the performance of its common function, or a registered aircraft.

H. "Road Commission" means the Board of Road Commissioners for the County of Marquette.

I. "Roadway" means that portion of a Highway improved, designated, or ordinarily used for vehicular travel, not including the Shoulder. If a Highway includes two or more separate Roadways, the term Roadway refers to a Roadway separately, but not to all Roadways collectively.

J. "Shoulder" means that portion of the Highway contiguous to the Roadway, generally extending the contour of the Roadway, not specifically designed for vehicular travel, but maintained for the temporary accommodation of disabled or stopped vehicles which are otherwise permitted on the Roadway.

K. "Township" means an individual Township within the County of Marquette.

L. "Township Board" means a Board of Supervisors of any Township within the County of Marquette.

## Section II. Designation of Highways for ORV Use

A. Except as limited or otherwise provided by this Ordinance, all Highways within the County which are under the jurisdiction of the Road Commission are hereby designated to be access routes upon which ORVs, except for:

1. 3 wheeled ATVs; and,

2. ORVs which are greater than fifty (50") inches in width, measured at their widest point, may be operated for the purpose of providing access to and from areas where ORV operation is permitted. Such access routes do not include or involve state or federal highways.

B. Notwithstanding the provisions of Section II.A. of this Ordinance, no ORV shall be operated on any Highway under the jurisdiction of the Road Commission, or any part or section thereof:

1. If the operation of ORVs on such Highway, or any part or section thereof, has been specifically prohibited by Resolution of the Road Commission and by Resolution of the Township Board of the Township in which such Highway, or part or section thereof, is situated; or,

2. Between December 1 through December 31, and January 1 through March 31, of each year.
- C. The County shall maintain a master map of all Highways under the jurisdiction of the Road Commission, upon which shall be indicated those Highways and parts or sections thereof upon which the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The County shall make such master map available for 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.
- D. The County shall update the master map once annually, between January 1 and March 31 of each year, to incorporate any changes in the designation of any Highways, or parts or sections thereof, upon which the operation of ORVs is permitted or prohibited pursuant to this Ordinance. With respect to such updating:
1. It shall be the responsibility of the respective Townships and the Road Commission to advise in writing the County Resource Management Department, prior to February 1 of each year, of any changes to be incorporated into the master map for that year; and,
  2. If the Townships and the Road Commission make any changes in the designations of Highways under the jurisdiction of the Road Commission, or any parts or sections thereof, upon which the operation of ORVs is prohibited, no such changes shall be deemed effective until incorporated into an updated master map, unless the Road Commission has, at its own cost and expense, posted signage at the appropriate locations upon such Highways, or parts or sections thereof, advising Operators of ORVs of such changed designations, in which event such changes shall become effective upon the posting of such signage.

### Section III. Regulations Governing ORV Operation

- A. An ORV operated on any Highway which is under the jurisdiction of the Road Commission, or any part or section thereof, where the operation is permitted pursuant to this Ordinance, shall at all times be operated:
1. For the purpose of gaining access to or from areas where ORV operation is permitted under the applicable laws, ordinances, rules or regulations of the State of Michigan and any of its political subdivisions; and,
  2. Within a lane consisting of the outermost five (5) feet of the Highway; or, in situations where operation is not reasonably safe or not reasonably possible in that location due

to obstructions, unsuitable terrain, or for other safety reasons, or in situations where such operation is prohibited by the provisions of Subsection III.C.1. of this Ordinance, then such operation shall be within a lane consisting of that five (5) feet of the Highway where an ORV may be operated safely and in compliance with Subsection III.C.1., and which is furthest from the real or customary centerline of the Roadway; and,

3. In single file, in the same direction as the flow of traffic upon the Roadway, and maintaining a safe distance between ORVs; and,
4. At a rate of speed which is reasonable and proper having due regard for conditions then and there existing, but in no event greater than twenty five (25) miles per hour if operating on the Roadway or the Shoulder of a Highway; and,
5. At a rate of speed of not greater than fifteen (15) miles per hour after dusk and before sunrise, at any location upon the Highway; and,
6. Yielding the right of way to all motor vehicle traffic, pedestrians, and non-motorized vehicles within the Highway; and,
7. In a manner that will not cause damage to the Highway. In this regard, prohibited activity includes, but is not limited to, actions such as "fishtailing" and spinning of tires which disperses gravel and creates ruts and other damage; and,
8. In compliance with any and all other statutes, rules, regulations, and ordinances applicable to ORVs, including but not limited to Chapter 4, Subchapter 6, Part 811 of the Michigan Natural Resources And Environmental Protection Act, being MCL 324.81101, et seq, as amended.

B. An ORV may be operated on the Roadway of any Highway under the jurisdiction of the Road Commission, whether or not such Highway has been designated as an access route pursuant to Section II.A. of this Ordinance, if such operation is in compliance with MCL 324.81122 and the applicable subsections thereof, as amended.

C. An ORV may not be operated:

1. On any part of a Highway occupied by ditches, including the front and back slopes thereof; or,
2. Within County or Township owned parks, or any natural areas, airports, or cemetery properties within the County; or,
3. Upon, along, or within federal or state Highways, or streets within incorporated cities,

unless otherwise authorized by federal, state, or city laws, rules regulations, or ordinances; or,

4. On those Shoulders specifically designated as non-motorized facilities.

#### Section IV. Applicability

This Ordinance shall be applicable to all Highways under the jurisdiction of the Road Commission within the County except for such Highways, and parts or sections thereof, as are situated within the boundaries of the following governmental entities:

- A. The Charter Township of Chocolay; and,
- B. The Charter Townshhip of Marquette; and,
- C. The Township of Sands; and,
- D. The City of Marquette; and,
- E. The City of Ishpeming; and,
- F. The City of Negaunee.

#### Section V. Violations and Penalties

- A. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than Five Hundred (\$500.00) Dollars, or both.
- B. In addition to the penalties described in Section V.A., if the violation for which an Operator of an ORV has been convicted has caused damage to real or personal property, the Operator so convicted, as well as the registered owner(s) of the ORV involved, if such ORV was in the possession of the Operator with the permission any owner(s), may also be ordered by the Court to pay restitution for the full amount of such damage.

#### Section VI. Effective Date

This Ordinance shall become effective the day following publication of notice of its adoption in a newspaper of general circulation in the County.

This Ordinance is adopted by action of the Marquette County Board of Commissioners this 20th day of April, 2004.

Commissioners voting "Aye": Arsenault, Bergdahl, Cihak, Coyne, Joseph, Touminen, Wallace, and Corkin

Commissioners voting "Nay": None

Commissioners Absent: Nordeen

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Gerald O. Corkin, Chair  
Board of Commissioners

Certification

I, Connie M. Branam, Clerk of the County of Marquette, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Marquette County Board of Commissioners on the 20th day of April, 2004.

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Connie M. Branam  
County Clerk

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