

# DRAFT

## State of Michigan

### County of Manistee

#### Township of Marilla

An Ordinance to authorize and regulate the operation of off-road vehicles (ORVs) on the roads in the Township of Marilla, to provide penalties for the violation thereof, to provide for appropriation of fines and damages resulting from the operation of ORVs and repeal all ordinances in conflict herewith.

The Township of Marilla ordains:

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

- a) "Township" means the Township of Marilla.
- b) "Driver's license" means an operators or chauffeurs 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 an ORV.
- d) "Operator" means a person who operates or is in actual physical control of an ORV.
- e) "ORV" means a motor driven recreation vehicle designed for off-road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV includes, but is not limited to 2-wheel, 3-wheel or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, an ATV as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101, or other means of transportation deriving motive power from a source other than muscle or wind. ORV does not include a vehicle described in this definition that is registered for use upon a public highway and has the security required by law.
- f) "Road" means local roads of the Township as the same may be designated from time to time by the Township Board.
- g) "Safety certificate" means a certificate issued 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.
- h) "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.

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**Sec. 2** Subject to the regulations of this Ordinance and part 811 of the natural resources and environmental protection act, 1994 PA 324.81101, an ORV may be operated on the far right of the maintained portion of the road within the Township ~~except- including~~ Beers Road, 9 Mile Road, Yates Road, Marilla Road, 13 Mile Road and any roadway, ~~except~~ on the shoulder right of way of any state or Federal highway.

**Sec. 3** An ORV may be operated from a residence on a road closed by the Township or Manistee County Road Commission solely for the purpose of gaining access to the roads open to ORVs within the Township.

**Sec. 4** An ORV traveling on the road in the Township shall meet all the following conditions, in addition to any others that may be imposed by law:

- a) Shall travel at a speed of no more than 25 miles per hour or a lower posted speed limit.
- b) Shall be operated by a person not less than 12 years of age. (See Section 5.)
- c) Shall travel with the flow of traffic.
- d) Shall be operated in a manner that does not interfere with traffic on the road.
- e) Shall travel in a single file except when overtaking and passing another ORV.
- f) Shall not travel on a road when visibility is substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) Shall not operate before ½ hour before sunrise or after ½ hour after sunset unless displaying a lighted headlight and lighted taillight.
- h) Shall always display a lighted headlight and lighted taillight.
- i) Shall only be operated while the operator and each passenger are wearing a crash helmet and protective eyewear approve by the United States Department of Transportation unless the vehicle is equipped with a roof that meets or exceeds standards for crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- j) Shall be equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine's speed will immediately and automatically return to idle.
- k) Shall be equipped with a spark arrestor type, United States Forest Service approved muffler in good working condition and in constant operation.
- l) Shall observe all noise emission standards defined by law.

**Sec. 5** A parent or legal guardian of a child less than 16 years of age shall not permit, and a child less than 16 years of age shall not operate an ORV on a road in the Township 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. 6** 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 60 inches wide or has three wheels.

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**Sec. 7** 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 \$500. In addition, 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. 8** The Township Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the "ORV Fund". The Marilla Township Board shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent to the Manistee County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs. Signs should be posted indicating whether a road is closed for the operation of ORVs.
- b) Fifty percent to the Manistee County Sherriff for ORV enforcement and training.

**Sec. 9** This ordinance shall take effect sixty (60) days following its publication as required by law, following adoption by the Marilla Township Board.

**Sec. 10** The approved ORV ordinance will be reviewed in one year.

**Sec. 11** All ordinances or part of ordinances in conflict herewith are replaced to the extent of the conflict.