

**MARCELLUS TOWNSHIP  
CASS COUNTY, MICHIGAN  
LAKE AREA ORV ORDINANCE NO.2018-1**

**AN ORDINANCE** adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in the Township of Marcellus, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties, pursuant 2008 PA 240, MCL 324.8113, and 2009 PA 175, and amending all ordinances and/or resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF MARCELLUS, COUNTY OF CASS, MICHIGAN, ORDAINS:**

**SECTION 1. SHORT TITLE**

This article shall be know and cited as the Marcellus Township LAKE AREA ORV Ordinance.

**SECTION 2. PURPOSE**

The purpose of this Ordinance is to authorize and regulate the operation of Off Road Vehicles (ORVs) on certain roads in the Township of Marcellus and provide penalties for the violation thereof and for the distribution of public funds resulting from those penalties, pursuant to 2008 PA 240, MCL 324.8113 and 2009 PA 175.

**SECTION 3. GENERAL PROVISIONS**

- A. As used in the Ordinance, the following definitions shall apply:
- 1) Township means the Township of Marcellus.
  - 2) "Driver license" means an operator's our chauffeur's license or permit issued to an individual by the Secretary of State under chapter III for 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
  - 3) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
  - 4) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
  - 5) "ORV" means a motor driven off road recreation vehicle or golf cart type vehicle that may or may not be capable of

cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, march, swampland, or other natural terrain. ORV or golf cart type vehicle includes, but is not limited to, a multitrack or multi wheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, and amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.

- 6) "Road means county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655, which is not specifically exempted from Section "E" of this Ordinance.
- 7) "Safety certificate" means a certified 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.
- 8) "Township" means an individual township within the County of Cass.
- 9) "Township Board" means a board of trustees of Marcellus Township.
- 10) "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.

- B. An ORV vehicle may be operated on the far right of the maintained portion of certain county or local roads and the travel portion of paved county or local roads within Marcellus Township. At any time, Marcellus Township may designate by Resolution of the Township Board, that certain roads in the Township are exempt from this Ordinance, and that ORVs are prohibited on certain enumerated roads.
- C. An ORV may not be operated on the road surface roadway, shoulder or right of way of any state or federal highway in the county.
- D. Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on the roadways in the Township that are specifically named under Section E of this Ordinance:

- 1) At a speed of not more than 25 miles per hour or a lower posted ORV speed limit.
- 2) By a person not less than 16 years of age. A person 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. In any event no child less than 10 years old may operate an ORV on any Township roads.
- 3) With the flow of traffic
- 4) In a manner which does not interfere with traffic on the road or street.
- 5) Traveling single file except when overtaking and passing another ORV.
- 6) While displaying a lighted headlight and lighted taillight during the dusk, dawn and dark hours.
- 7) 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.
- 8) Pursuant to noise emission standards defined by law.

E. ORVs may be operated on the following streets at any time in accordance with Section D of this Ordinance:

- a. Lake Street
- b. Fish Lake Drive
- c. Elm Drive
- d. Red Run Road (AKA Red Run Drive)
- e. Welcher Road
- f. Motter Drive
- g. Medd-o-Lane
- h. Taylor Drive

- i. Robinway Drive
  - j. Gearhart Road
  - k. Oak Street
  - l. Berry's Lane
- F. Streets may be added or deleted by a resolution adopted and approved at a regular meeting by the Marcellus Township Board.
- G. Any person who violates the ordinance is guilty of a civil infraction and may be ordered to pay a civil fine of not more than \$500.00.
- H. 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.
- I. The treasurer of Marcellus Township shall deposit all fines and damages collected under this Ordinance in a fund to be designated as the ORV Fund. The treasurer of Marcellus Township shall distribute the revenue in the ORV Fund as follows:
- 1) To the Marcellus Township restricted road fund for repairing road or street damage and environmental damage caused by ORVs.

#### **SECTION 4. ENFORCEMENT**

The Township of Marcellus hereby verifies and certifies that a copy of this Ordinance has been submitted to the Cass County Sheriff's Department giving the Cass County Sheriff's Department the authority to monitor and enforce the provisions herein. The Cass County Sheriff's Department has been asked to provide leniency on these lightly traveled roadways and the Cass County Sheriff's Department fully understands that by the Township's act of adopting and approving this Ordinance, that the Township of Marcellus waives certain sections of the Michigan Vehicle Code (Excerpt) Act 300 of 1949, 257.657a "Operation of golf cart on village, city or township streets" not be enforced on the roadways named in Section E hereof, except as provided herein, required by law or gross negligence or carelessness is observed.

#### **SECTION 5. AMENDING CONFLICTING PROVISIONS**

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby amended.

## **SECTION 6. SEVERABILITY**

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remains provisions of this Ordinance.

## **SECTION 7. PUBLICATION**

A true copy of this Ordinance or summary thereof shall be published as provided by law in a newspaper of general circulation in the Township of Marcellus.

## **SECTION 8. EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days after the publication of a true copy or summary thereof as provided in Section 6.