

CEDAR CREEK TOWNSHIP

COUNTY OF MUSKEGON, MICHIGAN

At a regular meeting of the Township Board of the Township of Cedar Creek, held in the Township Hall, 6556 Sweeter Rd, Twin Lake, Michigan, on the 14th day of June, 2022 at 6:00 p.m.

PRESENT: Linda Aerts, Heather Jarvis, Charles Skinner, Bob Wright

ABSENT: Peggy Foster

The following ordinance was offered by Member Wright and supported by Member Skinner to adopt the Ordinance. Motion Carried unanimously.

ORDINANCE NO. 2022-05

AN ORDINANCE TO AMEND THE REGULATORY ORDINANCE

CEDAR CREEK TOWNSHIP ORDAINS:

Section 1. Article V of the Cedar Creek Regulatory Ordinance, is hereby amended to add Chapter 26, titled ORV Regulations to read as follows:

Section 2. Purpose.

It is the purpose of this Ordinance to authorize and regulate the operation of ORVs within the Township, and to promote the health, safety, and welfare of the people operating ORVs within the Township and to protect the safety of their passengers and other users of roads.

Section 3. Definitions.

As used in this Chapter, the following words and phrases are defined as follows:

1. 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 includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an ATV, golf cart with after-market modifications, motorcycle or related 2-wheel, 3-wheel, 4-wheel, 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.

2. Driver's License means any driving privileges, license, temporary instruction permit or temporary license issued under the laws of any state, territory or possession of the United States, Indian country as defined in 18USC 1151, the District of Columbia and the Dominion of Canada pertaining to the licensing of person to operate motor vehicles.
3. Operate means to ride in or on, and to be in actual physical control of the operation of an ORV.
4. Operator means a person who operates or is in physical control of the operation of an ORV.
5. ORV Safety Certificate means a certificate issued pursuant to Public Act 451 of 1994, amended, or a comparable ORV safety certificate issued under authority of another state or a province of Canada.

Section 4. Streets or Highways closed to ORV Traffic

ORVs shall not be operated on a state trunk line highway or any road explicitly restricted. **See Exhibit A.**

Section 5. Operating Rules.

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road in Cedar Creek Township:

1. At a speed of not more than 25 miles per hour, or a lower posted ORV speed limit, or at a speed that is reasonable for existing conditions on the road, not to exceed 25 miles per hour.
2. On the far right-hand side of the maintained portion of the roadway, with the flow of traffic.
3. ORV shall travel single-file, except when overtaking or passing another ORV.
4. ORV operating must have a lighted headlight, lighted taillight and brake light at all times.
5. When the person and any passenger in or on the vehicle is wearing a crash helmet and protective eyewear approved by the United States Department of Transportation. This subdivision does not apply if the vehicle is equipped with a windshield and a roof or roll bar that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.
6. 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.
7. ORV shall be equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.
8. ORV shall be equipped with a braking system that may be operated by hand or foot. A brake light brighter than a taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of one half-hour after sunset and one half-hour before sunrise.
9. Pursuant to noise and emission standards defined by law.
10. No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.
11. Any person who operates an ORV on public roads must adhere to all applicable provisions of state and local laws, regulations, and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no ORV containing any open container of alcohol shall be operated on public roads.

12. ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.

Section 6. **No Township Duty to Maintain County Roads.** Notwithstanding the provisions contained in this Ordinance allowing ORVs to use portions of County roads, the Township shall have no duty, and undertakes no duty, to maintain a road within its boundaries in a condition that is reasonably safe and convenient for the operation of ORVs. Pursuant to MCL324.81131 and MCL691.1405, the Township shall be immune from tort liability for injuries and damages sustained by any person arising in any way out of the operation or use, on the maintained or unmaintained portion of a highway, road, or street of an ORV.

Section 7. **Careless or Reckless Operation.**

In a court action in this state where competent evidence demonstrates that a vehicle permitted to be operated on a highway pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, is involved in a collision with an ORV on a road, the driver of the ORV involved in the collision shall be considered negligent until proven otherwise (in a court of law).

Section 8. **Driver's License Requirement.**

A valid driver's license is required for a person to operate an ORV on the road in Cedar Creek Township. Any person less than 18 years of age shall not operate an ORV on the road in Cedar Creek Township unless the person is in possession of a valid driver's license or is under the direct visual supervision of an adult and the person 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 province of Canada.

A person shall not operate an ORV if their state driver's license is suspended or revoked by the Secretary of State in Michigan.

Section 9. **Notice of Accident.**

The operator of an ORV involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of \$100 or more, or some person acting for him/her, or the owner of the ORV having knowledge of the accident shall immediately by the quickest means of communication notify Muskegon County Central Dispatch.

1. The registration sticker shall be valid for no more than one year. Registration stickers must be visible on an ORV operated on a public road. Lost or stolen registration stickers are the sole responsibility of the owner and must be replaced before the ORV is operated on a public road.
2. All ORVs must meet the requirements or minimum standards as set forth above in this article.

Section 10. **Master Map.**

The Township shall maintain a master map that conspicuously indicates those roads and highways and parts or sections thereof where the operation of ORVs is permitted and prohibited pursuant to this Ordinance. The Township shall make such master map available to the public.

Nothing in this section requires the Township to bear the costs or expenses associated with distributing copies of the map to the public.

Section 11. Penalties.

1. A person who violates any provisions of this ordinance shall be responsible for a municipal civil infraction and shall be subject to a civil fine of not more than Five Hundred and 00/100 (\$500.00) Dollars.
2. In addition to the fine specified above, the 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 for civil fines.

Section 12. Coordination With State Law.

If any part of this ordinance is inconsistent with any provisions of State law, State law shall control.

Section 13. Publication; Effective Date. This ordinance shall be effective thirty days after publication of a summary of its provisions in a local newspaper of general circulation in the Township.

AYES: Aerts, Jarvis, Skinner, Wright

ABSENT: Foster

ORDINANCE DECLARED ADOPTED.

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Charles Skinner, Township Clerk

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Cedar Creek Township Board at a regular meeting held on June 14, 2022 and I further certify that public notice of such meeting was given as provided by law.

Charles Skinner, Township Clerk

Adopted: June 14, 2022

Published: July 17, 2022

Effective: August 17, 2022

EXHIBIT A

CEDAR CREEK TOWNSHIP

COUNTY OF MUSKEGON, MICHIGAN

NOTICE OF RESTRICTED ROADS

FOR ORVs

M120 (Holton Road) – Entire Length

Maple Island Road – Entire Length

Sweeter Road – Maple Island Road to Brickyard Road

River Road – Dalson Road to Holton Duck Lake Road