

**CITY COUNCIL**

**The City of Orange Township, New Jersey**

DATE \_\_\_\_\_

NUMBER 33-2023

**TITLE: AN ORDINANCE AMENDING CHAPTER 150 ENTITLED PEACE AND GOOD ORDER TO CREATE AND ESTABLISH ARTICLE VII, ALL TERRAIN VEHICLES (ATV) AND DIRT BIKES FOR PUBLIC HEALTH, SAFETY, AND WELFARE.**

(Sponsored by Councilmember-At-Large Adrienne Wooten & South Ward Councilmember Jamie Summers-Johnson)

**WHEREAS**, in accordance with N.J.S.A. 39:3C-35, the New Jersey State Legislature has authorized municipalities to declare that the unlawful operation of an all-terrain vehicle (ATV) or dirt bike on any public street, highway or right-of-way is an immediate threat to public health, safety, and welfare, and to designate an all-terrain vehicle as contraband subject to forfeiture, pursuant to New Jersey law; and

**WHEREAS**, the City of Orange Township (the "City") finds it prudent to impose regulations on certain establishments to minimize the detrimental effects of illegally operated ATVs and off-road vehicles within the City and to further protect the public peace and good order.

**WHEREAS**, a number of these [recreational] devices use dirty two-cycle engines instead of the four-cycle engines in cars, their share of total pollution is vastly higher than their 1.6 percent share of gasoline ...

**WHEREAS**, ATV'S and dirt bikes have a variety of effects on the natural environment, including: disturbing the ground, disturbing vegetation, and disturbing wildlife; and

**WHEREAS**, according to the California Air Resources Board, off-road motorcycles and all-terrain vehicles produce 118 times as much smog-forming pollutants as do modern automobiles on a per-mile basis; and

**WHEREAS**, according to a study by researchers of Paul Scherrer Institute in Switzerland, certain ATVs and Dirt Bikes, if operating with two stroke engines emit more air contaminants than cars and trucks and are a significant source of vehicular pollution; and

**WHEREAS**, an article in the May 2014 edition of the Lancet linked the type of outdoor air pollution made worse by ATVs to "**all exacerbations of childhood asthma**"; and

**WHEREAS**, two ATV's were seen riding down the sidewalk as students were being released from Oakwood Avenue school; and

**WHEREAS**, ATV's and dirt bikes were seen driving erratically in the Wawa parking lot causing drivers to be unsure of how to maneuver their vehicles; and

**WHEREAS**, "The misuse of these vehicles on roadways poses a significant threat to the safety of the driving public and pedestrians, while their unlawful use on public lands endangers the natural landscape and natural resources," Attorney General Matthew J. Platkin said in a statement; and

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**WHEREAS**, during the month of May, the state Attorney General's Office issued new guidance clarifying the permitted use of off-road vehicles; and

**WHEREAS**, the office said it issued guidance "amid growing concern about those vehicles being used inappropriately on public lands and streets, causing environmental damage, safety hazards," and noise.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Orange Township that Chapter 150 "PEACE AND GOOD ORDER", Article VII, "ALL TERRAIN VEHICLES (ATVs) AND DIRT BIKES FOR PUBLIC HEALTH, SAFETY AND WELFARE", of the Code of the City of Orange Township is hereby created as follows:

**SECTION 1.** The foregoing whereas clause is incorporated herein by reference and made a part hereof.

**SECTION 2.** Chapter 150 entitled Peace and Good Order is amended to create the following section Article VII, regulating all-terrain (ATVs) and dirt bikes for public health, safety and welfare:

## **CHAPTER 150 PEACE AND GOOD ORDER**

### **Article VII**

As used in this Section, the following terms shall have the definitions indicated:

#### **150-29 DEFINITIONS.**

ALL-TERRAIN VEHICLE or ATV: means a motor vehicle, designed and manufactured for off-road use only, of a type possessing between three (3) and six (6) non-highway tires, which vehicles, by their nature and design, are not intended to be used and operated along paved roads and highways, but are intended, rather, to be operated off-road, in or upon dirt, sand, mud or similar conditions and to traverse hills, trails and similar type areas, but shall not include golf carts or an all-terrain vehicle operated by an employee or agent of the State, a County, a Municipality, or a Fire District, or a member of an emergency service organization or an emergency medical technician, which is used while in the performance of the employee's, agent's, member's or technician's official duties.

DIRT BIKE: means any two-wheeled motorcycle that is designed and manufactured for off-road use only and that does not comply with Federal Motor Vehicle Safety Standards or the United States Environmental Protection Agency on-road emissions standards.

ELECTRIC SCOOTER (E-SCOOTER): a scooter with a floorboard that can be stood upon by the operator, with handlebars, and an electric motor that is capable of propelling the device with or without human propulsion.

ELECTRIC SCOOTER DOCKING STATION: a stationary fixture to which electric scooters used as part of an electric scooter share program or service are attached and made available for use and where these electric scooters can be returned at the end of their use.

ELECTRIC SCOOTER SHARED RENTAL SYSTEM: a network of scooters and docking stations (physical or digitally defined) whereby users may rent publicly available scooters from automation stations around the City, ride them, and return them to any other automated station within the service area.

FURNITURE ZONE: the section of the sidewalk between the curb and a pedestrian through zone in which street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, tree pits, and bicycle parking are provided, according to the Urban Design Guide of the National Association of City Transportations Officials.

PRIVATE ELECTRIC SCOOTER: any electric scooter owned and operated by a private individual.

ROLLER SKATES: a pair of devices worn on the feet with sets of wheels attached, regardless of the number or placement of those wheels, and used to slide or propel the user over ground.

SCOOTER: a platform low to the ground and mounted on wheels, regardless of the number or placement of those wheels, with a steering column attached to the front axle, and used to slide or propel the user across the ground. The scooter may or may not have a seat.

SHARED ELECTRIC SCOOTER: any electric scooter owned by a company permitted to offer publicly accessible electric scooters through a pay-per-ride or subscription program.

SHARED USE PATH: any paved pathway in the public right-of-way that supports multiple recreation and transportation opportunities, such as walking, bicycling, and in-line skating, excluding trails and walkways located in City parks.

SKATEBOARD: a platform low to the ground and mounted on wheels, regardless of the number or placement of those wheels, and used to slide or propel the user over the ground.

STORAGE FACILITY: real property designed and used for the purpose of renting or leasing individual storage space to individuals or entities who are to have access to the space for the purpose of storing personal property.

#### 150-30 DISPENSING FUEL REQUIREMENTS AND REPORTING.

- a) No gas station owner/employee operating in the City, dispensing gas from gas pumps located on said property to the general public, shall dispense gasoline directly into an all-terrain vehicle or dirt bike, unless said vehicle was transported to the gas station on a properly registered vehicle, trailer, truck, or other lawful means of conveyance.

- b) It is not a violation of this Section, if the gas station employee/owner feels they would be subject to physical harm if they did not dispense or allow to be dispensed gasoline to the all-terrain vehicle or dirt bike operated in a manner inconsistent with this Chapter, so long as the employee/owner immediately reports the activity to the City's Department of Public Safety, Division of Police once safe to do so, but in no instance longer than one (1) hour after the illegally operated all-terrain vehicle(s) or dirt bike(s) have departed the property.
- c) If no physical harm is present, by no means are gas stations operated and owned by the City of Orange Township able to dispense gas to all-terrain vehicles. Failure to comply with this can result upwards to a \$3,000.00 fine. Those operating all-terrain vehicles have to provide their own gas.

#### 150-31 STORAGE FACILITY ACCESS AND REPORTING.

- A. It shall be unlawful for the owner of a storage facility, or its employee, in the City of Orange Township to allow a person to deliver or remove an all-terrain vehicle or dirt bike to or from the storage facility that is not transported on a properly registered vehicle, trailer, truck, or other lawful means of conveyance.
- B. It is not a violation of this Section if the owner/employee feels they would be subject to physical harm if they did not allow access to the storage facility of the all-terrain vehicle or dirt bike being operated in a manner inconsistent with this Chapter, so long as the owner/employee reports the activity to the City's Department of Public Safety, Division of Police within twenty-four (24) hours of learning about the activity.

#### 150-32 FORFEITURE.

- 1. A law enforcement officer may remove any ATV, dirt bike, or snowmobile and effect forfeiture if:
  - a. The identity of the operator or owner of the ATV, dirt bike, or snowmobile is unknown to the officer;
  - b. The operator of the ATV, dirt bike or snowmobile has no evidence of permission to operate on private property;
  - c. The operator of the ATV, dirt bike, or snowmobile has violated any provision of this Chapter;
  - d. The ATV, dirt bike or snowmobile was involved in an accident causing serious injury or death.
- 2. Property that has been forfeited shall be destroyed, if it can serve no lawful purpose or if it presents a danger to the public health, safety, or welfare.

3. All forfeited property or any proceeds resulting from the forfeiture shall become the property of the entity funding the prosecuting agency involved and shall be disposed of, distributed, appropriated, and used in accordance with the provisions of this Chapter.

**SECTION 3. Severability.**

If any provision of this Ordinance or any section, sentence, clause, phrase, or word or the application thereof, shall in any circumstance be held invalid, the validity of the remainder of this Ordinance and the application of any such provision, section, sentence, clause, phrase, or word shall not be affected.

**SECTION 4.** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

**FISCAL IMPACT: None**

**PURPOSE:** Is to provide safety for our residents as well as the people actually operating these vehicles. With the passage of this Ordinance we wish to regulate all-terrain (ATVs) and dirt bikes for public health, safety and welfare for all.

**Note:** Additions are shown as underlined. Deletions are shown as ~~strikethroughs~~.

**Adopted:**

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Joyce L. Lanier  
City Clerk

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Tency A. Eason  
Council President