

ORDINANCE NO. – 2016- 6

AN ORDINANCE OF THE TOWNSHIP OF WEISENBERG, LEHIGH COUNTY, PENNSYLVANIA, SETTING FORTH THE DEFINITIONS AND REGULATIONS FOR OPERATION OF ATVs AND DIRT BIKES WITHIN WEISENBERG TOWNSHIP; INCLUDING THE IMPLEMENTATION OF OPERATIONAL SETBACK LIMITATIONS OF A MINIMUM OF FIFTY FEET FROM A PROPERTY LINE AND A MINIMUM OF THREE HUNDRED FEET FROM AN OCCUPIED DWELLING STRUCTURE, PROVISIONS RESTRICTING THE GENERATION OF NOISE, DUST, AND FUMES; AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, Weisenberg Township is a Second Class Township, located in Lehigh County, Commonwealth of Pennsylvania, and;

WHEREAS, the use and operation of All-Terrain Vehicles (hereinafter referred to as “ATVs”) and Dirt Bikes within Weisenberg Township have the potential to create a public nuisance and adversely affect the public’s health, safety and welfare by the creation of excessive noise, dust and fumes; and

WHEREAS, the purpose of this Ordinance is to provide for the reasonable regulation of ATVs and Dirt Bikes in Weisenberg Township so as to reduce noise and air pollution and protect the public’s health, safety and welfare; and to provide for the peaceable enjoyment of property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisor of the Township of Weisenberg, Lehigh County, Pennsylvania, as follows:

**SECTION 1. DEFINITIONS**

ALL TERRAIN VEHICLES (ATVs) – a motorized off highway vehicle which travels on three or more inflatable tires and which are (1) a maximum width of 50 inches and a maximum dry weight of 1000 pounds; or (2) a width which exceeds 50 inches or a dry weight which exceeds 1000 pounds. The term “ATV” shall not include motorized vehicles for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes, or off-road motorized vehicles used as utility vehicles for agriculture, husbandry, lawn care, snow removal or business operations, or any other “reasonable” property maintenance or landscaping.

DIRT BIKE – a motorcycle designed and built with special tires and suspension for riding on unpaved roads and over rough terrain.

OCCUPANT – a Person who regularly resides on the property in question.

OWNER – any person who has legal or equitable title to the property on which an ATV or Dirt Bike is being operated.

PERSON – any individual, group of individuals, a partnership, firm, association or any other entity.

## **SECTION 2. OPERATION AND USE OF ATVS AND DIRT BIKES ON PRIVATE PROPERTY**

The following regulations shall apply for the use of an ATV or DIRT BIKE on private real property.

A. Owner or Occupant. Only the owner, Occupant, permitted guests and family may operate an ATV or Dirt Bike on private real property subject to the restrictions outlined herein.

B. Setback Requirements.

1) A Person operating an ATV or Dirt Bike must remain at least fifty (50') feet from any real property line.

2) A Person operating an ATV or Dirt Bike must remain at least three hundred (300') feet from an occupied dwelling structure.

3) A Person operating an ATV or Dirt Bike must remain at least one hundred (100') feet from the edge of pavement of any roadway or property road frontage and associated roadway right-of-way lines.

C. Additional Restrictions.

1. No more than two (2) ATVs or Dirt Bikes may be operated at the same time on the same property. The provisions of this subsection shall not be interpreted to preclude a larger number of ATVs from traversing a property at one time to get to another destination.

2. It shall be unlawful for any person, corporation, partnership or any other entity to operate an ATV or Dirt Bike for recreational purposes between dusk and 9 a.m., prevailing time. Operation of ATVs and Dirt Bikes will be limited to a one (1) hour session with a three (3) hour rest before the next operation of the vehicle with a maximum limit of 2 sessions per day. The rest period must be provided to prohibit disturbance of the peace within the Township. Operation within this prohibited time period shall be considered a disturbance of the peace within the Township.

D. Dust and Fumes. A person shall not generate or permit to be generated, as a result of the use or operation of any ATV or Dirt Bike, any dust or fumes which cross over onto adjoining or adjacent properties that will interfere with the reasonable use of and enjoyment of the use of the property, either inside or outside.

E. Exhaust Equipment. All ATVs or Dirt Bikes shall be fitted with the original manufacturer's exhaust equipment while in operation unless the vehicle is fitted with a more restrictive and/or quieter exhaust system than the original.

F. Environmentally Sensitive Areas. No Person shall operate, allow or permit the operation of an ATV or Dirt Bike within fifty (50') feet of a stream, creek, waterway, drainage-way, wetland, storm water basin or structure, or erosion-sensitive areas, or any environmentally sensitive areas as determined by the Township, Pennsylvania Department of Environmental Protection, or Lehigh County Conservation District.

G. Livestock Areas. No Person shall operate, allow or permit the operation of an ATV or Dirt Bike within 300 feet of any type of livestock.

### **SECTION 3. OPERATION AND USE OF ATV OR DIRT BIKE ON TOWNSHIP PROPERTY.**

No Person shall operate an ATV or Dirt Bike on Township property without the express written consent of the Township.

### **SECTION 4. ENFORCEMENT AND PENALTY**

A. Violations, Public Nuisance, Persons Liable. A violation of this Ordinance shall be deemed a public nuisance and shall subject the Owner of the property and/or any Person operating an ATV or Dirt Bike in violation of this Ordinance to summary enforcement proceedings.

B. Enforcement. The Code Enforcement Officer and other such appropriate officers or agents of Weisenberg Township are hereby authorized to make an initial determination of violation of, and to enforce the provisions of this Ordinance. An initial determination of violation of this Ordinance shall result in a verbal warning to the Occupant, or Owner or operator of the ATV or Dirt Bike.

C. Penalties. A second or subsequent violation of this Ordinance shall be subject to summary enforcement proceedings and the appropriate officers or agents of Weisenberg Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with the provisions of this Ordinance. Upon being found guilty of a violation of this Ordinance, any violator shall be subject to a fine of \$600.00 for a second offense (following the 1st offense verbal warning), and \$1,000 for a third offense. Upon default in payment of a fine and upon a guilty finding of a third or subsequent offense, the violator may be subject to a term of imprisonment up to the maximum allowed by law for a summary offense. Each day that a violation continues or each section of this Ordinance that is found to be violated shall be considered a separate violation.

### **SECTION 5. MISCELLANEOUS PROVISIONS**

A. Incorporation by Reference. To the extent applicable, this Ordinance incorporates by reference thereto the provisions of the rules and regulations relating to the "Pennsylvania Snowmobile and All-Terrain Vehicle Law," as contained in Part 6, Chapter 77, of the PA

Vehicle Code, Title 75 enacted June 17, 1976, P.L.162, No.81, effective July 1, 1977, et seq., as amended.

B. Severability. The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

C. General Repealer. All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance hereby adopted are hereby repealed.

D. Effective Date. The provisions of this Ordinance shall become effective on the fifth (5<sup>th</sup>) day following enactment.


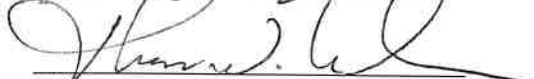
DULY ENACTED AND ORDAINED on this 8 day of August, 2016, by the Board of Supervisors of Weisenberg Township in lawful session duly assembled.

ATTEST:




Brian C. Carl, Secretary

TOWNSHIP OF WEISENBERG

  
Robert G. Milot - Chairman  
Linda Gorgas - Vice Chairman  
Thomas N. Wehr - Member

It is hereby certified that the Ordinance set forth above was duly adopted at a meeting of the Board of Supervisors on 8/8/2016.

  
Brian C. Carl, Secretary