

ORDINANCE NO. 1-2 OF 2006TOWNSHIP OF DUNBAR
FAYETTE COUNTY, PENNSYLVANIA
ATV AND RECREATIONAL VEHICLES

THE PURPOSE OF THIS ORDINANCE IS TO PROTECT PEOPLE AND PROPERTY WITHIN DUNBAR TOWNSHIP FROM DAMAGE CAUSED BY RECREATIONAL VEHICLES, ATV UNITS AND OTHER VEHICLES DESCRIBED IN THIS ORDINANCE.

IT IS HEREBY ENACTED by Ordinance of the Township of Dunbar, Fayette County, Pennsylvania, as follows:

An Ordinance to promote the public health, safety, general welfare, property and citizens of Dunbar Township by regulating the operation of recreational vehicles as defined in the said Ordinance within the Township of Dunbar, Fayette County, Pennsylvania, and to provide for the enforcement of said Ordinance with penalties for the violation of the Ordinance and to amend or repeal any other Ordinance or parts of Ordinances in conflict herewith; and

The Township of Dunbar, Fayette County, Pennsylvania, hereby ordains as follows:

SECTION I - NAME

The Ordinance shall hereafter be known and cited as the ATV and Recreational Vehicles Ordinance No. 2/ of 2006 of the Township of Dunbar.

SECTION II - PURPOSE

The purpose of the within Ordinance is to regulate and control the operation and use of recreational vehicles and all terrain vehicles (ATV) and similar vehicles (whether licensed or unlicensed within said Township for the protection of the people of Dunbar Township and for the general health, safety and general welfare of the residents, property owners, visitors and all others within said Township.

SECTION III - DEFINITIONS

The following terms, when used in the within ordinance, shall have the following meanings:

1. Operator - means any person who operates or is in physical control of a recreational vehicle, all terrain vehicle, snowmobile or other vehicle described in the said ordinance.
2. Owner - means any of the following:
 - (a) The person who holds the legal title to a snowmobile or an all terrain vehicle or any other recreational vehicle described in said ordinance.
 - (b) A vendee or lessee of all terrain vehicle or any other recreational vehicle described in the said ordinance which is the subject of an agreement for the conditional sale or lease thereof with the right to purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.
 - (c) A person renting a snowmobile, all terrain vehicle or having the exclusive use of a recreational vehicle.
3. Operate - means to ride in or on and to be in actual physical control of the operation of the snowmobile, all terrain vehicle or recreational vehicle as herein specified.
4. A person - means an individual, partnership, corporation, the State or any of its agencies or subdivisions, or any body of persons, whether incorporated or not.
5. Recreational vehicle - means all terrain vehicles, four wheel drive vehicles, snowmobiles, motorcycles, motor bikes, dirt bikes, three wheel vehicles, bicycles, cars, trucks and any other type of recreational vehicles and any motor driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

6. Dealer - means any person engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail who is registered or required to be registered under Pennsylvania law or any person engaged in the sale, lease or rental of all terrain vehicles, four wheel drive vehicle, motorcycles, motor bikes; dirt bikes, three wheel vehicles, bicycles, cars and all other type of recreations vehicles and snowmobiles as a regular business.
7. Highway or street - means the entire width between the boundary or right-of-way lines of every publicly maintained street, alleyway or highway, or any portion thereof is open to the use of the public for purposes of vehicular travel.
8. Roadway - means that portion of a highway improved, designated or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term roadway refers to any such roadway separately and to any portion of property which lies between or separates said roadway.
9. Right-of-way - means that portion of a highway, less the roadway and any shoulder of the roadway.
10. Shoulder - means that portion of highway on either side of the roadway which is normally snow plowed for safety and convenience of vehicular traffic.
11. Private property - means used for farming or any other use.
12. All terrain vehicle or ATV - means a motorized off highway vehicle which travels on three or more inflatable tires and is classified as a Class One ATV or a Class Two ATV.

SECTION IV - REGULATIONS

No person shall operate and no owner or dealer shall permit the operation of any all terrain vehicle, four wheel drive vehicle, motorcycle, motor bike, dirt bike, three wheel vehicle, bicycle, car, truck or any other type of recreational vehicle, including but not limited to, snowmobile, trail bike,

motor bike, golf cart, dune buggy or any other machine customarily or typically referred to as a recreational vehicle under the following conditions, circumstances or at the following locations:

1. Upon a public highway or land used as farm or play area, or street, or on a public or private parking lot not specifically designed for the use of vehicles described in Section 3.
2. On private property not owned, leased or under the control of the operator unless the operator has the express written consent of the owner, lessee or other person in control of said property, subject, however, to the provisions of the paragraph 18.
3. Public school grounds, park, playgrounds, recreational areas, golf courses, and other public lands (other than state owned lands where such operation is specifically authorized by statute) without the express written consent of the public authority in charge of such lands or premises except where such operation is absolutely necessary in an emergency, when other means of travel are not feasible or possible.
4. At a speed greater than as reasonable and proper, having due regard for conditions then existing, in any careless way so as to endanger the person or property of another while under the influence of alcohol or any controlled substance.
5. While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol, marijuana, cocaine, heroine, methadone, or any other prohibited drug as specified under Pennsylvania law. Medical approval does not supersede this prohibition.
6. During the hours from one-half hour after sunset to one-half hour before sunset without displaying an operational lighted headlight and an operational lighted taillight.
7. In any forest, nursery, planting area, or public lands posted or reasonably identifiable as any area of forest reproduction when growing stock may be damaged or as a natural dedicated area.

8. On the frozen surface of public waters within 100 feet of a person, including but not limited to, a skater, not in or upon a snow mobile or recreational vehicle, or within 100 feet of a fishing shanty or shelter, except at the minimum speed, or on an area which had been cleared of snow for skating purposes unless the area is necessary for access to the frozen public water.

9. Unless the recreational vehicle, ATV or snowmobile or other vehicle is equipped with a muffler in good working order and in constant operation from which noise emissions at 50 feet at a right angle from the vehicle path under full throttle does not exceed 86 DBA (decibels on the "A" scale) on a sound meter having characteristics identified by the American Standards Association SI, 4-1966 "General Purpose Sound Meter."

10. Within 100 feet of a dwelling between 12:00 midnight and 6:00 a.m. at a speed greater than the absolute minimum required speed to maintain forward movement of the vehicle.

11. In or upon premises which are fenced, otherwise enclosed in or a manner to exclude intruders, private property, not posted, in a conspicuous manner or when notice against trespass is personally communicated to the operator by the owner or person in control of the premises or other authorized person.

12. In any area on which public hunting is permitted during the season open to the taking of deer with firearms between 7:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 5:00 p.m. except during an emergency for lawful enforcement purposes to go to and from a permanent residence or a hunting camp otherwise inaccessible by conventional wheeled vehicle or for the conduct of necessary work functions involving land and timber survey, communications and transmission line patrol and timber harvest operations, or on the operators own property under his control or as an invited guest of an owner or person in control of said property with specific written permission.

13. While transporting any bow, unless the bow is unstrung, or any firearm, unless the firearm is securely encased or equipped with and made inoperative by a manufactured keylock trigger housing mechanism properly in place.
14. On or across any cemetery or burial ground.
15. Within 100 feet of a slide area, ski or skating area, except for the purpose of servicing the area or for medical emergencies.
16. On a railroad or a railroad right-of-way, except for a railroad, public utility or law enforcement personnel while in the performance of their duties.
17. Unless it has at least one operational headlight, one operational taillight and adequate brakes capable of stopping the vehicle within a reasonable distance according to manufacturers specifications.
18. On any residential lot laid out in a subdivision that has been recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, whether or not the written consent of the owner/lessee or other person in control of such property.
19. In any manner that causes dust pollution on adjacent properties or on public streets, roads or alleyways.
20. No person under ten (10) years of age shall operate a snowmobile, ATV or recreational vehicle at any time.
21. No person between the ages of ten (10) years and fifteen (15) years shall operate a snowmobile, ATV or recreational vehicle unless the person satisfies one of the following conditions:
 - (a) Is under the direct supervision of a certified snowmobile or an ATV safety instructor during a safety training course.
 - (b) Is on land owned or leased by a parent or legal guardian of the operator.

being towed or otherwise propelled by said vehicle, which helmet shall be in accordance with the rules and regulations specified by the Commonwealth of Pennsylvania, as amended.

27. Operate an ATV, snowmobile or recreational vehicle without having documentary proof in his/her possession and that the vehicle is properly titled with a valid registration certificate, displays a valid registration decal, displays a valid registration sticker, has current effective minimum insurance coverage and is in possession of all written documentation required and promulgated by rules and regulations of the Motor Vehicle Department of the Commonwealth of Pennsylvania as said rules and regulations exist and are revised or amended.

SECTION V - SPECIAL ALLOWANCE

The Township Supervisors, any police officer, ordinance enforcement officer or law enforcement office, may authorize the use of such vehicles described in Section III on a public highway or street when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

A person may operate such vehicles described in Section III upon a highway for special event of limited duration, conducted according to a pre-arranged schedule, if he/she first obtains written permission from the Township Supervisors, which shall only be granted if the Supervisors are of the opinion that the same can be operated in a safe, non-destructive manner and without thereby creating a nuisance or hazard to persons or property within the Township.

SECTION VI - ENFORCEMENT

Any police officer, peace officer or ordinance enforcement officer, code enforcement officer or constable of the township is authorized to issue non-traffic citation for violations of the within ordinance. However, chasing or pursuing the offender is prohibited as a function of enforcement.

SECTION VII - SAVINGS CLAUSE

The provisions of this ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason by any Court, it shall not affect any of part or any other portion thereof other than the part declared void or inoperable.

SECTION VIII - PENALTIES

Any violation of this ordinance shall constitute a summary offense and any person, firm or corporation found guilty of such violation shall be fined a minimum of \$300.00 up to a maximum of \$1,000.00, plus costs and expenses incurred, or as provided by Pennsylvania Statutory Law and/or shall be imprisoned in the Fayette County Jail for up to ninety (90) days or both and each day that a violation continues to exist shall constitute a separate offense. Restitution for damages caused may be included.

Any person guilty of a violation of the within ordinance shall also be subject to civil proceedings for damages and/or injunctive relief by the property owner, firm or corporation injured or damaged by such violation.

Both criminal and civil proceedings may be commenced against any person violating the within ordinance and commencement of any such proceedings shall not constitute an election of remedies preventing the commencement of the other proceedings against said violator.

The burden of proof is required by the operator to prove that he/she had written permission to ride a recreational vehicle upon any property except other than his/her own property.

The penalty to be imposed for a violation of the within ordinance shall be the penalty that is in effect by statutory provisions of the Commonwealth of Pennsylvania which penalties shall from

time to time, be amended and the amending provisions, regulations and statutory provisions are incorporated herein by reference as duly enacted by the Commonwealth of Pennsylvania.

SECTION IX - CONFLICTING PROVISIONS

Any ordinance or a portion of an ordinance in conflict with this ordinance is hereby repealed.

SECTION X - EFFECTIVE DATE

This ordinance shall take effect five (5) days after enactment.

ENACTED AND ORDAINED by the Board of Supervisors of Dunbar Township, Fayette County, Pennsylvania, this 7th day of September, 2006.

TOWNSHIP OF DUNBAR

BY: Absent
Larry Mayros, Chairman

BY: Thomas Yekel
Thomas Yekel, Vice Chairman

ATTEST:

Ronald Keller
Ronald Keller, Secretary

(SEAL)

I hereby certify that the foregoing ordinance was advertised in *The Daily Courier* on the 10th day of August, 2006, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at a regular meeting of the Dunbar Township Supervisors held on the 7th day of September, 2006.

Ronald Keller
Ronald Keller, Secretary