

BOROUGH OF PROSPECT PARK

ORDINANCE NO. 2022-20

ORDINANCE CREATING A CHAPTER OF THE CODE OF THE BOROUGH OF PROSPECT PARK ENTITLED “ALL-TERRAIN VEHICLE ‘ATV’, DIRT BIKE AND SNOWMOBILE REGULATIONS”

WHEREAS, Borough Council wishes to bar the use of All-Terrain Vehicles (“ATVs”), dirt bikes and snowmobile on Borough Streets within the Borough of Prospect Park; and

WHEREAS, ATVs, dirt bikes, and snowmobiles have caused multiple fatalities and injuries throughout the years in the State of New Jersey and County of Passaic;

WHEREAS, an ATV, dirtbike or snowmobile operated on any public street, highway, or right of way shall be designated as prima facie contraband subject to impoundment and/or forfeiture in accordance with the provisions of *N.J.S.A. 2C:64-1*; and

WHEREAS, the Council seeks to promote the safer and proper use of ATVs, dirt bikes, and snowmobile’s for recreation and commerce in the Borough; and

WHEREAS, the Council seeks to ensure the safety and well-being of all persons concerning the use of ATVs, dirt bikes, and snowmobiles and to minimize the detrimental effects of such use upon the environment;

WHEREAS, the Council for the Borough of Prospect Park found that the increased use of ATVs, dirt bikes, and snowmobiles throughout the Borough of Prospect Park is not only hazardous and detrimental to the health safety and welfare of the residence of the Borough of Prospect Park and it’s property owners, but also to those who operate them without regard for their own safety or the safety of others; and

WHEREAS, the Council for the Borough of Prospect Park seeks to regulate the use of ATVs, dirt bikes and snowmobile’s within the Borough to protect residence and property owners within the Borough and to protect those that use ATVs, dirt bikes, and snowmobile’s within the Borough; and

WHEREAS, the Mayor and Council of the Borough of Prospect Park deem it in the best interest of the Borough of Prospect Park to create a Chapter in the Code of the Borough of Prospect Park, entitled “All-Terrain Vehicles (ATVs), Dirt Bikes and Snowmobiles” regulating the same.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that it amends the Code of the Borough of Prospect Park creating Chapter ____, entitled “All-Terrain Vehicles (ATVs), Dirt Bikes and Snowmobiles” to state as follows:

Section 1. Purpose.

The purpose of this chapter is to regulate the use of all-terrain vehicles, dirt bikes and snowmobiles to protect the operators of such vehicles, and to protect the health, safety and welfare of the residents of Borough of Prospect Park.

Section 2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE (ATV) Any all-terrain vehicle that is motor propelled or contains a motor to assist the operation of said vehicle, and which are commonly referred to as “dirt bikes,” “mini-bikes,” “trail bikes,” “motorized sport bikes,” “go-karts,” “all-terrain vehicles (ATVs)” “trikes” “quads,” “snow mobiles” “dune buggies” and “golf carts,” etc. 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. The definition of ATV included golf carts and snowmobiles. ATV does not include construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used for their intended purposes.

DIRT BIKE – A motorcycle-type vehicle designed and built with special tires and suspension for riding on unpaved roads and other rough terrain.

SNOWMOBILE – A motor vehicle, especially one with runners in the front and caterpillar tracks in the rear, for travelling over snow.

OCCUPANT – A person who regularly resides on the property in question.

OPERATE – To ride in or on, other than as a passenger, or use or control the operation of an all-terrain vehicle in any manner within the jurisdiction of the Borough.

OWNER – Any person who has legal or equitable title to the property on which the ATV or dirt bike is being operated.

PRIVATE PROPERTY – Any land, rights of way, roads, or other real property woned, maintained, or otherwise under the control of any persons or entity other than the Borough, and not available for general use by the public.

Section 3. Operation and Use.

- A. Owner and occupant. Only the owner or an occupant or their guests or invitees shall be permitted to operate an ATV or dirt bike on private property.
- B. Access limitation. No person shall go on or cross the land of another to operate an ATV or dirt bike without written permission of the landowner, which written permission shall be carried on the person of the operator. No person shall use, State or Borough roads to gain access to the land used for ATV or dirt bike vehicle operation.

- C. Maximum numbers, facilities and events.
 - a. The operation of more than four (4) ATVs and/or dirt bikes at one time requires an event permit from the Borough, provided the event is otherwise a permitted use under the applicable Borough zoning and other Ordinances.
 - b. Where one or more structures, a track, a course, or one or more obstacles, including dirt mounds, are installed or arranged for use by ATVs and/or dirt bikes regulated under this section, a permit shall be obtained from the Borough, where the permit would not otherwise be in violation of Borough Ordinances. Proper erosion and sedimentation controls shall be installed and approved by the Borough Engineer, prior to use by the vehicles governed under this section.
- D. Time limitations. It shall be unlawful for any person, corporation, partnership or any other entity to operate an ATV or dirt bike for recreational purpose between the hours of 9:00 p.m. and 7:00 a.m. Operation within this prohibited time period shall be considered a disturbance of the peace within the Borough.
- E. Noise limitation. No person shall operate an ATV or dirt bike without an effective and suitable muffling device on its engine which efficiently deadens or muffles the noise of the exhaust. At no point shall the sound intensity produced by an ATV or dirt bike exceed the noise control regulation standards defined in Section 264 of the Borough Code.
- F. Speed limitations. No person shall operate an ATV or dirt bike at a speed greater than that is reasonable and prudent considering the existing conditions.
- G. Environmentally sensitive area limitation. No person shall operate, allow or permit the operation of an ATV or dirt bike within a stream, creek, waterway, drainage way, wetland, or erosion-sensitive area, flood plain, or within a fifty (50) feet of such an environmentally sensitive area.

Section 4. Prohibited Acts.

It shall be unlawful to operate an ATV, dirt bike, or snowmobile in the following locations and/or manner:

- A. Upon public property, streets, and sidewalks at any time without the express written consent or permit issued by the governmental agency in control of stated property, which shall include easements granted to the Borough including the same or similar restrictions.
- B. On any public or school grounds, park property, playgrounds, recreational areas, cemeteries without the express written permission to do so by the proper public authority.
- C. On any private property generally open to the public, such as shipping centers/malls or parking lots.
- D. In violation of the requirements and regulations of the Department of Motor Vehicles of the State of New Jersey. Should the Department of Motor

Vehicles require registration or licensing of said vehicles, then it shall be unlawful to operate said vehicles without proper registration and licensing.

- E. In a manner that is disturbing and bothersome to adjoining property owners.
- F. In a manner which causes, or otherwise results in the propulsion of sand, dirt, dust, rocks, gravel, or other similar materials beyond the property line.
- G. Without an operable muffler or other similar device to reduce the sound emitted from the vehicle.
- H. On or near any public roadway so as to cause operators of other motor vehicles to have to take evasive or irregular action to distance said motor vehicles from an ATV or dirt bike.
- I. Upon any private roadway or street, easement or right of way within the Borough of Prospect Park without written permission of the owner of the private street or right of way.
- J. While under the influence of alcohol, drugs or any substance that impairs the driver's ability to operate the vehicle to any extent.

Section 5. Property Subject to Forfeiture.

Any interest in an ATV, dirt bike and/or snowmobile operated in violation of this Chapter shall be subject to forfeiture and no property right shall exist in them. These shall be designated as prima facie contraband.

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Prospect Park that all Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Prospect Park that if any Section, Paragraph, Clause or Provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the Section, Paragraph, Clause or Provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Prospect Park that all Borough officials shall take all necessary actions in order to effectuate the within Ordinance; and

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Prospect Park that this Ordinance shall take effect upon approval and publication and according to law.

**Introduction and First Reading:
November 21, 2022**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah	✓		✓			
Artis						✓
Hussain			✓			
Matari		✓	✓			
Ortiz						✓
Perez		✓	✓			

**Second Reading and Adoption:
December 19, 2022**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah	✓		✓			
Artis			✓			
Hussain			✓			
Matari		✓	✓			
Ortiz			✓			
Perez						✓

Mohamed Khairullah,
Mayor

**This Ordinance was duly approved and adopted
by the Council of the Borough of Prospect Park
at a meeting held on December 19, 2022.**

Beauty Nadim, RMC, CMR
Municipal Clerk