CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE 2023-71

ORDINANCE TO AMEND CHAPTER 296 ENTITLED "PEACE AND GOOD ORDER", TO CREATE A NEW ARTICLE IV ENTITLED "ALL TERRAIN VEHICLES, DIRT BIKES AND SNOWMOBILES"

WHEREAS, pursuant to N.J.S.A. § 39:3C-35, the New Jersey State Legislature has authorized municipalities in this State to determine, by ordinance, that the unlawful operation of an all-terrain vehicle or dirt bike on any public street, thoroughfare, highway, or public right-of-way is an immediate threat to the public health safety and welfare and to define an all-terrain vehicle as contraband subject to immediate forfeiture under New Jersey law; and

WHEREAS, the City of Union City (the "City") is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, the Mayor and the Board of Commissioners of the City of Union City find it prudent to amend Chapter 296, to impose regulations to minimize the detrimental impacts of illegally operated off-road vehicles and ATVs within the City of Union City in order to safeguard public spaces by maintaining peace and good order.

NOW THEREFORE, BE IT ORDAINED by the Mayor and the Board of Commissioners of City of Union City to amend Chapter 296 entitled "Peace and Good Order" of the Union City Municipal Code of Ordinances to include an additional article entitled "All-Terrain Vehicles, Dirt Bikes and Snowmobiles" which shall provide as follows:

SECTION ONE:

ARTICLE VI **ALL TERRAIN VEHICLES, DIRT BIKES AND SNOWMOBILES**

A. Definitions. The following terms as used within this Chapter shall be defined as follows:

"All-Terrain Vehicle or ATV". A motor vehicles, 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 inherent nature and design, are not intended nor produced for the use or operation along paved roads and highways but are instead intended to be operated off-road, in or upon dirt, mud, sand, or other similar non-paved conditions, and to traverse hills, trails, streams, paths, or 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 department or member of an emergency services organization or emergency medical technician which is used in the performance of the agency's, employee's, member's, or technician's official duties or job responsibilities.

"Dirt Bike". Any two-wheeled motorcycle that is designed, manufactured, and intended to off-road use only and that does not comply with Federal Motor Vehicle Safety Standards or United States of Environmental Protection Agency on-road emissions standards.

"Snowmobile". Any motor vehicle designed, manufactured, and intended primarily to travel over ice or snow, of a type which uses sled type runners, skis, rails, an endless belt tread, cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military vehicle.

B. Use Prohibited.

1. No person may ride or operate an ATV, Dirt Bike, or Snowmobile as defined by N.J.S.A. §39:3C-1 on any public streets, highways, thoroughfares, or public rights-of-way in violation of N.J.S.A. §39:3C-1. Any all-terrain vehicle, dirt bike, or snowmobile operated on a public street, highway, thoroughfare, or right-of-way in such a manner designated to be contraband is subject to immediate forfeiture pursuant to N.J.S.A. 2C:64-1 et seq.

2. Any unregistered or uninsured dirt bike, all-terrain vehicle or snowmobile as defined by N.J.S.A. §39:3C-1 abandoned, stored, parked on a public street, sidewalk, or in an alley within the City of Union City shall be subject to impoundment in accordance with the provisions of N.J.S.A. 2C:64-6 or may be destroyed.

C. Dispensing Fuel Requirements and Reporting.

1. No gas station or fuel station owner/employee/operator within the City of Union City that is authorized to dispense gas from gas pumps located on said property to the general public, shall dispense gasoline directly into an all-terrain vehicle, dirt bike or snowmobile unless said vehicle was transported to the gas station on a property registered vehicle, trailer, truck or other lawful means of transportation or conveyance.

2. It shall not be a violation of this section if the gas station owner/operator/employee reasonably believes that he or she would suffer physical harm by refusing to dispense or allow to be dispense gasoline to the all-terrain vehicle, dirt bike or snowmobile as defined by the Chapter, that is operated in a manner inconsistent to the provisions set forth herein, so long as the owner/operator/employee immediately reports the activity or action to the Union City Police Department once it is reasonably safe to do so, but in no instance longer than one hour after the illegally operated all terrain vehicle(s), dirt bike(s) or snowmobile(s) have departed from the premises.

D. Storage Facility Access and Reporting.

1. It shall be unlawful for the owner of a storage facility, or its employee, in the City to knowingly allow a person to deliver or remove an all-terrain vehicle, dirt bike, or snowmobile to or from the storage facility that is not transported on a properly registered vehicle, trailer, truck, or other lawful means of conveyance.

2. It is not a violation of this section if the owner/employee reasonably believes that he or she would suffer physical harm if they did not allow access to the storage facility of the all-terrain vehicle, dirt bike, or snowmobile being operated in a manner inconsistent with this chapter, so long as the owner/employee reports the activity to the Union City Police Department within twenty-four (24) hours of learning about the activity.

E. Violations and Penalties.

1. Any person, except a minor, who violates this article shall be subject to a minimum fine of fifty dollars ($50.00) and a maximum fine as provided in Chapter 1, General Provisions, of the City of Union City Municipal Code of Ordinances.

2. Any minor who violates any provision set forth in this Chapter shall, upon a first offense, receive a written warning addressed to the minor's parents or guardian. The minor and the parent may also be advised that a second violation will make them liable for a fifty-dollar ($50.00) fine or community service as provided in Chapter 1, General Provisions of the Union City Municipal Code of Ordinances and that a third or subsequent offense will make them liable to a minimum fine of one hundred dollars ($100.00) and a maximum fine as provided in Chapter 1, General Provisions, of the Union City Municipal Code of Ordinances.

3. In addition to subsection (A) of this section, any member of the Department of Public Safety who witnesses a violation of this subsection shall confiscate the motorized scooter, motorized skateboard, or motorized roller skates which shall remain in police custody until such time as the matter is adjudicated in the Municipal Court and the violator pays any fine that is ordered. Should the defendant be found guilty of the alleged violation, the vehicle will be forfeited as provided in N.J.S.A. 39:4-14.13.

4. A police officer shall only issue a fine citation for a violation of any provision of Chapter 296, Article II, Section 8, committed by a person less than fourteen (14) years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent of guardian. Such fines citations for violations shall only be issued to such parent or guardian.

5. In the case of an all-terrain vehicle, or dirt bike, or snowmobile, where the all-terrain vehicle or dirt bike is operated on public streets in violation of section 17 of P.L. 1973, c. 307, N.J.S.A. 39:3C-17, the all-terrain vehicle or dirt bike, or snowmobile, may be

impounded and subject to fees pursuant to N.J.S.A. 39:3C-35, or shall be disposed of or destroyed in accordance with the provisions of N.J.S.A. 2C:64-6 or may be destroyed.

6. No dirt bike, or all-terrain vehicle, or snowmobile impounded shall be released by the Department of Public Safety to the possession of the owner thereof until such owner has submitted satisfactory proof of identity and ownership including, but not limited to, the appropriate registration and insurance for the dirt bike, or all-terrain vehicle, or snowmobile and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs as provided in N.J.S.A. 39:3C-35.

SECTION TWO

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION THREE

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR

Codification. It is the intention of the Mayor and Board of Commissioners of the City of Union City that the provisions of this article shall become and be made a part of the City Code of Ordinances, and that the sections of this article may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION FIVE

This Ordinance shall take effect upon passage and publication as required by law.

Commissioners	Yea	Nay	Abstain/Present	Absent
Lucio P. Fernandez				X
Wendy A. Grullon	X			
Celin J. Valdivia	X			
Maryury A. Martinetti	X			
Mayor Brian P. Stack	X			

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on July 11, 2023 and will be further considered after a Public Hearing held on July 25, 2023 at the Jose Marti Freshman Academy, 1800 Summit Avenue, New Jersey 07087.

INTRODUCED: July 11, 2023
ADOPTED: July 25, 2023

ATTEST:

Hilda I. Rosario
Acting City Clerk

July 25, 2023
DATE