

EXPLANATION: This Ordinance repeals Chapter 279 of the Code of the Township of Hillsborough, titled "Vehicles, Off-Road", and replaces it with a new Chapter 279 also titled, "Vehicles, Off-Road."

ORDINANCE NO. 2006-14

AN ORDINANCE REPEALING CHAPTER 279 OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, TITLED "VEHICLES, OFF-ROAD", AND REPLACING IT WITH A NEW CHAPTER 279 ALSO TITLED, "VEHICLES, OFF-ROAD."

WHEREAS, it is the desire of the Township Committee of the Township of Hillsborough to repeal Chapter 279 of the Code of the Township of Hillsborough, titled "Vehicles, Off-Road", and replace it with a new Chapter 279 also titled, "Vehicles, Off-Road."

BE IT ORDAINED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, as follows:

Section 1. Chapter 279 of the Code of the Township of Hillsborough, titled "Vehicles, Off-Road" is hereby repealed.

Section 2. Chapter 279 of the Code of the Township of Hillsborough is replaced with the following:

§ 279-1. Title.

This chapter shall be known and cited as the "Off-Road Vehicle Control (ORVIC) Ordinance of Hillsborough Township."

§ 279-2. Purpose.

The purpose of this chapter shall be to set standards for the operation of motor-driven off-road vehicles within the Township of Hillsborough to minimize the impact of operation of such vehicles on residents of the Township, the public at large, the environment and assure minimum standards of safety.

§ 279-3. Definitions.

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

OFF-ROAD VEHICLE (ORV) - Motor vehicles which are capable of human transport and designed or used for the purpose of recreation off of the public right-of-way by, but not limited to, All Terrain Vehicles (ATV), trail/dirt bikes, mini-bikes, go-carts and snowmobiles. This chapter shall not apply to lawn mowers, tractors or farm, lawn, garden or similar equipment for residential use, or business or agricultural/farming activities when used for purposes for which each was designed.

MOTOR VEHICLE - Any vehicle that is propelled other than by human or animal power.

PUBLIC PROPERTY - Lands owned, leased or under the jurisdiction of the Township of Hillsborough or the Township of Hillsborough Board of Education.

§ 279-4. Operation Regulations/Prohibited Acts.

A. It shall be unlawful to operate any ORV under the following circumstances:

(1) On the property of another person or party, unless the operator of the ORV has written permission of the owner or legal occupant of said property to operate the ORV thereon or said property owner is present. Said written permission must be exhibited to police officers upon request.

(2) On any public street, sidewalk or bike path within the Township of Hillsborough unless, where possible, the operator is fully dismounted or otherwise permitted.

(3) On public property unless written permission for operation of ORV's on said property has been specifically given by the applicable public authority.

(4) Within 450 feet of an occupied dwelling, other than the operator's, or on other permitted property, in a manner creating:

a. Any harsh, objectionable or unreasonable noise so as to disturb or interfere with the peace and quiet of other persons or which produces noise in violation of Chapter 211 of the Code of the Township of Hillsborough, titled "Noise."

or

b. The presence in the outdoor atmosphere of airborne dust, dirt or debris or in an unsafe manner creating a physical hazard, beyond the property line on which the ORV operates such that it interferes with the enjoyment of life or property of the adjoining property occupant.

B. It shall be unlawful for the owner or person having control or custody of an ORV to allow or enable a minor (under age 18) to operate said ORV in manner violating any section of this chapter.

(1) When a minor operates an ORV in violation of this chapter, it shall be a rebuttable presumption that the parent or guardian enabled the ORV to be so operated.

C. Exemptions:

(1) ORV's used in or related to agricultural/farm activities, gardening, yard work and for snow removal.

(2) Necessary limited operational testing of ORV's in conjunction with maintenance and repair activities between the hours of 8 am and 8 pm.

(3) ORV's during transit to or from public roadways. Loading and unloading of ORV's.

§ 279-5. Evidence of Violation

A. Reports of the prohibited acts from two (2) or more persons who are in general agreement as to the times and duration of the prohibited acts and who reside in separate residences, including apartments and condominiums located within 200 feet of a property line (boundary) from the property on which the source of prohibited acts occur, shall be evidence of a violation.

B. Nothing in this chapter shall preclude a single individual from registering a complaint for any violation of this ordinance.

§ 279-6. Equipment/ORV Standards.

A. It shall be unlawful for any ORV to be operated within the Township of Hillsborough which does not conform to current federal or state standards for the type of ORV in question. If no such standard exists, then current recognized standards setting bodies or industry trade association standards shall be used, if available.

B. It shall be unlawful for any ORV to be operated without a muffler. For two-cycle engines, a United States Forest Service approved muffler/spark arrester combination is required.

§ 279-7. Violations and Penalties.

A. The violation of any section of this chapter shall constitute a separate and distinct offense independent of the violation of any other section or of any order issued pursuant to this chapter. Each day of violation shall constitute an additional, separate and distinct offense.

B. The first violation of any section of this chapter shall be deemed a Class A offense as it is defined in Section 1-15 of the Code of the Township of Hillsborough.

(1) In cases where a minor is involved, a verbal first warning and copy of this chapter may be provided to both the minor and the parent or legal guardian, in lieu of a summons, at the discretion of the police officer.

(2) If within 90 days, the ORV in question is again operated in a manner which is found to be in violation of this chapter (not necessarily the same offense), the parent or guardian of the operator shall be cited for violation of this chapter and subject to the penalties described in Section 279-7A above.

C. A second violation of this chapter within any thirty (30) day period shall be deemed a Class B offense as it is defined in Section 1-15 of the Code of the Township of Hillsborough.

D. A third violation of this chapter within any sixty (60) day period shall be deemed a Class C offense as it is defined in Section 1-15 of the Code of the Township of Hillsborough.

E. In the case of violations of trespassing, the police may, in addition to issuing a summons, also immediately impound the ORV used or operated in violation of this chapter. The ORV will be returned upon payment of any towing or removal costs and/or any court-ordered fines.

Section 3. Severability.

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

Section 4. Effective Date.

This Ordinance shall take effect as provided by law.

ATTEST:

HILLSBOROUGH TOWNSHIP COMMITTEE

Kevin P. Davis, Clerk

Carl Suraci, Mayor

Introduced: 4/25/06
Intro. Notice: 5/4/06
Public Hearing: 5/23/06
Adopted: 5/23/06
Adoption Notice: 6/1/06