

**BOARD OF SUPERVISORS  
EAST FALLOWFIELD TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 201109-**

**AN ORDINANCE OF THE TOWNSHIP OF EAST FALLOWFIELD CHESTER COUNTY, PENNSYLVANIA SETTING FORTH THE DEFINITIONS AND REGULATIONS FOR THE REGISTRATION AND OPERATION OF ~~ATVS AND DIRT BIKES~~ RECREATIONAL VEHICLES RECREATIONAL VEHICLES WITHIN EAST FALLOWFIELD TOWNSHIP, AND PROVIDING PENALTIES FOR VIOLATION; ENFORCEMENT; REPEALER CLAUSE; VALIDITY CLAUSE AND EFFECTIVE DATE.**

**WHEREAS**, East Fallowfield Township (“Township”) is a Second Class Township, governed by the Second Class Township Code, 53 P.S. 65101 *et seq.*, which authorizes the Township to adopt ordinances for the protection of the public health, safety and welfare; and

**WHEREAS**, the use and operation of ~~ATVs and dirt bikes~~ Recreational Vehicles within East Fallowfield Township may 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~~ Recreational Vehicles within East Fallowfield Township so as to reduce noise and air pollution, protect the public’s health, safety and welfare, and to provide for the peaceful and quiet enjoyment of property; and

**WHEREAS**, the Board of Supervisors of East Fallowfield Township desires to enact an ordinance regulating the use of ~~ATVs and dirt bikes~~ Recreational Vehicles within East Fallowfield Township to protect the public health, safety and welfare of the general public.

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED**, and it is hereby ordained and enacted as follows:

**SECTION I. Definitions.**

ALL TERRAIN VEHICLE (ATV). Any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to a multi-track, multi-wheel or low pressure tire vehicle or related 2-wheel, 3-wheel, 4-wheel or belt driven vehicle, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person’s private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized

governmental purposes.

DIRT BIKE. A small 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 private property in question.

OPERATE. To use in any manner within the jurisdiction of East Fallowfield Township, Chester County, Pennsylvania.

OWNER. Any person who has legal or equitable title to the private property on which an ~~ATV or Dirt Bike~~ Recreational Vehicle is being operated.

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

PRIVATE PROPERTY. Any land, rights-of-way, roads or other real property owned, maintained, or otherwise under the control of any person or entity other than East Fallowfield Township, Chester County and not available for general use by the public.

RECREATIONAL VEHICLE. All motorized vehicles designed or redesigned, or otherwise being used for off-road and/or recreational use, including but not limited to the following:

A. Motorcycles;

B. Trail bikes;

C. All terrain vehicles (ATVs) or utility terrain vehicles (UTV);

D. Go-carts;

E. Snowmobile; and

F. Any other similarly mechanized vehicle.

Notwithstanding the foregoing, the term Recreational Vehicle shall not include motorized vehicles being used for law enforcement, fire, emergency, military or other authorized government purpose, or off-road motorized vehicles being used as utility vehicles for agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's real property. A motor home or mobile home used solely for overnight lodging and shelter shall not be considered a recreational vehicle for purposes of this ordinance.

## **SECTION 2: Registration Requirements.**

Registration of vehicles governed by this Ordinance is required in accordance with the registration provisions of the Pennsylvania Snowmobile and All Terrain Vehicle Law, 75 PA C.S. Section 7701 et seq. Proof of registration in the nature of copies of the registration documents under this law shall be supplied to the Township upon request.

### SECTION 3: Compliance with State Law.

Any person who operates an ATV within East Fallowfield Township shall do so only in full compliance with the provisions of the Pennsylvania Snowmobile and All Terrain Vehicle Law, 75 PA C.S. Section 7701 et seq., including but not limited to, registration and licensing.

### SECTION 4: Operation and Use.

~~A. A.~~ Owner or Occupant. Only the owner or an occupant ~~shall be permitted to operate a recreational vehicle on private real property. The operation of vehicles governed by this Ordinance shall be on private property owned or leased by the operator, or their parent or guardian. or their guests or invitees shall be permitted to operate an ATV or dirt bike~~ Recreational Vehicle on private property.

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~~B. Age Limitations. No one under 8 years of age shall operate a Recreational vehicle on any state-owned or township-owned property. No person from age 8 to 16<sup>th</sup> birthday shall operate a recreational vehicle except on lands of his or her parent or guardian, unless he or she has completed a prescribed ATV safety training course and received a recreational vehicle safety training certificate. Age 8 and 9 year old operators are restricted to an engine size of 70cc or less. Safety training course certificates must be submitted to the township and be of record before operation of the recreational vehicle on lands owned or leased by other than his or her parent or guardian.~~

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~~C.B.~~ Rider Limitation. No more than (1) one person shall operate an ~~ATV or dirt bike~~ Recreational Vehicle at one time.

~~D.C.~~ Access Limitation. No person shall go on or cross the land of another to operate an ~~ATV or dirt bike~~ Recreational Vehicle without the written permission of the landowner, which written permission shall be carried on the person of the operator. No person shall use State or Township roads to gain access to the land used for ~~ATV or dirt bike~~ Recreational Vehicle vehicle operation. ~~Nor shall any operation of a Recreational vehicle be permitted on any township-owned property.~~

~~E.C.D.~~ Setback Requirements. A person operating an ~~ATV or dirt bike~~ Recreational Vehicle must remain at least two hundred fifty (250') from any adjoining or adjacent property line, and must remain at least three hundred feet (300') from an off-site residential dwelling.

Comment [vmp1]: Gary asked for this to be changed from 300 feet to 100 feet. But given the change to 100 feet to the property line, this provision would no longer be necessary. I kept it in but added another 50 feet to the house. CJA comment: why shorten the distance? The point it to abate a nuisance. 100 feet is too close, in my opinion.

~~F.D.E.~~ Maximum Numbers, Facilities and Events.

- ~~No more than two (2) ATVs and dirt bikes may be operated at the same time on the same parcel of property and no more than two (2) ATVs and dirt bikes may be~~

~~operated at the same time on ground of adjacent property owned by the same person.~~

The operation of more than four (4) ATVs operating at one time requires an event or facility permit from the Township, provided such event or facility is otherwise a permitted use under applicable Township ordinances.

2. Where one or more structures, a track, a course, or one or more obstacles including dirt mounds, are installed or arranged for use by vehicles regulated under this Ordinance, a facility or event permit shall be obtained from the Township, in those areas where such facilities or events may be permitted under applicable Township ordinances. Otherwise, such facilities and events are prohibited. Proper erosion and sedimentation controls shall be installed prior to use by the vehicles governed under this Ordinance.

**EF.** Hunting Limitation. Except as otherwise permitted by Title 34 of the Pennsylvania Statutes (relating to game), no person shall operate or ride on any ~~ATV or dirt bike~~ Recreational Vehicle with any bow and arrows unless unstrung nor any firearm unless unloaded, in his or her possession.

**FG.** Time Limitations. It shall be unlawful for any person, corporation, partnership or any other entity to operate an ~~ATV or dirt bike~~ Recreational Vehicle for recreational purposes between the hours of 97 p.m. and 710:00 a.m., prevailing time ~~regardless of whether the operator is upon the private property of the operator or on the private property of some third person who has granted permission to the operator to be operating the ATV or dirt bike on his/her/its property.~~ Operation of ~~ATVs and dirt bikes~~ Recreational Vehicles will be limited to a one hour (1) session with a three (3) hour rest before the next operation of the vehicle. 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 with the Township.

**Comment [vmp2]:** The noise ordinance regulates from 9 p.m. to 7 a.m.

**Comment [vmp3]:** This sentence was crossed out then bracketed with the notation "no". I assume it was meant to stay.

**GH.** Noise Limitation. No person shall operate an ~~ATV or dirt bike~~ Recreational Vehicle 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 a dirt bike exceed 82 decibels of sound at 50 feet on the "A" scale as measured by the SAE standards J-192. At no point shall the sound intensity produced by an ATV exceed 99 decibels of sound when measured at 20 inches in accordance with ANSI/SAE standards J-1287.

**Comment [vmp4]:** Gary asks whether this is in accordance with the noise ordinance. It is not. It is more lenient. However, the state ATV law has these specific decibel standards for ATVs, and in my opinion, we have to use them.

**HI.** Speed limitation. No person shall operate an ~~ATV or dirt bike~~ Recreational Vehicle at a speed greater than that reasonable and prudent considering the existing conditions.

**Comment [vmp5]:** Gary asks what does this means. It is a subjective standard that would not be enforceable. CJA: I agree

**IJ.** Dust Limitation. No person shall operate any ~~ATV or dirt bike~~ Recreational Vehicle in any manner which creates dust which crosses onto any adjoining or adjacent property. Visible dust, mud or debris shall not leave the property boundaries of the parcel where vehicles governed by this Ordinance are operated.

- JK. Livestock Area Restriction. No person shall operate, allow, or permit the operation of an ~~ATV or dirt bike~~ Recreational Vehicle within 500 feet of any type of livestock
- KL. Environmental Sensitive Area Limitation. No person shall operate, allow or permit the operation of an ~~ATV or dirt bike~~ Recreational Vehicle within a stream, creek, waterway, drainage way, wetland, or erosion sensitive area, floodplain, or within 50 feet of such environmentally sensitive area.

#### **SECTION 5. Penalties for Violation.**

- A. Violations a Public Nuisance; Persons Liable. A violation of this Ordinance shall be deemed a public nuisance, and shall subject the owner of the property and any Person operating an ~~ATV or dirt bike~~ Recreational Vehicle in violation of this Ordinance to summary enforcement proceedings.
- B. Enforcement; First Offense. The East Fallowfield Police Department, the Pennsylvania State Police and such persons as may from time to time be designated by the Township are authorized to make an initial determination of a violation of, and to enforce, the provisions of this Ordinance. An initial determination of a violation of this Ordinance shall result in a verbal warning to the occupant, or owner and the operator of the ~~ATV or dirt bike~~ Recreational Vehicle.
- C. Penalties. A second or subsequent violation of this Ordinance shall be subject to summary enforcement proceedings and upon being found guilty thereof shall subject the violator to a fine of \$600.00 for a second offense (following a verbal warning), and \$1,000.00 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.
- D. All offenders convicted of violating this ordinance shall also pay the costs of prosecution, and in default of said payment of fines and costs.
- E. Any person guilty of a violation of the within Ordinance may also be subject to civil proceedings for damages and/or injunctive relief by the property owner and any entity injured or damaged by such violation.
- F. Both criminal and civil proceedings may be commenced against a 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 such violator.

#### **SECTION 6. Repealer.**

All other ordinances or parts thereof, which are in conflict with this Ordinance, are hereby repealed.

**SECTION 7. Validity.**

The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

**SECTION 8. Effective Date.**

This Ordinance shall become effective five days after the adoption hereof.

ATTEST:

**BOARD OF SUPERVISORS OF EAST  
FALLOWFIELD TOWNSHIP**

BY: \_\_\_\_\_ BY: \_\_\_\_\_  
Denise Miller, ~~George Broadbent~~ Chris  
Amentas, Chairman  
Secretary

BY: \_\_\_\_\_  
Chris Makely, Vice Chairman

BY: \_\_\_\_\_  
~~Chris Amentas~~ George  
Broadbent, Supervisor

BY: \_\_\_\_\_  
Gary Barach, Supervisor

BY: \_\_\_\_\_  
~~Garth Monaghan~~ Mark Toth,  
Supervisor