

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 152

AN ORDINANCE OF THE TOWNSHIP OF UPPER SAUCON, LEHIGH COUNTY, PENNSYLVANIA, REGULATING THE OPERATION OF ALL-TERRAIN AND OFF-ROAD VEHICLES WITHIN THE MUNICIPAL BOUNDARIES OF UPPER SAUCON TOWNSHIP.

SECTION 1: STATEMENT OF LEGISLATIVE FINDINGS

WHEREAS, Upper Saucon Township (hereinafter, "Township") is a Township of the Second Class located in Lehigh County, Pennsylvania; and

WHEREAS, Section 1506 of the Second Class Township Code authorizes the Township Board of Supervisors (hereinafter, "Supervisors") to adopt any ordinances for the maintenance of peace and health and welfare of the Township and its citizens; and

WHEREAS, Article XVI of the Second Class Township Code grants to the Supervisors the authority to, among other things, enact ordinances regulating building, housing, property maintenance, health, public safety, curfew, and noise pollution and prescribe certain criminal penalties not to exceed \$1,000.00 per day or imprisonment to the extent allowed by law for the punishment of summary offenses; and

WHEREAS, Article XVI also grants to the Supervisors the authority to provide for the enforcement of such ordinances in actions brought before district justices in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, or alternatively, for the enforcement of such ordinances in the Court of Common Pleas; and

WHEREAS, the Pennsylvania Motor Vehicle Code regulates the operation of all-terrain vehicles and sets forth requirements for modification of mufflers and noise control; and

WHEREAS, the Supervisors find that the operation of All-Terrain and Off-Road Vehicles (hereinafter, "ATVs") in the Township create noise, dust, fumes and other disturbances, as well as potential safety hazards; and

WHEREAS, the Supervisors find that operation of ATVs, unregulated by the imposition of reasonable hours of operation and adequate separation from occupied dwellings and other buildings occupied by human beings, have a negative impact on the quality of life within the Township specifically and the public health, safety and welfare, generally; and

WHEREAS, the Supervisors find that the Township has undergone significant residential development over the years resulting in people residing in closer proximity to traditionally rural activities; and

WHEREAS, the Supervisors find that significant operation of ATVs are occurring in, about and around residential neighborhoods with the result being that Township residents suffer disturbances and negative impacts upon the quality of their lives; and

WHEREAS, the Supervisors find that it is appropriate to place reasonable regulations upon the operation of ATVs within the Township so as to reduce noise and air pollution, protect the public health, safety and welfare, and to provide for the peaceable and quiet enjoyment of property.

NOW, THEREFORE, the Board of Supervisors of Upper Saucon Township does hereby enact and ordain that:

SECTION 1: NAME

This Ordinance shall be known as the "Upper Saucon Township All-Terrain and Off-Road Vehicle Ordinance."

SECTION 2: DEFINITIONS

- a. The term "ATVs" shall include, but not be limited to, all-terrain vehicles having 3, 4 or 6 wheels, motor-driven vehicles having two or more wheels commonly known as "trail bikes", "dirt bikes", "mini bikes", "three-wheelers", or "quads"; and all other vehicles commonly used for off-road purposes, whether licensed or not by the Commonwealth of Pennsylvania. The term ATV shall not include snowmobiles and battery-operated toy vehicles.
- b. The term "operate" and its derivatives shall mean to make any recreational use of an ATV, but shall not include the use of an ATV for emergency services, property maintenance or agricultural purposes.
- c. The term "separation zone" shall mean the area within one hundred fifty (150) feet of the closest part of any occupied dwelling or other building occupied by human beings (other than that property on which the ATV is operated) or any attached or detached playground of any school, nursery school or daycare center.
- d. The term "dwelling" shall mean a shelter in which people live. The term dwelling shall not include accessory structures, whether or not attached, such as uncovered decks and patios, sheds, detached garages, gazebos, swimming pools or pool houses.
- e. The term "cartway" shall mean the paved surface of a public street intended and available for use by vehicular traffic.

SECTION 3: PROHIBITED ACTS

- a. No person shall operate an ATV between the hours of 8:00 p.m. and 9:00 a.m., prevailing time in the Township.
- b. No person shall operate an ATV within the separation zone. The foregoing notwithstanding, no separation zone shall apply to the property on which the ATV is being operated, with the specific advance permission of the lawful occupant thereof. In addition, the separation zone may be modified through the specific advance permission of the lawful occupant of land adjoining or abutting the property on which the ATV is being operated.
- c. No person shall operate an ATV within thirty (30) feet of the cartway of any public street or roadway; however, the foregoing notwithstanding, this provision shall not be interpreted or applied to reduce the separation zone.
- d. No ATV shall be operated, maintained, or modified in such a manner as to violate the Pennsylvania Motor Vehicle Code and more specifically, 75 Pa. C.S.A. 7743 relating to "Mufflers and noise control".
- e. No landowner shall knowingly allow an ATV to be operated in violation of this Ordinance upon his or her property.

SECTION 4: PENALTIES

- a. Any person who violates a provision of this Ordinance commits a summary offense and shall, upon conviction thereof before a district justice, be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense, and in default of payment, a term of imprisonment not to exceed thirty (30) days.
- b. Each day, or portion thereof, for which a violation of this Ordinance is found to occur shall constitute a new and separate offense.
- c. This Ordinance shall not preclude the Township from pursuing all other, available legal remedies for violation thereof including, but not limited to, enforcement by an action in equity in the Court of Common Pleas of Lehigh County.

SECTION 5: PROTANTO REPEAL

Unless otherwise specifically stated in this Ordinance, all ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6: SAVINGS CLAUSE

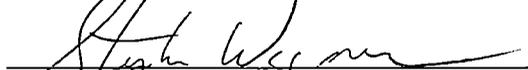
To the extent that any provision of this Ordinance, or any portion thereof, is found by any Court of competent jurisdiction to be invalid or void on constitutional or other grounds, such provision, or portion thereof, shall be deemed to be repealed. The remaining text of this Ordinance shall remain in full force and effect if same can be accomplished without the structure of this Ordinance having been destroyed by the elimination of such provision or portion thereof.

SECTION 7: EFFECTIVE DATE

This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

DULY ENACTED AND ORDAINED this 14th day of April, 2014, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

**TOWNSHIP OF UPPER SAUCON
BOARD OF SUPERVISORS**



CHAIRMAN



VICE CHAIRMAN



SUPERVISOR

SUPERVISOR

SUPERVISOR

ATTEST:



SECRETARY