

BOROUGH OF NORTH APOLLO

ORDINANCE NO. 306 OF 2011

AN ORDINANCE OF THE BOROUGH OF NORTH APOLLO, COUNTY OF ARMSTRONG AND COMMONWEALTH OF PENNSYLVANIA, REGULATING THE OPERATION AND USE OF RECREATIONAL VEHICLES WITHIN NORTH APOLLO BOROUGH, AND PROVIDING PENALTIES FOR VIOLATIONS; ENFORCEMENT; REPEALER CLAUSE; VALIDITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, the use and operation of recreational vehicles within North Apollo Borough 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 recreational vehicles in North Apollo Borough so as to reduce noise and air pollution, protect the public's health, safety and welfare, and to provide for the peaceable and quiet enjoyment of property; and,

WHEREAS, the Borough Council of North Apollo Borough desires to enact an ordinance regulating the use of recreational vehicles within areas within North Apollo Borough to protect the public health, safety and welfare of the general public; and,

WHEREAS, the Borough Council of North Apollo Borough has seen an increase in such disruptions to the public's health, safety and welfare due to unregulated use of recreational vehicles.

NOW THEREFORE, be it enacted and ordained by the Borough Council of North Apollo Borough, County of Armstrong, and Commonwealth of Pennsylvania, and it is hereby enacted and ordained by the authority of same, as follows:

ARTICLE 1 - DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the following meanings:

- A. "Recreational Vehicle" includes any motor propelled, off-road, all-terrain vehicle capable of cross country travel on land, snow, ice, marsh, swamp land or other natural terrain, including, but not limited to the following: dirt bikes, Class 1 and Class 2 All-Terrain Vehicles ("ATVs"), snowmobiles, go-karts, trail bikes, any other similarly mechanized vehicle.

- B. "Class 1 ATV" is a motorized off-highway vehicle which travels on three or more inflatable tires, has a maximum width of 50 inches and a maximum dry weight of 800 pounds or less.
- C. "Class 2 ATV" is a motorized off-highway vehicle which travels on three or more inflatable tires, has a maximum width of 50 inches or a maximum dry weight which exceeds 800 pounds.
- D. "Dirt Bike" is a small motorcycle designed and built with special tires and suspension for riding on unpaved roads and over rough terrain.
- E. "Snowmobile" is any motor-driven vehicle designed for travel primarily on snow or ice of the type that utilizes sled-type runners or skis, an endless belt, tread, or any combination of those or other similar means of contact with the surface upon which it is operated.
- F. "Operate" shall mean to use an ATV or other recreational vehicle in any manner in North Apollo Borough, whether or not the vehicle is moving.
- G. "Private Property" shall mean any land, right of way, roads or any other real property owned, maintained or otherwise under the control of any person or entity other than North Apollo Borough, Armstrong County, and not available for general use by the public.
- H. "Borough Property" shall mean any land, right of ways or roads owned, maintained or otherwise under the control of North Apollo Borough, Armstrong County, and Commonwealth of Pennsylvania.
- I. "Owner" shall mean any person who has legal or equitable title to the property on which a recreational vehicle is being operated.
- J. "Occupant" shall mean a person who regularly resides on a property in question.

ARTICLE 2 - PROHIBITED OPERATION OF RECREATIONAL VEHICLES

- A. No person shall operate a recreational vehicle in North Apollo Borough, except in full compliance with all applicable State laws.
- B. No person shall operate a recreational vehicle on any Borough property except by Borough personnel in connection with Borough business or by any law enforcement officer or emergency personnel in the performance of official duties.

- C. No person shall operate a recreational vehicle on any private property except with the written consent of the owner of the private property which consent shall be kept in possession of the recreational vehicle operator at all times during the operation of the recreational vehicle. The operator of the recreational vehicle shall stop and identify himself and produce the written consent to operate the recreational vehicle on Private Property upon the request of the owner of the Private Property or his representative or a Law Enforcement Officer.
- D. No person shall operate a recreational vehicle in any manner which may endanger any person (including the operator of the recreational vehicle) or property.
- E. No person shall operate a recreational vehicle without an effective and suitable muffling device on its engine which effectively deadens or muffles the noise of the exhaust. It is hereby unlawful to operate a recreational vehicle which is not equipped at all times with a muffler in good working order which blends the exhaust noise into the overall recreational vehicle noise and is in constant operation to prevent excessive or unusual noise.
- F. The exhaust system shall not emit or produce a sharp popping or crackling sound. The noise emission shall not exceed 99 decibels when measured at a distance of twenty (20) inches, and mufflers may not be altered to increase motor noise or have a cut out bypass or similar device.
- G. No person shall operate a recreational vehicle within fifty (50) feet of any dwelling or other occupied building or structure.
- H. The operation of a recreational vehicle on Private Property owned by the owner of the recreational vehicle shall not require the written permission of the property owner and the recreational vehicle may, in such case, be operated within 50 feet of the property owner's dwelling or other occupied building or structure on the owner's property and within 50 feet of a dwelling on an adjacent property if the owner of the recreational vehicle has the written consent of the adjacent property owner.
- I. No person shall operate a recreational vehicle from sunset until 9:00 a.m. of the following day.

ARTICLE 3 - OTHER REQUIREMENTS

- A. Dust control measures are to be maintained by the lot owner, occupant and operators of recreational vehicles at all times. A person may not generate or permit to be generated as a result of the use of a recreational vehicle, any dust which crosses over on to an adjoining or adjacent property that will interfere with the reasonable use of the property and create an amount of dust that would cause

such dirt and dust to visibly affix to personal property, structures, persons and/or other tangible items, either inside or outside, and/or make it difficult for a person to see and/or breathe. In the event that excessive dust is created by the operation of a recreational vehicle in violation of this Article, the use of such recreational vehicle shall cease immediately not begin again until the dust has been properly mitigated.

- B. It is hereby declared to be a nuisance and shall be unlawful for any person to operate or allow the operation of a recreational vehicle which makes or causes excessive noises or sounds which are physically annoying to the comfort of any person or of normal auditory sensibilities or which are so harsh, prolonged, unnatural or unusual in their use, time and place, as to occasion physical discomfort, or which are otherwise injurious to the lives, health, peace and comfort of the inhabitants of North Apollo Borough or any number of residents thereof.
- C. A maximum of two (2) recreational vehicles may operate at one time on property parcels less than 1.5 acres in size. A maximum of three (3) recreational vehicles may operate at one time on a property parcel of 1.5 to 3.0 acres in size. A maximum of four (4) recreational vehicles may operate at one time on property parcels of 3.0 to 5.0 acres. At no point, shall more than four (4) recreational vehicles be operated on one parcel at one time.

ARTICLE 4 – EXCEPTIONS

The following uses are exempt from this Ordinance:

- A. Use of a recreational vehicle in agricultural work.
- B. Use of a recreational vehicle in yard work, landscaping and/or in the maintenance of a person's real property.
- C. Use of a recreational vehicle in snow clearing.
- D. Use of recreational vehicle by Borough or any other governmental body in conducting official business.

ARTICLE 5 - ENFORCEMENT PENALTIES

- A. Any police officer, peace officer or ordinance enforcement officer of the Borough is authorized to issue citations for violation of this Ordinance.

- B. Any violation of this Ordinance shall constitute a summary offense and any person or entity found guilty of such violation shall be fined not less than One Hundred Dollars (\$100.00), but not more than Six Hundred Dollars (\$600.00) for a first violation, not less than Three Hundred Dollars (\$300.00), but not more than (\$600.00) for a second violation, and Six Hundred Dollars (\$600.00) for a third and subsequent violations.
- C. 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.
- D. Both criminal and civil proceedings may be commenced against a person violating this Ordinance and commencement of any such proceedings shall not constitute an election of remedies preventing the commencement of the other proceedings against the violator.
- E. The burden of proof shall rest with the violator to establish he or she had permission to ride a vehicle governed by this Ordinance upon any property except their own.

ARTICLE 6 – EFFECTIVE DATE

This Ordinance shall be effective forty (40) days from the date of its enactment pursuant to Section 1741 of the Borough Code of the Commonwealth of Pennsylvania.

ARTICLE 7 - SEVERABILITY

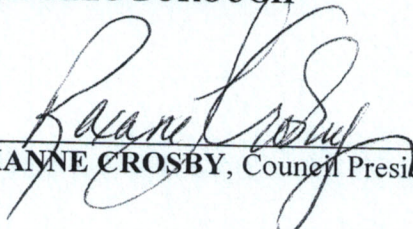
Should any paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

ARTICLE 8 – REPEALER


All ordinances or resolutions conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

ORDAINED AND ENACTED THIS 4th DAY OF APRIL, 2011.

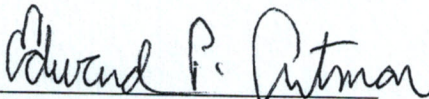
NORTH APOLLO BOROUGH

BY: 
ROXANNE CROSBY, Council President

ATTEST:

 (SEAL)
EDWARD L. STITT, JR.,
Borough Secretary

APPROVED this 4th day of April, 2011:


EDWARD P. ARTMAN, Mayor

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PA
CIVIL DIVISION – LAW

IN RE: BOROUGH OF NORTH APOLLO }
COUNTY OF ARMSTRONG AND }
COMMONWEALTH OF } NO. 306 of 2011
PENNSYLVANIA }

CERTIFICATION

I, **EDWARD STITT**, Secretary of the Borough of North Apollo, Armstrong County, Pennsylvania, do hereby certify that the attached Ordinance is a certified copy of the actual ordinance signed on April 4, 2011.

IN WITNESS WHEREOF, I have set my hand and seal and the seal of the Borough of North Apollo, Armstrong County, Pennsylvania.

Date: 4/4/11


EDWARD STITT,
BOROUGH SECRETARY

TOWNSHIP SEAL