

ORDINANCE NO. 04-2010-558

BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SALISBURY, LEHIGH COUNTY, PENNSYLVANIA, TO REPEAL ORDINANCE 12-2009-552 AND ENACT REGULATIONS FOR THE OPERATION AND USE OF ALL-TERRAIN VEHICLES (“ATVs”) WITHIN SALISBURY TOWNSHIP AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, the Board of Commissioners desires to repeal Ordinance 12-2009-552 adopted December 12, 2009 and to enact new regulations for the operation and use of all-terrain vehicles (“ATVs”) within Salisbury Township as follows:

WHEREAS, the use and operation of All-Terrain Vehicles (hereinafter referred to as “ATVs”) within Salisbury 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 in Salisbury Township so as to reduce noise and air pollution and protect the public’s health, safety and welfare; and to provide for the peaceable enjoyment of property.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of the Township of Salisbury, Lehigh County, Pennsylvania, as follows:

SECTION 1. Definitions

ALL TERRAIN VEHICLES (ATVs) – a motorized off highway vehicle which travels on three or more inflatable tires and which are (1) a maximum width of 50 inches and a maximum dry weight of 800 pounds; or (2) a width which exceeds 50 inches or a dry weight which exceeds 800 pounds. The term “ATV” shall not include motorized vehicles for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes, or off-road motorized vehicles used as utility vehicles for agriculture, husbandry, lawn care, snow removal or business operations, or any other “reasonable” property maintenance or landscaping.

OCCUPANT – a Person who regularly resides on the property in question.

OWNER – any person who has legal or equitable title to the property on which an ATV is being operated.

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

SECTION 2. Operation and Use of ATVs on Private Property. The following regulations shall apply for the use of an ATV on private real property.

A. Owner or Occupant. Only the owner, Occupant, permitted guests and family may operate an ATV on private real property subject to the restrictions outlined herein.

B. Setback Requirements.

1. A Person operating an ATV must remain at least fifty (50 feet from any property line, and one hundred (100') feet from a dwelling structure, including property road frontage and associated roadway right-of-way lines, unless written permission (that is duly notarized) has been obtained from the adjoining property owner to operate the ATV within any reduced setback, and with any additional mutually agreed terms and conditions; and which such written permission shall be carried on the person of the operator. Additionally, a Person operating a "two-stroke" type ATV shall remain at least 50 feet from any property line, and three hundred (300') feet from a dwelling structure, including property road frontage and associated roadway right-of-way lines, unless written permission (that is duly notarized) has been obtained from the adjoining property owner to operate the ATV within any reduced setback, and with any additional mutually agreed terms and conditions; and which such written permission shall be carried on the person of the operator

2. It shall not be a violation of this Section to operate an ATV within the required setback for purposes of ingress and egress or to load and unload from or onto a driveway, garage or other structure used for housing ATVs.

C. Additional Restrictions.

1. No more than two (2) ATVs may be operated at the same time on the same property.

2. A person may operate an ATV only between the hours of 9:00 a.m. and dusk.

D. Dust and Fumes. A person shall not generate or permit to be generated as a result of the use or operation of any ATV any dust or fumes which crosses over onto an adjoining or adjacent property that will interfere with the reasonable use of and enjoyment of the residential use of the property, either inside or outside.

E. Exhaust Equipment. All ATVs shall be fitted with the original manufacturer's exhaust equipment while in operation unless the vehicle is fitted with a more restrictive and/or quieter exhaust system than original.

F. Environmentally Sensitive Areas. No Person shall operate, allow or permit the operation of an ATV within fifty (50') feet of a stream, creek, waterway, drainage-way, wetland, or erosion-sensitive areas, or any environmentally sensitive areas as determined by the Township, DEP, or LCCD.

G. Noise. No Person shall operate, allow or permit the operation of an ATV which emits excessive noise that creates a disturbance to any adjacent or adjoining property.

SECTION 3. Operation and Use of a ATV on Township Property.

No Person shall operate an ATV on Township property without the express written consent of the Township.

SECTION 4. Exceptions – Americans with Disabilities Act (ADA)

In an attempt to be ADA compliant, an Owner, Occupant, or Person shall not be in violation of this Ordinance when operating an ATV if the Owner, Occupant, or Person is proven to be certified by a medical doctor to be physically handicapped, disabled or mentally impaired and is able to prove that the use of an ATV is the only means for general accessibility of the property. In such instance, Owner, Occupant, or Person shall obtain a handicap placard to display prominently on the ATV.

SECTION 5. Enforcement and Penalty.

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/or any Person operating an ATV in violation of this Ordinance to summary enforcement proceedings.*

B. Enforcement. *The Salisbury Township Police Department and the Code Enforcement Officer and other such appropriate officers or agents of Salisbury Township are hereby authorized to make an initial determination of violation of, and to enforce the provisions of this Ordinance. An initial determination of violation of this Ordinance shall result in a verbal warning to the Occupant, or Owner or operator of the ATV.*

C. Penalties. *A second or subsequent violation of this Ordinance shall be subject to summary enforcement proceedings and the appropriate officers or agents of Salisbury Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herein. 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 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.*

SECTION 6. Miscellaneous Provisions.

A. Incorporation by Reference. *To the extent applicable, this Ordinance incorporates by reference thereto the provisions of the rules and regulations relating to the “Pennsylvania Snowmobile and All Terrain Vehicle Law,” as contained in Part 6, Chapter 77, of the PA Vehicle Code, Title 75 enacted June 17, 1976, P.L.162, No.81, effective July 1, 1977, et seq., as amended.*

B. Rules of Interpretation. *The use of the singular shall include the plural. The use of headings is for convenience only.*

C. Severability. *The Sections of this Ordinance are severable, and if any section or part thereof is found to be unconstitutional or unenforceable, then such finding shall not affect the validity of the remaining sections or parts.*

D. Repeal of Conflicting Ordinances. *The within Ordinance supersedes and repeals all former and/or prior Ordinances or parts thereof which conflict, or are in any way inconsistent, with the provisions of this Ordinance and, to the extent that any prior or existing Ordinances of Salisbury Township are inconsistent with the terms of the within Ordinance, said inconsistent Ordinances, or portions thereof, are hereby expressly repealed.*

E. Effective Date. *This Ordinance shall be effective fifteen (15) days after adoption.*

ORDAINED AND ENACTED into an Ordinance this 22nd day of April, 2010 at a duly advertised, noticed, published and lawfully assembled regular public meeting and hearing.

TOWNSHIP OF SALISBURY
(Lehigh County, Pennsylvania)

James Brown
President, Board of Commissioners

ATTESTED:

Randy Soriano, Township Secretary