

ORDINANCE NO. 4-88

KISKIMINETAS TOWNSHIP
ARMSTRONG COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF KISKIMINETAS TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE, PRIVACY AND PROPERTY WITHIN SAID TOWNSHIP, BY REGULATING THE OPERATING OF RECREATIONAL VEHICLES AS DEFINED IN THIS ORDINANCE; TO PROVIDE FOR THE ENFORCEMENT OF SAID ORDINANCE AND PENALTIES FOR THE VIOLATION OF THE SAME; AND TO AMEND OR REPEAL ANY OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the Supervisors of Kiskiminetas Township desire to promote the health, safety and well-being of the residents of Kiskiminetas Township and to protect property located within said Township,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Kiskiminetas, Armstrong County, Pennsylvania, and it is hereby ORDAINED AND ENACTED by the authority of the same as follows:

SECTION 1. NAME.

This Ordinance shall hereafter be known and cited as the RECREATIONAL VEHICLE REGULATION ORDINANCE of the Township of Kiskiminetas

SECTION 2. PURPOSE.

The purpose of the within Ordinance is to regulate and control the operation and use of recreational vehicles within the said Township for the protection of the health, safety, privacy and general welfare of the residents, property owners, visitors and others within said Township.

SECTION 3. DEFINITIONS.

The following terms, when used in the within Ordinance, shall have the following meanings:

a) "Berm or shoulder" means the portion of roadway that is not used for travel, but is the cleared portion on each side of the roadway which is cleared and maintained to the boundary on each side of the roadway and used for emergency purposes and the safety of vehicular traffic.

b) "Dealer" means any person engaged in the sale, lease or rental of all-terrain vehicles, four-wheel drive vehicles, motorcycles, motor bikes, dirt bikes, three wheelers, bicycles, cars, trucks and any other type of recreational vehicles and snowmobiles as a regular business.

c) "Highway or street" means the entire width between the boundary lines of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

d) "Operate" means to ride in or on or to be in actual physical control of the operation of the recreational vehicle.

e) "Operator" means any person who operates or is in actual physical control of a recreational vehicle described in said Ordinance.

f) "Owner" means any of the following:

1) A person who holds the legal title to a recreational vehicle described in said Ordinance.

2) A vendee or lessee of a recreational vehicle described in said Ordinance, which is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

g) "Person" means an individual, partnership, corporation, the

State or any of its agencies or subdivisions, and any body of persons, whether incorporated or not.

h) "Private property" means real property used for farming or other use or real property owned by private persons not for public use.

i) "Recreational vehicle" means all terrain vehicles, four-wheel drive vehicles, motorcycles, dirt bikes, motor bikes, three-wheelers, cars, snowmobiles, trucks, and any other type of recreational vehicle, or any type motor-driven vehicle, or any motor-driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, or any endless belt or any combination of these or other similar means of contact with the surface upon which it is operated. This shall not be construed to include properly licensed motor vehicles operated on the public highways, streets, roads and private driveways in accordance with the law; and shall not include agricultural equipment used in the trade or business of the owner or by such owners' employees, family members or agents.

j) "Right-of-Way" means any private owned driveway or driveway owned by various persons for purpose of access to their privately owned residence or property; or utility-owned cleared parcels of land used for gas companies, electric companies or water authorities that have been kept clear and used for their purpose.

k) "Roadway" means that portion of a highway improved, designated or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

SECTION 4 REGULATION.

No person shall operate and no owner or dealer shall permit the operation of recreational vehicles under the following conditions, circumstances or at the following locations:

- a) Upon a public highway, land used as farm or play areas, private property or streets, or on a public or private parking lot not specifically designed for the use of vehicles described in Section 3, except under the following conditions and circumstances;**
 - 1) The Supervisors, any police officer or Ordinance or law enforcement officer may authorize the use of such vehicles described in Section 3, on a public highway or street when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.**
 - 2) A person may operate such vehicles described in Section 3, on a highway for a special event or limited duration, conducted according to a prearranged schedule, if he or she first obtains a permit from the Township Supervisors which shall only be granted if said Board is of the opinion that the same can be operated in a safe, non-destructive manner and without thereby creating a nuisance or hazard to persons or property.**
- b) On private property not owned, leased or under the control**

of the operator unless the operator has the express ~~written~~³ consent of the owner, lessee or other person in control of said property, except in case of an emergency when other means of travel are not feasible or possible.

- c) On public school grounds, parks, playgrounds, recreational areas, golf courses and other public lands (other than State owned lands where such operation is authorized by statute) without the express consent of the public authority in charge of such lands or premises, except where such operation is absolutely necessary in an emergency when other means of travel are not feasible or possible.
- d) While under the influence of intoxication liquor or narcotic drugs, barbituate or any derivative of a barbituate.
- e) During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and a lighted tail light.
- f) In any natural dedicated area, forest, nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged.
- g) On the frozen surface of a public waters within 100 feet of a person, including but not limited to a skater, not in or upon a snowmobile or recreational vehicle, or within 100 feet of a fishing shanty or shelter, except at the minimum speed, or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the frozen public water.

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- h) Unless such vehicles described in Section 3 of this Ordinance are equipped with a silencer in good working order, vehicles may be modified with silencers that meet or exceed Original Equipment Manufacturers standards as to noise reduction. All silencers used must be of the spark arrester type and approved by the manufacturer and specified to be for off road use. Exceptions are only that listed under Invented Vehicles in Section 7 of this Ordinance.
- i) Within 100 feet of a dwelling between 9:30 P. M., and 5:30 A. M., at a speed greater than minimum required to maintain forward movement of the vehicle.
- j) In or upon premises which are fenced or otherwise enclosed in a manner to exclude intruders upon private property posted in a conspicuous manner or when notice against trespass is personally communicated to the operator by the owner of the premises or other authorized persons.
- k) In any area on which public hunting is permitted during the season open to the taking of deer with firearms from 7:00 A. M. to 11:00 A. M., and from 2:00 P. M., to 5:00 P. M., except: during an emergency for lawful enforcement purposes, to go to and from a permanent residence or a privately owned building or property otherwise inaccessible by conventional wheeled vehicles or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol and timber harvest operation, or on the operator's own property under

his control or as an invited guest of an owner or person in control of said property.

- l) While transporting a bow, unless unstrung, or a firearm, unless securely encased.
- m) On or across a cemetery or burial ground.
- n) Within 100 feet of a slide, ski or skating area, except for the purposes of servicing the area or for medical emergencies.
- o) On a railroad or railroad right-of-way, except for railroad, public utility or law enforcement personnel while in the performance of their duties. A railroad or a utility right-of-way may be crossed in a safe manner per instructions in the Road and Highway crossing Section 11.
- p) Unless the operator and passenger(s) are wearing a helmet of quality equal to that of the Commonwealth of Pennsylvania standard for road use, or the same quality required by racing authorities in the Commonwealth of Pennsylvania.
- q) On a public road or highway for the purpose of testing said vehicle.

SECTION 5. SPECIAL LAW ENFORCEMENT PROVISIONS.

- 1) An authorized law enforcement officer may in a reasonably safe and non-destructive manner, operate any type of registered or non-registered recreational vehicle described in Section 3 of this Ordinance in the general performance of duty and surveillance, on public highways, on any private property, and when in pursuit of a suspect, outside the limits of Kiskiminetas Township.

- 2) Any operator of a registered or non-registered recreational vehicle within the limits of Kiskiminetas Township that witnesses or knows of any violation of this Ordinance, or any other Ordinance must report the matter immediately to the Kiskiminetas Township Police Department.

SECTION 6. CROSSING ROADWAYS AND HIGHWAYS AND REMOTE UTILITY RIGHT-OF-WAYS.

No person operating any vehicle described in Section 3 of this Ordinance, with exception to emergencies or duly appointed law enforcement officers operating according to duty, may cross or operate a recreational vehicle on a roadway or highway except to cross in the following manner:

The operator must approach the berm, shoulder, or edge of the roadway or highway and come to a complete stop, facing the roadway or highway, wait until there is no other moving traffic that is normally in use on a roadway or highway for a reasonable distance, in either direction then proceed across the roadway or highway at the maximum safe speed, the operator may then proceed in one or, the other direction only, for a distance of not more than what is reasonable length that the operation can be conducted in a safe manner. This same procedure may be used to cross railroad and utility right-of-ways.

SECTION 7. ACCIDENTS AND ACCIDENT REPORTS.

Whenever any recreational vehicle is involved in an accident resulting in loss of life, personal injury or damage to property, the operator shall stop and render appropriate and necessary assistance and give name and

address, the name and address of the owner of the recreational vehicle and the registration number to the injured person or property owner sustaining the damage. He must also report the accident to the Kiskiminetas Township Police Department as soon as he or she is physically able, or have same reported by another person.

SECTION 8. ENFORCEMENT.

- a) Any police officer, peace officer or Ordinance enforcement officer of the Township is authorized to issue non-traffic citation for violations of the within Ordinance.
- b) All operators of vehicles described in Section 3 of this Ordinance must provide positive identification at all times. The vehicle registration label is considered positive identification and any non-registered vehicle operated in Kiskiminetas Township is subject to impoundment unless the operator of such vehicle, upon the request of any authorized enforcement officer, can provide identity of some other means.
- c) Any impounded vehicle may be redeemed by the owner thereof by pledging or posting a bond or bail in an amount sufficient to cover all costs and fines imposeable upon conviction before a magistrate together with any damages which may have arisen by the operation of the recreational vehicle in violation of this Ordinance or any other ordinance of Kiskiminetas Township.
- d) An impoundment fee of \$25.00 plus storage plus towing or hauling costs must be paid in addition to the bail or bond provided hereinabove.

SECTION 9. PENALTIES

Any violation of this Ordinance shall constitute a summary offense and any person, firm or corporation found guilty of such violation shall be fined as follows:

- First Offense: ~~UP \$25.00~~ or warning by arresting officer.
- Second Offense: \$ 50.00
- Third Offense: \$ 100.00
- Fourth Offense and each offense thereafter: \$ 150.00

Each day that a violation continues to exist shall constitute a separate offense. Any person guilty of a violation of the within Ordinance shall also be subject to civil proceedings for damages and/or injunctive relief by the property owner, firm or corporation injured or damages by such violations.

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 proceedings against such violator.

The burden of proof is on the Defendant to prove he or she had permission to ride a recreational vehicle upon any property except their own property.

SECTION 10. SAVINGS CLAUSE.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or sub-section is declared void or inoperable for any reason by any court, it shall not affect any other part or portion thereof other than the part declared void or inoperable.

SECTION 11. CONFLICTING PROVISIONS.

Any Ordinance or part of an Ordinance in conflict herewith is hereby repealed.

SECTION 12. EFFECTIVE DATE.

ORDAINED AND ENACTED into law by the Board of Supervisors of the Township of Kiskiminetas, Armstrong County, Pennsylvania, at a duly assembled meeting held this 14th day of December, 1988.

TOWNSHIP OF KISKIMINETAS

By Emerson D. Townsend
Chairman, Board of Supervisors

William W. Jackson

William W. Miller

Jack Wilmut

Frances E. Hick

(Township Seal)

ATTEST:

Sandra Palmadge
Township Secretary