

An Ordinance of the
City of McKeesport



SERIES 2013

ORDINANCE NO.

Presented by: City Council

Bill No.: 97

Introduced by:

Date: 2/06/13

Public Notice: 1/26/13

Public Hearing: 2/06/13

AN ORDINANCE

**OF THE CITY OF MCKEESPORT, ALLEGHENY COUNTY,
PENNSYLVANIA, REGULATING THE OPERATION OF
RECREATIONAL VEHICLES WITHIN THE CITY LIMITS
OF THE CITY OF MCKEESPORT.**

WHEREAS, the City Council of the City of McKeesport has interest in promoting the health, safety and welfare of all residents of the City and has an interest in providing all residents with peaceful and quiet enjoyment of the property they occupy; and

WHEREAS, the City of McKeesport is an urban area made up primarily of commercial, industrial, residential, municipal service and recreational/park areas, with little open space sufficient for the operation of All-Terrain Vehicles (hereinafter "ATVs"), dirt bikes or other motorized recreational vehicles without creating a public nuisance; and

WHEREAS, the use and operation of ATV's, dirt bikes and other motorized recreational vehicles within the city limits of the City of McKeesport has the potential of adversely affecting the public's health, safety and welfare by creating excessive noise, dust and fumes; and

WHEREAS, the use and operation of ATV's, dirt bikes and other motorized recreational vehicles in the City of McKeesport also has the potential of causing damage and a negative impact on the environment, specifically the land, air and water in the City; and

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WHEREAS, it has become necessary to establish reasonable and responsible rules and regulations regarding the use of All-Terrain Vehicles (hereinafter "ATV's"), motor bikes and other recreational motor vehicles in the City of McKeesport; and

WHEREAS, the City Council of McKeesport is desirous of enacting an Ordinance prohibiting the use of recreational motor vehicles within City limits, except as set forth herein, and providing penalties for violations of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the City Council of the City of McKeesport, Allegheny County, Pennsylvania, that:

SECTION 1. Purpose

This Ordinance seeks to improve the safety and quiet enjoyment of individuals living and/or doing business in the City of McKeesport, and to eliminate noise and dust and other air and ground pollution incident to the operation of ATV's, dirt bikes or other recreational motor vehicles on property within the limits of the City. This Ordinance also seeks to advance the purposes set forth in the McKeesport Zoning Ordinance, including those related to environmental performance standards, and is intended to prevent a public nuisance.

SECTION 2. Definitions

A. "Shall": For the purposes of this Ordinance, the term "shall" is always mandatory and not discretionary.

B. "Recreational Motorized Vehicles"

A recreational motor vehicle is defined for purposes of this Ordinance as follows: any self-propelled motorized vehicle used for recreational purposes, including a trail bike or other all-terrain vehicle, dirt bike, motor scooter, moped or snowmobile being used for off-road recreational purposes.

Motor scooter, for purposes of this Ordinance, means a vehicle that has motive power, a seat, but not a saddle, for the driver, two wheels, and a floor pad for the driver's feet and is not a vehicle intended for use due to the health issues or disability of the operator.

All-terrain vehicle, or ATV, for the purposes of this Ordinance, means any motorized vehicle with three wheels or four wheels designed for use off of paved trails or roads which operates on three or more inflatable tires which are (1) a maximum of 50 inches and a maximum dry weight of 800 pounds (Class 1 ATV),

or (2) a width which exceeds 50 inches or a dry weight which exceeds 1000 pounds (Class 2 ATV). The term ATV shall include all-terrain vehicles as described above, "quads", "quad bikes", and tandem ATV's.

C. "Owner": Any person who has legal or equitable title to the property on which an ATV or other motorized recreational vehicle is being operated.

D. "Occupant": A person who is legally entitled to reside on the property on which an ATV, dirt bike or other motorized recreational vehicle is being operated.

E. "Operator": A person who is operating an ATV, dirt bike or other motorized recreational vehicle.

SECTION 3. Operation

It shall be unlawful for any individual to operate an ATV, dirt bike or other motorized recreational vehicle, as defined above, on any public or private street or public or private property in the City of McKeesport, except under the conditions set forth in Section 4 herein.

SECTION 4. Exclusions

A. Specifically excluded from this Ordinance are all ATV's, dirt bikes and other motorized recreational vehicles used by the McKeesport Police Department for law enforcement purposes and other municipal and government employees, including military personnel, using said vehicles for the purpose of carrying out the functions of their official positions.

B. Excluded from this Ordinance are motorized wheelchairs or scooters or other necessary equipment used to transport an individual due to that individual's physical disability or medical condition as certified by a medical doctor.

C. Also excluded from this Ordinance are off-road motorized vehicles used as utility vehicles for lawn care, snow removal or business operations, or any other "reasonable" property maintenance and/or landscaping.

SECTION 5. Compliance with Pennsylvania Law

To the extent applicable, this Ordinance incorporates by reference Pennsylvania's All-Terrain Vehicle Law as contained in Part 6, Chapter 77 of the Pennsylvania Vehicle Code and state regulations set forth in Title 17 Pa. Code, Chapter 51. All provisions shall be strictly enforced.

SECTION 6. Enforcement

A violation of this Ordinance shall be deemed a public nuisance and a summary offense and shall subject the Owner/Occupant of the property and/or any person operating an ATV, dirt bike or other motorized recreational vehicle in violation of this Ordinance to summary offense enforcement proceedings.

The McKeesport Police Department and the Code Enforcement Officer(s) of the City of McKeesport are hereby authorized to make an initial determination of violation of this Ordinance and to enforce provisions of this Ordinance.

All enforcement officers in the state, including local and state police, shall have the authority, as set forth in Pennsylvania's Snowmobile and All-Terrain Vehicle Law and state regulations, to enforce Pennsylvania's Snowmobile/ATV Law, with municipal and state police having enforcement authority on private land.

SECTION 7. Jurisdiction

Any violation of this Ordinance shall be within the jurisdiction of the District Justice whose jurisdiction covers the City of McKeesport as well the Courts from which the District Judge's decision may, under the statutes of the Commonwealth of Pennsylvania, be appealed.

SECTION 8. Violations and Penalties

Any person violating any provision of this Ordinance shall be fined not less than \$50.00 and not more than \$200.00, plus the costs for prosecution, for his or her first offense, and shall not be fined less than \$100.00 nor more than \$300.00, plus the cost of prosecution, for each subsequent offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Violation of this Ordinance shall be a summary offense, subject to summary enforcement proceedings and the appropriate officers or agents of the City of McKeesport are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Ordinance. Upon default in payment of a fine and upon a guilty finding of violation of this Ordinance, the violator may be subject to a term of imprisonment up to the maximum allowed for a summary offense.

SECTION 9. Impoundment of Vehicle

The Police Department of the City of McKeesport or the Code Enforcement Officer of the City may confiscate and impound any vehicle operated in violation of Section 3 or 4 of this Ordinance. The vehicle shall be returned to the owner

thereof upon payment of any fine imposed as a result of the violation of this Ordinance and upon payment of any storage charge incurred as a result of the impoundment.

SECTION 10. Rules of Interpretation

In this Ordinance, the use of the singular shall include the plural, and the use of headings is for convenience only.

SECTION 11. Severability

If a section, provision or part of this Ordinance shall be judged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any sections, provisions or parts thereof not adjudged invalid or unconstitutional.

SECTION 12. Effective Date

This Ordinance shall be in full force and effect from the date of its adoption by the McKeesport City Council and upon publication provided by law.

ENACTED this _____ day of _____, 2013.

ATTEST:

City Clerk and Clerk of Council

President of Council

EXAMINED AND APPROVED by me this ____ day of _____, 2013.

Mayor

EFFECTIVE DATE: _____