

CHAPTER 3

ALL-TERRAIN VEHICLES, AND SNOWMOBILES

BOROUGH OF WYALUSING
ORDINANCE NO. 3 OF 2005

AN ORDINANCE, CHAPTER 3, REGULATING THE USE OF ALL-TERRAIN
VEHICLES, AND SNOWMOBILES WITHIN THE CONFINES OF THE
BOROUGH OF WYALUSING AND PROVIDING PENALTIES FOR THE
VIOLATIONS THEREOF

The purpose of this Ordinance is to regulate All-Terrain Vehicles as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(17) Street and sewer regulations; obstructions. To regulate the streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and construction thereof; and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same.

By the powers granted to the Borough of Wyalusing by the Pennsylvania Borough Code, 53 P.S. §45101 et seq., be it ENACTED and ORDAINED by the Borough Council of the Borough of Wyalusing, Bradford County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the Wyalusing Borough Council as follows:

SECTION I. TITLE

This ordinance shall be known as the, “Borough of Wyalusing Ordinance No. 3 of 2005.”

SECTION II. POLICY AND PURPOSE

Pursuant to the authority conferred upon the Borough of Wyalusing by the Pennsylvania Borough Code, specifically including, but not limited to, the authority to impose fines and penalties, incurring partial or total forfeiture, or to remit the same, 53 P.S. §46202(3); the power to prohibit and remove any nuisance in the streets of the Borough of Wyalusing, 53 P.S. 46202(4); the power to make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness, as well as the beauty, convenience, comfort and safety of the Borough of Wyalusing and its residents, 53 P.S. 46202(6); the power to regulate the streets, public squares, common grounds

and sidewalks of the Borough of Wyalusing, 53 P.S. 46202(17) and the power to make and adopt all such ordinances, rules and regulations not inconsistent with, or restrained by the constitution and laws of the Commonwealth of Pennsylvania, as may be expedient or necessary for the proper management, care and control of the Borough and its finances, and the maintenance of peace, good government, safety and welfare of the Borough of Wyalusing and its residents as well as the Borough of Wyalusing' trade, commerce and manufacture's, the Wyalusing Borough Council enacts the within ordinance.

The peace, tranquility, health and safety of the residents of the Borough of Wyalusing are being disturbed by the illegal and unsafe use of All-Terrain vehicles and snowmobiles within the confines of the Borough of Wyalusing. In that regard, it is deemed by the Wyalusing Borough Council to be in the best interests of the health, safety, welfare and morals of the residents of the Borough of Wyalusing, to regulate the use of All-Terrain vehicles, and snowmobiles within the Borough of Wyalusing.

It is the policy, desire and intent of the Wyalusing Borough Council to ensure that the health, safety, morals, general welfare and cleanliness, as well as the beauty, convenience and comfort of the Borough of Wyalusing and its residents are in the best possible condition for both safety and financial reasons. The purpose of the within ordinance is to prohibit the illegal and unsafe use of All-Terrain vehicles, and snowmobiles within the Borough of Wyalusing and remove the nuisance of the illegal and unsafe operation of All-Terrain vehicles within the Borough of Wyalusing.

SECTION III. DEFINITIONS.

A. "ALL-TERRAIN VEHICLE" OR "ATV"- 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.

ATV's described in paragraph (1) may be referred to as class I ATV's and ATV's described in paragraph (2) may be referred to as class II ATV's. This term does not include snowmobiles, trail bikes, motorboats, golf carts, aircraft, dune buggies, automobiles, construction machines, trucks or home utility machines: military, fire, emergency and law enforcement vehicles; implements of husbandry; multi-purpose agricultural vehicles or vehicles used by the Departments of Transportation. In addition, this term does not include off road motor vehicles used exclusively as utility vehicles for agricultural or

business operations and incidentally operated or moved upon the highways or roadways within the Borough of Wyalusing.

B. BOROUGH OF WYALUSING, or "BOROUGH" - Means the Borough of Wyalusing, Bradford County, Pennsylvania, the Mayor of the Borough of Wyalusing, the Wyalusing Borough Council and any duly authorized member or agent of any of the above.

C. OWNER- A person, other than a lien holder, having the property right and/or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person.

D. SNOWMOBILE - An engine-driven vehicle, which is all of the following:

- (1) Designed to travel over snow or ice.
- (2) Has an endless belt track or tracks.
- (3) Is steered by a ski or skies.
- (4) Has an overall width of 48" or less.

The term does not include a farm tractor, construction equipment, military vehicle, vehicle with inflatable tires, or machinery used strictly for the grooming of snowmobile trails.

E. STREET - a word "Street" as used in this ordinance shall include highways, boulevards, avenues, alleys, and all other Borough property, parks, sidewalks and other accessible property, which will be considered public property.

SECTION IV. CONSTRUCTION OF WORDS AND PHRASES

A. NUMBER; GENDER; TENSE- The singular shall include the plural and the plural, the singular. Words used in the masculine gender shall include the feminine and neuter. Words used in the past or present tense shall include the future.

B. WORDS AND PHRASES- Words and Phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning or are defined in the within Ordinance shall be construed according to such peculiar and appropriate meaning or definition.

C. RULES OF INTERPRETATION- Where applicable, the rules of interpretation as set forth in 1 Pa.C.S.A. §1901, et seq., shall apply to the within Ordinance.

SECTION V. REGULATIONS PERTAINING TO THE USE OF ALL-TERRAIN VEHICLES WITHIN THE CONFINES OF THE BOROUGH OF WYALUSING

A. No person shall operate an ATV, or snowmobile on Borough Streets (as defined herein), or state owned property within the confines of the Borough of Wyalusing.

B. No person shall operate an ATV or snowmobile in any of the following ways:

(1) At a rate of speed that is unreasonable or improper under existing conditions or in excess of the maximum limits posted for vehicular traffic;

(2) In any careless way so as to endanger the person or property of another;

(3) While under the influence of alcohol or any controlled substance; and

C. No owner or other person having charge or control for an ATV or snowmobile shall knowingly authorize or permit the operation of the ATV or snowmobile by any person who is incapable of doing so by reason of age; physical or mental disability; who is I under the influence of alcohol or any controlled substance; or in violation of the preceding paragraph.

D. No person shall operate, and no owner shall permit a person to operate, an ATV which does not have liability insurance coverage for the ATV or snowmobile issued by an insurance carrier authorized to do business within the Commonwealth of Pennsylvania. The operator of an ATV or snowmobile is required, at all times, to carry proof of insurance on his or her person or on the ATV or snowmobile while it is in operation. Further, no owner of an ATV or snowmobile shall operate or permit the same to be operated without having in full force and effect liability insurance coverage required by this section.

E. ATV's or snowmobiles may be operated on highways and streets within the Borough of Wyalusing for special ATV or snowmobile events of limited duration or in connection with a Borough authorized parade which are conducted according to a pre-arranged schedule under permit from the Borough of Wyalusing and, the Commonwealth of Pennsylvania, if applicable.

F. In addition to the provisions of the within ordinance, the Borough of Wyalusing specifically incorporates by reference all of the provisions of the Pennsylvania Motor Vehicle Code which are applicable to All-Terrain vehicles specifically including, but not limited, the Snowmobile and All-Terrain vehicle law, 75 Pa. C.S.A. §7701 et seq.

G. Snowmobiles and ATV's may be operated on the Borough Streets and Highways as defined herein, of Wyalusing by authorized fire and rescue personnel and police personnel during an emergency or under appropriate circumstances.

H. Driving upon sidewalk

(a) General rule. No person shall drive any vehicle except a human powered vehicle upon a sidewalk or sidewalk area except upon a permanent driveway. Except:

(b) Mobility-related devices for persons with disabilities, self-propelled wheelchair or an electrical mobility device for the specific purpose of giving person with mobility-related disabilities the capability of transporting themselves. The municipality may impose such restrictions as are necessary to protect the interest of pedestrians and others using the sidewalk or sidewalk area.

SECTION VI. PENALTIES

Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction of thereof, be sentenced to pay a fine of Six Hundred Dollars (\$600.00) for each violation of this Ordinance and is subject to imprisonment not to exceed ninety (90) days, or both. Each act of operating an ATV in violation of this ordinance shall constitute a separate offense.

SECTION VII. SEVERABILITY AND AMENDMENT

If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by and court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, so long as it remains workable minus the invalid portion.

SECTION VIII. 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 the Borough of Wyalusing are inconsistent with the terms of the within Ordinance, said inconsistent Ordinances, or portions thereof, are hereby expressly repealed.

SECTION IX. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from the date of its enactment herein.