

ORDINANCE NO. 2022-22

**AN ORDINANCE OF THE TOWNSHIP OF
BARNEGAT, COUNTY OF OCEAN AND STATE OF
NEW JERSEY AMENDING AND SUPPLEMENTING
CHAPTER 71 OF THE TOWNSHIP CODE
ENTITLED "VEHICLES AND TRAFFIC" SO AS TO
CREATE SECTION 71-46A "OPERATION OF ALL-
TERRAIN VEHICLES ON PUBLIC STREETS"**

WHEREAS, on December 16, 2021, the New Jersey Legislature adopted S4080 amending N.J.S.A. 39:3C-35; and

WHEREAS, the amendments to N.J.S.A. 39:3C-35 authorize a municipality to declare, by ordinance, that an all-terrain vehicle or dirt bike operated on a public street, highway, or right of way in violation of N.J.S.A. 39:3C-17 poses an immediate threat to the public health, safety or welfare and designate such all-terrain vehicles or dirt bikes operated in a such a manner contraband subjected to forfeiture in accordance with N.J.S.A. 2C:64-1 et. seq. and that an all-terrain vehicle or dirt bike forfeited under this section shall be disposed of in accordance with the provisions of N.J.S.A. 2C:64-6 or, at the discretion of the entity funding the prosecuting agency involved, may be destroyed; and

WHEREAS, pursuant to N.J.S.A. 40:48-2 a municipality is empowered to adopt ordinances for the public health, safety and welfare of the municipality and its residents; and

WHEREAS, the Mayor and Township Committee of the Township of Barnegat believe it is in the best interest of the Township's residents to implement Senate Bill 4080 and declare all-terrain vehicles and dirt bikes a threat to the public's health safety and welfare.

DASTI & ASSOCIATES
ATTORNEYS AT LAW

310 Lacey Road
P.O. Box 779
Forked River, N.J. 08731

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, and State of New Jersey that Chapter 71 of the Township Code entitled “Vehicles and Traffic” to create Section 71-46A entitled “Operation of All-Terrain Vehicles on Public Streets” which shall read as follows:

SECTION 1. Chapter 71-46A entitled “Operation of All-Terrain Vehicles on Public Streets,” is hereby created and shall read as follows:

§71-46A Operation of All-Terrain Vehicles on Public Streets

It shall be unlawful and pose an immediate threat to the public health, safety and welfare of the residents of the Township of Barnegat for any person to operate any all-terrain vehicle or dirt bike (motorized sports bike) upon any public street, highway or right-of-way located within the Township in violation of N.J.S.A. 39:3C-17. Any all-terrain vehicle or dirt bike (motorized sports bike) operated in a manner that violates this Section shall be deemed contraband subjected to forfeiture in accordance with N.J.S.A. 2C:64-1 et. seq., and shall be disposed of in accordance with the provisions of N.J.S.A. 2C:64-6 or, at the discretion of the Township, may be destroyed.

For the purposes of this Section:

ALL-TERRAIN VEHICLE means a motor vehicle, designed and manufactured for off-road use only, of a type possessing between three and six non-highway tires, but shall not include golf carts or an all-terrain vehicle operated by an employee or agent of the State, a county, a municipality, or a fire district, or a member of an emergency service organization or an emergency medical technician which is used while in the performance of the employee’s, agent’s, member’s or technician’s official duties.

DIRT BIKE means any two-wheeled motorcycle that is designed and manufactured for off-road use only and that does not comply with Federal Motor Vehicle Safety Standards or United States Environmental Protection Agency on-road emissions standards.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

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SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the **1st day of November, 2022**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **6th day of December, 2022, at 10:00 AM** at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

DONNA M. MANNO, RMC
Municipal Clerk

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