

ORDINANCE NO. 253

AN ORDINANCE OF THE BOROUGH OF MILLHEIM, CENTRE COUNTY, PENNSYLVANIA, REGULATING THE OPERATION OF RECREATIONAL VEHICLES WITHIN THE BOROUGH LIMITS OF THE BOROUGH OF MILLHEIM.

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

WHEREAS, the Borough of Millheim is located in a rural area made up primarily of commercial, 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 ATVs, dirt bikes and other motorized recreational vehicles within the Borough limits of the Millheim Borough 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 ATVs, dirt bikes and other motorized recreational vehicles in the Borough of Millheim also has the potential of causing damage and a negative impact on the environment, specifically the land, air and water in the Borough, and

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

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

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Millheim Borough, Centre 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 Borough of Millheim, and to eliminate noise and dust and other air and ground pollution incidental to the operation of ATVs, dirt bikes or other recreational motor vehicles on property within the limits of the Borough. This Ordinance is also 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 or more 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 Borough of Millheim except under the conditions set forth in Section 4 herein.

#### **SECTION 4. Exclusions**

- A. Specifically excluded from this Ordinance are all ATVs, dirt bikes and other motorized recreational vehicles used by the Millheim Fire Company or Penns Valley Emergency Medical Service for fire protection or medical rescue 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.
- D. Excluded from this Ordinance are any Borough sanctioned events such as the annual Millheim Fire Company #1 tractor pull.

#### **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 Code Enforcement Officer(s) of the Millheim Borough 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 Code Enforcement 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 Code Enforcement and state police having enforcement authority on private land.

### **SECTION 7. Jurisdiction**

Any violation of this Ordinance shall be within the jurisdiction of the Magisterial District Judge whose jurisdiction covers the Borough of Millheim as well as the Courts from which the Magisterial 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 Millheim Borough 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 Code Enforcement Officer(s) of the Borough 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 Millheim Borough Council and upon publication provided by law.

ADOPTED AND ENACTED this 6<sup>th</sup> day of January, 2014.

ATTEST:

Sharon A. Heckman  
Secretary-Treasurer

J. Alby  
President of Council

EXAMINED AND APPROVED by me this 6<sup>th</sup> day of January, 2014.

Samuel W. Snyder  
Mayor

EFFECTIVE DATE: \_\_\_\_\_