

Legislation Text

File #: 210423, Version: 1

Amending Section 12-1133 of The Philadelphia Code, entitled "All-Terrain Vehicles," to address off-road vehicle use in the City of Philadelphia, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 12 of The Philadelphia Code is hereby amended as follows:

TITLE 12. TRAFFIC CODE

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CHAPTER 12-1100. MISCELLANEOUS REGULATIONS AND PENALTIES

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§ 12-1133. [All-Terrain Vehicles] *Off-Road Vehicles*.

(1) All-Terrain Vehicle (*ATV*) shall have the same meaning as used in Section 7702 of the Vehicle Code, 75 Pa. C.S. § 7702.

(2) *Dirt Bike* shall mean a motorcycle, as defined in Section 102 of the Vehicle Code, 75 Pa. C.S. § 102, that: (1) is not licensed or registered, and (2) does not meet the minimum equipment requirements of Subchapter H of 67 Pa. Code Chapter 175 in Pennsylvania as a motorcycle, with tires and suspension designed and built for riding on unpaved roads and over rough terrain.

(3) *Dune Buggy* shall mean a low, wide-wheeled motor vehicle that: (1) is not licensed or registered, and (2) does not meet the minimum equipment requirements of Subchapter E of 67 Pa. Code Chapter 175 in Pennsylvania, with tires and suspension designed and built for riding on sand and over rough terrain.

(4) *Off-Road Vehicle* shall be defined as an *ATV*, *Dune Buggy*, or *Dirt Bike* as defined herein.

(5) No person shall operate, park, stop, stand, place or maintain any *Dirt Bike*, or *Dune Buggy* on any public sidewalk or any public property, including without limitation any park or recreation facility, except where expressly authorized by law; provided that the owner or a person with lawful permission of the owner may temporarily place a *Dirt Bike* or *Dune Buggy* on the sidewalk abutting their house or abutting any premises where the *Dirt Bike* or *Dune Buggy* is lawfully stored, for purposes of lawfully transporting the *Dirt Bike* or *Dune Buggy* to a location outside the City. Nothing in this Section prohibits the lawful transport of a *Dirt Bike* or *Dune Buggy* on a licensed trailer or other safe carrier, or the manual transport of a vehicle onto or off of such carrier, so long as the motor or engine of the *Dirt Bike* or *Dune Buggy* remains off at all times.

[(3)](6)The penalty for a violation of this Section, or for violation of any regulation of the Department

of Parks and Recreation relating to operating, parking, stopping, standing, placing or maintaining any [all-terrain vehicle] *Off-Road Vehicle*, shall be forfeiture of the [vehicle] *Off-Road Vehicle*; provided that, if the value of the [vehicle] *Off-Road Vehicle*, in its current condition, is in excess of two thousand dollars (\$2,000), or if the defendant does not own the [vehicle] *Off-Road Vehicle* and the owner did not know and could not reasonably have known that the [vehicle] *Off-Road Vehicle* would be used in violation of this Section, a civil penalty of two thousand dollars (\$2,000) shall be imposed.

[(4)](7) Enforcement.

(a) Notices of violation shall be issued by police officers or any other person authorized to enforce ordinances, pursuant to the procedures set forth in Section 10-1606 of this Code. Contested charges shall be resolved, penalties shall be imposed, and payments shall be collected and processed by the Director of Finance and the Office of Administrative Review (or such other office as the Director of Finance shall designate), all pursuant to the procedures set forth in Sections 10-1604 through 10-1609, except that:

(.1) Any person to whom a ticket is issued may, within eight (8) days of receipt, agree to forfeit the [vehicle] *Off-Road Vehicle* in lieu of contesting the violation and in lieu of any other fines or penalties.

(.2) An order by default may be vacated pursuant to subsection 10-1608(4) only within sixty days after its entry.

(b) Seizure. In addition to issuance of a notice of violation, whenever a police officer has probable cause to believe an [vehicle] *Off-Road Vehicle* has been used or is being used in violation of this Section, the officer may seize the [vehicle] *Off-Road Vehicle*, whereupon the Police Department shall comply, as nearly practicable, with the provisions of subsections 12-2405(2)-(5) (“Removal or Immobilization of Parked Vehicles: Notice”), except that no [vehicle] *Off-Road Vehicle* shall be returned to the owner other than pursuant to this Section 12-1133. The Police Department shall store the [vehicle] *Off-Road Vehicle* until a final adjudication of the offenses, at which time:

(.1) If forfeiture is not awarded, the Police Department shall return the [vehicle] *Off-Road Vehicle* to the owner upon payment of all applicable fines, penalties and fees and compliance with all applicable laws relating to the [vehicle] *Off-Road Vehicle*.

(.2) If forfeiture is awarded, the Police Department shall dispose of the [vehicle] *Off-Road Vehicle* in an appropriate manner, which may include destruction of the [vehicle] *Off-Road Vehicle* or such other manner of disposition that, in the judgment of the Department, reduces, to the greatest extent practicable, the opportunities for the [vehicle] *Off-Road Vehicle* to be used in any manner that violates the provisions of this Section or the Vehicle Code.

[(5)](9) A person who claims [his or her vehicle] *their Off-Road Vehicle* was wrongfully seized, including an owner who did not know and could not reasonably have known that the [vehicle] *Off-Road Vehicle* would be used in violation of this Section, may seek return of the [vehicle] *Off-Road Vehicle* pursuant to the procedures set forth at Section 12-2406 (“Recovery of Vehicles; Hearings”), with any hearing to be scheduled as expeditiously as practicable.

SECTION 2. This Ordinance shall be effective immediately.

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**Explanation:**

[Brackets] indicate matter deleted.

*Italics* indicate new matter added.