

**BERLIN BOROUGH**

**ORDINANCE NO. 362**

**AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA, DESIGNATING THE PUBLIC ROADWAYS WITHIN THE BOROUGH OF BERLIN AS MIXED-USE RECREATIONAL AND REGISTERED VEHICLE ROADS AND REGULATING THE USE OF RECREATIONAL VEHICLES THEREON.**

WHEREAS, the State of Pennsylvania has enacted legislation known as the Snowmobile and All-Terrain Vehicle Law (75 Pa. C.S.A. §7701, et seq.), which authorizes municipalities such as Berlin Borough to designate any Highway, Road or Street within its jurisdiction as a Snowmobile Road, an ATV Road, or both;

WHEREAS, the Borough Council of the Borough of Berlin has determined it is in the best interest of the Borough and necessary and proper for the safety and welfare of the residents and Property Owners of Berlin Borough, along with all other users of the roads and streets within the Borough, to designate all roads within the Borough as "Joint Use" Roads so as to permit Snowmobile and ATV use as defined herein in conjunction with use by other Vehicles requiring Registration as these terms are defined at 75 Pa. C.S.A. §102.

NOW, THEREFORE, the Borough Council of Berlin hereby **ORDAINS AND ENACTS** as follows:

**ARTICLE 1  
SHORT TITLE**

101. This Ordinance shall hereafter be known and cited as the "RECREATIONAL VEHICLE ORDINANCE."

**ARTICLE II  
PURPOSE**

201. The purpose of this Ordinance is to designate all public Roads within the municipal boundaries of Berlin Borough as Snowmobile and ATV roads and that use of these roads will be shared with registered vehicular traffic.

**ARTICLE III  
DEFINITIONS**

301. The following terms shall have the meaning provided at 75 Pa. C.S.A. §7702, as amended:

(a) All-Terrain Vehicle or "ATV"

- (b) Department
- (c) Head lamp
- (d) Highway
- (e) Snowmobile
- (f) Street
- (g) Tail Lamp

302. The following terms shall have the meaning provided at 75 Pa. C.S.A. §102:

- (a) Motor Vehicle
- (b) Registration
- (c) Traffic
- (d) Trafficway
- (e) Vehicle

303. Additionally, for purposes of this Ordinance, the following additional terms are defined as follows:

- (a) "Joint-Use" means shared use of Roads or Streets within the Borough by Recreational Vehicles and a Vehicle or Vehicles requiring Registration.
- (b) "Operator" means any person who operates or is in actual physical control of a Recreational Vehicle.
- (c) "Owner" means any of the following:
  - (1) a person who holds the legal title to a Recreational Vehicle;
  - (2) a vendee or lessee of a Recreational Vehicle, which is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or less; and/or
  - (3) a person renting a Recreational Vehicle or having the exclusive use of a Recreational Vehicle.
- (d) "Operate" means to ride in or on and to be in actual physical control of the operation of a Recreational Vehicle.
- (e) "Person" means an individual, partnership, corporation, the State or any of its agencies or subdivisions, and any body of persons, whether incorporated or not.
- (f) "Road" or "Roadway" means the improved portion of a Highway or Street within the jurisdiction of Berlin Borough designated for public use to include the berm that is designated or ordinarily used for travel by a Vehicle requiring Registration.

- (g) "Recreational Vehicle" means an All-Terrain (ATV) or Snowmobile as defined at 75 Pa. C.S.A. §7702, as amended.
- (h) "Shoulder" or "Berm" means that portion of a Road or Street on either side of the paved portion of the Road that is improved with gravel for the safety and convenience of vehicular traffic, and which is within the Borough right-of-way for the Road or Street in question.
- (i) Any term not defined herein that is necessary for proper interpretation of this Ordinance shall have the definition found in the Pennsylvania Vehicle Code (75 Pa. C.S.A. §101, et seq.) or where not defined therein, the term's plain meaning.

#### ARTICLE IV DESIGNATION OF HIGHWAYS AND STREETS

401. As permitted under the provisions of the Pennsylvania Vehicle Code pertaining to Snowmobiles and All-Terrain Vehicles at 75 Pa. C.S.A. §7722(a), all Roads within Berlin Borough shall be and are hereby designated as ATV and Snowmobile Roads and hereinafter, these Roadways shall be designated as "Joint Use" Roads, as defined herein and as permitted in this Ordinance and other Ordinances of Berlin Borough.

#### ARTICLE V REGULATIONS PERTAINING TO THE USE OF RECREATIONAL VEHICLES

501. Any Person who Operates a Recreational Vehicle on a Roadway within Berlin Borough shall do so only in full compliance with the provisions of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, 75 Pa. C.S. Section 7701, et seq. (as amended), which is incorporated herein by reference.

502. Every person who operates a Recreational Vehicle on a Road within Berlin Borough must have in their possession a valid operator's license (driver's license) issued by the Commonwealth of Pennsylvania, Department of Transportation, or other State.

503. No Person shall Operate, and no Owner or Dealer shall permit the Operation of a Recreational Vehicle in any of the following ways:

- (a) Across a privately-owned driveway that abuts the public Roadway.
- (b) Without displaying a lighted Head lamp and a lighted Tail lamp at all times of operation on a Roadway within the Borough.
- (c) Unless such Recreational Vehicles are equipped with a stock muffler in good working order.

- (d) Snowmobiles are prohibited from Operating on a Roadway that is not snow covered. For purposes of this provision, a road is considered snow covered where the pavement is not visible through the snow cover. Where a Road is NOT snow-covered, a Snowmobile may only operate on the Shoulder or Berm of the Road provided that no portion of the ski or skis is in contact with the paved non-snow-covered portion of the Roadway.

504. No person shall operate a Recreational Vehicle between midnight and 6:00 am.

505. In the event of a conflict between any provision of this section and a provision of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, or the Pennsylvania Motor Vehicle Code, the more restrictive provision shall apply.

#### ARTICLE VI PENALTIES

601. In addition to any other remedy or penalty available or imposed by law, any person, firm or corporation who shall violate any provision of this Ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Ordinance continues or each Section of this Ordinance, which shall be found to have been violated shall constitute a separate offense.

#### ARTICLE VII SEVERABILITY

701. The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, such declaration or decision shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Borough Council of the Borough of Berlin that this Ordinance would have been enacted had any such unconstitutional, illegal or invalid provision not been included therein.

#### ARTICLE VIII REPEALER

801. Any Ordinances or portions of Ordinances of the Borough which are inconsistent herewith are hereby repealed.

ARTICLE IX  
GENDER

901. In the language set forth in this Ordinance, the singular shall include the plural, and the masculine the feminine and/or gender where appropriate.

ARTICLE X  
EFFECTIVE DATE

1001. This Ordinance shall become effective on the date of enactment hereof.

ARTICLE XI  
FILING OF ORDINANCE

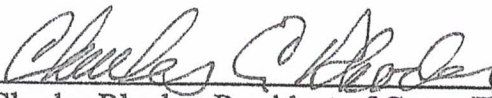
1101. This Ordinance shall, upon enactment, be properly filed with the Borough records in the official Borough Ordinance Book at the Borough Offices.

ORDAINED AND ENACTED this 7<sup>th</sup> day of September,  
2023.

ATTEST:

BOROUGH OF BERLIN

  
\_\_\_\_\_  
Marshal Engleka, Council

By   
\_\_\_\_\_  
Charles Rhodes, President of Council

EXAMINED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor