

ORDINANCE NO. 22-46-OA

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY,
COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING
AND SUPPLEMENTING CHAPTER IV, ENTITLED "POLICE
REGULATIONS" SO AS TO REVISE SECTION 4-17.4A**

October 21, 2022

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. 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. 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;

WHEREAS, the Township Council of the Township of Berkeley believes 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.

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey that:

SECTION 1. Chapter 4 of the Township Code of the Township of Berkeley, entitled "Police Regulations," is hereby amended and supplemented so as to revise §4-17.4A, entitled "Prohibited Operation and Forfeiture", which shall now read as follows:

§4-17.4A Prohibited Operation and Forfeiture.

- a. It shall be unlawful and pose an immediate threat to the public health, safety and welfare of the residents of the Township of Berkeley for any person to operate any all-terrain vehicle or dirt bike (motorized sportsbike) 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 sportsbike) operated in a manner that violates this Section shall be deemed contraband subjected to forfeiture in accordance with N.J.S. 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.

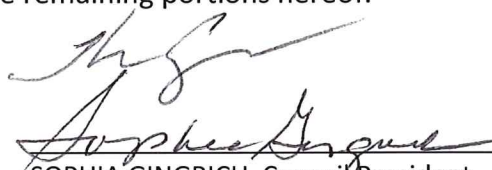
- b. It shall further be unlawful for the drive up refueling of all-terrain vehicles or dirt bikes directly using gas pumps within the Township. Any fueling business permitting the drive up refueling of all-terrain vehicles or dirt bikes will be in violation of this section, and upon conviction thereof, be liable to the penalty stated in Chapter 1, § 1-5.

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 All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

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.



CARMEN F. AMATO, JR., Mayor



SOPHIA GINGRICH, Council President



JOHN BACCHIONE, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on October 24, 2022, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 21st day of November 2022, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.



BEVERLY M. CARLE, RMC

Township Clerk, Township of Berkeley