



PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Gina A. Berg *gab*
Director, Land Use Programs

Date: November 13, 2024

Subject: November 22, 2024 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on Friday, November 22, 2024. We have also enclosed the following:

- minutes from the Committee's October 25, 2024 meeting;
- a draft resolution and report on Hamilton Township Ordinance 2085-2024; and
- materials related to the presentation on offroad vehicle ordinances

The Committee meeting will be conducted in-person and via teleconference. Specific access information will be provided to all Committee members in a separate email. The public is invited to attend the meeting in-person or view and participate in the meeting through the following YouTube link:

www.youtube.com/c/PinelandsCommission



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

November 22, 2024 – 9:30 a.m.

This meeting will be held in-person and virtually

Richard J. Sullivan Center for Environmental Policy and Education
Terrence D. Moore Conference Room
15C Springfield Road
New Lisbon, New Jersey

Watch the meeting on the Pinelands Commission YouTube channel:

www.youtube.com/c/PinelandsCommission

To Provide Public Comment, Please Dial: 1-929-205-6099 Meeting ID: 863 4000 6923

Agenda

1. Call to Order
2. Adoption of minutes:
 - Open Session from the October 25, 2024, CMP Policy & Implementation Committee Meeting
 - Closed Session from the October 25, 2024, CMP Policy & Implementation Committee Meeting
3. Review of Executive Director's report on Hamilton Township Ordinance 2085-2024 Adopting a Site Specific Redevelopment Plan for Block 237, Lots 1 and 2
4. Presentation on Offroad Vehicle Ordinances
5. Public Comment
6. Adjournment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted both remotely and in-person
The public could view/comment through Pinelands Commission YouTube link:

www.youtube.com/c/PinelandsCommission

Richard J. Sullivan Center
15C Springfield Rd
New Lisbon, New Jersey 08064
October 25, 2024 – 9:30 a.m.

MINUTES

Members in Attendance: Alan W. Avery, Jr., Chair Laura E. Matos, Jessica Rittler Sanchez

Members in Attendance (Zoom): Mark S. Lohbauer, Douglas Wallner

Members Absent: Jerome Irick, Theresa Lettman

Staff Present: Gina Berg, April Field, Lori Friddell, Susan R. Grogan, Brad Lanute, Jessica Lynch, and Stacey P. Roth. Also in attendance was Alexis Franklin with the Governor's Authorities Unit (Zoom).

1. Call to Order

Chair Matos called the meeting to order at 9:32 a.m.

Commissioner Jessica Rittler Sanchez was welcomed as a full member of the P&I committee.

2. Adoption of minutes from the July 26, 2024 CMP Policy & Implementation Committee Meeting

Commissioner Avery moved the adoption of the July 26, 2024 meeting minutes. Commissioner Lohbauer seconded the motion. All ayes. The motion passed.

3. Discussion of NJDEP Proposed Resilient Environments and Landscapes Rule Amendments (REAL Rules)

Attachment A to these minutes and posted on the Commission's website at the following address:
<https://www.nj.gov/pinelands/home/presentations/NJREAL%20-%20CZM.pdf>

Legal and Legislative Affairs Chief, Stacey Roth, reviewed proposed New Jersey Department of Environmental Protection (NJDEP) REAL rule amendments to the Coastal Zone Management Rules (CZM Rules) used by NJDEP in the review of CAFRA (Coastal Area Facilities Review Act), the Wetland Act of 1970 and Waterfront Development Act applications. She noted amendments to the CZM rules include the addition of two new goals addressing climate change informed management and equity, justice and social vulnerability. She explained amendments requiring an inundation risk assessment for development that will occur in an inundation risk zone and the addition of standards to the CZM rules for consistency with the State Planning Commission. She also noted the elimination of the NJDEP delineated, non-mainland coastal center designation and the impact on impervious cover limits.

Commissioner Rittler Sanchez inquired if metrics were provided for the impervious cover limits. Ms. Roth responded that no changes were made to those metrics.

Commissioner Avery inquired whether the goals were legislative or staff goals.

Ms. Roth said the two goals were added by NJDEP staff to the existing eight in the current rules.

Commissioner Avery requested a list of the existing regulations and new goals. Committee members requested copies be distributed to all members.

Ms. Roth outlined amendments that replace the existing “living shoreline” rule with a “nature-based solutions” rule to broaden protection of New Jersey’s coastal wetlands by incorporating natural vegetation and features to address erosion and flooding issues. She noted the proposed rule’s encouragement of placing dredge spoils in the same ecosystem from where it was taken.

Executive Director Grogan inquired if those were guidelines or requirements. Ms. Roth said they were guidelines.

Commissioner Avery questioned if the proposed rules distinguish a difference between clean spoils and contaminated. Ms. Roth explained that the Pinelands Comprehensive Management Plan (CMP) and NJDEP rules differ in their definition of what constitutes contaminated soils and that the proposed rule does not make that distinction.

Discussion continued on provisions to encourage renewable energy and standards for installation of submerged electrical cables associated with offshore wind energy.

Ms. Roth reviewed horizontal directional drilling (HDD) provisions and noted that HDD is no longer the preferred method. She explained that under the Freshwater Wetlands Protection Act, as part of a GP 2 (general permit) application review, an applicant would need to demonstrate that the HDD activity will not adversely impact or result in a discharge into regulated areas.

Ms. Roth outlined amendments to replace existing permits-by-rule relating to the installation of underground utility lines under the Flood Hazard Area Control Act as well as new definitions in the Coastal Zone Management rules.

Ms. Roth reviewed the potential impact on Pinelands Commission activities, including additional permitting requirements, the need for review, revision or termination of older existing MOAs (Memoranda of Agreement) and dedication of staff time should the rule amendments be adopted. She suggested the likely need for discussion with NJDEP on existing MOAs and the value of continuing them.

Ms. Roth summarized the anticipated timeline for amendment adoption. ED Grogan said she anticipates a large response and as a result, the delay or extension to the public comment period.

Chair Matos opened the floor to questions.

Commissioner Rittler Sanchez inquired about the effectiveness of existing MOAs.

Executive Director Grogan responded that the MOA that provides for the Commission to issue general permits for wetlands for NJDEP has been effective. Regarding the CAFRA MOA, she said that the Commission reviews applications and provides comments to NJDEP, but that NJDEP consideration of the Commission comments is often inconsistent and therefore the MOA may be considered less effective.

Commissioner Rittler Sanchez said it is an opportunity to review MOAs and streamline processes.

There being no further questions or comments, Chair Matos closed the discussion.

4. PCF Land Acquisition Project Recommendations

Attachment B to these minutes and posted on the Commission's website at the following address: https://www.nj.gov/pinlands/home/presentations/2024-10.25%20P_1%20meeting%20Project%20Recs%20OPEN%20SESSION%20ONLY.2.pdf

Gina Berg, the Commission's Director of Land Use Programs, presented a summary and reviewed evaluation criteria of Pinelands Conservation Fund (PCF) 2024 Land Acquisition Project applications.

Ms. Berg said in February, notice of the PCF 2024 Land Acquisition grant round was provided to land acquisition partners, counties, municipalities and non-government organizations. She reported that as of the September 16th closing date, two project proposals were received. One was submitted by the Rancocas Conservancy in Burlington County and the other was from the Unexpected Wildlife Refuge in Gloucester County.

She discussed each project's characteristics relative to the PCF evaluation criteria. She reported that neither of the proposals were located in the acquisition target areas and would therefore require full Commission approval if the Committee recommended moving forward with funding.

She said staff is not recommending grants be awarded for either of the two projects.

Ms. Berg said the Committee will need to continue discussion in closed session to review project specifics, allocation requests, funding and staff recommendations.

At 10:07 a.m., Commissioner Rittler Sanchez moved that the Committee meet in closed session to review project specifics. Commissioner Lohbauer seconded the motion, and all voted in agreement. The motion passed.

Commissioner Avery recused himself from the closed session due to his relationship with the Ocean County Natural Lands Trust.

At 10:35 a.m., the Committee reconvened in open session.

Ms. Berg summarized that during closed session, staff recommended that the Committee decline to provide Pinelands Conservation funding to the two project proposals for land acquisition submitted during the recent round.

Commissioner Lohbauer moved to adopt the staff recommendation on these PCF land acquisition projects. Commissioner Rittler Sanchez seconded the motion. All Ayes. Commissioner Avery recused. The motion passed.

There being no further questions or comments, Chair Matos closed the discussion.

5. Public Comment

Connie Wagner of Voorhees, NJ, spoke in favor of changing the zoning of the Black Run Watershed as a way to protect the headwaters leading to the Rancocas Creek and associated sensitive areas.

Kitty Newell, a resident of Sturbridge Lake, spoke in support of moving forward with the rezoning of the Black Run area and inquired if residents can take any action to help facilitate the process.

Jason Howell of the Pinelands Preservation Alliance said he would support initiatives to move the Black Run preservation forward. He also said that the 1991 Pinelands Commission wetlands delineation manual supplement to the federal wetlands delineation manual should be followed to correctly identify wetlands in the Pinelands. He expressed his opinion that a small wetlands in Pemberton Township was not identified because the Pinelands wetlands manual was not followed. He asked that Pinelands science office staff be consulted in wetlands delineation on development applications.

Steven M. called in to request the Commission to move forward with the Black Run rule for rezoning of the Black Run watershed to a Pinelands Forest Area.

There being no further comments, Chair Matos closed public comment and opened comments to Commissioners.

Commissioner Wallner requested a staff update on the status of the Black Run rule proposal.

ED Grogan said that the rule proposal addresses the management area change from the Rural Development Area to the Forest Area; it does not guarantee preservation of the area. She said that land preservation would require land acquisition by a land preservation entity. She said the Black Run rule proposal is part of a package of drafted CMP amendments currently being worked on by staff. Ms. Grogan said significant staff time is needed to finalize the rule package. She noted that the rule proposal is complicated and emphasized the need to be careful so that challenges to the rule could be avoided.

Commissioner Wallner inquired on a timeline.

ED Grogan said she hopes to provide the Committee with a status update in November.

Commissioner Rittler Sanchez thanked Executive Director Grogan for her explanation.

6. Adjournment

There being no other business, Commissioner Lohbauer moved to adjourn the meeting. Commissioner Avery seconded the motion. All voted in favor. The meeting was adjourned at 10:54 a.m.

Certified as true and correct:



Lori Friddell
Land Use Programs Technical Assistant

Date: November 1, 2024

NJREAL Rules

Coastal Zone Management

CMP Policy and Implementation Committee Meeting
October 25, 2024

Applicability

- ▶ CAFRA
- ▶ Wetland Act of 1970
- ▶ Waterfront Development Act

Amendments

- ▶ Adds Two New Goals
 - ▶ Climate Change Informed Coastal Mgmt
 - ▶ Equity, Justice and Social Vulnerability
- ▶ Inundation Risk Assessment
 - ▶ For projects in inundation risk zone
- ▶ Adds Standards for Consistency with State Planning Commission

Amendments

- ▶ Nature-Based Solutions
- ▶ Encourages Off-Shore Wind

Amendments

- ▶ Horizontal Directional Drilling
 - ▶ Freshwater Protection Act
 - ▶ Flood Hazard Area Control Act
 - ▶ Coastal Zone Management

Impacts to Pinelands Commission

▶ Permitting

- ▶ HDD General Permits
- ▶ Additional permitting requirements
 - ▶ e.g. Impacts of FHACA rule changes on review of minor stream encroachment permits

▶ Old MOAs

- ▶ February 1988 – CAFRA administration in PNR
- ▶ October 1998 – Certain Minor Stream Encroachment Permits (FHACA)

Next Steps

- ▶ Reach out to NJDEP to discuss impact of REAL rules about the old MOAs and associated permitting in the Pinelands
- ▶ Rewrite, revise or terminate old MOAs

A close-up photograph of a plant with yellow and purple flowers and a small black ant on a purple leaf. The text is overlaid on the image.

Pinelands Conservation Fund Land Acquisition Program



2024 PCF Available Funds



Initial funds available: **\$3,000,000**

Photo by Paul Leakan, NJPC



PCF 2024 Round of Applications

- **May 3, 2024:** Commission announced grant availability to eligible entities
- **September 16, 2024:** project proposal applications due
- Staff reviewed and evaluated applications
 - Using authorized evaluation criteria
 - Including site visits
- **October 25, 2024:** Staff presents projects recommended for PCF allocations to P&I Committee for approval



Photo by Paul Leakan, NJPC



Submitted Applications

2 applications submitted:



Rancocas Conservancy,
Burlington County



Unexpected Wildlife Refuge,
Gloucester County



Photo by Paul Leakan, NJPC



Evaluation Criteria

Factor	Low (1)	Medium (3)	High (5)
Location ¹ : Is the project in PCF focus areas for flood or wildfire	In RGA, Town, Village or Rural Development Area AND one of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SJTA and inside the State Pinelands Area
T&E Habitats ² :	No state/federal T&E habitat per NJDEP Landscape Model AND no NJPC and ENSP sightings	T&E habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings	Grassland habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings
Size:	Less than 50 acres	Between 50 and 100 acres	100 acres or more; add 3 additional points if greater than 500 acres
Contiguity:	Less than one mile from preserved open space	Less than one mile from known grassland T&E habitats but not contiguous	Contiguous with preserved habitat or open space
Partner Contribution:	66.7% of acquisition costs	At least 75% of acquisition costs	Greater than 75% of acquisition costs
Maintenance & Stewardship:	Written maintenance /stewardship plan	Written maintenance/ stewardship plan and specific stewardship project proposal	Written maintenance/ stewardship plan and agreement to partner on future grant proposal for stewardship projects
Environmental Justice Communities Stressors ³ :	One stressor identified	Three or four stressors identified	More than five stressors identified



Today's Recommendations

Both projects would require grant approval by the full Pinelands Commission, due their location outside of acquisition target areas.

Staff is not recommending grant approval.



Photo by Paul Leakan, NJPC



PCF Closed Session



Pine barren gentian (*Gentiana autumnalis*) remains closed on a cloudy day.

Photo by Robyn A. Jeney, NJPC

Closed session is necessary to afford confidentiality to proposed projects while landowners and potential buyers negotiate a contract.



PCF Open Session



Pine barren gentian (*Gentiana autumnalis*) opens in the sunlight.

Photo by Robyn A. Jeney, NJPC

Closed session was necessary to afford confidentiality to proposed projects while landowners and potential buyers negotiate a contract.



Summary of Closed Session

- 2 projects were reviewed
- Projects are not recommended for grant allocation
- Project sponsors will be notified





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-24-_____

TITLE: Issuing an Order to Certify Hamilton Township Ordinance 2085-2024, Adopting a Site-Specific Redevelopment Plan for Block 237, Lot 1 and 2

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, on March 8, 1985, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Hamilton Township; and

WHEREAS, Resolution #PC4-85-10 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-85-10 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on September 16, 2024, Hamilton Township adopted Ordinance 2085-2024, adopting a Site-Specific Redevelopment Plan for Block 237, Lot 1 and 2 located within the Township's Pinelands Forest Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2085-2024 on September 19, 2024; and

WHEREAS, by letter dated October 4, 2024, the Executive Director notified the Township that Ordinance 2085-2024 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 2085-2024 was duly advertised, noticed and remotely held on November 6, 2024, at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Executive Director has found that Ordinance 2085-2024 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 2085-2024, adopting the Site-Specific Redevelopment Plan for Block 237, Lot 1 and 2, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 2085-2024 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Hamilton Township Ordinance 2085-2024, adopting the Site-Specific Redevelopment Plan for Block 237, Lot 1 and 2, dated August 2024, is in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Hamilton Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Asselta				Lettman				Rittler Sanchez			
Avery				Lohbauer				Wallner			
Christy				Mauriello				Matos			
Holroyd				Meade							
Irick				Pikolycky							

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Susan R. Grogan
Executive Director

Laura E. Matos
Chair



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Report on Hamilton Township Ordinance 2085-2024, Adopting the Site-Specific Redevelopment Plan for Block 237, Lot 1 & 2

November 22, 2024

Hamilton Township
6101 Thirteenth Street
Mays Landing, NJ 08330

Findings of Fact

I. Background

The Township of Hamilton is located in the south-central portion of the Pinelands Area in Atlantic County. Pinelands Area municipalities adjacent to Hamilton Township include the Townships of Mullica, Galloway, Egg Harbor, Weymouth and Buena Vista as well as Estell Manor City, Folsom Borough and the Town of Hammonton, all of which are located in Atlantic County.

On March 8, 1985, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Hamilton Township.

On September 16, 2024, the Hamilton Township Committee adopted Ordinance 2085-2024, approving the Site-Specific Redevelopment Plan for Block 237, Lot 1 and 2, dated September 2024. The associated redevelopment area is located within a Pinelands Forest Area. The Pinelands Commission received a certified copy of Ordinance 2085-2024 on September 19, 2024.

By letter dated October 4, 2024, the Executive Director notified the Township that Ordinance 2085-2024 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance 2085-2024, adopting the Site-Specific Redevelopment Plan for Block 237, Lots 1 and 2, dated August 2024, introduced on August 19, 2024 and adopted on September 16, 2024.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan (CMP). The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Master Plans and Land Use Ordinances Relating to Development Standards

Ordinance 2085-2024 adopts the Site-Specific Redevelopment Plan for Block 237, Lot 1 & 2, dated September 2024. The associated redevelopment area is approximately 105.2 acres and is the site of a former, but now vacant, industrial building (see Exhibit #1). The existing industrial building predates the CMP and contains approximately 31,000 square feet. The redevelopment area is bordered by the Atlantic City Expressway to the south and southwest, privately-owned, forested lands to the northwest; and the Makepeace Lake Wildlife Management Area from the northeast to the southeast. A shooting range at the Makepeace Lake Wildlife Management Area is located directly across Elwood Road from the redevelopment area. The entirety of the redevelopment area is located in the Township's Forest Area-70 (FA-70) District, which is within a Pinelands Forest Area.

The Township has been actively seeking a tenant for the existing facility that could ameliorate the blighted conditions of the site and to return it to active use. This task has faced barriers as the prior non-conforming industrial use has been deemed abandoned under the CMP. This status prevents the reestablishment of the prior non-conforming industrial use at the site (N.J.A.C. 7:50-5.2). The Township's FA-70 District is reflective of the limited uses that the CMP permits in a Forest Area. The district permits agriculture, agricultural commercial establishments, campgrounds, forestry, low-intensity recreation, places of worship, and schools. Single-family dwelling units are also permitted at a density of one dwelling unit per 70 acres. Re-establishing a non-residential use at this site has remained a challenge due to these constraints.

The redevelopment plan adopted by Ordinance 2085-2024 seeks to effectuate the redevelopment of the former industrial building as a Class 1 Cannabis (cultivation) facility. The redevelopment plan establishes an overlay zone encompassing the entire redevelopment area. The underlying zoning regulations of the FA-70 District remain applicable to the redevelopment area except as modified by the redevelopment plan. The overlay zone conditionally permits Class 1 Cannabis (cultivation) facilities and provides a variety of associated conditional use standards.

A notable conditional use standard limits any Class 1 Cannabis facility to those activities consistent with the definitions of "Agricultural or Horticultural Purpose or Use" and "Agricultural Products Processing Facility" as provided in Chapter 203 of the Township Code. These two definitions align with those contained in the CMP. Importantly, while the CMP permits agricultural uses in Forest Areas, it does not permit agricultural products processing facilities in that management area. The Township's FA-70 District reflects those limitations.

However, drawing upon the CMP's municipal flexibility provisions, the Township is providing a limited opportunity for a Class 1 Cannabis Cultivator licensee to engage in the full range of activities permitted under that license, including those that would fall under the CMP definition of agricultural products processing.

Class 1 Cannabis Cultivator licenses are established by state law (N.J.S.A. 24:6I-37), and activities authorized under a Class 1 Cannabis Cultivator license are further described under the Personal Use Cannabis Rules adopted by the Cannabis Regulatory Commission (N.J.A.C. 17:30-10.2). As interpreted through the regulations of the CMP, some of the activities authorized under the Class 1 license are considered agricultural activities (i.e., propagating, germinating, planting, cultivating, growing, or harvesting cannabis), while others are considered agricultural products processing activities (i.e., processing or packaging cannabis or, depending on the methods, drying or curing cannabis). Under the redevelopment plan, these later processing activities would be permitted within the redevelopment area.

Recognizing the size of the parcel and the Township's targeted focus on rehabilitating the vacant industrial building, the redevelopment plan limits the location of any development associated with a Class 1 Cannabis facility to an approximately 10-acre area that has been previously developed/cleared as depicted in the redevelopment plan (see Exhibit #2). This is an important constraint that would limit agricultural products processing activities to no more than 10 acres of the overall redevelopment area.

The remaining conditional use standards include minimum distance requirements from other cannabis facilities, schools, and places of worship; requirements that cultivation take place in enclosed heated and air-conditioned buildings; requirements for air treatment and ventilation to mitigate odor; and various security requirements.

The overlay zone also permits various uses accessory to a Class 1 Cannabis facility including administrative offices, environmental equipment, parking, trash enclosures, fencing, signage, and any other accessory buildings incidental to a permitted principal use. The sale or consumption of food, beverages, alcohol, or tobacco, as well as a marijuana consumption area are expressly prohibited.

Lastly, it is noted that Section XII (Relationship of the Redevelopment Plan to Other Plans) of the redevelopment plan incorrectly references the redevelopment area as being in the Pinelands Regional Growth Area rather than the Forest Area. This is clearly a clerical error, as the remainder of the redevelopment plan correctly acknowledges the redevelopment area's location in the FA-70 District within the Forest Area. Furthermore, Section XII has no impact on the land development standards contained in the redevelopment plan and, therefore, should not warrant further amendment for the purposes of Commission certification.

Pinelands municipalities have long had the ability to refine the various standards and provisions of the CMP and tailor them to local conditions, provided CMP goals and objectives continue to be achieved. In this case, Hamilton Township has chosen to adopt an ordinance that allows a limited opportunity for redevelopment of an existing nonresidential structure in its Pinelands Forest Area. Under the ordinance, redevelopment may only consist of agriculture and the processing of agricultural products. Furthermore, the standards adopted by Ordinance 2085-2024 confine the redevelopment to the previously disturbed portion of the site. This represents an appropriate exercise of municipal flexibility, one that meets the objectives of the CMP.

Ordinance 2085-2024 and the Site-Specific Redevelopment Plan for Block 237, Lot 1 & 2, are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

All development in the redevelopment area remains subject to the application requirements and procedures in the Township's certified land use ordinance, including the need to obtain a Certificate of Filing from the Pinelands Commission and to meet the minimum application submission requirements.

This standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

All development in the redevelopment area remains subject to the municipal development review procedures in the Township's certified land use ordinance.

This standard for certification is met.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

All development in the redevelopment area remains subject to municipal development review procedures in the Township's certified land use ordinance.

This standard for certification is met.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable

9. Referral of Development Applications to Environmental Commission

All development in the redevelopment area remains subject to the municipal development

review procedures in the Township's certified land use ordinance, including the referral of any application within the Pinelands Area portion of the Township to the Township Environmental Commission for review and comment.

This standard for certification is met.

10. General Conformance Requirements

Ordinance 2085-2024 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 2085-2024 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

The redevelopment area subject to Ordinance 2085-2024 does not affect lands adjacent to any other municipalities. Intermunicipal conflicts are not anticipated. Therefore, this standard for certification is met.

Public Hearing

A public hearing to receive testimony concerning Hamilton Township's application for certification of Ordinance 2085-2024 was duly advertised, noticed and held on November 6, 2024 at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcast live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. Oral testimony was provided by the following individual:

Brooke Fisher of the Great Egg Harbor River Watershed Association thanked the Pinelands Commission for the work on this redevelopment plan. She stated that redevelopment makes a lot of sense and would be an improvement on what is already there. She asked whether there would be any updates to the stormwater management practices on the site and if any of the forested area of the parcel will be deed restricted as a condition of the new use.

Written comments on Ordinance 2085-2024 were accepted through November 8, 2024. No written comments were received.

Executive Director's Response




In response to Ms. Fisher's questions, any proposed development within the redevelopment area under either the redevelopment plan or the underlying zoning will require application to the Pinelands Commission. Any such application will be required to demonstrate consistency with the minimum environmental standards of the Pinelands CMP, including those for stormwater management. The Commission received an application for the development of a Class 1 Cannabis Facility at the site in January 2024. However, it has not yet been determined what existing stormwater facilities are contained on the site and what additional development will be proposed in the 10-acre area. Therefore, it is hard to predict what, if any, additional stormwater management improvements will be required onsite to meet CMP standards. In terms of whether there is any requirement to deed restrict the remaining forest lands on the parcel, the redevelopment plan contains no such requirements. The remainder of the site, outside the 10-acre area, will remain available for agriculture and other uses permitted in the Township's FA-70 District.

Conclusion

Based on the Findings of Fact cited above, the Executive Director has concluded that Hamilton Township Ordinance 2085-2024, adopting the Site-Specific Redevelopment Plan for Block 237, Lots 1 and 2, complies with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 2085-2024 of Hamilton Township.

SRG/DBL/KLE/CHA
Attachments

Hamilton Township Ordinance 2085-2024

-  Redevelopment Area
-  Parcel Boundaries
-  Developed/Cleared Area

Executive Director's Report
Hamilton Twp. Ord. 2085-2024
11/22/20224
Exhibit #1





2377 ELWOOD
RD

Blueberry Road



PHILIP D. MURPHY
Governor
TAHESHA L. WAY
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



LAURA E. MATOS
Chair
SUSAN R. GROGAN
Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: Members of the CMP Policy & Implementation Committee

From: Katie Elliott *KE*
Planning Specialist

Date: November 13, 2024

Subject: Municipal Model Off-Road Vehicle Control Ordinance

The P&I Committee has had an on-going discussion regarding illegal off-road vehicle (ORV) damage in the Pinelands. As a result, the P&I Committee's workplans for fiscal years 2024 and 2025 have each included an initiative to develop a municipal model ordinance addressing illegal ORV use.

Attached for the Committee's consideration is a draft model ordinance that will be discussed at the upcoming Committee meeting (Attachment #1). The model ordinance was developed based on a thorough review of relevant state statutes and policy guidance as well as a review of existing municipal regulations in the Pinelands area.

Staff will brief the Committee on the findings of our review and how it was translated into the model ordinance. Staff would like to solicit feedback from the Committee on the model ordinance and discuss the next steps.

To support the discussion of the model ordinance, attached are three key resources that informed its development:

- The principal laws enabling municipal regulation of ORVs (N.J.S.A. 39:3C; Attachment #2).
- A law was passed in early 2022 that, among other things, permitted law enforcement to confiscate and destroy all-terrain vehicles (ATVs) that are used in illegal riding activities (P.L. 2021, c. 353; Attachment #3).
- A memo published by the Office of the Attorney General in 2023 providing guidance to law enforcement officials on the regulation of ORV and ATV use on public lands and public roads (Attachment #4).

ORDINANCE NO. _____

**AN ORDINANCE OF THE [MUNICIPALITY], COUNTY OF [COUNTY], STATE OF
NEW JERSEY ESTABLISHING REGULATIONS ON THE USE OF OFF-ROAD
VEHICLES**

WHEREAS, N.J.S.A. 39:3C-1 et seq. provides regulations on the use of various off-road vehicles, including the use of all-terrain vehicles, dirt bikes, and snow mobiles; and

WHEREAS, the New Jersey Legislature adopted P.L.2021, c.353 amending N.J.S.A. 39:3C-1 et seq. and N.J.S.A. 2C:64-1 et seq.; and

WHEREAS, the amendments at N.J.S.A. 39:3C-35 authorize a municipality to declare, by ordinance, that an all-terrain vehicle or dirt bike operated on any 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 to designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with N.J.S.A. 2C:64-1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 40:80-2 a municipality is empowered to adopt ordinances for the public health, safety and welfare of the municipality and its residents; and

WHEREAS, the [Governing Body] of the [Municipality] believes it is in the best interests of the residents of [Municipality] to implement N.J.S.A. 39:3C-1 et seq., as amended by P.L. 2021, c.353, and to declare that any 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's health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the [Governing Body] of the [Municipality], County of [County] and State of New Jersey, as follows:

SECTION 1: Chapter [Vehicles and Traffic Chapter] of the Code of [Municipality] is hereby amended by establishing Article [Article No.] as follows:

Article [Article No.] Off-Road Vehicles

§ 1. Purpose.

The purpose of this article is to control and regulate off-road vehicles, pursuant to N.J.S.A. 39:3C-1 et seq., in order to preserve the public peace and order and protect the health, safety and welfare of the general public of [Municipality Name].

§ 2. Definitions.

- A.** Whenever any words and phrases are used in this chapter, the meaning respectively ascribed to them in N.J.S.A. 39:1-1 shall be deemed to apply to such words and phrases used herein.
- B.** As used in this article, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE — 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 — 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.

OFF-ROAD VEHICLE — any motorized vehicle with two or more wheels or tracks that is capable of being operated off of regularly improved and maintained roads including, but not limited to, motorcycles as defined in R.S.39:1-1, snowmobiles and all-terrain vehicles, and dirt bikes as defined in section 5 of P.L.1991, c.496 (C.2A:42A-6.1).

PRIVATE PROPERTY — All lands in the [MUNICIPALITY] not defined as public property or part of the road system as accepted hereinbefore.

PUBLIC HIGHWAY — The entire width between the boundary lines of every right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

PUBLIC LANDS — All land owned, operated, managed, maintained, or under the jurisdiction of the Department of Environmental Protection, including any and all land

owned, operated, managed, maintained, or purchased jointly by the Department of Environmental Protection with any other party and any land so designated by municipal or county ordinance. Public land shall also mean any land used for conservation purposes, including, but not limited to, beaches, forests, greenways, natural areas, water resources, wildlife preserves, land used for watershed protection, or biological or ecological studies, and land exempted from taxation pursuant to section 2 of P.L.1974, c.167 (C.54:4-3.64).

VEHICLE — Every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

§ 3. Operation and use restrictions.

- A. Public Lands.** It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike on public grounds or property (including playgrounds and recreational areas) except on public streets or highways as defined in N.J.S.A. 39:1-1 and public parking areas.
- B. Limited Access Highways.** No person shall operate an all-terrain vehicle or dirt bike upon limited-access highways or within the right-of-way limits thereof.
- C. Public Streets or Highways.** No person shall operate an all-terrain vehicle or dirt bike upon the main traveled portion of any public street or highway or within the right-of-way limits thereof except as follows:
 - a.** Properly registered all-terrain vehicles and dirt bikes may cross, as directly as possible, public streets or highways, except limited access highways, provided that such crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction of such public street or highway. Prior to making any such crossing, the operator shall bring the all-terrain vehicle or dirt bike to a complete stop. It shall be the responsibility of the operator of the all-terrain vehicle or dirt bike to yield the right-of-way to all vehicular traffic upon any public street or highway before crossing the same.
 - b.** Whenever it is impracticable to gain immediate access to an area adjacent to a public highway where an all-terrain vehicle or dirt bike is to be operated, the all-terrain vehicle or dirt bike may be operated adjacent and parallel to such public highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of an all-terrain vehicle or dirt bike from the point where the all-terrain vehicle or dirt bike is unloaded from a motorized conveyance to the area where it is to be operated or from the area where operated to a motorized conveyance, when the loading or unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the public highway. The loading or unloading must be accomplished with due regard to safety, at the nearest possible point to the area of operation.

D. Written Consent.

- a.** No person shall operate an all-terrain vehicle or dirt bike on the property of another without receiving the consent of the owner of the property and the person who has a contractual right to the use of such property.
- b.** No person shall continue to operate an all-terrain vehicle or dirt bike on the property of another after consent, as provided in a. above, has been withdrawn.

E. Harsh, Objectionable or Unreasonable Noise. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike in any manner as to cause a harsh, objectionable or unreasonable noise so as to disturb or interfere with the peace and quiet of other persons.

F. Careless, Reckless or Negligent Operation. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike in a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety or property of any person.

G. Protective Helmets. It shall be unlawful for any person to operate or ride as a passenger of any all-terrain vehicle or dirt bike without wearing a protective helmet approved by the Director of the Division of Motor Vehicles in the Department of Law and Public Safety of this State of New Jersey. Any such helmet shall be of a type acceptable for use in conjunction with motorcycles as provided in N.J.S.A. 39:3-76.7 through N.J.S.A. 39:3-76.10.

H. Headlights, Taillights, Brakes and Mufflers. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike that is not equipped with working headlights, taillights, brakes and proper mufflers as supplied by the motor manufacturer for the particular model without modifications. All all-terrain vehicles and dirt bikes shall be equipped with:

- a.** Headlights. At least one white or amber headlamp having a minimum candlepower of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions.
- b.** Taillights. At least one red taillamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.
- c.** Brakes. A brake system in good mechanical condition.
- d.** Reflector material. Reflector material of a minimum area of 16 square inches mounted on each side of the cowling. Registration numbers or other decorative material may be included in computing the required 16-square-inch area.

- e. Mufflers. An adequate muffler system in good working condition.
- I. Pursuit of Wildlife. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike at any time and in any manner intended or reasonably to be expected to harass, drive or pursue any wildlife.
- J. Lighted Headlights and Taillights. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike during the hours from ½ hour before sunset to ½ hour after sunrise without lighted headlights and lighted taillights.
- K. Railroads. It shall be unlawful for any person to operate an all-terrain vehicle or dirt bike upon railroad or right-of-way of an operating railroad, except railroad personnel in the performance of their duties.
- L. Rules and Regulations. It shall be unlawful for any person to violate any provision of this article.

§ 4. Age requirement.

- A. No person under the 14 years of age shall operate or be permitted to operate any all-terrain vehicle or dirt bike on public lands or waters or across a public highway.
- B. No person under 16 years of age shall operate or be permitted to operate any all-terrain vehicle or dirt bike on public lands or waters or across a public highway with an engine capacity greater than 90 cubic centimeters.
- C. No person under 18 years of age shall operate or be permitted to operate any all-terrain vehicle or dirt bike on public lands or waters or across a public highway unless the person has completed a safety education and training course established or certified by the Commissioner of the Department of Environmental Protection pursuant to N.J.S.A. 39:3C-15. At all times during the operation of the all-terrain vehicle or dirt bike the person shall possess a certificate indicating successful completion of the course.

§ 5. Impoundment; duration; cost.

Any police officer may, at their discretion:

- A. Impound any all-terrain vehicle or dirt bike operated on public or private property alleged to be a violation of this article, either by virtue of its operation and use contrary to the provisions of this article or by virtue of its operation by an unlicensed operator.
- B. Impound any all-terrain vehicle or dirt bike operating on the public roadways or waterways in violation of any then-applicable state statute or any regulation validly promulgated by any state agency having jurisdiction. The period of impoundment shall be from the date of the alleged violation until the disposition of the alleged offense by

such court of competent jurisdiction as shall hear the same, and the owner thereof shall pay the reasonable cost of the removal and storage constituting impoundment. [The Director of Public Safety/Police Chief] or their designee may authorize early release. The expense of impoundment shall be in addition to any other fine or penalty levied or collected under the terms of this article.

§ 6. Prohibited operation; forfeiture;

- A.** It shall be unlawful and pose an immediate threat to the public health, safety and welfare of the residents of [MUNICIPALITY] for any person to operate an all-terrain vehicle or dirt bike upon any public street, highway or right-of-way located within [MUNICIPALITY] in violation of this article or N.J.S.A. 39:3C-17. Any all-terrain vehicle or dirt bike operated in a manner that violates this section shall be deemed contraband and subject to forfeiture in accordance with N.J.S.A. 2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to N.J.S.A. 2C:64-1 et seq. shall be disposed of in accordance with the provisions of N.J.S.A. 2C:64-6 or, at the discretion of the [MUNICIPALITY], may be destroyed.
- B.** It shall be unlawful for the drive up refueling of all-terrain vehicles or dirt bikes directly using gas pumps within the [MUNICIPALITY]. Any fueling business permitting the drive up refueling of all-terrain vehicles or dirt bikes will be in violation of this section, and shall be subject to the penalties in § 7, below

§ 7. Violations and penalties.

Any person who violates any provision of this section shall, upon conviction, be liable to the penalty of \$500 for the first offense and \$1,000 for the second offense, plus reasonable towing and storage fees.

39:3C-1 Definitions.

1. As used in P.L.1973, c.307 (C.39:3C-1 et seq.):

"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.

"Chief administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L.2003, c.13 (C.39:2A-4).

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

"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.

"Emergency medical technician" means a person trained in basic life support services as defined in section 1 of P.L.1985, c.351 (C.26:2K-21) and who is certified by the Department of Health to perform these services.

"Emergency service organization" means a fire or first aid organization, whether organized as a volunteer fire company, volunteer fire department, fire district, or duly incorporated volunteer first aid, emergency, or volunteer ambulance or rescue squad association.

"Natural resource" means all land, fish, shellfish, wildlife, biota, air, waters, and other such resources owned, managed, held in trust, or otherwise controlled by the State.

"Public land" means all land owned, operated, managed, maintained, or under the jurisdiction of the Department of Environmental Protection, including any and all land owned, operated, managed, maintained, or purchased jointly by the Department of Environmental Protection with any other party and any land so designated by municipal or county ordinance. Public land shall also mean any land used for conservation purposes, including, but not limited to, beaches, forests, greenways, natural areas, water resources, wildlife preserves, land used for watershed protection, or biological or ecological studies, and land exempted from taxation pursuant to section 2 of P.L.1974, c.167 (C.54:4-3.64).

"Snowmobile" means any motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment, or any military vehicle.

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"Special event" means an organized race, exhibition, or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

L.1973, c.307, s.1; amended 1985, c.375, s.2; 1991, c.496, s.7; 2009, c.275, s.1; 2013, c.135; 2015, c.155, s.3.

39:3C-2 Jurisdiction divided.

2. For the purpose of carrying out the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.):

a. The chief administrator shall have the power, duty, and authority to administer and enforce all statutes, rules, and regulations, except as otherwise provided by statute, relating to the operation and use of snowmobiles, all-terrain vehicles, and dirt bikes on or across a public highway or on public lands or waters, including but not limited to the following:

(1) Registration, identification, numbering, and classification;

(2) Equipment;

(3) Standards of safety;

(4) (Deleted by amendment, P.L.2009, c.275); and

(5) Promulgation of rules and regulations to effectuate the purposes of P.L.1973, c.307 (C.39:3C-1 et seq.).

b. The Commissioner of Environmental Protection shall have the power, duty, and authority to administer and enforce all other statutes, permits, rules, and regulations relating to snowmobiles, all-terrain vehicles, and dirt bikes on the public lands and waters under the jurisdiction of the Department of Environmental Protection such that:

(1) snowmobiles, all-terrain vehicles, and dirt bikes shall be operated only on highways and roads designated and marked for such operation, unless specifically authorized by the commissioner; and

(2) snowmobiles, all-terrain vehicles, and dirt bikes shall be operated only in areas designated and marked for such operation and only with a special use permit issued by the Department of Environmental Protection.

L.1973, c.307, s.2; amended 1985, c.375, s.3; 2009, c.275, s.2.

39:3C-3 Registration required; fees.

3. Except as otherwise provided, no snowmobile, all-terrain vehicle, or dirt bike shall be operated or permitted to be operated on or across a public highway or on public lands or waters of this State unless registered and numbered by the owner thereof as provided by P.L.1973, c.307 (C.39:3C-1 et seq.). The chief administrator is authorized to register and assign a number to snowmobiles, all-terrain vehicles,

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and dirt bikes upon application and payment of the appropriate fee in accordance with the following schedule:

- a. For each individual resident snowmobile registration, all-terrain vehicle registration, and dirt bike registration, \$50, for a period not to exceed 24 months, in accordance with the provisions of section 29 of P.L.1973, c.307 (C.39:3C-29).
- b. For each individual nonresident snowmobile registration, all-terrain vehicle registration, and dirt bike registration, \$50, for a period not to exceed 24 months, in accordance with the provisions of section 29 of P.L.1973, c.307 (C.39:3C-29).
- c. For replacement of a lost, mutilated, or destroyed certificate, \$5.
- d. For a duplicate registration, \$5 at the time of issuance.
- e. For an amended registration, \$5.
- f. In addition to the registration fees imposed pursuant to this section, the chief administrator shall impose and collect an additional fee of \$10 to be deposited in the "Off-Road Vehicle Recreational Fund" created by section 31 of P.L.2009, c.275 (C.39:3C-3.1).

All registrations shall be valid for a period not to exceed 24 months from the date on which the registration was issued, except that the chief administrator may suspend or revoke such registration for any violations of P.L.1973, c.307 (C.39:3C-1 et seq.) or of the rules promulgated hereunder.

L.1973, c.307, s.3; amended 1975, c.28; 1985, c.375, s.4; 1991, c.322, s.1; 1994, c.60, s.22; 2009, c.275, s.3.

39:3C-3.1 "Off-Road Vehicle Recreational Fund."

3.1.

- a. There is established in the General Fund a separate, non-lapsing, dedicated account to be known as the "Off-Road Vehicle Recreational Fund," hereinafter referred to as "the fund." Notwithstanding any provision of law to the contrary, each fiscal year the State Treasurer shall credit the revenue collected pursuant to subsection f. of section 3 of P.L.1973, c.307 (C.39:3C-3) into the fund. Each fiscal year, the State Treasurer shall allocate the monies contained in the fund to the Department of Environmental Protection. Each fiscal year, the State Treasurer shall credit all earnings received from the investment or deposit of revenue in the fund, to the fund. All revenues and earnings deposited in the fund shall be appropriated in the same fiscal year to the department.
- b. The monies credited to the fund shall be used by the Department of Environmental Protection for designating and maintaining sites in the State for the use of snowmobiles, all-terrain vehicles, and dirt bikes; sites shall be designated and shall be maintained in a manner that, to the greatest possible extent, mitigates any detrimental effects on the environment and protects public safety.

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L.2009, c.275,s.31.

39:3C-4 Permanent registration number.

4. Once a registration number is assigned, it shall remain with the registered snowmobile, all-terrain vehicle, or dirt bike until the snowmobile, all-terrain vehicle, or dirt bike is destroyed, abandoned or permanently removed from the State, or until changed or terminated by the chief administrator.

L.1973, c.307, s.5; amended 1985, c.375, s.5; 2009, c.275, s.4.

39:3C-5 Registration required; transfer of ownership.

5. The owner of a snowmobile, all-terrain vehicle, or dirt bike required to be registered and numbered in this State shall do so with the commission no later than six months after the effective date of P.L.2009, c.275 (C.39:3C-3.1 et al.).

Every person in the business of selling a snowmobile, all-terrain vehicle, or dirt bike shall require proof that the vehicle is properly registered with the New Jersey Motor Vehicle Commission, pursuant to section 3 of P.L.1973, c.307 (C.39:3C-3), before transferring actual physical possession of the snowmobile, all-terrain vehicle, or dirt bike to a purchaser of the vehicle.

If there is a change of ownership for which a registration certificate has been previously issued, the new owner shall apply for a new registration certificate and set forth the original number in the application. The owner shall demonstrate to the commission a notarized bill of sale, assignable certificate of origin, or other formal proof of ownership deemed acceptable by the commission when transferring ownership or selling a snowmobile, all-terrain vehicle, or dirt bike. The owner shall pay the regular fee for the particular snowmobile, all-terrain vehicle, or dirt bike involved. The owner of any registration certificate issued under this section may obtain a duplicate from the commission upon application and payment of the fee prescribed.

L.1973, c.307, s.5; amended 1985, c.375, s.6; 2009, c.275, s.5.

39:3C-6 Farm, government exemptions.

6.

a. Any snowmobile, all-terrain vehicle, or dirt bike solely operated for use on a farm shall be exempt from the registration and numbering requirements of P.L.1973, c.307 (C.39:3C-1 et seq.).

b. No registration fee shall be charged for a snowmobile, all-terrain vehicle, or dirt bike owned by the federal government, the State, county or municipal government or subdivision thereof.

L.1973, c.307, s.6; amended 1985, c.375, s.7; 2009, c.275, s.6.

39:3C-7 Reciprocity.

7. The registration provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) shall not apply to nonresident owners who have complied with the registration and licensing laws of the state or country of residence, provided that the snowmobile, all-terrain vehicle, or dirt bike is appropriately identified in accordance with the laws of the state or country of residence and conspicuously displays the number issued by the state or country of residence. Nothing in this section shall be construed to authorize the operation of any snowmobile, all-terrain vehicle, or dirt bike contrary to the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.).

L.1973, c.307, s.7; amended 1985, c.375, s.8; 2009, c.275, s.7.

39:3C-8 Display of registration number.

8. The number assigned to a snowmobile, all-terrain vehicle, or dirt bike and required to be displayed pursuant to section 3 of P.L.1973, c.307 (C.39:3C-3) shall be displayed on the snowmobile, all-terrain vehicle, or dirt bike at all times in such manner as the chief administrator may, by regulation, prescribe. No number other than the number assigned by the chief administrator, or a comparable identification number of the snowmobile, all-terrain vehicle, or dirt bike properly registered in another state, shall be painted, attached, or otherwise displayed on either side of the cowling, except that racing numbers on a snowmobile, all-terrain vehicle, or dirt bike being operated in prearranged organized special events may be temporarily displayed for the duration of the race.

L.1973, c.307, s.8; amended 1985, c.375, s.9; 2009, c.275, s.8.

39:3C-9 Production of certificate.

9.

a. Every person operating a snowmobile, all-terrain vehicle, or dirt bike registered or transferred in accordance with any of the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) shall, upon demand of any law enforcement officer, duly authorized conservation police officer of the Division of Fish and Wildlife or park police officer or law enforcement operation officer of the Division of Parks and Forestry within the Department of Environmental Protection, or any other police officer, produce for inspection the certificate of registration and shall furnish to the officer any information necessary for the identification of the snowmobile, all-terrain vehicle, or dirt bike and its owner. The failure to produce the certificate of registration when operating a snowmobile, all-terrain vehicle, or dirt bike on public lands and waters, or when crossing a public highway, shall be presumptive evidence in any court of competent jurisdiction of operating a snowmobile, all-terrain vehicle, or dirt bike which is not registered as required by P.L.1973, c.307 (C.39:3C-1 et seq.).

b. A person less than 18 years of age who operates a snowmobile, all-terrain vehicle, or a dirt bike which is registered in this State shall produce upon demand a certificate indicating that person's successful completion of a safety education and training course established or certified by the commissioner in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15). The failure to produce the certificate when operating a snowmobile, all-terrain vehicle, or dirt bike on public

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lands or waters, or when crossing a public highway, shall be presumptive evidence in any court of competent jurisdiction of the operation of the snowmobile, all-terrain vehicle, or dirt bike in violation of the requirement in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16).

L.1973, c.307, s.9; amended 1985, c.375, s.10; 1991, c.322, s.2; 2009, c.275, s.9; 2019, c.407, s.18.

39:3C-10 Change of address, public awareness campaign.

10.

a. It shall be the duty of every owner holding a certificate of registration to notify the commission, in writing, of any change of residence of such person within one week after the change occurs.

b. The chief administrator shall establish a public awareness campaign to inform the general public about the importance of maintaining a current address with the commission.

L.1973, c.307, s.10; amended 2007, c.281, s.1; 2009, c.275, s.10.

39:3C-11 Transfer of ownership.

11. In accordance with the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.), whenever there is a change of ownership for which a registration certificate has previously been issued, the new owner shall apply for a new certificate. The new owner shall set forth the original number issued in the application accompanied by the old registration, if available, and with the required fee submitted to the commission, for registration. The new owner shall demonstrate to the commission a notarized bill of sale, assignable certificate of origin, or other formal proof of ownership deemed acceptable by the commission when transferring ownership or selling a snowmobile, all-terrain vehicle, or dirt bike.

L.1973, c.307, s.11; amended 1985, c.375, s.11; 2009, c.275, s.11.

39:3C-12 Notification of destruction, theft, permanent removal.

12. It shall be the duty of every owner of a snowmobile, all-terrain vehicle, or dirt bike registered pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.) to notify the commission, in writing, of the destruction, theft, or permanent removal of the snowmobile, all-terrain vehicle, or dirt bike from the State, to surrender the certificate of registration within 10 days in the event of the destruction, theft, or permanent removal of the snowmobile, all-terrain vehicle, or dirt bike from the State.

L.1973, c.307, s.12; amended 1985, c.375, s.12; 2009, c.275, s.12.

39:3C-13 Permit for park use.

13. No political subdivision of the State shall require additional licensing or registration of snowmobiles, all-terrain vehicles, or dirt bikes which are covered by the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.).

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Nothing herein shall prohibit the requirement of a permit by State or local parks for use of snowmobiles, all-terrain vehicles, or dirt bikes on park lands or in any way affect the authority of the Department of Environmental Protection, the commissioner thereof, or those responsible for the operation of a park from adopting rules and regulations concerning the use of snowmobiles, all-terrain vehicles, and dirt bikes.

L.1973, c.307, s.13; amended 1985, c.375, s.13; 2009, c.275, s.13.

39:3C-14 Environmental regulations.

14. The commissioner, with a view towards minimizing detrimental effects on the environment and protecting public safety, shall adopt rules and regulations relating to and including, but not limited to, the following:

- a. Use of snowmobiles, all-terrain vehicles, and dirt bikes, insofar as fish, wildlife, and plantlife resources, and public safety are affected;
- b. Use of snowmobiles, all-terrain vehicles, and dirt bikes on public lands and waters under the jurisdiction of the Department of Environmental Protection; and
- c. Use of snowmobiles, all-terrain vehicles, and dirt bikes at three sites on State-owned land pursuant to section 38 of P.L.2009, c.275 (C.13:1L-5.1).

The commissioner may locate, designate, and make available by the effective date of P.L.1991, c.322 appropriate areas of public lands upon which snowmobile, all-terrain vehicle, and dirt bike safety education and training programs established or certified by the commissioner in accordance with section 15 of P.L.1973, c.307 (C.39:3C-15) may be conducted. The commissioner shall report to the Legislature and the Governor within one year after the effective date of P.L.1991, c.322 on the size and location of the public lands located, designated, and made available; on the frequency of the use, or the estimated frequency of use, of these public lands for safety education and training programs; and the environmental impact of this use on the lands.

L.1973, c.307, s.14; amended 1985, c.375, s.14; 1991, c.322, s.3; 2009, c.275, s.14.

39:3C-15 Commissioner's rules, regulations.

15. The commissioner may adopt rules and regulations relating to and including, but not limited to:

- a. (Deleted by amendment, P.L.2009, c.275).
- b. Establishment of a comprehensive snowmobile, all-terrain vehicle, and dirt bike information and safety education and training program.
- c. Granting of permits for the conduct of all prearranged special events as provided in P.L.1973, c.307 (C.39:3C-1 et seq.), including those permits necessary for special events conducted on public lands and waters under the jurisdiction of the Department of Environmental Protection.

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In accordance with the requirement in subsection b. of this section, the commissioner shall certify snowmobile, all-terrain vehicle, and dirt bike safety education and training programs to be offered by public or private agencies or organizations, the successful completion of which shall satisfy the training requirements in subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16). A person less than 16 years of age participating in an all-terrain vehicle safety education and training course established or certified by the commissioner shall operate during the training only an all-terrain vehicle with an engine capacity of 90 cubic centimeters or less.

L.1973, c.307, s.15; amended 1985, c.375, s.15; 1991, c.322, s.4; 2009, c.275, s.15.

39:3C-16 Age requirements.

16.

- a. A person under the age of 14 years shall not operate or be permitted to operate any snowmobile, all-terrain vehicle, or dirt bike on public lands or waters or across a public highway.
- b. A person less than 16 years of age shall not operate on public lands or waters or across a public highway of this State an all-terrain vehicle with an engine capacity greater than 90 cubic centimeters.
- c. A person less than 18 years of age shall not operate a snowmobile, all-terrain vehicle, or dirt bike registered in this State on public lands or waters or across a public highway of this State unless the person has completed a safety education and training course established or certified by the commissioner pursuant to section 15 of P.L.1973, c.307 (C.39:3C-15). At all times during the operation of the snowmobile, all-terrain vehicle, or dirt bike the person shall possess a certificate indicating successful completion of the course.

L.1973, c.307, s.16; amended 1985, c.375, s.16; 1991, c.322, s.5; 2009, c.275, s.16.

39:3C-17 Operational limitations.

17.

- a. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon limited access highways or within the right-of-way limits thereof.
- b. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon the main traveled portion or the plowed snowbanks of any public street or highway or within the right-of-way limits thereof except as follows:
 - (1) Properly registered snowmobiles, all-terrain vehicles, and dirt bikes may cross, as directly as possible, public streets or highways, except limited access highways, provided that such crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on the public street or highway. Prior to making any such crossing, the operator shall bring the snowmobile, all-terrain vehicle, or dirt bike to a complete stop. It shall be the responsibility of the

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operator of a snowmobile, all-terrain vehicle, or dirt bike to yield the right-of-way to all vehicular traffic upon any public street or highway before crossing the public street or highway.

(2) Whenever it is impracticable to gain immediate access to an area adjacent to a public highway where a snowmobile, all-terrain vehicle, or dirt bike is to be operated, the snowmobile, all-terrain vehicle, or dirt bike may be operated adjacent and parallel to the public highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of a snowmobile, all-terrain vehicle, or dirt bike from the point where the snowmobile, all-terrain vehicle, or dirt bike is unloaded from a motorized conveyance to the area where it is to be operated, or from the area where operated to a motorized conveyance, when the loading or unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the public highway. The loading or unloading must be accomplished with due regard to safety, at the nearest possible point to the area of operation.

L.1973, c.307, s.17; amended 1985, c.375, s.17; 2009, c.275, s.17.

39:3C-18 Operation on property of others; limitations of liability.

18.

a. No person shall operate a snowmobile, all-terrain vehicle, or dirt bike on the property of another without receiving the consent of the owner of the property and the person who has a contractual right to the use of the property.

b. No person shall continue to operate a snowmobile, all-terrain vehicle, or dirt bike on the property of another after consent, as provided in subsection a. above, has been withdrawn.

c. No owner of real property and no person or entity having a contractual right to the use of real property, no matter where the property is situate in this State, shall assume responsibility or incur liability for any injury or damage to an owner, operator, or occupant of a snowmobile, all terrain vehicle, or dirt bike if the injury or damage occurs during, or arises out of the operation or use of, the snowmobile, all-terrain vehicle, or dirt bike unless: (1) the operation or use is with the express consent of the owner and contractual user of the property, and (2) the provisions of P.L.1968, c.73 (C.2A:42A-2 et seq.) or P.L.1985, c.431 (C.2A:42A-6 et seq.) do not limit liability. This subsection shall not limit the liability which would otherwise exist for the willful or malicious creation of a hazardous condition.

L.1973, c.307, s.18; amended 1985, c.375, s.18; 1991, c.496, s.8; 2009, c.275, s.18.

39:3C-19 Unlawful activities.

19. It shall be unlawful for:

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- a. Any person to operate or ride as a passenger on any snowmobile, all-terrain vehicle, or dirt bike without wearing a protective helmet approved by the chief administrator. Any helmet shall be of a type acceptable for use in conjunction with motorcycles as provided in sections 6 to 9 of P.L.1967, c.237 (C.39:3-76.7 through 39:3-76.10).
- b. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike that is not equipped with working headlights, taillights, brakes, and proper mufflers as supplied by the motor manufacturer for the particular model, without modifications, nor shall any person operate any snowmobile, all-terrain vehicle, or dirt bike in any manner as to cause a harsh, objectionable, or unreasonable noise.
- c. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike at any time and in any manner intended or reasonably to be expected to harass, drive, or pursue any wildlife.
- d. Any person to operate any snowmobile, all-terrain vehicle, or dirt bike during the hours from 1/2 hour before sunset to 1/2 hour after sunrise without having lighted headlights and lighted taillights.
- e. Any person to operate any snowmobile, all-terrain vehicle, or dirt bike on the land of another without first securing the permission of the landowner or the landowner's duly authorized representative.
- f. Any person to operate a snowmobile, all-terrain vehicle, or dirt bike upon railroad or right-of-way of an operating railroad, except railroad personnel in the performance of their duties.
- g. Any person to violate any provision of P.L.1973, c.307 (C.39:3C-1 et seq.) or any rule or regulation adopted pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.).

L.1973, c.307, s.19; amended 1985, c.375, s.19; 2009, c.275, s.19.

39:3C-20 Mandatory insurance.

20.

- a. No snowmobile, all-terrain vehicle, or dirt bike shall be operated or permitted to be operated unless the owner thereof has obtained a policy of insurance, in such language and form as shall be determined by the Commissioner of Banking and Insurance, from an insurance carrier authorized to do business in this State, the terms of which policy shall indemnify an amount or limit of \$15,000, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident; and an amount or limit, subject to such limit for any one person so injured, or killed, of \$30,000, exclusive of interest and costs, on account of injury to or death of, more than one person, in any one accident; and an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident, for damages arising out of the negligent operation of the snowmobile, all-terrain vehicle, or dirt bike. In lieu of the insurance coverage as hereinabove provided, the chief administrator, in the chief administrator's discretion and upon application of the State or a municipality having registered in its name one or more snowmobiles, all-terrain vehicles, or dirt bikes, may waive the requirement of insurance by a

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private insurance carrier and issue a certificate of self-insurance, when the chief administrator is satisfied of financial ability to respond to judgments obtained against it or them, arising out of the ownership, use or operation of the snowmobiles, all-terrain vehicles, or dirt bikes.

b. Proof of insurance as hereinabove required shall be produced and displayed by the owner or operator of the snowmobile, all-terrain vehicle, or dirt bike upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of the snowmobile, all-terrain vehicle, or dirt bike by the owner or operator.

c. An owner of a snowmobile, all-terrain vehicle, or dirt bike who shall operate or permit the snowmobile, all-terrain vehicle, or dirt bike to be operated without having in effect the required liability insurance coverage, and any other person who shall operate any snowmobile, all-terrain vehicle, or dirt bike with the knowledge that the owner thereof does not have in effect the insurance coverage shall be guilty of a violation of P.L.1973, c.307 (C.39:3C-1 et seq.) and be subject to a fine of not less than \$25 nor more than \$100.

d. The chief administrator is hereby authorized to promulgate reasonable regulations to provide effective administration and enforcement of the provisions of this section in accordance with the purposes thereof.

L.1973, c.307, s.20; amended 1985, c.375, s.20; 2009, c.275, s.20.

39:3C-21 Post-accident procedures.

21. The operator of any snowmobile, all-terrain vehicle, or dirt bike involved in an accident resulting in injuries or death of any person or property damage shall comply with the procedures in R.S.39:4-129 and R.S.39:4-130.

L.1973, c.307, s.21; amended 1985, c.375, s.21; 2009, c.275, s.21.

39:3C-22 Special events.

22. The commissioner may authorize the holding of organized special events. The commissioner shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to a permit and designating the equipment and facilities necessary for safe operation of snowmobiles, all-terrain vehicles, and dirt bikes and for the safety of operators, participants, and observers in such special events. Whenever a special event requiring authorization of the department is proposed to be held in the State of New Jersey, the person in charge thereof shall, at least 90 days prior thereto, file an application with the commissioner to hold the special event. The application shall set forth the date of and location where it is proposed to hold the rally, race, exhibition, or organized event, and any other information as the commissioner may require, and it shall not be conducted without written authorization of the commissioner. Copies of such regulations shall be furnished by the commissioner to any person making an application therefor.

Any person sponsoring the event who shall violate any regulation adopted pursuant to this section shall for every violation be subject to a fine not to exceed \$250.

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L.1973, c.307, s.22; amended 1985, c.375, s.22; 2009, c.275, s.22.

39:3C-23 Limited exemptions.

23. Snowmobiles, all-terrain vehicles, and dirt bikes operated at special events shall be exempt from the provisions of this chapter concerning registration and lights during the time of operation of the special event, including all prerace practice at the location of the meet. In addition, snowmobiles, all-terrain vehicles, and dirt bikes operated at special events shall be exempt from the provisions of subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16) and subsection b. of section 9 of P.L.1973, c.307 (C.39:3C-9); however, subsection b. of section 16 of P.L.1973, c.307 (C.39:3C-16) shall apply to persons operating snowmobiles, all-terrain vehicles, and dirt bikes at special events and prerace practice.

L.1973, c.307, s.23; amended 1985, c.375, s.23; 1991, c.322, s.6; 2009, c.275, s.23.

39:3C-24 Mandatory equipment.

24. All snowmobiles, all-terrain vehicles, and dirt bikes operating within the State of New Jersey shall be equipped with:

- a. Headlights. At least one white or amber headlamp having a minimum candlepower of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during hours of darkness under normal atmospheric conditions.
- b. Taillights. At least one red taillamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.
- c. Brakes. A brake system in good mechanical condition.
- d. Reflector material. Reflector material of a minimum area of 16 square inches mounted on each side of the cowling. Registration numbers or other decorative material may be included in computing the required 16-square-inch area.
- e. Mufflers. An adequate muffler system in good working condition.

L.1973, c.307, s.24; amended 1985, c.375, s.24; 2009, c.275, s.24.

39:3C-25 Inspection and testing.

25. The chief administrator may adopt rules and regulations with respect to the inspection of snowmobiles, all-terrain vehicles, and dirt bikes and the testing of mufflers for those vehicles.

L.1973, c.307, s.15; amended 1985, c.375, s.25; 2009, c.275, s.25.

39:3C-26 Restrictions on sales.

26.

a. No person shall have for sale, sell, or offer for sale in this State any snowmobile, all-terrain vehicle, or dirt bike which fails to comply with the provisions of P.L.1973, c.307 (C.39:3C-1 et seq.) or which does not comply with the specifications for the equipment required by the rules and regulations of the commission, after the effective date of such rules and regulations.

b. A person shall not knowingly sell or offer to sell an all-terrain vehicle with an engine capacity of greater than 90 cubic centimeters for use by a person less than 16 years of age.

c. Retail dealers and distributors of all-terrain vehicles shall comply with those requirements of the consent decree entered into by all-terrain vehicle distributors and the United States Consumer Product Safety Commission on April 28, 1988 which require the providing of safety information on all-terrain vehicles to either the purchasers or retail dealers of all-terrain vehicles, as appropriate.

L.1973, c.307, s.26; amended 1985, c.375, s.26; 1991, c.322, s.7; 2009, c.275, s.26.

39:3C-27 Law enforcement officers; duties.

27. Every law enforcement officer in the State, including any authorized officer of the commission, conservation police officers of the Division of Fish and Wildlife, and park police officers and law enforcement operation officers of the Division of Parks and Forestry within the Department of Environmental Protection, and other designated officers and employees of the department shall enforce P.L.1973, c.307 (C.39:3C-1 et seq.) within their respective jurisdictions.

L.1973, c.307, s.27; amended 2009, c.275, s.27; 2019, c.407, s.19.

39:3C-28 Violations, penalties.

28. Any person who shall violate any provision of P.L.1973, c.307 (C.39:3C-1 et seq.), if no other penalty is specifically provided, or any rule or regulation promulgated pursuant to P.L.1973, c.307 (C.39:3C-1 et seq.) shall be punished by a fine of not less than \$250 nor more than \$500. For a second or subsequent violation of section 26 of P.L.1973, c.307 (C.39:3C-26), a fine of not less than \$500 nor more than \$1,000 shall be imposed.

L.1973, c.307, s.28; amended 1991, c.322, s.8; 2009, c.275, s.28.

39:3C-29 Deposit of moneys.

29. The chief administrator shall deposit in the "Off-Road Vehicle Recreational Fund," established pursuant to section 31 of P.L.2009, c.275 (C.39:3C-3.1) all moneys received by the chief administrator from the additional \$10 payment required to be made at the time of registration of snowmobiles, all-terrain vehicles, and dirt bikes in accordance with subsection f. of section 3 of P.L.1973, c.307 (C.39:3C-3).

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L.1973, c.307, s.29; amended 1985, c.375, s.27; 1991, c.322, s.10; 2009, c.275, s.29.

39:3C-30 Chapter 4 provisions applicable.

30. Owners and operators of snowmobiles, all-terrain vehicles, and dirt bikes shall, when operating such across a public highway or on public land or waters, comply with the following provisions of chapter 4 of Title 39 of the Revised Statutes: R.S.39:4-48 through R.S.39:4-51; R.S.39:4-64; R.S.39:4-72; R.S.39:4-80; R.S.39:4-81; R.S.39:4-92; R.S.39:4-96 through R.S.39:4-98; R.S.39:4-99; R.S.39:4-100; R.S.39:4-104; R.S.39:4-129 through R.S.39:4-134; R.S.39:4-203.

L.1973, c.307, s.30; amended 1985, c.375, s.28; 2009, c.275, s.30.

39:3C-30.1. Golf course, form, exemptions

29.

a. The provisions of this 1985 amendatory and supplementary act and this 1991 amendatory act insofar as they pertain to all-terrain vehicles shall not be applicable to their operation and use on golf courses in this State, except that, subsection b. of section 16 of P.L.1973, c.307 (C.39:3C-16) and subsection b. of section 26 of P.L.1973, c.307 (C.39:3C-26) shall be applicable to the operation and use of all-terrain vehicles on the golf courses of this State.

b. The requirements of subsection b. of section 9 of P.L.1973, c.307 (C.39:3C-9) and subsection c. of section 16 of P.L.1973, c.307 (C.39:3C-16) shall not apply to a person less than 18 years of age when the person operates an all-terrain vehicle on public lands or waters or across a public highway as an incident to or in the actual performance of the operations of a farm adjacent to the public land or water or the public highway upon which the vehicle is being operated. As used in this section, "farm" means land used for commercial raising, growing and producing of any crop, livestock, or fur products on land not less than five acres in area and which is not used in the business of buying farm products for resale.

L.1985,c.375,s.29; amended 1991,c.322,s.9.

39:3C-31. Severability

If any clause, sentence, paragraph or part of this act shall, for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

L.1973, c. 307, s. 31, eff. Dec. 14, 1973.

39:3C-32 Definitions.

32. As used in sections 33 and 34 of P.L.2009, c.275 (C.39:3C-33 and C.39:3C-34):

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"Off-road vehicle" means any motorized vehicle with two or more wheels or tracks that is capable of being operated off of regularly improved and maintained roads including, but not limited to, motorcycles as defined in R.S.39:1-1, snowmobiles and all-terrain vehicles, and dirt bikes as defined in section 5 of P.L.1991, c.496 (C.2A:42A-6.1).

"Public land" means all land owned, operated, managed, or maintained, or under the jurisdiction of the Department of Environmental Protection, including any and all land owned, operated, managed, maintained, or purchased jointly by the Department of Environmental Protection with any other party and any land so designated by municipal or county ordinance. Public land shall also mean any land used for conservation purposes, including, but not limited to, beaches, forests, greenways, natural areas, water resources, wildlife preserves, land used for watershed protection, or biological or ecological studies, and land exempted from taxation pursuant to section 2 of P.L.1974, c.167 (C.54:4-3.64).

"Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks or motorized bicycles.

L.2009, c.275,s.32.

39:3C-33 Violations, penalties.

33. Any person who operates any vehicle or off-road vehicle on public lands in violation of P.L.1973, c.307 (C:39:3C-1 et seq.) or in violation of any law, rule, or regulation adopted pursuant thereto shall be subject to:

- a. For a first offense, a fine of not less than \$250 nor more than \$500.
- b. For a second offense, a fine of not less than \$500 nor more than \$1,000.
- c. For a third or subsequent offense, a fine of not less than \$1,000.
- d. For any offense on public lands in which the use of a vehicle is found responsible for damage to or destruction of natural resources valued in excess of \$100, a fine of five times the amount, as determined by the Department of Environmental Protection, of restoration and replacement, where possible, of any natural resource damaged or destroyed by the use of the vehicle. If a person at the time of the imposition of the sentence is less than 17 years of age, the owner of the vehicle shall be liable for the fine of five times the amount, as determined by the Department of Environmental Protection, of restoration and replacement, where possible, of any natural resource damaged or destroyed by the use of the vehicle.

L.2009, c.275,s.33.

39:3C-34 Additional fines, impoundment.

34.

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a. In addition to the fines set forth in section 33 of P.L.2009, c.275 (C.39:3C-33), any vehicle or off-road vehicle operated on public lands in violation of P.L.1973, c.307 (C.39:3C-1 et seq.), may be impounded by the law enforcing agency and held until the payment of the fee required pursuant to subsection b. or c. of this section, as appropriate.

The prosecutor may waive the requirements of subsections b. and c. of this section for the owner of the vehicle or off-road vehicle if the owner is not a defendant in the case and did not know, or reasonably could not have known, that the vehicle or off-road vehicle would be used in violation of P.L.1973, c.307 (C.39:3C-1 et seq.), or any law, or rule or regulation adopted pursuant thereto, concerning the operation of vehicles or off-road vehicles on public lands.

b.

(1) For a first offense, the vehicle or off-road vehicle may be impounded for not less than 48 hours and shall be released to the registered owner upon proof of registration and insurance as applicable to the type of vehicle or off-road vehicle and payment of a fee of \$500 to the Department of Environmental Protection, plus reasonable towing and storage costs.

(2) For a second offense, the vehicle or off-road vehicle may be impounded for not less than 96 hours and shall be released to the registered owner upon proof of registration and insurance as applicable to the type of vehicle or off-road vehicle and payment of a fee of \$750 to the Department of Environmental Protection, plus reasonable towing and storage costs.

(3) For a third or subsequent offense, the vehicle or off-road vehicle impounded may be forfeited and sold at auction and the registered owner shall be responsible for payment of a fee of \$1,000 to the Department of Environmental Protection, plus reasonable towing and storage costs.

c.

(1) If the owner fails to claim the impounded vehicle or off-road vehicle, and the fee required pursuant to subsection b. of this section has not been paid, by noon of the 30th day following the date of conviction, the vehicle or off-road vehicle may be sold at auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the vehicle or off-road vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the chief administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in the State and circulating in the municipality in which the vehicle or off-road vehicle is impounded.

(2) At any time prior to the sale, the owner or other person entitled to the vehicle or off-road vehicle may reclaim possession upon (a) showing proof of registration and insurance as applicable to the vehicle or off-road vehicle, (b) payment of the required fee, (c) payment of reasonable towing and storage costs, and (d) payment of all outstanding fees and costs associated with the impoundment.

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The owner-lessor of an impounded vehicle or off-road vehicle shall be entitled to reclaim possession and the lessee shall be liable for all outstanding fines and restitution and fees and costs associated with the impoundment, towing and storage of the vehicle or off-road vehicle.

d. Any proceeds obtained from the sale of a vehicle or off-road vehicle at public auction pursuant to subsection c. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the vehicle or off-road vehicle shall be returned to the owner of that vehicle or off-road vehicle, if the owner's name and address are known. If the owner's name and address are unknown or such person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e.

(1) Whenever a vehicle or off-road vehicle is subject to forfeiture pursuant to paragraph (3) of subsection b. of this section, the forfeiture may be enforced by a civil action, instituted within 90 days of the impoundment and commenced by the State against the property sought to be forfeited. The complaint for forfeiture shall be verified on oath or affirmation. It shall describe with reasonable accuracy the vehicle or off-road vehicle that is subject to the forfeiture action. The complaint shall contain all allegations setting forth the reason for forfeiture.

(2) Notice of the action shall be given to any person known to have a property interest in the vehicle or off-road vehicle and the notice requirements of the Rules of Court for an in rem action shall be followed. The claimant of the vehicle or off-road vehicle that is subject to action under this subsection shall file and serve the claim in the form of an answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation and state the interest in the property by virtue of which the claimant demands its restitution and the right to defend the action. If the claim is made on behalf of the person entitled to possession by an agent or attorney, it shall state that the agent or attorney is duly authorized to make the claim. If no answer is filed and served within the applicable time, the property seized shall be disposed of pursuant to N.J.S.2C:64-6 and N.J.S.2C:64-7.

L.2009, c.275,s.34.

39:3C-35 Impoundment of certain vehicles, disposition.

1.

a. Except as provided in subsection e. of this section, a snowmobile, all-terrain vehicle, or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) shall be impounded by the law enforcing agency and subject to a fee and costs as hereinafter provided:

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(1) For a first offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than seven days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs.

(2) For a second or subsequent offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than 14 days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs.

b. If the registered owner of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant subsection a. of this section fails to claim the impounded snowmobile, all-terrain vehicle, or dirt bike and pay all outstanding fees and costs by midnight of the 30th day following the day on which the snowmobile, all-terrain vehicle, or dirt bike was impounded, that snowmobile, all-terrain vehicle, or dirt bike may be sold at public auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the snowmobile or all-terrain vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the Chief Administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the snowmobile, all-terrain vehicle, or dirt bike is impounded.

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

The owner-lessor of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to paragraph (1) or (2) of subsection a. of this section shall be entitled to reclaim possession without payment and the lessee shall be liable for all outstanding fees and costs associated with the impoundment, towing and storage of the snowmobile or all-terrain vehicle.

d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S.2C:64-1 et seq. as authorized by this subsection shall be disposed of in

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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.

L.2019, c.505, s.1; amended 2021, c.353, s.1.

39:3C-36 Violations, penalties.

2. A person who operates a snowmobile, all-terrain vehicle, or dirt bike on any public street, highway or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) shall:

a. For a first offense, be ordered by the court to perform community service for a period of 30 days, which shall be of a form and on terms as the court shall deem appropriate under the circumstances.

b. For a second offense, be ordered by the court to perform community service for a period of 60 days, which shall be of a form and on terms as the court shall deem appropriate under the circumstances.

c. For a third or subsequent offense, be ordered by the court to perform community service for a period of 90 days, which shall be of a form and on terms as the court shall deem appropriate under the circumstances.

L.2019, c.505, s.2.

CHAPTER 353
(CORRECTED COPY)

AN ACT concerning all-terrain vehicles and dirt bikes and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2019, c.505 (C.39:3C-35) is amended to read as follows:

C.39:3C-35 Impoundment of certain vehicles, disposition.

1. a. Except as provided in subsection e. of this section, a snowmobile, all-terrain vehicle, or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) shall be impounded by the law enforcing agency and subject to a fee and costs as hereinafter provided:

(1) For a first offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than seven days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs.

(2) For a second or subsequent offense, the snowmobile, all-terrain vehicle, or dirt bike shall be impounded for not less than 14 days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs.

b. If the registered owner of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to subsection a. of this section fails to claim the impounded snowmobile, all-terrain vehicle, or dirt bike and pay all outstanding fees and costs by midnight of the 30th day following the day on which the snowmobile, all-terrain vehicle, or dirt bike was impounded, that snowmobile, all-terrain vehicle, or dirt bike may be sold at public auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the snowmobile or all-terrain vehicle, if the owner's name and address are known, and to the holder of any security interest filed with the Chief Administrator of the New Jersey Motor Vehicle Commission, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in this State and circulating in the municipality in which the snowmobile, all-terrain vehicle, or dirt bike is impounded.

c. At any time prior to a sale pursuant to subsection b. of this section, the owner or other person entitled to the snowmobile, all-terrain vehicle, or dirt bike may reclaim possession upon showing proof of registration and insurance and paying all outstanding fees and costs associated with the impoundment, and reasonable towing and storage costs.

The owner-lessor of a snowmobile, all-terrain vehicle, or dirt bike impounded pursuant to paragraph (1) or (2) of subsection a. of this section shall be entitled to reclaim possession without payment and the lessee shall be liable for all outstanding fees and costs associated with the impoundment, towing and storage of the snowmobile or all-terrain vehicle.

d. Any proceeds obtained from the sale of a snowmobile, all-terrain vehicle, or dirt bike at public auction pursuant to subsection b. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any fees or other costs associated with the impoundment of the snowmobile, all-terrain vehicle, or dirt bike shall be returned to the owner of that snowmobile, all-terrain vehicle, or dirt bike, if the owner's name and address are known. If the owner's name and address are unknown or the person or entity cannot be located, the net proceeds shall be administered in accordance with the "Uniform Unclaimed Property Act," R.S.46:30B-1 et seq.

e. A municipality may by ordinance declare that an all-terrain vehicle or dirt bike operated on any public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) poses an immediate threat to the public health, safety, or welfare and designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.2C:64-1 et seq. An all-terrain vehicle or dirt bike forfeited pursuant to the provisions of N.J.S.2C:64-1 et seq. as authorized by this subsection 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.

2. N.J.S.2C:64-1 is amended to read as follows:

Property subject to forfeiture.

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances; firearms which are unlawfully possessed, carried, acquired or used; illegally possessed gambling devices; untaxed or otherwise contraband cigarettes or tobacco products; unlawfully possessed container e-liquid; untaxed special fuel; unlawful sound recordings and audiovisual works; and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

(5) An all-terrain vehicle or dirt bike which has been operated on a public street, highway, or right-of-way in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) in a municipality that has passed an ordinance declaring that such all-terrain vehicles or dirt bikes so operated pose an immediate threat to the public health, safety, or welfare and designating such vehicles as contraband as authorized by subsection e. of section 1 of P.L.2019, c.505 (C.39:3C-35).

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to N.J.S.2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in section 1 of P.L.1997, c.57 (C.2C:21-32).

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in section 1 of P.L.1991, c.125 (C.2C:21-21) which were produced in violation of section 1 of P.L.1991, c.125 (C.2C:21-21).

"Unlawfully possessed container e-liquid" means container e-liquid as defined in section 2 of P.L.1990, c.39 (C.54:40B-2) that is possessed for retail sale by a person that is not licensed as a vapor business pursuant to section 4 of P.L.2019, c.147 (C.54:40B-3.3).

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

3. N.J.S.2C:64-6 is amended to read as follows:

Disposal of forfeited property.

2C:64-6. Disposal of Forfeited Property.

a. Property which has been forfeited shall be destroyed if it can serve no lawful purpose or it presents a danger to the public health, safety or welfare. An all-terrain vehicle or dirt bike operated in violation of section 17 of P.L.1973, c.307 (C.39:3C-17) which has been forfeited may be destroyed, at the discretion of the entity funding the prosecuting agency involved. All other forfeited property or any proceeds resulting from the forfeiture and all money seized pursuant to this chapter shall become the property of the entity funding the prosecuting agency involved and shall be disposed of, distributed, appropriated and used in accordance with the provisions of this chapter.

The prosecutor or the Attorney General, whichever is prosecuting the case, shall divide the forfeited property, any proceeds resulting from the forfeiture or any money seized pursuant to this chapter with any other entity where the other entity's law enforcement agency participated in the surveillance, investigation, arrest or prosecution resulting in the forfeiture, in proportion to the other entity's contribution to the surveillance, investigation, arrest or prosecution resulting in the forfeiture, as determined in the discretion of the prosecutor or the Attorney General, whichever is prosecuting the case. Notwithstanding any other provision of law, such forfeited property and proceeds shall be used solely for law enforcement purposes, and shall be designated for the exclusive use of the law enforcement agency which contributed to the surveillance, investigation, arrest or prosecution resulting in the forfeiture.

The Attorney General is authorized to promulgate rules and regulations to implement and enforce the provisions of this act.

b. For a period of two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.), 10% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

c. Beginning two years from the date of enactment of P.L.1993, c.227 (C.26:4-100.13 et al.) and in subsequent years, 5% of the proceeds obtained by the Attorney General under the provisions of subsection a. of this section shall be deposited into the Hepatitis Inoculation Fund established pursuant to section 2 of P.L.1993, c.227 (C.26:4-100.13).

4. This act shall take effect immediately.

Approved January 10, 2022.



PHILIP D. MURPHY
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
PO BOX 085
TRENTON, NJ 08625-085
TELEPHONE: (609)984-6500

MATTHEW J. PLATKIN
Attorney General

SHEILA Y. OLIVER
Lt. Governor

PEARL MINATO
Director

TO: All County Prosecutors
All Law Enforcement Chief Executives

FROM: Pearl Minato, Director
Division of Criminal Justice

DATE: May 22, 2023

SUBJECT: Guidance on Off-Road and All-Terrain Vehicle Use on Public Lands and Public Roads

The unlawful use of off-road vehicles (ORVs) and all-terrain vehicles (ATVs) on public roads and lands presents significant challenges to protecting the safety of drivers, passengers, and pedestrians on public roads, as well as protecting our natural resources on public lands. ORV use on public lands can lead to negative environmental impacts including pollution, soil erosion, and destruction of sensitive natural resources such as forests, streams and wetlands, and the harm and destruction of plant and animal species and their habitats. Consequently, expenditures for restoration, maintenance, and enforcement have risen. And unfortunately in many cases, these resources are destroyed and cannot be restored.

Given the significant safety and natural resource impacts associated with ORVs and ATVs, I am issuing this guidance in an effort to clarify State law regarding illegal ORV and ATV use on public lands and roads. This guidance is not exhaustive, but rather emphasizes New Jersey's laws and regulations available for law enforcement.

With your assistance and cooperation, we will continue to ensure the preservation of natural and cultural resources on public lands, the use and enjoyment of public lands, and safe public roads in New Jersey.

I. Vehicles Subject to this Guidance: Definitions

The purpose of this Guidance is to address certain vehicle use on public lands and public roads. ORV is an umbrella term that includes vehicles such as pick-up trucks and Jeeps that can legally be driven on public roads, as well as ATVs such as dirt bikes, quads/four-wheelers, and snowmobiles, which cannot be used on public roads. With limited exceptions related to permitted times and places, State law generally prohibits operation of the broad category of ORVs on public



lands, including parks and wildlife management areas. State law also prohibits operation of ATVs, snowmobiles, and dirt bikes on public roads.

ORVs

“[A]ny motorized vehicle with two or more wheels or tracks that is capable of being operated off of regularly improved and maintained roads including, but not limited to, motorcycles . . . , snowmobiles and all-terrain vehicles, and dirt bikes” N.J.S.A. 39:3C-32.

<u>Snowmobiles</u>	<u>ATVs</u>	<u>Dirt Bikes</u>
“[A]ny motor vehicle, designed primarily to travel over ice or snow, of a type which uses sled type runners, skis, an endless belt tread, cleats, or any combination of these or other similar means of contact with the surface upon which it is operated” N.J.S.A. 39:3C-1.	“A motor vehicle, designed and manufactured for off-road use only, of a type possessing between three and six non-highway tires” N.J.S.A. 39:3C-1.	“[A]ny 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.” N.J.S.A. 39:3C-1.

ORVs, ATVs, snowmobiles, and dirt bikes that are used in lawful areas in New Jersey are generally subject to the following requirements: (1) the vehicle is registered and numbered in accordance with N.J.S.A. 39:3C-3, N.J.S.A. 39:3C-4, N.J.S.A. 39:3C-5, and N.J.S.A. 39:3C-8; (2) the owner obtains liability insurance (N.J.S.A. 39:3C-20); (3) the vehicle is equipped with headlights, taillights, brakes, reflectors, and a muffler (*see* N.J.S.A. 39:3C-24); and (4) the operator of the vehicle is 18 years old or older¹ (N.J.S.A. 39:3C-16).²

II. ORV Use on Public Lands

The term “public lands” applies to a broad category of lands that are protected and maintained as assets for society. Pursuant to New Jersey law, public lands include those “owned, operated, managed, or maintained, or under the jurisdiction of the Department of Environmental Protection,” and those used for conservation purposes. N.J.S.A. 39:3C-1; N.J.S.A. 39:3C-32. These lands include, but are not necessarily limited to, State and local parks, forests, and wildlife management areas. *See, e.g.*, N.J.A.C. 7:2-3.2–3.4 (State Parks); N.J.A.C. 7:25-2.2 (State Wildlife Management Areas). Importantly, no person may operate ORVs on public lands, including State and local parks, forests, and wildlife management areas, unless the lands have been designated for ORV use or the ORV use is for a special event on a pre-established course and under prescribed conditions. *See* N.J.A.C. 7:2-3.4; N.J.A.C. 7:25-2.2.

¹ An individual under the age of eighteen (18) who operates these vehicles shall complete a safety education and training course. N.J.S.A. 39:3C-9(b).

² Not all ORVs are required to adhere to these mandates. *See, e.g.*, N.J.S.A. 39:3C-6 (operation for use on farms); N.J.S.A. 39:3C-7 (nonresident exceptions).



In addition to those lands under the jurisdiction of the Department of Environmental Protection or used for conservation purposes, public lands include “any land so designated by municipal or county ordinance.” N.J.S.A. 39:3C-1; N.J.S.A. 39:3C-32. For example, public lands designated by a municipal ordinance may include sidewalks, bicycle paths, conservation easements, open spaces, parks or any other public lands within a particular city or township. *See, e.g.*, Passaic, N.J., Code, ch. 203, Art. II, § 17 (rev. Apr. 12, 2022) (Passaic County Parks and Playgrounds); Holmdel, N.J., Ordinances, ch. 3, § 3-3.2(b)(3). Municipal ordinances may also include specific days and times when ORVs may be operated. *See, e.g., id.* at § 3-3.2(b)(7). ORVs operated on these public lands will also be subject to the requirements of Title 39:3C-1 *et seq.*, outlined in Section I. *See e.g., id.* at § 3-3.2(b)(3).

A. State Parks and Forests

State law generally prohibits ORV use in State Parks and Forests. “A person shall not operate an off-road vehicle on or over the lands and waters under the jurisdiction of the State Park Service at any time except that, when an area is so designated by the State Park Service, permits may be granted for organized ‘special events’ to operate on a pre-established course under prescribed conditions.” N.J.A.C. 7:2-3.4(d); *see also* N.J.A.C. 7:2-3.2(a). Law enforcement officers may contact the State Park Service at 1-800-WARN-DEP to determine whether a special event permit for ORV use is in effect.

Some State Parks and Forests have public roads within the boundaries of the park. “All motor vehicles operated on lands under the jurisdiction of the State Park Service shall be subject to Motor Vehicle Laws of the State of New Jersey, N.J.S.A. 39-1 *et seq.*, all rules promulgated pursuant thereto, and this chapter.” N.J.A.C. 7:2-3.3. Properly licensed and registered ORVs, such as jeeps and pick-up trucks, that otherwise comply with the motor vehicle provisions of Title 39 are allowed to operate on established public roads and parking areas like any other motor vehicle, but they may not leave the road to enter “any cultivated or planted area, transmission line, survey line or in the woods, swamps, bogs, wetlands or fields” without a permit. N.J.A.C. 7:2-3.4(c).

Other State Park provisions may also apply, depending on the circumstances, and law enforcement officers may charge all violations that apply. For example, snowmobiles are only allowed on State Park Service trails specifically designated for that purpose. N.J.A.C. 7:2-3.5(b). State Park snowmobile regulations can be found at N.J.A.C. 7:2-3.5. Also, all motor vehicles operated on State Park Service property must be properly licensed and registered, and the driver must have in his or her possession a valid driver’s license and other documentation required by the New Jersey Division of Motor Vehicles. N.J.A.C. 7:2-3.1. Officers may write an additional citation if the ORV causes damage to State Park Service property, such as soil erosion or destruction of vegetation. “[N]o person may alter, deface, destroy, disturb, or remove any State park or forest property, whether man-made or natural, or any animal, or any archaeological findings on State park or forest property or which are held by the department.”³ N.J.S.A. 13:1L-10(a); *see also* Section II(E) below for increased penalties that apply to damage to public lands.

³ N.J.S.A. 13:1L-10(d) does not restrict or affect “fishing, hunting, trapping, or other such activities or related activities otherwise authorized or permitted on State park or forest property by the Department of Environmental Protection.”



Penalties for State Park Service violations are found at N.J.S.A. 13:1L-23. Specifically, N.J.S.A. 13:1L-23(d) makes any violation involving a vehicle or off-road vehicle subject to the penalty provisions of N.J.S.A. 39:3C-33 and -34, including fines, impoundment, and potentially forfeiture of the vehicle, as discussed in Section II(E) below.

B. Wildlife Management Areas

ORVs and ATVs are generally prohibited in Wildlife Management Areas. “No person shall operate motor vehicles, including conveyances, commonly known as off-road vehicles, all terrain vehicles, snowmobiles, dog sleds, dog carts or trail bikes, on State Wildlife Management Areas at any time without first obtaining a written permit or other authorization from the Division.” N.J.A.C. 7:25-2.2(c).

Pursuant to N.J.S.A. 23:7-9(a), and with respect to property under the control of the Division of Fish and Wildlife, no individual may (1) remove or disturb property of the State, (2) injure or damage property of the state, or (3) use property contrary to the rules and regulations established by the Division of Fish and Wildlife.⁴ Additionally, no individual may operate vehicles on State Wildlife Management Areas without first obtaining a written permit or other authorization from the Division of Fish and Wildlife. N.J.A.C. 7:25-2.2.

Individuals that violate the provisions of Title 23 are subject to fines in Title 39 as outlined in Section II(E) below. *See* N.J.S.A. 39:3C-33(a)–(d); N.J.S.A. 39:3C-34(b)–(c); *see also* N.J.S.A. 23:7-9(b)(2)(a) (“[A]ny violation involving a vehicle or off-road vehicle shall be subject to the provisions of sections 33 and 34 of L.2009, c.275 (C.39:3C-33 and C.39:3C-34). . . .”). ORVs used in violation of Wildlife Management Area regulations are also subject to impoundment, N.J.S.A. 39:3C-34, and forfeiture actions as outlined below, N.J.S.A. 39:3C-34(e) or N.J.S.A. 2C:64-1(a)(5).

C. Designated Municipal Parks and Property

In addition to those lands under the jurisdiction of the Department of Environmental Protection or used for conservation purposes, public lands include “any land so designated by municipal or county ordinance.” N.J.S.A. 39:3C-1; N.J.S.A. 39:3C-32. For example, public lands designated by a municipal ordinance may include sidewalks, bicycle paths, conservation easements, open spaces, parks, or any other public lands within a particular city or township. *See, e.g.,* Holmdel, N.J., Ordinances, ch. 3, § 3-3.2(b)(3). Municipal ordinances may also include specific days and times when ORVs may be operated. *See, e.g., id.* at § 3-3.2(b)(7). ORVs operated on these public lands will also be subject to the requirements of Title 39:3C-1 *et seq.*, outlined in Section II. *See e.g., id.* at § 3-3.2(b)(3).

Law enforcement may also utilize local regulations or ordinances related to ORVs and other prohibited vehicles as additional means of enforcement for unlawful use of such vehicles on

⁴ Title 23 also places limitations on hunting with ORVs and carrying loaded firearms in an ORV while hunting. *See* N.J.S.A. 23:4-16; N.J.S.A. 23:4-24.1.



public lands and roads. *See, e.g.,* Holmdel, N.J., Ordinances, ch. 3, § 3-3.

D. Authorized ORV Use on Public Lands

While ORVs are generally prohibited on public lands, multiple legal avenues exist for ORV users:

- (1) ORV users and recreational groups can seek special use permits from the State Park Service within the Department of Environmental Protection for ORV events. *See* N.J.S.A. 39:3C-22; N.J.A.C. 7:2-3.2; N.J.A.C. 7:2-3.4.
- (2) Snowmobiles are permitted in certain areas of public lands within New Jersey. These areas include sections of High Point State Park, Wawayanda State Park, Ringwood State Park, Stokes State Forest, and Worthington State Forest.⁵
- (3) ORV use on public lands may be permissible if it constitutes a reasonable accommodation because of a disability. *See* New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -49; *see also* *Lasky v. Moorestown Twp.*, 425 N.J. Super. 530, 537 (App. Div. 2012) (noting that the park owned and maintained by the Township was a “public accommodation” subject to the Law Against Discrimination’s prohibition on discrimination pursuant to N.J.S.A. 10:5-12). The Department of Environmental Protection, State Park Service, and Division of Fish and Wildlife have made efforts to create greater accessibility on public lands for individuals with physical disabilities, such as the designation of adaptive bike trails, and visitors may contact these entities to learn more about reasonable accommodations.

Both ORV users and law enforcement personnel are advised to consult with the Department of Environmental Protection to determine the locations and times of permitted routes and events, which may change over time.

E. Penalties for ORV Violations on Public Lands

1. Fines

Individuals convicted of unlawful ORV use on public lands are subject to enhanced fines outlined in Title 39, which were implemented in 2009.⁶ *See* L.2009, c.275. Pursuant to N.J.S.A. 39:3C-33(a)–(c), the following penalties apply to unlawful use of ORVs on public lands:

⁵ The Department of Environmental Protection may continue to designate additional areas for ORV use such as snowmobiles on certain frozen managed lakes.

⁶ Prior to the enhanced fines implemented in 2009, *see* L.2009, c.275, a person that violates Title 13 is “liable to a civil penalty of not less than \$50 nor more than \$1,500, plus restitution if applicable, for each offense[.]” N.J.S.A. 13:1L-23(d). Additionally, if the violation is continuous, each day constitutes an additional, separate, and distinct offense. N.J.S.A. 13:1L-23(d). Further, if a violation results in a pecuniary gain or if the violator willfully or wantonly causes injury or damage to property, the violator shall be liable to an additional civil penalty equal to three times the value or the pecuniary gain or injury or damage to property. N.J.S.A. 13:1L-23(d).



1. A fine between \$250 – \$500 (first violation);
2. A fine between \$500 – \$1,000 (second violation);
3. A fine of \$1,000 or more (third or subsequent violation).

Additionally, if an individual, while operating an ORV, damages or destroys natural resources valued in excess of \$100, the court can impose a fine of five times the amount it would cost to restore or replace the damaged or destroyed natural resources. N.J.S.A. 39:3C-33(d). Further, if the individual operating the ORV is under the age of seventeen, the owner of the ORV is liable for the fines. N.J.S.A. 39:3C-33(d).

2. Impoundment of the Vehicle

Law enforcement officers also have the authority to impound ORVs for unlawful use on public lands. Pursuant to N.J.S.A. 39:3C-34(b)(1)–(3), the following penalties apply when impounding ORVs:

1. The ORV may be impounded for not less than forty-eight (48) hours and a fee of \$500 for towing and storage may be imposed (first violation);
2. The ORV may be impounded for not less than ninety-six (96) hours and a fee of \$750 for towing and storage may be imposed (second violation);
3. The ORV may be forfeited and sold at auction and a fee of \$1,000 for towing and storage may be imposed (third or subsequent violation).

Additionally, if the owner fails to claim the impounded ORV, and if the fees addressed above have not been paid, by noon of the 30th day following the date of conviction, the ORV may be sold at auction. N.J.S.A. 39:3C-34(c)(1).⁷

3. Forfeiture of the Vehicle

In addition to impounding a vehicle, law enforcement officers have authority to initiate forfeiture actions under Title 39. When an individual has unlawfully operated an ORV on public lands three or more times, “forfeiture may be enforced by a civil action, instituted within 90 days of the impoundment and commenced by the State against the property sought to be forfeited.” N.J.S.A. 39:3C-34(e)(1). State Park Police must follow certain procedures, such as providing notice to any person that is known to have a property interest in the vehicle. N.J.S.A. 39:3C-34(e)(2).

State Park Service violations, Wildlife Management Area Violations, and Municipal Ordinance violations can all be heard in municipal court. N.J.S.A. 13:1L-23(d); N.J.S.A. 23:7-9(b)(2). Keep in mind that ORV violations that occur in State Parks and Forests and in Wildlife

⁷ N.J.S.A. 39:3C-34(c)(1) also imposes notice requirements before the ORV can be sold at auction.



Management Areas are civil penalty enforcement actions, which carry mandatory minimum penalties, and should not be downgraded to a municipal ordinance violation to secure a plea agreement in municipal court. *See* Guidelines for Operation of Plea Agreements in the Municipal Courts of New Jersey, Pressler & Verniero, *Current N.J. Court Rules*, Appendix to Part VII cmt. (2022). In no circumstance may a civil penalty violation be converted to a criminal or quasi-criminal municipal ordinance violation as part of a plea agreement.

III. ATV Use on Public Roads

Similar to public lands, certain vehicle use is broadly prohibited on public roads. Pursuant to New Jersey law, “[n]o person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon limited access highways⁸ or within the right-of-way limits thereof.” N.J.S.A. 39:3C-17(a). Additionally, “[n]o person shall operate a snowmobile, all-terrain vehicle, or dirt bike upon the main traveled portion or the plowed snowbanks of any public street or highway or within the right-of-way limits thereof. . . .” N.J.S.A. 39:3C-17(b). Further, individuals are not permitted “to operate a snowmobile, all-terrain vehicle, or dirt bike upon [any] railroad or right-of-way of an operating railroad.” N.J.S.A. 39:3C-19(f).

Further, counties and municipalities may have similar local ordinances or regulations limiting the use of ATVs, snowmobiles, and dirt bikes on public roads. Municipalities should also consider utilizing N.J.S.A. 39:3C-35(e) for unlawful ATV or dirt bike use on public roads. That provision provides that a municipality may “by ordinance declare that an all-terrain vehicle or dirt bike operated on any 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 [may] designate such all-terrain vehicles or dirt bikes so operated as contraband subject to forfeiture in accordance with the provisions of N.J.S.A. 2C:64-1 *et seq.*” *See, e.g.,* Holmdel, N.J., Ordinances, ch. 3, § 3-3.2(b)(3) (noting that it is unlawful to operate ATVs, snowmobiles, or dirt bikes on any public street, sidewalk, or bicycle path). Law enforcement should become familiar with applicable ordinances related to ORV and ATV use within their jurisdictions.

While ATVs, snowmobiles, and dirt bikes are generally prohibited on public roads, multiple legal avenues exist for users of these types of vehicles:

- (1) Properly registered ATVs, snowmobiles, and dirt bikes are permitted to cross public streets or highways, but not limited access highways, “provided that such crossing can be made in safety and that it does not interfere with the free movement of vehicular traffic approaching from either direction on the public street or highway.” N.J.S.A. 39:3C-17(b)(1). Crossing public streets or highways is only permissible if the operator of the ATV brings the vehicle to a complete stop prior to crossing the road. *Id.* Additionally, “[i]t shall be the responsibility of the operator of a snowmobile, all-terrain vehicle, or dirt bike to yield the right-of-way to all vehicular traffic upon any public street or highway before crossing the public street or highway.” *Id.*

⁸ "Limited access highway" means a highway especially designed for through traffic, over which abutters have no easement or right of light, air or direct access by reason of the fact that their property abuts upon that limited access highway. N.J.S.A. 27:5-7.3



- (2) ATVs, snowmobiles, and dirt bikes can be operated adjacent and parallel to public highways when gaining immediate access to an appropriate area is impracticable. N.J.S.A. 39:3C-17(b)(2). This exception only applies when the appropriate area is adjacent to a public highway. *Id.*

Regarding violations on public roads, however, penalties differ from the penalties for violations on public lands. Pursuant to N.J.S.A. 39:3C-28, the following penalties apply to the unlawful use of ATVs, snowmobiles, and dirt bikes on public roads:

1. A fine between \$250 – \$500 (first violation);
2. A fine between \$500 – \$1,000 (second or subsequent violation).

Law enforcement officers also have the authority to impound ATVs, snowmobiles, and dirt bikes for unlawful use on public roads. Pursuant to N.J.S.A. 39:3C-35(a), ATVs, snowmobiles, and dirt bikes operated on public roads shall be impounded and subject to the following fees and costs:

1. Impounded for not less than seven (7) days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$500 payable to the municipality, plus reasonable towing and storage costs (first violation);
2. Impounded for not less than fourteen (14) days and shall be released to the registered owner upon proof of registration and insurance and payment of a fee of \$750 payable to the municipality, plus reasonable towing and storage costs (second or subsequent violation).

Additionally, if the owner fails to claim the impounded vehicle, and if the fees addressed above have not been paid by midnight of the 30th day following the date of impoundment, the vehicle may be sold at auction. N.J.S.A. 39:3C-35(b).⁹

Law enforcement may also initiate forfeiture actions pursuant to N.J.S.A. 2C:64-1(a)(5). Forfeiture actions must be filed within ninety (90) days of the date of seizure. N.J.S.A. 2C:64-3. A successful forfeiture action under N.J.S.A. 2C:64-1(a)(5) will likely require criminal charges arising out of or related to the property seized unless (1) “there is no known owner of the seized property and no person credibly asserts an ownership interest in the seized property” or (2) the State establishes by preponderance of evidence that the property seized has a value of more than \$10,000. N.J.S.A. 2C:64-3(k).

Courts have further authority to impose community service for unlawful use on public roads. Pursuant to N.J.S.A. 39:3C-36, individuals operating ATVs, snowmobiles, and dirt bikes are subject to the following number of days of community service:

⁹ N.J.S.A. 39:3C-35(b) also imposes notice requirements before the vehicle can be sold at auction.



1. Ordered by the court to perform community service for a period of 30 days (first violation);
2. Ordered by the court to perform community service for a period of 60 days (second violation);
3. Ordered by the court to perform community service for a period of 90 days (third or subsequent violation).

IV. Law Enforcement Authority

The following entities should be aware of available enforcement authorities found in Titles 13, 23, and 39.¹⁰ Additionally, the New Jersey Administrative Code provides supplementary enforcement provisions, as well as local regulations and ordinances.

A. State Park Police

State Park Police have statewide jurisdiction to issue complaint-summonses for any motor vehicle violations, including ORV and ATV violations, on all public lands and public roads in the State, and more broadly have “the power to arrest without warrant any person violating any law of the State committed in their presence and bring the offender before any court having jurisdiction to receive the complaint of such violation. These personnel are hereby authorized to carry firearms at all times.” N.J.S.A. 13:1L-21; N.J.S.A. 13:1A-6.1.

B. Division of Fish and Wildlife Conservation Police

Conservation Police Officers have statewide jurisdiction to issue complaint-summonses for any motor vehicle violations, including ORV and ATV violations on all public lands and public roads in the State, and more broadly have “the power to arrest without warrant any person violating any law of this State committed in their presence and bring the offender before any court having jurisdiction to receive the complaint of such violation.” N.J.S.A. 13:1A-6.1.

C. State Police

Under Title 53, the New Jersey State Police have broad jurisdiction. Pursuant to N.J.S.A. 53:2-1, State Police “may co-operate with any other State department, or any State or local authority in detecting crime, apprehending criminals and preserving law and order.” Additionally, State Police “may act . . . as wardens in the protection of the forests, and the fish and game of the State.” N.J.S.A. 53:2-1. As a result, State Police have the authority to utilize enforcement provisions from Titles 13, 23, and 39—meaning State Police can bring actions against individuals operating ORVs and ATVs and other vehicles on both public lands and public roads. For ORV

¹⁰ The enforcement authorities discussed in this Part are not criminal charges. Law enforcement officers may come across situations where criminal charges are appropriate, such as criminal mischief, N.J.S.A. 2C:17-3. A criminal mischief charge can arise in scenarios where, for example, an individual “[p]urposely or knowingly damages tangible property of another.” N.J.S.A. 2C:17-3(a)(1). The severity of this crime ranges from third-degree to a disorderly person’s offense, based on the amount of damage to the property. N.J.S.A. 2C:17-3(b).



violations on public lands, State Police can issue summonses for the violations outlined above, including N.J.A.C. 7:2-3.2, N.J.A.C. 7:2-3.4, and N.J.A.C. 7:25-2.2. *See* N.J.S.A. 39:3C-33(a)–(d); N.J.S.A. 39:3C-34(b)–(c). State Police can also impound vehicles, N.J.S.A. 39:3C-34, and initiate forfeiture actions as outlined above, N.J.S.A. 39:3C-34(e) or N.J.S.A. 2C:64-1(a)(5), for violations on public lands.

D. County & Municipal Police

County and Municipal Police have the authority to enforce Title 39 against individuals that operate ORVs and ATVs on public lands and roads, and rules and regulations made and promulgated by the governing body of the county respecting the general health, safety and welfare of the public within the territorial limits of the county. *See* N.J.S.A. 40A:14-107 (general powers of county police); N.J.S.A. 40A:14-152.1 (general powers of municipal police). These officers may also enforce ORV violations on Wildlife Management Areas. *See* N.J.S.A. 23:10-3.

For ORV violations on public lands, County and Municipal Police can issue summonses for violations that may lead to enhanced penalties from Title 39, as outlined above. *See* N.J.S.A. 39:3C-33(a)–(d); N.J.S.A. 39:3C-34(b)–(c). County and Municipal Police can also impound vehicles, N.J.S.A. 39:3C-34, and initiate forfeiture actions as outlined above, N.J.S.A. 39:3C-34(e) or N.J.S.A. 2C:64-1(a)(5), for violations on public lands. Additionally, for violations on public roads, County and Municipal Police can enforce non-enhanced penalties in Title 39. *See* N.J.S.A. 39:3C-28; N.J.S.A. 39:3C-35; N.J.S.A. 39:3C-36. County and Municipal Police can also initiate forfeiture actions pursuant to N.J.S.A. 2C:64-1(a)(5).

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Should a law enforcement agency require additional guidance as to the application of these laws and regulations set forth in this memorandum, please contact the Division of Criminal Justice Environmental Crimes Unit at 609-984-6500.



Pearl Minato, Director
Division of Criminal Justice

