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 - 4.I. Local Law E 2021 - Dirt Bikes & ATVs

Documents:

[LOCAL LAW E OF 2021 - DIRTBIKES AND ATVS.PDF](#)

5. Supporting Document
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Council Members Balarin Conti, and Love introduced the following:

LOCAL LAW E OF 2020 (MC)

A LOCAL LAW AMENDING CHAPTER 357 (VEHICLES, OFF ROAD) OF THE CODE OF THE CITY OF ALBANY RELATING TO THE ILLEGAL OPERATION OF OFF-ROAD VEHICLES IN THE CITY OF ALBANY

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Chapter 357 (Vehicles, Off-Road) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

~~§ 357-1 Purpose and intent.~~

~~[The Common Council hereby finds and declares that the interests of public welfare and convenience require the preservation, promotion and protection of the aesthetic and ecological aspects of the environs of the City of Albany and intends through this legislation to preserve, promote and protect the aesthetic and ecological integrity of the Pine Bush.]~~

~~§ 357-2 Scope.~~

~~The provisions of this chapter, unless otherwise expressly indicated or subsequently amended, are intended to apply and shall have application to the area of the City of Albany known as the “Pine Bush.”]~~

§ ~~357-3~~ 357-1 Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

~~OFF-THE-ROAD VEHICLES~~

~~All-terrain vehicles (sometimes known as “ATVs”) as that term is defined in section 2281 (1) of the New York State Vehicle and Traffic Law, off-highway motorcycles as that term is defined in section 125-a of the New York State Vehicle and Traffic Law, motocross or dirt bikes, dune buggies, go-carts and any and all other types of motorized trail bikes or vehicles that are manufactured for sale or operation primarily on off-highway trails or for off highway competitions and are only incidentally operated on public highways. Nothing contained herein, however, shall be deemed to apply to or prohibit the use of bicycles in this area.~~

OPERATE

To ride in or on, other than as a passenger, or use or control the operation of an off-road vehicle in any manner, whether or not said off-road vehicle is under way.

PUBLIC HIGHWAY

Any highway, road, alley, street, avenue, public place, public driveway, or any other public way.

§ ~~357-4~~ 357-2 Restrictions.

~~[No off the road vehicles shall be used or operated on, upon, through or over the trails, trail system, dunes or other unpaved areas of the Pine Bush, the Albany Municipal Golf Course, Normanskill Farm, Tivoli Lakes, the Corning Reserve and Lower Patroon Island, Krank Park and the public lands in the vicinity of Frisbie Avenue not otherwise specifically designated or intended for vehicular traffic.]~~

A. Public Property. No person shall operate an off-road vehicle on a public highway or on any public property in the City of Albany.

B. Private Property. No person shall operate an off-road vehicle off a public highway on private property in the City Of Albany unless such person has first obtained the express consent of the owner or occupant of such property to operate the off-road vehicle on the property. There shall be a rebuttable presumption that the operator of an off-road vehicle on private property in the City of Albany lacks consent to operate the off-road vehicle on private property.

§ ~~357-5~~ 357-3 Penalties for offenses; impoundment and redemption.

A. Any person [~~or persons so using or operating an off the road vehicles as aforesaid~~] who operates an off-road vehicle in violation of § 357-4 (A) or (B) of this chapter shall be guilty of an offense punishable by a fine not to exceed \$650 or imprisonment not to exceed 15 days, or both.

B. In addition to the penalties set forth in subsection (A) of this section, a police officer may immediately impound an off-road vehicle that has been operated in violation of § 357-4 (A) or (B) of this chapter. Such impounded off-road vehicle shall be stored by the pertinent police department or enforcement agency pending the identification of the owner of such off-road vehicle as registered with the New York State Department of Motor Vehicles. Such title owner shall be sent notice of such impoundment at the address on file with the New York State Department of Motor Vehicles by certified mail within five days after the impoundment. Neither the police department impounding such off-road vehicle, nor the City of Albany, nor any agent nor employee thereof, shall be liable for any damages arising out of the provision of an erroneous name or address of such owner. The owner of the off-road vehicle operated in violation of § 357-4 (A) or (B) of this chapter may redeem such off-road vehicle upon satisfactory proof of ownership and payment of a redemption fee of \$2,350. An off-road vehicle impounded under this subsection shall only be released to the owner of such off-road vehicle, or to such owner's agent as evidenced by a written, notarized proof of agency, or duly executed power of attorney.

§ ~~[357-6]~~ 357-4 Enforcement.

The Chief of Police is charged with the enforcement of the provisions of this chapter.

§ ~~[357-7]~~ 357-5 Severability.

If any clause, sentence, paragraph or part of this chapter or application thereof to any person or circumstances shall be judged by any court to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof or the application thereof to other persons and circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and the persons or circumstances directly involved in the controversy in which the judgment shall have been rendered.

~~[§ 357-8 When effective.~~

~~This chapter shall take effect immediately.]~~

Section 2. This local law shall take effect upon final passage, public hearing, and filing with the Secretary of State.

**APPROVED AS TO FORM THIS
9TH DAY OF MARCH, 2021**

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: Brett Williams, Senior Assistant Corporation Counsel

**Re: Request for Common Council Legislation
Supporting Memorandum**

Date: March 9, 2021

Sponsor(s): Balarin, Conti, and Love

Local Law E of 2021

TITLE

A LOCAL LAW AMENDING CHAPTER 357 (VEHICLES, OFF ROAD) OF THE CODE OF THE CITY OF ALBANY RELATING TO THE ILLEGAL OPERATION OF OFF-ROAD VEHICLES IN THE CITY OF ALBANY

GENERAL PURPOSE OF THE LEGISLATION

The reckless operation of illegal, unregistered dirt bikes, ATVs, and other non-street legal vehicles on the streets and in the parks of Albany has been a scourge on City residents and visitors in recent years – particularly during the summer. The operators of these vehicles, usually in groups, ride with abandon over many parts of the City with no regard for traffic laws, their own well-being, or the safety of bystanders, let alone the considerable noise their vehicles generate, disturbing the peace as they maraud across the City.

While the operation of dirt bikes and ATVs is already illegal on public highways under the New York State Vehicle and Traffic Law, this law makes it explicitly unlawful to operate such vehicles on the public highways, in the public parks, or on any other private land in the City of Albany. It also expressly forbids the operation of these vehicles on private property without the express consent of the owner or occupant of such property.

This local law also allows the police to impound any vehicles used in violation of this local law, provides for a \$2,350 redemption fee, which the title owner of a vehicle impounded under this law must pay before the vehicle will be released back to the owner. Together with the maximum \$650 fine already in place for violations of Chapter 357, violators of this Chapter will now face up to \$3,000 in fines and fees for each violation.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

Chapter 357 of the Code, as it stands now, bans the use of “off-the-road” vehicles only “on, upon, through or over the trails, trail system, dunes or other unpaved areas of the Pine Bush, the Albany Municipal Golf Course, Normanskill Farm, Tivoli Lakes, the Corning Reserve and Lower Patroon Island, Krank Park and the public lands in the vicinity of Frisbie Avenue not otherwise specifically

designated or intended for vehicular traffic.” This law expands and clarifies the definition of “off-road vehicles” and bans their operation on public property, as well as private property without the owner or occupant’s permission, throughout the City.

This law retains the former Chapter 357’s maximum \$650 fine for a violation of the chapter, but allows the police to impound vehicles used in the commission of such violations and establishes a redemption fee, as discussed above, which vehicle owners must pay in order to receive their vehicles back.

FISCAL IMPACT

This law adds a impoundment redemption fee of \$2,350 which did not exist in the former version of Chapter 357.