

**TOWNSHIP OF RARITAN
BOARD OF HEALTH
MINUTES
APRIL 18, 2019**

CALL TO ORDER

The meeting was called to order by Chairman, Frank Nagy at 7:30 p.m. at the Municipal Building, One Municipal Drive, Flemington, NJ 08822

MEETING ADVERTISED

The meeting was advertised in the January 25, 2019 issue of the Hunterdon County Democrat and posted on the municipal bulletin board and Township website.

ATTENDANCE

PRESENT: Robyn Fatooh, Jeannie Geremia, Venkata Lanka, Patrick Morlando (arrived at 7:32 p.m.), Tom Smith, Rose Sollena, Carolee Zak, Chairman Nagy; Board Secretary, Lisa Fania; Board Attorney, Richard Tice

ABSENT: Mark Peters, Michael Mangin (Township Committee Liaison), Carla Hobbs (Hunterdon County Department of Health)

MINUTES

Chairman Nagy asked for a motion to approve the March 21, 2019 meeting minutes.
Motion by Geremia, seconded by Lanka

ROLL CALL:

AYES: Geremia, Lanka, Smith, Chairman Nagy
NAYES: None
ABSTAIN: Zak
ABSENT: Morlando, Peters

COURTESY OF THE FLOOR

There was no public comment.

NEW BUSINESS

There was no new business.

ORDINANCES (FINAL ADOPTION/PUBLIC HEARING)

Chairman Nagy read by title Ordinance #19-01.

AN ORDINANCE OF THE TOWNSHIP OF RARITAN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY ESTABLISHING STANDARDS FOR THE OPERATION OF MOTOR-DRIVEN OFF-ROAD VEHICLES IN RESIDENTIAL NEIGHBORHOODS

Chairman Nagy asked for a motion to open public hearing.

Motion by Zak, seconded by Sollena

MOTION UNANIMOUSLY CARRIED

The following members of the public spoke during public comment:

Dan Scaramella, a resident of 9 Marys Court, spoke of his experience and dissatisfaction with the use of off-road vehicles in his neighborhood and voiced support of the proposed ordinance.

Jim Yanuzzi, a resident of 8 Marys Court, recapped the history of events relative to the request for the proposed ordinance commenting on decibel levels, the model state noise ordinance, signed petition, and previous discussions held by the Township Committee and Board of Health. Mr. Yanuzzi also presented aerial photographs depicting a figure 8 track as well as the common ground of Timberwick Estates being encroached upon by off-road vehicle riders. Mr. Yanuzzi encouraged the adoption of the proposed ordinance.

Tim Millway, a resident of 7 Marys Court, commented on failed attempts at requests for cooperation regarding compliance by riders.

Pierre Leonard, a resident of 9 Hunt Court, also spoke of encroachment by riders in the common area of Timberwick Estates.

Board Member Smith expressed his opinion in opposition to the proposed ordinance.

A brief discussion was held regarding enforcement by the Police Department; roads involved; and the times of the incidents.

Board Attorney, Richard Tice, commented that the Hunterdon County Department of Health had previously confirmed its qualifications and capabilities regarding enforcement of the ordinance.

Chairman Nagy asked for a motion to close the public hearing and adopt Ordinance #19-01 on final consideration, same to be published according to law.

Motion by Zak, seconded by Geremia

ROLL CALL VOTE:

AYES: Geremia, Lanka, Zak, Chairman Nagy

NOES: Morlando, Smith

ABSTAIN: None

ABSENT: Peters

ORDINANCE ADOPTED

ORDINANCE #19-01

AN ORDINANCE OF THE TOWNSHIP OF RARITAN, COUNTY OF HUNTERDON, STATE OF NEW JERSEY ESTABLISHING STANDARDS FOR THE OPERATION OF MOTOR-DRIVEN OFF-ROAD VEHICLES IN RESIDENTIAL NEIGHBORHOODS

BE IT ORDAINED, by the Board of Health of the Township of Raritan, County of Hunterdon, State of New Jersey as follows:

Section 1. Purpose. The purpose of this Ordinance is to establish standards for the operation of motor-driven off-road vehicles within the Township of Raritan, County of Hunterdon, State of New Jersey to minimize the impact of noise from the operation of such vehicles on residents of the municipality and the environment.

Section 2. Definitions. The following words and terms, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this Ordinance have the same meaning as those defined in N.J.A.C. 7:29.

Affected Person means any person on a regulated property who has registered a noise complaint with an authorized enforcement agency and such person has an interest in the protected property as an owner, tenant, or employee.

Department means the New Jersey Department of Environmental Protection.

Motor Vehicle means any vehicle that is propelled other than by human or animal power on land.

Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment.

Noise Control Officer (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 *et seq.*) to perform noise enforcement activities; or a municipality with a Department-approved noise control Ordinance and the employee has received noise enforcement training and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons in order to be considered a noise control officer.

Noise Control Investigator (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved noise control Ordinance and the employee has not received noise enforcement training. However, they are knowledgeable about their model noise Ordinance and enforcement procedures. An NCI may only enforce sections of the Ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized by their municipality, county or regional health commission to issue a violation and/or summons.

Occupied Property means any affected person's property including but not limited to their home, studio, pool, tennis courts, barn, stable, penned areas, or similar structure or confined area occupied by livestock.

Off-Road Vehicle (ORV) means motor vehicles that are capable of human transport and designed or used for the purpose of recreation off of the public right-of-way by, but not limited to, all-terrain vehicles (ATV), trail/dirt bikes, minibikes, go-carts and snowmobiles.

Private Right-of-Way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a non-governmental entity.

Public Right-of-Way means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a governmental entity.

Public Space means any real property or structures thereon that are owned, leased or controlled by a governmental entity.

Real Property Line means the imaginary line including its vertical extension that separates one parcel of real property from another.

Section 3. Applicability. All off-road vehicles as defined in Section 2 shall comply with the requirements herein.

Section 4. Exceptions.

1. ORVs specifically used for farming activities under the New Jersey Right-To-Farm regulations, yard work and snow removal

2. ORVs engaged in government or emergency functions included but not limited to utility repair, search and rescue operations, fire-fighting or vehicles engaged in scientific research in otherwise inaccessible areas.
3. ORVs in transit to or from public roadways or when being loaded or unloading from their transport vehicles.
4. Lawn mowers, tractors, lawn, garden or similar equipment for residential use. This equipment must, however, operate with a factory-installed or functionally equivalent muffler.
5. Public celebrations that are government sponsored or government permitted events.
6. Permitted motor vehicle racetracks.
7. Safety training by a certified instructor under the Motorcycle Safety Foundation (MSF) or another sanctioned curriculum and with written, permitted approval from the municipality.
8. Cleaning, maintenance or repair of an ORV or ORVs between the hours of 6 a.m. to 6 p.m. when the engine use or operation of one or more ORVs does not exceed 15 minutes in any hour, no more than two times per day for a total of 30 minutes, unless sound levels are below 65dBA at or within a complainant's property line.

Section 5. Prohibited Acts.

1. Sound levels made by an ORV or ORVs shall not exceed the day (7:00 a.m. to 10 p.m.) and nighttime (10 p.m. to 7 a.m.) limits of 65dBA and 50dBA respectively when measured at or within a complainant's property line unless otherwise specified in this Ordinance; or
2. No person shall operate or cause to be operated any ORV not equipped with a factory-installed or functionally equivalent muffler in good working order and in constant operation; or
3. When not measuring dBAs and upon the audible determination by the NCO or NCI, no ORVs shall be operated within four-hundred (400) feet of an affected person's occupied property during the day (7 a.m. to 10 p.m.) or within eight-hundred (800) feet of an affected person's property during the night (10 p.m. to 7 a.m.). If the NCO or NCI determines the use of an ORV or ORVs is not impacting on the complainant's enjoyment of life and property as a result of relative loudness, distance to the property line, number of vehicles or frequency of drive-bys, even if the ORV operator(s) is/are

within four hundred (400) or eight-hundred (800) feet depending on the time of day, a violation does not exist.

Section 6. Enforcement.

1. Any violation of this Ordinance shall be cause for an enforcement document to be issued to the violator or the property owner on which the ORV or ORVs was/were operated, by the noise control officer or noise control investigator according to procedures set forth at N.J.A.C. 7:29. The recipient of an enforcement document with a monetary penalty shall be entitled to a hearing in municipal court having jurisdiction to contest such action.
2. Any person who violates any provision of this Ordinance shall be subject to a civil penalty for each offense of not more than \$2,000.00. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense. The violator can request a settlement conference to discuss potential reductions in penalty or to enter a payment schedule.
3. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action or legal remedy therefrom, of any person for injury or damage arising from any violation of this ordinance or from other law.
4. It shall be unlawful for the owner or person having control or custody of an ORV to allow or enable a minor (under age 18) to operate said ORV in a manner violating any section of this Ordinance. When a minor operates an ORV in violation of this Ordinance, it shall be a refutable presumption that the parent or guardian enabled the ORV to be so operated, and as such, the parent or guardian shall be an additional responsible party.

Section 7. Severability and Repealer.

1. If any provision or portion of a provision of this Ordinance is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated.
2. All Ordinances or parts of Ordinances that are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

Section 8. The Ordinance shall take effect upon its adoption, passage and publication according to law.

LIAISONS

STATE OF NEW JERSEY

No report

COUNTY HEALTH DEPARTMENT

*Correspondence

Board Members reviewed correspondence regarding the Mosquito Control Program. There was no comment.

*Food Inspection Reports

*Rabies Update

There was no report from the Hunterdon County Department of Health.

RARITAN TOWNSHIP MUNICIPAL UTILITIES AUTHORITY (RTMUA)

The following regular meeting minutes were acknowledged by Board Members with no comment:

February 21, 2019

OLD BUSINESS

Vaping – Discussion was carried to an upcoming regular meeting as Board Member Peters was absent.

FINANCIALS

Board Members reviewed the March 2019 monthly report. There were no comments.

COMMENTS

Board Member Morlando raised safety concerns imposed by trees on neighboring properties. Mr. Tice presented examples of case law regarding dangerous trees and advised that fallen trees do not constitute a health issue. Mr. Tice suggested that Mr. Morlando establish liability against the neighbor in writing. Board Secretary to forward copies of case law to Mr. Morlando.

ADJOURNMENT

Chairman Nagy asked for a motion to adjourn the meeting.
Motion by Zak, seconded by Geremia to adjourn.

MOTION UNANIMOUSLY CARRIED

Meeting adjourned at 7:58 p.m.

Respectfully submitted,



Lisa Fania
Board of Health Secretary