

**CHAPTER 2017-9**

**No. 190 AN ORDINANCE AMENDING CHAPTER 15, "MOTOR VEHICLES AND TRAFFIC," ARTICLE VII, "SNOWMOBILES AND RECREATIONAL OFF-ROAD VEHICLES"**

**Approved May 5, 2017**

*Be it ordained by the City of Providence:*

SECTION 1. Chapter 15, "Motor Vehicles and Traffic," Article VII, "Snowmobiles and Recreational Off-road Vehicles," is hereby amended as follows:

ARTICLE VII. – Snowmobiles and Recreational Off-road Vehicles

Sec. 15-101. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Operate.* To control the operation of a snowmobile or recreational off-road vehicle.

*Operator.* A person who operates or is in actual control of a snowmobile or recreational off-road vehicle.

*Recreational off-road vehicle.* A motorized or electronic vehicle designed to travel over unimproved terrain including but not limited to minibikes, dirt bikes, all-terrain vehicles, and any other three (3) or four (4) wheel vehicle regardless of type or design. This shall not be construed to include golf mobiles or golf carts, riding lawn mowers, or garden tractors, which are not registered as farm vehicles.

*Register.* The act of registering a snow mobile or recreational off-road vehicle, as defined in this section, in accordance with RI General Laws § 31-3-2.2.

*Snowmobile.* A vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.

Sec. 15-102. – Registration.

- (1) All snowmobiles and recreational off-road vehicles must be registered with the Rhode Island Department of Environmental Management as provided by state statute.
- (2) No person shall place, store, or keep any snowmobiles or recreational off-road vehicles, that are not registered in accordance with state law, upon public or private land, including any buildings thereon, zoned, or used for residential purposes.

Sec. 15-103. - Operations.

It shall be unlawful for any person to operate a snowmobile or recreational off-road vehicle within the city limits of the City of Providence, except on private property totaling at least two and a half (2.5) acres in area and with the express permission to do so by the owner or occupant of said private property.

Sec. 15-104. - Enforcement.

- (1) The Providence Police Department shall have the authority to enforce the provisions of this ordinance and to promulgate rules and regulations necessary to implement and enforce this ordinance.

- (2) The Providence Police Department shall have the authority to impound any snowmobile or recreational off-road vehicle found to be in violation of this ordinance.
- (3) No impounded snowmobile or recreational off-road vehicle shall be released until final disposition of all criminal and/or civil charges relating to the operation or storage of any recreational off-road vehicle, nor until proof of ownership and proper registration according to state statute is verified and applicable towing and storage charges are paid. Additionally, the City Solicitor shall have the authority to commence forfeiture proceedings, as described in Sec. 15-105.

Sec. 15-105. - Penalty.

The penalty for a violation of this article, shall be forfeiture of the snowmobile or recreational off-road vehicle; or if the defendant does not own the vehicle and the owner did not know and could not reasonably have known that the vehicle would be used in violation of this article and it is the first time that a snowmobile or recreational off-road vehicle belonging to the owner has been found to be in violation of this article, a civil penalty of five hundred dollars (\$500.00) in addition to any and all other fines and/or penalties associated with the illegal operation of such vehicle shall be imposed upon the operator and/or owner. The Providence Police Department shall be empowered to seize, and impound snowmobiles and recreational vehicles in order to enforce this article.

(a) Commencement of forfeiture proceeding and notice.

- (1) The City Solicitor shall bring an action for forfeiture by filing a complaint in the Providence Municipal Court.
- (2) The City Solicitor shall instruct the Department of Public Safety to give notice of the forfeiture proceeding by mailing a copy of the complaint and a notice for hearing to each person whose right, title, or interest is of record in the division of motor vehicles or any other department or agency of the state, or in any other state or federal agency or department in which the property is required to be registered. Such person or persons are hereinafter referred to as the "owner."
- (3) The owner of the property shall, within thirty (30) days after the mailing of the complaint and notice, file a verified answer to the complaint. The owner shall also appear at the hearing on the action for forfeiture.

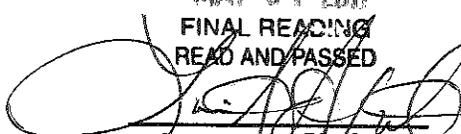
(b) Forfeiture Hearing

- (1) If the owner shall fail to appear at the forfeiture hearing, the court will enter an order of forfeiture by default.
- (2) If the owner appears at the forfeiture hearing, the City Solicitor shall show, by a preponderance of the evidence, that the property was used in violation of Chapter 15 Article VII of the Code of Ordinances of the City of Providence.
- (3) If the City Solicitor has not made the showing required in (b)(2) of this section, the Court shall order the property released to the owner.
- (4) If the Court finds that the City Solicitor has made the showing required, the owner may offer evidence that the owner was not using the property at the time of the violation that the owner did not know, or have reason to know, that the property was used or possessed, or was to be used or possessed, in any manner that violates Chapter 15 Article VII. For the purposes of this Ordinance, an owner shall be deemed to have knowledge of the provisions of Chapter 15, Article VII

- (5) If the owner rebuts the City Solicitor's showing, by a preponderance of the evidence, as set forth in (b)(4) of this section, then the complaint for forfeiture shall be denied and dismissed. The Court will determine, based on the circumstances presented, whether the owner shall be responsible for any fines or costs.
- (6) Where the City Solicitor has made the required showing, and the owner has not rebutted that showing by a preponderance of the evidence, or where the Court enters forfeiture by default, the court may order:
  - i. that the property be destroyed by the agency which seized it or by some other municipal agency designated by the court, or
  - ii. that the property be delivered to and retained for use by the agency which seized it, or to some other municipal agency designated by the court, or
  - iii. that the property be sold at public auction by an agency designated by the court.
- (7) Proceeds from sale at public auction, after payment of all reasonable charges and expenses for storage and public auction, shall be used by the Providence Police Department to enforce Chapter 15 Article VII.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL  
 APR 27 2017  
 FIRST READING  
 READ AND PASSED  
  
 CLERK

IN CITY COUNCIL  
 MAY 04 2017  
 FINAL READING  
 READ AND PASSED  
  
 PRESIDENT  
  
 CLERK

I HEREBY APPROVE.  
  
 Mayor  
 Date: 5/5/17