

TOWN OF CRAFTSBURY

TEMPORARY ORDINANCE REGULATING ALL TERRAIN VEHICLES (ATVs) to expire November 30, 2019

SECTION 1. AUTHORITY.

Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. §§ 2291(2),(4), and 23 V.S.A. § 3510, the Select board of the Town of Craftsbury hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain vehicles within the town.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to promote and protect the public health, safety and welfare of the Town, and to preserve residents' rights to quiet enjoyment of homes and properties by regulating the time, manner, and location of operation of all-terrain vehicles ("ATVs") within the Town.

SECTION 3. DEFINITIONS.

- A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, except snowmobiles, having no less than three low pressure tires (10 pounds per square inch, or less), not wider than 64 inches, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland and natural terrain. An ATV shall not include an electric personal assistive mobility device.
- B. "Enforcement Officer" means any law enforcement officer certified by the Vermont criminal justice training council.
- C. "Operate" includes any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles within the town whether they be in motion or at rest.
- D. Other definitions found in 23 V.S.A. § 3501 are incorporated herein by reference.

SECTION 4. TOWN HIGHWAYS OPENED.

Pursuant to 23 V.S.A. § 3506, Town highways in Craftsbury are opened to all-terrain vehicles EXCEPT:

- *That section of North Craftsbury Road from Route 14 to Dustan Road,
- *That section of North Craftsbury Road from the north end of the Common to Black River Road,
- *That section of South Craftsbury Road from the intersection with Cemetery Road to Route 14,
- *East Craftsbury Road from the intersection with South Albany Road to the Greensboro Town Line,
- *Class IV roads (excepting Coburn Hill Road),
- *Town Forests and the Academy Woodlot,
- * Public cemeteries, water bodies within the Town, school and town property.

SECTION 5. SPEED LIMITS AND PROPER CONDUCT.

The speed limit is not to exceed 30 MPH. No person shall drive an ATV on a public right of way at a speed greater than 30 MPH and shall drive reasonably and prudently depending upon road and weather conditions, having regard to the actual and potential hazards there existing. In every event, speed shall be controlled as necessary to avoid collision with and be respectful of any person, vehicle, bicycle, ATV, horse, livestock, or other object on or adjacent to the roadway.

SECTION 6. OPERATION OF ATVs.

- A. All ATVs must be registered and operated according to the requirements of 23V.S.A. Chapter 31. In order for an ATV to legally operate on a town road that is open to ATV use, the ATV must have one or more working headlights and a working red rear light, all of which must be on during operation. The ATV must have a correct, current number plate, brakes in good mechanical condition, a USFS qualified spark arrester, and a muffler system that produces a noise level not to exceed 82 decibels at 50 feet.
- B. All ATV drivers must have a valid driver's license, liability insurance, and a helmet is recommended.

SECTION 7. TIME OF OPERATION.

ATVs may not be operated within the Town between 10 PM and 6 AM seven days of the week. The exception is Coburn Hill Road.

SECTION 8. SINGLE FILE; NO RACING.

Where ATV travel on Town highways is permitted, such travel shall be single file. No racing shall be allowed.

SECTION 9. ENFORCEMENT.

The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and may be the appearing officer at any hearing.

SECTION 10. OTHER LAWS.

This Ordinance is in addition to all other ordinances of the Town and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 11. SEVERABILITY.

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

If the violator pays the waiver fee, the money collected by the Judicial Bureau is sent to the town, minus an administrative fee which is retained by the Bureau for administrative expenses.

If the violator asks for a hearing, it will be held by a hearing officer assigned by the Judicial Bureau. The Bureau is designed to be used without attorneys. Therefore, if there is a hearing in the Judicial Bureau the law enforcement officer who issued the ticket must appear to represent the town. The burden of proof is on the town and the violation must be proven by "clear and convincing evidence." If the defendant or town is unhappy with the outcome of the hearing at the Bureau, an appeal may be taken to Superior Court.

PENALTIES

The financial penalties for some ATV violations are set by the State and therefore may not be altered by town ordinance. These penalties are listed on the Judicial Bureau's website: <https://www.vermontjudiciary.org/judicial-bureau>.

Fines that are not set by the State must be set by the selectboard in amounts not to exceed \$800. The selectboard may also set a "waiver fee" for each offense. This is the fee that defendants pay to avoid contesting a municipal traffic ticket in the Judicial Bureau. When setting the penalty and waiver fee amounts, the selectboard must determine what amounts are sufficient to deter violations of the ordinance. Fines are punitive in nature, and, therefore, the amount of the penalty does not have to correspond to the costs incurred by the town in enforcing the ordinance. Waiver fees should be set to discourage contested actions. Subsequent violations of the same ordinance should lead to an increased penalty and waiver fee.

ORDINANCE ADOPTION PROCESS

The adoption of ordinances (other than zoning ordinances) is governed by 24 V.S.A. §§ 1972, 1973. The process starts with the drafting of the ordinance, and its review by the selectboard. The selectboard then adopts the ordinance formally, by a majority vote of its members at a duly-warned selectboard meeting ensuring that the action and a copy of the proposed ordinance are entered in the minutes of the meeting. The ordinance must be posted in at least five conspicuous places in town and must be published in a newspaper of general circulation on a day not more than 14 days after the selectboard's vote to adopt the ordinance. The information included in the newspaper must include the following: the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text of the ordinance may be examined. The notice must also explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in 24 V.S.A. § 1973.

SECTION 12. EFFECTIVE DATE.

This ordinance shall become effective 60 days after its adoption by the Select board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance. This ordinance is a temporary ordinance and will expire November 30, 2019. At that time the ordinance will be cancelled, amended and made permanent, or made permanent as is according to the decision of the Select Board.

Date of adoption by the Select board: May 7, 2019

Signatures of Select board members:

Bruce Allen May 7, 2019

DATE

[Signature]

Susan Houston

Adoption History

1. Agenda item at regular Select board meeting held on 5/7/19
2. Read and approved at regular Select board meeting on 5/7/19 and entered in the minutes of that meeting which were approved on 5/9/19.
3. Posted in public places on 5/17/19 Village Post Office, Common Post Office, C. Village Store, Craftsbury General Store, Town of
4. Notice of adoption published in the HARDWICK newspaper on 5/22/19 with a notice of the right to petition. Gazette
5. Other actions [petitions, etc.]

The Ordinance was adopted on May 7, 2019 at a Select Board meeting. Minutes were approved on May 9, 2019. It will take effect in sixty days, unless a petition signed by at least five percent of the voters for Craftsbury is filed with the municipal clerk within forty-four days, asking for a vote to disapprove the ordinance. If a petition is received, the Craftsbury Select Board will warn a special meeting or at the Annual Meeting, and the voters may vote on that question.