

Town of Alburgh, Vermont
ORDINANCE REGULATING ALL TERRAIN VEHICLES (ATVs)
4-26-2019_V1

SECTION 1. STATE RESTRICTIONS ON ATV OPERATION

ATV operators must comply with state laws regulating ATV operation.

SECTION 2. RIGHTS CONFERRED BY STATE LAW

State law provides that, during the winter, ATV operators have the right to travel on any town highway that is not maintained by the town in winter. The law also provides that, during any season, an ATV that is being used for agricultural purposes on a farm may be operated three or more feet from the traveled portion of any highway within the confines of that farm. 23 V.S.A. § 3506.

State law also grants the right to operate an ATV across a town highway, during any season, when all of the following are present:

1. The crossing is made at an angle of 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
2. The operator brings the ATV to a complete stop before entering the traveling portion of the highway;
3. The operator yields the right of way to motor vehicles and pedestrians; and,
4. The operator is 12 years of age or older, and, if 12 to 15 years old, is under the direct supervision of a person 18 years of age or older.

SECTION 3. 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 Selectboard of the Town of Alburgh hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain vehicles within the town.

SECTION 4. 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 5. DEFINITIONS

- A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, except snowmobiles, having no less than two low pressure tires (10 pounds per square inch, or less), not wider than 64 inches with two-wheel ATVs having permanent, full-time power to both wheels, 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. This includes "Side-by-Side" vehicles and golf carts. 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 6. TOWN HIGHWAYS OPENED

All Town Highways shall be open to ATV traffic, except for: **[Insert name of town highways, and whether they are closed in their entirety or only on designated sections.]** (It is unlawful to operate ATVs on Federal and State highways, including US 2, VT 78, VT 129 and VT 225.)

SECTION 7. OPERATION

- A. All posted speed limits and traffic control devices on Town highways shall apply to the operation of ATVs. Notwithstanding the above, no person shall drive an ATV on a public right of way at a speed greater than is reasonable and prudent under the conditions, having regard to the actual and potential hazards there existing. In every event, speed shall be controlled as necessary to avoid collision with any person, vehicle, bicycle, ATV, or other object on or adjacent to the ATV trail.

SECTION 7. OPERATION (Continued)

- B. ATVs may not be operated within the Town between **[Insert time] and [insert time], [insert days of the week that the restriction applies].**
- C. Where ATV travel on Town highways is permitted, such travel shall be single file. No racing shall be allowed.
- D. Hand signals are required to indicate all turns and stops.
- E. ATVs shall not be operated on the following public property: **[Insert identifiable town/public property such as:** bike paths, hiking trails, recreation fields, on any public greens, in any burial ground, on any school playground, child care center, in any wastewater treatment plant, or in the parking lots of any place of religious worship, “Parke & Ride” areas, and hospital/clinic and nursing home, **VAST snowmobile trails,** or as otherwise prohibited by law.
- F. All posted speed limits and traffic control devices apply to the operation of ATVs on Town highways, **with a maximum speed limit not to exceed 35 MPH.**
- G. ATV operators must have a valid driver’s license.
- H. ATV operators and passengers must wear a US Department of Transportation (DOT) approved helmet (unless operating an ATV equipped with seat belts).
- I. All ATV’s operated in accordance with this ordinance must be registered with the State of Vermont, and all owners of ATV’s operated in accordance with this ordinance must have and carry evidence of liability insurance. If you are registering your ATV (whether purchased in Vermont or out-of-state) for the first time in Vermont, you must complete the entire Vermont Registration, Tax and Title application (VD-119) and comply with all requirements indicated on the application.

SECTION 7. OPERATION (Continued)

J. ATVs shall be equipped with:

- i) At least one headlight and a rear light in working order, brakes in good mechanical condition, and any windshield free from sharp or jagged edges. (23 V.S.A. § 3505(a) and 23 V.S.A. § 3506(d)). In addition, lights shall be on during vehicle operation from 30 minutes after sunset to 30 minutes before sunrise.
- ii) An efficient muffler and exhaust system—an exhaust system with a cut-out, bypass, or similar device , or with the spark arrester removed or modified is NOT permitted. The maximum machine operating noise shall not be more than 82 decibels on the A scale at 50 feet, in a normal operating environment (23 V.S.A. § 3505(b)).

SECTION 8. PENALTIES

- A. The Enforcement Officer is authorized to recover civil penalties for operation of an ATV in excess of the posted speed limit as specified in the *Town of Alburgh, Vermont Traffic Ordinance (4-26-1999/Revised 9/19/2006)* and in the State of Vermont’s Judicial Bureau Penalty Schedule.
- B. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance as set out below:

1st Offense: **\$100** fine. Waiver amount: **\$25**.

2nd Offense: **\$200** fine. Waiver amount: **\$100**.

3rd & Subsequent Offense: **\$500** fine. Waiver amount: **\$375**.

The Enforcement Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.

SECTION 8. PENALTIES. (Continued)

- C. In addition, the Enforcement Officer is authorized to recover civil penalties for the following violations as set by the State of Vermont:
- Operation along a highway that is maintained during the snow season but that has not been opened for use by the Selectboard. 23 V.S.A. § 3506(b)(1)
 - Operation within a public cemetery. 23 V.S.A. § 3506(b)(10)
 - Operation on a sidewalk that has not been opened for travel by the Selectboard. 23 V.S.A. § 3206(b)(12)
 - Other violations described herein.
- D. Operators of ATV's shall be liable, in addition to the penalties set forth above, for all repair costs incurred for damage to town roads caused by the operation of their ATV.
- E. The Town of Alburgh accepts no liability for the operation of ATV's on Alburgh town roads as set forth in this Ordinance.

SECTION 7. 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 8. 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 9. 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.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

Date of adoption by the Selectboard: _____

Signatures of Selectboard members:

Lee Kimball (Chair) _____ DATE

Cheryl Moomey (Vice Chair)

Alton Brusco

Chuck Pease

Ken Millman

Adoption History

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular Selectboard meeting on _____,
and entered in the minutes of that meeting, approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____
newspaper on _____, and online at

on _____, with a notice of the right to petition.
5. Other actions [petitions, etc.] _____