



TOWN OF WATERBORO NOTICE OF PUBLIC HEARING

The Waterboro Board of Selectmen will hold a Public Hearing at the Waterboro Town Hall, 24 Townhouse Road, on Tuesday, September 24, 2019 beginning at 6:00 p.m. to hear public comment regarding a Town of Waterboro ATV Ordinance.

The proposed ordinance is available at Waterboro Town Hall and on the town's website at www.waterboro-me.gov.

Town of Waterboro ATV Ordinance

I. Purpose and Authority

The purpose of this Ordinance is to allow for the travel of All-Terrain Vehicles (ATV's) on certain public ways in order to obtain access from one ATV trail to another without traveling over private property and for the use and enjoyment of these vehicles throughout the community. This Ordinance is enacted pursuant to the provisions of 12 M.R.S.A. Section 13157-A(6)(H).

II. Definitions

1. All-terrain vehicle or ATV. "All-terrain vehicle" or "ATV" means a motor- driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. "All-terrain vehicle" or "ATV" includes, but is not limited to, a multitrack, multi-wheel or low-pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this subpart, "all-terrain vehicle" or "ATV" does not include an automobile as defined in 29-A M.R.S.A. Section 101, subsection 7; an electric personal assistive mobility device as defined in 29-A M.R.S.A. Section 101, subsection 22-A; a truck as defined in 29-A M.R.S.A. Section 101, subsection 88; a snowmobile; an airmobile; a construction or logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

2. Dwelling. "Dwelling" means any building used as a permanent residence or place of domicile.

3. Freshwater marshes and bogs. "Freshwater marshes and bogs" means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Division of Geology, Natural Areas and Coastal Resources, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Planning Commission.

4. Operate. "To operate," in all its moods and tenses, when it refers to an ATV, means to use an ATV in any manner within the jurisdiction of the State, whether or not the vehicle is moving.

5. Operator. "Operator" means the person who is in control or in charge of an ATV while it is in use.

6. Owner. "Owner" means, for the purposes of registration of an ATV, a person holding title to an ATV.

7. Private Way. "Private Way" means a private road, driveway, or public easement.

8. “Public easement” means an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public with respect to private ways created by statute prior to July 29, 1976.

9. Public Way. “Public Way” means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, or other road owned and maintained by the State or the Town for use by the general public.

III. Operating ATV on a public way. Except as provided in this subsection, a person may not operate an ATV, other than an ATV registered with the Secretary of State under Title 29-A of the Maine Revised Statutes, on any portion of a public way maintained or used for the operation of conventional motor vehicles or on the sidewalks of any public way.

A. An ATV registered pursuant to 12 M.R.S.A. Section 13155 may be operated on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, bridge, overpass, underpass, sidewalk or culvert as long as that operation can be made safely and does not interfere with traffic approaching from either direction on the public way.

B. An ATV may be operated on any portion of a public way when the public way has been closed in accordance with 23 M.R.S.A. Section 2953.

C. An ATV may be operated on a public way that is not maintained or used for the operation of conventional motor vehicles, except that operation on the left side of the way is prohibited during the hours from sunset to sunrise.

D. An ATV may be operated on public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable.

E. An ATV may be operated on public ways in special events of limited duration conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

F. An ATV may be operated on a public way on the extreme right of the traveled way by a law enforcement officer for the sole purpose of traveling between the place where the ATV is usually stored and an area to be patrolled by the law enforcement officer.

G. Notwithstanding paragraphs A to F, an ATV may be operated on the extreme right of a public way, or as directed by the town of Waterboro as a designated route in the public way as an ATV-access route under the provisions of Section IV of this Ordinance. Any operation on the public way shall occur exclusively on the pavement.

H. An ATV must have its lights on at all times when operating in a public way.

I. An ATV shall travel at a prudent speed, which shall in no event exceed the posted speed limit, when in the public right-of-way.

IV. Allowed locations of use.

Subject to the requirements of Section III.G, the following streets or sections of streets as described shall be allowed to have ATV travel on a regular basis in order to obtain access to existing off-road trails:

- Ossipee Hill Road from so called Boy Scout Road (also known as Cross Road) to the intersection of McLucas Road.
- Improved section of McLucas Road.
- Deering Ridge Road starting at the double pole line to the intersection of Town House Road.

V. Violations and enforcement.

This Ordinance shall be enforced by county law enforcement officials having jurisdiction. Any person who engages in any act prohibited by the Ordinance commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. All fines collected shall inure to the benefit of the Town of Waterboro. A fine of \$250.00 will be enforced if the ATV is not operated on the pavement of the public way as required by Section III.G of this Ordinance.

VI. Severability.

If any section, subsection or portion of this Ordinance is declared by any court of competent jurisdiction to be invalid for any reason, such declaration shall not be deemed to affect the validity of the remaining sections, subsections or portions of this Ordinance, which shall remain in full force and effect.

VII. Annual review of ordinance

This ordinance may be reviewed annually and amended as needed by the Board of Selectmen to address any issues with trail usage that arise.