ORDINANCE REGULATING ALL TERRAIN VEHICLES

SECTION I: AUTHORITY. Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. §2291(4), and 23 V.S.A. §3510, the Selectboard of the Town of Derby hereby adopts the following civil ordinance regulating the time, manner, location and/or operation of all-terrain vehicles on property owned or controlled by the Town, including town highways and legal trails.

SECTION II: PURPOSE. The purpose of this ordinance is to protect the health and safety of operators of all-terrain vehicles and the residents of the Town and to protect the wildlife, real and personal property and environment of the Town.

SECTION III: DEFINITIONS.

- A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, except snowmobiles, as defined in VSA Title 23 Chapter 31.
- B. "Operate" shall include any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they are in motion or at rest.
- C. "Town Highway" or "Town Highways" means all class 1, 2, 3, and 4 town highways located within the Town of Derby.
- D. "VASA" means the Vermont All-Terrain Vehicle Association.

SECTION IV: OPERATION OF ATVs. The following requirements shall apply to all ATVs operated on property owned or controlled by the Town, including town highways and legal trails.

- A. All ATVs must be registered, equipped and operated according to the requirements of 23 V.S.A. Chapter 31.
- B. ATVs shall not be operated on any Town property, highway or legal trail unless the Selectboard grants permission to VASA/local ATV organization. VASA/local ATV organization shall contract directly with law enforcement to ensure safe operations of ATVs on Derby Highways.
- C. ATV operators must have a valid driver's license when operating an ATV on permitted Town highways or legal trails.
- D. All Town highways or legal trails opened to ATVs operation by the Selectboard shall be so posted, and a list of highways and legal trails open to ATVs shall be maintained in the Town Clerk's office.
- E. Speed limit signs and stop signs shall be posted at any location where an ATV trail enters or crosses a Town highway or legal Trail. Advance notice signs shall be erected approximately 250 feet prior to any location where the trails enters or crosses a Town highway or legal trail. These signs shall be approved by the Derby Selectboard. The expense of these signs and erecting, posting and maintaining of the signs on the trails shall be the responsibility of the adjoining landowner or local ATV Club. It shall be a violation of this Ordinance to access or cross a public highway or legal trail from an ATV trail that is not posted in accordance with this provision.
- F. ATV operators shall obtain and maintain liability insurance and shall carry proof of the same.
- G. Operators of ATVs on Town highways and legal trails shall comply with all traffic control devices.
- H. ATVs shall operate in single file. No racing shall be allowed.
- I. Hand signals are required to indicate all turns and stops, in the absence of street legal turn signal lights.

- J. ATV operators and passengers must wear a US Department of Transportation (DOT) approved helmet (unless operating an ATV equipped with seat belts).
- K. Unless the Selectboard for any reason designates otherwise, ATVs shall not be operated between October 1st and May 15th of each year.
- L. ATVs shall not be operated between the hours of 10 P.M. and 7 A.M.
- M. ATVs shall not operate on any Town legal trail within 50 yards of any year round residence, school, church, or nursing home, unless permission is granted by the property owner/resident.
- N. Nothing contained in this Ordinance shall authorize or create any cause of action to accrue or to be maintained against the Town of Derby, and the Town accepts no liability for the operation of ATVs on Town highways or legal trails.

SECTION V: PENALTIES.

A. An Issuing Municipal Official shall have the authority to levy and collect a Wavier fee in lieu of a civil penalty from any person who declines to contest a municipal complaint and pay the Wavier fee. Offenses shall be counted on a calendar year basis and wavier fees are as follows:

First offense Second offense

Town of Derby Selectboard

\$100.00, waiver fee \$75.00

\$200.00, waiver fee \$150.00

Third and each subsequent offense

\$500.00, waiver fee \$300.00

B. Operators of ATVs shall be liable, in addition to the fees set forth above, for all repair costs incurred for damages to Town roads, legal trails and/or other municipally-owned lands caused by the operation of ATV on property owned or controlled by the Town.

SECTION VI: ENFORCEMENT. This is a civil ordinance and shall be enforced by the constable/sheriff/police officer or any person(s) duly appointed by the Selectboard as an Issuing Municipal Official through the Judicial Bureau in accordance with the provisions of 24 V.S.A. Chapter 59.

SECTION VII: 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 VIII: EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Derby Selectboard and shall supersede and replace all previous ordinances regulating the time, manner, location and/or operation of all terrain vehicles. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

June 15, 2020 DATE

DERBY, VT

TOVAN CLERK'S OFFICE RECEIVED FOR RECORD

JULY 7

53

A.D. 2020

at <u>4</u> o'clock

and recorded in Book TOWN3#15

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of TOWN

ASSTSTANT

Town Cler