

**TOWN OF WILMINGTON ORDINANCE
REGULATING ALL TERRAIN VEHICLES (ATVs) AND
NEIGHBORHOOD ELECTRIC VEHICLES (NEVs)**

SECTION 1. 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 Wilmington hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain and neighborhood electric 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 peaceful and quiet enjoyment and protection of homes and properties by regulating and effectively enforcing the time, manner, and location of operation of all-terrain vehicles ("ATVs") and neighborhood electric vehicles ("NEVs") within the Town.

SECTION 3. DEFINITIONS.

A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, including all utility task vehicles except snowmobiles, having no less than two low pressure tires (25 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 2,500 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 on a public highway, road or legal trail shall be considered a motor vehicle and subject to municipal, state and federal laws as defined in 23 VSA §4. An ATV shall not include an electric personal assistive mobility device.

B. "Riding Club-sponsored Road" means a private road owned and controlled by the Hermitage Members Club, Inc. ("Hermitage") that permits the Haystack Riders Club LLC ("Club") passage on the private roads owned and controlled by the Hermitage.

C. "Enforcement Officer" means any law enforcement officer certified by the Vermont criminal justice training council.

D. "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 on those public highways and private roads defined as public highways pursuant to statutory and common law listed in Section 4, paragraph D, below, whether they be in motion or at rest.

E. "Public highway" means any publicly accessible highway, road, or legal trail of any classification under the jurisdiction of the Town of Wilmington.

F. "Town" means Town of Wilmington or its legal representatives.

G. "Helmet" Protective headgear shall be the same standard quality as required and certified for the operation of motorcycles by the Commissioner of the Department of Motor Vehicles. The headgear shall be equipped with either a neck or chin strap.

H. "Neighborhood electric vehicle" or "NEV" means a self-propelled electrically powered motor vehicle that:

- (1) is emission free;
- (2) is designed to carry four or fewer persons;
- (3) is designed to be, and is, operated at speeds of 25 miles per hour or less;
- (4) has at least four wheels in contact with the ground;
- (5) has a gross vehicle weight rating less than 3,000 pounds; and
- (6) conforms to the minimum safety equipment requirements as adopted in Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles, 49 C.F.R. § 571.500.

I. Other definitions found in 23 V.S.A. § 3501 and §4 are incorporated herein by reference.

SECTION 4. OPERATION. Provisions of 23 V.S.A. § 3506 and §4 are incorporated by reference.

A. All ATVs and NEVs must be currently registered and be insured at state-minimum liability requirements. Proof of driver's license, registration and insurance must be carried in the ATV/NEV while being operated on a public highway.

B. A valid Haystack Riders Club LLC Decal, issued annually, must be attached to the rear of the ATV/NEV.

C. Persons operating ATVs/NEVs on an approved public highway must be at least 16 years of age with a valid driver's license.

D. PUBLIC HIGHWAYS OPENED TO ATVs/NEVs. Pursuant to 23 V.S.A. § 3506(b)(1), an all-terrain vehicle or neighborhood electric vehicle may be utilized only on the Hermitage private roads that are defined as public highways pursuant to statutory and common law to include: Gate House Trail, Fannie Hill Road, McGovern Lane, Haystack Mountain Lane and Stag's Leap Lane (collectively the "Haystack Mountain Roads"). Operation of ATVs/NEVs is prohibited on all other public highways in the Town of Wilmington.

E. Operators and passengers of ATV's must wear helmets, required by 23 V.S.A. § 3501, and passengers will be properly restrained, as required by 23 V.S.A § 1258.

F. ATVs/NEVs shall operate in a reasonable and prudent manner to avoid snow plows or other snow removal equipment when such equipment is in operation.

SECTION 5. SPEED LIMITS AND TRAFFIC CONTROL DEVICES. No person shall drive an ATV/NEV on a public highway at a speed greater than 20 miles per hour or faster 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, NEV or other object

on or adjacent to the area of operation of the ATV/NEV.

SECTION 6. TIME OF OPERATION. ATVs/NEVs may be operated within the Town between 7 am and 11 pm.

SECTION 7. PENALTIES.

A. The Enforcement Officer is authorized to recover civil penalties for operation of an ATV/NEV in excess of 20 mph or for other offenses in the State of Vermont's Judicial Bureau Penalty Schedule. In accordance with 24 VSA §1974a, any person who violates a provision of this Civil Ordinance shall be subject to a civil penalty of up to \$800 per day for each day that such violation continues.

B. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance as set out below:

Operation on any Municipal or State Highway or any public or private property without permission of the owner:

- 1st Offense: \$ 500 fine. Waiver amount: \$ 400
- 2nd Offense: \$ 650 fine. Waiver amount: \$ 600
- 3rd and Subsequent Offense: \$ 800 fine. Waiver amount: \$ 750

Engaging in racing:

- 1st Offense: \$ 500 fine. Waiver amount: \$ 400
- 2nd Offense: \$ 700 fine. Waiver amount: \$ 600
- 3rd and Subsequent Offense: \$ 800 fine. Waiver amount: \$ 700

Operation during hours when operation is prohibited:

- 1st Offense: \$ 100 fine. Waiver amount: \$ 75
- 2nd Offense: \$ 150 fine. Waiver amount: \$ 125
- 3rd and Subsequent Offense: \$ 250 fine. Waiver amount: \$ 250

Operation without helmet or proper restraints (each person):

- 1st Offense: \$ 100 fine. Waiver amount: \$ 25
- 2nd Offense: \$ 150 fine. Waiver amount: \$50
- 3rd and Subsequent Offense: \$ 250 fine. Waiver amount: \$100

For the above offenses, 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 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.

SECTION 12. 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.

SECTION 13. ANNUAL REVIEW. This ordinance, its operation, and any recommendations by the Town and the Haystack Riders Club may be reviewed annually by the Selectboard.

Adopted by the Wilmington Selectboard on October 1, 2024. Effective Date – November 30, 2024.



Tom Fitzgerald, Chair



John Gannon, Vice Chair



Sarah Fisher

Vincent Rice

Tony Tribuno