

## **TOWN OF DANVILLE, VERMONT**

### **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. §§ 3506 and 3510, the Selectboard of the Town of Danville hereby adopts the following civil ordinance regulating the time, manner and location of Operation of all-terrain vehicles ("ATVs") within the Town. This ordinance does not apply to snowmobiles.

**SECTION II. PURPOSE.** The purpose of this ordinance is to protect the health, safety and welfare of Operators and passengers of all-terrain vehicles and of the residents and landowners of the Town. This ordinance does not apply to ATV Operation on private property except as expressly stated otherwise.

#### **SECTION III. DEFINITIONS.**

. "Affected Property Owners" means the record owners of each individual tax parcel adjacent to the Town Highways being proposed by the Club for approval by the Selectboard as the Club Sponsored Corridor Trail for the ensuing year.

B. "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 of the following or a combination thereof: land, water, snow, ice, marsh, swamp and natural terrain. An ATV on a public highway or road shall be considered a motor vehicle and subject to municipal, state and federal laws. An ATV shall not include an electric personal assistive mobility device.

C. "ATV Committee" means a committee formed under this ordinance to discuss progress in establishing an off-road trail system and to investigate and report on complaints about ATVs or other issues that may arise from ATV use on Town Highways.

D. "Club Sponsored Corridor Trail" means a trail to allow passage from Barnet through the Town to the boundary of Wheelock or Sheffield, to be considered yearly by the Selectboard.

E. "Club" means an organized ATV association that is a member of VASA maintaining a Club Sponsored Corridor Trail and having members who reside in the Town.

F. "Commercial ATV Operation" will mean the Operation of an ATV on any Town Highway open to the public, by a guided tour or by someone who has rented an ATV from an individual or corporate entity charging a fee for the tour or rental.

G. "Operate" shall include any attempt to Operate and shall be construed to cover all matters and things connected with the presence and use of ATVs whether they are in motion or at rest, and "Operators" shall include all persons who Operate ATVs. "Operation" shall be in accordance with 23 V.S.A. § 3506.

H. "Real Property" shall mean real estate tax parcels designated by the Town.

I. "Town Highway" means any publicly accessible highway, road or trail of any classification under control or jurisdiction of the Town.

J. "Town" means the Town of Danville or its legal representatives.

K. "VASA" means the Vermont All-Terrain Vehicle Sportsman's Association, Inc.

#### **SECTION IV. OPERATION.**

A. All ATVs must be registered and Operated according to the requirements of 23 V.S.A. Chapter 31.

B. Resident ATV Operators and owners of Real Property in Town may operate ATVs along Class III and Class IV Town Highways with the purchase of a Town decal, and on Club Sponsored Corridor Trails with VASA membership, unless otherwise posted by the Town. Non-resident ATV Operators, who do not own Real Property in Town, are limited to Club Sponsored Corridor Trails and require VASA membership.

C. No ATV Operation may occur on any of the following: Class II Town Highways except at crossings as provided under and as allowed by state statute, or unless a designated part of the Club Sponsored Corridor Trail or otherwise designated for ATV use by the Selectboard; any village street; the public Green in the center of the Town; on the grounds of the wastewater treatment plant; on any burial ground; on the school playground; or in any Town forests.

D. ATV Operation by non-residents of the Town who do not own Real Property in Town is limited to only the Club Sponsored Corridor Trail that shall be proposed by the Club and approved by the Selectboard each year and on no other Town Highways.

E. ATV Operation on any approved Club Sponsored Corridor Trail is limited to May 1<sup>st</sup> through December 1<sup>st</sup> unless a later spring opening or earlier winter closure date is set by the Selectboard. Operation anywhere in Town may occur only from 7:00 am to one half hour after sunset, as sunset is determined under Vermont Department of Fish and Wildlife regulations. (Currently published at <http://www.eregulations.com/vermont/15vtab/sunsetsunrise-tables/>).

F. The Club will post informational, directional, speed and safety signs on the Club Sponsored Corridor Trail approved each year by the Selectboard. All other signage from prior years and routes will be removed each year by the December 1<sup>st</sup> or other closure date. The Club will post "No ATVs" signs at appropriate places along the Club Sponsored Corridor Trail to keep non-resident Operators who do not own Real Property in Town only on the approved Club Sponsored Corridor Trail and off all other Town Highways. Operation on all Town Highways other than the Club Designated Corridor Trail, by non-residents who do not own Real Property in Town shall be subject to 23 V.S.A. § 3507.

G. The Town reserves the right to issue limited special Operator permits for community service activity, or for other purposes and may temporarily suspend this ordinance during times of emergency.

H. Speed limits for all ATVs while operating on Town Highways will be a maximum of 25 mph unless otherwise posted at a lower speed, and all ATVs will travel in single file, ATV lights must at all times be on and ATVs will follow all traffic rules and control devices that apply to the Town Highways. All Operators must have and must carry evidence of liability insurance as required by law, must be registered. A person under the age of 12 may operate an ATV if on his/her parent's or guardian's property, if on property for which s/he has written permission to drive; or if under the direct supervision of someone at least 18 years of age. 43 V.S.A. §3506(b)(5). Operators and passengers must wear helmets, young passengers will be properly restrained and all ATVs shall otherwise be Operated in accordance with state law.

I. No Commercial ATV Operation shall be permitted on Town Highways.

**SECTION V. SELECTION AND USE OF TOWN HIGHWAYS.**A. The use of Town Highways or portions thereof is a privilege while the Club builds an off-road trail network and, on an annual basis, the Club will update the Town with its progress. No Town Highway use for a Club Sponsored Corridor Trail shall be allowed where, as may be determined by the Selectboard, a reasonably alternative route over private lands is available.

B. By no later than October 31<sup>st</sup> of each year, the Club will submit its proposal for a Club Sponsored Corridor Trail for the following year to the Selectboard. The Selectboard will only approve the use of the Club Sponsored Corridor Trail if the Club demonstrates support from two-thirds of all Affected Property Owners.

C. Town Highways designated as the Club Sponsored Corridor Trail must be rotated and any particular portion of any Town Highway may only be used a maximum of once every three (3) years as part of the Club Sponsored Corridor Trail, to ensure that no Real Property with the same tax parcel identification number is adjacent to the Club Sponsored Corridor Trail in either of the subsequent two (2) years.

D. Affected Property Owners shall have the right to petition the Town to disqualify from usage that portion of any Town Highway proposed to be part of the Club Sponsored Corridor Trail for the ensuing year provided they obtain the signatures of a minimum of simple majority of all Affected Property Owners bordering on such portion of the Club Sponsored Trail. Disqualification shall be at the discretion of the Selectboard by a decision made at a regular meeting and, if granted, shall take effect immediately. Thereafter the Club may submit alternatives to the disqualified section in accordance with Section V.B.

**SECTION VI. ANNUAL REVIEW.** Sections V and VIII, as well as plans and actions to reduce the use of Town Highways as Club Sponsored Corridor Trails, shall be reviewed at least annually with the local Club, Selectboard and public at the first regularly scheduled Selectboard meeting in March following the annual Town Meeting day.

## **SECTION VII. VIOLATIONS, FEES AND PENALTIES.**

A. It is a violation of this ordinance to Operate, or to permit an ATV owned by the person or under his or her control to be Operated, on any Town Highway:

1. If the Operator is under 16 years of age (ordinance violation under 23 V.S.A. § 3510).
2. While the Operator or any passenger is not wearing a helmet (ordinance violation under 23 V.S.A. § 3510).
3. With young passengers aboard who are not properly restrained (23 V.S.A. § 1258).
4. Without having the headlight turned on at all times (ordinance violation under 23 V.S.A. § 3510).
5. On any Town Highway other than the Club Sponsored Corridor Trail if the Operator does not reside or own Real Property in Town (ordinance violation under 23 V.S.A. § 3510).
6. On any Town Highway other than the Club Sponsored Corridor trail if the Operator or owner has not obtained or does not properly display a valid Town decal on the ATV (ordinance violation under 23 V.S.A. § 3510).
7. On any village street; the public green in the center of the Town; on the grounds of the wastewater treatment plant; on any burial ground; on the school playground; or in any Town forests (ordinance violation under 23 V.S.A. § 3510).
8. While the Operator is under the influence of drugs or intoxicating beverages (23 V.S.A. § 3506(b)(8)).
9. In any manner intended or reasonably to be expected to harass, drive, or pursue any wildlife (23 V.S.A. § 3506(b)(6)).
10. In a careless or negligent manner or a manner that endangers persons or property (23 V.S.A. § 3506(b)(9)).
11. While not registered in accordance with the laws of this state or the state or province in which the ATV owner resides (23 V.S.A. § 3502(a) and (e)).
12. While not insured in accordance with the laws of this state if the ATV is required to be registered in this state (23 V.S.A. §§ 800-810).
13. Unless equipped with at least one headlight and a red 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)).
14. While not equipped with an efficient muffler or while equipped with an exhaust system with a cut out, bypass, or similar device or with the spark arrester removed or modified, or if the maximum machine operating noise is more than 82 decibels on the A scale at 50 feet, in a normal operating environment (23 V.S.A. § 3505(b)).
15. By any person under 18 years of age who lacks or is unable to display, upon demand of any law enforcement officer, a safety education certificate issued by this state or under the authority of another state or province of Canada, unless such person is in the process of taking a safety education training course under the direct supervision of a certified ATV safety instructor (23 V.S.A. § 3506(e)).
16. On any Class II Town Highway not opened to ATVs by the Selectboard, except to cross at a 90 degree angle if no obstruction prevents a quick and safe crossing; and provided that the Operator comes to a complete stop before entering the highway and yields the right-of-way to motor vehicles and pedestrians (23 V.S.A. § 3506(b)(1) and (b)(2)).

17. On the Club Sponsored Corridor Trail without displaying a valid VASA Trail Access Decal or a completed Trail Access Decal form processed electronically and either printed out or displayed on a portable electronic device if within 10 days after the electronic transaction (23 V.S.A. § 3502(a)).
18. On private land or a private body of water not owned by the Operator or any member of the Operator's immediate family if the Operator lacks or is unable to display, upon demand of any law enforcement officer, a written consent of the owner or lessee to Operate the ATV in the specific area and during specific days or hours in which the ATV Operator is operating. Operation will also be considered permitted without any written consent if the ATV displays a valid TAD decal serving as proof that the Operator is a member of a VASA-affiliated club to which consent has been given orally or in writing to Operate there, or if the owner of the land has designated the area for use by ATVs by posting the area (23 V.S.A. 3505(b)(3)(B)).
19. On any public land, body of public water, or natural area not designated by the Selectboard or this state for use by all-terrain vehicles (23 V.S.A. § 3506(b)(4)).
20. On a Town sidewalk (23 V.S.A. § 3506(b)(12)).
21. If the ATV registration certificate or any required consent form or required certificate is not available for inspection upon demand of any law enforcement officer, or the registration number, or plate is not of the size and type or is not displayed in the manner approved by law (23 V.S.A. §§ 3506(b)(7) and 3506(f)).
22. After causing or becoming involved in any accident resulting in injury to any person or property other than the Operator's ATV without immediately stopping to render reasonably necessary assistance and providing the Operators name, residence, registration number, and the name of the owner of the ATV to the injured party or person whose property is damaged (23 V.S.A. § 3511).
23. Without bringing the ATV to a stop when signaled to do so by a law enforcement officer wearing identifying insignia, or operating a law enforcement vehicle sounding a siren or displaying a flashing blue or blue and white signal lamp, thereby attempting to elude the law enforcement officer (23 V.S.A. § 3512).
24. While traveling at a speed exceeding 25 mph or such lower speed as may be posted (ordinance violation under 23 V.S.A. § 3510).
25. While traveling in any manner other than single file (ordinance violation under 23 V.S.A. § 3510).
26. While failing to observe any other traffic rules and control devices that apply to the Town Highways (ordinance violation under 23 V.S.A. § 3510).
27. If the Operator does not hold a license sufficient to allow the Operator to operate motor vehicles in Vermont (23 V.S.A. §§ 601-618(a)).

B. The penalty for each separate violation of this ordinance as set out immediately above is:

First offense.....	\$ 50	waiver fee \$ 30
Second offense .....	\$175	waiver fee \$150
Third and subsequent offense .....	\$ 300	waiver fee \$ 250

C. The Town may ban an Operator from use of any Town Highway, including but not limited to Class III and Class IV Highways (for Danville residents and Real Property Owners) and/or the Club Sponsored Corridor Trail (all Operators), after the first or any subsequent offense.

### **SECTION VIII. ENFORCEMENT.**

A. This is a civil ordinance and shall be enforced by law enforcement agencies under contract with the Town or authorized under state law.

B. On an annual basis, the Club shall provide the Town a mutually agreed upon sum to assist in providing effective enforcement of the ordinance. The Town will manage the fund and contract directly with law enforcement. All revenues generated from fees and penalties from this ordinance shall be returned to the Town to be reinvested into the enforcement fund and shall reduce the Club share commensurately.

C. The Town shall record and retain copies of all complaints and enforcement actions including tickets issued for review by the ATV Committee and the public upon request for corrective action discussions at the Annual Review.

**SECTION IX. SEVERABILITY.** If any section or provision 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 X. EFFECTIVE DATE.** This ordinance shall become effective 60 days after its adoption by the Town of Danville Selectboard and shall supersede and replace all previous ordinances regulating the time, or the manner, and location of Operation of ATVs. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

### **SECTION XI. GENERAL**

A. The Club has set as its goal to attempt to be operating on private trails instead of Town Highways within five (5) years after the effective date of this ordinance. The Selectboard may consider progress, or lack thereof, toward this goal when approving or denying permission to use Town Highways for the Club Sponsored Corridor Trail.

B. The Club and the neighborhood association (concerned citizens) groups agree to form an ATV Committee composed of two (2) representatives of the community appointed by neighborhood association (concerned citizens) groups and two (2) members of the Club. The ATV Committee will meet at least quarterly and shall report to the Selectboard in July and January of each year on its activities. The ATV Committee shall investigate all complaints with reasonable promptness.

**SECTION XII. AGRICULTURAL USE.** The above provisions notwithstanding, nothing herein shall prohibit ATV Operation for agricultural purposes not closer than three feet from the traveled portion of any Town Highway for the purposes of traveling within the confines of the farm.

DATE: 12/1/16

SELECTBOARD SIGNATURES

Michael K. Walsh  
Michael K. Walsh, Chair

Douglas R. Pastula  
Douglas Pastula, Vice-Chair

Angelo Incerpi  
Angelo Incerpi

Kenneth Linsley  
Kenneth Linsley

Kellie Merrell  
Kellie Merrell

ADOPTION HISTORY

1. Agenda item at a regular Selectboard meeting held on September 15, 2016
2. Read and approved at a special Selectboard Public Hearing on October 20, 2016 and entered into the minutes of that meeting which were approved on November 3, 2016.
3. Posted in public places on November 8, 2016.
4. Notice of adoption published in The Caledonian-Record newspaper on November 15, 2016 with the right to petition.
5. Other actions (petitions, etc.) \_\_\_\_\_.