

**TOWN OF MONTGOMERY
ALL TERRAIN VEHICLE ORDINANCE**

AUGUST 18, 2003

**EFFECTIVE DATE
October 17, 2003**

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**TOWN OF MONTGOMERY
ALL TERRAIN VEHICLE ORDINANCE**

SECTION I AUTHORITY

Under the authority granted in 24 V.S.A. §1971 and 23 V.S.A. §3510, the Town of Montgomery Selectboard hereby adopts the following Civil Ordinance regulating the use of All Terrain Vehicles, ("ATV" hereinafter), within the town.

SECTION II PURPOSE

This ATV Civil Ordinance is adopted to promote public health and safety by providing for the regulation of ATVs, within the Town of Montgomery.

SECTION III DEFINITIONS

1. ATV means any non-highway recreational vehicle, except snowmobiles, 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.
2. An ATV on a highway shall be considered a motor vehicle, as defined in 23 V.S.A. § 4.
3. An ATV shall not include an electric personal assistive mobility device.
4. 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 be in motion or at rest.

SECTION IV SPECIFIC PROVISIONS

1. The use of ATVs is authorized on all town roads located in the Town of Montgomery with the following exceptions; no ATVs are allowed on Hazen's Notch Rd. Hwy. #58, Fuller Bridge Rd. Hwy. #1, and Vermont State Routes #118 and 242.
2. Signs shall be posted to notify operators of ATVs and to notify motorists that ATVs may be traveling these roads.
3. ATVs operated on Town roads pursuant to this Ordinance shall have the following properly working equipment;
 - a. one or more headlights,
 - b. a red rear light,
 - c. number plate bracket,
 - d. brakes in good mechanical condition,
 - e. a United States Forest Service qualified spark arrester,
 - f. a muffler system and such other equipment or devices that comply with the noise level standards as set forth in 23 V.S.A. §3505(b), and regulations adopted pursuant thereto.

4. ATVs operated on Town roads shall be currently registered by the State of Vermont in accordance with 23 V.S.A. §3502. Registration does not constitute a license to cross or operate an ATV on public or private lands.
5. ATVs operated for agricultural purposes may be operated not closer than three (3) feet from the traveled portion of any Town road for the purpose of traveling within the confines of a farm.
6. At all times while operating an ATV on Town roads, operators shall have a valid driver's license and wear a safety helmet that is approved by the Department Of Transportation.
7. Except as otherwise provided in this Ordinance, a person may only operate or permit an ATV owned by him or under their control to be operated in accordance with 23 V.S.A. Ch. 31, and more specifically, in accordance with 23 V.S.A. §3506 and all regulations adopted pursuant thereto.
8. ATVs traveling on Town roads shall travel on the right side of the road, in single file, and with headlights on at a rate of speed not to exceed 20 MPH.
9. When operating an ATV under this ordinance, if the ATV has no turn signals and/or brake lights, the operator shall use hand signals when making turns or stopping.
10. No public or private landowner shall be liable for any property damage or personal injury sustained by any person operating or riding as a passenger on an ATV or upon a vehicle or other device drawn by an ATV upon the public or private landowner's property, whether or not the public or private landowner has given permission to use the land unless the public or private landowner charges a cash fee to the operator or owner of the ATV for the use of the property or unless damage or injury is intentionally inflicted by the landowner.

SECTION V PENALTIES

1. In accordance with 24 V.S.A. §1974 and §1974a, any person who violates a provision of this Civil Ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Each day the violation continues shall constitute a separate violation.
2. The constable of the Town of Montgomery and/or any person(s) duly appointed by the Selectboard shall have the authority to act as an Issuing Municipal Official, to issue and pursue before the Judicial Bureau, a municipal complaint.
3. An Issuing Municipal Official shall have the authority to levy and collect a Waiver Fee in lieu of a civil penalty from any person who declines to contest a municipal complaint and pay the Waiver Fee. Offenses shall be counted on a calendar year basis and Waiver Fees levied as follows:
 - (a) First Offense \$100, waiver fee \$75
 - (b) Second Offense \$200, waiver fee \$125
 - (c) All subsequent offenses \$500, waiver fee \$275
4. Operators of ATVs shall be liable, in addition to the fees set forth above, for all repair costs incurred for damage to Town roads and/or property caused by the ATV.
5. The Town of Montgomery accepts no liability for the operation of ATVs on any Town road under the provisions of this Ordinance.

SECTION VI AMENDMENTS

1. This Ordinance may be amended by a majority vote of the legislative body at any duly warned meeting, providing the subject appears on the agenda for that meeting.

2. Any amendments to this Ordinance shall take effect in accordance with 24 V.S.A. §1971.

SECTION VII APPEALS

1. Any person cited for a violation of this ordinance may contest the violation before a judge in the Judicial Bureau.

2. A judgment entered by the Judicial Bureau may be appealed under the provisions of 4 V.S.A. §1107.

SECTION VIII EFFECTIVE DATE

1. This Ordinance shall become effective sixty, (60), days after its adoption by the legislative body, unless a petition is filed under 24 V.S.A. §1973, in which case said statute shall govern the taking effect of this Ordinance.

2. A petition, as provided for in 24 V.S.A. §1973, for a vote on the question of disapproving this Ordinance, or amendments thereto, shall be signed by not less than five, (5), percent of the qualified voters in the Town of Montgomery, and presented to the legislative body or to the Town Clerk within forty four, (44), days following the date of adoption of the Ordinance. If such a petition is properly filed, the legislative body shall call a special meeting within sixty, (60), days from receipt of the petition, or include an article in the warning for the next annual town meeting if the annual town meeting falls within the sixty, (60), day period, to determine whether the voters will disapprove the Ordinance.

SECTION XI ENFORCEMENT

A violation of this ATV Civil Ordinance shall be a civil matter enforceable in the Judicial Bureau in accordance with the provisions of 24 V.S.A. Ch. 59.

Section X NOTICE

1. This Ordinance shall be entered into the minutes of the Town records and shall be posted in at least five conspicuous places in Town.

2. The full text of this Ordinance, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published in a newspaper circulating in the municipality within fourteen, (14), days of its adoption.

3. A reference to a place within the municipality where the full text may be examined, shall be published along with a concise summary. When the text or concise summary of this Ordinance is published, the notice shall explain citizens' rights to petition for a vote on the Ordinance at an annual or special meeting as provided in 24 V.S.A. §1973, and the notice shall also contain the name, address and telephone number of a person with knowledge of, and who is available, to answer questions about this Ordinance.

SECTION XI 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.

Board of Selectmen
Town of Montgomery

Kenneth Cota, Chairman

Jerome Mayhew

Merle Van Gieson

Tosca Smith

Scott Perry

Montgomery Town Clerk's Office received for record this _____

day of _____, A.D., 2002 at _____ P.M.

Attest: _____

Renee Patterson,

Town Clerk