

TOWN OF POWNAL 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 Pownal Select Board hereby adopts the following Civil Ordinance regulating the use of All Terrain Vehicles, hereinafter known as "ATV" 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 Pownal.

SECTION III: DEFINITIONS

1. "ATV" or "All-Terrain Vehicle" 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. An ATV on a highway shall be considered a motor vehicle, as defined in 23 V.S.A. §4. An ATV shall not include an electric personal assistive mobility device.
2. "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

The use of ATVs is not authorized on or over any town road located within the Town of Pownal. ATV use on privately owned property to include agricultural, hunting or fishing use is restricted to no closer than three feet from the traveled portion of the roadway. ATV's operating on private property must comply with all provisions as set forth pursuant to the provisions of 23 V.S.A. §3506. ATV's used for agricultural, hunting or fishing purposes may cross the road or travel short distances on the road to reach their destination if they are compliant with all other standards for ATV that are set forth in these regulations and state law as set forth pursuant to 23 V.S.A. §3506.

An ATV being fueled at a gas station located in the Town of Pownal is presumed to have traveled on town roadways and is considered in violation of this ordinance unless the ATV is contained within the cargo area of a truck or secured properly on a trailer.

ATV use on school and municipal property is prohibited, fines will be doubled for violations of this provision.

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

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 \$500.00 per day for each day that such violation continues. Each day the violation continues shall constitute a separate violation.
2. The Vermont State Police, Bennington County Sheriff's Department and/or any person duly appointed by the Select Board 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 \$100.00, Waiver Fee \$75.00 (\$200.00 School provision no waiver)
 - b. Second Offense \$200, Waiver Fee \$150.00 (\$400.00 School provision no waiver)
 - c. Third Offense \$500.00, Waiver Fee \$300.00 (no waiver for School provision)

SECTION VI: AMENDMENTS

1. This Ordinance may be amended by a majority vote of the legal voters of the Town of Pownal at any duly warned meeting, provided 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

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

SECTION IX: ENFORCEMENT

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

SECTION X: SEVERABILITY

Any part or provision of this Ordinance shall be considered severable and, if any provision of this Ordinance, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions of the application, and to this end the provisions of this Ordinance are declared severable.

Adopted by the Pownal Select Board on: