



TOWN OF WINDHAM, NEW HAMPSHIRE

OFFICE OF THE BOARD OF SELECTMEN/TOWN ADMINISTRATOR

3 NORTH LOWELL ROAD – WINDHAM, NEW HAMPSHIRE 03087

TOWN OF WINDHAM, NH PUBLIC HEARING NOTICE

The Board of Selectmen will hold a public hearing on March 21, 2016 at 7:00 pm at the Community Development Department for the purpose of considering amendments to the Ordinance governing *Use of Off-Road Vehicles On Town Property (#WIN 3:00:11:02)*.

Changes being proposed within the ordinance are available for review on the Town website at WindhamNH.gov, or in hard copy at the Administrative Offices, 4 North Lowell Road. Proposed new language is reflected via underlined text; while language to be deleted is struck through.

Posted by: David Sullivan, Town Administrator

Dated: February 23, 2016:

ORDINANCE:
USE OF ~~OFF-ROAD~~MOTOR VEHICLES ON TOWN
PROPERTY:

SECTION I:- AUTHORITY:

This ordinance has been enacted pursuant to the authority granted the Board of Selectmen of the Town of Windham by NH RSA 41:11-a (Town Property), which allows the Board of Selectmen of the Town to adopt ordinances to regulate the use of Town owned lands.

SECTION II:- PURPOSE AND INTENT:

- A) To protect the users of these areas from physical injury that may result from the unrestricted operation of ~~wheeled,~~ motor ~~driven~~ vehicles at these locations.
- B) To limit the Town's potential financial liability for any injuries that might result from the unrestricted operation of ~~wheeled,~~ motor ~~driven~~ vehicles at these facilities.
- C) To prevent damage to the playing fields, trails, roads, parking areas, steep slopes, wetlands, activity areas and other improvements, thereby reducing the cost to the taxpayers of Windham for operating and managing these facilities.
- D) To prevent soil erosion, damage to vegetation and turf, and other injury to the environment.
- E) To reduce the risk of fire.
- F) To reduce the amount of unwanted noise and dust.
- ~~G)~~ To encourage indigenous wildlife to inhabit Windham's major conservation areas.
- ~~G)H)~~ To protect the use and enjoyment of these areas for the users of these areas.

SECTION III: APPLICABILITY:

- A) This ordinance applies to any and all lands owned by the Town of Windham, including but not limited to recreational areas, conservation areas, and sports fields.

SECTION IV:- DEFINITIONS:

- A) "~~Wheeled Motor Driven Vehicles~~" shall mean any and all liquid petroleum, gasoline, propane or electrically powered motor vehicles which travel on one or more wheels or tracks, including but not limited to "all terrain vehicles" (ATV), "off highway recreational vehicles" (OHRV), "utility terrain vehicle" (UTV), and "trail bikes" as defined by RSA 215-A:1, XIV. Such vehicles shall **not** include:
 - ~~1. Snowmobiles operated in accordance with the laws of the State of New Hampshire, provided they are propelled on snow by tracks or cleats and steered by skis;~~

~~2.1.~~ Wheeled devices typically designed and intended for use by, and operated by the handicapped which were not originally manufactured as motor vehicles such as trail bikes or ATVs;

~~3.2.~~ ~~Lawnmowers, maintenance vehicles, construction and/or logging~~ Maintenance and repair equipment operated by, with the permission of, or on behalf of the Town of Windham and/or the Windham Highway Department.

~~4.3.~~ Any emergency vehicles operated by or under the direction of the Windham Police, Fire, and/or Emergency Management Departments, along with similar vehicles of local, State or federal government agencies conducting similar activities.

B) "Town-owned Land" shall mean any and all land acquired by the Town of Windham whether by purchase, gift, tax deeding, ~~easement,~~ or any other means in accordance with the laws of the State of NH, including which may include but not be limited to: designated conservation areas and established recreational facilities and sports fields.

SECTION V-: REGULATED ACTIVITIES:

A) No person, of any age, shall operate a ~~wheeled~~-motor ~~driven~~-vehicle upon or within any Town-owned land including, but not limited to designated trails, playing fields, tennis courts, activity areas, basketball courts, or grassed areas therein except as provided below:

1. Permitted areas of Use: The operation of ~~wheeled~~-motor ~~driven~~-vehicles shall be permitted in the following areas and for the following purposes only:

a. Operation of motor vehicles registered for use on public ways may be operated on or over Town roads and on or over portions of Town-owned land intended for such use, including such as driveways, parking lots and access roads.

b. ~~Said-Motor~~ vehicles may be operated within the boundaries of the Town-owned portion of the Depot Road parking area solely for the purposes of ingress and egress to the State of NH's Rockingham Recreation Trail. Any other operation shall be considered a violation of this ordinance, ~~including reckless operation of said vehicles in accessing the trail.~~

~~e. The use of said vehicles shall be permitted within the bounds of the Landry property on Lowell Road solely by the owners of the property, in accordance with the easement agreement with Town of Windham.~~

SECTION VI-: ENFORCEMENT:

A) The provisions of this ordinance shall be enforceable by Police and law enforcement officers, including but not limited to: State and Windham Police officers, sheriffs, deputy sheriffs, fish and game officers, ~~policemen,~~ constables, and all persons empowered to make arrests in criminal cases.

SECTION VII-: PENALTIES:

- A) Any person found guilty of violating the provisions of this ordinance shall be guilty of a violation under RSA 625:9 (V), and may be sentenced to a conditional or unconditional discharge or fine (RSA 651:2 (III-a), which shall not exceed \$1,000.00. RSA 651:2 (IV) (a).
- B) It will be the policy of the Town in such appropriate cases to seek restitution through a conditional discharge sentence under RSA 651:2 (VI-a) to repair all damages to Town-owned land or property caused by any person violating this ordinance.
- C) It will be the policy of the Town in such appropriate cases to seek civil damages for restitution from parents and/or legal guardians of minors violating this ordinance.

SECTION VIII: VALIDITY:

- A) If any section, clause, provision, portion or phrase of this Ordinance shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair, or invalidate any other section, clause or provision, portion or phase of this Ordinance.
- B) The provisions of this Ordinance shall be valid in full force and effect whether or not there is snow cover on the ground or whether or not any, all or none of the borders of any Town-owned land are posted or identified by signs.

SECTION IX: EFFECTIVE DATE/AMENDMENTS:

This Ordinance shall become effective March 30, 2003, and may from time to time, be amended by the Board of Selectmen at a regularly scheduled Selectmen's meeting subsequent to a public hearing duly posted fourteen (14) days prior.

Adopted by the Board of Selectmen this 4th day of December, 2002.

**Margaret Crisler
Roger Hohenberger
Galen Stearns
Christopher Doyle
Alan Carpenter**
Board of Selectmen