

A LOCAL LAW to amend Chapter 275 of the Code of the Town of Yorktown entitled “Vehicles and Traffic”

Be it enacted by the Town Board of the Town of Yorktown as follows:

Section I. Statement of Authority.

This local law is authorized by the New York State Constitution, the provisions of the New York Municipal Home Rule Law, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Yorktown and the general police power vested with the Town of Yorktown to promote the health, safety and welfare of all residents and property owners in the Town.

Section II. Chapter 275 Article IV of the Code of the Town of Yorktown is hereby amended and replaced in its entirety with the following language:

**§ 275-25. Title.**

This Part 2 shall be known and may be cited as the “Yorktown ~~Unregistered Self-Propelled and Limited Use Off-Road~~All-Terrain Vehicle ~~and Off-Highway Motorcycles~~ Law.”

**§ 275-26. Legislative purpose.**

The Town Board of the Town of Yorktown recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Town of Yorktown, and to property within the Town by the use of ~~motorized, unregistered self-propelled vehicles and limited all-terrain use off-road~~ vehicles and off-highway motorcycles, and therefore, deems it appropriate to control the use of said all-terrain vehicles and off-highway motorcycles.

**§ 275-27. Definitions.**

For the purpose of this Part 2, the following terms shall have the meanings indicated:

**PUBLIC PROPERTY** — All streets, sidewalks, easements, rights-of-way or any other areas dedicated or commonly used for vehicular or pedestrian traffic, including any real property situated within the Town of Yorktown which is used for educational purposes or purposes incidental thereto.

**TOWN-OWNED LAND** — All parks, recreation areas, trails, ball parks, lake areas, storage facilities, garage areas, parking areas and any and all other Town owned land and premises.

**ALL-TERRAIN VEHICLES** — as defined in Section 2281(1) of the New York State Vehicle and Traffic Law. For the avoidance of doubt, “All-Terrain Vehicles” is intended to encompass all recreational motorized vehicles with more than two wheels, including but not limited to those

commonly referred to as “ATVs,” “RTVs,” UTVs,” “quads,” “go-carts,” “side-by-sides,” “SxSs,” “SSVs,” and/or “dune buggies.”

OFF-HIGHWAY MOTORCYCLES — as defined in Section 125-a of the New York State Vehicle and Traffic Law. For the avoidance of doubt, “Off-Highway Motorcycles” is intended to encompass motorized vehicles commonly referred to as “trail bikes,” “mini-bikes,” “motocross” or “dirt bikes,” but is not intended to encompass electric scooters as defined in Section 114-e of the New York State Vehicle and Traffic Law or bicycles with electric assist as defined in Section 102-c of the New York State Vehicle and Traffic Law.

~~UNREGISTERED SELF PROPELLED VEHICLE — Any type of unregistered self propelled vehicle or conveyance, including, but not necessarily limited to, electronic bicycles, dirt bikes, minibicycles, trail bicycles, motor scooters, snowmobiles, and self propelled vehicles commonly known as a "go-carts" or "all-terrain vehicles," but not including any vehicle used for agricultural landscaping, lawn maintenance, care for persons with disabilities, or similar purposes.~~

~~LIMITED-USE OFF ROAD VEHICLE — A vehicle other than one currently licensed to be operated or driven upon a public highway, which is propelled by any power other than human power, including all-terrain vehicles and electronic bicycles.~~

**§ 275-28. Operation on public property and Town-owned land prohibited.**

It shall be unlawful for any person to operate any all-terrain vehicles or off-road motorcycles ~~unregistered self propelled vehicle or limited use off road vehicle~~ upon any public property or Town-owned land in the Town of Yorktown, ~~unless posted signs specifically permit said use. Unless posted signs specifically permit said use or permission is granted by the Town in writing, it shall also be unlawful for any person to operate any vehicle registered under the N.Y.S. Vehicle and Traffic Law on any Town-owned trails or ball parks.~~ It shall also be unlawful for any person to operate any registered motor vehicle, including but not limited to jeeps, 4x4s and trucks, on any off-road trail within any public park.

**§ 275-29. Operation on private property restricted.**

The operation of an ~~unregistered all-terrain self propelled~~ vehicle or ~~limited use off-road highway motorcycle~~ vehicle is prohibited upon private property unless the operator of said all-terrain ~~unregistered self propelled~~ vehicle or ~~limited use off-highway motorcycle~~ road vehicle has the written consent of the owner of said private property to operate said vehicle on said property on said operator's person.

**§ 275-30. Parking on public or private property; impounding.**

A. No person shall cause any motor vehicle which is not properly registered and which does not have properly affixed license plates to be parked on or in any public area or any private property accessible to the public within the Town of Yorktown (specifically, including but not limited to all Town-owned parking lots, all Town parks, all shopping center parking lots, all office building parking lots accessible to the

public, all store parking lots accessible to the public, and all business parking lots accessible to the public) for a continuous period of 96 hours. Such motor vehicle may be removed after 96 hours. Each 24 hours that such a vehicle remains in such parking area, lot, property or park, beyond the initial 96 hours, shall constitute an additional, separate and distinct offense.

B. If said motor vehicle remains parked for the stated continuous period of 96 hours, the Yorktown Police Department may have such vehicle removed and impounded and charge the owner thereof for all costs of removal and storage, along with the applicable fines. If the vehicle so removed is not redeemed, or if the applicable fines and costs of removal are not paid within 30 days after the levy of the fines or after notice to the owner that the vehicle has been removed is received by the owner, whichever is sooner, the Town may undertake to sell the vehicle at public auction.

C. The last registered owner shall be deemed to have placed such a motor vehicle in the place where it is found, and, in addition to the penalties set forth under § 275-36, shall be responsible for the costs of removal and storage of such vehicle.

D. This Part 2 shall be enforced by the Yorktown Police Department.

#### **§ 275-31. Creation of noise or disturbance prohibited; hours of operation; fleeing.**

It shall be unlawful to operate any ~~registered or unregistered self-propelled~~motorized vehicle ~~s or limited-use off-road vehicle, alone or together with other registered or unregistered vehicles,~~ in a manner so as to create loud, unnecessary or unusual noise which disturbs or interferes with the peace and quiet of other persons. It shall be unlawful to operate any ~~unregistered self-propelled~~all-terrain vehicles or ~~limited-use off-road highway motorcycle~~vehicle between the hours of 8:00 p.m. and 10:00 a.m.

It shall also be unlawful to: flee from ~~the any~~ employees of the Town of Yorktown or a law enforcement agency while operating an ~~unregistered self-propelled~~all-terrain vehicle or ~~limited-use off-highway road motorcycle~~vehicle; and to operate an ~~unregistered self-propelled~~all-terrain vehicle or ~~limited-use off-highway road vehicle motorcycle~~ in violation of any statutes, rules, or regulations promulgated by the Department of Motor Vehicles.

#### **§ 275-32. Careless, reckless or negligent operation prohibited.**

It shall be unlawful to operate any ~~unregistered self-propelled~~all-terrain vehicle or ~~limited-use off-highway road motorcycle~~vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any person.

#### **§ 275-33. Exceptions.**

It shall not be unlawful for any employee of the Town of Yorktown or police or emergency personnel to operate all-terrain vehicles or off-highway motorcycles for the purpose of maintaining, repairing or doing any public work within the scope of their employment or duties.

#### **§ 275-34. Responsibility of parent or guardian.**

It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of 18 years to knowingly permit such child to operate an ~~unregistered self-propelled all-terrain~~ vehicle or ~~limited use off-highway road vehicle~~ motorcycle in violation of the terms of  ~~§§ 275-28, 275-29, 275-31 or 275-32~~ this Part 2.

#### **§ 275-35. Notice of violation.**

Whenever any child under the age of 18 years is alleged to have violated  ~~§§ 275-28, 275-29, 275-31 or 275-32~~ this Part 2-,  ~~his~~ the parent, guardian or any person having the care, custody or control of the child may be notified by the Chief of Police or any person designated by  ~~him~~ the Chief of Police to give such notice.  ~~Such N~~ otification by the Chief of Police or any person designated by him may be: (1) by registered mail, return receipt requested, (2) given personally verbally or in writing, or (3) in another manner with a sufficient guarantee of identity trustworthiness, in all cases to the parent, guardian or person having the care, custody or control of the child setting forth the date, time, place and manner of the alleged violation. In the event of an alleged second or subsequent violation of this Part 2, proof of a prior notification as herein provided shall constitute prima facie evidence that the parent, guardian or any person having the care, custody or control of the child did knowingly permit said child to operate an unregistered motor-driven vehicle in violation of this Part 2.

#### **§ 275-36. Penalties for offenses.**

A violation of any provision of this Part 2 shall be punishable by a fine not to exceed \$500 for a first offense, and not to exceed \$1,000 for each subsequent offense  ~~or by imprisonment not to exceed five (5) days, or both such fine and imprisonment.~~ These fees shall be in addition to any  ~~costs of impounding as set forth in § 275-37~~ costs and/or the costs of any property damage resulting from a violation of any provision of this Part 1. In addition,  ~~any such violation shall constitute disorderly conduct and an operator violating same shall be a disorderly person. a court may order a term of community service imposed upon a person convicted of an offense under §§ 275-28, 275-29, 275-31 or 275-32. The court may also require restitution or reparation as part of the sentence imposed upon a person convicted of an offense under §§ 275-28, 275-29, 275-31 or 275-32.~~

#### **§ 275-37. Impounding.**

~~Notwithstanding~~ In addition to the penalties set forth in § 275-36, the Town of Yorktown Police Department may impound any vehicle used in violating this Part 2  ~~§§ 275-28, 275-29, 275-31 or 275-32.~~ The owner or duly designated agent of the owner of such vehicle may regain the same by payment of the costs necessarily and actually incurred by the removal of said vehicle; however, no impounded vehicle shall be released from impoundment during an active investigation unless the person requesting the release obtains a Court Order requiring the release of the vehicle. If the vehicle so removed is not redeemed, or if the applicable costs of removal are not paid within 30 days after the levy of the fines or after notice to the owner that the vehicle has been removed is received by the owner, whichever is sooner, the Town may undertake to sell the vehicle at public auction.

Section III. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

Section IV. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed to the extent of such inconsistency.

Section V. Effective Date.

This local law shall become effective upon filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.