

**Selectboard Agenda
Johnson Municipal Offices
293 Lower Main West**

Date: Friday, April 1, 2022

Agenda:

CALL TO ORDER

REVIEW OF AGENDA AND ANY ADJUSTMENTS, CHANGES AND ADDITIONS

7:00 p.m. Review of Current ATV Ordinance and Proposals for Updates

Selectboard issues/concerns, Executive Session (if needed) Adjourn

Join Meeting via Zoom

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Title 23: Motor Vehicles

Chapter 31: All-terrain Vehicles

§ 3501. Definitions

As used in this chapter:

(1) "All-terrain vehicle" or "ATV" means any nonhighway recreational vehicle, except snowmobiles, having not 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 2,500 pounds, 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 public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (AAA); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B); and (5) of this title and as provided in section 1201 of this title. An ATV does not include an electric personal assistive mobility device, a motor-assisted bicycle, or an electric bicycle.

(2) "Department" means the Department of Motor Vehicles unless otherwise stated.

(3) "Direct supervision" means that the supervisor shall be sufficiently close and able to control, by communicating visually or orally, the operation of an ATV by an operator under 16 years of age, taking into account the noise created by an ATV and protective headgear worn by the operator.

(4) "Farm" means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming.

(5) "Forestry operation" has the same meaning as in 10 V.S.A. § 2602.

(6) "Secretary" means the Secretary of Natural Resources.

(7) "State lands" means land owned, leased, or otherwise controlled by the State.

(8) "VASA" means the Vermont ATV Sportsman's Association, a statewide association of ATV clubs. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1987, No. 76, § 18; 2001, No. 69, § 9; 2001, No. 91 (Adj. Sess.), § 10; 2003, No. 66, § 217a; 2007, No. 184 (Adj. Sess.), § 4; 2009, No. 50, § 82; 2015, No. 50, § 25; 2019, No. 121 (Adj. Sess.), § 17; 2019, No. 149 (Adj. Sess.), § 24; 2021, No. 40, § 8.)

§ 3502. Registration and Trail Access Decal (TAD) required; exceptions

(a)(1) Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this title or in accordance with subsection (e) of this section; and

(B) displays a valid VASA Trail Access Decal (TAD).

(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

(A) on the property of the owner of the ATV;

(B) in a ski area, off the highway, for the purpose of grooming snow, maintenance, or in rescue operations;

(C) for official use by a federal, State, or municipal agency if the ATV is identified with the name or seal of the agency in a manner approved by the Commissioner;

(D) on privately owned land when the operator is specifically invited to do so by the owner of the property and carries the written consent of the owner.

(E) [Repealed.]

(3) Notwithstanding subdivision (1) of this subsection, an operator may operate an ATV without a TAD displayed if the operator possesses a completed TAD form processed electronically within the prior 10 days that is either printed out or displayed on a portable electronic device. Use of a portable electronic device to display a completed TAD form does not in itself constitute consent for an enforcement officer to access other contents of the device.

(4) Notwithstanding subdivision (1) of this subsection and subdivision 3506(b)(16) of this title, neither the display of a TAD nor the use of protective headgear is required to operate an ATV on frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607.

(b) The provisions of section 305 of this title shall apply to a registration, except the registration of a vehicle registered under subsection 3504(b) of this title shall become void on the last day of February next following the date of issue.

(c) The possession of a valid TAD or registration of an ATV does not constitute a license to operate an ATV on public or private lands, even if temporarily while crossing the public or private lands.

(d) An ATV that does not comply with the provisions of this chapter shall not be registered by the Commissioner.

(e) An ATV owned by a person who is a resident of any other state or province shall

be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides. An operator who is a resident of any other state or province shall be subject to the provisions of this chapter while operating an ATV within this State, including possessing a valid TAD in the same circumstances that a resident of this State is required to possess a valid TAD.

(Added 1983, No. 240 (Adj. Sess.), § 1; amended 2001, No. 75 (Adj. Sess.), § 11; 2007, No. 76, § 33b; 2009, No. 50, § 80; 2015, No. 50, § 26, eff. June 3, 2015; 2019, No. 121 (Adj. Sess.), § 17; 2019, No. 154 (Adj. Sess.), § G.113, eff. Oct. 2, 2020; 2021, No. 76, § 36.)

§ 3503. Transfer of registration

The registration of an all-terrain vehicle ends when the owner transfers title to another person. The former owner shall immediately return to the Commissioner the registration certificate and plate previously assigned to the transferred all-terrain vehicle with the date of sale, name, and residence of the new owner endorsed on the back of the certificate. When a person transfers the ownership of a registered all-terrain vehicle to another person, files a new application, and pays a fee of \$12.00, he or she may have registered in his or her name another all-terrain vehicle for the remainder of the registration year without payment of any additional registration fee. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1995, No. 120 (Adj. Sess.), § 5; 2015, No. 159 (Adj. Sess.), § 51.)

§ 3504. Registration fees and plates

(a) The registration fee for all-terrain vehicles other than as provided for in subsection (b) of this section is \$45.00. Duplicate registration certificates may be obtained upon payment of \$6.00 to the Department.

(b) Any person engaged in the business of selling or exchanging all-terrain vehicles, as defined in subdivision 4(8) of this title, shall register and obtain registration certificates and identifying number plates subject to rules that may be adopted by the Commissioner and to the requirements of chapter 7 of this title. A manufacturer of all-terrain vehicles may register and obtain registration certificates and identifying number plates under this section. Plates shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed seven days; private business or pleasure use of the person or members of his or her immediate family; and use at fairs, shows, or races when no charge is made. Fees for registration and registration certificates shall be \$62.00 for the first certificate issued to any person and \$6.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be \$5.00 for each plate issued. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1989, No. 51, § 48; 2001, No. 102 (Adj. Sess.), § 31, eff. May 15, 2002; 2007, No. 76, § 33c; 2015, No. 50, § 5; 2015, No. 57, § 30; 2015, No. 159 (Adj. Sess.), § 52; 2019, No. 70, § 8.)

§ 3505. Equipment

(a) All all-terrain vehicles shall be equipped with one or more headlights, a red rear light all in working order, and brakes in good mechanical condition and be equipped with an efficient muffler and such other equipment and devices as may be required to meet the noise level specifications of subsection (b) of this section, and if equipped with a windshield it shall be free from sharp or jagged edges. Lights shall be on during operation from 30 minutes after sunset to 30 minutes before sunrise.

(b) Subject to regulation by rule of the Commissioner, any all-terrain vehicles shall be equipped with a muffler system and such other equipment or devices that reduce maximum machine operating noise to a noise level of not more than 82 decibels on the A scale at 50 feet, in a normal operating environment.

(c) No person shall sell or offer to sell within the State of Vermont an all-terrain vehicle unless it complies with the sound requirements specified in subsection (b) of this section. No all-terrain vehicle shall be equipped in any manner that permits the operator to bypass the muffler system; no person shall sell or offer to sell at either wholesale or retail a replacement exhaust muffler system that will not meet or exceed the exhaust noise reduction capabilities of the all-terrain vehicle. In addition, any person selling or offering to sell an all-terrain vehicle or replacement muffler system, whether at wholesale or retail, shall include in the specifications precise information concerning the designed maximum sound levels of the all-terrain vehicle or replacement muffler system.

(d) This section and section 3504 of this title shall not apply to any all-terrain vehicle entered into a racing contest sponsored by a racing or all-terrain vehicle organization or association during the period the all-terrain vehicle is actually participating in or practicing or preparing for a racing event at an area especially provided for the purpose.

(e) The provisions of section 1222 of this title shall not apply to any all-terrain vehicle registered pursuant to this chapter.

(f) Every all-terrain vehicle shall be equipped with a U.S. Forest Service qualified spark arrester. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1991, No. 123 (Adj. Sess.), § 2.)

§ 3506. Operation; prohibited acts; financial responsibility; headgear

(a) A person shall only operate an ATV, or permit an ATV owned by him or her or under his or her control to be operated, in accordance with this chapter.

(b) An ATV shall not be operated:

(1) Along a public highway except if one or more of the following applies:

(A) the highway has been opened to ATV travel by the legislative body of the municipality where the town highway is located or, for State highways, the Secretary of Transportation and is so posted;

(B) the ATV is being used for agricultural purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling

within the confines of the farm;

(C) the ATV is being use for forestry purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the forestry operation; or

(D) the ATV is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the ATV shall be operated along the edge of the roadway and shall yield to other vehicles.

(2) Across a public highway except if all of the following conditions are met:

(A) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(B) the operator brings the ATV to a complete stop before entering the traveled portion of the highway;

(C) the operator yields the right of way to motor vehicles and pedestrians using the highway;

(D) the operator is 12 years of age or older; and

(E) in the case of an operator under 16 years of age, the operator is under the direct supervision of an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(3) On any privately owned land or privately owned body of water unless either:

(A) the operator is the owner or member of the immediate family of the owner of the land;

(B) the operator carries the written consent of the owner or lessee of the land or the land surrounding the privately owned body of water to operate an ATV in the specific area and during specific hours or days, or both, in which the operator is operating;

(C) the ATV displays a valid VASA Trail Access Decal (TAD) as required by subsection 3502(a) of this title that serves as proof that the ATV and its operator, by virtue of the TAD, are members of VASA and consent has been given orally or in writing to operate an ATV in the area where the operator is operating; or

(D) the owner of the land or the land surrounding the privately owned body of water designated the area for use by ATVs by posting the area in a manner approved by the Secretary to give reasonable notice that use is permitted.

(4) On any municipal lands unless opened to ATV travel by the legislative body of

the municipality where the land is located or on any State lands, body of public water, or natural area established under the provisions of 10 V.S.A. § 2607 unless designated by the Secretary for use by ATVs in rules adopted under 3 V.S.A. chapter 25.

(5) By an individual under 12 years of age unless he or she is wearing on his or her head protective headgear of a type approved by the Commissioner while operating the ATV or riding as a passenger on the ATV and either:

(A) he or she is on land owned by his or her parents, family, or guardian;

(B) he or she has written permission of the landowner or lessee; or

(C) he or she is under the direct supervision of an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(6) In any manner that could reasonably be expected to harm, harass, drive, or pursue any wildlife.

(7) If the registration certificate or consent form and proof of insurance are not available for inspection, and the registration number, or plate of a size and type approved by the Commissioner, is not displayed on the ATV in a manner approved by the Commissioner.

(8) While the operator is under the influence of drugs or alcohol as defined by this title.

(9) In a careless or negligent manner that is inconsistent with the duty of ordinary care, so as to endanger an individual or property.

(10) Within a cemetery, public or private, as defined in 18 V.S.A. § 5302.

(11) On limited access highways, rights-of-way, or approaches unless permitted by the Traffic Committee under section 1004 of this title. In no cases shall the use of ATVs be permitted on any portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless the Traffic Committee permits operation on these highways.

(12) On a sidewalk unless permitted by the legislative body of the municipality where the sidewalk is located.

(13) Without liability insurance as described in this subdivision. The owner or operator of an ATV shall not operate or permit the operation of an ATV at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title without having in effect a bond or a liability policy in the amounts of at least \$25,000.00 for one individual and \$50,000.00 for two or more individuals killed or injured and \$10,000.00 for damages to property in any one crash. In lieu of a bond or liability policy, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner. Financial responsibility shall be maintained and evidenced in a form prescribed by the Commissioner, and persons who self-insure shall be subject to the

provisions of subsection 801(c) of this title.

(14) While the operator's license or privilege to operate a motor vehicle is suspended, unless operated at a location described in subdivision 3502(a)(2)(A) or (D) of this title.

(15) Outside the boundaries of trails established by the VASA Trail System unless such operation is specifically authorized pursuant to another provision of this chapter.

(16) At locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title unless the operator and all passengers wear:

(A) properly secured protective headgear that is used as intended by the manufacturer of the headgear and conforms to the Federal Motor Vehicle Safety Standards contained in 49 C.F.R. § 571.218, as amended, and any applicable regulations promulgated by the U.S. Secretary of Transportation; or

(B) properly secured protective headgear that is used as intended by the manufacturer of the headgear and conforms to ASTM International or National Operating Committee on Standards for Athletic Equipment safety standards, provided that the ATV is equipped with manufacturer-installed rollover protection and safety belts that have not been removed or modified in a way that reduces their effectiveness.

(c) No public or private landowner shall be liable for any property damage or personal injury sustained by any individual 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.

(d) In addition to all other requirements, an ATV may not be operated:

(1) if equipped with an exhaust system with a cut out, bypass, or similar device; or

(2) with the spark arrester removed or modified, except for use in closed course competition events.

(e) In addition to all other requirements, an ATV may not be operated by an operator who is less than 18 years of age unless one of the following criteria is met:

(1) the operator is operating on property owned or leased by the operator or his or her parents or guardian;

(2) the operator is taking a prescribed safety education training course and operating under the direct supervision of a certified ATV safety instructor; or

(3) the operator holds an appropriate safety education certificate issued by this State or issued under the authority of another state or province of Canada.

(f) An individual who is required to hold an appropriate safety education certificate under the provisions of subsection (e) of this section shall exhibit the safety education certificate upon demand of a law enforcement officer having authority to enforce the provisions of this section.

(g) [Repealed.] (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1985, No. 8; 1991, No. 123 (Adj. Sess.), § 3; 2009, No. 50, § 81; 2013, No. 161 (Adj. Sess.), § 72; 2017, No. 83, § 156; 2017, No. 158 (Adj. Sess.), § 27; 2019, No. 121 (Adj. Sess.), § 18; 2019, No. 131 (Adj. Sess.), §§ 244, 245; 2021, No. 76, § 37.)

§ 3507. Enforcement; penalties and revocation of registration

(a) A person who violates a provision of this chapter shall be assessed a civil penalty of not more than \$300.00 for each offense unless otherwise provided by law.

(b) In addition to the fines provided in subsection (a) of this section, the Commissioner may suspend or revoke the registration of an all-terrain vehicle involved in a violation of this chapter.

(c) Law enforcement officers may conduct safety inspections on all-terrain vehicles stopped for other all-terrain vehicle law violations on the VASA Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary all-terrain vehicle parked on a trail or on a cruiser parked at a roadside trail crossing. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1991, No. 165 (Adj. Sess.), § 10; 2017, No. 158 (Adj. Sess.), § 26; 2019, No. 131 (Adj. Sess.), § 246.)

§ 3508. Designated areas

The Secretary shall print a list of public lands and waters designated for use by all-terrain vehicles pursuant to subdivision 3506(b)(4) of this title and make the publication available to the public. (Added 1983, No. 240 (Adj. Sess.), § 1.)

§ 3509. Defacing identifying numbers; signs

(a) A person may not willfully change or attempt to change, or tamper with, obliterate, deface, or in any manner interfere with the original or assigned motor number or manufacturer's serial number of any all-terrain vehicle.

(b) A person may not remove, deface, alter, or destroy trail signs, markers, or posters erected pursuant to this chapter. (Added 1983, No. 240 (Adj. Sess.), § 1.)

§ 3510. Municipal ordinances

Municipalities shall have the power to adopt ordinances pursuant to 24 V.S.A. chapter 59 for the purpose of regulating the time, manner, and location or operation of all-terrain vehicles within their limits provided the ordinances do not controvert the provisions of this chapter. (Added 1983, No. 240 (Adj. Sess.), § 1.)

§ 3511. Crashes; duty to stop and report

(a) The operator of an all-terrain vehicle who has caused or is involved in a crash resulting in injury to any person or property, other than the all-terrain vehicle then under his or her control, shall immediately stop and render whatever assistance may be reasonably necessary. He or she shall give his or her name, residence, registration number, and the name of the owner of the all-terrain vehicle to the party whose person or property is injured.

(b) The operator of an all-terrain vehicle involved in a crash resulting in death or injury to any person or damage to property, other than the all-terrain vehicle he or she is operating, in excess of \$100.00, shall notify an enforcement officer immediately and file a report of the incident with the Commissioner within 72 hours, on forms prescribed by the Commissioner. (Added 1983, No. 240 (Adj. Sess.), § 1.)

§ 3512. Attempting to elude a police officer

An operator of an all-terrain vehicle shall bring his or her vehicle to a stop when signalled to do so by an 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. (Added 1983, No. 240 (Adj. Sess.), § 1.)

§ 3513. Liability insurance; authority to contract for law enforcement services

[Subsection (a) effective until July 1, 2023; see also subsection (a) effective July 1, 2023 .]

(a) The amount of 90 percent of the fees and penalties collected under this chapter, except interest, is allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. The Agency of Natural Resources shall retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the State grant that supports this program.

[Subsection (a) effective July 1, 2023; see also subsection (a) effective until July 1, 2023 .]

(a) The amount of 85 percent of the fees and penalties collected under this chapter, except interest, is allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and

Wildlife are authorized to contract with VASA to provide these law enforcement services.

(b) The Secretary of Administration shall assist VASA with the procurement of trail liability and other related insurance.

(c) VASA shall purchase a trail liability insurance policy in the amount of \$1,000,000.00. The State of Vermont shall be named an additional insured. The policy shall extend to all VASA-affiliated ATV clubs and their respective employees and agents to provide for trail liability coverage for development and maintenance of the Statewide ATV Trail Program.

(d) Nothing contained in this section shall authorize or create any cause of action to accrue or to be maintained against the State of Vermont.

(e) Any fees and penalties allocated pursuant to subsection (a) of this section shall not revert but shall be available until spent. Any accrued interest shall be deposited in the Transportation Fund. (Added 1983, No. 240 (Adj. Sess.), § 1; amended 1999, No. 155 (Adj. Sess.), § 9; 2005, No. 93 (Adj. Sess.), § 82; 2009, No. 50, § 79; 2013, No. 50, § E.101.7; 2017, No. 158 (Adj. Sess.), § 28; 2017, No. 158 (Adj. Sess.), § 29, eff. July 1, 2023; 2019, No. 154 (Adj. Sess.), § E.706, eff. Oct. 2, 2020.)

§ 3514. Administration of chapter; rules

The Commissioner shall administer this chapter and shall adopt rules, prescribe forms and procedures for application and registration, consistent with this chapter as necessary to carry its provisions into effect. (Added 1987, No. 190 (Adj. Sess.), § 6.)

§ 3515. All-terrain safety education course; issuance of certificate

(a) The Commissioner of Public Safety shall establish and oversee a program of examination and certification of all-terrain vehicle operators. In order for an operator to be awarded a safety education certificate, he or she must submit evidence of successful completion of an all-terrain vehicle safety education course approved by the Commissioner and must successfully pass a written examination that shall test the applicant's knowledge of safe all-terrain vehicle operating practices and the applicable laws of the State of Vermont.

(b) The Commissioner may approve any appropriate all-terrain vehicle safety education course, regardless of whether or not it includes hands-on instruction in operating the vehicle, if the course meets minimum standards established by the Commissioner. An approved course shall include information about the appropriate use of helmets and the dangers of carrying a passenger. Such courses offered by the manufacturers or distributors of all-terrain vehicles, by community organizations such as 4-H, or by others, may be approved.

(c) The Commissioner shall develop and make available a written examination appropriate for certification of all-terrain vehicle operators as required by this section. In

the discretion of the Commissioner, the examination may be administered by employees of the Department of Public Safety or by the persons who offer any approved all-terrain vehicle safety education course.

(d) No all-terrain vehicle safety education course that includes actual operation of the vehicle shall be approved unless adequate insurance coverage is provided.

(e) The instructors and persons providing an all-terrain vehicle safety education course approved by the Commissioner are exempt from compliance with the State's driver training laws. (Added 1991, No. 123 (Adj. Sess.), § 4.)

§ 3516. Training fee

(a) A person or organization conducting an approved all-terrain vehicle safety education course may charge a reasonable fee to persons completing the course, as appropriate and necessary to defray the expenses of providing the course.

(b) The Commissioner of Public Safety shall review and approve the maximum fee to be charged for any approved course prior to any fee being charged.

(c) A fee shall not be charged any person who is entitled to free training pursuant to the provisions of the consent decree, dated April 28, 1988, entered into by all-terrain vehicle manufacturers and the U.S. government. (Added 1991, No. 123 (Adj. Sess.), § 5; amended 2019, No. 131 (Adj. Sess.), § 247.)

§ 3517. Distribution of safety education information

Dealers shall distribute safety education information, as may be made available by the Commissioner of Public Safety or the vehicle manufacturers or distributors, to all purchasers of all-terrain vehicles. (Added 1991, No. 123 (Adj. Sess.), § 6.)

§ 3518. Applicability

The provisions of subsections 3506(e) and (f) and sections 3515 through 3517 of this title shall not apply to any two-wheeled vehicles, nor to four-wheeled vehicles having a dry weight in excess of 700 pounds. (Added 1991, No. 123 (Adj. Sess.), § 7.)

AN 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. § 3510, the Selectboard of the Town of Johnson hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain vehicles within the town.

SECTION II. PURPOSE. The purpose of this ordinance is to protect the health and safety of operators of all-terrain vehicles and of the residents of the Town and to protect the animals, property and environment of the Town.

SECTION III. DEFINITIONS.

- A. "All-terrain vehicle," or "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: water, snow, ice, marsh, swampland and natural terrain.
- B. "Operate" shall include any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be in motion or at rest.

SECTION IV. OPERATION OF ATVs.

- A. All ATVs must be registered and operated according to the requirements of 23 V.S.A. Chapter 31. All ATV's to be maintained with "manufacturer's original or equal to" equipment (muffler, lighting, brakes, safety equipment, etc.)
- B. All riders must carry registration and proof of insurance certificates on their person or on the machine at all times. All riders shall belong to the Vermont ATV Sportsman Association (VASA), carry proof of membership and display the VASA plate on the ATV.
- C. All-terrain vehicles may be operated only on the following town highways:
 - 1. Any unpaved class III town highway; and
 - 2. Class IV town highways, as identified on the Official Town Highway Map.The Selectboard may list specific unpaved Class III and Class IV roads where ATV's may be operated or not operated, by an Annual Posting and Public Notice of roads open to ATV use as per this Ordinance.
- D. All-terrain vehicles shall not be operated on public bike paths and hiking trails, V.A.S.T. snowmobile trails or private lands (without landowner permission) town owned recreation fields, public greens, in any burial ground, on the school playground

or in the parking lot of any church, hospital, town or village owned building or nursing home in the Town.

- E. All speed limits, traffic control devices and rules of the road apply to the operation of ATVs on Town highways opened for use. Maximum speed limit shall 25 mph. Riders to maintain single file on right side of road.
- F. ATVs may not be operated within the Town between 9:00 P.M. and 8:00 A.M. Monday through Friday, or between 10:00 P.M. and 7:00 A.M. on Saturday and Sunday.

SECTION V. PENALTIES.

First offense\$100.00, waiver fee \$50.00
 Second offense\$200.00, waiver fee \$100.00
 Third and each subsequent offense\$500.00, waiver fee \$250.00

SECTION VI. ENFORCEMENT. This is a civil ordinance and shall be enforced by any duly elected or appointed police officer, or enforcement official appointed by the Selectboard with enforcement powers within Johnson, through the Judicial Bureau.

SECTION VII. 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.

SECTION VIII. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Johnson Selectboard and shall supersede and replace all previous ordinances regulating the time, manner, and location of operation of all terrain vehicles. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Selectboard Signatures:

Eric T. Dwyer
Bradley REED
Michael Dwyer

Franklin Hooper
Justin

6/19/06
 DATE

Adoption History

1. Agenda item at regular Selectboard meeting held on June 19th, 2006.
2. Read and approved at regular Selectboard meeting on June 19th, 2006 and entered in the minutes of that meeting which were approved on July 17th 2006
3. Posted in public places on June 23rd 06
4. Notice of adoption published in the New-Citizen newspaper on June 28th 2006 with a notice of the right to petition.

Lois asked if the Tuesday Night Live name is available to use. Brian said the former volunteers have indicated they are willing to do whatever the town wants with the Tuesday Night Live corporation. If there is use in keeping it we could keep it, but he thinks they would like to be able to step away from it. The board agreed it should be up to the selectboard, not the committee, to deal with decisions about the corporation.

The motion was passed.

Nat said he wanted to disclose that one of the people volunteering to be on the committee, Mara Siegel, is his wife.

Nine people had indicated interest in volunteering. Lois said she is willing to help with Tuesday Night Live but prefers not to be on the committee. Other volunteers present said they were willing to serve on the committee.

Nat moved to suspend the regular appointment policy in order to make appointments to the Tuesday Night Live Committee, Mike seconded and the motion was passed.

Nat moved to make the Tuesday Night Live Committee a 9 member committee and to appoint Howard Romero, Anne Mullins, Tim Mikovitz, Joie Lehouillier, Sophia Berard, Mara Siegel, Jasmine Yuris, and Jen Burton to the committee, leaving one open seat, Mike seconded and the motion was passed.

The board thanked all the volunteers for stepping up.

Mike moved and Nat seconded to appoint Howard Romero chair of the Tuesday Night Live Committee. Nat said Howard is a logical choice, but we just created a committee with 6 women on it and now are talking about making the old white guy the chair. Some committee members said they recognized that as a possible concern but did not want to serve as chair themselves. Lois noted that Howard has more free time than many other committee members with more work commitments. **The motion was passed.**

Brian said he will post the remaining opening on the committee.

Kyle said one or two people had previously requested that there be some communication from the town about how things have moved forward with TNL. It was agreed that should come from Brian on Front Porch Forum.

12. Comments on VASA Request

Brian said VASA has petitioned VTrans for the right to run in the state's right of way on 100C a short distance in order to connect Rocky Road to Hoag Road. VTrans is asking if the town has any comments about the request.

Doug asked if they would be on the traveled portion of the road. Brian said he thinks the shoulder is a little narrow for them to be only on that. This request is for ATV use. We don't approve or deny the request but we can issue comments if we have strong feelings.

Mike moved to inform VTrans that the town has no objection to VASA's requested use of 100C, seconded by Kyle.

Nat said the only comment he would have is that area goes into a blind corner. Kyle said that is a 50 mph section. Brian said we could point out local road conditions and let VTrans make their decision. Doug said he would feel more comfortable saying we leave it up to VTrans to make a decision based on safety of all vehicles on the road including ATV's.

The motion failed with Nat and Kyle voting no.

Nat moved to inform VTrans that the town will leave it up to VTrans to make a decision on the VASA request to use a portion of 100C based on safety of all vehicles on the road including ATV's, Kyle seconded and the motion was passed.

13. Data Gap Analysis and Priorities for Next Phase

Brian reminded the board that we asked for analysis of the old mill house, the town and village garages and the cold storage building. We weren't able to have a Level 1 Brownfields study done because that would have involved examining the whole 100+ acre parcel and would have been very expensive. So they did a data gap analysis. The result of that is that we are being told the old mill house is likely to have very different conditions than the garages. The environmental consultant on this project suggests beginning the process to subdivide the property to create a new parcel that contains just the old mill house and whatever land we think is appropriate. That will allow them to complete a formal Level 1 study and if necessary a Level 2 study on the old mill house. They think it will have different contamination levels so it would be worthwhile to divide the property and focus our efforts on that section.

Doug asked how we would define the parcel. Brian said he thinks the existing fence would probably be a good division. Doug asked if the consultant could suggest an appropriate boundary. Brian said he thinks that is a good idea.

Nat said the first step would be to discuss it with the village trustees. Brian agreed, since it is a jointly owned property. He said their attention now is focused on the powerhouse building but there is enough Brownfields money to do both. Doug said he would suggest since the trustees are focused on the powerhouse we ask the consultant how he would suggest dividing the property and ask the trustees if they agree to proceed with the process. Nat said he recommends talking to the trustees before we do anything. He feels it is important to communicate with them. He mentioned that on that property we have invested in a generator for the town garages right behind the old mill building. There would be an expense to move that. That is a factor in subdividing. Doug said legally that could be handled with an easement. He said it might be easier for the trustees to respond to a specific proposal.

Mike asked, there is no deadline for this, right? Doug said this money will disappear from LCPC. Mike asked how much time we have to use it. Doug said maybe until September. It was agreed that Brian should talk to Meredith about possibly subdividing the property and proceed if there is some encouragement there.

there a market for it? Brian K. said the last he heard there was still a market. Some are cutting ash, but not many.

Brian K. said he reached out to LCPC about getting a presentation on emerald ash borer for a foremen's meeting. (*Brian K. left at 7:23.*)

6. VASA Request for Access

Brian S. said the town received a request from VASA that covers part of our soon-to-be light industrial park. He handed out a map showing where VASA would like permission for ATV use. He asked, it is the same as where ATV's have traveled in the past? The VASA representatives said yes. The VASA trail goes up the narrow access from Route 15 and then east and north along the edge of the town property and connects to Tom Foster's land, then continues to Drag Lot Road. They would like the ATV trail to be to the right of the VAST trail so it is not in the way of VAST road building. They estimate maybe 10 people a weekend would come down the trail to get gas at the Jolley Station across the road. The Jolley manager is excited about it and so are people at the VEC office. VASA talked to VEC about a possible parking area on their property.

A community member said he lives off Drag Lot Road. There is no defined distance for Drag Lot and no markers to show where it is. It doesn't appear to go on his land but every map is a little different. He thinks the town needs to identify where the road is. Can it be laid out? Eric said that would cost money. The community member said if the town is going to allow ATV use on it and allow homeowners to hook onto it, there should be an indication of where it is. Katie Orost said the road runs through her property. It would be nice to know where it is. The board asked Brian to get the map showing the location of the road. He went downstairs to get it.

Eric asked what VASA wants from the board. ATV's can already travel on Class 4 roads. Is VASA looking for permission to access the former Jewett property? VASA members said yes and they would also like permission for ATV's to use about 500 feet of paved road on Clay Hill to allow people to get to Gould Hill Road.

Brian returned with the map. He said Drag Lot Road is .28 miles long. He showed its location on the map.

Mike said after we build a road to the industrial park and sell the spaces it will change the whole dynamics of the property and we will have to revisit access. This will be temporary until the road is put in.

Doug asked, this trail would be beneficial because it gets people to the gas station? VASA members said yes; that is the only gas station ATV riders can access except in Eden. The trail won't get much use because it is a dead end. Perhaps 10 people a day, or 25 on a very good day with an organized group ride. Most travel is between Belvidere and Lowell or Eden. Probably the only ones who would use this trail are ones who need gas in the middle of their ride.

Doug said the light industrial park will be the town's priority. He would want it understood that giving permission for access now is not a promise for future access. VASA members said they would ask for a one-year contract each year.

Mike said he supports VASA and he thinks the rest of the board does as well. They do good management of property.

Kyle asked about the section of paved road. Is it safer for ATV's to go 35 mph there than to go slower? VASA members said they typically ask ATV's to go 10 mph slower than the speed limit, so they would typically put that at 25 mph but they can go with whatever the town wants. Board members said they thought 25 mph would be reasonable.

Kyle moved to allow VASA access for one year to the town-owned parcel formerly known as the Jewett property and to allow VASA use for one year on the paved part of Clay Hill Road between Plot Road and Gould Hill Road at 25 mph. The motion was seconded and passed.

7. *Tuesday Night Live Committee Update*

Howard Romero said Cal Stanton's son Jay has agreed to serve on the Tuesday Night Live Committee. Anne Mullings has resigned from the committee. **Mike moved to accept Anne Mullings's resignation from the Tuesday Night Live Committee and to appoint Jay Stanton to the Tuesday Night Live Committee, Kyle seconded and the motion was passed.**

Howard said the committee is doing really well. They have 4 or 5 bands under contract and new audio gear under order. Vendors are coming on line. Kyle said she has been sitting in on the meetings and they have been very productive.

Kyle said one big thing the committee is trying to figure out is trash recycling and compost collection. The former committee had increased the vendor fee to incorporate trash handling. This committee thought that was a good idea. Elly Ventura of the Lamoille Regional Solid Waste Management District recommended having only one or two places to collect trash as opposed to many. Their research shows people tend to use trash vessels more if they are in one or two locations. And they need to be manned and that is easier if there is just one or two. The committee is wondering if they can build a box to store trash for one or two nights. Howard said the trash would ultimately go into the dumpster at the town garage. The committee thought it would be good to build a wooden box to store it in briefly. Jen Burton also requested that a cubby be built to store community oven supplies. Currently Jasmine Yuris is storing them on her porch. Howard said the box would probably be 4x4 ft. with a lid and a latch and a small section for the oven supplies.

Mike moved to authorize the Tuesday Night Live Committee to build a storage container for trash, seconded by Nat.

Brian S. said right now the village is picking up the garbage for us. If the town is going to do it, we would be adding more work for our town employees. If village is going to keep doing it we have to coordinate with them.

The committee asked vendors not to use styrofoam and after the first concert this year they all stopped. The committee is still working on how best to collect trash and compost. Next year they will partner with the solid waste district and Black Dirt Compost. Black Dirt will provide a bin.

Howard said a lot of people bike to Tuesday Night Live. It would be nice to have bike racks there. Kim Dunkley suggested a bike corral supervised by one person would be another alternative. She suggested the Boy Scouts might help.

Howard said everyone wants water on the field. Vendors need water. Brian said there is a standing question about how we will deal with wastewater there. Our claim that we won't have any wastewater hasn't satisfied ANR. Brian will talk to Howard about water usage at the event. The state's concern is that we don't have any catchment for wastewater.

Eric encouraged Brian to try to move that forward and keep the board in the loop. He said the committee did a great job pulling Tuesday Night Live together.

Nat asked if TNL equipment is being stored at the municipal building. Howard said yes. There are some defunct pieces of equipment that the committee wants to get rid of and maybe make some money selling.

Mike said the committee did an outstanding job.

Nat said he thinks the Rec Committee should work with the library and Tuesday Night Live on providing bike racks at both locations.

Kyle agreed that the committee's work was outstanding. She said it was great to see NVU students involved. She wonders if Tim is considering making their help part of a for-credit class. Howard said he thinks Tim is paying them out of the Dibden account. The committee is thinking of providing them dinner vouchers. Kyle said she would love that relationship to continue. She also would love for Tuesday Night live to be smoke-free. Howard said he thinks the committee can at least sign it that way and see what happens.

Howard said next year there will be one trash station with lights for collecting trash, recycling and compost. There will be someone there to sort the material. Howard said at the two biggest concerts the portable toilets got so bad that they almost had to be closed. It is a serious issue. *(Jessica, Jeanne, Howard and several others left.)*

9. VAST Waiver of ATV Policy for Trail Maintenance

Brian said VAST has asked for an exemption from the town's ATV policy, which requires that ATV users on town roads be registered with VASA. A lot of their volunteers have ATVs that they usually use on private land and do not need to register and registering them for their volunteer work would be an extra expense. **Mike moved to exempt Sterling Snow Riders from the requirement to register with VASA and carry a VASA plate during trail maintenance, Nat seconded and the motion was passed.**

this. Eric said the charter would only extend to the village borders. Brian said he thinks he recalls that there is a provision that allows the village to work on village property outside village limits without our approval but he doesn't think they could make new extensions without approval.

Charles suggested he should talk to the village trustees about this before taking it to the Planning Commission. Brian said he can get together with Charles and give him the information we have.

7. *VASA Land Use Expansion and Johnson ATV Ordinance*

Eric said there was going to be a request from the ATV group on having access to the village but because of the constraint on meetings with more than 10 people and his fear that there would be more than 10 with the ATV group members, he asked them not to come tonight and he is asking the board to suspend discussion on this until a future meeting. **Mike moved to suspend discussion on VASA land use expansion and the Johnson ATV ordinance until a future meeting, Kyle seconded and the motion was passed.**

The ATV club has asked to continue their use of the Jewett property. **Mike moved to authorize the ATV club to use the Jewett property under an agreement the same as the existing agreement, seconded by Nat.**

Kyle asked if there were any complaints or damage to our property last year. Brian said none that he knows of. We have had a couple of complaints about ATV's running late or being loud occasionally on Hoag Road, but that is on a Class 4 road.

Lynda Hill asked if they have trails on the Jewett property. Eric said they went around the perimeter of the property. Nat said they built a trail.

The motion was passed.

8. *COVID-19 Response and Planning*

Eric said he had set up a core team that met to look at ways to minimize exposure of employees to the virus. The team consists of Gordy, Nat, Brian, Meredith, Eric and Scott Meyer, who offered his assistance. He worked for the state health department and has a background in this. We want employees who are not feeling well not to come in and we don't want to penalize them. We are looking at doing modified schedules to reduce the number of people here at the same time. We have mutual aid agreements for highway, electric and fire departments, but if our crew is taken out others will probably be having the same struggles. The staff at the municipal building office have the most face time with the public and the biggest opportunity to catch the virus. They have done some mitigation. They closed the window. They have the door shut so only authorized people can come in. Eric said Rosemary has gotten word that Cambridge and Fletcher have both closed their town offices. Rosemary said many more towns have as well. Eric said our municipal offices will also be closing to the public effective tomorrow. The office will be taking phone calls and emails. Rosemary said researchers can come in by appointment only.

Eric said all meetings of all groups that meet in this building will be cancelled. There are thoughts of directing all committees, boards, etc. that don't have an imminent need to meet to

Eric asked if Brian wants to make those changes and bring the next draft back to the board. Brian said he would be comfortable making that change and then sending it for legal review if the board is comfortable. Mike said Brian should bring it back to the board first. Other board members all agreed that it would be fine to send it for legal review after making the changes.

Marla Emery said the word “application” has the connotation of an approval process. Brian said we might clean up that language.

8. *Expanded ATV Access*

Brian reminded the board that at town meeting VASA asked for expanded road access for ATVs in order to access the downtown area, particularly gas stations. There was a vote and it passed. The board should consider providing that access.

Ken Tourangeau said the ATV club asked to be able to use Gould Hill and Railroad Street because the southern part of Johnson is cut off from the trail system. Due to COVID-19 they are just trying to bring money to the town. The City of Newport opened all their roads to ATVs and businesses there say their business tripled. They are currently allowed to use town land to get to Jolley's. Jolley's wouldn't give a written statement because they are a corporation but they said they would hate to lose the ATV business. He would like to see the expanded access get moving. He thinks it could benefit the town. There haven't been many complaints about ATVs. Brian Story told him there was one complaint on Hoag Road. Brian asked him to put up new signs there and he did. But there is an issue with that. When the town enacted the ATV ordinance ATV speed limits were put on the road signs. He needs to be able to take the ATV speed limit off the town speed limit sign because if Brian asks him to lower speed limits for ATVs and he puts up new signs people won't listen to the new sign if the town signs are up. ATV club members would love to be able to get down Railroad Street to connect to trails on the other side of town. Morrisville has been asking what it would take to get ATVs into the village. They want them there and they invited club members to a meeting.

Spencer said he lives on the other side of the river and he would love to be able to connect to trails on the other side of the river from where he lives. What the ATV club is asking for would be beneficial. Someone from Newport could drive an ATV all the way down here and spend money in our town. Other clubs want to come here from other areas. He would like to see a notice placed in the newspaper to start the process of expanding access.

Mike said he thinks it is a great idea.

Nat said he thinks it is a good proposal. The only reservation he has has to do with our sheriff's budget. There is a tremendous amount of pressure on that budget. If there are complaints they will have to respond and that will put more pressure on the budget.

Ken said he thinks the only complaint Brian knows of since ATVs have been on the roads is the recent one. Brian agreed but he said he thinks Nat's concern is more the potential for complaints in the abstract, not specific complaints.

Ken said VASA hires the Orleans and Caledonia sheriff's departments to patrol trails and provides them two ATVs, which means they can patrol anywhere in the state. VASA spent around \$80,000 last year for patrol by the sheriff's departments.

Nat asked, if there was a complaint, would they respond to Lamoille County? Ken said they wouldn't respond to this area unless they were already here but ATVs use state highways and town roads in many other towns and there aren't many complaints. When there are, the sheriff's department tends to contact the ATV clubs and they take care of it.

Nat said he thinks they have been community-minded and responsive to complaints.

Doug asked for an estimate of the number of ATVs that would like to use Railroad Street. Ken said he doesn't know if he could estimate it. This year there has been a big influx of ATVs due to COVID-19. He would say on an average day there are 10 to 15 ATVs at most going to Jolley's on a weekend and a minimum number on weekdays. A hundred people could show up on a big ride. But they could spend thousands in town. Chad Letourneau said groups of ATV riders go to Eden or Newport because there are places to eat there that they can access.

Ken said the ATV club cleaned up seven roads in Johnson on Green Up day. They are actively involved in our town. He thinks the town would benefit from ATVs using the roads. He would like to see the request go to the grievance process.

Kyle said as a Main Street business owner she appreciates business. She wants to bring up safety concerns. Our Main Street is known for speeding. She worries about the safety of ATV riders and about safety of drivers, pedestrians and bikers. She wants to visualize how this will work from a safety point of view.

Ken said 25 miles per hour is nothing for ATVs these days. They can go the speed of a car. There are helmet and insurance requirements. Anyone under 18 has to be accompanied by an adult. To ride on roads rather than trails, riders must be 12 years old. Adults on \$20,000 machines are pretty safe most of the time. He cannot remember any serious ATV accidents in Lamoille County recently. The club could easily post Railroad Street at 15 mph for ATVs. They would have to ask the state to use Route 15. He feels safety isn't a big issue. ATVs drive through the woods at 25 mph. It is no different than driving a car these days.

Kyle asked, if an ATV was driving on Route 15 and a pedestrian needed to cross, would the ATV stop like cars are supposed to. Members of the ATV club said yes, they follow road rules. There are more pedestrians and traffic in Newport and there haven't been any accidents there. Newport has been open to ATVs all season.

Kyle said she is wondering about noise pollution and how loud these ATVs are. Ken said they are quieter than a Harley-Davidson or loud truck. They have a different sound. The tires make a hum. If they are using Railroad Street he would suggest setting the speed limit at 15 mph and then there would be hardly any noise. They are only allowed to have stock mufflers that are under the decibel limit the state allows.

Eric said the request was approved by the voters at town meeting. The board could go through the formal process of redoing our ordinance, which would take time. There would have to be time to allow voters to raise a petition. Or we could potentially do a waiver on our current ordinance to see how it works out and then if it is not working out we would not have to undo the ordinance change.

Lotty Roozkrans said she lives on Clay Hill. It is not fun listening to ATVs all weekend long. It affects the quality of her time off. Her neighbors on Gould Hill complain about hearing ATVs late at night when their kids are asleep. If the town has a speed limit, they are still speeding up the road. She doesn't see that changing for Railroad Street. She thinks there will be a lot of noise.

Rob Rodriguez said he was in Newport last weekend. It was really busy up there, with cars ATVs and motorcycles all together. He didn't see any problems. All were following the rules of the road. He would be in favor of granting the request.

Ken said they would be happy to do a trial period. They would also be happy to come to a grievance hearing. They feel they could bring money to this town. He said Lotty could call him anytime. He gave her his number. He said with the town's permission, he would be happy to lower the speed limit on Clay Hill.

Brian summarized some comments from chat. Kyley said she likes this as a way to bring more business to downtown. Rob made a similar comment. Marla said she was in Newport recently and had a similar experience to Rob. She felt ATVs and vehicles were doing a good job of sharing the road.

Nat asked if there is a trail curfew. Ken said there is no VASA trail curfew but they go by the Johnson ordinance which he believes is 10 p.m. during the week and 11 p.m. on weekends. He would be happy to have a curfew on Railroad Street during the trial.

Brian read more chat comments. Shayne Spence said as long as they are willing to be good neighbors it shouldn't be a problem and Beth Foy agreed. Diane Lehouillier asked how they would get downtown.

Ken said they assumed Gould Hill would be the best area to come down through to get to downtown. Coming from Gould Hill to Railroad Street would be the shortest route.

Eric asked, they would have to get the state's okay to use Route 15, right? Ken said yes. Doug asked if they would be looking for a state permit to get to Moog's Joint. Ken said they would love to but he doesn't want to ask too much at a time.

Board members agreed to waive the ATV ordinance for a trial. Nat asked how long the waiver would be for. Eric said if they have to wait for state approval he would guess they are looking at starting this next year. Ken said yes.

Kyle asked, if we do this trial and we feel it's working well, then we will change our ordinance, right? Eric said yes. Kyle asked, if we feel it is not working well, then what? Eric said we would pull the waiver and then they would be back to the current ordinance.

Mike moved to authorize Eric to sign the state road use permit to expand access by ATVs as requested, waiving the ATV ordinance for this use, seconded by Doug.

Kyle asked how long the waiver is for. Eric said for the next season. Ken said the season is May 15 to November 1.

Ken brought up the request to be able to remove ATV speed limit signs on town signs when he is requested to change the speed limit for ATVs. Doug asked, don't we have a problem there? It's probably built into our ordinance. The speed limit is an ordinance issue. Brian said he thinks we might need to look at our ordinance before we grant or deny permission. Ken said he is not talking about taking down all the ATV speed limit signs. But if he is putting up new signs he feels he should be able to take down the existing ones in that area and replace them with a new speed limit on the sign and bring the old sign to the town. Doug said he does not think Brian is authorized to tell the ATV club to reduce the speed limit to 15. The board agreed to have Brian look into how to reduce ATV speed limits properly.

The motion was passed.

9. *Dilapidated Buildings Enforcement Report*

Brian said we were ramping up to start enforcing the dilapidated building ordinance before COVID-19 and one request was to review with the listers some of their observations and see if they had any relevant data or reporting. They do make a note when they review a property of what percentage complete it is. Buildings that are 50% or less complete might be ones we should take a look at. Another characteristic the listers record is whether buildings are coded for salvage. We could use those two data sets as a starting point for buildings that might need attention under the ordinance. He and Tracy can visit owners of those properties and run through the ordinance with them.

Nat said he looked up information on one of the buildings on the salvage list. It is a building the Studio Center is reconstructing. So the list is not all empty, dilapidated buildings. Brian agreed. There is no list we can use without having to look at the building.

Brian said we will start enforcing the ordinance and we will start with buildings showing up on these lists. Doug said he wonders if we shouldn't start by publishing information on our ordinance. He thinks we ought to give the public notice of it and then if we are going to visit a property, send the ordinance to the owners first. Brian said he thinks that sounds like a good idea.

Eric asked if Brian was authorized to do enforcement or if we designated someone else. Brian said he thinks he and the first and second constables are authorized to do enforcement.

10. *Formation and Membership for Committee to Study Law Enforcement Options for Johnson*

Brian said we have seen a lot of growth in our patrol budget and after talking to Roger Marcoux and the other towns that contract with the Lamoille County Sheriff's Department we have

Town Meetings and ATVs

There have been three times that ATV issues have been voted on at town wide meetings.

First, was as a result of a petition raised to cause the reconsideration of the original ordinance in October of 2006. During that meeting, the new ATV ordinance passed by the Selectboard was upheld by a voice vote from the floor, exact results are unknown.

Second, was near the end of the 2020 Town Meeting during other business. At this meeting the suggestion that

Third, the was the 2021 Town Meeting where two articles related to ATVs were raised by petition to be included in the Australian Ballot. Article 13 was "Shall the Selectboard repeal the Ordinance Regulating All Terrain Vehicles (ATV)?" it failed by a 307 to 538 vote. Article 14 was "Shall the Selectboard undertake a comprehensive evaluation of the environmental impacts of All Terrain Vehicle (ATV) use on Class 4 roads in the Town of Johnson?" which failed by a 390 to 461 vote.

**ATV ORDINANCE
FOR THE TOWN OF JOHNSON**

**REPORT OF THE ADVISORY COMMITTEE
PREPARED FOR THE
SELECT BOARD OF JOHNSON**

6/15/2006

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1. Summary

After due deliberation, a majority of the advisory committee came to the following conclusions pertaining to the use of All Terrain Vehicles (ATVs) on Johnson's roads:

- The committee recommends to close all class III roads to ATV traffic until a viable, designated trail system using private trails and suitable class IV roads is established by an active ATV member organization.
- Should an ATV member organization present such a trail system and request the use of class III roads to connect certain trails, the select board may open certain, specifically designated roads under the conditions of an ATV ordinance as described in further detail below.

2. Introduction

During the 2006 town meeting a non-binding motion was made, the select board may adopt an ordinance to regulate the use of ATVs on town highways. The select board also receives an increasing amount of unsolicited input from citizens concerned with annoying and dangerous behavior of ATVs on public roads. For these reasons, the select board decided to investigate the possibility of adopting an ordinance regulating the use of ATVs on town highways.

2.1. Advisory committee

In a public announcement members of a voluntary advisory committee were wanted. The chairman and selectboard member Howard Romero formed the committee as follows:

Howard Romero, committee chair, Selectman Town of Johnson
Duncan Hastings, administrator, Town of Johnson (introduction only)
Dean West, Johnson resident
Neill Sheppard, Johnson resident
Chris Perkins, road maintenance Town of Johnson
Tim Sullivan, Johnson resident
Lois Frey, Johnson resident
John Lavanway, Representative of VASA (Vermont All-terrain vehicle Sportsman Association)
Mike Dolan, Johnson resident
Dan Lenel, note taker, Johnson resident
Blain Delisle, Road Commissioner, selectman Town of Johnson, (observer at first meeting)

The committee met for seven consecutive meetings. Meeting notes were taken.

While on most issues a consensus between the committee members was achieved, the opinions on some issues differed significantly. In the following findings such differences will be pointed out if they resulted in significant different positions.

2.2. Purpose of the advisory committee

The advisory committee was formed to advise the select board in adopting an ATV policy and possible ATV ordinance governing ATV use on public roads. The committee has an advisory function only; the select board is no way obligated to use any or all findings of the committee in establishing an ordinance.

2.3. Legal situation

Vermont statutes, title 23, chapter 31 regulates the use of All-Terrain-Vehicles statewide. Some major requirements include:

- ATV must be registered, unless they are used on the property of the owner or the rider has the written permission of the property owner or person
- ATVs may not be used on public highways, unless it is not maintained during snow season -OR- it has been opened for ATV use by the municipality and is so posted.
- ATVs may not be used on private land, unless the operator is the owner or an immediate family member or has written consent of the landowner or person.
- ATVs may not be used on public land, unless specifically designated for ATV use.
- Maximum operating noise for any ATV is 82 dB(A) in 50 feet distance.

Under § 3510 of above statutes, the municipalities have the power to adopt ordinances for the purpose of regulating the time, manner, location and operation of ATVs.

3. Findings of the Advisory Committee

3.1. Current legal status

According to several sources, the select board (or certain members of the select board) gave in 1999 verbal consent to an interested party to open the town's class III and class IV roads for ATV use. However, the committee could not find evidence that this policy was ever properly posted. Even if such a policy was adopted at the time, a select board policy is required to be reinforced annually. No evidence of enforcement of such a policy could be found.

In essence, a verbal consent given at the time did not constitute a legally binding opening of Johnson's roads to be used by ATVs. Therefore, in accordance with the Vermont statutes, the town's class III (and higher) highways are currently closed to ATV traffic. However, given the confusion resulting from the apparent verbal consent to open the roads, many Johnson residents are under the impression that Johnson's roads are in fact legally open to ATV traffic. The committee therefore advises the select board to clearly publicly announce the status, even if there is no actual change in legal status.

3.2. Current ATV trail system

3.2.1 Private trails

Due to the perceived opening of Johnson's roads to ATV traffic in 1999, membership and activity of Johnson residents in the ATV club (VASA) dropped steadily since ATV riders found ample riding opportunities on Johnson's public roads. Consequently, no significant efforts were made to negotiate with private landowners to establish dedicated ATV trails.

3.2.2 Public class IV roads

As stated in the Vermont statutes, title 23, chapter 31, § 3506, ATVs may be operated on public highways that are NOT maintained during the snow season. In the town of Johnson, only class IV roads are within this classification.

There are several class IV roads in Johnson; however, most of them don't connect. The following class IV roads were found to be frequented by ATVs:

3.2.2.1 Codding Hollow Road

The Codding Hollow Road connects Johnson with the town of Waterville. The road has been frequently used by ATVs and Jeeps and is at parts in very poor condition. The committee found, that the road needs to be repaired and upgraded (drainage). Further use of the Codding Hollow Road by ATVs or other motorized vehicles in the current state will result in accelerated degradation and is not recommended.

3.2.2.2 Mine/Carter Road

The Mine/Carter Road connects Ben Ober Road with Ober Hill Road. It is popular with ATV riders. The road condition has been steadily declining in the past few years. It is muddy and washed out in several locations, partly caused by the increasing ATV traffic, but also partly by "mud bogging" activities. A further connection in easterly direction (Ober Hill Road) is not useful since Eden Township does not permit ATV traffic on public roads

3.3. ATV ordinances surrounding towns

Towns that adopted a complete ATV ordinance:	Montgomery
Towns that adopted a road use policy for ATVs:	Hardwick
Towns that specifically closed the roads to all ATV traffic:	Eden, Wolcott
Towns that specifically opened the roads to all ATV traffic:	Belvidere

3.4. ATV requirements

Vermont statutes, title 23, chapter 31, § 3505 lists the equipment requirements, i.e.:

- One or more headlights
- Red rear light
- Working brakes
- Muffler, noise not to exceed 82 dB(A)
- Spark arrester

ATVs are vehicles designed, built and equipped for off-road use and are primarily to be used on designated trails. They therefore usually lack equipment commonly found on motor vehicles, i.e.:

- Turn signals
- Stop light
- Horn
- License plate light

Unlike regular motor vehicles, ATVs are not subject to an inspection.

4. Recommendations to the Selectboard

4.1. *Recommended current road policy*

The advisory committee recommends closing all class III roads within the town of Johnson to ATV traffic for the time being. The committee further recommends to keep the roads closed until a viable, designated trail system using private trails and suitable class IV roads is established by an active ATV member organization such as VASA (Vermont ATV Sportsman Association).

The committee based its recommendation on the following:

- Lack of a suitable trail system
- The primary reason to use class III roads would be to connect ATV trails. Due to the lack of a trail system designating specific connector roads is currently not meaningful.
- ATV riders are insufficiently organized. It is in the ATV clubs best interest, to keep the roads closed until a strong club base is formed.
- Poor condition of Coddington Hollow Road, isolated condition of Mine Road.

4.2. *Recommended future road policy*

The advisory committee recommends that the select board may open certain, specifically designated roads under the conditions of an ATV ordinance if the following conditions are met:

- Formation of a strong, self-regulating ATV association (following the VAST model)
- Maintained, designated trail system, primarily on private land.
- Formal request of a viable ATV association

4.3. *ATV Ordinance*

Should the select board decide to open certain roads, the advisory committee recommends that a detailed ATV ordinance be adopted at that time.

The advisory committee recommends further that the ordinance shall be reviewed and if necessary amended or revoked on an annual base.

Proceeds from the sale of permits shall be held in an escrow account and shall only be used for ATV related expenses such as enforcement and road repair.

4.4. *Enforcement*

The committee was particularly concerned with the enforcement of an ATV ordinance.

The advisory committee recommends tasking the local police force with the enforcement of the ordinance. The expenses of the additional burden may be covered by the sale of ATV permits.

4.5. *Announcement of road status*

The confusion about the actual status of Johnson's ATV roads use policy was apparent to the committee. The committee therefore advises the select board to clearly publicly announce the status as soon as the select board adopts an ATV road policy.

5. Elements of an ATV Ordinance

The committee found that the following elements should be considered when drafting an ATV ordinance.

5.1. Operation of ATV

- ATV must be registered in Vermont
- Roads closed for all ATVs from October 31st to May 15th
- Roads closed for all ATVs from 9pm to 8am
- Roads may be closed at any time by select board or by Johnson road maintenance due to bad condition, severe weather or any other conditions that may cause unsafe riding conditions or damage to the roads.
- Speed limit is 15mph on all roads, unless otherwise posted.
- Riders must be 16 years or older
- ATV riders must have at all times on person:
 - a) valid drivers license
 - b) valid proof of liability insurance
- ATVs must display a valid Johnson permit sticker well visible on the vehicle.
- Roads may only be used for the purpose of traveling in an orderly fashion; no joy riding (repeated use of a short road section).
- ATV riders must not produce any excessive noise; such as high engine RPM, idling for more than 2 minutes etc.
- ATV riders must avoid causing any road damage
- ATVs must stay on the traveled road surface.
- Head and taillights must be used at all times.
- ATVs must grant all other road users the right of way
- ATV riders must wear a DOT approved safety helmet whenever the vehicle is in motion. ATV riders are advised to stop and take off the helmet when encountering horses.
- ATV owner is responsible for the actions of the ATV rider. In case of any violation of this ordinance, the registered ATV owner is held liable, independent of the actual rider causing the violation.

5.2. Equipment requirements

In addition to the requirements of Vermont statutes, title 23, chapter 31 ATV operated on Johnson's roads must comply with the following:

- Noise limit 82 dB(A) measured according to SAE J1287¹
- Brake lights²

¹ Some committee members found that 82 dB(A) is too high. However, specifying the SAE J1287 measuring method already reduces the effective noise level.

² Only some ATVs manufactured after 2003 have stoplights. Some committee members found that upgrading older machines with brake lights too burdensome.

5.3. Permits

The town of Johnson issues ATV permits under the following conditions:

- Every ATV on Johnson's roads must have a valid Johnson ATV permit
- Two types of permits:
 - a) Regular permit, valid one year; sold at town offices
 - b) Visitor's permit, valid x days (i.e. 7 days); sold at convenience store, gas station
- Permit cost:
 - a) Johnson residents: \$xxx
 - b) Non-Johnson residents: \$yyy
 - c) Visitor's permit: \$zz
- Permits are granted for a specific ATV only
- In order to obtain a permit, rider must provide:
 - a) Valid proof of liability insurance for the ATV to be registered
 - b) Valid driver's license
 - c) Valid ATV club membership
 - d) Valid ATV registration
 - e) (Inspection report of a Johnson ATV inspection station)³

5.4. Enforcement

- Ordinance strictly enforced by local police force and by Vermont Dept. of Fish and Wildlife⁴.
- Enforcement agencies will perform unannounced ATV inspections on the road
- Penalties:
 - First offense: penalty of \$aaa (i.e. \$100), waiver fee of \$bbb (i.e. \$75)
 - Second offense (within 3 years): penalty of \$ccc (i.e. \$200), waiver fee of \$ddd (i.e. \$150)
 - Third offense (within 3 years): permit suspension for one year
 - Littering: \$300 per occurrence.

³ Most committee members found the requirement of a local inspection burdensome and hard to implement. However, some members found that a local inspection is needed, particularly testing the sound limit compliance.

⁴ The help of ATV clubs in preventing ordinance violations and promoting safe riding practices is required. ATV club officials shall patrol roads and trails open to ATVs, reminding ATV riders of their obligations and thus preventing violations of the ordinance.

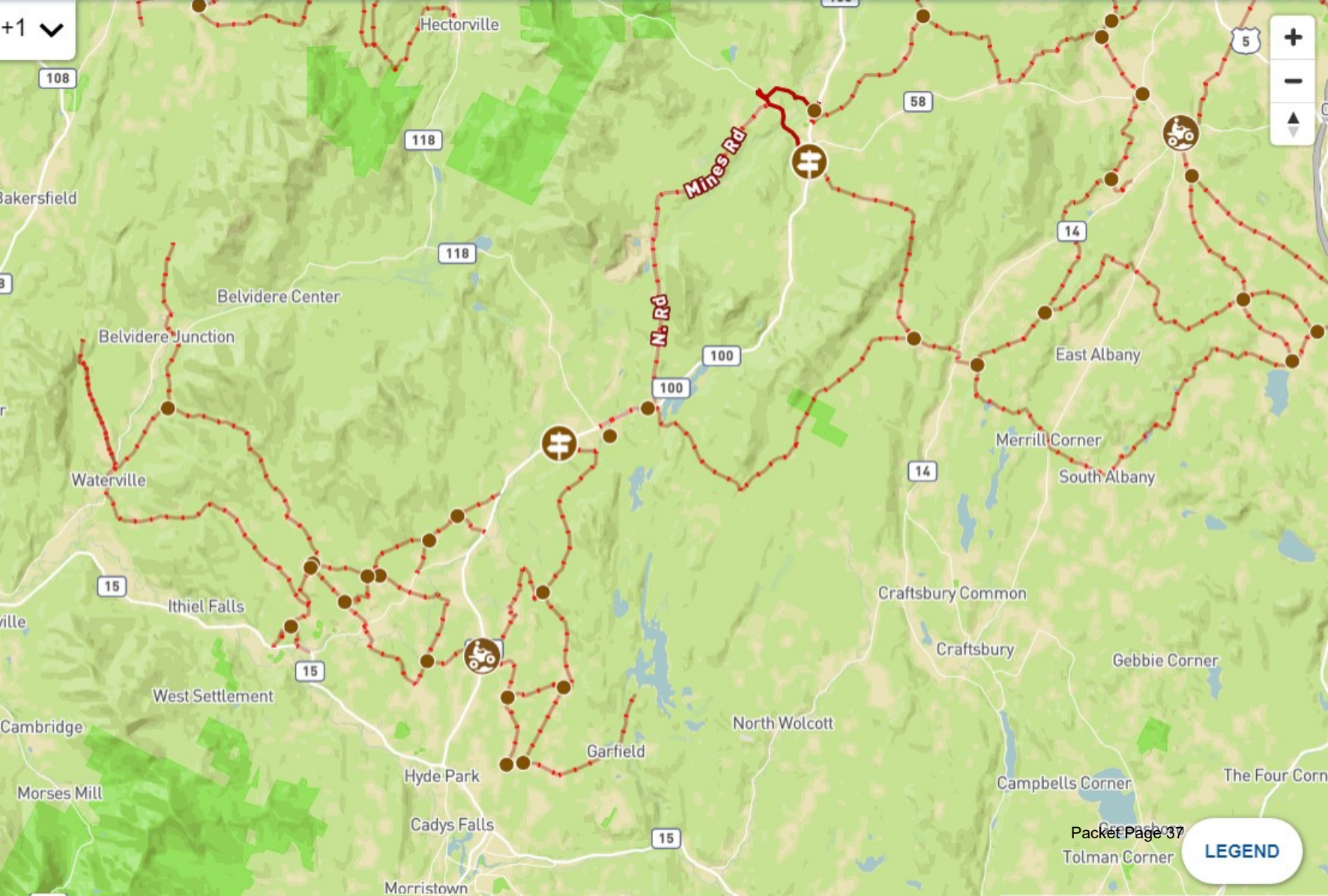
6. Appendix

- Vermont statutes, title 23, chapter 31
- SAE J1287 "Measurement of Exhaust Sound Levels of Stationary Motorcycles"
- Montgomery ATV ordinance
- Road use policy for ATVs, Town of Hardwick
- Meeting notes ATV advisory committee

For the ATV advisory committee:

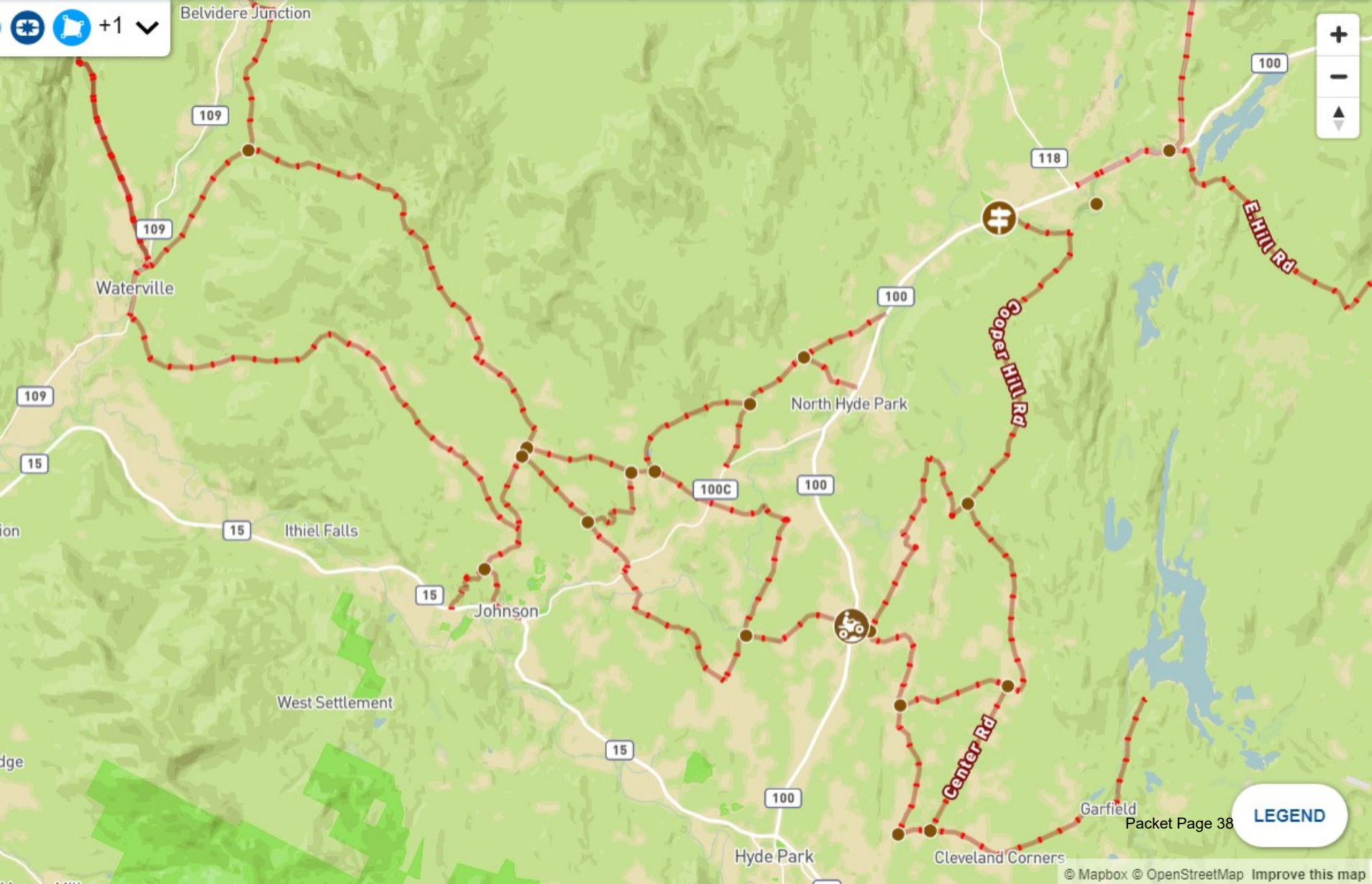
Dan Lenel, note taker.

Johnson, 08-JUN-2006



LEGEND

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Belvidere Junction

109

109

Waterville

109

15

15

Ithiel Falls

15

Johnson

West Settlement

15

100C

100

North Hyde Park

100

118

100

E Hill Rd

Cooper Hill Rd

100

Center Rd

100

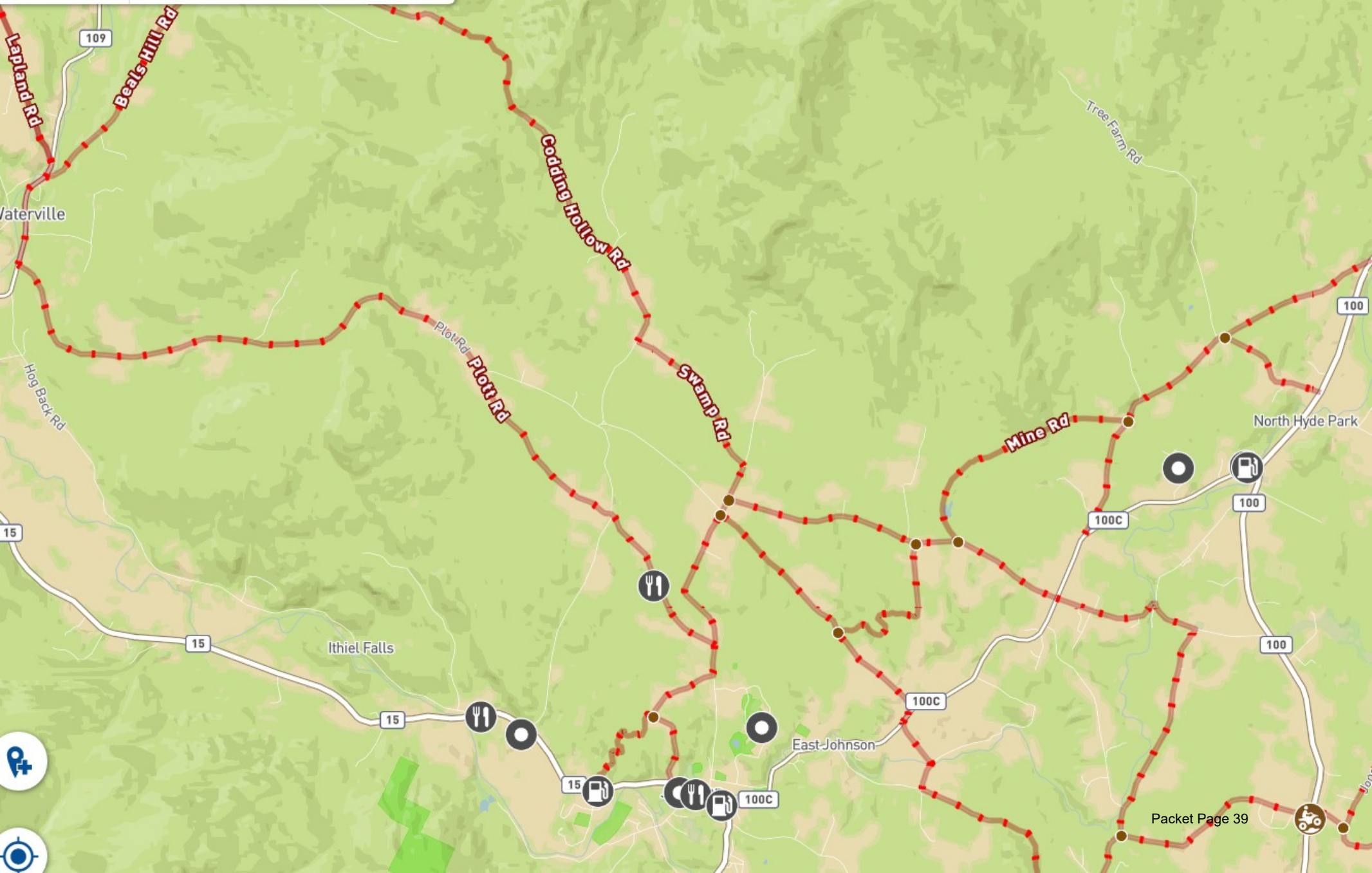
Hyde Park

Cleveland Corners

Garfield

LEGEND

Packet Page 38



Lapland Rd
109
Beals Hill Rd

Waterville

Hog Back Rd

15

15

Ithiel Falls

15

15

Coding Hollow Rd

Plot Rd
Plott Rd

Swamp Rd

Mine Rd

100C

100C

100C

East Johnson

100

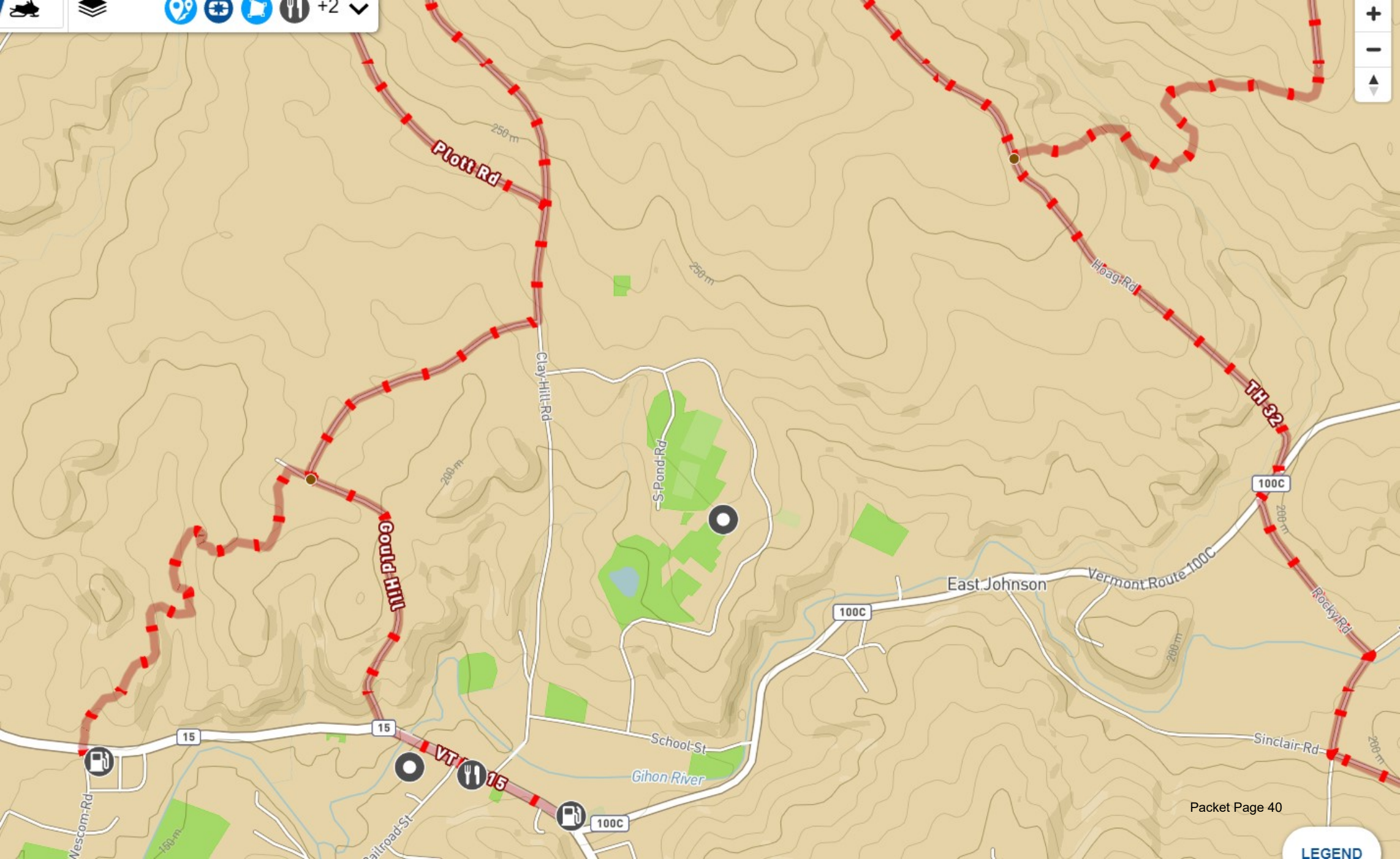
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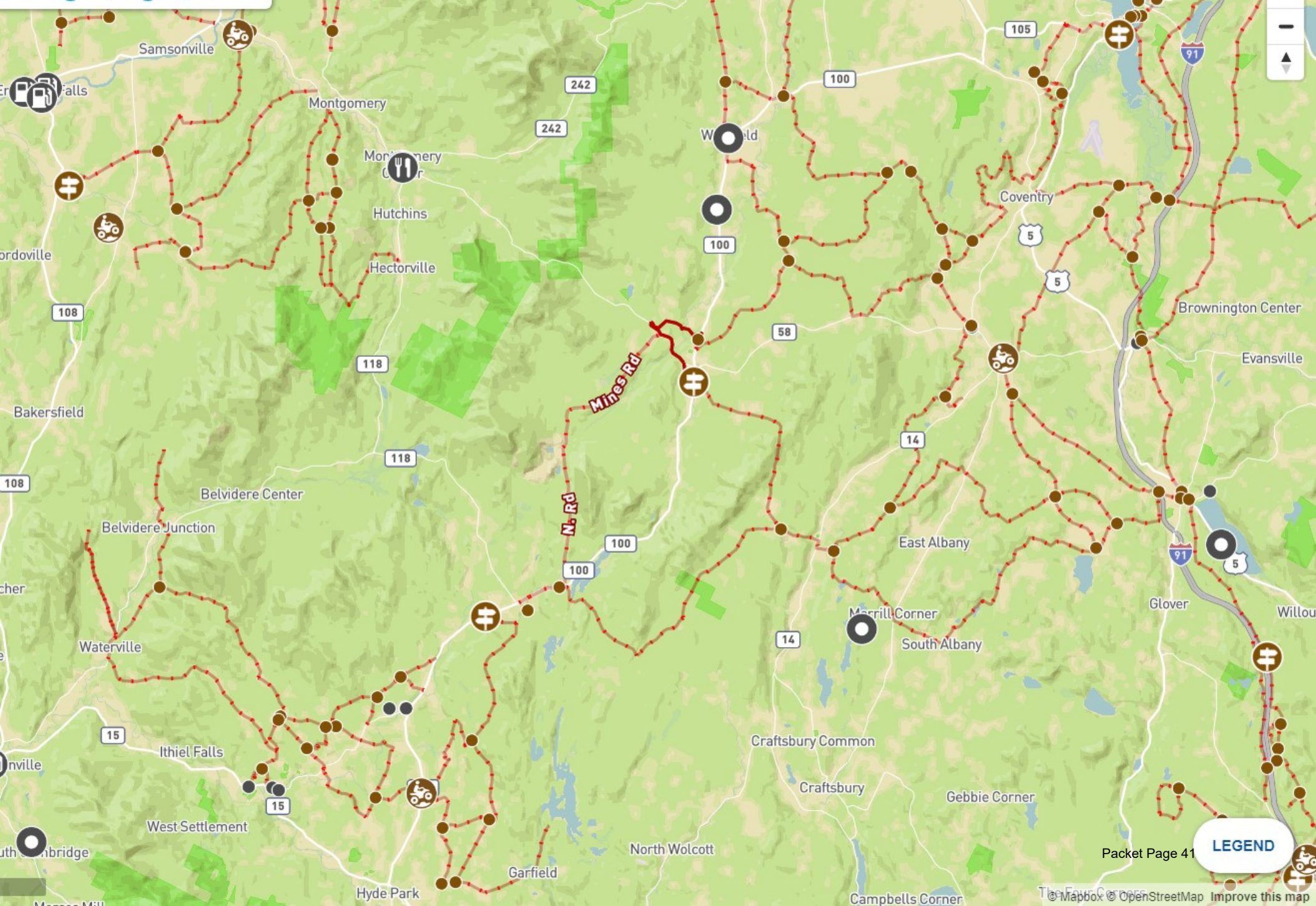
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North Hyde Park

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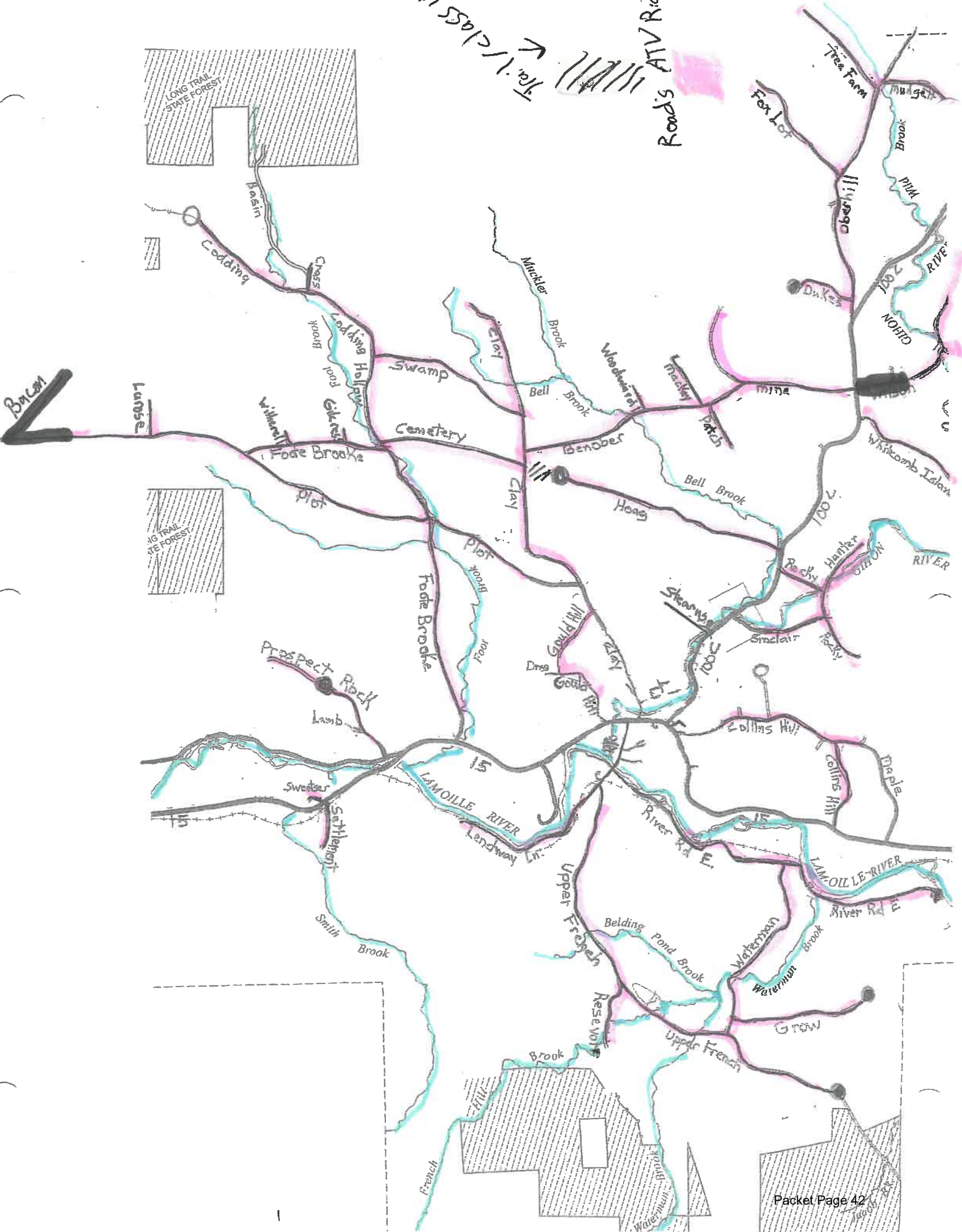




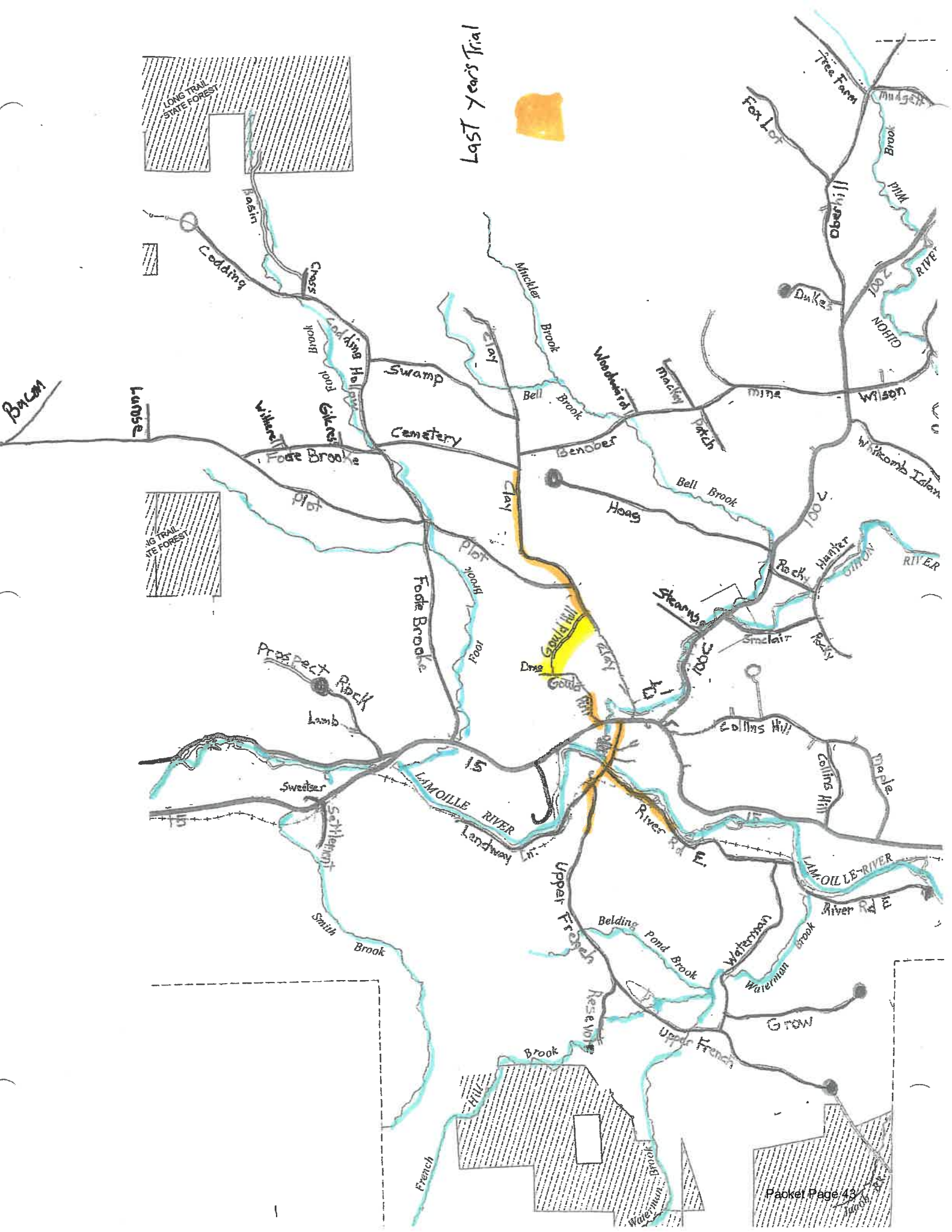


LEGEND

Tr. 1/ Class 4
Road's ATV Ride



Last Years Trial



Green Mountain ATV Riders Information and Contributions

Mission Statement

Objective: Green Mountain ATV Riders, aka GMATV is organized exclusively for charitable and Educational Purposes including for such purposes as

*To foster a close relationship and appreciation for the Towns and landowners of Waterville, Belvidere, Johnson, Hyde Park, Eden.

*Seek, Develop and Maintain sustainable environmentally friendly ATV trails in such towns mentioned above

* Promote, Encourage and Teach Respectfulness and Lawful responsibilities for the use of the ATV trails and roads in above mentioned towns

* To Render Public Services in case of Emergency and/or Disaster on above mentioned town trails- Roads-Community and actively assist all other VASA clubs in such emergencies

To build relationships with each towns govern boards and residents.

* Any person who has interest in ATV recreation may become a member of GMATV club

Road Projects

Investment into Johnson class 4 roads- Hoag Road and Coddington Hollow Road

GMATV and VASA supplied \$6700.00 in materials last fall for both roads, VASA does not charge the clubs for the labor or equipment so an estimate would be \$7000.00.

GMATV and Vasa works closely with the state of Vermont to ensure all work is done to maintain and create environmentally friendly sustainable trails and road repairs

Green Up Day

As far as Green Up Vt the club has participated in all towns on our list yearly

Each year we remove on average one dump truck load from each town.

This has actively been done for many years 5+

Other Charitable Contributions

LACN \$500

Meals on wheels \$500

Kyle Buttice memorial fund \$500

Wyatt small memorial fund \$150

Jenna's promise \$250

Eli Goss memorial ice fishing tournament \$100

Hyde park VFW \$250

Eden horse shoe \$330

Lamoille hospice \$300

This is the clubs donations for the 2020-21 season

TOWN OF HYDE PARK

ALL-TERRAIN VEHICLE ORDINANCE

Amendments 1 & 2 in 2019 to the 2011 ATV Ordinance

- 1. Opening "East-West" cross-town route on some paved roads**
- 2. Adding Battle Row Road & ATV's ride in center of lane, not on shoulder**

SECTION I. AUTHORITY.

Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. § 2291(4), and 23 V.S.A. § 3510, the Selectboard of the Town of Hyde Park hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain vehicles within the town.

SECTION II. PURPOSE.

The purpose of this ordinance is to protect the health and safety of operators of all-terrain vehicles and of the residents of the Town and to protect the animals, property and environment of the Town.

SECTION III. DEFINITIONS.

- A. "All-terrain vehicle," or "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: water, snow, ice, marsh, swampland and natural terrain and, as allowed on public highways identified in this Ordinance.
- B. "Operate" shall include any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be in motion or at rest.

SECTION IV. OPERATION OF ATVs.

- A. All ATVs must be registered and operated according to the requirements of 23 V.S.A. Chapter 31. All ATV's to be maintained with "manufacturer's original or equal to" equipment (muffler, lighting, brakes, safety equipment, etc.).
- B. All riders must carry registration and proof of insurance certificates on their person or on the machine at all times. All riders shall belong to the Vermont ATV Sportsman Association (VASA) carry proof of membership and display the VASA plate on the ATV.
- C. All-terrain vehicles may be operated only on the following town highways:
1. Any unpaved Class III town highway;
 2. Class IV town highways, as identified on the Official Town Highway Map; and
 3. The following town highways, or segments thereof, including Class 2 or Class 3 town highways and being paved or unpaved:

<u>Road Name - TH#</u>	<u>Begin</u>	<u>End</u>	<u>Length</u>
Grimes Road (Paved) - TH36	VT100	Windy Knob Road - TH93W/ End of Pavement	0.36
Barnes Road (Paved) - TH06	Grimes Road (Gravel) - TH36	Whitcomb Island Road - TH35	0.20
Battle Row Road (Paved) - TH06	Grimes Road (Gravel) - TH36	East Johnson Road (Gravel) - TH56	0.65
Whitcomb Island Road - TH35	Barnes Road (Paved) - TH06	End of Paved Bridge	0.04
North Hyde Park Road (Paved) - TH03	Cooper Hill Road - TH10	Thompson Hill Road - TH75	0.80
North Hyde Park Road (Paved) - TH03	Centerville Road - TH01	Longmore Hill Road - TH31	0.70
Centerville Road (Paved) - TH01	North Hyde Park Road - TH03	Mead Road TH39 / End of Pavement	0.50
Centerville Road (Class 2) - TH01	Mead Road TH39 / End of Pavement	McKinstry Hill Road - TH13	0.90
Center Road (Paved) - TH01	Cleveland Corners Road - TH50	McKinstry Hill Road - TH13	1.92
Cleveland Corners Road (Paved) - TH50	Center Road - TH01	Easterly to End of Pavement	0.22
Cleveland Corners Road (Paved) - TH07	Fagnant Farm Road - TH50	Davis Hill Road - TH40 / End of Pavement	1.00
		Total	7.29

- 4. The Selectboard may list specific unpaved Class III and Class IV roads where ATV's may be operated or not operated, by an Annual Posting and Public Notice of roads open to ATV use as per this Ordinance.

- D. All-terrain vehicles shall not be operated on public bike paths or hiking trails or on V.A.S.T. snowmobile trails or private lands (without landowner permission), town owned recreation fields, public greens, in any burial ground, on the school playground or in the parking lot of any church, hospital, town or village owned building or nursing home in the Town.

- E. All speed limits, traffic control devices and rules of the road apply to the operation of ATVs on Town highways opened for use. Maximum speed limit shall be 25mph. Riders to maintain single file in the center of the vehicle travel lane.

- F. ATVs may not be operated within the Town between 9 P.M. and 7 A.M. Monday through Friday or between 10:00 P.M. and 7:00 A.M. on Saturday and Sunday.

SECTION V. PENALTIES.

- First offense \$100.00, waiver fee \$50.00
- Second offense\$200.00, waiver fee \$100.00
- Third and each subsequent offense\$500.00, waiver fee\$250.00


SECTION VI. ENFORCEMENT. This is a civil ordinance and shall be enforced by any duly elected or appointed police officer, or enforcement official appointed by the Selectboard with enforcement powers within Hyde Park, through the Judicial Bureau.


SECTION VII. 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.

SECTION VIII. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Hyde Park Selectboard and shall supersede and replace all previous ordinances regulating the time, manner, and location of operation of all-terrain vehicles. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.


Adopted by vote of the Hyde Park Selectboard on 04/15/2019


TOWN OF HYDE PARK
PO BOX 98
HYDEPARK,VT 05655
(802)888-2300

Read and adopted at the 04/15/2019 Town of Hyde Park Selectboard Meeting 
24 VSA 1972(a)(1)

Posted in 5 places on 04/16/2018, such locations being: 
24 VSA 1972(a)(1)

- Hyde Park Municipal Office
- Lanpher Memorial Library
- Hyde Park Elementary
- Hyde Park Post Office
- North Hyde Park Post Office

Published in the News and Citizen on 04/25/2019; notice of adoption must include notice of the right to petition for a town vote. 
24 VSA 1972(a)(1)

Adopted ordinance shall be recorded in records of the municipality. 
24 VSA 1972(b)

Received for town records: Kimberly Moulton 8/20/19
 Signature of Hyde Park Town Clerk Date Received

Petition Period ends 44 days from adoption (Signatures required: at least 5% of registered voters).
24 VSA 1973(a) and (b). Initials of Town Clerk certifying no petition filed: KM Date Initialed 8/20/19

Noe: 44 days ended May 29, 2019

Selectboard

April 15, 2019

MONTHLY MEETING (New - 3rd Mondays)

All minutes are draft until approved by the Selectboard; please check future minutes for approval of these minutes. Meetings may be videotaped; recordings are held by Green Mountain Access Television. GMATV info: PO Box 581, Hyde Park, 05655; info@greenmountainaccess.tv or 802-851-1592

Members Present: Susan Bartlett, Chair; David Gagnier, Vice-Chair, Roger Barry, Roger Audet and Roland Boivin
Members Absent: None
Others Present: Ron Rodjenski, Town Administrator; Carol Fano; Jessica Bickford, Healthy Lamoille Valley; Jack Anderson, Village Trustee; Valerie Valcour, town resident & VT Dept. of Health; GMATV did videotape this meeting.

Susan opened the meeting at 6:00 p.m.

1. **Welcome:** Added funding discussion for ACO Diane Stoney training. No public comment.
2. **Fiber Committee:** The Board reviewed the 04/15/2019 Fiber Committee Memo. The committee is moving forward with exploring options for installation of fiber internet lines to every door. Carol noted that small fiber companies can do it far cheaper than some of the larger telecoms like Comcast, with fewer customers required per mile for smaller grassroots companies. Carol noted that some communities have formed a fiber utility district with several towns and operate with user fees, noting that using the property tax is the least desirable revenue source. Motion by Roger A. to appoint Jack Wool to the Fiber Committee. Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.
3. **Healthy Community Policy:** Ron reviewed the draft policy and the need to further discuss prohibiting smoking on town properties which was not fully resolved in March. The Board discussed the distance from an entryway. Jessica and Valerie suggested that the Board consider the access routes for no smoking; from the parking lot to the entry area. Ron read the current town policy which prohibits no smoking in town vehicles when two or more people are inside. Valerie stated that the draft policy developed is very good and would likely be considered as a starting point for other towns, noting that some health care professionals might like to see more prohibitions, this is a good first step and good for the public to see adopted by the Town. The policy could be revisited after its in place for a while and the Board agreed it was a good first step. Motion by Roger A. to adopt the 04-15-2019 Hyde Park Health Community Policy as written, seconded by Roland. Voting: 5 in favor, 0 against, motion passed. Valerie asked for consideration of the 3-4-50 Commitment Letter, noting that Hyde Park would be the first Lamoille County town to join the effort and agree to work toward the 3-4-50 program objectives. Valerie noted that it was a general commitment letter to agree to pursue healthy community tasks & activities and to be a partner with the VT Department of Health. Motion by Roland to authorize Susan to sign the 3-4-50 Commitment Letter. Seconded by Roger B. Voting: 5 in favor, 0 against, motion passed.
4. **ATV Ordinance:** Dave reported that 0.6 miles of Battle Row Road was omitted from the ordinance adopted in March and would better serve as the access to the Town of Johnson, via East Johnson Road. The goal of the ordinance is to allow an ATV cross-town connection between Johnson, Eden and Wolcott/Craftsbury. The ordinance would be re-written with this change and re-start the 60-day effective period. Motion by Dave to amend the 2019 ATV Ordinance to include the Battle Row Road paved road segment from Grimes Road/Barnes Road to East Johnson Road. Seconded by Roger A. Voting: 5 in favor, 0 against, motion passed.
5. **Friends of the LVRT:** Susan reviewed the request from the Friends of the Lamoille Valley Rail Trail to send a Letter of Support for a marketing strategies study grant application along the length of the LVRT through the Northern Borders Regional Commission. The Committee will work with the Friends on summer events in June and August in conjunction with the on-going Better Connections project. Susan noted connecting with Friends and pursuing community wide objectives, like 3-4-50, all add up to creating a great place to live for new families. Motion by Roger B. to authorize Susan to sign the letter of support for the FLVRT marketing grant application. Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.

- 1 6. **Annual Liquor License** (acting as the Local Liquor Control Board) – Motion by Dave to meet as
2 the Liquor Control Board and approve the three liquor licenses; Ten Bends Brewery, VFW, and
3 Fork & Gavel. Seconded by Roland. Voting: 5 in favor, 0 against, motion passed. Adjourned Liquor
4 Control Board and re-opened the Selectboard meeting.
- 5 7. **Town Energy Committee** – The Board did not request interviews to be scheduled. Motion by Roger
6 A. to appoint Elisa Clancy & Bridget Polow to Town Energy Committee. Seconded by Roland.
7 Voting: 5 in favor, 0 against, motion passed.
- 8 8. **Approve the 2019 Vendor List.** Motion by Roger A. to approve the 2019 Vendor List, printed
9 04/02/019, with no changes. Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.
- 10 9. **LEPC:** Ron stated that everyone is aware of this change and Carol currently has the time to attend
11 the monthly meeting, which Brad does not at the current time. Motion by Dave to appoint Carol
12 Fano as the Local Emergency Planning Committee Town Representative and Brad Carriere as the
13 alternative LEPC representative. Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.
- 14 10. **Minutes:** Motion by Roland to approve the minutes of 03/11/2019 and 04/11/2019, as written.
15 Seconded by Roger A. Voting: 5 in favor, 0 against, motion passed.
- 16 11. **Review Town Orders:** Ron reviewed the town orders process with one warrant covering all
17 departments and emailing the invoice copies ahead of meetings for their review. The Board agreed
18 it was worthwhile to pursue and saw the benefits having the time to review invoices prior to
19 meetings. Motion by Roger A. to approve the town orders prepared by the Finance Director,
20 Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.
- 21 **12. Other Business & Notices**
- 22 a. Highway Cross-training – Roger B. reviewed the training status list for crew members and
23 there was concern for the costs and finding training time from the highway crew. Discussion
24 on data logs for all activities to help determine opportunities for efficiencies, similar to the
25 data collection now done during emergency repair situations. The types & method of data
26 collection needs to be clearly defined. Susan mentioned incorporating job data into the
27 current digital time clock. Ron noted that he will review the current software and see if it
28 allows the crew to easily log their start/end times per project. Roger will research possible
29 trainers for cross-training to come to Hyde Park.
- 30 b. Pocket Park Project Update – Ron reported that the town is waiting for a grant agreement
31 with the VT Department of Health, noting that Fall construction is planned.
- 32 c. Town Highway Discontinuances – Set hearing date and required site visits for Thursday,
33 June 6, 2019 beginning at 3:00 p.m. and Ron will bring a notice to the Board's next meeting.
- 34 d. LRSWMD Representative – Motion by Dave to appoint Marilyn Zophar to the LRSWMD.
35 Seconded by Roland. Voting: 5 in favor, 0 against, motion passed.
- 36 e. ACO Training - Diane Stoney – \$500 short and the Board asked that the other towns support
37 the cost of the training and Diane be allowed to work for them but at their cost. The Sheriff
38 may also see some benefit to the County having a certified Animal Control Officer.
- 39 f. Fire Department Bylaws – Dave asked about the status of the revised bylaws. Ron reported
40 that the personnel policy revisions are still going on, the fire department bylaws can be
41 approved by the fire officers using the town attorney's blacked out version and all job
42 descriptions should be approved by the fire officers and copies provided to the Selectboard.
- 43 g. Village Meeting – Jack Anderson reported that May 7th is the annual village meeting at 7:00
44 p.m. and the village reports are being mailed in a couple weeks with copies to the Town.
- 45 **13. Possible Executive Session:** Motion by Roger A. to move into executive session to discuss town
46 personal matters and real estate purchase or lease options under 1 VSA 313, a, 2-3. Seconded by
47 Roland. Voting: 5 in favor, 0 against, motion passed.
- 48 **14. Letter of Hire:** Motion by Roland to authorize Susan to sign a clarification letter of hire for Office
49 Assistant Dawn Slayton. Seconded by Roger. Voting: 5 in favor, 0 against, motion passed.
- 50 **15. Adjourn:** Motion by Dave to adjourn. Seconded by Roland. Voting: 5 in favor, 0 against, motion
51 passed at 7:59 p.m.

**TOWN OF BELVIDERE
ALL TERRAIN VEHICLE ORDINANCE**

1. The Selectboard of the Town of Belvidere in the County of Lamoille and State of Vermont, in accordance with Title 24, V.S.A. 1971-1983 hereby adopt this ordinance regulating the use of All Terrain Vehicles in the Town of Belvidere and described as follows:
2. As used in this ordinance "All Terrain Vehicle or 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 combination thereof; land, water snow, ice, marsh, swampland, and natural terrain.
3. The use of ATV's is authorized on all town roads located in the Town of Belvidere. All roads are closed to ATV travel between December 15 and April 1.
4. An ATV may be operated only in accordance with V.S.A. 23 § 3501-3517 and will be enforced by the ATV Club.
5. ATV signs have to be posted to notify motorists that ATV's are on the road. These are NOT Trail signs.
6. Travel by ATV's will be single file, to the right, with headlights on at a rate of speed not to exceed 25 MPH.
7. An ATV may not be operated unless registered pursuant to this Chapter 31 or any other section of this Title 23 § 3502-3504, as stated in the All-Terrain Vehicles Operator's Manual, by the State of Vermont and the Vermont Statutes Annotated, Title 23, 1999 Cumulative Supplement for use in 1999-2000 except when operated:
 1. On the property of the owner of the ATV
 2. Off the highway, in a ski area while being used for the purpose of grooming snow, maintenance or is rescue operations
 3. Solely on privately owned land when the operator is specifically invited to do so and has on his person the written consent of the owner.
8. The registration of an ATV does not constitute a license to cross or operate an ATV on private lands that do not have trails.
9. Unless you have a signed copy of this ordinance on your person, you do not have permission to ride on Belvidere town roads. This ordinance is available at the Town Office or from any Selectboard member. All copies will be signed by the operator and a Selectboard member or the Belvidere Town Clerk.
10. If any portion of the Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

A violation of this Ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. § 2974 (a) and 1977 et seq. A civil penalty of not more than \$500 may be imposed for a violation of this civil ordinance, and the waiver fee shall be set a \$100 for the first offense, \$200 for the second offense within a six-month period, and \$300 for all subsequent offenses within a six-month period. Each day that the violation continues will constitute a separate violation of this ordinance.

In accordance with 24 V.S.A. 1971-1976 and 24 V.S.A. § 2291 this ordinance is adopted by the Belvidere Selectboard on June 13, 2000, to become effective sixty days from the adoption thereof.

Citizens have the right to petition for a vote on the ordinance within 45 days in accordance with 24 V.S.A. § 1973.

Robert H. Granger
Steve Locke
William Samal

Name & Address:

Signature of Permit Holder

VLCT MODEL ATV ORDINANCE AND GUIDANCE

INTRODUCTION

The VLCT Model ATV Ordinance has been developed to allow selectboards to regulate ATV use within the town. This Model also provides the means for selectboards to open additional town highways and sidewalks for ATV travel. Vermont State law prohibits the operation of ATVs on any town highway or town property/land unless opened to ATV travel by the selectboard. 23 V.S.A. § 3506. A town may also impose restrictions regarding the time and manner of operation of ATVs within the town. 23 V.S.A. § 3510; 24 V.S.A. § 2291(4). Such restrictions must be imposed in an ordinance in order to be enforceable.

HOW TO CUSTOMIZE THIS MODEL

This model ordinance should be customized to suit the particular needs of your municipality, giving careful consideration to each element in light of your community's resources and expectations. Opportunities for editing this ordinance are marked with *italicized* text. The selectboard should consult with law enforcement to insure that the provisions of the ordinance are relevant and realistic in terms of the resources needed for enforcement.

STATE RESTRICTIONS ON ATV OPERATION

Regardless of whether there is local ATV ordinance in place, ATV operators must comply with state laws regulating ATV operation. For information on these laws, consult the Vermont Department of Motor Vehicles "All-Terrain Manual", available on the DMV website: http://dmv.vermont.gov/sites/dmv/files/documents/VN-023-ATV_Driver_Manual.pdf.

RIGHTS CONFERRED BY STATE LAW

State law provides that, during any season, an ATV that is being used for agricultural purposes on a farm or for forestry purposes may be operated three or more feet from the traveled portion of any highway within the confines of that farm or forestry operation, respectively. 23 V.S.A. § 3506.

State law also grants the right to operate an ATV across a town highway, during any season, when all of the following are present:

1. the crossing is made at an angle of 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
2. the operator brings the ATV to a complete stop before entering the traveling portion of the highway;
3. the operator yields the right of way to motor vehicles and pedestrians;
4. the operator is 12 years of age or older; and
5. in the case of an operator under 16 years of age, the operator is under the direct supervision of an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

LOCAL RESTRICTIONS

The rights to operate an ATV that are bestowed by state law (see above) may not be prohibited by a town. A town may, however, impose its own local restrictions regarding the time, place, and manner of operation of ATVs such as setting limits on the speed and time of operation, prohibiting racing, or requiring single file operation. These limits are addressed in the VLCT Model Ordinance. Any ordinance regulating use must be consistent with state law.

OPENING TOWN HIGHWAYS TO ATVS

A selectboard may choose to allow ATV operation on town highways that are not otherwise open under state law. 23 V.S.A. § 3506(b)(1)(A). The best way to accomplish this is to adopt an ATV ordinance that lists the highways open to ATV travel and imposes any relevant regulation on the time and manner of ATV operation.

Any town highway that is open to ATV travel must be posted with signs that provide notice that the highway is open to ATV travel. Signage must be in conformance with the *Manual of Uniform Traffic Control Devices* (MUTCD), as required by 23 V.S.A. § 1025.

PENALTIES

State law prohibits certain conduct such as operation of an ATV without registration or operation within a public cemetery. See 23 V.S.A. § 3506. Engaging in such conduct constitutes a State “traffic violation” pursuant to 23 V.S.A. § 2302(a)(4) and therefore may only be enforced by issuance of a traffic ticket by a certified law enforcement officer. Financial penalties for such violations are set by the State:

https://www.vermontjudiciary.org/sites/default/files/documents/Waiver_Penalty_Schedule_2017.website.01.05.18.pdf.

ORDINANCE ENFORCEMENT

Tickets for violation of a town ordinance are issued by a certified law enforcement officer on the State's pre-printed "Uniform Traffic Complaints" which are available in booklets from the Vermont Judicial Bureau, P.O. Box 607, White River Junction, VT 05001-0607. When the issuing officer wishes to enforce a local ordinance, he or she will fill out a ticket, provide two copies to the alleged violator and retain two copies, one of which is sent to the Judicial Bureau. A ticket may be served in person or by mail. The law does not require it, but we recommend certified mail, return receipt requested.

A violator can respond to a ticket/complaint in one of four ways:

- Admit to the offense and pay the waiver fee.
- Not contest the charge and pay the waiver fee.
- Deny the charge and request a hearing.

- Fails to respond within the requisite 20 days, resulting in a default judgment. In such case, the violator is ordered to pay the full amount of the fine (rather than the waiver fee).

If the violator pays the waiver fee, the money collected by the Judicial Bureau is sent to the town, minus an administrative fee which is retained by the Bureau for administrative expenses.

If the violator asks for a hearing, it will be held by a hearing officer assigned by the Judicial Bureau. The Bureau is designed to be used without attorneys. Therefore, if there is a hearing in the Judicial Bureau the law enforcement officer who issued the ticket must appear to represent the town. The burden of proof is on the town and the violation must be proven by "clear and convincing evidence." If the defendant or town is unhappy with the outcome of the hearing at the Bureau, an appeal may be taken to Superior Court.

PENALTIES

The financial penalties for some ATV violations are set by the State and therefore may not be altered by town ordinance. These penalties are listed on the Judicial Bureau's website: <https://www.vermontjudiciary.org/judicial-bureau>.

Fines that are not set by the State must be set by the selectboard in amounts not to exceed \$800. The selectboard may also set a "waiver fee" for each offense. This is the fee that defendants pay to avoid contesting a municipal traffic ticket in the Judicial Bureau. When setting the penalty and waiver fee amounts, the selectboard must determine what amounts are sufficient to deter violations of the ordinance. Fines are punitive in nature, and, therefore, the amount of the penalty does not have to correspond to the costs incurred by the town in enforcing the ordinance. Waiver fees should be set to discourage contested actions. Subsequent violations of the same ordinance should lead to an increased penalty and waiver fee.

ORDINANCE ADOPTION PROCESS

The adoption of ordinances (other than zoning ordinances) is governed by 24 V.S.A. §§ 1972, 1973. The process starts with the drafting of the ordinance, and its review by the selectboard. The selectboard then adopts the ordinance formally, by a majority vote of its members at a duly-warned selectboard meeting ensuring that the action and a copy of the proposed ordinance are entered in the minutes of the meeting. The ordinance must be posted in at least five conspicuous places in town and must be published in a newspaper of general circulation on a day not more than 14 days after the selectboard's vote to adopt the ordinance. The information included in the newspaper must include the following: the name of the municipality; the name of the municipality's website, if the municipality actively updates its website on a regular basis; the title or subject of the ordinance or rule; the name, telephone number, and mailing address of a municipal official designated to answer questions and receive comments on the proposal; and where the full text of the ordinance may be examined. The

notice must also explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in 24 V.S.A. § 1973.

If a petition signed by at least five percent of the voters of the town is received by the town clerk within 44 days following the date of adoption of the ordinance, the selectboard must either: (1) call a special town meeting within 60 days from the date of receipt of the petition; or (2) if the annual town meeting falls within the 60-day period, include an article asking the voters whether they will disapprove of the ordinance in the warning for that annual meeting. 24 V.S.A. § 1973(c).

These model ordinances have been developed for illustrative purposes only. VLCT makes no express or implied endorsement or recommendation of any ordinance, nor does it make any express or implied guarantee of legal enforceability or legal compliance, or that any ordinance is appropriate for any particular municipality. Each municipality is advised to seek legal counsel to review any proposed ordinance before adoption and / or use. VLCT PACIF members are advised to seek input from their municipality's loss control specialist regarding insurance considerations and risk avoidance.

VLCT MODEL ATV ORDINANCE

If you plan to use this template as the basis for your municipality's ordinance, copy and paste the model language below the dotted line into a separate document.

TOWN OF _____ ORDINANCE REGULATING ALL-TERRAIN VEHICLES (ATVs)

SECTION 1. AUTHORITY. Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. §§ 2291(1),(4), 23 V.S.A. § 3506, and 23 V.S.A. § 3510, the Selectboard of the Town of _____ hereby adopts the following civil ordinance regulating the time, manner, and location of operation of all-terrain vehicles within the town.

SECTION 2. PURPOSE. The purpose of this Ordinance is to promote and protect the public health, safety, and welfare of the Town, and to preserve residents' rights to quiet enjoyment of homes and properties by regulating the time, manner, and location of operation of all-terrain vehicles ("ATVs") within the Town.

SECTION 3. DEFINITIONS.

- A. "All-terrain vehicle," or "ATV," means any non-highway recreational vehicle, except snowmobiles, having not 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 2,500 pounds, 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 does not include an electric personal assistive mobility device, a motor-assisted bicycle, or an electric bicycle.
- B. "Enforcement Officer" means any law enforcement officer certified by the Vermont criminal justice training council.
- C. "Operate" includes any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles within the town whether they be in motion or at rest.
- D. Other definitions found in 23 V.S.A. § 3501 are incorporated herein by reference.

SECTION 4. TOWN HIGHWAYS OPENED.

[If highways will be opened to ATV travel, insert the following language: "The following Town Highways shall be open to ATV traffic: [insert name of town highways, and whether they are open in their entirety or only on designated sections, e.g. "Main Street from the intersection with Elm Street, eastward to the intersection with Maple Street."]

SECTION 5. SPEED LIMITS AND TRAFFIC CONTROL DEVICES. All posted speed limits and traffic control devices on Town highways shall apply to the operation of ATVs. Notwithstanding the above, no person shall drive an ATV on a public right of way at a speed greater than is reasonable and prudent under the conditions, having regard to the actual and potential hazards there existing. In every event, speed shall be controlled as necessary to avoid collision with any person, vehicle, bicycle, ATV, or other object on or adjacent to the ATV trail.

SECTION 6. TIME OF OPERATION. ATVs may not be operated within the Town between [*insert time*] and [*insert time*], [*insert days of the week that the restriction applies*].

SECTION 7. SINGLE FILE; RACING. Where ATV travel on Town highways and sidewalks is permitted, such travel shall be single file. No racing shall be allowed.

SECTION 8. OPERATION ON PUBLIC PROPERTY AND CEMETERIES. ATVs [*may/may not*] be operated on Town property. [*If ATVs are allowed to operate on some but not all Town property, insert the following language: ATVs shall not be operated on the following public property: [insert identifiable town property such as "public bike paths," "public hiking trails," "the recreation field," "on the public green in the center of town," etc as deemed necessary]*]. Pursuant to 23 V.S.A. § 3506(10), ATVs shall not be operated in any burial ground in the Town.

SECTION 9. PENALTIES.

A. The Enforcement Officer is authorized to recover civil penalties for operation of an ATV in excess of the posted speed limit as specified in [*insert the name of the town's local traffic ordinance, if any*] and in the State of Vermont's Judicial Bureau Penalty Schedule.

B. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance as set out below:

- Failure to operate in single file:
 - 1st Offense: \$___ fine. Waiver amount: \$___
 - 2nd Offense: \$___ fine. Waiver amount: \$___
 - 3rd Offense: \$___ fine. Waiver amount: \$___
- Engaging in racing:
 - 1st Offense: \$___ fine. Waiver amount: \$___
 - 2nd Offense: \$___ fine. Waiver amount: \$___
 - 3rd Offense: \$___ fine. Waiver amount: \$___
- Operation during hours when operation is prohibited:
 - 1st Offense: \$___ fine. Waiver amount: \$___
 - 2nd Offense: \$___ fine. Waiver amount: \$___
 - 3rd Offense: \$___ fine. Waiver amount: \$___
- Operation on public property:
 - 1st Offense: \$___ fine. Waiver amount: \$___
 - 2nd Offense: \$___ fine. Waiver amount: \$___
 - 3rd Offense: \$___ fine. Waiver amount: \$___

For the above offenses, the Enforcement Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.

- C. The Enforcement Officer is authorized to recover civil penalties for the following violations is as set by the State of Vermont:
- Operation along a highway that has not been opened for use by the Selectboard. 23 V.S.A. § 3506(b)(1)(A).
 - Operation within a public cemetery. 23 V.S.A. § 3506(b)(10).
 - Operation on a sidewalk that has not been opened for travel by the Selectboard. 23 V.S.A. § 3206(b)(12).

SECTION 10. ENFORCEMENT. The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and may be the appearing officer at any hearing.

SECTION 11. OTHER LAWS. This Ordinance is in addition to all other ordinances of the Town and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 12. 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.

SECTION 13. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

Date of adoption by the Selectboard: _____

Signatures of Selectboard members:

DATE

Adoption History

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular Selectboard meeting on _____ and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.]