

Chapter 223: ALL TERRAIN VEHICLES AND OFF-ROAD VEHICLES LAW

§ 223-1. Legislative purpose.

The Board of Trustees recognizes the potential adverse impact on the health, safety and general welfare of the residents of the Village of South Blooming Grove, and to property within the Village, by the use of all terrain vehicles and other types of off-road vehicles, and therefore, deems it appropriate to control the use of said vehicles.

§ 223-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

- PUBLIC PROPERTY** — All streets, sidewalks, easements for public use or purposes, parks or any other areas dedicated or commonly used for vehicular or pedestrian traffic, including but limited to lands held in fee ownership, parks, ball fields, recreation areas and parking areas owned or leased by the Village of South Blooming Grove, Town of Blooming Grove, any school district, the County of Orange, the State of New York or any other governmental entity.
- A.** **PRIVATE PROPERTY** — All land and buildings in the Village of South Blooming Grove not included in the definition of “public property”.
- ATV** — Any type of motor-driven vehicle or conveyance, including but not necessarily limited to snowmobiles, two-wheel or three-wheel motor vehicles known as “mini-bicycles”, “trail bicycles”, “dirt bikes,” “mini-bikes,” “trail bikes,” motorized “sport bikes”, “Go-Karts,” “trikes,” “quads,” “dune buggies,” “golf carts,” All Terrain Vehicles (“ATVs”), “motor scooters” and
- C.** “four-wheel” motor vehicles, which vehicles, by their nature and design, are not intended to be used and operated along paved roads and highways but are intended, rather, to be operated in dirt, sand, up and down hills, along trails and in similar-type areas, but not including any vehicle used for agricultural landscaping, battery operated, or lawn maintenance purposes.
- VILLAGE-OWNED LAND** — All parks, recreation areas, ball parks, lake areas, storage facilities, garage areas, parking areas and any and all other Village-owned land and premises.
- D.** **POLICE DEPARTMENT** — Police Department of the Town of Blooming Grove or such department, which, at the time, may then be providing police services to the Village.
- E.** **PROPER OPERATING CONDITION** — That all original operating equipment specified by the original manufacturer or replacement equipment equal to the specifications of the original manufacturer’s equipment is in proper working order.
- F.** **PROPER OPERATING EQUIPMENT** — All original operating equipment specified by the original manufacturer or replacement equipment equal to the specifications of the original manufacturer’s equipment.
- G.** **IMMEDIATE FAMILY** — Father, Mother, Grandmother, Grandfather, Son, Daughter, Sister, Brother, Uncle and /or Aunt.
- H.** **ABANDONED ATVs** — Any and all ATVs that are not removed from impound after all fees and fines are paid, after all court actions and orders are satisfied, and after the Chief of Police has sent notice to the owner to remove the vehicle from storage.
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§ 223-3. Operation on public property prohibited.

It shall be unlawful for any person to operate any ATV upon any public property or Village-owned land without express written consent or permit issued by the governmental agency owning and/or in control of said property, which shall include easements granted to the Village of South Blooming Grove. All permits that are granted for public property within the Village limits must be recorded with the Village Clerk / Treasurer.

§ 223-4. Operation on private property restricted.

- A.** The operation of an ATV is prohibited upon private property unless the operator of the ATV has the express written permission of the owner to do so. Any writing granting permission to any individuals to operate ATVs on private property must be recorded with the Village Clerk / Treasurer and the Police Department. The filing of the instrument must occur prior to operating the ATV on said private property.
- B.** It shall be unlawful to operate any ATV within three hundred (300) feet of any residence, except the residence of the operator's immediate family.
- C.** It shall be unlawful to operate any ATV on a residential lot of less than two (2) acres.

§ 223-5. Operation on private streets or right-of-ways restricted.

The operation of an ATV is prohibited upon private streets and / or right-of-ways unless the operator of said ATV has the express written permission of all owners having lawful right to use the private street and/or right-of-ways for access to such person's residence. Said written permission must clearly state that the operator may operate an ATV on said private street and/or right-of-way. Any writing granting permission to any individuals to operate ATVs on a private street and/or right-of-way must be recorded with the Village Clerk/Treasurer and the Police Department. The filing of the instrument must occur prior to operating the ATV on said private street or right-of-way.

§ 223-6. Creation of noise or disturbance prohibited.

- A.** It shall be unlawful to operate any ATV, alone or together with other ATVs, in a manner so as to create loud, unnecessary or unusual noise, which disturbs or interferes with the peace and quiet of other persons or in such a way as to harass, worry or disturb farm animals, domestic livestock or wildlife.
- B.** It shall be unlawful to operate any ATV in a manner that is disturbing and bothersome to adjoining property owners, by reason of resulting noise, dust, or other condition arising from the operation of such vehicle.
- C.** It shall be unlawful to operate any ATV in a manner which causes or otherwise results in the propulsion of sand, dirt, dust, rocks, gravel or other similar materials beyond a property boundary line.
- D.** It shall be unlawful to operate any ATV without an operable muffler or other similar device to reduce the sound emitted from the vehicle or at a noise level of 75 decibels at a property or street line.
- E.** It shall be unlawful to operate any ATV within three hundred (300) feet of any residence, except the residence of the operator's immediate family.

§ 223-7. Careless, reckless or negligent operation prohibited.

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- A. It shall be unlawful to operate any ATV in a careless, reckless or negligent manner so as to endanger the safety of any person, including the operator, or the property of any person or further to destroy or damage crops or farm produce or property.
- B. It shall be unlawful to operate any ATV on or near any public roadway so as to cause operators of other motor vehicles to take evasive or irregular action to distance said motor vehicle(s) from an ATV.
- C. It shall be unlawful to operate any ATV while under the influence of alcohol or drugs as defined in the New York State Vehicle and Traffic Law.
- D. It shall be unlawful to operate any ATV which is not in proper operating condition and having all proper operating equipment as listed in section 223-2(G).

§ 223-8. Responsibility of parent or guardian.

- A. It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of 16 years knowingly to permit such child to operate an ATV in violation of the terms of this chapter.
- B. Whenever any child under the age of sixteen (16) years of age is alleged to have violated this Chapter, his / her parents, guardian or any responsible person having care, custody and / or control of the child shall be notified by the Police Department.

§ 223-9. Impounding of vehicles of violators.

- A. A police officer may immediately impound any ATV:
 - (1) If the identity of the operator or owner of the ATV is unknown to the officer and cannot be ascertained with due diligence at the time of the impoundment.
 - (2) If the operator of the ATV has no evidence of permission to operate the same on public property, or on private property not owned by the operator or his immediate family.
 - (3) If the ATV was involved in an accident.
 - (4) If the ATV is operated in violation of this chapter or of any New York State Law or regulation.
 - (5) Where other good cause appears and /or for proper identification of the true owner and / or true identification of the ATV is required.
 - (6) When the operator and / or owner of the ATV acknowledges that he / she violated any provision of this Chapter and / or any New York State law or regulation.
- B. The period of impoundment for the ATV shall be for such period of time as is necessary for police purposes, which shall include use of the vehicle for identification in any court action. Any person wishing to have an ATV released from impoundment must make motion before the appropriate court, and said ATV shall only be released upon court order. Upon receipt of said court order, the ATV shall be released by the Police Department upon payment of an impoundment fee of \$500, which sum shall be payable to the Village Clerk/Treasurer, and any storage fees, towing fees, and / or any other related fees as incurred by the Police Department. The impound fee may be amended from time to time by resolution of the Village Board of Trustees.
- C. The Police Department, upon the order of the Chief of Police or his duly authorized subordinate, may release the ATV in the absence of a court order if the Chief of his/her authorized subordinate deems that the department has no further need of the vehicle for identification and/or evidentiary purposes, subject to payment of any and all fees for storage, transport and impoundment.
- D. **Abandoned ATVs remaining in impound after release order has been given.** Failure to

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remove the vehicle from impound within the specified period shall cause legal title to the vehicle to vest in the Village and shall grant to the Village the legal right to remove and sell or dispose of said vehicle. The expense of such removal, storage and sale or disposal, including all other related costs, shall be charged to the vehicle owner and may be charged against the property and, if unpaid, said charge may be assessed, levied and collected in the same manner as a real property tax.

§ 223-10. Enforcement.

- A. The Police Department shall have the power, right and authority to issue an appearance ticket as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any section of this chapter.
- B. A declaration and/or corroborating statement signed by an owner of private property and filed with the Village Clerk/Treasurer and/or the Police Department, stating that operation of an ATV on their property is not permitted or that such operation is a trespass, shall be prima facie evidence of a violation of this Chapter and Section 140.05 (trespass a violation) in the New York State Penal Law, by any person operating an ATV on said property.

§ 223-11. Penalties for offenses.

- A. Any operator, parent, or guardian, as defined in § 223-8, who shall violate any of the provisions of this chapter shall, be liable for a penalty not to exceed \$500 for a first offense and \$750 for a second offense and any subsequent offense within a twelve-month period measured from the date of the first alleged violation of this chapter. A person may be charged with more than one offense and shall be subject to imposition of a fine for each such offense.
- B. **Aggravated offense.** It shall be an aggravated offense of this chapter if the use of the ATV results in injury to any person and/or damage to standing crops, nursery production, wetlands, public property, parklands, wildlife, endangered species, or otherwise involves damage to agricultural business stock. The person found to have committed an aggravating offense shall be subject to doubling of the fines set forth hereinabove.
- C. **Civil Compromise.** The local court is empowered to approve and enter an order on consent as a civil compromise between the Village and the person consenting to the imposition of a civil penalty in an amount not exceeding \$500.00 per offense, and suspending prosecution until all conditions imposed in the civil compromise are completed by the defendant within the time frames established in the order.

§ 223-12. Exclusions.

This chapter shall not apply to the operation of an ATV on a premises owned by the operator in the course of his business or operated by employees of the owner during the course of their employment or the operation of ATVs under circumstances regulated by any agency of the State of New York.

§ 223-13. Conflicts with state law.

Should any section or portion of this chapter be in conflict with the laws of the State of New York applicable to the operation, registration, ownership or control of ATVs, then in that instance said laws of the State of New York shall prevail.

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§ 223-14. Authority.

This chapter is enacted by authority of §20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

§ 223-15. Repeal.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

§ 223-16. Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.