

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2017**

**A LOCAL LAW ESTABLISHING CHAPTER 65A OF THE TOWN CODE
ENTITLED “ALL-TERRAIN VEHICLES”**

BE IT ENACTED by the Town Board of the Town of North Hempstead as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to establish Chapter 65A of the Town Code entitled “All-Terrain Vehicles” in order to establish restrictions on the use of all-terrain vehicles on Town property.

Section 2.

Chapter 65A of the Town Code is hereby established to read as follows:

§ 65A-1. Legislative Intent.

The Town Board of the Town of North Hempstead hereby finds that the operation of all-terrain vehicles on Town property poses an unacceptable risk of serious injury or death for Town residents and causes economic and environmental damage to public parks, sports facilities, recreation areas, natural habitats and nature preserves. The Board further finds that the operation of all-terrain vehicles causes destruction to the native flora and fauna, soil compaction and erosion, as well as noise pollution to surrounding neighborhoods. It is the intent of this law to ensure public safety, environmental protection and the general welfare of the Town and its residents by restricting the use and operation of all-terrain vehicles on Town property and authorizing the police to impound such vehicles when operated in violation of this chapter.

§ 65A-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE or ATV

Any self-propelled vehicle which is made or manufactured for operation primarily on off-highway trails or in off-highway competitions, or in dirt, sand, grass, up and down hills and in similar-type areas and which is only incidentally operated on public highways, provided that such vehicle does not exceed 70 inches in width or 1,000 pounds dry weight. This definition shall also include any snowmobile or other self-propelled tracked vehicle which is made or manufactured for operation primarily on off-highway trails or in off-highway competitions. This definition does not include golf carts, lawn tractors, lawn mowers, and battery-operated vehicles.

COMMISSIONER

The Commissioner of the Department of Parks and Recreation of the Town of North Hempstead or his or her designee.

OPERATE

To ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not the ATV is in motion.

OPERATOR

Every person who operates or is in actual physical control of an ATV.

TOWN

The Town of North Hempstead.

TOWN PROPERTY

All real property owned or leased by the Town, including but not limited to parks, together with all of the driveways, parking areas and grounds surrounding the same.

§ 65A-3. Operation on Town property prohibited.

It shall be unlawful for any person to operate an ATV on, over or across any Town property.

§ 65A-4. Responsibility of parent of guardian.

- A. It shall be unlawful for the parent, guardian or any person having the care, custody or control of any child under the age of 16 years to knowingly permit such child to operate an ATV in violation of this chapter.
- B. Whenever any child under the age of 16 years is alleged to have violated this chapter, his or her parent, guardian or any other person having the care, custody or control of the child shall be notified by the Code Enforcement Officer or police officer.
- C. Where an ATV is operated in violation of this chapter by a child under the age of 16 years there shall be a rebuttable presumption that his or her parent, guardian or any other person having the care, custody or control of the child has knowingly permitted such operation.

D. The failure of any person charged under this section to rebut the presumption shall not mean that the trier of fact must find the person guilty or that the burden of proof relative to the underlying charge(s) has been shifted upon the accused.

§ 65A-5. Exclusions.

This chapter shall not apply to the operation of ATVs under circumstances regulated by any agency of the State of New York, or to any ATV operated by a public official or public employee in his or her official capacity for a public purpose, including emergency service, police protection, fire protection, public works activity and any other such use or activity approved by the Town.

§ 65A-6. Enforcement.

This chapter shall be enforced by Town Code Enforcement Officers, as well as police officers having jurisdiction. Such officers shall have the authority to enforce the provisions of this chapter and issue an appearance ticket pursuant to law.

§ 65A-7. Penalties for offenses.

Any person or persons who shall violate any of the provisions of this chapter shall be punished as follows:

- A. For conviction of a first offense, by a fine of not less than \$500 and not more than \$1,500 or by imprisonment not exceeding 15 days, or by both.**
- B. For conviction of the second of two offenses, both of which were committed within a period of five years, by a fine of not less than \$1,500 and not more than \$3,000 or by imprisonment not exceeding 15 days, or by both.**
- C. For conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$5,000 and not more than \$10,000 or by imprisonment not exceeding 15 days, or by both.**
- D. The parent or legal guardian, other than a state or local social services department foster parent having custody, of any unemancipated person under the age of 16 years found guilty of a violation of this chapter shall be responsible for the payment of the fine imposed by a court of competent jurisdiction for such violation. In no event shall it be a defense that the parent or legal guardian has exercised reasonable supervision over the activities of the person under the age of 16 years.**
- E. The parent or legal guardian, other than a state or local social services department foster parent having custody, of any unemancipated person under the age of 16 years found guilty of a violation of this chapter shall be responsible for restitution for any damage caused to real property or improvements located thereon owned and/or operated by the Town. In no event shall it be a defense that the parent or**

legal guardian has exercised reasonable supervision over the activities of the person under the age of 16 years.

§65A-8. Impoundment.

- A. Any ATV operated in violation of this chapter shall be subject to impoundment by a duly sworn police officer acting pursuant to his or her official duties. The law enforcement agencies impounding an ATV pursuant to this chapter may promulgate regulations for the storage and release of impounded ATVs.**
- B. Where notification of impoundment to titled owners is required by regulation, the law enforcement agency providing such notification shall not be liable for any damages arising out of the provision of an erroneous name or address of such owner.**

§65A-9. Conflicts with state law.

Should any section or portion of this chapter conflict with the laws of the State of New York applicable to the operation, registration, ownership or control of ATVs, the laws of the State of New York shall take precedence.

§ 65A-10. Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section, word or part of this chapter directly involved in the controversy in which judgment is rendered.

Section 3.

This chapter shall take effect immediately upon filing with the Secretary of State.