

Draft Board Ordinance and Policies for OHRV / ATV / UTV Permits and Use

Purpose:

To establish standards for the use of OHRV, ATV, and UTV motorized vehicles (“OHRV”) in the Town of Colebrook. As stated below, this Ordinance does not relate to snowmobiles.

Applicability:

This Ordinance applies to all streets and/or roads maintained by the Town of Colebrook as Class V and VI Highways (including any roads designated as a Highway to Summer Cottages as defined in N.H. RSA 231:79). For the sake of convenience and clarity, all such streets and/or roads are referred to herein as a “Town Street / Road”.

This Ordinance does not apply to roads maintained by the State of New Hampshire. This Ordinance also does not apply to Town Streets / Roads which have been designated by the Board of Selectmen as being open and approved for general OHRV use.

Authority:

N.H. RSA 41:11 & N.H. RSA 215-A:15.

Definitions:

All definitions included in any of the Revised Statutes Annotated are incorporated herein by reference. When the Legislature changes any of such definitions, this Ordinance shall also be considered to changed, as of the effective date of such change by the Legislature. This shall include, but not be limited to, all definitions contained in N.H. RSA 215-A:1. However, the operation of a “snowmobile”, as defined in N.H. RSA 215-A:1, XIII, does not come within the scope of this Ordinance.

Permits Required:

1. General Prohibition:

It shall be unlawful to operate an OHRV on any Town Street and/or Road which has not been approved for general OHRV use by the Board of Selectmen, unless the operator has in his or her possession a valid and unrevoked Limited Use OHRV Permit, as defined herein, while operating an OHRV.

2. Written Permission / Maximum Permits – Lots with Dwelling(s) or Residence(s):

a. With respect to each lot that includes a dwelling(s) or residence(s) [*as reflected on the property tax assessment card for that lot*], the record property owner for

each such lot in the Town of Colebrook may apply to the Board of Selectmen, on a form prescribed by the Board, for one or more Limited Use OHRV Permits.

b. There shall be a presumptive limit of four (4) Limited Use OHRV Permits issued to any such record property owner. Any request for Limited Use OHRV Permits in excess of that amount must be approved, in writing and in advance, by either the Board of Selectmen or Chief of Police, up to a maximum of eight (8).

3. Written Permission / Maximum Permits – Lots with no Dwelling(s) or Residence(s):

a. With respect to each lot that does not includes a dwelling(s) or residence(s) [*as reflected on the property tax assessment card for that lot*], the record property owner for each such lot in the Town of Colebrook may apply to the Board of Selectmen, on a form prescribed by the Board, for one or more Limited Use OHRV Permits.

b. There shall be a limit of four (4) Limited Use OHRV Permits issued to any such record property owner.

4. Limited Use OHRV Permit:

a. Each Limited Use OHRV Permit (“Permit”) must be in writing, and shall be issued only to allow OHRV operation to and from a specified Lot, which has no other means of access to the established OHRV trail system, to be able to access that trail system, and no further.

b. Each Permit will bear a serial number, which number will correspond with the approved Application on file at the Town Office. The serial number will include, at a minimum, the year of issuance. Each Permit will be assigned to a specific Lot, not to a specific individual or lot owner.

c. The Permit will allow the bearer to operate an OHRV from the Lot designated on the Permit along the Town Street and/or Road to the nearest designated and established Trail Access Point, and no further. With respect to all matters relating to this Ordinance, all Town Officers and Employees will consider the Trail Access Point at any give time to be the point designated as such, at that time, by the Metallak ATV Club.

d. The person in possession of the Permit shall present the Permit to any law enforcement officer upon request.

e. A Permit shall be for a term of no greater than five (5) years from the date of issuance.

f. It shall be the responsibility of the holder of any Permit to notify the Town in the event that the Permit is lost, stolen, abandoned, or revoked as provided herein, at which time the serial number for that Permit will be designated as such. Unauthorized copying of the Permit is not allowed.

5. Revocation of Permit:

a. The Board of Selectmen may revoke a Permit at any time. [It should be noted that the operation of OHRV's is considered "a privilege, not a right".]

b. Permits may also be revoked at any time by the Superior Court or Circuit Court, upon criminal conviction, as a condition of any sentence imposed by said Court; or upon civil order, as a condition of any judgment imposed by said Court.

6. Other Administrative Regulations:

a. Any and all OHRV use in the Town of Colebrook shall only occur during the following times: one-half (1/2) hour before sunrise and 9:00 P.M., unless another state law applies that provides for a shorter span of permissible use, in which case the state law shall apply.

b. Nothing in this Ordinance shall be considered or interpreted to create a conflict with state law. In the event of any conflict, state law or duly promulgated administrative rules shall override the conflicting provision of this Ordinance.

c. In the event that any part of this Ordinance is deemed to be in violation of any superseding law, rule, or constitutional provision, the Ordinance itself shall not be repealed, but the remaining portions shall remain in full force and effect.

d. Upon approval of any Permits, the Board shall update the list of Permits and provide copies to the Police Department and to the Dispatch Center.

e. There shall be no "grandfathering" (i.e., pre-existing non-conforming usage) of any prior approvals.

f. If a property deed in an abutting town grants a right-of-way from that property to a property in Colebrook which property itself has: (i) access to a road approved for OHRV travel in Colebrook, or (ii) access to a road that will provide access to a trailhead, then an application for a permit will be considered by the Board (from the owner of such lot in an abutting town), after the applicant provides a copy of such deed with the claimed right-of-way specified in the deed.

g. This Ordinance shall take effect ninety (90) days after passage.

The Permit Form:

1. A written form of the Permit shall be considered part of this Ordinance, and can only be changed when this Ordinance is changed.
2. The Permit will include a serial number (including at a minimum the year of issuance), a property description of the Lot to which the Permit is assigned, the applicant's name, and telephone number.
3. The permit must be carried at all times by the permittee and presented to any law enforcement official upon request.
4. All other state and local rules and regulations must be complied with.

Prohibiting Parking for Loading/Unloading of OHRVs on Town Roads

1. There shall be no parking along the length of any road for the purposes of loading and/or unloading OHRVs.
2. Per N.H. RSA 231:132 -a, II, the Colebrook Police Department is hereby authorized to take such steps as may be necessary, in the discretion of its Chief of Police, to implement a system for the administrative enforcement of this Ordinance and the collection of penalties for violations of this Ordinance.
3. The Road Agent is hereby authorized at his discretion, after consultation with the Chief of Police, to install such signage as may be necessary or advisable in order to alert users as to this Ordinance.

Proposed Ordinance posted in two public places on _____.

Proposed Ordinance published in a local newspaper on _____.

Ordinance adopted at a Selectmen's meeting on _____.

Note: With respect to South Hill Road, the Board policy on these issues must also comply with the following:

- a. The Memorandum of Understanding dated June ____, 2019; and,
- b. The Conservation Easement Deed dated September ____, 2021.