

From: [Diana Quast](#)
To: [Maura Weissleder](#)
Subject: FW: Comments and suggestion for the ATV Law
Date: Saturday, March 16, 2024 5:34:19 PM

From: Kopstein Jay <jkopstein@yahoo.com>
Sent: Saturday, March 16, 2024 3:48 PM
To: Town Attorney <townattorney@yorktownny.org>; Diana Quast <dquast@yorktownny.org>; Ed Lachterman <elachterman@yorktownny.org>; Luciana Haughwout <lhaughwout@yorktownny.org>; Sergio Esposito <sesposito@yorktownny.org>; Patrick Murphy <pmurphy@yorktownny.org>
Subject: Comments and suggestion for the ATV Law

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

A. No person shall cause any vehicle which is not properly registered and which does not have a properly affixed license plate or plates, as required by law or NYS Department of Motor Vehicles regulation, to be parked on or in any public area or any private property accessible to the public within the Town of Yorktown (specifically, including but not limited to all Town-owned parking lots, all Town parks, all shopping center parking lots, all office building parking lots accessible to the public, all store parking lots accessible to the public, and all business parking lots accessible to the public) for a continuous period of 96 hours. Such vehicle may be removed after 96 hours. Each 24 hours that such a vehicle remains in such parking area, lot, property or park, beyond the initial 96 hours, shall constitute an additional, separate and distinct offense.

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

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

D. This Part 2 shall be enforced by the Yorktown Police Department, the Yorktown Code Enforcement Officer or any on duty Police Officer whose geographic area of employment includes the location where the offense occurred.

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

It shall be unlawful to operate any registered or unregistered self-propelled vehicles or limited-use off-road vehicle, alone or together with other registered or unregistered vehicles, in a manner so as to create loud, unnecessary or unusual noise which disturbs or interferes with the peace and quiet of other persons. It shall be unlawful to operate any unregistered self-propelled vehicles or limited-use off-road vehicle between the hours of 8:00 p.m. and 10:00 a.m. It shall also be unlawful to: flee from the employees of the Town of Yorktown or a law enforcement agency while operating an unregistered self-propelled vehicle or limited-use off-road vehicle; and to operate an unregistered self-propelled vehicle or limited-use off-road vehicle in violation of any statutes, rules, or regulations promulgated by the Department of Motor Vehicles or in violation of the Penal Law of the State of New York.

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

It shall be unlawful to operate any unregistered self-propelled vehicle or limited-use off-road vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property of any person. Nothing in this section shall prohibit the violator from being charged with section 145.25 of the New York State Penal Law, Reckless Endangerment of Property a class B misdemeanor.

§ 275-33. Exceptions.

It shall not be unlawful for any employee of the Town of Yorktown or police or emergency personnel or utility company personnel while working on their right-of-way to operate vehicles for the purpose of maintaining, repairing or doing any public work within the scope of their employment or duties.

§ 275-34. Responsibility of parent or guardian.

It shall be unlawful for the parent, guardian or any person having the care, custody and control of any child under the age of 18 years to knowingly permit such child to operate an unregistered self-propelled vehicle or limited-use off-road vehicle in violation of the terms of §§ 275-28, 275-29, 275-31 or 275-32 or violation of section. Nothing in the section shall prohibit being charged with a violation of section 509-4 of the New York State Vehicle and Traffic Law, permitting unlicensed operation.

§ 275-35. Notice of violation.

Whenever any child under the age of 18 years is alleged to have violated §§ 275-28, 275-29, 275-31 or 275-32, his parent, guardian or any person having the care, custody or control of the child may be notified by the Chief of Police or any person designated by him to give such notice. Notification by the Chief of Police or any person designated by him may be: (1) by registered mail, return receipt requested, (2) given personally verbally or in writing, or (3) in another manner with a sufficient guarantee of identity trustworthiness, in all cases to the parent, guardian or person having the care, custody or control of the child setting forth the date, time, place and manner of the alleged violation.

Whenever any person is charged with violating §§ 275-28, 275-29, 275-31 or 275-32 the registered owner, owner of record or identifiable owner shall notified by the Chief of Police or any person designated by him to give such notice. Notification by the Chief of Police or any person designated by him may be: (1) by registered mail, return receipt requested, (2) given personally verbally or in writing, or (3) in another manner with a sufficient guarantee

of identity trustworthiness.

In the event of an alleged second or subsequent violation of this Part 2, proof of a prior notification as herein provided shall constitute prima facie evidence that the parent, guardian or any person having the care, custody or control of the child did knowingly permit said child to operate an unregistered motor-driven vehicle in violation of this Part 2.

In the event of an alleged second or subsequent violation of this Part 2, proof of a prior notification as herein provided shall constitute prima facie evidence that the owner did knowingly permit said person to operate an unregistered motor-driven vehicle in violation of this Part 2.

§ 275-36. Penalties for offenses.

A violation of any provision of this Part 2 shall be punishable by a fine not to exceed \$500 for a first offense, and not to exceed \$1,000 for each subsequent offense or by imprisonment not to exceed five (5) days, or both such fine and imprisonment. These fees shall be in addition to any impoundment costs. In addition, a court may order a term of community service imposed upon a person convicted of an offense under §§ 275-28, 275-29, 275-31 or 275-32. The court may also require restitution or reparation as part of the sentence imposed upon a person convicted of an offense under §§ 275-28, 275-29, 275-31 or 275-32. Nothing in this section shall preclude the court(s) from imposing a penalty or penalties as permitted by the Penal, Criminal Procedure, Vehicle and Traffic, Agriculture and Markets or the Environmental Conservation Laws of the State of New York.

Consider designating violations as Unclassified Misdemeanors so as to enable designated law enforcement officers to take enforcement action based upon "information and belief" rather than "personally observed".

Consider allowing for an alternative "civil violation" in addition to the "criminal violation" to allow the court or enforcement official a lesser level of penalty.

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property may undertake to sell the vehicle at public auction in accordance with applicable law.

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