

# TOWN OF RIPTON

## ORDINANCE GOVERNING USE OF TOWN TRAILS

**Section 1. Authority.** This is a civil ordinance adopted under authority of 19 V.S.A. 1971 and 2291 (14) and 19 V.S.A. 304 (5). Further reference is made to 23 V.S.A. 3506 ((a) and (b)).

**Section 2. Purpose.** The purpose of this ordinance is to regulate the use of Town trails to the general good of the Town. Uses of a trail that cause damage or pollution are hereby deemed to be a public nuisance.

**Section 3. Definitions.** For the purposes of this ordinance, the following definitions shall apply:

- (a) *A Trail:* A public right-of-way which is not a highway but which was a highway in the past and has the same width as highways in the Town. A *trail* may also be a new public right-of-way laid out by the Selectmen for recreational use (19 V.S.A. 301(8)). A trail is a public right-of-way and not a highway (19 V.S.A. 302 (a) (5)). The Town is not required to construct, maintain, repair or ensure the safety of a trail (19 V.S.A. 310). As of September 27, 2004, the only trail designated in Ripton is the northern portion of the Pearl Lee Road.
- (b) *A Highway:* A class 1, 2, 3, or 4 road.
- (c) *Motor Vehicle:* All vehicles propelled or drawn by power other than muscular power.
- (d) *Operate, operating or operated* as applied to motor vehicles shall include drive, driving and driven and shall also include an attempt to operate, and shall be construed to cover all matters and things connected with the presence and use of motor vehicles, whether they be at motion or at rest.
- (e) *Owner* shall include any person, corporation, co-partnership or association, holding legal title to own a motor vehicle, or having exclusive right to the use thereof.
- (f) *Pedestrian Recreational use:* The enjoyment of the trail by walking, skiing, snowshoeing, fishing, hunting, and other similar activities. The primary aspect of this definition is that the users of the trail must be on foot, on skis or snowshoes. This definition specifically excludes mountain biking and horseback riding.
- (g) *Public Nuisance:* Any continuing or often repeated act, omission, condition, or conduct which endangers life, health or property, or which unreasonably annoys, injures, or disturbs, or intrudes upon the free use and comfortable enjoyment of the trail. In the case of this ordinance, a public nuisance is considered the use of motorized vehicles on this or any other public trail in the Town of Ripton.

- (h) *Damage*: Damage to the trail includes, but is not limited to: rutting or potholing of the trailbed, damaging trees in the Town's right-of-way, altering the water-flow on or around the trail, or any other activity which would make the trail less passable.
- (i) *Pollution*: Pollution, for the purposes of this ordinance, is the use of a motor vehicle on the trail.

#### **Section 4. Activities Prohibited:**

- (a) No use of a trail other than *Pedestrian Recreational Use* will be allowed.
- (b) *Motor vehicles* shall not be permitted to use trails unless the operator has written permission from the Ripton Selectmen.
- (c) No maintenance, upgrading, or any other work, whether with motorized equipment or with hand tools, whether by abutting landowners or not, may be done on a trail without the specific written authority of the Ripton Selectmen.
- (d) No abutting landowner may use a trail as driveway access, nor cross the trail with a driveway, without the written approval of the Selectmen.
- (e) No one other than the Selectmen may erect barriers or gates to obstruct a trail (19 V.S.A. 1105).

#### **Section 5. Activities Permitted:**

Trails are permitted for *pedestrian recreational use*. Other activities may be considered on a case by case basis upon written application to the Selectmen, and may be engaged in only with written approval of the Selectmen, and for the period specified by the Selectmen.

#### **Section 6. Road Frontage:**

A trail shall not be considered as a highway for the purpose of determining road frontage or access to a lot.

#### **Section 7. Penalties:**

Any person who violates this ordinance shall be fined \$50.00. Each separate instance of violation shall be considered an additional infraction, and each infraction shall be subject to the \$50.00 penalty. Further, each individual engaged in the unapproved activity shall be subject to the \$50.00 fine per instance of violation.

Further, if a trail is damaged by other than *pedestrian recreational use*, the parties that caused the damage shall be liable for the costs of repairing the damage and restoring the trail to its original condition.

**Section 8. Enforcement officers:**

Enforcement shall be performed by any officer of the Addison County Sheriff's Department, or by any other law enforcement officer authorized to perform law enforcement duties in Vermont.

**Section 9. Severability:**

If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**Section 10. Effective Date:**

This ordinance, adopted this 27<sup>th</sup> day of September, 2004, shall become effective 60 days after this date of adoption, on November 29, 2004.

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William Ford

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Laureen Cox

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Ronald Wimett

Ripton Selectboard