

Ordinance # 260

AN ORDINANCE TO REGULATE POCKET BIKES, MINIBIKES, DIRT BIKES, ALL-TERRAIN VEHICLES AND THE LIKE.

1.0 Purpose..

The purpose of this chapter is to regulate the operation and use of pocket bikes, minibikes, dirt bikes, all-terrain vehicles and any other similar vehicle on all public property and private property within the Town of North Branford, as authorized by section 14-390 (a). This ordinance is intended to regulate the operation and use of such vehicles in a manner not inconsistent with the provisions of sections 14-379 to 14-390 of the Connecticut General Statutes, inclusive, or any regulations adopted pursuant thereto.

2.0 Definitions

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

All-terrain vehicle means a self-propelled vehicle designed to travel over unimproved terrain as defined in Conn. Gen. Stat. § 14-379 and which has been determined by the commissioner of motor vehicles to be unsuitable for operation on the public highways.

Dirt bike means a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain and not designed for travel on a highway, as defined in Conn. Gen. Stat §14-1. "Dirt bike" does not include an all-terrain vehicle, as defined in Conn. Gen. Stat. § 14-379, or a motor-driven cycle, as defined in Conn. Gen. Stat. §14-1.

EPAMD shall mean any electric personal assistive mobility device (hereinafter "EPAMD") that is self-balancing, has two (2) non-tandem wheels, is designed to transport one (1) person, and has an electric propulsion system that produces an average power output of no more than 750 watts.

Mini cycle means pocket bikes, miniature (hereafter "mini") bikes, mini cycles, mini sport bikes, mini motorcycles, chopper scooters, and any other similar wheeled vehicle designed to transport one (1) or more persons that is powered by any type of motor.

Motor-driven cycle means any motorcycle, motor scooter, or bicycle with an attached motor, with a seat height of not less than twenty-six (26) inches, and a motor having a capacity of less than fifty (50) cubic centimeters of piston displacement.

Motorized recreational vehicle shall mean a wheeled vehicle, with a motor, intended to be rode by one (1) or more persons and shall include "all-terrain vehicle," "minibike," "dirt bike," "motor-driven cycle," "snow mobile," and "mini-cycle," all as defined herein.

Motorized recreational vehicle shall not be deemed to include any of the following

1. Any registered "motorcycle" as defined in the Conn. Gen. Stat. §14-1. (59);
2. Any registered "motor vehicle" as defined in Conn. Gen. Stat. §14-1. (58);
3. Any moped that meets Federal Department of Transportation guidelines for use on streets and is approved by the State of Connecticut Department of Motor Vehicles for use on streets, provided, however, the moped is operated pursuant to all applicable state laws, rules, and regulations and all Town of North Branford ordinances;
4. Any wheelchair or similar mobility assisting device utilized by a person with a physical disability or whose ambulatory mobility has been impaired due to age or physical ailment;
5. Any self-propelled snowplow, snow blower, or lawn mower when used for the purpose for which it was designed and operated at a speed not to exceed four (4) miles per hour;
6. Any vehicle owned or leased by the Town of North Branford;
7. Any EPAMD as defined herein;
8. Any bicycle or trail bike without a motor;
9. Any golf cart;
10. Any agricultural equipment such as tractors and farm implements;
11. Any construction machinery; and
12. Any vehicle that is used solely for amusement, or as a novelty display item, and is operated during a parade or any other special event that is properly permitted and approved by the Town of North Branford.

Motorized recreational vehicle dealer means any person engaged in the business of manufacturing or selling any motorized recreational vehicles, having an established place of business for the manufacture, sale, trade, and display of such vehicles.

Public Property shall include all public property, including but not be limited to sidewalks, streets, roads, public rights of way, playgrounds, parks, fields, property owned by a land trust, municipal land, and educational facilities.

Snowmobile means a vehicle with a motor, with runners in the front and caterpillar tracks in the rear, intended to be used by one (1) or more persons for travelling over ice and snow.

3.0 Operation Prohibited.

- (a) *Public Property.* No person shall operate or cause to be operated any motorized recreational vehicle upon or within the limits of any public property within the Town of North Branford.
- (b) *Passenger.* No person shall ride as a passenger on a motorized recreational vehicle, or for the owner of such vehicle to knowingly permit a person to ride as a passenger on such vehicle upon or within the limits of any public property within the Town of North Branford.
- (c) *Private Property.* No person shall operate or cause to be operated any motorized recreational vehicle upon or within the limits of any private property within the Town of North Branford, without first obtaining the written permission of the property owner or owners. Written permission shall not be required if the operator, passenger or owner of the motorized recreational vehicle in use is also the owner of the real property upon which such vehicle is being used.
- (d) *EPAMD.* No person shall operate or cause to be operated an EPAMD upon or within the limits of any public property within the Town of North Branford, except as provided herein. An EPAMD may be operated on any designated bike line or sidewalk and/or crosswalk. Such operator must adhere to the regulations of such travel lane as defined by the Traffic Commission and in no instance shall the speed of operations exceed five (5) miles per hour on any sidewalk. Where no such bike lane or sidewalk exists, an EPAMD may be legally operated on the far-right side of the street. An operator of an EPAMD shall yield to pedestrians and any wheelchair or similar mobility assisting device as defined in subsection 29-131 above and shall comply with any applicable State of Connecticut laws or regulations.
- (e) *Noise.* No person shall operate or cause to be operated a motorized recreational vehicle in violation of Chapter 170 of the North Branford Town Code – Noise.

4.0 Penalty

Violation of any section of this ordinance shall result in the following penalties.

- a. Any person who operates a motorized recreational vehicle or an owner of such vehicle who knowingly permits such operation, shall be fined:
 - 1. first offense: \$1,000.00

2. second offense: \$1,500.00
 3. third and subsequent offense: 2,000.00
- b. Any person aged sixteen (16) or older who rides as a passenger in violation of this ordinance shall be fined two hundred fifty dollars (\$250.00).
 - c. Any person in violation of this ordinance may be detained by a police officer for purposes of enforcing the provisions of this ordinance.
 - d. Any person who operates an EPAMD in violation of subsection 29-132 (d) above or is the owner of an EPAMD who knowingly permits its operation in violation of subsection 29-132 (d) above that has been previously issued one (1) warning as the result of a previous violation of subsection 29-132 (e) above, shall be fined two hundred fifty dollars (\$250.00).

5.0 Seizure of motorized recreational vehicles; disposal.

- a. In accordance with the authority granted by section 14-390 (a) (2), as amended by HB 5726, any person who operates a motorized recreational vehicle in violation of this ordinance or is the owner of any such vehicle who knowingly permits its operation in violation of this ordinance will be subject to seizure of said vehicle(s) pursuant to Conn. Gen. Stat. § 54-33g, which allows for seizure of property. A police officer who observes any motorized recreational vehicle being operated in violation of this ordinance may detain such person for purposes of enforcing the provisions of this article and may remove or tow such motorized recreational vehicle to a secure location for impoundment. Before the owner of any such impounded property may remove the vehicle from a vehicle pound, he/she shall furnish to the operator of such pound or such other person as the chief of police shall designate, evidence of registration and ownership, shall sign a receipt for such property, and shall pay the cost of towing, plus the cost of storage for each day or portion of a day that such property is stored in excess of the first twenty-four (24) hours after seizure. The operator of such pound shall refuse the release of any such property lawfully seized that the chief of police has authorized to hold as evidence in a criminal investigation or proceeding. Such operator shall obtain written permission from the chief of police on any form or document prescribed by the chief of police prior to the release of such property held for evidence.
- b. Any such motorized recreational vehicle that is not claimed by its owner under the terms of this section for a period of forty-five (45) days after seizure or in the case of a vehicle being held as evidence not claimed by its owner within forty-five (45) days of the cessation of such investigation or disposition of such criminal proceeding, whichever is later, may be disposed of at the direction of

the chief of police after serving notice in the same manner as that required for the disposal of abandoned vehicles under Conn. Gen. Stat. § 14-150 (e), except in the case that a vehicle that is not registered, such notice shall not require mailing to persons whose names are registered with the state department of motor vehicles.

6.0 **Hearing prior to forfeiture of motorized recreational vehicle.**

- a. A hearing officer shall be appointed by the mayor subject to the approval of the Town Council to conduct hearings authorized by this section. Such hearing officer shall work with the chief of police in the scheduling of hearings held pursuant to this chapter. The chief of police or his or her designee shall represent the police department at such hearing. A sworn police incident report shall be considered prima facie proof of the violation. The owner or lienholder may cross examine any witness and present evidence and argument in opposition to the town's claim. After the hearing as provided by this section, the hearing officer may order the forfeiture of any motorized recreational vehicle that has been seized upon proof of conduct amounting to probable cause for a violation of this ordinance or any other Town ordinance or state law pursuant to the process provided herein. Written notice advising the recipient of the right of the owner or lienholder of the motorized recreational vehicle to a hearing prior to the disposal of the motorized recreational vehicle will be delivered on a form approved by corporation counsel and board of Police Commissioners to any lienholder and to the owner of the motorized recreational vehicle, or if no owner can be identified, to the rider, within thirty (30) days of the seizure. A written request for a hearing before a hearing officer, must be received, by hand delivery or certified mail, return receipt requested, to Hearing Officer, in care of the Chief of Police, North Branford Police Department, 260 Forest Road, North Branford, Connecticut 06471 within thirty (30) days of receipt of the notice. Said request for a hearing by an owner must be submitted with proof of ownership or by a lienholder with proof of lien or other security interest in the motorized recreational vehicle.
- b. Said hearing shall be conducted by the hearing officer and shall be held not more than thirty (30) days after the receipt of the written request, except that written requests for an extension of time may be granted for good cause shown. Notice of the date and time of said hearing shall be provided to the owner or lienholder no later than ten (10) days before the date of the hearing by electronic delivery and/or by certified mail, return receipt requested, at the email or residential address provided by the owner or lienholder in the written request for a hearing.
- c. Any party to the hearing may, at his/her expense, record the hearing. Any party to the hearing may be represented by counsel.
- d. A motorized recreational vehicle may be ordered forfeited upon a finding of any, but not limited to, of the following:

1. There is probable cause to believe that the motorized recreational vehicle was possessed, controlled, or designed for use, or is or has been or is intended to be used, to violate, or in violation of any town ordinance or state statute; or
 2. There is probable cause to believe that the motorized recreational vehicle was operated with reckless and wanton disregard for the welfare or property of others.
- e. Following the hearing, the hearing officer who conducted the hearing, shall issue a written decision ordering the forfeiture of the motorized recreational vehicle or ordering the return of the motorized recreational vehicle to its owner, except that the hearing officer who conducted the hearing, shall not order the release of any motorized motor vehicle that is required to be kept as evidence in any investigation or legal proceeding related to any criminal or motor vehicle offense.
 - f. Any motorized recreational vehicle that is subject to a bona fide mortgage, assignment of lease or rent, lien, or security interest shall not be ordered forfeited in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien, or security interest.
 - g. Any motorized recreational vehicle ordered forfeited shall be disposed of consistent with applicable law.
 - h. If within thirty (30) days of the delivery of the notice of the right to a hearing under this section, no owner or lienholder of the motorized recreational vehicle has requested a hearing, the vehicle will be considered abandoned and disposed of under applicable law.

7.0 Posting by motorized recreational vehicle dealer.

- a. Each motorized recreational vehicle dealer offering for sale, lease, or rental any motorized recreational vehicle shall post this article in a prominent location at the motorized recreational vehicle dealer's place of business.
- b. Any such motorized recreational vehicle dealer who violates any provision of this section shall have committed an infraction. For a first violation, the chief of police or his/her authorized agent shall issue a written warning providing notice of the specific violation and the time period within which it shall be corrected. If the dealer receiving the written warning fails to correct the violation within the time period specified in the warning, the chief of police or his or her authorized agent shall issue a fine of one hundred dollars (\$100.00). Any continuing violation that is discovered during any subsequent reinspection shall

result in a fine of one hundred dollars (\$100.00). Each reinspection at which a violation is discovered shall constitute a separate violation.

8.0 Sale of gasoline for illegal purposes.

- a. No owner or employee of any retail dealer of gasoline shall sell, offer for sale, or attempt to sell any article or product represented as gasoline for use in any motorized recreational vehicle as defined in this article, unless that vehicle is conveyed to and from the retailer's premises by a registered motor vehicle, as defined in Conn. Gen. Stat §14-1, as may be amended, and no individual shall purchase or attempt to purchase gasoline for use in any motorized recreational vehicle as defined in this article.
- b. Signs with the words "FUELING OF ALL-TERRAIN VEHICLES, MINI-CYCLES, DIRT BIKES, OR OTHER UNAUTHORIZED VEHICLES PROHIBITED" in English and "PROHIBIDO DESPACHAR GASOLINA A ALL-TERRAIN VEHICLES, MINI-CYCLES O DIRT BIKES O A OTROS VEHICULOS NO AUTORIZADOS" in Spanish at least one (1) inch in height with a contrasting margin shall be posted at all dispensing locations. The location of warning signs shall be based on local conditions but shall be visible and legible from all gas pumps.
- c. Any owner or employee of any retail dealer of gasoline who violates any provision of subsections (a) or (b) of this section who owns or is employed by a retail dealer that has been previously issued one (1) warning as the result of a previous violation of subsections (a) or (b) of this section shall be fined one hundred dollars (\$100.00) per occurrence. Each motorized recreational vehicle as to which an owner or employee of any retail dealer of gasoline sells, offers for sale, or attempts to sell gasoline shall be considered a separate violation of subsection (a) above.

9.0 No conflict with state statutes, rules or regulations.

This ordinance shall not be construed to conflict with any state statute, rule or regulation. If a provision of this ordinance is inconsistent with any state statute, rule or regulation, the provision of the state statute, rule or regulation shall govern.

10. Severability.

If any provision, paragraph, sentence, word or part of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance, which can be given effect without the invalid provision, paragraph, sentence, word, part or application, and to this end the provisions of this ordinance are severable.

11. Effective Date.

In accordance with § C4-6 of the Charter of the Town of North Branford, this ordinance shall become effective on the 45th day after the publication of a summary of this ordinance in a newspaper having circulation in the Town of North Branford following its passage, providing that such publication includes a disclaimer that the description is for informational purposes and a full copy is available in the office of the Town Clerk.