

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one:)

of NEW WINDSOR

Local Law No. 1 of the year 2024

A local law Amending Chapter 280 of the Town Code of the Town of New Windsor entitled "Vehicles & Traffic" to add a section to Article I therein entitled "Off-Road Vehicles Prohibited".  
(Insert Title)

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of NEW WINDSOR as follows:

SECTION 1 TITLE

This Local Law shall be named: "A Local Law Amending Chapter 280 of the Town Code of the Town of New Windsor entitled "Vehicles & Traffic" to add a section to Article 1 therein entitled "Off-Road Vehicles Prohibited."

SECTION 2 PURPOSE AND AUTHORITY

Despite existing state law that already prohibits the operation of all-terrain vehicles (ATV's), dirt bikes, and other off-road vehicles on public highways in New York State, there has been an increasing prevalence of such use in and around the Town of New Windsor in recent years. These off-road type vehicles are not designed to be driven on streets and highways, or in parks and recreation areas, and the increase in such use is creating unreasonable hazards and danger to those lawfully using such roadways and property, as well as to those operating such vehicles. The operators of such vehicles often times travel in groups and ride with reckless abandon, with little to no regard for traffic laws, their own well-being, the safety of others, or the considerable noise such off-road vehicles create, all of which endanger and disturb the town's residents and visitors.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

This Local Law is intended to further deter the illegal use of ATV's, dirt bikes and other off-road vehicles on public streets, public parks and other public lands in and around the Town of New Windsor, through increased fines and penalties for same, thereby promoting the general health, safety and welfare of the Town's residents and visitors. It also seeks to curtail the illegal use of such off-road vehicles on private property in Town, where the express consent of the owner of such property has not been obtained.

This Local Law is introduced for consideration of the Town Board of the Town of New Windsor pursuant to the authority of §§10 and 20 of the Municipal Home Rule Law, §2404(6) of the NYS Vehicle and Traffic Law, and Article IX of the New York State Constitution.

**SECTION 3** Chapter 280, Article 1 of the Town Code of the Town of New Windsor is hereby amended to add a section entitled "Off-Road Vehicles Prohibited" which shall read as follows:

"(Section number to be assigned by General Code)      **DEFINITIONS**

**OFF-ROAD VEHICLES** shall mean any all-terrain vehicle (or "ATV") as that term is defined in §2281(1) of the New York State Vehicle and Traffic Law, off-highway motorcycles as that term is defined in §125-a of the New York State Vehicle and Traffic Law, motocross or dirt bikes, dune buggies, go-carts and any and all other types of motorized trail bikes, utility terrain vehicles ("UTVs"), or vehicles that are manufactured for sale or operation primarily on off-highway trails or for off-highway competitions. Nothing contained in this chapter, however, shall be deemed to apply to or prohibit the use of bicycles, including electric powered bicycles, operated in compliance with applicable state and local regulations.

**OPERATE** shall mean, for purposes of this chapter, to sit in or on, other than as a passenger, or use or control an off-road vehicle in any manner, whether or not said off-road vehicle is actually in motion.

**PUBLIC HIGHWAY** shall mean, for purposes of this chapter, any highway, road, alley, street, avenue, public place, public driveway, or any other public way.

(Section number to be assigned by General Code)      **RULES & REGULATIONS**

- A. **Public Highways.** No person shall, at any time, operate an off-road vehicle on any public highway in the Town of New Windsor, unless specifically exempt from this law pursuant to the section below.
- B. **Public Property.** No person shall, at any time, operate an off-road vehicle on any public property in the Town of New Windsor, unless specifically exempt from this law pursuant to the section below.
- C. **Private Property.**
  - i. No person shall operate an off-road vehicle on any private property in the Town of New Windsor, unless such person owns such private property or, if not the owner of such property, has first obtained the express written consent of the owner or occupant of the property to do so, or is specifically exempt from this law pursuant to the section below.

- ii. No person shall operate an off-road vehicle upon private property located within 500 feet of a residence in the Town of New Windsor, unless the operator owns the residence at issue or has the express written permission of the owner of the residence at issue. This restriction shall remain regardless of whether such off-road vehicle is licensed, unlicensed, registered or unregistered by the New York State Department of Motor Vehicles, unless such use is exempt, as discussed below.
  - iii. There shall be a rebuttable presumption that the operator of an off-road vehicle on private property in the Town of New Windsor lacks the consent required to operate the off-road vehicle on private property they don't own.
- D. Hours of permitted operation. No one may operate an off-road vehicle anywhere, including private property otherwise allowed pursuant to the section above, in the Town of New Windsor between the hours of 9:00 p.m. and 9:00 a.m., unless specifically exempt from this law pursuant to the section below.
- E. Compliance with all other rules and regulations required. Anyone operating an off-road vehicle must do so in compliance with all other rules and regulations promulgated by the Department of Motor Vehicles of the State of New York, including any applicable insurance and registration requirements for such vehicles.
- F. Manner of operation.
  - i. Anyone lawfully operating an off-road vehicle on public or private property in the Town of New Windsor must comply with all other provisions of the NYS Penal Law; the NYS Vehicle and Traffic Law; and all federal, state and local environmental laws, rules and regulations.
  - ii. Anyone lawfully operating an off-road vehicle on public or private property in the Town of New Windsor must refrain from doing so in a careless, reckless or negligent manner; must refrain from doing so in any manner that may endanger the safety of another person, domestic animal, farm animal, wildlife, or the operator himself; and must refrain from doing so in any manner that may bother or disturb another person, farm animal, domestic animal or wildlife.
  - iii. No person lawfully operating an off-road vehicle shall carry another person as a passenger, except where such off-road vehicle is designed and equipped by the manufacturer for such purpose or to address an emergency medical situation.
  - iv. Anyone lawfully operating or riding on an off-road vehicle must wear a helmet that meets, at a minimum, United States Department of Transportation standards.

- G. Persons under 16 years of age. No parent or guardian may authorize or knowingly permit a child under 16 years of age to operate an off-road vehicle in violation of any provision of this Chapter. No owner or other person in possession of an off-road vehicle may authorize or knowingly permit a child under 16 years of age to operate an off-road vehicle in violation of any provision of this Chapter.

(Section number assigned by General Code) EXEMPTIONS

The following uses of off-road vehicles are exempt from the provisions of this Article:

- A. The operation of off-road vehicles owned by the Town, or any other municipal or governmental agency, and used for Town, municipal or governmental purposes.
- B. The operation of off-road vehicles on premises owned by the operator of such vehicles, in the course operating their business, or by employees of the owner of such vehicles, on the premises of the owner where they are conducting their business.
- C. The operation of any off-road vehicle for the purpose of repairing or servicing same, or for the otherwise lawful maintenance, plowing, construction, repair, remodeling or grading of any structure or real property.

(Section number assigned by General Code) ENFORCEMENT

The Town of New Windsor Police Department is charged with enforcement of the provisions in this Chapter.

(Section number assigned by General Code) PENALTIES

- A. Upon first conviction: Any person who is convicted of operating an off-road vehicle for the first time, in violation of this chapter, shall be guilty of an offense punishable by a fine of up to one thousand dollars (\$1000).
- B. Upon second conviction: Any person who is convicted of operating an off-road vehicle for a second time, in violation of this chapter, shall be guilty of an offense punishable by a fine of up to one thousand dollars (\$1000), imprisonment for a period not to exceed fifteen (15) days, or both such fine and imprisonment.
- C. Upon third or subsequent conviction: Any person who is convicted of operating an off-road vehicle three times or more, in violation of this chapter, shall be guilty of an offense punishable by a fine of up to one thousand dollars (\$1000), imprisonment for a period not to exceed one (1) year, or both such fine and imprisonment.
- D. In addition to the penalties set forth above, any police officer or law enforcement agent may have any off-road vehicle that has been operated, in violation of this chapter, immediately impounded and stored at an authorized

impoundment facility or at its own facilities, if available. Any tow operator with a valid towing license, issued by the Town, shall be considered an authorized impoundment facility. Any such impounded off-road vehicle shall be stored pending identification of the owner as registered with the New York State Department of Motor Vehicles (DMV) and for such period as is necessary for law enforcement purposes.

Once identified, the title owner shall be sent a Notice of Impoundment, by certified mail, return receipt requested, and by regular mail at the address on file with DMV.

Neither the Police Department nor the Town of New Windsor, nor any agent or employee thereof, shall be liable for any damages arising from the provision of an erroneous name or address of such owner, or any action taken in furtherance of an impoundment undertaken pursuant to this Chapter.

If the owner presents proof of valid ownership and registration, within the time discussed below, and the impounded off-road vehicle no longer needs to be kept for law enforcement purposes, a redemption fee may be paid in order to redeem such off-road vehicle. Such redemption fee shall be either the minimum amount listed in the Town's Standard Schedule of Fees or an amount no less than all costs incurred by the Town in association with the impoundment, whichever is greater. Such redemption fee may be waived by the Town Supervisor, at their discretion, if the off-road vehicle was stolen or otherwise used without the owner's permission and the owner provides a sworn statement about the theft or unauthorized use with law enforcement.

Any off-road vehicle impounded for a violation of this Chapter, which is no longer needed for law enforcement purposes and remains unclaimed for a period of fifteen (15) business days following service of Notice as outlined above, may be sold, under the authority of the Town of New Windsor Police Department, at public auction in accordance with applicable laws, including NYS General Municipal Law and NYS Personal Property Law §253, subdivision 7. All proceeds from any such public auction shall be used to reimburse any applicable tow company and/or storage facility used for the impoundment and storage of same, with the remaining balance deposited into the Town's General Fund.

#### SECTION 4 SEVERABILITY

In the event that any section, paragraph, sentence, clause or phrase of this article is held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portions of same shall be deemed severed from the article and shall in no way affect the validity of the rest of this article.

#### SECTION 5 EFFECTIVE DATE

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the (County)(City)(Town)(Village) of NEW WINDSOR was duly passed by the TOWN BOARD on May 1st 2024, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Patricia A. Clavano*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: July 2, 2024

(Seal)