



Saint Regis Mohawk Tribe

412 State Route 37
Akwesasne, New York 13655
Tel. 518-358-2272
Fax 518-358-3203

TRIBAL COUNCIL RESOLUTION

02 - 188

ATV ORDINANCE

WHEREAS, The Saint Regis Mohawk Tribal Council is the duly recognized governing body on behalf of the Saint Regis Mohawk Tribe; and,

WHEREAS, The Saint Regis Mohawk Tribal Council is responsible for the health, safety, education and general welfare of all members of the Tribe; and,

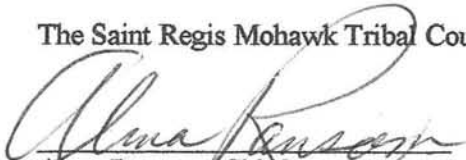
WHEREAS, The Saint Regis Mohawk Tribal Council is entrusted with the preservation of private properties for all members of the Tribe; and,

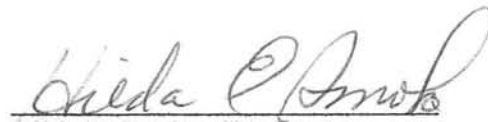
WHEREAS, The Saint Regis Mohawk Tribal Council has determined that there is a need to regulate ATV activity within the boundaries of the Saint Regis Mohawk Territory; and,

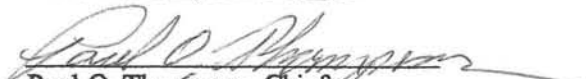
WHEREAS, The Saint Regis Tribal Council hereby approves and adopts the "ATV Ordinance" submitted by the General Counsel's Office and reviewed by the members of the Tribe and the Tribal Police Force; and,

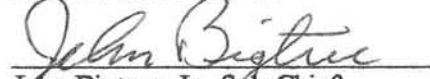
NOW THEREFORE BE IT RESOLVED THAT, all Tribal agencies, including, but not limited to the Saint Regis Mohawk Tribal Police, will be provided with copies of the ATV Ordinance, and will assist in the compliance with and, whenever applicable, the enforcement of the ATV ordinance in accordance with all other applicable law.


The Saint Regis Mohawk Tribal Council


Alma Ransom, Chief



Hilda E. Smoke, Chief


Paul O. Thompson, Chief


John Bigtree, Jr., Sub-Chief


Harry Benedict, Sub-Chief

CERTIFICATION: This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the powers vested therein duly passed the above resolution.


Patricia Thomas, Tribal Clerk

10-16-02
Dated

SAINT REGIS MOHAWK TRIBAL COUNCIL

ATV REGULATIONS

PURPOSE

The purpose of this ordinance is to promote safe and proper use of ATVs within the Mohawk Territory of Akwesasne, to ensure the preservation of private properties and to safeguard the well being of our children and all persons concerning the use of ATVs.

SECTION 1, Definitions.

As used in this ordinance, unless the context requires otherwise:

- 1.1 "All terrain vehicle" or "ATV" means any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions providing that such vehicle does not exceed sixty inches in width, or eight hundred pounds dry weight. Provided, however, this definition shall not include a "snowmobile" or other self-propelled vehicles manufactured for off-highway use.
- 1.2 "Owner" means any person having a title to an ATV. If an ATV is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such ATV, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession. A person holding only a security interest in an ATV shall not be deemed an owner unless such person also has possession of such ATV.
- 1.3 "Operate" means to ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way.
- 1.4 "Operator" means every person who operates or is in actual physical control of an ATV.

SECTION 2, Operation of ATVs; where permitted.

- 2.1 Highways. No person shall operate an ATV on a highway except provided herein.
 - (a) An ATV may make a direct crossing on a highway other than a controlled access highway, provided:
 - (i) the crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
 - (ii) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - (iii) driver yields the right-of-way to all oncoming traffic constituting an immediate hazard.
- 2.2 Private property. No person shall operate an ATV on the private property of another without the consent of the owner or lessee thereof.

SECTION 3, Operating Rules.

- 3.1 No person shall operate an ATV:
 - (a) Unless under the authority of a permit for the vehicle, issued pursuant to Section 6 of this ordinance and with the numbered permit displayed on the vehicle.

- (b) at a rate of speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
 - (c) in a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto;
 - (d) while pulling a person on skis or drawing or towing a sleigh, sled, toboggan or trailer which carries or transports any person unless attached by a rigid support, connection or towbar;
 - (e) within the Territory of Akwesasne between the hours of 11:00pm and 6:00am, if said operations substantially interferes with the reasonable enjoyment of the vicinity of others in the immediate area.
 - (f) with more passengers on the ATV than is recommended by the manufacturer of said ATV.
 - (g) on public lands, other than highways, or on private property of another while in an intoxicated condition or under the influence of narcotics or drugs.
- 3.2 The operator of an ATV shall:
- (a) stop and yield to an authorized ambulance, civil defense, or police vehicle being operated as an emergency vehicle and approaching from any direction;
 - (b) comply with any lawful order or direction of any police officer or other person duly empowered to enforce the laws relating to ATVs.
- 3.3 No person commits an offense under this section while driving or riding on an ATV or on a conveyance towed by an ATV, when the owner of the ATV is the occupier and/or owner of the land.

SECTION 4, Equipment.

- 4.1 No person shall operate an ATV unless it is equipped with:
- (a) brakes in good operating condition;
 - (b) a muffler system in good operating condition.
- 4.2 No person shall operate an ATV unless wearing a protective helmet.
- 4.3 No person shall ride as a passenger on an ATV unless wearing a protective helmet.

SECTION 5, Liability insurance.

- 5.1 No person shall drive an ATV unless an authorized insurance carrier insures it under an ATV liability policy.
- 5.2 No owner of an ATV shall permit an ATV to be driven unless it is insured under an ATV liability policy.
- 5.3 Every person, other than the owner of the ATV who contravenes this section is guilty of an offense and on conviction is liable to a fine not exceeding \$1,000.
- 5.4 Every owner of an ATV who drives an ATV in contravention of subsection 5.1 or permits it to be driven in contravention of subsection 5.2 is guilty of an offense and on conviction is liable to a fine not exceeding \$1,000.
- 5.5 Subsection 5.1 and 5.2 do not apply where the ATV is driven on land owned and/or occupied by the owner of the vehicle.

SECTION 6, Permits and Registration.

- 6.1 Subject to Subsection 6.2, every person who
- (a) is the owner of an ATV;
 - (b) is at least sixteen years of age;
 - (c) is properly insured pursuant to section 5; and
 - (d) pays the prescribed fee,
- is entitled to be issued a numbered permit from the appropriate authority, appointed by the Saint Regis Mohawk Tribal Council, who shall receive applications and issue

permits for the vehicle. Up until the time said authority is appointed by Tribal Council, all registered permits issued through the DMV of New York State, Ontario, the PQ, or the Mohawk Council of Akwesasne will be considered official by the Tribal Police.

- 6.2 Prior to the issuance of a permit under this law, the applicant shall be required to produce documentation necessary to establish the requirements set out in subsection 6.1.
- 6.3 Any person who is between the ages of twelve and eighteen years will only be offered a permit upon the completion of a safety course as prescribed in subsection 8.1.
- 6.4 Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this law, is guilty of an offense and on conviction is liable to a fine not exceeding \$1,000.
- 6.5 Every person shall, within six days after becoming the owner of an ATV, apply to the appropriate authority for a permit for the vehicle.
- 6.6 Where a police officer has reason to believe that a permit carried by the driver of an ATV:
 - (a) was not furnished under this law for the vehicle; or
 - (b) was obtained by false pretenses; or
 - (c) has been defaced or altered;the police officer may take possession of the permit and retain it until all pertinent facts have been determined.

SECTION 7, Special events.

- 7.1 The Saint Regis Mohawk Tribal Council shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to permit and designating the equipment and facilities necessary for safe operation of ATVs and for the safety of operators, participants, and observers in such special events.
- 7.2 ATVs operated at special events shall be exempted from the provisions of this article concerning equipment during the time of such event, including all pre-race practice at the location of said event.

SECTION 8, ATV safety course and safety certificate.

- 8.1 Safety course or courses. The Saint Regis Mohawk Tribal Council shall establish a curriculum or curricula for an ATV safety course or courses. Any such curriculum may include, but not be limited to, on-vehicle training and safe riding practices. The Council may establish different courses and curricula for different types of all terrain vehicles. The Council may permit any such safety-training course to be given by any private person, club, or association, which meets standards established by the Council. The Council may establish a reasonable fee which any such person or entity may charge for such course or courses.
- 8.2 Safety certificate. Upon successful completion of a safety course given in conformity with subdivision 8.1 of this section by a person twelve years of age or over, the person or entity which gave the course shall notify the proper authority of such completion in a manner prescribed by the Council. Upon receipt of such information, ATV safety certificate shall be issued to the person who has successfully completed the course. Such certificate may be limited to the type of vehicle for which the course was given.

SECTION 9, Operation by minors.

- 9.1 No person under the age of sixteen years shall operate an ATV except upon lands owned or leased by his parent or guardian, unless he is under general supervision of a person eighteen years of age or over and has received safety training as prescribed by the Saint Regis Mohawk Tribal Council and has received the appropriate ATV safety certificate.
- 9.2 The failure of a person to exhibit an ATV safety certificate, upon demand, to a police officer having authority to enforce the provisions of this article, shall be presumptive evidence that such person is not the holder of such certificate.
- 9.3 No parent or guardian shall authorize or knowingly permit his child or ward, if under sixteen years of age, to operate an ATV in violation of any provision of this ordinance.
- 9.4 No owner or person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such an ATV in violation of any provision of this ordinance.

SECTION 10, Liability for negligence.

- 10.1 Where the driver of an ATV is liable for damages for injury or damage arising out of the operation of the ATV, with the consent of the owner, the owner is jointly and individually liable;
- 10.2 Where an ATV is leased, the consent of the lessee, for the purposes of subsection 10.1 shall be deemed to be the consent of the owner of the vehicle.
- 10.3 The owner of an ATV may be charged and convicted of an offense under this law, for which the driver of the ATV is subject to be charged and on conviction, the owner is liable to the penalty prescribed for the offense;
- 10.4 Subsection 10.3 does not apply where, at the time of the offense the vehicle was in the possession of a person other than the owner without the consent of the owner.

SECTION 11, Enforcement.

- 11.1 A police officer who on reasonable and probable grounds, believes that a contravention of this ordinance has been committed, may stop any person driving an ATV.
- 11.2 Every person who has been requested to stop by a person authorized under subsection 11.1 shall do so immediately.
- 11.3 Every person stopped under this section or subsection 11.1 shall identify himself if requested, by giving his name and address to the person who stopped him.
- 11.4 Every person who has been requested to stop by a person authorized under subsection 11.1 shall show proof of permit.
- 11.5 Every person who is under the age of eighteen years and not on land owned and/or occupied by his parent or guardian, shall produce proof of a safety certificate.
- 11.6 An officer appointed for carrying out the provisions of this law, making an arrest without warrant, may detain the ATV with which the offense was committed until the final disposition of any prosecution, but the vehicle may be released on security for its production being given to satisfaction of the Court.

SECTION 12, Exemptions.

- 12.1 No person commits an offense under this law where he acts with legal justification or excuse.

- 12.2 No officer commits an offense under this law while operating an ATV in such a manner and as such time so as to properly exercise his lawful duties of employment.

SECTION 13, Accidents; reports.

1. The operator of any ATV involved in any accident resulting in injuries to or death of any person or in which property damage in the estimated amount of six hundred dollars or more is sustained, shall immediately notify the Saint Regis Mohawk Tribal Police Department. If such operator is physically incapable of making such report and there is another participant in the accident not so incapacitated such participant shall make the report within the allotted time after such accident. In the event that there is no other participant and the operator is other than the owner, then the owner shall within the prescribed period of time, after learning of the facts of such accident, report the matter to the department.

SECTION 14, Penalty.

- 14.1 Unless otherwise provided herein, any person who violates any of the provisions of this ordinance is guilty of an offense and liable to a fine not exceeding \$1,000.
- 14.2 If any violation under this ordinance is committed by a person under the age of sixteen years, the registered owner of the ATV, may be charged for said violation;
- 14.3 If an offense is committed under Subsection 14.2 and the registered owner of the ATV cannot be ascertained, or if the actual possessor of the ATV is actually under the age of sixteen years, the parent of the person committing the offense may be charged.
- 14.4 All offenses committed and not in compliance with this ordinance are subject to fine and will be prosecuted in the Saint Regis Mohawk Traffic Court.