

Pleasant Point Passamaquoddy Tribe
Ordinances Regulating
Chapter 1 - All Terrain Vehicles/Utility Vehicles

Section 76.

Application

This section applies to the operation of ATV/UTV's on Passamaquoddy Territory within the Passamaquoddy boundaries from the Perry town line to the Eastport town line on Route 190.

Part 1: General Provisions

§ 101. Definitions

As used in the All Terrain Vehicle Ordinance, unless the context otherwise indicates, the following terms have the following meanings.

1. **Accompanied by adult** – means with respect to operation of an ATV/UTV, within visual and voice contact and under the effective control of a child's parent or guardian or another person 21 years of age or older.
2. **All Terrain Vehicle or ATV** – a motor driven, off road, recreational vehicle capable of cross country travel on land, snow, ice, marsh, swampland, or other natural terrain. This also includes, but is not limited to: a multitrack, multiwheel or low pressure tire vehicle, a motorcycle (dirt bike) or related 2 or 3 wheel vehicles. This does not include an automobile, an electric personal assistive mobility device, a snowmobile, or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.
3. **Bike Path or Sipayik Trail** – is a recreational trail that consists of a stretch of paved way, which begins at the parking area located on Treatment Plant Road in Sipayik and ends at Route 1 in Perry.
4. **Dwelling** – means any building used as a permanent residence or place of domicile.
5. **Kapeskiyak or Sweet Grass area** – is a grassy/marsh area located on the eastern side of Route 190 between Marsh Lane and Witay Road.
6. **Operate** – "To operate", in all its moods and tenses, means: When it refers to an ATV/UTV, to use an ATV/UTV in any manner within the jurisdiction of the Passamaquoddy Tribe, whether or not the vehicle is moving.
7. **Operator** – Means the person who is in control or in charge of the ATV/UTV while it is in use.
8. **Passenger** – means any person carried on board the ATV/UTV other than the operator.
9. **Protective Headgear** – is a helmet that conforms with minimum standards of construction and performance as prescribed by the American National Standards Institute specification Z90.1 or by the Federal Motor Vehicle Safety Standard No. 218
10. **Public Way** – means a way, owned and maintained by the Tribe, State, county, or a municipality, over which the general public has a right to pass.
11. **Utility Vehicle or UTV** – is a small 2 to 6 person four-wheel drive off-road vehicle, also called a side by side, a ROV (recreational off-highway vehicle or a multipurpose off highway utility vehicle).

§ 102. License and Training

1. **License** – An operator's license is not required for the operation of an ATV/UTV, except as required by State of Maine Title 29-A (Maine motor vehicle statutes).

2. **Training** – A person over 9 years of age and under 16 years of age must successfully complete a training program approved by the Maine Department of Inland Fisheries and Wildlife prior to operating an ATV/UTV except on:
 - a. Land on which that person is domiciled, or
 - b. Land leased by that person's parent or guardian.

§ 103. Penalty

Except as otherwise provided, the following penalties apply to violations of ordinances regulating ATV/UTVs.

1. **Civil.** – A person who violates an ordinance regulating ATV/UTVs commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
2. **Criminal.** – A person who violates an ordinance regulating ATV/UTVs after having been adjudicated as having committed 3 or more civil violations under this chapter or under State of Maine Title 12 chapter 939, concerning ATV/UTVs.

§ 104. Age Restrictions

1. **A person under 10 years of age may not operate an ATV/UTV** – Except as provided in subsection 5.
2. **Permitting a child under 10 years to operate an ATV/UTV** – Except as provided in subsection 5, a person may not permit a child under 10 years of age to operate an ATV/UTV.
3. **Unlawfully operating ATV/UTV by person 10 to under 16 years of age** – Except as provided in subsection 5, a person 10 years of age or older but under 16 years of age may not operate an ATV/UTV unless that person has successfully completed a training course approved by the Maine Department of Inland Fisheries and Wildlife and is accompanied by an adult.
4. **Permitting an unaccompanied person under 16 years of age to operate an ATV/UTV** – Except as provided in subsection 5, a person may not permit an unaccompanied person 10 years of age or older but under 16 years of age to operate an ATV/UTV.
5. **Exceptions for certain property** – This section does not apply to the operation of an ATV/UTV on:
 - a. The land on which the operator is domiciled
 - b. Land owned or leased by the operator's parent or guardian

§ 105. Registration

1. **Operating an unregistered ATV/UTV** – A person may not operate an ATV/UTV that is not registered in accordance with Maine Title 12 chapter 939 section 13155 subsection 3.
 - a. **The following exceptions apply.**
 - i. Registration is not required for an ATV/UTV operated on land on which the owner lives or on land which the owner is domiciled, as long as the ATV/UTV is not operated elsewhere.
2. **Registration inspection** – An owner or operator of an ATV/UTV shall present a registration certificate for inspection by any law enforcement officer on demand.
3. **Display of registration numbers** – All registered ATV/UTV's must display registration numbers issued by the State of Maine on the front and rear of the machine, as high above the tires as possible, for the vertical display of registration numbers. A person may not operate an ATV/UTV that is required to be registered unless registration numbers are displayed.
4. **Carrying of registration** – A certificate of registration must be carried by the operator or passenger, or kept in some easily accessible place on machine. (A person served with a

summons for this violation may have the complaint dismissed if that person shows satisfactory evidence that the ATV/UTV was registered at the time of the alleged violation.

§ 106. Operation of ATV/UTV's

- 1. Stop and identify requirement** – Persons operating ATV/UTV's upon the land of another shall stop and identify themselves upon the request of the landowner, law enforcement, or the landowner's duly authorized representative. A person who violates this subsection commits a Class E crime.
- 2. Operation of ATV/UTV's and on public ways within the jurisdiction of the Passamaquoddy Territory in Sipayik.**
 - a. The operator of an ATV/UTV may not exceed more than 15mph.
 - b. A properly registered ATV/UTV may be operated on a public way of the Passamaquoddy Territory in Sipayik only to the extreme right of the traveled way.
 - c. An ATV/UTV may be operated on the Bike Path **ONLY** from the Little River Road to Route One.
- 3. Operation of ATV/UTV in prohibited area**
 - a. A person may not operate an ATV/UTV upon the Sipayik Trail (Bike Path) from the Little River Road to the end of the Treatment Plant Road.
 - b. A person may not operate an ATV/UTV within the Kcapeskiyak or Sweet Grass area
 - c. A person may not operate an ATV/UTV on a salt marsh, intertidal zone, marine sand beach
 - d. A person may not operate an ATV/UTV on a cemetery, burial place, or burying ground.
 - e. A person may not operate an ATV/UTV on any land that is not owned or leased solely by the operator unless that person has permission by the landowner or lessee.
 - f. A person may not operate an ATV/UTV when the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation:
 - i. On a freshwater marsh or bog, river, brook, stream, nonforested wetland or vernal pool.
- 4. Hours of operation of an ATV/UTV** – A person may operate an ATV/UTV between the hours of 6am and 9pm.
- 5. Failing to stop ATV/UTV before entering public way** – A person shall bring an ATV/UTV to a complete stop before entering a public way.
- 6. Failing to yield right-of-way while operating ATV/UTV** – A person shall yield the right-of-way to all other types of vehicular traffic while operating an ATV/UTV on a public way.
- 7. Reckless operating on ATV/UTV** – A person may not operate an ATV/UTV in such a way as to recklessly create a substantial risk of serious bodily injury to another person.

A person who violates this subsection commits a Class D crime.
- 8. Operating ATV/UTV to endanger** – A person may not operate an ATV/UTV so as to endanger any person or property

A person who violates this subsection commits a Class E crime.
- 9. Operating ATV/UTV at greater than reasonable and prudent speed** – A person may not operate an ATV/UTV except at a reasonable and prudent speed for the existing conditions.

A person who violates this subsection commits a Class E crime.
- 10. Operating ATV/UTV without protective headgear** – Notwithstanding Maine Statute Title 29-A, section 2083, a person under 18 years of age may not operate an ATV/UTV without protective headgear.

11. Carrying passenger on ATV/UTV without headgear – Notwithstanding Maine Statute Title 29-A, section 2083, a person may not carry a passenger under 18 years of age on an ATV/UTV unless the passenger is wearing protective headgear.

12. ATV/UTV noise and fire control devices – The following provisions pertain to ATV/UTV muffling and fire control devices and noise level limits.

a. A person may not:

- i. Operate an ATV/UTV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust;
- ii. Modify the exhaust system of an ATV/UTV in any manner that will increase the noise emitted above the following emission standard:
 1. Each ATV/UTV must meet noise emission standards of the United States Environmental Protection Agency and in no case exceed 82 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192; and
 2. In no case exceed 96 decibels of sound pressure when measured from a distance of 20 inches using test procedures established by the commissioner of the Department of Maine Inland Fisheries and Wildlife.
- iii. Operate an ATV/UTV without a working spark arrester.

b. In addition to any penalties imposed under these ordinances, the court may, subject to Maine Statute 17-A, chapter 54 (Restitution), order restitution for fire suppression costs incurred by state or municipal government entities in suppressing a fire caused by an ATV/UTV operating without a working spark arrester.

13. ATV/UTV headlight and taillight requirements – This subsection establishes light equipment requirements for the operation of an ATV/UTV.

- a. A person may not operate an ATV/UTV in the jurisdiction of the Tribe, regardless of where purchased unless equipped with front and rear lights as follows.
 - i. The ATV/UTV must have mounted on the front at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the ATV/UTV
 - ii. The ATV/UTV must have mounted on the rear at least one taillight capable of displaying a light that must be visible at a distance of at least 100 feet behind the ATV/UTV.
- b. The following are exceptions to the requirements of paragraph A.
 - i. An ATV/UTV manufactured prior to January 1, 1991 without a headlight or taillight is exempt from the provisions of this subsection while being operated between sunrise and sunset.
 - ii. A person may operate an ATV/UTV without a headlight and taillight between sunrise and sunset if:
 1. The ATV/UTV has an engine size of 90 cubic centimeters or less; and
 2. The ATV/UTV has 4 or more wheels.

14. Required use of ATV/UTV lights – The following provisions govern the use of ATV/UTV lights.

- a. A person shall use the lights required under subsection 13 as follows:
 - i. During the period from ½ hour after sunset to ½ hour before sunrise; and
 - ii. At any time when, due to insufficient light or unfavorable atmospheric condition caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

15. Abuse of another person's property – A person may not while operating an ATV/UTV:

- a. Tear down or destroy a fence or wall on another person's land;
- b. Leave open a gate or bars on another person's land;
- c. Trample or destroy crops on another person's land; or
- d. Remove or destroy signs or posted notices.

A person who violates this subsection commits a Class E crime.

16. ATV/UTV accidents involving personal injury or death

- a. **Law enforcement officer notification** – The operator of an ATV/UTV involved in an accident that results in personal injury or death of a person shall immediately report the accident, by the quickest means of communication, to the available law enforcement officer nearest to the place where the accident occurred.
 - i. The owner of an ATV/UTV who knows that the ATV/UTV was involved in an accident as described in this subsection shall report the accident as provided in this subsection if the operator of the ATV/UTV is unknown.
- b. **Provide information to injured party** – The operator or a person acting on behalf of the operator of an ATV/UTV involved in an accident shall provide to an injured person or the operator or an occupant of any other ATV/UTV involved in the accident:
 - i. The operator's name and address; and
 - ii. The registration number of the operator's ATV/UTV
- c. **Render assistance** – The operator of an ATV/UTV involved in an accident shall render reasonable assistance to an injured person.
- d. **A person who violates this section commits a Class E crime.**
- e. **Aggravated punishment category** – Notwithstanding subsection d, a person who intentionally, knowingly or recklessly fails to comply with this section when the accident resulted in serious bodily injury, as defined in Maine Statute Title 17-A, section 2, subsection 23, or death, shall be charged under the Maine Statute Title 12, chapter 939, subsection 13157-B-5.

17. ATV/UTV accident reports

- a. **Report requirements** – A person shall give notice of an ATV/UTV accident within 72 hours to the Maine Department of Inland Fisheries and Wildlife commissioner on forms provided by the commissioner if the person is
 - i. The operator of an ATV/UTV involved in an accident that does not result in injuries requiring the services of a physician or in the death of a person but involves property damage estimated to cost \$1,000 or more;
 - ii. A person acting for the operator of an ATV/UTV described in paragraph i; or
 - iii. The owner of an ATV/UTV described in paragraph i having knowledge of the accident if the operator of the ATV/UTV is unknown.

18. Unlawfully permitting operation; liability for damage by other persons

- a. **ATV/UTV owner; operation by another** – A person is in violation of this subsection if that person is the owner of an ATV/UTV that is operated in violation of these ordinances
- b. **Parent or guardian; operation by minor** – A person is in violation of this subsection if that person is a parent or guardian responsible for the care of a minor under 18 years of age who is operating an ATV/UTV in violation of these ordinances.
- c. **Furnishing an ATV/UTV** – An owner of an ATV/UTV, a person who gives or furnishes an ATV/UTV to a person and a parent or guardian responsible for the care of a minor under 18 years of age are jointly and severally liable with the operator for damages caused in the operation of the vehicle or by the minor in operating any ATV/UTV.