

# **Stockbridge-Munsee Tribal Law**

## **Chapter 47-A**

### **All Terrain Vehicle Safety Ordinance**

#### **Section 47-A.1 Council Findings and Purpose**

Tribal Council finds that the Community will benefit from regulations governing safe use of ATVs. Tribal Council finds that unregulated use of ATVs, especially within populated areas such as housing areas, creates a safety hazard for the operator, pedestrians, residents, automobiles, and others. Tribal Council also finds that unregulated use of ATVs threatens or directly affects the political integrity, the economic security, and/or the health and welfare of the Community. Tribal Council also reaffirms that it is a general policy to promote safety and protection for persons, property, and environment.

#### **Section 47-A.2 Interpretation**

This Ordinance should be interpreted with the Community's safety as the primary purpose and should be construed broadly to accomplish this purpose.

#### **Section 47-A.3 Applicability**

This Ordinance applies to all persons operating ATVs within residential areas, the Many Trails Park and Pow Wow grounds, walking trails, logging trails, and all other Tribal/Bureau of Indian Affairs roadways. This Ordinance does not apply to Tribal emergency ATVs. The court shall have jurisdiction to enforce this Ordinance.

#### **Section 47-A.4 Definitions**

- (A) "ATV" means an engine-driven device that has a net weight of 1,000 pounds or less.
- (B) "Court" means the Stockbridge-Munsee Tribal Court.
- (C) "Law enforcement officer" means the Stockbridge-Munsee Tribal police, or Stockbridge-Munsee Game Warden.
- (D) "Operator" means a person driving an ATV, or a person who drove an ATV.
- (E) "Property damage" means any physical harm to personal or real property, or cost to repair any personal or real property.
- (F) "Residential area" means the Ah Toh Wuk residential area, the Koo Yi Kun residential area, and the Tribal Housing residential area including the area along Camp 14

Road from Moheconnuck Road to Murphy's Road, the roadways, and the general area in between, including Birch, Oak, Maplewood, Cherry, Poplar and Elm Streets.

(G) "Roadway" means the road and right of way. Generally, the right of way is forty feet (on each side) from the centerline of road.

(H) "Safety certificate" means documentation issued by a Tribal or state agency that shows that the holder of the safety certificate is properly trained in the safe operation of an ATV.

(I) "Tribal service providers" means the Family Center, Elder Center, Day Care, Head Start, and other similar programs and facilities.

(J) "Tribe" means the Stockbridge-Munsee Community.

(K) "Waterways" means lakes, ponds, streams, and rivers.

### **Section 47-A.5 Minimum Requirements and Prohibitions**

(A) The minimum age to operate an ATV is twelve (12) years of age.

(1) Effective January 1, 2001 operators under sixteen (16) will be required to have obtained a safety certificate and to carry the safety certificate while operating an ATV.

(2) A copy of the ATV Safety Ordinance shall be given to each certificate holder.

(B) Operators under eighteen (18) years of age must wear safety helmets.

(C) Only Tribal members, a spouse of a Tribal member, or direct descendants may be an operator.

(1) Tribal member spouses and direct descendants are required to have a Tribal permit issued by the Department of Public Safety.

(a) The annual permit fee shall be \$10.00 and the permits shall expire on December 31 of each year.

(b) A copy of the ATV Safety Ordinance shall be given to each permit holder.

(D) All ATVs must be registered with the Department of Public Safety within 15 days of purchase, transfer or delivery on the reservation. There is no fee for the ATV registration and the ATV registration does not need to be renewed unless sold, transferred or gifted to another buyer.

(1) A copy of the ATV Safety Ordinance shall be given to the owner of the ATV.

(E) While operating an ATV:

- (1) No more than one person (the operator) may be on an ATV, unless the ATV is factory designed to carry more than one person.
- (2) Headlights, if equipped on the ATV, must be turned on. If driving at night, the ATV must be equipped with headlight and taillights, and must be turned on.
- (3) Operators shall be strictly liable for property damage, except for possible claims of comparative negligence.
- (4) The maximum speed limit for ATVs on roadways is 20 miles per hour. If the road is posted at a slower speed, the slower speed is the maximum speed limit. Between the hours of 10:30 p.m. and 7:00 a.m. the maximum speed is 20 miles per hour if operated within 150 feet of a dwelling.
- (5) ATVs are prohibited from operating:
  - (a) In designated wilderness areas, as defined in the Land Use Plan.
  - (b) In waterways and on walking trails.
  - (c) In the Tribal cemeteries.
  - (d) Creating new trail systems or paths without prior Tribal Council approval.
  - (e) With any after market modification to the muffler system that would lead to increased or excessive noise.
- (6) The operator shall always operate the ATV in a reasonably safe manner and shall obey all other rules of the road.
  - (a) On a roadway, the operator shall drive on the side of the road which is with the general flow of vehicle traffic and shall operate the ATV the furthest to the edge of the roadway, including ditches, as is reasonably safe.
  - (b) Operating ATVs on shoulders is prohibited, except when yielding to motor vehicle traffic, when crossing a road, or in an emergency situation, provided that the operator uses care not to cause damage to the shoulder or to spread gravel on to the road.
  - (c) Reckless operation by an operator of an ATV is prohibited.
  - (d) Operators are prohibited from operating while under the influence as defined in Wis. Stats. 346.63(1)(a), 346.63(1)(b) and 346.63(2m). For the privilege of operating an ATV, Operators have given implied consent to appropriate testing by

law enforcement. Law enforcement and/or the court may utilize applicable Wisconsin state law for procedures for obtaining blood or breath samples or other applicable procedures and law.

(7) In the Many Trails Park area:

(a) ATV's are prohibited from operating in the bowl area of Pow Wow grounds.

(b) ATV's are required to stay on marked roadways.

#### **Section 47-A.6 Residential Areas: Safe Zones**

(A) Because of the higher population of Tribal members and the high number of Tribal service providers in the Tribal housing area, and the number of private homes in other areas, residential areas are hereby designated safe zones.

(B) In addition to the requirements in section 47-A.5, ATV operators in the Tribal residential areas:

(1) Are prohibited from operating ATVs from 9pm-6am.

(2) Shall operate ATVs no faster than 15 miles per hour.

(3) Shall not operate ATVs on sidewalks or yards, unless the operator is on their own land or land assignment.

(4) Shall use extra caution, including yielding right of way, whenever there are pedestrians or other motor vehicle traffic in the near vicinity.

(5) Shall not cause excessive noise with ATVs.

(6) Shall not use the public driveways of Tribal service providers, unless conducting business.

(7) Shall not use the Tribal residential areas as a riding area. In the Tribal residential housing areas, ATVs should only be utilized to get to and from another area.

(a) Operators shall use the shortest distances when entering and exiting the Tribal residential areas. For example, operators going to a residence within the Tribal housing area must take the most direct route to the residence.

### **Section 47-A.7 Enforcement**

(A) Any Stockbridge-Munsee law enforcement officer may issue warnings and citations for violations of this Ordinance.

(B) The court may levy fines up to \$500.00 for each separate violation of this Ordinance.

(C) The court may also levy any other reasonable penalty the court deems just, including but not limited to, ordering safety classes, and/or suspending or revoking the operator's privilege to operate an ATV, and/or restitution.

### **Section 47-A.8 Severability**

If a court of competent jurisdiction finds any portion of this Ordinance illegal, the remaining portions of this Ordinance shall remain unaffected and remain in force.

### **Section 47-A.9 Effective Date**

This Ordinance shall take effect 5 calendar days after Bureau of Indian Affairs approval.

### **Section 47-A.10 Future Amendments**

Amendments to this Ordinance will be effective upon enactment by the Stockbridge-Munsee Tribal Council without further review by the Secretary of Interior.

### **Legislative History**

Adopted by Tribal Council on August 8, 2000, Resolution No. 048-2000.

Approved by BIA August 23, 2000.

Amended by Tribal Council on April 5, 2005, Resolution No. 020-05. Sections 47-A.4(F) Residential area, 47-A.5(A)(2), 47-A.5(C), 47-A.5(D), 47-A.5(E)(5)(d), 47-A.5(E)(5)(e), 47-A.5(E)(6)(b), 47-A.5(E)(6)(c), 47-A.5(E)(6)(d), 47-A.10 are newly created; Section 47-A.4(H) Tribal housing area is deleted; Sections 47-A.1, 47-A.5(E)(1), 47-A.5(E)(4), 47-A.6(A), 47-A.6(B), 47-A.6(B)(7), 47-A.6(B)(7)(a) are amended. Approved by BIA on May 3, 2005.