

Title 4. Environment and Natural Resources – Chapter 410
ALL-TERRAIN VEHICLE
Kwah Tsyok Nu O’nikasleghto’tá Kayanl’hsia
Just all over the place, the type of vehicles, their laws

410.1. Purpose and Policy

410.2. Adoption, Amendment, Repeal

410.3. Definitions

410.4. Age Requirements

410.5. Rules of Operation

410.6. Enforcement

410.7. Sanctions

410.1-1. Purpose and Policy

410.1-1. The purpose of this law is to govern the safe use of all-terrain vehicles within the Tribal jurisdiction of the Oneida Reservation to allow enforcement for protection of the community members and the environment.

410.2. Adoption, Amendment, Repeal

410.2-1. This law was adopted by the Oneida Business Committee by resolution BC-6-16-04-B and amended by resolution BC-07-26-17-E.

410.2-2. This law may be amended or repealed by the Oneida Business Committee and/or Oneida General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

410.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

410.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

410.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

410.3. Definitions

410.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein, or defined within any section, shall be used in their ordinary and everyday sense.

(a) “Agricultural purpose” means a purpose related to beekeeping, operating commercial feedlots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, operating orchards, plant greenhouses or nurseries, poultry raising, raising grain, grass, mint or seed crops, sod farming or raising fruits, nuts, berries or vegetables.

(b) “All-terrain vehicle” means an engine-driven device which has a net weight of 900 pounds or less, which has a width of 48 inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed to travel on 3 or more low-pressure tires. A low-pressure tire is a tire which has a minimum width of 6 inches, which is designed to be mounted on a rim with a maximum diameter of 12 inches and which is designed to be inflated with an operating pressure not to exceed 6 pounds per square inch as recommended by the manufacturer.

(c) “All-terrain vehicle route” means a highway, sidewalk, dirt or gravel trail, designated for use by all-terrain vehicle operators by the Oneida Tribe of Indians of Wisconsin having jurisdiction as authorized under this section.

(d) “All-terrain vehicle trail” means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by all-terrain vehicle

operators by the Oneida Tribe of Indians of Wisconsin having jurisdiction, but excluding roadways of highways except those roadways that are seasonally not maintained for motor vehicle traffic.

(e) “Conservation Warden” shall mean an employee of the Oneida Conservation Department empowered by the Oneida Tribe of Indians of Wisconsin to enforce the provisions of this Law and regulations promulgated pursuant to this Law. The term Conservation Warden shall include an Officer of the Oneida Police Department.

(f) “Department” means the Oneida License Department.

(g) “Highway” means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways within the Reservation, parks and upon the grounds of Tribal schools.

(h) “Immediate family” means persons who are related as spouses, as siblings or as parent and child.

(i) “Implement of husbandry” means a vehicle or piece of equipment or machinery designed for agricultural purposes, used exclusively in the conduct of agricultural operations and used principally off the highway, or a trailer-mounted bulk liquid fertilizer container.

(j) “Land under the management and control of a person’s immediate family” means land owned or leased by the person or a member of the person’s immediate family over which the owner or lessee has management control. This term excludes land owned or leased by an organization of which the person or a member of the person’s immediate family is a member.

(k) “Operator” means a person who operates an all-terrain vehicle, who is responsible for the operation of an all-terrain vehicle or who is supervising the operation of an all-terrain vehicle.

(l) “Owner” means a person who has lawful possession of an all-terrain vehicle by virtue of legal title or equitable interest in the all-terrain vehicle which entitles the person to possession of the all-terrain vehicle.

(m) “Protective Headgear” means a helmet that is specifically designed for motorcycle or all-terrain vehicle use that meets the United States Department of Transportation standards for motorcycle helmets. A bicycle helmet is not an acceptable protective helmet.

(n) “Public utility” means any corporation, company, individual or association which furnishes products or services to the public including but not limited to, railroads, telecommunications or telegraph companies and any company furnishing or producing heat, light, power or water.

(o) “Reservation” shall mean all the lands and waters within the exterior boundaries designated by the Treaty with the Oneida. 7 Stat. 566 (1838).

(p) “Residential area” shall mean a district where people live; occupied primarily by private residences.

(q) “Registration documentation” means an all-terrain vehicle registration certificate, a validated registration receipt, or a registration decal.

(r) “Right of way” means the privilege of the immediate use of the roadway.

(s) “Small all-terrain vehicle” means an all-terrain vehicle that has 4 wheels and that has either an engine certified by the manufacturer at not more than 90 cubic centimeters or an equivalent power unit.

(t) “Tribal Lands” means all lands within the exterior boundaries of the Oneida Indian reservation as defined by the 1838 Treaty, or all land located in Wisconsin which is held in Trust by the United States of America for the benefit of the Oneida Tribe of Indians of Wisconsin.

(u) “Nation” means the Oneida Nation.

(v) “Used exclusively on private property” means use of an all-terrain vehicle by the owner of the all-terrain vehicle or a member of his or her immediate family only on land owned or leased by the all-terrain vehicle owner or a member of his or her immediate family.

410.4. Age Requirements

410.4-1.

(a) The minimum age to operate an all-terrain vehicle is twelve (12) years of age unless he or she is operating a small all-terrain vehicle on an all-terrain vehicle trail designated by the Nation and he or she is accompanied by his or her parent.

(b) A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is accompanied by a person over 18 years of age.

410.5. Rules of Operation

410.5-1. No person shall operate an all-terrain vehicle:

(a) In any careless way so as to endanger the safety of himself or herself or the property or the safety of another person or property.

(b) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for all-terrain vehicle use.

(c) On Tribal lands without the consent of the Nation or Indian owner. Failure to post Tribal lands does not imply consent for all-terrain vehicle use.

(d) With any firearms in his or her possession unless it is unloaded and enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying case, within the Reservation and on public highways.

(e) To drive, pursue, take, catch, kill, hunt, trap or harvest any animal except as a part of normal farming operations involving the driving of livestock.

(f) When within 150 feet of a dwelling at a speed exceeding 10 miles per hour without owners consent.

(g) On the frozen surface of public waters within 100 feet of a person not in or on an all-terrain vehicle or motor vehicle or within 100 feet of a fishing shanty at a speed exceeding 10 miles per hour.

(h) On any pathways or sidewalks specified for pedestrian use.

(i) On any public, church, school property, cemetery, burial ground, campground, park or business properties, airport or landing facility without consent.

(j) Without wearing the required eye protection such as goggles, sunglasses, or glasses.

(k) In any streams or creeks.

(l) On any project or program assigned land.

(m) In a manner which violates rules promulgated by the Nation.

(n) In excess of 10 mph when traveling within 100 feet of a person not on an all-terrain vehicle, snowmobile or motorcycle.

(o) Outside or off of any designated all-terrain route or trail.

410.5-2. *Rental of All Terrain Vehicles.*

(a) No person who is engaged in the rental or leasing of all-terrain vehicles to the public may do any of the following:

(1) Rent or lease an all-terrain vehicle for operation by a person who will be operating an all-terrain vehicle for the first time unless the person engaged in the rental or leasing gives the person instruction on how to operate an all-terrain vehicle.

(2) Rent or lease an all-terrain vehicle to a person under 16 years of age.

(3) Rent or lease an all-terrain vehicle without first ascertaining that any person under the age of 18 who will be on the all-terrain vehicle has required protective headgear

(b) A person who is engaged in the rental or leasing of all-terrain vehicles to the public shall have clean, usable protective headgear available for rent in sufficient quantity to provide headgear to all persons under the age of 18 who will be on all-terrain vehicles that the person rents or leases.

(c) The Environmental Resource Board may promulgate rules to establish minimum standards for the instruction given under par. (a)1.

410.5-3. *Use of Headgear.* No person may operate or be a passenger on an all-terrain vehicle without wearing protective headgear with the chin strap properly fastened, unless one of the following applies:

(a) The person is at least 18 years of age.

(b) The all-terrain vehicle is being operated for an agricultural purpose.

410.5-4. *Operation on or near highways.* All-terrain vehicles may not be operated on any highways within the exterior boundaries of the Nation, except for the following:

(a) All-terrain vehicles owned by the Nation, a municipality, state agency or public utility while the operator is engaged in an emergency or in the operation of an all-terrain vehicle directly related to the functions of the Nation, a municipality, state agency or public utility if safety does not require strict adherence to these restrictions.

(b) The Nation, a county, town, city or village may block off highways under its jurisdiction for the purpose of allowing special all-terrain vehicle and/or public events.

(c) To cross a highway. The crossing of a roadway is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain vehicle prior to the crossing and yields the right-of-way to other vehicles, pedestrians, and electric personal assistive mobility devices using the roadway.

(d) On any roadway which is seasonally not maintained for motor vehicle traffic. Operation of an all-terrain vehicle on this type of roadway is authorized only during the seasons when no maintenance occurs and only if the roadway is not officially closed to all-terrain vehicle traffic.

(e) To cross a bridge, culvert or railroad right-of-way. The crossing of a bridge, culvert, or railroad right-of-way is not authorized if the roadway is officially closed to all-terrain vehicle traffic. The crossing is authorized only if the crossing is done in the most direct manner practicable, if the crossing is made at a place where no obstruction prevents a quick and safe crossing, and if the operator stops the all-terrain vehicle prior to crossing and yields to pedestrians, and electric personal assistive mobility devices using the highway.

(f) On highways designated as all-terrain vehicle routes. Operation of all-terrain vehicles

on a highway which is an all-terrain vehicle route is authorized only for the extreme right side of the highway except that left turns may be made from any part of the highway which is safe given prevailing conditions.

(g) On highways if the all-terrain vehicle is an implement of husbandry, if used exclusively for agricultural purposes and if the all-terrain vehicle is registered for private use.

410.5-5. *Operation adjacent to highways.* All-terrain vehicles may be operated adjacent to a highway on an all-terrain vehicle route or trail if the all-terrain vehicle is operated in the following manner:

(a) At a distance of 10 feet or more from the highway along U.S. numbered highways, state and county highways, Tribal roads, town roads, and BIA roads.

(b) Outside of the highways along town highways.

(c) During hours of darkness in the same direction as motor vehicle traffic in the nearest lane, although during daylight hours travel may be in either direction regardless of the flow of motor vehicle traffic.

(d) Not in excess of the speed limits of the adjacent highway and not to exceed 35 miles per hour.

(e) With due regard to safety and in compliance with rules promulgated by the Nation.

(f) Not at a rate of speed that is unreasonable or improper under the circumstances.

410.5-6. *Equipment requirements.*

(a) A person who operates an all-terrain vehicle during hours of darkness or during daylight hours on any highway right-of-way is required to display a lighted headlamp and tail lamp on the all-terrain vehicle.

(b) The headlamp on an all-terrain vehicle is required to display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of at least 200 feet ahead of the all-terrain vehicle.

(c) The tail lamp on an all-terrain vehicle is required to display a red light plainly visible during hours of darkness from a distance of 500 feet to the rear.

(d) Every all-terrain vehicle is required to be equipped with at least one brake operated either by hand or by foot.

(e) Every all-terrain vehicle is required to be equipped with a functioning muffler to prevent excessive or unusual noise.

410.5-7. *Residential Areas.*

(a) All-terrain operators in the residential areas:

(1) Are prohibited from operating all-terrain vehicles from 9pm-6am.

(2) Shall not operate all-terrain vehicles in excess of 15 miles per hour.

(3) Shall not operate all-terrain vehicles on sidewalks or yards, unless the operator is on his or her own land or leases the land.

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

(5) Shall not cause excessive noise with all-terrain vehicles.

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

(7) Shall not use the Tribal residential area as a riding area. In the Tribal residential area, all-terrain vehicles 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 area. For example, operators going to a residence within the Tribal residential area must take the most direct route to the residence.

410.5-8. Accidents.

(a) If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and shall file a written report of the accident within 10 days after the accident to the Oneida Police Department.

(b) If the operator of an all-terrain vehicle is physically incapable of making the report required by this subsection and there was another witness to the accident capable of making the report, the witness may make the report.

410.5-9. Routes and Trails.

(a) The Nation shall encourage and supervise a system of all-terrain vehicle routes and trails. The Division of Land Management, in cooperation with the Conservation Department, shall establish standards and procedures for certifying the designation of all-terrain vehicle routes and trails.

(b) The Nation may specify effective periods for the use of all-terrain vehicle routes and trails and may restrict or prohibit the operation of an all-terrain vehicle during certain periods of the year.

(c) The Nation shall establish uniform all-terrain vehicle route and trail signs and standards.

(d) Interference with signs and standards are prohibited.

(1) No person may intentionally remove, damage, deface, move or obstruct any uniform all-terrain vehicle route or trail sign or standard or intentionally interfere with the effective operation of any uniform all-terrain vehicle route or trail sign or standards if the sign or standard is legally placed by the Nation, the state, any municipality or any authorized individual.

(2) No person may possess any uniform all-terrain vehicle route or trail sign or standard of the type established by the Nation for the warning, instruction or information of the public, unless he or she obtained the uniform all-terrain vehicle route or trail sign or standard in a lawful manner. Possession of a uniform all-terrain vehicle route or trail sign or standard creates a rebuttable presumption of illegal possession.

(e) Interference with trails prohibited. No person may intentionally obstruct or interfere with an all-terrain vehicle route or trail.

410.6. Sanctions.

410.6-1. The following sanctions may be imposed for violations of the All-Terrain Vehicle Law:

(a) All fines and forfeitures shall be paid to the Nation.

Violation		Sanction
(a) Unlawful rental of all-terrain vehicle	sec. 5-2.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(b) Operating all-terrain vehicle in a careless manner	sec. 5-1(a)	1 st Violation: \$25.00 2 nd Violation: \$50.00

		3 rd Violation: \$150.00
(c) Operating all-terrain vehicle on the private property of another without consent	sec. 5-1(b)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$130.00
(d) Operating all-terrain vehicle on Tribal Lands without consent	sec. 5-1(c)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00 Non-Members will be turned over to Oneida Police Department or County Sheriff's Department
(e) Transporting loaded or uncased firearm or a strung or uncased bow on all-terrain vehicle	sec. 5-1(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$500.00
(f) Drive, pursue, take, catch, kill, hunt, trap or harvest any animal from an all-terrain vehicle	sec. 5-1(e)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$250.00
(g) Operating all-terrain vehicle within 150 feet of a dwelling at a speed exceeding 10 miles per hour without owners consent	sec. 5-1(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(h) Operating all-terrain vehicle on frozen surface of public waters within 100 feet of a person or fishing shanty at a speed exceeding 10 miles per hour	sec. 5-1(g)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(i) Operate/ride all-terrain vehicle without protective headgear	sec. 5-3.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(j) Illegal operation of all-terrain vehicles on or in the vicinity of highways	sec. 5-4.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(k) All-terrain equipment violations	sec. 5-7.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(l) Failure to report all-terrain vehicle accident	sec. 5-9.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00

(m) Interference with all-terrain vehicle route or trail signs and standards	sec. 5-10(d)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$250.00
(o) Operating on a church property, school property, cemetery, burial ground, campground, parks, business, airport or landing facility without permission	sec. 5-1(i)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$200.00
(p) Operating at a speed that is unreasonable or improper	sec. 5-6(f)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(q) Operating all-terrain vehicle in or on project or program assigned lands	sec. 5-1(l)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(r) Operating in excess of 10mph when traveling within 100 feet of a person not on an all-terrain vehicle, snowmobile or motorcycle	sec. 5-1(n)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(s) Owner permitting operation of all-terrain vehicle by person who does meet age requirements	sec. 4-1.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$140.00
(t) Operating an all-terrain vehicle outside or off the designated route or trail	sec. 5-1(o)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(u) Operating an all-terrain vehicle in Tribal Residential Areas	sec.5-8.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(v) Operating on any pathways or sidewalks specified for pedestrian use	sec. 5-1(h)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(w) Operating all-terrain vehicle without eye protection	sec. 5-1(j)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$100.00
(x) Operating in any streams or creeks	sec. 5-1(k)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
(y) Illegally operating on or adjacent to highways	sec. 5-5.	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00

(z) Obstructing trail.	sec. 5-10 (e)	1 st Violation: \$25.00 2 nd Violation: \$50.00 3 rd Violation: \$150.00
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410.7. Violations, Enforcement and Appeals

410.7-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this law may include sanctions, fines, penalties and conditional and other orders in accordance with the schedule developed under section 410.6-1. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(a) Any order issued pursuant to this law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner’s expense.

(b) The Oneida Police Department, by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

410.7-2. *Hearing and Appeals of Contested Actions.* All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved.

(a) *Community Service.* Community service may be substituted for monetary fines at the Judiciary’s discretion, provided that, if so substituted, the Judiciary shall use the rate of one (1) hour per ten dollars (\$10) of the fine.

(b) *Allocation of Citation Revenue.* All citations shall be paid to the Environmental Resource Board or its designee, the proceeds of which shall be contributed to General Fund.

(c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure.

(d) *Pursuing Payment of a Citation.* The Environmental Resource Board may pursue payment from parties who have failed to make the required payments through the garnishment process contained in the Garnishment law and/or by attaching the judgment to Tribal member’s per capita payment pursuant to the Per Capita law.

End.

Emergency Adoption - BC-9-24-03-A
Emergency Adoption Extension - BC-3-31-04-C
Permanent Adoption - BC-6-16-04-B
Amended – BC-07-26-17-E