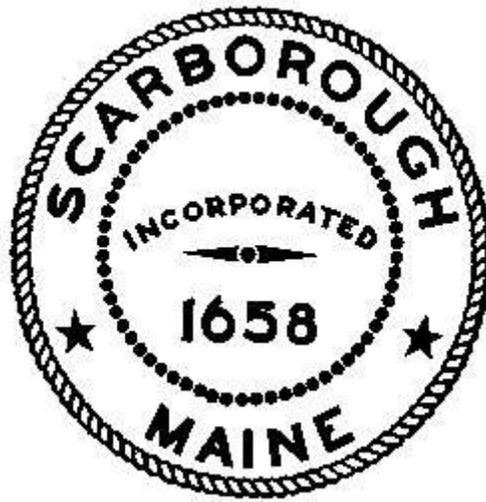


CHAPTER 606

TOWN OF SCARBOROUGH

ALL TERRAIN VEHICLE ORDINANCE



ADOPTED 11/05/1986
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CHAPTER 606
TOWN OF SCARBOROUGH
ALL-TERRAIN VEHICLE ORDINANCE

The Town Council of the Town of Scarborough, Maine ordains as follows:

Section 1. Title.

This Ordinance shall be known and may be cited as the “ATV Ordinance of the Town of Scarborough, Maine.”

Section 2. Purpose and Preamble.

The increasing use of all terrain vehicles within the municipal boundaries of the Town of Scarborough has generated safety, recreational and environmental issues which it is the responsibility of the Town of Scarborough to address. The purpose of this Ordinance is to regulate the use of all-terrain vehicles to protect the environment, to ensure that the recreational use of all-terrain vehicles is compatible with other recreational uses within municipal boundaries, to promote the health and safety of the operators and the general public by requiring adherence to certain rules and regulations designed to ensure the safe operation of such vehicles, and to restrict the use of all-terrain vehicles to areas where such use is appropriate and permitted.

Section 3. Authority.

This Ordinance is enacted pursuant to the authority granted to home rule municipalities by 30 M.R.S.A. Sections 1917 and 2151.

Section 4. Definitions.

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings:

1. ATV.

“ATV” means all-terrain vehicle.

2. Accompanied by an adult.

“Accompanied by an adult” means 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.

3. All-terrain vehicle.

“All-terrain vehicle” means a motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel or belt-driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this Ordinance, “all-terrain” does not include a snowmobile; an

airmobile; a construction of logging vehicle used in performance of its common functions; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

4. Alpine Tundra.

“Alpine Tundra” means high elevation treeless areas beyond the timberline which are dominated by low herbaceous or shrubby vegetation and, specifically, areas which are designated as alpine tundra by the Department of Conservation by rule pursuant to Title 5, chapter 375, subchapter ii.

5. Freshwater marshes and bogs.

“Freshwater marshes and bogs” means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission, of the Maine Revised Statutes Annotated.

6. Operate.

“To operate” in all its moods and tenses when it refers to an ATV, means to use an ATV in any manner within the jurisdiction of the Town of Scarborough, whether or not the vehicle is moving.

7. Owner.

“Owner” for the purposes of registration, means any person holding title to an ATV.

8. Protective headgear.

“Protective headgear” means helmets which conform 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 Standards No. 218.

Section 5. Administration.

The Town Clerk shall be the designated municipal agent to issue ATV registrations pursuant to 12 M.R.S.A. Section 7854, Subsection 1-A, as amended. The Town Clerk shall charge a service fee of \$1.00 for each ATV registration issued, which shall be retained by the Town of Scarborough and credited to the General Fund, and shall collect the registration fee due to the State. The Town Clerk shall report to the Commissioner of the Department of Inland Fisheries and Wildlife on or before the fifteenth day of each calendar month as required by 12 M.R.S.A. Section 7854, Subsection 1-A.

Section 6. Operating on the Land of Another.

1. Except as specified in subsection 3 of this section, no person shall go on or cross the land of another to operate an ATV without the written permission of the landowner, which written permission shall be carried on the person of the operator.

2. Any person operating an ATV upon the land of another shall stop and identify herself/himself and shall produce her/his written permission to operate on the land upon the request of the landowner or her/his duly authorized representative or a law enforcement officer. [Amended 11/01/17]

3. Members of an ATV club or other organization may operate ATV's on all or any portion of the land of another without carrying on their persons the written permission of the owners, provided that the club or organization has obtained written authorization from the landowner allowing members to operate ATV's upon all or designated portions of her/his land. The written authorization, when filed with the Town's Police Chief, shall constitute notice to law enforcement officers that members need not carry on their persons the written permission of the landowner to operate an ATV on her/his property. [Amended 11/01/17]

Section 7. Operating on Municipal or School Property.

No person may operate an ATV on property owned by the Town of Scarborough or on any school property.

Section 8. Prohibited Acts.

1. Operating an unregistered ATV.

Except as provided in subsection 24, paragraphs A and B, no person may operate an ATV which is not registered in accordance with 12 M.R.S.A. Section 7854.

2. Unlawfully operating an ATV on a snowmobile trail.

No person may operate any 4-wheel drive vehicle, dune buggy, ATV, motorcycle or any other motor vehicle, other than a snowmobile and appurtenant equipment, on snowmobile trails which are financed in whole or in part with funds from the Snowmobile Trail Fund, unless that use has been authorized by the landowner or her/his agent, or unless the use is necessitated by an emergency involving safety of persons or property. [Amended 11/01/17]

3. Unlawfully operating an ATV on a private road.

No person may operate an ATV upon any private road after having been forbidden to do so by the owner thereof, the owner's agent or a municipal official, either personally or by appropriate notices posted conspicuously on that road.

4. Operating an ATV on a public way.

Except as provided in subsection 24, paragraph C, no person may operate an ATV upon any portion of a public way maintained or utilized for the operation of conventional motor vehicles or upon the sidewalks of any public way.

A. This subsection does not apply to ATV's registered with the Secretary of State under Title 29.

5. Failing to stop an ATV before entering a public way.

No person who operates an ATV may enter a public way without first bringing the ATV to a complete stop.

6. Failing to yield right-of-way while operating an ATV.

Any person who operates an ATV on a public way shall yield the right-of-way to all other types of vehicular traffic.

7. Crossing a closed bridge, culvert, overpass or underpass with an ATV.

No person may cross with an ATV a bridge, culvert, overpass or underpass closed to ATV's by the Commissioner of Transportation and posted by appropriate notices.

8. Reckless operating on an ATV.

No person may operate an ATV in such a way as to recklessly create a substantial risk of serious bodily injury to another person.

9. Operating an ATV to endanger.

No person may operate any ATV so as to endanger any person or property.

10. Operating an ATV at greater than reasonable and prudent speed.

No person may operate any ATV except at a reasonable and prudent speed considering the existing conditions.

11. Unlawfully operating an ATV while under age.

No person is under the age of 15 years of age may operate an ATV across any public way maintained for travel or operate an ATV while unaccompanied by an adult, except as provided in subsection 24, paragraph D. Notwithstanding this subsection, persons over the age of 12 years, who have successfully completed a training course approved by the Department of Inland Fisheries and Wildlife pursuant to 12 M.R.S.A. section 7853, may cross public ways as permitted under subsection 24, paragraph D, subparagraph (1).

12. Operating an ATV without a certificate of training.

Except as provided in subsection 24, paragraph D, no person under 18 years of age may operate an ATV without having successfully completed a training course approved by the Department of Inland Fisheries and Wildlife pursuant to 12 M.R.S.A. section 7853.

13. Operating an ATV without protective headgear.

Notwithstanding 29 M.R.S.A. section 1376, no person under 18 years of age may operate an ATV without protective headgear.

14. Permitting an unaccompanied child to operate an ATV.

Except as provided in subsection 24, paragraph D, no person may permit a child under 15 years of age to operate any ATV, unless the child is accompanied by an adult.

15. Operating an ATV without a muffler.

Except as provided in subsection 24, paragraph B, no person may operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the notice of the exhaust.

A. Each ATV shall meet noise omission standards of the United States Environmental Protection Agency, and in no case exceed 82 decibels of sound pressure at 50 feet on the "A" scale as measured by the SAE standards J-192.

B. Each ATV shall be equipped with a working spark arrestor.

C. No person may modify the exhaust system of any ATV in any manner which will increase the noise emitted above the emission standard provided in paragraph A.

16. Operating an ATV with insufficient lights.

Except as provided in subsection 24, paragraphs B and D, no person may operate an ATV unless the ATV is equipped as follows:

A. Every ATV shall 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.

B. Every ATV shall have mounted on the rear at least one lamp capable of displaying a red light which shall be visible at a distance of at least 100 feet behind the ATV.

17. Failure to use ATV lights.

Except as provided in subsection 24, paragraph B, no person may operate an ATV except when using the lights required under subsection 16 as follows:

A. During the period from ½ hour after sunset to ½ hour before sunrise; and

B. At any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead.

18. Operating an ATV on railroad tracks.

No person may operate an ATV along or adjacent and parallel to the tracks of any railroad within the limits of the railroad right-of-way without written permission from the railroad.

19. Operating too close to certain buildings.

Except as provided in subsection 24, paragraph F, no person may operate an ATV within 200 feet of any dwelling, hospital, nursing home, convalescent home or church.

20. Unlawfully permitting operation.

A person unlawfully permits the operation of an ATV, if he/she owns an ATV which is operated by another person in violation of any section of this Ordinance. A person unlawfully permits the operation of an ATV if he/she is the parent or guardian responsible for the care of a minor under 18 years of age who operates an ATV in violation of this Ordinance. [Amended 11/01/17]

21. Failure to report accident.

Any person shall report an ATV accident if:

A. He/She is the operator of an ATV involved in any accident resulting in injuries requiring the services of a physician, in death of any person or in property damage

to the estimated amount of \$200 or more; if he/she is some person acting for such an operator; or if he/she is the owner of the involved ATV and he/she has knowledge of the accident, should the operator of the ATV be unknown; and [Amended 11/01/17]

B. Notice of the accident shall be provided by the quickest means of communications to a law enforcement officer available nearest to the place where the accident occurred.

22. Operating an ATV in a prohibited area.

No person may operate an ATV in any prohibited area, which areas are defined as any salt marsh, intertidal zone, sand dune or any cemetery, burial place or burying ground, on alpine tundra or on a freshwater marsh or bog, other than on a trail designated for ATV use by the Department of Conservation, when the ground is not frozen and sufficiently covered with snow to prevent direct damage to the vegetation.

23. Operating an ATV on cropland or pastureland.

No person may operate an ATV on any cropland or pastureland without the written permission of the owner or lessee. As used in this subsection, cropland means acreage in tillage rotation, land being cropped and land in bush fruits. Pastureland means acreage devoted to the production of forage plants used for animal production.

24. Exceptions.

The following exceptions apply to the operation of an ATV.

A. Notwithstanding the provisions of subsection 1:

(1) No registration is required for an ATV operated on land on which the owner lives or on lands on which he/she is domiciled, provided that the ATV is not operated elsewhere within the jurisdiction of this State;

(2) No registration is required for an ATV operated by a commercial ski area for the purpose of packing snow or for rescue operation thereof, unless the ATV is required to cross a public way during that operation; and

(3) ATV's owned and operated in this State by the Federal Government, the State or a political subdivision of the State shall be exempt from registration fees, but shall be registered and required to display numbers.

B. Notwithstanding subsections 1, 15, 16 and 17, ATV's used exclusively for scheduled racing meets and operated solely on predefined race courses are exempt from the provisions of this subchapter concerning registration, mufflers and lights during the time of operation at these meets and at all prerace practices at the location of the meet.

C. Notwithstanding the provisions of subsection 4:

(1) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme

right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert;

(2) Properly registered ATV's may operate on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing, as directly as possible, a bridge, overpass or underpass, provided that operation can be made in safety and that it does not interfere with traffic approaching from either direction on the public way;

(3) ATV's may be operated on any portion of public ways when the public way has been closed in accordance with 23 M.R.S.A. Section 2953 of the Maine Revised Statutes;

(4) ATV's may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a public agency having jurisdiction and when travel by conventional motor vehicles is not practicable; and

(5) ATV's may be operated on a public way which is not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way shall be prohibited during the hours from sunset to sunrise; and

(6) ATV's may be operated on streets and public ways in special events of limited duration conducted according to a prearranged schedule, under a permit from the governmental unit having jurisdiction.

D. Notwithstanding subsections 11, 12 and 14, those subsections do not apply on land which is owned by the parent or guardian of the operator.

E. Notwithstanding subsection 16, ATV's manufactured without a headlight or taillight are exempt from the provisions of that subsection while being operated between the hours of sunrise and sunset.

F. Notwithstanding subsection 19, that subsection does not apply in the following situations:

(1) When operating on public ways in accordance with subsections 4, 5, 6, and 7.

(2) When operating on the frozen surface of any body of water; and

(3) When operating on land which the operator owns or is permitted to use.

Section 9. Violations

Any person who engages in any act prohibited by this Ordinance commits a civil violation and shall be liable for a civil penalty not to exceed \$25.00 and each day such activity occurs shall constitute a separate violation. All fines collected shall inure to the benefit of the Town of Scarborough.

Section 10. Impoundment.

Any ATV operated in violation of this Ordinance by a minor under eighteen (18) years of age may be impounded for up to 24 hours and shall be released only to the parent or guardian of the minor operating the impounded vehicle. The parent or guardian may claim the impounded vehicle upon payment of cost of the impoundment.

Section 11. Severability.

If any section, subsection or portion of this ordinance is declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Section 12. Effective Date.

This Ordinance shall take effect and be in full force and effect from and after the date of its official adoption. Adopted November 5, 1986.