

FOND DU LAC ORDINANCE #05/99, AMENDED
OFF-ROAD VEHICLE OPERATION

Adopted by Resolution #1192/99 of the Fond du Lac Reservation
Business Committee on June 15, 1999.
Amended by Resolution #1400/07 of the Fond du Lac Reservation
Business Committee on September 20, 2007.

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FOND DU LAC ORDINANCE #05/99, AMENDED

OFF-ROAD VEHICLE OPERATION

CHAPTER 100

AUTHORITY, PURPOSE & DEFINITIONS

Section 101 **Authority**

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as granted by Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, and under the Treaty of LaPointe with the United States of September 30, 1854, 10 Stat. 1109.

Section 102 **Purpose**

The purpose of this Ordinance is to protect the health, safety and welfare of the residents of the Fond du Lac Reservation through the establishment of minimum standards of operation for all-terrain vehicles (ATVs), off-road recreational motor vehicles and snowmobiles within the boundaries of the Fond du Lac Reservation.

Section 103 **Definitions**

The terms used in this Ordinance shall have the following meanings:

- (a) "All-terrain vehicle" (ATV) means any motorized floatation-tired vehicle with three tires or more which is designed for off-road use.
- (b) "Band" means the Fond du Lac Band of Lake Superior Chippewa.
- (c) "Band member" means an enrolled member of the Fond du Lac Band of Lake Superior Chippewa.

- (d) "Band officer" means any peace officer or conservation officer of the Fond du Lac Band, and any officer of a federal, state or local government with which the Reservation Business Committee has entered into an agreement for the purposes of enforcing the provisions of this Ordinance.
- (e) "Fond du Lac Reservation" means all lands within the exterior boundaries of the Fond du Lac Reservation and all trust lands held by the United States for the Fond du Lac Band.
- (f) "Minnesota Chippewa Tribe" means the federally-recognized Indian tribe organized pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. §476, comprising the Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth Bands of Chippewa.
- (g) "Public roadway" means any highway, street, or other roadway situated within the boundaries of the Fond du Lac Reservation.
- (h) "Public road right-of-way" means the entire right-of-way of a public roadway that is not privately-owned, including the traveled portion and adjacent banks, ditches, shoulders and medians.
- (i) "Recreational motor vehicle" means all-terrain vehicles, off-road vehicles and off-highway motorcycles.
- (j) "Registrar" means the Registrar of the Fond du Lac Band.
- (k) "Reservation Business Committee" means the governing body of the Fond du Lac Band.
- (l) "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

Section 104 Scope

The provisions of this Ordinance shall apply to all enrolled members of the Fond du Lac Band and to other enrolled members of the Minnesota Chippewa Tribe who are drivers of off-road vehicles within the boundaries of the Fond du Lac Reservation, and to any person driving an off-road vehicle on lands which are owned by or on behalf of the Fond du Lac Band or the Minnesota Chippewa Tribe within the boundaries of the Fond du Lac Reservation.

Section 105 Nonwaiver of Immunity

Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Band or the Minnesota Chippewa Tribe, which shall extend to all officers, employees and agents who are engaged in the administration or enforcement of the provisions herein.

CHAPTER 200

VIOLATIONS

Section 201 Violations

It shall be a violation of this Ordinance for any person who is subject to this Ordinance, while within the boundaries of the Fond du Lac Reservation, to do any act, whether by omission or commission, which would constitute a violation of any specific section of this Chapter.

Section 202 Failure to Comply; Obstruction of an Officer

No person who is subject to this Ordinance shall willfully fail or refuse to comply with any lawful order or direction of any officer who has been authorized by the Fond du Lac Reservation Business Committee to administer or enforce the provisions of this Ordinance. No member shall obstruct the efforts of, or flee from, any officer who is lawfully engaged in the administration or enforcement of this Ordinance.

Section 203 Placement, Defacement or Removal of Signs

No person who is subject to this Ordinance, while operating an off-road vehicle shall, without lawful authority, place, deface, alter, knock down, or remove any sign, or any part thereof, without the landowner's permission.

Section 204 All-Terrain Vehicles and Off-Road Motorcycles

No person who is subject to this Ordinance shall operate an all-terrain vehicle or off-road motorcycle:

- (a) Along or on the roadway, shoulder, or inner slope of the ditch of a state or county highway;
- (b) On the median of a multiple-lane highway;
- (c) Within the right-of-way of any intersection;
- (d) On the right-of-way between opposing lanes of traffic;

- (e) Within the boundaries of any airport;
- (f) In a tree nursery or planting area, or where such operation would damage growing stock;
- (g) On agricultural land without the landowner's permission;
- (h) In a careless or reckless manner that injures or endangers the operator, another person or another person's property;
- (i) In a manner involving entry onto or leaving lands by tearing down any fence or gate;
- (j) At a speed in excess of 50 mph on any public lands or waters, at a speed greater than is reasonable under the surrounding circumstances or greater than the posted speed limit on any public lands, waters, trails, or public road right-of-ways;
- (k) Over 10 miles per hour on the frozen surface of public waters within 100 feet of a person fishing or a fishing shelter;
- (l) With more persons on a vehicle than it is designed to carry;
- (m) Passing through a closed gate without returning it to its original position;
- (n) On legally posted land without landowner's permission; or
- (o) On snowmobile or ski trails unless specifically permitted.

Section 205 Snowmobiles

No person who is subject to this Ordinance shall operate a snowmobile:

- (a) Along or on the roadway, shoulder, or inner slope of the ditch of a state or county highway;
- (b) On the median of a multiple-lane highway;
- (c) Within the right-of-way of any intersection;
- (d) On the right-of-way between opposing lanes of traffic;
- (e) Within the boundaries of any airport;

- (f) In a tree or nursery planting area;
- (g) On agricultural land without the landowner's permission;
- (h) In a careless or reckless manner that injures or endangers the operator, another person or another person's property;
- (i) In a manner involving entry onto or leaving lands by tearing down any fence or gate;
- (j) At a speed in excess of 50 mph on any public lands or waters, at a speed greater than is reasonable under the surrounding circumstances or greater than the posted speed limit on any public lands, waters, trails, or public road right-of-ways;
- (k) Over 10 miles per hour on the frozen surface of public waters within 100 feet of a person fishing or a fishing shelter;
- (l) With more persons on a vehicle than it is designed to carry;
- (m) On legally posted land without landowner's permission; or
- (n) Passing through a closed gate without returning it to its original position.

Section 206 Crossing Public Roads

When making a direct crossing of a public roadway, the operator of any off-road vehicle shall:

- (a) Come to a complete stop and look both ways;
- (b) Yield to all traffic;
- (c) Cross a divided road only at an intersection; and
- (d) Use headlights and taillights between one half hour before sunset and one half hour after sunrise or in conditions of reduced visibility.

Section 207 Operation While Intoxicated

No person who is subject to this Ordinance shall operate an off-road vehicle while under the influence of alcohol or a controlled substance. Any operator who is impaired may be required to take tests by an enforcement officer to determine the operator's sobriety. Refusal to submit to testing shall automatically result in a charge under this section. An operator who is found to be

under the influence of alcohol or controlled substances, or at an .10 alcohol concentration or higher, shall be subject to the following penalties:

- (l) Up to \$700 fine plus surcharges;
- (m) Loss of off-road operating privileges for up to one year;

Section 208 Youthful Operators

(a) ATVs and Off-road Motorcycles. It is unlawful for any person who is subject to this Ordinance to permit an off-road vehicle under that persons' control to be operated contrary to the following requirements:

- (1) Persons under age 12. Persons under age 12 may operate an all-terrain vehicle or off-road motorcycle only on private property with permission of the landowner.
- (2) Persons age 12 to 15. Persons age 12-15 may operate an ATV or off-road motorcycle which is 90cc or less on public lands and frozen waters, streams and shorelines with safety certificate and under supervision of parent or legal guardian, or other person 18 years of age or older who holds a valid drivers license. For the purpose of this subsection, "supervision" means that the person must be accompanied by a parent, legal guardian, or other person 18 years of age or older who holds a valid drivers license.
- (3) Persons age 16 to 17. Persons age 16 to 17 may operate an ATV or off-road motorcycle on public lands and frozen waters, streams and shorelines without a safety certificate if in possession of a valid drivers license.

(b) Snowmobiles. It is unlawful for any person who is subject to this Ordinance to permit a snowmobile under that person's control to be operated contrary to the following requirements:

- (1) Persons under age 12. Persons under age 12 may drive snowmobiles on public lands and waters if accompanied by a licensed driver who is at least 18 years of age.
- (2) Persons ages 12 and 13. Persons age 12 and 13 may drive snowmobiles on public lands and waters if accompanied by a licensed driver who is at least 18

years of age or in possession of a safety certificate, but may not drive snowmobiles on or across state or county roads.

(3) Persons age 14 to 17. Persons ages 14 to 17 may drive on public lands and waters without a safety certificate or adult accompaniment, but may not drive snowmobiles on or across state or county roads unless in possession of a safety certificate or a valid drivers license.

(c) Helmets. Any operator of an off-road vehicle under age 18 must wear a helmet while operating on public lands, waters and on public road right-of-ways.

Section 209 Related Game Laws

No person who is subject to the provisions of this Ordinance shall:

- (a) Discharge a firearm, crossbow or bow and arrow from an off-road vehicle, unless in possession of a valid special permit issued to disabled persons by the Fond du Lac Band for that purpose;
- (b) Transport a firearm on any off-road vehicle unless it is unloaded and completely enclosed in a case;
- (c) Transport an archery bow or crossbow on an off-road vehicle unless it is unstrung or enclosed in a case; or
- (d) Use any off-road vehicle to chase, run over or kill a wild animal.

CHAPTER 300

PENALTIES

Section 301 Misdemeanors

Violations of the prohibitions set forth under Chapter 200 of this Ordinance shall constitute misdemeanors and shall be subject to the fines imposed under Section 302 of this Chapter, and to the additional penalties for recurrent violations as authorized under Section 303.

Section 302 Fines

The following fines shall apply to violations under Chapter 200 of this Ordinance:

FINE SCHEDULE

VIOLATION DESCRIPTION	ORDINANCE SECTION	FINE
Failure to comply with lawful order or direction of peace officer	202	\$50.00
Obstruction of, or flee from, a peace officer	202	\$200.00
Placement, defacement or removal of signs	203	\$40.00 + damages
Operating along or on the roadway, shoulder, or inner slope of the ditch of a state or county highway	204 (a) 205 (a)	\$80.00
Operating on the median of a multiple-lane highway	204 (b) 205 (b)	\$80.00
Operating within the right-of-way of any intersection	204 (c) 205 (c)	\$80.00
Operating on the right-of-way between opposing lanes of traffic	204 (d) 205 (d)	\$80.00
Operating within the boundaries of any airport	204 (e) 205 (e)	\$80.00
Operating in a tree nursery or planting area, or where such operation would damage growing stock	204 (f)	\$200.00
Operating in a tree or nursery planting area	205 (f)	\$200.00

VIOLATION DESCRIPTION	ORDINANCE SECTION	FINE
Operating on agricultural land without the landowner's permission	204 (g) 205 (g)	1 st Offense: \$50.00 2 nd Offense within 3 years: \$200.00 3 rd Offense within 3 years: \$500.00 and loss of privileges for one year
Operating in a careless or reckless manner that injures or endangers the operator, another person or another person's property	204 (h) 205 (h)	\$300.00
Operating in a manner involving entry onto or leaving lands by tearing down any fence or gate	204 (i) 205 (i)	\$40.00 + damages
Operating at a speed in excess of 50 mph on any public lands or waters, at a speed greater than is reasonable under the surrounding circumstances, or at a speed greater than the posted speed limit on any public lands, waters, trails, or public road right-of-ways	204 (j) 205 (j)	\$200.00
Operating over 10 miles per hour on the frozen surface of public waters within 100 feet of a person fishing or a fishing shelter	204 (k) 205 (k)	\$70.00
Operating with more persons on a vehicle than it is designed to carry	204 (l) 205 (l)	\$70.00
Passing through a closed gate without returning it to its original position	204 (m) 205 (m)	\$20.00
Operating on legally posted land without landowner's permission	204 (n) 205 (n)	1 st Offense: \$50.00 2 nd Offense within 3 years: \$200.00 3 rd Offense within 3 years: \$500.00
Operating on snowmobile or ski trails unless specifically permitted	204 (o)	\$100.00
Failure to come to a complete stop and look both ways when crossing a public roadway	206 (a)	\$50.00
Failure to yield to all traffic when crossing a public roadway	206 (b)	\$50.00
Failure to cross a divided road only at an intersection	206 (c)	\$50.00
Failure to use headlights and taillights during designated hours or under conditions of reduced visibility	206 (d)	\$50.00
Operating while intoxicated	207	Up to \$700.00 + loss of off- road driving privileges for up to one year upon conviction

VIOLATION DESCRIPTION	ORDINANCE SECTION	FINE
Violation of Youthful Operators requirements	208 (a) (1) ; 208 (a) (2) ; 208 (a) (3) ; 208 (b) (1) ; 208 (b) (2) ; 208 (b) (3) .	\$80.00
Operating without a helmet	208 (c)	\$20.00
Discharge of a firearm, crossbow or bow and arrow from an off-road vehicle without possessing a valid special permit issued to disabled persons by the Band for that purpose	209 (a)	\$500.00
Transporting a loaded or uncased firearm on any off-road vehicle	209 (b)	Daytime loaded: \$90.00 Daytime uncased: \$45.00 Nighttime loaded: \$200.00 Nighttime uncased: \$165.00
Transporting a strung or uncased archery bow or crossbow	209 (c)	\$45.00
Use of off-road vehicle to chase, run over or kill a wild animal	209 (d)	\$300.00

Section 303 Recurrent Violations

- (a) The Fond du Lac Tribal Court may impose such additional fines as deemed reasonable and necessary in the pursuit of the purposes of this Ordinance for recurrent violations by any individual within 1 year of a plea or judgment of guilty for the same violation, provided that in no event shall such additional fines exceed twice the amount prescribed for such violation under Section 302 of this Chapter.
- (b) In the administration of this Section, the Tribal Court shall recognize and give effect to recurrent violations of comparable provisions of the laws of another jurisdiction.

CHAPTER 400

FORUM AND PROCEDURES

Section 401 Jurisdiction of Fond du Lac Tribal Court

The Fond du Lac Tribal Court shall exercise exclusive jurisdiction over violations of this Ordinance, and shall hear all such actions in accordance with the Fond du Lac Civil Code, FDL Ord. #04/92, as amended, except where the specific provisions of this Ordinance require otherwise.

Section 402 Notice to Appear

When any person is cited for any violation of this Ordinance, the Band officer shall prepare written notice to appear in Fond du Lac Tribal Court. The citation shall have the effect of, and shall serve as, a summons and complaint. The citation must be signed by the Band officer, and shall include the name, his or her drivers license number, the license number and vehicle identification number of the vehicle, the specific offense charged and the date, time and place that he or she is to appear in Court, if known. The officer shall retain the original of the notice and deliver a copy thereof marked "summons" to the person cited.

Section 403 Failure to Appear

Any person who has been duly served in accordance with Section 402 of this Chapter and fails to appear before the Tribal Court without just cause shall be subject to a default judgment, provided that he or she is found guilty of the charge upon which he or she was originally cited.

Section 404 Recordkeeping and Dissemination of Information

- (a) Information collected and maintained in the administration of this Ordinance shall be kept on file with the Tribal Court for a period of at least five (5) years, and shall otherwise be maintained in accordance with the data practices procedures of the Fond du Lac Band.

(b) Information collected and maintained in the administration of this Ordinance shall be released to the law enforcement agencies and courts of another jurisdiction as authorized by formal agreement between the Fond du Lac Band and such other jurisdiction.

CHAPTER 500

AMENDMENT

Section 501 Amendment

The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #05/99, was duly presented and adopted by Resolution #1192/99 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on June 15, 1999, on the Fond du Lac Reservation, and subsequently amended as follows: by Resolution #1400/07 on September 20, 2007.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer

laws.9905 (012302) (092007)

Fond du Lac Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION # 1259/04

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:



Chairman
Peter J. Defoe

Secretary/Treasurer
Kevin R. Dupuis, Sr.

Dist. I Councilman
Eugene Reynolds

Dist. II Councilman
V.R. "Butch" Martineau

Dist. III Councilman
Roger "Bouda" Smith, Sr.

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

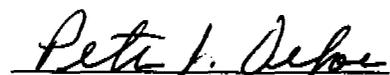
WHEREAS, the Reservation Business Committee adopted the Fond du Lac Off-Road Vehicle Operation Ordinance, FDL Ord. #05/99 on June 15, 1999; and

WHEREAS, the Reservation Business Committee has determined it to be necessary and in the best interests of the Fond du Lac Band to provide specific enforcement authority to the Conservation and Law Enforcement Officers of the Fond du Lac Band for the administration and enforcement of provisions of the Fond du Lac Off-Road Vehicle Operation Ordinance, FDL Ord. #05/99;

NOW THEREFORE BE IT RESOLVED, that the Reservation Business Committee hereby authorizes and directs the Conservation and Law Enforcement Officers of the Fond du Lac Band to administer and enforce the provisions of the Fond du Lac Off-Road Vehicle Operation Ordinance, FDL Ord. #05/99.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 21, 2004, on the Fond du Lac Reservation.


Peter J. Defoe, Chairman


Kevin R. Dupuis, Sr., Sec./Treas.

Fond du Lac Reservation

Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

RESOLUTION #1400/07

AMENDING ORDINANCE #05/99, SECTION 208



Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Councilman
Eugene Reynolds

Dist. II Councilperson
Sandra M. Shabiash

Dist. III Councilman
Roger "Bouda" Smith, Sr.

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

WHEREAS, the Fond du Lac Reservation is a sovereignty, created by the Treaty of September 30, 1854, 10 Stat. 1109, as the permanent home of the Fond du Lac Band of Lake Superior Chippewa, which possesses the inherent jurisdiction and authority to exercise regulatory control within the boundaries of the Fond du Lac Reservation; and

WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the Governing Body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., to assume the responsibilities of self government; and

WHEREAS, the Reservation Business Committee enacted Fond du Lac Ordinance #05/99, entitled "Off-Road Vehicle Operation" on June 15, 1999, in order to protect the health, safety and welfare of the residents of the Fond du Lac Reservation; and

WHEREAS, the Reservation Business Committee has determined it to be in the best interests of the Fond du Lac Band to amend the Off-Road Vehicle Operation Ordinance by amending Section 208(a)(2) and (3), as follows:

Section 208 Youthful Operators

- a. ATVs and Off-road Motorcycles. It is unlawful for any person who is subject to this Ordinance to permit an off-road vehicle under that persons's control to be operated contrary to the following requirements:
 2. Persons age 12 to ~~16~~15. Persons age 12-~~16~~ 15 may operate an ATV or off-road motorcycle which is 90cc or less on public lands and frozen waters, streams and shorelines with safety certificate and under supervision of parent or legal guardian, or other person 18 years of age or older who holds a valid drivers license. For the purpose of this subsection, "supervision" means that the person must be accompanied by a parent, legal guardian, or other person 18 years of age or older who holds a valid drivers license.
 3. Persons age 16 to ~~18~~17. Persons age 16 to ~~18~~ 17 may operate an ATV or off-road motorcycle on public lands and frozen waters, streams and shorelines without a safety certificate if in possession of a valid drivers license.

RESOLUTION #1400/07

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NOW THEREFORE, the Fond du Lac Reservation Business Committee does hereby adopt the foregoing amendments to Section 208 of the "Off-Road Vehicle Operation" Ordinance #05/99, and hereby directs said amendments to be incorporated into Ordinance #05/99, to become effective this day.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on September 20, 2007 on the Fond du Lac Reservation.



Karen R. Diver,
Chairwoman



Ferdinand Martineau, Jr.,
Secretary/Treasurer

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