

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA
ORDINANCE #04/94, AMENDED
GOVERNING REGISTRATION AND LICENSING OF
ALL-TERRAIN VEHICLES AND OFF-HIGHWAY MOTORCYCLES
CHAPTER 400

Adopted by Resolution #1051/94 of the Fond du Lac Reservation Business Committee dated February 8, 1994.
Amended by Resolution #1065/94 of the Fond du Lac Reservation Business Committee dated February 15, 1994.
Amended by Ordinance #07/97, adopted by Resolution #1130/97 of the Fond du Lac Reservation Business Committee dated June 24, 1997.
Amended by Resolution #1170/99 of the Fond du Lac Reservation Business Committee dated June 8, 1999.
Amended by Resolution #1364/99 of the Fond du Lac Reservation Business Committee dated October 5, 1999.
Amended by Resolution #1398/07 of the Fond du Lac Reservation Business Committee dated September 20, 2007.
Amended by Resolution 1420/17 of the Fond du Lac Reservation Business Committee dated December 19, 2017.

**FOND DU LAC ALL-TERRAIN VEHICLE AND OFF-HIGHWAY MOTORCYCLE
REGISTRATION AND LICENSING ORDINANCE**

#04/94, AMENDED

CHAPTER 400

PREAMBLE

This Chapter of FDL Ordinance #04/94 is enacted by the Fond du Lac Band of Lake Superior Chippewa to provide for the establishment of standards for the registration and licensing of All-Terrain Vehicles and Off-Highway Motorcycles, the establishment of lawful regulation for the operation of All-Terrain Vehicles and Off-Highway Motorcycles and other related purposes.

SECTION. 1. PURPOSE.

The Fond du Lac Reservation Business Committee as the governing body of the Fond du Lac Band of Lake Superior Chippewa finds that the registration and licensing of All-Terrain Vehicles and Off-Highway Motorcycles within the boundaries of the Reservation has a direct affect on the political integrity, economic security, and health and welfare of its members. Pursuant to the inherent powers of the Fond du Lac Band to exercise civil regulatory authority in such matters and pursuant to the authorities in Article I, Sec. 3; Article VI, Sec. 1(b), (c), (d) and (e) of the constitution of the Minnesota Chippewa Tribe, the Reservation Business Committee of the Fond du Lac Band of Lake Superior Chippewa has enacted this Fond du Lac All-Terrain Vehicles and Off-Highway Motorcycles Registration and Licensing Ordinance regulating the registration and licensing of All-Terrain Vehicles and Off-Highway Motorcycles within the presently recognized boundaries of the Fond du Lac Reservation.

SECTION 1.1 APPLICATION.

The provisions of Chapter 400, the "Fond du Lac All-Terrain Vehicle and Off-Highway Motorcycles Registration and Licensing Ordinance," shall apply to owners of All-Terrain Vehicles and Off-Highway Motorcycles who are enrolled members of the Fond du Lac Band of Lake Superior Chippewa and who reside within the boundaries of the Fond du Lac Reservation, and to All-Terrain Vehicles and Off-Highway Motorcycles owned and operated by the governing body of the Fond du Lac Band of Lake Superior Chippewa.

SECTION 2. DEFINITIONS.

Subdivision 1. In this Ordinance the following words and phrases have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning.

Subd. 2. "All-Terrain Vehicle" ("ATV") or "vehicle" means motorized flotation-tired vehicle of not less than three low pressure tires that is limited in engine displacement, as prescribed by rules of the Registrar.

Subd. 3. "Court" means the Fond du Lac Tribal Court.

Subd. 4. "Fond du Lac Band" means the Fond du Lac Band of Lake Superior Chippewa.

Subd. 5. "Fond du Lac Reservation" means all the lands within the boundaries of the Fond du Lac Reservation as established by the Treaties of September 30, 1854, 10 Stat. 1109 and the Executive Order of 1858.

Subd. 6. "License" means the number assigned an all-terrain vehicle or off-highway motorcycle together with a registration decal evidencing the validity of the license.

Subd. 7. "Licensing" means the assignment of a registration number and the issuance of a registration decal to an all-terrain vehicle or off-highway motorcycle.

Subd. 7a. "Off-Highway Motorcycle (OHMs)" means motorized, off-highway vehicles traveling on two wheels. OHMs have a seat or saddle designed to be straddled by the operator and have handlebars for steering control.

Subd. 8. "Operate" means to ride in or on and control the operation of an all-terrain vehicle or off-highway motorcycle.

Subd. 9. "Operator" means every person who operates or is in actual physical control of an all-terrain vehicle or off-highway motorcycle.

Subd. 10. "Owner" means any person, other than a lien holder, having the property in or title to an all-terrain vehicle or off-highway motorcycle entitled to the use or possession thereof.

Subd. 11. "Person" includes an individual, partnership, corporation, the Fond du Lac Band and its subdivisions, and any body of persons, whether incorporated or not.

Subd. 12. "Register" means the act of issuing a registration certificate and assigning a registration number to an all-terrain vehicle or off-highway motorcycle, and to renew same.

Subd. 13. "Registrar" means the individual duly appointed by the Reservation Business Committee as the Registrar of the Fond du Lac Motor Vehicle Licensing Administration.

Subd. 14. "Registration Certificate" means the document issued by the Registrar evidencing registration and certifying ownership.

Subd. 15. "Reservation Business Committee" means the governing body of the Fond du Lac Band of Lake Superior Chippewa.

SECTION 3. ALL-TERRAIN VEHICLE AND OFF-HIGHWAY MOTORCYCLE REGISTRATION.

Subdivision 1. General Requirements. A person may not operate, give permission to operate, or transport an all-terrain vehicle or off-highway motorcycle unless the all-terrain vehicle or off-highway motorcycle has been registered under this section. A person may not sell an all-terrain vehicle or off-highway motorcycle without furnishing the buyer a bill of sale on a form prescribed by the Registrar.

Subd. 2. Application, issuance, reports. Application for registration or reregistration shall be made to the Registrar in such form as the Registrar shall prescribe, and shall state the name and address of every owner of the all-terrain vehicle or off-highway motorcycle and be signed by at least one owner. Registrants must be 18 years of age or older prior to applying for registration of an all-terrain vehicle or off-highway motorcycle. Upon application for registration and payment of the required fee(s), as hereinafter provided, an all-terrain vehicle or off-highway motorcycle registration certificate and registration decal shall be issued to the applicant, and a registration number assigned. The registration number assigned an all-terrain vehicle or off-highway motorcycle shall remain the same if continually renewed, and the owner shall purchase the assigned registration numbers. The Registration certificate and registration decal are valid for a period of three years, expiring on December 31. The registration number and registration decal shall be affixed to the machine as provided in subdivision 4 hereof.

Subd. 3. Fees for registration. The fee for each all-terrain vehicle or off-highway motorcycle registration issued for a period of three (3) calendar years, or a portion thereof, shall be as follows:

- (A) \$12.00, for a period of three (3) calendar years;
- (B) \$-0-, for all-terrain vehicles or off-highway motorcycle owned by the Fond du Lac Band or political subdivision for a period of three (3) calendar years;
- (C) \$4.00, for each transfer;
- (D) \$4.00, for each duplicate registration decal; and
- (E) \$4.00, for each duplicate registration certificate.

Subd. 4. All-terrain vehicle or off-highway motorcycle registration number size and affixation.

- (A) The registration number of the all-terrain vehicle or off-highway motorcycle, shown on the registration certificate, and the registration decal, shall be affixed to the all-terrain vehicle or off-highway motorcycle and maintained in a clear, legible manner.
- (B) The registration number of the all-terrain vehicle or off-highway motorcycle shall be affixed on a plate at least four (4) inches vertical by seven (7) inches horizontal, which shall be securely attached to the

rear of the all-terrain vehicle or off-highway motorcycle and shall be a minimum of 12 inches from the ground when the machine is resting on a hard surface.

- (C) All letters and numbers shall be of a color which will contrast with the surface to which applied, and shall be at least one and a half (1½) inches high and three sixteenths (3/16) stroke.
- (D) The registration decal shall be adhered immediately preceding or following the registration number at the aforementioned location.

Subd. 5. General prohibitions. No person shall operate or transport, and no person shall permit the operation of, an all-terrain vehicle or off-highway motorcycle within the boundaries of the Fond du Lac Reservation which does not have its registration number and unexpired decal affixed in the form and manner required by subdivision 4 of this Section. The owner of an all-terrain vehicle or off-highway motorcycle shall be responsible for its operation in a manner which is safe and lawful.

Subd. 6. Renewal. License issued hereunder shall expire on December 31 of the year of expiration, as evidenced on the registration decal, and may be renewed in the manner provided for original issuance.

Subd. 7. Loss or destruction, duplicate registration decal. Upon receipt of affidavit of loss or destruction of a registration decal issued hereunder, together with the required fee prescribed in Section 3 subd. 3(d), the Registrar shall issue a duplicate registration decal.

Subd. 8. Transfer of Ownership, Destruction or Abandonment of All-terrain vehicle or Off-highway motorcycle. Within 15 days after the transfer of ownership, or any part thereof, other than a security interest, or the destruction or abandonment of any all-terrain vehicle or off-highway motorcycle, written notice thereof shall be given to the Registrar in such form as the Registrar shall prescribe. Every owner or part owner of an all-terrain vehicle or off-highway motorcycle shall, upon failure to give such notice, be subject to penalty. Failure to give such notice of transfer of ownership shall terminate the registration without further action.

Subd. 9. Grounds for Refusing Registration.

- (A) The required fee has not been paid; or
- (B) The owner has failed to furnish the information or documents required by the Fond du Lac Band pursuant to this Ordinance; or
- (C) The owner fails to provide a valid Bill of Sale as proof of ownership; or
- (D) The owner has had his registration suspended or revoked in accordance with Section 5, such suspension or revocation is still in effect.

Subd. 10. Issuance and Contents of Registration Certificate. The Registrar shall issue a registration certificate upon completion of the application for registration and the payment of the required fees. The registration certificate shall contain the name and address of the owner(s), a description of the all-terrain vehicle or off-highway motorcycle, the serial number (if any), the registration number assigned and date of expiration.

Subd. 11. Issuance of Duplicate Registration Certificate. The Registrar shall issue a duplicate registration certificate upon receipt of an affidavit of loss or destruction of a registration certificate, issued hereunder, by any person in whose name the all-terrain vehicle or off-highway motorcycle is registered and upon payment of the required fee prescribed in Section 3, Subd. 3(e).

SECTION 4. DISPOSITION OF RECEIPTS; DEDICATED ACCOUNT.

Subdivision 1. Disposition. All revenue derived from fees imposed by this Ordinance shall be deposited in a segregated account of the Fond du Lac Band of Lake Superior Chippewa.

SECTION 5. SUSPENSION OR REVOCATION OF REGISTRATION

Subdivision 1. The Registrar of the Fond du Lac Band of Lake Superior Chippewa shall suspend and/or revoke the registration when:

- (A) the registration was complete through fraud or error and the person who registered the all-terrain vehicle or off-highway motorcycle does not or cannot register the all-terrain vehicle or off-highway motorcycle properly; or
- (B) The registered owner is in violation of any provision of this Ordinance.

Subd. 2. Period of Suspension. Any registration suspended pursuant to this Section continues to be suspended until reinstated by the Registrar. The Registrar shall reinstate the registration when the reason for the suspension has been removed.

Subd. 3. Return of Certificate of Registration; Penalty for Non-Compliance. Whenever the registration of an all-terrain vehicle or off-highway motorcycle is suspended under this section, the owner or person in possession of the registration certificate shall forthwith return it to the Fond du Lac Band. Any person who fails to return the registration certificate required by this Section may be required to forfeit no more than \$50.00.

Subd. 4. Revocation. Revocation of registration shall occur when the period of suspension exceeds 90 days. The owner shall be notified in writing that the registration has been revoked pursuant to this Section.

Subd. 5. Any disputes arising under this section shall be brought before the Fond du Lac Tribal Court.

SECTION 6. PENALTIES.

Subdivision 1. Any person who shall violate any provisions of the Ordinance or any rules of the Registrar of the Fond du Lac Band of Lake Superior Chippewa shall be guilty of a misdemeanor.

Subd. 2. A person registered as owner of an all-terrain vehicle or off-highway motorcycle may be fined not to exceed \$300 if an all-terrain vehicle or off-highway motorcycle bearing the person's registration number is operated contrary to the provisions of this Ordinance. The registered owner may not be so fined if (a) the all-terrain vehicle or off-highway motorcycle was reported as stolen to the Registrar or a law enforcement agency at the time of the alleged unlawful act, or if (b) the registered owner demonstrates that the all-terrain vehicle or off-highway motorcycle either was stolen or was not in use at the time of the alleged unlawful act, or if (c) the registered owner furnishes to law enforcement officers upon request the identity of the person in actual physical control of the all-terrain vehicle or off-highway motorcycle at the time of such violation. The provisions of this subdivision do not prohibit or limit the prosecution of an all-terrain vehicle or off-highway motorcycle operator for violating any of the sections of this Ordinance.

Subd. 3. Civil Penalty; payment. The civil penalty imposed must be paid to the Band. If a person does not pay the civil penalty, the prohibition against operating an all-terrain vehicle or off-highway motorcycle is automatically extended until the penalty has been paid.

SECTION 7. ENFORCEMENT AUTHORITY

Subdivision 1. Any conservation officer or other duly-authorized law enforcement officer, may stop, inspect and detain for a reasonable time any all-terrain vehicle or off-highway motorcycle observed in violation of applicable laws and is empowered to issue a summons and complaint for violations of this chapter in the same manner as for violations of game and fish laws.

Subd. 2. It shall be illegal for any person to willfully hinder, resist, or obstruct a law enforcement officer in the performance of his official duty, refuse to submit anything called for by him for his inspection when authorized by law.

SECTION 8. SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person, business, corporation or circumstances is held invalid, the invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are declared severable.

SECTION 9. TRIBAL COURT FORUM; LIMITED WAIVER OF SOVEREIGN IMMUNITY.

The Fond du Lac Tribal Court is hereby granted jurisdiction for any cause of action which arises under this Ordinance. Nothing in this Ordinance shall operate or be construed as a waiver of the sovereign immunity of the Fond du Lac Band of Lake Superior Chippewa, the Fond du Lac Reservation Business Committee or the Minnesota Chippewa Tribe, except that the Fond du Lac Band hereby waives sovereign immunity to be sued only in the Fond du Lac Tribal Court or such other court as the Fond du Lac Reservation Business Committee may designate in any seizure of property matter pursuant to the provisions of this Ordinance. Any such action shall only be directed against the Registrar, in his/her official capacity in order to challenge any seizure action. Any and all seizure cause of action which arise pursuant to this Ordinance shall be limited to actions against the Registrar in his/her official capacity for an order returning any seized goods if in the possession for the registrar or his/her office. All other causes of action which arise pursuant to this Ordinance shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including, but not limited to, attorney fees, shall be permitted. All causes of action arising must be commenced by service of complaint and filing same within 90 days of the first event giving rise to the cause of action.

SECTION 10. ENFORCEMENT BY REGISTRAR.

The Registrar shall enforce all provisions of this Ordinance. The Registrar may prescribe all rules and regulations consistent with the provisions of this Ordinance through the issuance of Registrar Orders. The Registrar may call upon the Fond du Lac Reservation Business Committee or any Band law enforcement officer to aid in the performance of the Registrar's duties. The Registrar may appoint current employees of the Fond du Lac Band of Lake Superior Chippewa as designees as may be required to administer the provisions of this Ordinance.

SECTION 11. RESERVATION OF RIGHT.


The Fond du Lac Reservation Business Committee hereby reserves the right to alter, amend, or increase or decrease the fees, forfeiture and penalties imposed herein, or amend repeal the several provisions of this Ordinance, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

SECTION 12. BAND ATTORNEY OBLIGATIONS.


The Attorney(s) designated by the Fond du Lac Reservation Business Committee shall represent the interest of the Fond du Lac Band of Lake Superior Chippewa and the registrar of Motor Vehicles in any matter arising from any provision of this Ordinance before the Fond du Lac Tribal Court.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #04/94 was duly presented and adopted by Resolution #1051/94, by a vote of 3 for, 0 against, 0 silent, with a quorum of 4 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on February 8, 1994, and subsequently amended as follows: by Resolution #1065/94 on February 15, 1994; by Ordinance #07/97, adopted by Resolution #1130/97, on February 15, 1994; by Resolution #1170/99 on June 8, 1999; by Resolution #1364/99 on October 5, 1999; Resolution #1398/07 on September 20, 2007; and by Resolution #1420/17 December 19, 2017.



Kevin R. Dupuis, Sr.
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer