

ORDINANCE NO. 25

OFF ROAD VEHICLE REGISTRATION AND SAFETY ACT

Statement of Purpose: An Ordinance to regulate Off Road Vehicle (ORV) operation and registration; and to promote safety within the Isabella Indian Reservation.

BE IT ENACTED, by the Saginaw Chippewa Tribal Council as follows:

SECTION 1. Short Title. This Ordinance may be cited as the Off Road Vehicle Ordinance of the Saginaw Chippewa Indian Tribe of Michigan.

SECTION 2. Definitions.

- a. “Designated Areas” means those areas, including streets, roadways, Trails, and other locations within the boundaries of the Isabella Indian Reservation as approved by Tribal Council where Operators are allowed to drive ORVs in accordance with the provisions of this Ordinance. When driving on Designated Streets or Roadways, the Operator must drive, on the Shoulder of the Streets or Roadways, with the flow of traffic, unless as otherwise necessary and in accordance with section 5a.9 herein.
- b. “Direct Adult Supervision” means a person eighteen (18) years of age or over who is accompanying a person under the age of eighteen (18) and is able to communicate to such person both verbally and non-verbally.
- c. “Non-Designated Areas” means those areas, including streets, roadways, Trails, and other locations which do not fall under the definition of Designated Areas within this Ordinance. Operators are not allowed to drive ORVs in Non-Designated Areas except for the limited purposes set forth in section 5a.8 herein.
- d. “Operate” means to ride in or on, and be in actual physical control of the operation of an ORV.
- e. “Operator” means a person who operates or is in actual physical control of the operation of an ORV.
- f. “ORV” or “Vehicle” means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or Trail, on or immediately over land, snow, ice, marsh, or other natural terrain. ORV or Vehicle includes, but is not limited to, multi track or multi wheel drive Vehicle, an all terrain vehicle and golf carts. ORV or Vehicle does not

include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency or law enforcement purposes, a vehicle owned and operated by a utility company when performing maintenance on its facilities or over property over which it has an easement.

- g. “Owner” means a person who has lawful possession of an ORV by virtue of legal title in the ORV that entitles the person to possession of the ORV.
- h. “Road Surface” means that portion of a street or roadway improved, designed, or ordinarily used for vehicular travel, and does not include within its meaning the Shoulder.
- i. “Shoulder” means that portion of a street or roadway to the immediate right of the Road Surface while facing the direction of travel, which is not generally used for vehicular travel.
- j. “Streets or Roadways” means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for the purposes of vehicular travel.
- k. “Trail” means a path or overgrown terrain on public land within the Isabella Indian Reservation designated for use by ORV operators by the Saginaw Chippewa Indian Tribe.

SECTION 3. Registration Requirements.

- a. Registration Required.
 - 1. Any Owner of an ORV, who resides within the boundaries of the Isabella Indian Reservation, must register his/her ORV with the Saginaw Chippewa Tribal Police.
 - 2. No person may Operate and no Owner may give permission for the operation of an ORV within the boundaries of the Isabella Indian Reservation unless the ORV is registered with the Saginaw Chippewa Tribal Police or is exempt from registration as provided in subsection 3.b. of this Ordinance.
 - 3. Only the Owner of the ORV may register the Vehicle.
- b. Exempt from Registration.

1. All ORVs Operated within the boundaries of the Isabella Indian Reservation must be registered with the Saginaw Chippewa Tribal Police, unless:
 - i) an Operator is renting, leasing or has exclusive use of an ORV owned by an individual who resides outside the boundaries of the Isabella Indian Reservation; or
 - ii) an Operator is renting, leasing or has exclusive use of an ORV owned by a company or other entity whose principal place of business is located outside the boundaries of the Isabella Indian Reservation.
2. For any of the situations set forth in subsection 3.b.1., the ORV must be registered in the state or political subdivision in which the Owner resides or where the company's or entity's principal place of business is located, but the exterior of the ORV shall display in visible manner the valid registration number or the name of the Owner of the ORV.
- c. Time Period for Registering ORV. The Owner of the ORV must register the Vehicle within fifteen (15) days from the time the ORV is purchased or acquired as a gift.
- d. Information Required for Registration. The Owner of an ORV must provide the following information to the Tribal Police to obtain a valid registration:
 1. Full legal name
 2. Residential Address. P.O. Boxes are not an acceptable form of address for registration purposes.
 3. Telephone Number
 4. Description, Manufacturer and Serial/VIN Number of the ORV.
- e. Inspection at Time of Registration. The Owner must make arrangements for the inspection of the ORV either prior to, or at the time the ORV is registered with the Tribal Police. A police officer will inspect the Vehicle to insure that it is equipped with the minimum standard safety equipment required in Section 4 of this Ordinance. The Tribal Police Department will not issue a registration for an un-inspected Vehicle.
- f. Safety Certificate. Any Operator of an ORV under the age of 16 years must complete a safety program sponsored by the Saginaw Chippewa

Tribal Police Department or a state equivalent course and obtain a safety certificate upon the completion of such program.

All Operators of ORVs under the age of 16 years must obtain and have in their immediate possession, a valid ORV safety certificate when operating the ORV within the boundaries of the Isabella Indian Reservation.

- g. Placement of Registration Tag:
 - 1. Each ORV will have its own separate registration number assigned by the Tribal Police Department on a florescent tag. Registration numbers must be displayed in the form provided by the Tribal Police.
 - 2. Said Registration Tag shall be prominently displayed on the rear of the ORV.
- h. Registration Fee. There shall be an initial, one time, registration fee of \$25.00 for an ORV payable to the Saginaw Chippewa Tribal Police Department upon registration of the ORV as required under subsection 3.c.
- i. Replacement Tag. In the case that an individual registration tag is lost, stolen or destroyed. A new tag and number will be provided as a replacement by the Tribal Police for a cost of \$25.00
- j. Areas of Operation. Upon completing the registration or safety certificate requirements set forth in this Section 3, the Tribal Police shall provide the Owner or Operator with a map which sets forth the Designated Areas where ORVs may be Operated. Anything not documented as being a Designated Area on the map shall be considered a Non-Designated Area where ORV's are not allowed to be Operated, except for the limited purposes set forth in section 5.a.8. If an Owner is exempt from registration, or an Operator is not in possession of a map, it is his/her responsibility to obtain a map from the Tribal Police prior to operating the ORV within the boundaries of the Isabella Indian Reservation.

SECTION 4. Minimum Standard Equipment Requirements.

- a. Operators and Passengers. All operators and passengers of an ORV must wear a United States Department of Transportation approved crash helmet. This requirement does not apply if the ORV is equipped with a roof or roll bars deemed safe by the Tribal Police Department at the time of inspection.

- b. ORV Equipment Requirements. All ORVs must be equipped as follows:
 - 1. A braking system that is in good working condition and can be Operated by either hand or foot.
 - 2. A throttle system designed to automatically and immediately return the engine speed to idle when pressure on the throttle is released.
 - 3. A muffler and exhaust system in good working order and in constant operation when the Vehicle is running. The exhaust noise of the ORV may not exceed 99Db(A).
 - 4. Vehicles that are Operated between the hours of ½ hour after sunset and ½ hour before sunrise shall be equipped with a working headlight, a working taillight and a working rear brake light that is brighter than the tail light when the Vehicle’s brakes are engaged, if the ORV was originally equipped with a rear brake light.

SECTION 5. ORV Operation

- a. Prohibited Acts. A person shall not Operate an ORV:
 - 1. At a rate of speed greater than is reasonable and proper, in a careless manner or without regard for the present weather, visibility and terrain conditions.
 - 2. Between the hours of ½ hour after sunset to ½ hour before sunrise without displaying a lighted headlight and taillight.
 - 3. Unless the ORV is equipped with the minimum required safety equipment enumerated in this Ordinance.
 - 4. Within 25 feet of a dwelling or in a parking lot at a speed greater than the minimum speed required to maintain controlled forward movement of the Vehicle.
 - 5. Upon the lands of another including residential leased land without the written consent of the owner, owner’s agent or lessee.
 - 6. While the person is under the influence of alcohol or any controlled substance, nor shall the operator allow any open containers of alcohol on or in the ORV.

7. While transporting a passenger unless the ORV is specifically equipped with adequate accommodation specifically designed and manufactured for the purpose of transporting passengers.
8. In a Non-Designated Area, except for the purpose of crossing Streets or Roadways and then such crossing must be made at right angles to the flow of traffic and when all cross traffic has cleared the area.
9. In the driving or passing lane of designated Streets or Roadways, except for the purpose of crossing such Streets or Roadways and then such crossing must be made at right angles to the flow of traffic and when all cross traffic has cleared the area.
10. That is not registered pursuant to and in accordance with Section 3 of this Ordinance.
11. In an area where public hunting is permitted during the regular firearm deer season from 7am to 5pm, except during an emergency or to go to and from a permanent residence or hunting camp otherwise not accessible by a conventional Vehicle or to remove a deer from public land which has been taken under a valid license.
12. On any land within the boundaries of the Isabella Indian Reservation, except for the following:
 - i) Designated Areas in accordance with the provisions of the Ordinance;
 - ii) Private land, including one's own leased land;
 - iii) Upon lands of another, including residential leased land if Operator receives written consent from the owner, owner's agent or lessee;
 - iv) Non-Designated Streets or Roadways if necessary and in accordance with Section 5a.8.

b. Operation of ORVs by Minors.

1. A parent or legal guardian of a minor shall not permit a minor less than 12 years of age to Operate an ORV unless the minor is under Direct Adult Supervision.

2. A parent or legal guardian of a minor shall not permit a minor less than 16 years of age to Operate a 3-wheeled ORV.
3. An owner or person in charge of an ORV shall not knowingly permit a minor less than 12 years of age to Operate an ORV unless the minor is under Direct Adult Supervision.
4. The Owner or person in charge of a 3-wheeled ORV shall not knowingly permit such ORV to be Operated by a minor less than 16 years of age.
5. No minor less than 12 years of age may cross any Street or Roadway while operating an ORV unless such minor is under Direct Adult Supervision and such crossing is made in accordance with sections 5a.8 or 5a.9.
6. A minor, 12 years of age or older, may cross a Street or Roadway if the minor has a valid ORV safety certificate in his or her immediate possession and such crossing is made in accordance with sections 5a.8 or 5a.9.
7. The requirement of possession or presentation of an ORV safety certificate shall not take effect until implementation of a certificate program required by section 5b.8.
8. No later than sixty (60) days after the approval of this Ordinance by Tribal Council, the Saginaw Chippewa Tribal Police Department shall implement an ORV safety program and begin issuance of ORV safety certificates as provided in this Ordinance for each violation.

SECTION 6. Enforcement.

- a. The laws governing ORV use under this Ordinance shall be enforced by the Tribal Police Department.
- b. No person operating an ORV may refuse to stop after being requested or signaled to do so by a Tribal police officer.
- c. The Saginaw Chippewa Community Court shall have sole jurisdiction in cases brought pursuant to this Ordinance. If sufficient cause exists the court shall conduct a hearing to determine if there has been a violation of this Ordinance.

SECTION 7. Removal of ORV by Tribal Police. The Tribal Police may take custody of the ORV and provide for its prompt removal to a place of safety, which may include the business location of a registered towing company, under the following circumstances:

- a. Whenever a Tribal police officer finds an ORV standing upon a Street or Roadway in violation of any provisions of this Ordinance, the officer may provide for the removal of the ORV or require the Operator or other person in charge of the ORV to move the ORV to a position off the Street or Roadway;
- b. Whenever a Tribal police officer finds an ORV unattended upon a Street or Roadway where the ORV constitutes an obstruction to traffic or jeopardizes public safety;
- c. Whenever a Tribal police officer finds an unattended ORV at the scene of an accident or when the Operator of the ORV involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;
- d. Whenever the Operator of an ORV is arrested or taken into custody by a Tribal police officer for any reason;
- e. Whenever a Tribal police officer discovers an ORV that the officer determines or has reasonable grounds to believe to be a stolen ORV; or
- f. At any other time as necessary to enforce the provisions of this Ordinance at the discretion of the Tribal police officer.

SECTION 8. Violations. Violations of this Ordinance shall be deemed civil infractions. If a Tribal police officer determines that a person is or has violated this Ordinance, the officer shall issue a civil citation. A copy of such citation shall constitute the Complaint in Tribal Court. The Tribal Legal Department shall be responsible for serving and prosecuting the Complaint in the same manner as civil actions generally and the Tribal General Counsel may assign such cases to the Tribal Prosecutor if necessary. All court proceedings related to such citation shall be before the judge without a jury.

SECTION 9. Penalties for Violations. Any person who is convicted of a violation of this Ordinance shall be subject to a fine of not more than \$500.00 per violation and/or the impoundment of the ORV. In addition, the Court may order any person convicted of a violation of this Ordinance to pay restitution for any and all property damage that may have occurred as a result of the offense.

SECTION 10. Severability. If any Chapter, Section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Legislative History

ORDINANCE NO. 25 OFF ROAD VEHICLE REGISTRATION AND SAFETY ACT

Enacted by Resolution 17-128 approved on June 14, 2017