

## Chapter XVII

# OFF-ROAD RECREATION VEHICLE CODE

1701. TITLE. This Code shall be known and cited as the Bay Mills Indian Community "Off-Road Recreation Vehicle Code" or also known as the "ORV Code".
1702. DEFINITIONS. The following terms shall have the meanings described below for the purpose of this Code:
- A. "ATV": A 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.
  - B. "Dealer": Any person engaged in the sale, lease, or rental of ORVS as a regular business.
  - C. "Highway or street": The entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.
  - D. "Operate": To ride in or on and be in actual physical control of the operation of an ORV.
  - E. "Operator": Any person who operates or is in actual physical control of an ORV.
  - F. "ORV": 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, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. 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 or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

- G. "Owner": Any of the following:
1. A person who holds the legal title to an ORV.
  2. A vendee or lessee of an ORV that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.
  3. A person renting an ORV or having the exclusive use of an ORV for more than 30 days.
- H. "Right-of-way": That portion of a highway or street less the roadway.
- I. "Roadway": That portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.
- J. "Shoulder": That portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.
- K. "Tribal Police Officer" or "Tribal Officer": Law enforcement officer who is employed by the Bay Mills Indian Community, including conservation officers.
- L. "Tribe":
1. "The Tribe": The Bay Mills Indian Community.
  2. "A Tribe": Any federally recognized Tribe.
1703. CIVIL INFRACTION. Any offense within this ORV Code that does not include imprisonment as a possible penalty is deemed to be a civil infraction. As such, the standard of proof is by a preponderance of the evidence at any hearing or trial on a civil infraction offense.

1704. BAY MILLS TRIBAL COURT; JUDGE; MAGISTRATE. The Judge of the Bay Mills Tribal Court shall preside over any hearing or trial involving an alleged violation of this Code. However, the Bay Mills Tribal Court Magistrate shall have the authority to conduct arraignments on any and all offenses within this Code; in addition, the Magistrate may impose sentencing where a person pleads guilty to an offense under this Code that imposes a fine of less than or equal to one hundred (\$100) dollars.
1705. PENALTIES NOT OTHERWISE PRESCRIBED. Any person who is convicted of or found responsible for an offense enumerated in this Code for which the penalty is not otherwise prescribed may be sentenced to a payment of a fine not to exceed one hundred (\$100) dollars.
1706. REGULATION OF OFF-ROAD RECREATION VEHICLE OPERATIONS; PROHIBITIONS GENERALLY. A person shall not operate an ORV upon a public highway, street, roadway, or private parking lot within the Bay Mills Indian Community not specifically designated for the use of ORVs except under the following conditions and circumstances:
- A. An ORV may be operated on the right-of-way of a public highway, roadway, or street if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway. ORVs operated on the right-of-way of a public highway, roadway, or street, as herein provided, shall travel single file and shall not be operated abreast except when overtaking and passing another ORV.
  - B. An ORV may be operated across a public highway, roadway, or street, at right angles to the highway, roadway, or street, for the purpose of getting from one area to another when the operation can be done in safety. An operator shall bring his ORV to a complete stop before proceeding across the public highway, roadway, or street, and shall yield the right-of-way to all oncoming traffic.
  - C. A tribal police officer may authorize use of an ORV on a public highway, roadway, or street when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.
  - D. Penalty. A person violating this Section may be sentenced to a fine not less than fifty (\$50) dollars but not more than five hundred (\$500) dollars.

1707. OPERATION OF OFF-ROAD RECREATION VEHICLES; PROHIBITED AREAS.

- A. Property of others. A person shall not operate an ORV upon land that is leased, owned, or under the control of someone else, unless they have obtained written consent or permission from the appropriate person(s).
- B. Golf Course. A person shall not operate an ORV on the golf course located within the Bay Mills Indian Community, with the exception of the operation of motorized and authorized golf carts on paved cart paths.
- C. Posted Areas. A person shall not operate an ORV in any area that has been posted as being “closed to off-road recreation vehicles” or posted as “no trespassing”.
- D. Frozen Surface of Public Waters. A person shall not operate an ORV on the frozen surface of public waters within one hundred (100) feet of a person, or within one hundred (100) feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the ORV, or on an area which has been cleared of snow for skating purposes.
- E. Forestry. A person shall not operate an ORV in a forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged.
- F. Tribally Designated Preserves. A person shall not operate an ORV on a tribally designated preserve, except on roads, trails, or areas specifically designated for ORVS. A tribally designated preserve includes but is not limited to land posted or utilized as a wetland preserve, wildlife preserve, or agricultural preserve.
- G. Cemeteries. A person shall not operate an ORV on or across a cemetery or burial ground.
- H. Penalty. A person violating this Section may be sentenced to a fine not less than fifty (\$50) dollars but not more than five hundred (\$500) dollars. In addition, the person may be liable for restitution as to damages he or she caused to any property.

1708. OPERATION BY MINORS/INCOMPETENTS.

- A. A parent or legal guardian shall not permit his or her child who is less than 14 years of age to operate an ORV except when there is direct visual supervision of an adult and the ORV is being operated on land leased or under the control of a parent or legal guardian or on the land of others where written consent or permission was obtained.
- B. A person who is at least 14 but less than 16 years of age may operate an ORV if the following conditions exist:
  - 1. The person has in his or her immediate possession an ORV safety certificate issued by the Tribe, the State of Michigan, or that was issued to the person under the authority of a law of another tribe, state or province of Canada; and
  - 2. The person is under the direct visual supervision of an adult.
- C. A person who is operating an ORV pursuant to subsection (B) (1) shall present the ORV safety certificate to any tribal officer upon request.
- D. A person who is less than 14 years of age shall not cross a highway, roadway, or street. An operator who is at least 14 years of age but less than 16 years of age may operate an ORV on the right-of-way on a public highway, roadway, or street pursuant to Section 1706 (A) or may cross a highway, roadway, or street pursuant to Section 1706 (B) only if he or she has a valid ORV safety certificate in his or her immediate possession and is under the direct visual supervision of an adult.
- E. A person who is at least 16 years of age but less than 18 years of age may operate an ORV on the right-of-way on a public highway, roadway, or street pursuant to Section 1706 (A) or may cross a highway, roadway, or street pursuant to Section 1706 (B) only if he or she has a valid ORV safety certificate in his or her immediate possession.
- F. A person who is less than 16 years of age shall not operate an ORV with a passenger except on land leased or under the control of a

parent or legal guardian or on the land of others where written consent or permission was obtained.

- G. The owner or person in charge of an ORV shall not permit the ORV to be operated contrary to this Section.
  - H. A parent or guardian of a minor shall not permit a minor to operate an ORV contrary to this Section.
  - I. The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of a mental or physical disability.
1709. OPERATION UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCES; RECKLESS DRIVING; CARELESS OR NEGLIGENT DRIVING; OPEN INTOXICANTS; PROHIBITIONS. The Bay Mills Motor Vehicle and Parking Code Sections 819, 820 and 821 shall apply to off-road recreation vehicles, whether an ORV is operated on a highway, roadway, trail, frozen lake, pond, or any other area accessible to an ORV.
1710. OFF-ROAD RECREATION VEHICLE OPERATION DURING NIGHTTIME; LIGHT AND TIME RESTRICTIONS. A person shall not operate an ORV under any of the following conditions and circumstances:
- A. During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight, a lighted taillight, and a brake light, brighter than the taillight, visible when the brake is activated to the rear of the vehicle.
  - B. Within one hundred feet of a dwelling between twelve o'clock midnight and seven a.m. at a speed greater than minimum required to maintain forward movement of an ORV or otherwise operating an ORV during the aforementioned time period in any manner that disturbs the peace. This Section shall not apply to a person operating an ORV on the right-of-way of a public highway, roadway or street as provided for in Section 1706 (A) or on a designated ORV route or trail.
1711. REGISTRATION. ORVs must be properly registered with the Tribe or State of Michigan as required by law and have a valid license permanently attached and visibly displayed in accordance with Michigan or the Tribe's

law. As to tribal commercial fisherman, a COTFMA decal is adequate while only engaged in commercial fishing activity.

1712. SPEED. A person shall not operate an ORV at a rate of speed greater than is reasonable and proper having due regard for conditions then existing or in excess of a speed limit, if so posted. If there is a posted speed limit, the person may be sentenced as follows: payment of a fine of two (\$2.00) dollars for each mile per hour over the posted speed when that speed is less than ten (10) miles per hour over the posted speed limit or to payment of a fine of five (\$5.00) dollars for each mile per hour over the posted speed limit when that speed is equal to or greater than ten (10) miles per hour over the posted speed limit. If there is no posted speed limit, a person violating this Section may be sentenced to a fine not to exceed one hundred (\$100) dollars.
1713. REPORT OF ACCIDENT. The Bay Mills Motor Vehicle and Parking Code Section 818 shall be applicable to a person operating an ORV as it relates to stopping at the scene of an accident; the duties of reporting an accident; and giving information and aid.
1714. TRANSPORTING BOWS AND FIREARMS. No person shall operate an ORV while transporting thereon a bow, unless unstrung or securely encased, or a firearm unless securely encased or equipped with and made inoperative by a manufactured key-locked trigger housing mechanism and said firearm is unloaded. A person violating this Section may be sentenced to a fine not less than fifty (\$50) dollars but not more than five hundred (\$500) dollars, forfeiture of a bow or firearm, or both.
1715. EQUIPMENT REQUIRED.
- A. Brakes and Throttle System. A person shall not operate an ORV unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine will immediately and automatically return to idle.
- B. Muffler. A person shall not operate an ORV unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the

vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter which meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level as provided for by the United States environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this part, manufactured or assembled after December 31, 1972 and used, sold, or offered for sale in this State, shall conform to the noise emission levels established by the United States environmental protection agency under the Noise Control Act of 1972, Public Law 92-574, 86 Stat. 1234.

- C. Crash Helmet. The operator of an ORV shall wear a crash helmet on his or her head, which has been approved by the United States Department of Transportation.
- D. Goggles, Face Shield or Windshield. A person operating or riding on an ORV shall use shatterproof goggles, a face shield or windshield to protect the eyes.

1716. RIDING WITH PASSENGER.

- A. Public Highway, Roadway or Street or Right-of-way of same or Public Parking Lot. The operator of an ORV shall not allow a passenger to ride on the ORV or in a sleigh, trailer or other device attached to the ORV when the ORV is being operated on the right-of-way of a public highway, roadway, or street as provided for in Section 1706(A), on a public highway, roadway or street as provided for in Section 1706 (B), or in a public parking lot.
- B. Other Areas. The operator of an ORV shall not allow a passenger to ride on the ORV or in a sleigh, trailer, or other device attached to the ORV when the ORV is being operated on a designated ORV route or trail or other area not described in Subsection 1716 (A) above unless the operator of the ORV is 16 years of age or older and the passenger does not interfere with the safe operation of the ORV.

1717. YIELDING TO PEDESTRIANS AND MOTOR VEHICLES. An ORV allowed to operate on highways, roadways, alleys, or public parking lots shall observe all speed limits and traffic regulations or devices, and shall yield the right-of-way to pedestrians and vehicular traffic.
1718. PARKING PROHIBITIONS. The Bay Mills Motor Vehicle and Parking Code Section 816 shall be applicable to a person operating an ORV.
1719. RESPONSIBILITY OF OWNER FOR OPERATION IN VIOLATION OF THIS CODE. No person shall knowingly authorize or permit an ORV owned by such person or under such person's control to be driven by any person in violation of any Section of this Code.
1720. Effective Date. This Code shall become effective on **November 29, 1999.**