

TITLE VIII
TRAFFIC CODE

(Adopted 2-11-2005)

The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office
(406) 395-4282 or 4321 - Business Committee

A RESOLUTION

NO. 40-05

RR 1 #54
Box Elder, MT 5952

TO ADOPT THE TRAFFIC CODE AS 'TITLE VIII OF THE CHIPPEWA CREE TRIBE LAW & ORDER CODE'

WHEREAS, the Chippewa Cree Tribe Business Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Chippewa Cree Tribe approved on the 23rd day of November, 1935, and

WHEREAS, pursuant to their inherent sovereignty and Constitution and By-Laws of the Chippewa Cree Tribe, the Chippewa Cree Tribe Business Committee is charged with the duty to promote and protect the health, security and general welfare of the Chippewa Cree Tribe, and

WHEREAS, the Chippewa Cree Tribe Business Committee has reviewed the Traffic Code and concurred with its proposed adoption which will ensure that all Tribal Members and Non-Members benefit from safe roadways on the Reservation, and

WHEREAS, the adoption of this proposed Traffic Code will be effective immediately, and

WHEREAS, this Traffic Code shall be titled under the Chippewa Cree Tribe Law & Order Code as "Title VIII, Traffic Code of the Chippewa Cree Tribe of Rocky Boy's Indian Reservation".

TITLE VIII: TRAFFIC CODE OF THE CHIPPEWA CREE TRIBE OF ROCKY BOY'S INDIAN RESERVATION

The purpose of this Code is to provide regulations for the use of vehicles within the boundaries of Rocky Boy's Indian Reservation. The proper use of vehicles within the boundaries is of importance to the health and safety of the individual tribal members, as well as the over-all quality of life for residents of the Reservation.

This Code is further intended to exercise the powers of self-governance the Chippewa Cree Tribe retain in governing their people and territory. The inherent sovereignty of the Chippewa Cree Tribe is therefore being utilized in the traffic area to deal with a growing problem brought in part by the ever-growing sophistication, mechanization and transitory nature surrounding the Tribe.

THEREFORE BE IT RESOLVED, that the Chippewa Cree Business Committee hereby approves the Traffic Code as 'Title VIII of the Chippewa Cree Tribe Law & Order Code.'

CERTIFICATION

I, THE UNDERSIGNED, AS SECRETARY/TREASURER OF THE BUSINESS COMMITTEE OF THE CHIPPEWA CREE TRIBE HEREBY CERTIFY THAT THE BUSINESS COMMITTEE IS COMPOSED OF NINE (9) MEMBERS OF WHOM EIGHT (8) MEMBERS CONSTITUTING A QUORUM, WERE PRESENT AT A MEETING DULY AND REGULARLY CALLED, NOTICED, CONVENED AND HELD THIS 11th DAY OF FEBRUARY, 2005 AND THE FOREGOING RESOLUTION WAS DULY ADOPTED AT SAID MEETING BY THE AFFIRMATIVE VOTE OF SEVEN (7) MEMBERS FOR AND ZERO (0) AGAINST, AND THE RESOLUTION HAS NOT BEEN RESCINDED OR AMENDED IN ANY WAY.


CHAIRMAN, BUSINESS COMMITTEE


SECRETARY TREASURER

**TRAFFIC CODE OF THE CHIPPEWA CREE TRIBE OF ROCKY BOY'S INDIAN
RESERVATION**

CHAPTER 1: GENERAL PROVISIONS

1.1 Short Title:

This title may be referred to as Chippewa Cree Tribal Traffic Code. Authority

1.2 Authority

This Code is enacted pursuant to Article VI, Section 1(P) of the Constitution and the By Laws of the Chippewa Cree Tribe of Rocky Boy's Indian Reservation.

1.3 Purpose:

The purpose of this code is to provide regulations for the use of vehicles within the boundaries of Rocky Boy's Indian Reservation. The proper use of vehicles within the boundaries of Rocky Boy's Indian Reservation is of importance to the health and safety of the individual tribal members, as well as the over-all quality of life for residents of the Reservation.

This code is further intended to exercise the powers of self-governance the Chippewa Cree Tribe retain in governing their people and territory. The inherent sovereignty of the Chippewa Cree Tribe is therefore being utilized in traffic area to deal with a growing problem brought about in part by the ever-growing sophistication, mechanization, and transitory nature around us.

1.4 Jurisdiction:

The Chippewa Cree Tribal Court shall have jurisdiction over the Tribal members to hear all cases and controversies arising within the Reservation under the provisions of this code. Non-members shall be charged with a civil traffic offense.

1.5 Definitions:

The following definitions shall apply for purposes of this code.

- a. All Terrain Vehicle (ATV) means every motor vehicle having a seat for the use of the rider and designed to travel on three (3) or more wheels in contact with the ground; but excluding a tractor.
- b. Authorized Emergency Vehicle means any vehicle in official use for emergency purposes by the Chippewa Cree Tribe, State, Federal Agency and any emergency medical service units.
- c. Business Committee means the governing body of the Tribe elected into office by the enrolled members of the Chippewa Cree Tribe.
- d. Flag Person means any person who directs, controls, or alters the normal flow of vehicular traffic upon a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person's employer shall ensure that he/she is

- properly equipped for this work.
- e. Funeral Procession: means two or more motor vehicles, one of which is carrying a deceased person, in the daylight hours.
 - f. Motor Vehicle means every vehicle which is self-propelled or propelled by electrical power, or upon water.
 - g. Operator means any person who operates, drives, controls, or otherwise has charge of a vehicle, including person(s) seated in the operator's seat who has either the vehicle idling or has the keys in the ignition.
 - h. Traffic means pedestrians, ridden or herded animals, vehicles and other conveyances, either singularly or together while using any road, trail, street or other thoroughfare for purpose of travel.
 - i. Tribe means the Chippewa Cree Tribe of Rocky Boy's Indian Reservation.
 - J. Vehicle means every device in, upon or by which any person or property is or may be transported or drawn on land, except snowmobiles and devices moved by human power or used exclusively upon stationary rails or tracks.

CHAPTER II: ADMINISTRATION AND IMPLEMENTATION

2.1 Law and Order Committee:

There here shall be a Law and Order Committee to oversee and supervise the Law Enforcement Department. The Committee shall be composed of five council members of the Business Committee. The Committee shall name one of the committee members as a chairman of the Committee. Procedures for the meeting and detail functions of the Committee shall be as prescribed by the regulations or resolution issued by the Business Committee.

2.2 Law Enforcement Department

This code recognizes existing Law Enforcement Department for the administration and implementation of this code. The Chief of Police shall be the head of the department. The Chief of Police shall be responsible of all the departmental functions.

2.3 Functions:

The law enforcement department shall have following functions:

- a. Inspect and cover any traffic violations as listed in this code within the exterior boundaries of Rocky Boy's Indian Reservation.
- b. Control and supervise all public roadways within the reservation.
- c. Issue warning for minor infractions at the discretion of the officer.
- d. Issue citations appropriate for any violation of this code.
- e. Order the cited party to appear before the Tribal Court.
- f. Inspect any vehicle in a public garage or repair shop or wreck yard in order to investigate title and registration.
- g. Arrest any person without warrant for any violation of this code committed in the presence of law enforcement officer.
- h. Use of radio microwaves or other equivalent electrical devices including radar for the purpose of measuring the speed of motor vehicles. The result of such measurements shall be admissible as evidence of the speed of a motor vehicle in Tribal Court in any

legal proceeding where the speed of such motor vehicle is at issue.

CHAPTER 3: VEHICLE OPERATION REQUIREMENTS

3.1 All Terrain Vehicles/Motorcycles (ATV, Quad Runners, 3-Wheelers)

- a. A TV and motorcycle operators and riders must comply with all applicable traffic regulations, including the provisions of this section, and all posted traffic signs. ATV/Motorcycle operators and riders must wear protective headgear whenever riding a moving ATV /Motorcycle within the Tribal road. If a person is riding an A TV/motorcycle not on the Tribal road but on the ranch or other non-road area, wearing protective headgear is optional.
- b. Each ATV/Motorcycle operated on any road within Rocky Boy's Indian Reservation must have a working head light, have turning lights both front and rear, and have appropriate rear view mirrors. Turning lights are required at all times, however working front and rear lights are required only during periods of low visibility, or between the time of sundown and sunrise.
- c. Each ATV /Motorcycle operated on any road within the boundaries of Rocky Boy's Indian Reservation, must have a muffler in good working order, as required by Section 3.5.
- d. All ATV' s/Motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deny any A TV full use of a lane.
- e. No operator or passengers shall ride upon an ATV/Motorcycle unless he/she is wearing protective headgear securely fastened on his/her head. This subsection shall not apply to persons riding within an enclosed cab.
- f. Person found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.
- g. All A TV /Motorcycle operators shall operate only on marked trails and not randomly over unapproved areas.

3.2 Commercial Towing Service:

- a. An operator of a vehicle used to provide towing service for another vehicle following an accident, or for any other reason, must give immediate notice by the quickest available means of communication to the Rocky Boy Law Enforcement officials, before moving the vehicle, unless traffic is being obstructed, in which case notification shall be made before leaving Rocky Boy's Indian Reservation. In no event shall notice be more that twelve (12) hours after moving the vehicle.
- b. Person found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.3 Excessive Revving of Engines/Acceleration:

- a. The excessive revving of the engine of a motor vehicle, ATV or motorcycle, so as to cause a disturbance of the peace, is prohibited. This prohibition shall not apply to vehicles being repaired or when such revving can be shown to have legitimate purposes.

- b. Every operator of a vehicle must keep his or her vehicle under control at all times. The excessive acceleration of a vehicle when approaching or leaving a stopping place is prohibited. Acceleration is excessive when control is difficult to maintain under normal driving conditions because of the acceleration.
- c. Persons found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.4 False Report

- a.) When reporting an accident or the non-compliance of an individual of traffic regulations, information related must be true and accurate to the best of the knowledge and memory of the person reporting.
 - b. Any person found to have deliberately or purposefully given a false or fictitious report shall be liable for a fine.
- c. Persons found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.5 Mufflers:

- a. Every motor vehicle shall be equipped with a muffler in good working order whenever the vehicle is operated on roads within the boundaries of Rocky Boy's Indian Reservation.
- b. Operating a vehicle equipped with muffler cutouts, bypass, or similar device will not meet the standard of operating a vehicle with a muffler in good working order.
- c. Any person found to have been in non-compliance with this section, shall, when first discovered, be issued a written warning directing the operator to install on his/her vehicle, a muffler in good working order.
- d. Person found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.6 Obstructing Traffic:

- a.) When stopping, parking, or leaving any vehicle, whether attended or unattended, upon the paved or maintained surface of a road, every operator must leave at least ten (10) feet of the width of the same traffic lane for the free or unobstructed movement of other vehicles. Stopping, parking, or leaving any vehicle upon a designated fire lane is prohibited. The above shall not apply in the event of an accident or other condition beyond the immediate control of the operator, or if otherwise directed by an authorized person.
- b.) No operator shall interfere with the normal flow of traffic by permitting a vehicle under his/her control to obstruct traffic by making turns from the wrong lane, by weaving in and out of traffic, by driving unreasonably slow, or in any other unreasonable manner.
- c.) No person shall leave his/her vehicle unattended on the side of the road for over 24 hours. If the unattended vehicle is on the road way and blocking the traffic or hazard to other traffic, the vehicle shall be removed immediately. If the owner or driver of the vehicle does not remove his/her vehicle immediately from the road way and within 24 hours from the side of the road, the vehicle shall be towed away at the expense of the owner of the vehicle. In case of towed vehicle, the vehicle will be released to the owner only after the tow cost is reimbursed.
- d.) Persons found in violations of this section shall be subject to the Chippewa Cree Tribal

Law and Order Code under Class "D" offenses.

3.7 Reporting Accidents:

- a.) The operator of any vehicle involved in a collision or accident resulting in damage to property or injury to or death of any person shall immediately stop such vehicle at the scene of the incident, or as close thereto as possible. The operator shall, in every event described above, remain at the scene of said event until he has fulfilled the requirements under section 3.7 (b) and 3.7 (c) of this section.
- b.) The operator of any vehicle involved in a collision with an unattended vehicle or other property in the absence of the owner, shall at the time and place of the incidents, give in writing his/her name, address and identification of his vehicle to the operator or owner of the other property involved. If, after waiting for a reasonable time, the owner or operator of other property does not appear, then an operator may leave the above information along with his license number, if any, in a secure and conspicuous place, where said information will be found by the other owner or operator.
- c.) Where possible, the operator of a vehicle involved in a collision with any vehicle or other property, shall at the time and place of incident, give in writing his/her name, address, license number, and identification of his /her vehicle to the operator or owner of the other property involved. In every situation where the collision causes bodily injury to someone or physical damage to property so as to render one of the vehicles unsafe or unable to drive, the Rocky Boy Law Enforcement department shall be notified, and both owner/operators shall remain at the scene until law enforcement officials have investigated the incident.
- d. The operator of any vehicle involved in a collision of accident shall, no matter how serious the incident, give notice to the Rocky Boy Law Enforcement Department. Said operator shall also provide a written report of the incident within 24 hours, when requested by an authorized person. This report does not relieve the operator from the responsibility of making any other motor vehicle accident report which may be required.
- e. Person found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.8 Yielding Right of Way

- a. The operator of any vehicle when approached from any direction by any authorized emergency vehicle giving an audible or visual signal shall yield the right of way to the emergency vehicle, by pulling to the side of the road and allowing the vehicle to pass.
- b. The driver of a vehicle about to enter or cross a highway from a private drive or road shall yield the right of way to all vehicles approaching on the highway or road.
- c. When two vehicles from different highways enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
- d. Person found in violation of this section shall be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.9 Failure to Stop for a School Bus:

- a. Every driver traveling on either side of the road shall stop before reaching a school bus receiving or discharging school children when flashing lights are in operation and shall

not proceed until the school bus resumes motion.

- b. Persons found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.10 Speed Limits:

- a. The operator of any vehicle within the boundaries of the Rocky Boy Reservation shall limit the speed of his/her vehicle to the following maximum limits, unless otherwise provided in this section or posted on the roadways:
 - i. Thirty five (35) miles per hour within all residential areas.
 - ii. Fifteen (15) miles per hour, within all school zones, business-parking areas and at sites of emergencies such as fires or motor vehicle accidents.
 - iii. Thirty-five (35) miles per hour upon sections of road repairs and roadways near residential areas.
- b. The speed limit on all other roads within the boundaries of the Reservation shall be sixty-five (65) miles per hour during the day and fifty-five (55) miles per hour during the night for all vehicles unless otherwise posted. For trucks the speed limit shall be fifty-five (55) miles per hour both day and night.
- c. The Chippewa Cree Tribal Business Committee may establish greater or lesser speed limits upon any road or other way when the maximum speed limits set forth above are determined to be greater or less than is reasonable or safe. Such speed limits shall be established by posting of appropriate signs and no person shall drive any vehicle at a speed in excess of the maximum posted speed. The Business Committee, when intending to change the speed limit of any stretch of road, must post said change in at least four (4) public places, three (3) weeks in advance of said change, and provide for a public hearing to take public comment on the proposed change, at least one week before the proposed change. When implementing any change, the Business Committee shall post notice stating the reasons behind any change, and addressing the major issues, if any, raised for or against the change, at the public hearing. All signs existing as of the adoption date of this code shall be presumed authorized, unless otherwise provided by the Business Committee.
- d. The provisions of this section shall not apply to authorized emergency vehicles; provided, however, that such vehicles shall not be operated at speeds in excess of those which are prudent under the circumstances when speeding occurs.
- e. Any person found to have been in non-compliance with this section shall be liable for a fine of between ten dollars (\$10.00) and fifty dollars (\$50.00).

3.11 Careless Driving:

- a. A person operating or driving a vehicle of any manner on a road within the boundaries of the Reservation shall drive it in a careful and prudent manner, so as to avoid unduly and unreasonably endangering the life, limb, property or other rights of other persons.
- b. Person found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.12 Traffic Control Signs:

- a. Chippewa Cree Tribal Business Committee may decide to erect signs which regulate traffic, prohibit or restricting, the direction of travel, and the hours during which roads and parking areas are open to the public. Any change proposed by the Business

- Committee must be implemented pursuant to the procedure set forth in this code. All persons shall comply with the direction of any signal or posted sign.
- b. All persons shall obey the lawful order or signal of any authorized person or sign directing, controlling, or regarding the movement of traffic.
 - c. The operator of a motor vehicle shall comply with and observe all visual or audible signals given by any authorized person directing the operator bring his motor vehicle to a stop. This shall include obeying the instructions of an individual with apparent authority giving traffic instructions at construction sites, as long as given instructions are reasonable and prudent.
 - d. The Chippewa Cree Tribal Business Committee is authorized to erect signs which regulate traffic, prohibit or restrict stopping or parking, the direction of travel and the hours during which roads and parking areas are open to the public during Sun Dances, Celebrations, and other temporary Tribal functions. The Chief of Police is authorized to regulate all motor vehicle traffic during these temporary functions, pursuant to these temporary regulations. All persons existing as of the adoption date of this code shall be presumed authorized, unless otherwise provided by the Business Committee.
 - e. Any person found to have been in non-compliance with this section shall be liable for a fine of between ten dollars (\$10.00) and fifty dollars (\$50.00).

3.13 Motor Vehicle Operating Standards:

- a. Every motor vehicle operated on the roads within the boundaries of Rocky Boy's Indian Reservation shall be equipped with both working headlights in front, capable of dimming from high beam, and at least two working red taillights in the rear of the vehicle, and have red lights in rear capable of indicating when the brakes are applied.
- b. Every motor vehicle shall also be equipped with at least one rear-view mirror, brakes sufficient to stop the vehicle as necessary, tires with adequate tread to allow safe operation at speeds operated, and windshields, windows and a vantage point adequate to provide the driver with a safe view of the road and its conditions. The general condition of the car must be maintained so as to make the car safe to operate under existing conditions.
- c. When complying with traffic signals and signs, all operators must comply fully. When stopping, vehicles must reach a full stop. When turning, an operator must signal in advance so as to give other operators and pedestrians notice of his/her intentions. Signaling shall be accompanied by turn indicators front and rear on a vehicle or by hand signals by the driver during daylight hours only. No vehicle shall be operated in such a manner so as to endanger the safety of another operator, pedestrian, or passenger.
- d. Person found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

3.14 Safety Restraints:

- a. No operator of a motor vehicle within the boundaries of Rocky Boy's Indian Reservation who is the parent or legal guardian of a child between zero (0) and five (5) years old, or weighing less than sixty (60) pounds shall transport the child in a motor vehicle owned by the resident or his/her spouse unless the child is properly restrained in a child seat.

- b. All persons found within the motor vehicle shall be required to wear a seat belt.
- c. This section does not apply to a vehicle that is motor bus, school bus, taxicab, moped, motorcycle, three (3) or four (4) wheel all terrain vehicle (ATV).
- d. Person found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "D" offenses.

CHAPTER 4: ENFORCEMENT

4.1 Enforcement Responsibilities

- a. The Chippewa-Cree Law Enforcement services shall have the responsibility to see that the provisions of this code are enforced. This responsibility shall include, but is not limited to, the authority to stop all vehicles informing them of the type of non-compliance they will be held accountable for, setting hearing dates for adjudicating the liability of the cited individual unless otherwise prohibited under this section.
- b. When an operator of a vehicle is stopped and issued a citation, the officer shall include, as a part of the citation, a notice that a hearing will be held to determine the validity of the alleged non-compliance. The citation shall state that the officer will institute a civil complaint against the cited individual, list the basis of the complaint against cited individual. They will have then ten (10) working days from the date of the citation to file a written answer to the citation with the Tribal Court Clerk. If they wish to contest the allegation of non-compliance, and set for a date, fifteen (15) working days from the date of issuance, when a hearing will be held to adjudicate the matter. Specific times will be designated by the Tribal Court.
- c. All officers, when stopping vehicles, or issuing citations, shall be in regular dress uniforms, and be driving distinctly marked police vehicles.
- d. Individuals wishing to report the non-compliance of someone may notify the law enforcement department at Rocky Boy, and officers shall investigate to determine whether there is in fact non-compliance warranting a citation.

4.2 Default

- a. After the citation described above has been issued, it is the responsibility of the cited individual to answer the complaint as initiated by the citation. If an answer is not received by the Clerk of Court within ten (10) working days of the time the citation was issued, the Tribal prosecutor's office may move the court for a default judgment for failure to answer. If no answer was filed, the hearing scheduled shall be limited to a show cause proceeding to determine whether there was good cause for the individual's failure to answer. If the individual does not appear, or if good cause is not shown to prevent the default judgment, default judgment against the individual cited shall be entered.
- b. If a fine was paid as a bond amount when the citation was issued, then that amount shall be forfeited to satisfy the default judgment. If no bond posted, then the prosecutor may proceed with the judgment pursuant to the Law and Order Code of the Tribe.
- c. If after failing to answer a complaint, the individual cited appears at the scheduled hearing and presents good cause for his failure, along with a written answer to the complaint, then the judge shall revoke any default entered, and schedule a second hearing within five (5) days, at which time evidence will be received to determine the validity of the complaint. Continuance of the hearing in this manner can be waived by the parties, or,

- in the interests of justice, by the court. The individual shall be served with a notice of the time and date of the second hearing before leaving the first show cause hearing.
- d. If the rights to operate a designated vehicle have been revoked pursuant to a default judgment, and the operator is found to be operating said vehicle within the boundaries of Rocky Boy's Indian Reservation, then said vehicle shall be impounded for the remaining days left on the revocation, unless the individual pays the maximum fine amount listed for the non-compliance identified in the default judgment against his/her.

4.3 Fines:

- a. When an operator of a vehicle is stopped and issued a citation, the individual maybe required to post the maximum fine amount identified for that offense or violation for each non-compliance. This fine amount shall be posted as bond to:
 - i. Encourage conformity with all vehicle operation requirements in the future;
 - ii. Emphasize the importance of non-conformity;
 - iii. Insure action on the part of the individual cited, if he/she chooses to answer;

IV. Provide a method for the convenience of the individual cited to choose the fine over a court appearance, when the individual accepts liability for his/her non-conformance.
- b. If an individual cannot post bond, the individual shall make payment arrangements with the Tribal Court.
- c. If an individual is found to be in default, judgment shall be entered, the amount posted as a bond shall be forfeited, and used to satisfy the fine imposed. If an individual is in default on a complaint, the fine assessed shall be the maximum amount set forth in the specific provision cited.

4.4 Hearing Procedure:

- a. The Rocky Boy Law and Order Code shall control the procedures followed in all hearings, unless specific procedures are identified in this section.
- b. At an adjudicatory hearing, the presiding judge shall receive all relevant evidence, and decide whether there is a preponderance of evidence to find the individual cited liable for a fine amount.

4.4 Miscellaneous Guidelines

- a. When exercising discretion in issuing warnings or citations, where permitted, all officers shall keep in mind the mandate of the Indian Civil Rights Act, and the rights provided for hereunder. All warnings issued shall be in lieu of issuing a citation, and are permitted only under the provisions of this section which provide for such.
- b. For a thirty (30) day-period after passage, no citation shall be issued when an individual is stopped for non-compliance with this code. Warnings shall be issued in lieu of citations, to give the general public time to become familiar with the provisions herein.

CHAPTER 5: CRIMINAL TRAFFIC LAW

5.1 Criminal Nature of Offenses:

The offenses set forth in this part are found to be of a serious nature, warranting distinctive, significant treatment, and shall be considered offenses against the people of the Rocky Boy community, criminal in nature, and processed under the Rules of Criminal Procedure, provable on evidence demonstrated by the Tribal Prosecutor beyond a reasonable doubt.

5.2 Processing of Youth

All individuals, including youth, shall be subject to the rules of this section. Wherever possible, police officers shall provide copies of citations issued to the parents or guardians of the youth, and the court shall require at least one (1) parent or guardian accompany the youth on court, at times scheduled. A person under eighteen (18) years of age who is convicted of an offense under this section can be punished by incarceration or by one or more of the following:

- a. A fine not to exceed the fine that could be imposed on him/her if he/she were an adult.
- b. Impoundment by the court or a party designated by the court of a vehicle operated by the person for a period of time not exceeding sixty (60) days, if the court finds that he/she either owns the vehicle or is the only person who uses the vehicle;
- c. Community services designed to impress upon the youth that careful consideration should be given to avoiding similar offenses in the future; and/or
- d. Appropriate treatment or counseling designed to meet the needs of the youth and to avoid reoccurrence or similar behavior in the future.

5.3 Work Permits:

- a.) Upon refusal of a request for a blood, breath or urine test under this section, the court shall be authorized only to grant a work permit for a period of time up to five (5) days. The suspension period otherwise applicable for such refusal, as set forth in this section shall be mandatory, unless found to be improper upon review provided for herein.
- b.) Upon conviction of a DUI under this section, an individual shall be subject to the suspension of their driving privileges as provided. Individuals not otherwise subject to implied consent revocations or suspensions or other revocations or suspensions, may apply to the court for a work permit. The court shall be authorized to issue work permits to individuals who first pay the reinstatement fees provided for herein, for the limited purposes of driving to and from work, driving while at work, driving to and from school, and driving to complete duties immediately necessary to maintain their immediate household.

5.4 Reinstatement Fees

The court is authorized to require a reinstatement fee be paid to the court, before a suspension or revocation imposed by the court is recognized as lifted, whether on an implied consent

revocation or other suspension. Individuals failing to pay the reinstatement fee after a suspension or revocation shall be maintained on revoked or suspended status until the fee is paid in full to the court.

5.5 Reporting Requirements

The police department is required to record all Tribal Court convictions and implied consent revocations on the computer. Such status shall be maintained as current, as an individual serves their suspension/revocation or other sentence, and is reinstated. For purposes of sentencing on Tribal Court convictions, convictions in other jurisdictions will be considered, if duly reported in the Crime Computer. The police department shall assist the Tribal Prosecutor by obtaining records from the Crime Computer for consideration at sentencing, after conviction.

5.6 Police Authority

All Tribal and Bureau of Indian Affairs officers authorized by the Business Committee shall have the power to:

- a. Enforce the provisions of this code and any other Tribal Laws regulating the operation of vehicles or the use of the highways.
- b. To make arrests upon any person, without a warrant, for any violation committed in your presence of any of the provisions of the code or other Tribal laws regulating the operation of vehicles or the use of the highway.
- c. At all times to direct all traffic to conform with this code and in the event of fire or other emergency to expedite or to ensure safety, to direct traffic as conditions may require, notwithstanding the provisions of this code.
- d. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provision of this code, to require the driver thereof to stop and exhibit his registration card issued for the vehicle.
- e. To inspect any vehicle in any public garage or repair shop or in any place where such vehicle or vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.
- f. To serve all warrants relating to the enforcement of this code regulating the operation of vehicles of the use of the highways.
- g. To investigate traffic accidents and secure names and addresses of witnesses of persons involved.
- h. To investigate reported thefts of motor vehicles. Any sworn officer other than Chippewa Cree Tribal officers must have prior approval from the Business Committee to enforce any citation or warrant on the Reservation.

CHAPTER 6: OFFENSES

6.1 Reckless Driving

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Any violations of this section shall be considered a Class "An" offense. Persons found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "A" offenses.

6.2 Reckless to Elude

Any person who operates a motor vehicle in willful or wanton disregard for the safety of persons or property while fleeing or attempting to flee from or elude a peace officer who is lawfully in pursuit and whose vehicle is at the time exhibiting emergency lights, attempting to stop a person, is guilty of reckless driving.

Any violations of this section shall be considered a Class A offense. Persons found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "A" offenses.

6.3. Driving While Suspended or Revoked

- a. Any person who drives a motor vehicle or commercial motor vehicle on any tribal road within the boundaries of the reservation at a time when the person's privilege to do so is suspended or revoked in this jurisdiction or any other jurisdiction is guilty of the offense of Driving While Suspended or Revoked.
- b. Any person, regardless of residence, whose right or privilege to operate a motor vehicle or commercial motor vehicle in this jurisdiction has been suspended or revoked as provided in this code may not operate a motor vehicle or commercial vehicle on the Tribal road under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until the suspension or revocation is cured and a new license is obtained.
- c. Any violations of this section shall be considered a Class "A" offense. Persons found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "A" offenses.

6.4 Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Drugs

- a. It is unlawful and punishable for any person who is under the influence of intoxicating liquors, under the influence of any drug, or under the combined influence of alcohol and any drug, to a degree which renders him/her incapable of safely driving a motor vehicle to operate or be in actual physical control of any motor vehicle upon the highways or roads of Rocky Boy's Indian Reservation.
- b. In any criminal prosecution for a violation of section 6.4 (a) of this section relating to driving a vehicle under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine or other bodily substance, shall give rise to the following presumptions:
 - i. If there was at that time 0.04 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.
 - ii. If there was at that time in excess of 0.04 percent but less than 0.08 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any

- presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.
- c. If there was at that time 0.08 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.
 - d. Present by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred percent (100) cubic centimeters of blood.
 - e. In addition to the results of chemical analysis as set forth, other competent evidence may be introduced on the questions of whether the defendant was under the influence of intoxicating liquor.
 - f. Any violations of this section shall be considered a Class "A" offense. Persons found in violation of this section will be subject to the Chippewa Cree Tribal Law and Order Code under Class "A" offenses.

6.5 Chemical Blood, Breath, or Urine Test

- a. Any person who operates a motor vehicle upon the highways and roads of the Reservation shall be deemed to have given consent, subject to the provisions of this Section, to a chemical test of his/her blood, breath, or urine, roadside intoxicilizers and/or office intoxicilizers for the purpose of determining the alcoholic content of this blood. This test shall be administered at the direction of an arresting officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the highways and roads of the Reservation while under the influence of intoxicating liquor. The arresting officer may designate which of the aforesaid tests shall be administered.
- b. Any persons who is unconscious or who otherwise in a condition rendering him/her incapable of refusal, shall be deemed not to have withdrawn the consent provided in this section.
- c. If the test to be given is a blood test, only a physician or registered nurse acting at the request of the police officer may administer the test, neither shall incur any civil or criminal liability as a result of his /her assistance.
- d. If the test to be given is a chemical test of urine, the person tested shall be given privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.
- e. Upon the request of the person tested, full information concerning the test taken at the direction of the police officer shall be made available to such person or his/her attorney/representative.
- f. The person tested may, at his/her own expense, have a physician or registered nurse of his/her own choosing administer a test; or be administered through the direction of a police officer, for the purpose of determining the amount of alcohol in his/her blood at the time alleged as shown by chemical analysis of his/her blood, breath or urine.
- g. If a person under arrest refuses upon the request of a police officer to submit to a chemical test designated by the arresting officer as provided in this section, none shall be given. This refusal to take the test shall be in written verification stating

that the accused refused the test and the verification signature. The police officer shall forward a sworn report that that he/she had reasonable grounds to believe the arrested person had been driving or was in physical control of a motor vehicle upon the highways or roads of the Reservation while under the influence of intoxicating liquors and/or drugs, and that the person had refused to submit to the test on the request of the police officer.

- h. All suspensions under this section are subject to appeal to the court. The issue on appeal shall be limited to whether a police officer had reasonable grounds to believe that the person had been driving or was in physical control of a motor vehicle upon the highways or roads of the reservation while under the influence of intoxicating liquor and/or drugs, whether the person was placed under arrest, and whether the person refused to submit to a requested test.

6.6 Admissibility of Evidence

- a.) Upon the tribal of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs or driving while blood alcohol content is above 0.08 %, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his /her blood, breath, or urine is admissible.
- b.) If the under arrest refused to submit to the test as hereinabove provided, proof of refusal shall be admissible e in any criminal action arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon the highways or roads of the reservation while under the influence of an intoxicating liquor.

CHAPTER 7: MISCELLANEOUS PROVISIONS

7.1 Severability

The provisions of this Code, and if any clause, sentence, paragraph, subdivision or part of the act shall be adjudged by the tribal court be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation directly involved in the dispute in which such judgment shall be rendered.

7.2 Choice of Law

In any administrative or legal hearing regarding the subject matter of this law or the interpretation of rights and responsibilities arising from such subject matter, the Chippewa Cree Tribal Traffic Code shall be applied first. In the absence of the applicable written Tribal law, traditional tribal law shall apply as provided in the Law and Order Code of the Tribe. If no Tribal written law, legal opinions or Tribal Traditional Law exists, applicable Federal statutes, regulations, or case law will apply.

7.3 Amendments

The Tribe may add to, modify, or repeal in part or in full when necessary to take care of unforeseen or unusual problems as prescribed by the Law and Order Code.

7.4 Regulations

This Code shall become effect, pursuant to the terms of the tribal constitution on this 13th day of February, 2005

