

**Title XI
(11)
T R A F F I C C O D E**

ORDINANCE NO. 326-16

Standing Rock Sioux Tribal Code of Justice



RESOLUTION NO. 301-16

**Approved July 6, 2016
by
Standing Rock Sioux Tribal Council**

ORDINANCE NO. 326-16

NOW THEREFORE BE IT RESOLVED, that TITLE XI – HIGHWAYS of the Tribal Code of Justice of the Standing Rock Sioux Tribe, be and the same is hereby amended and renamed TITLE XI – TRAFFIC CODE:

[Document Attached – 37 pages]

RESOLUTION NO. 301-16

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934 [48 Stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[c], 1[m], and Section V, are authorized to promote and protect the health, education and general welfare of the members of the Tribe, to engage in any business that will further the economic development of the Tribe and its members, and to propose and enact ordinances, provided they be posted for not less than ten [10] days prior to final adoption by the Tribal Council; and

WHEREAS, on April 05, 2016, the Tribal Council moved to post, and hereafter posted, for 10 days, amendments to TITLE XI – HIGHWAYS of the Standing Rock Sioux Tribal Code of Justice;

NOW THEREFORE BE IT RESOLVED, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under Article IV and Article VII of the Constitution of the Standing Rock Sioux Tribe, that TITLE XI – HIGHWAYS of the Code of Justice, be and the same is hereby further amended and replaced with the attached new TITLE XI – TRAFFIC CODE; and

BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] members, of whom 14 constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held on the 6th day of JULY, 2016, and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with 0 opposing, and with 2 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT IN CASE OF A TIE.

DATED THIS 6th DAY OF JULY, 2016.


Dave Archambault II, Chairman
Standing Rock Sioux Tribe

ATTEST:



Adele M. White, Secretary
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
CHAPTER 1. GENERAL PROVISIONS	
11-101 Scope	1
11-102 Definitions	1
11-103 Incorporation of Other Titles	3
11-104 Nature of Offenses	3
11-105 Offense Level if Not Specified	4
11-106 Statute of Limitations	4
11-107 Privilege and Not a Right	4
11-108 Costs	4
11-109 Infractions Fine Schedule	5
11-110 Protective Custody	5
CHAPTER 2. GENERAL REGULATIONS REGARDING TRAFFIC	
11-201 Driving Without a License	6
11-202 Permitting an Unauthorized Child to Drive	6
11-203 Driving Without Required Registration	6
11-204 Staring, Turning and Stopping Without Regard to Safety	6
11-205 Speeding	7
11-206 Reckless or Careless Driving	8
11-206.1 Suspensions for Reckless or Careless Driving	8
11-207 Failure to Drive on Right Side of Roadway	9
11-208 Driving in Left Lane; Overtaking Vehicles	9
11-209 Following too Closely	10
11-210 Overtaking or Passing School Bus	10
11-211 Failure to Give Right of Way	10
11-212 Stopping, Standing or Parking on Highway	11

11-213	Coasting	13
11-214	Obstruction to Driver's View or Driving Mechanism	13
11-215	Riding on Fenders, Bumpers or Running Boards	13
11-216	Pedestrians on Roadways Without Regard for Safety	13
11-217	Garbage, Glass, etc. on Highways	14
11-218	Driving in Violation of an Order of the Court	14
11-219	Duties in the Event of an Accident	15
11-220	Unlawful Use or Tampering of a Motor Vehicle	15
11-221	Open Container in a Motor Vehicle	16
11-222	Driving Without Liability Insurance	16
11-223	Obedience to Authorized Persons Directing Traffic	16
11-224	Obedience to Traffic-Control Devices	17
11-225	Interference with Officially Authorized Persons or Traffic-Control Devices	17
11-226	Driving a Vehicle in an Unsafe Condition	17
11-227	Impeding Traffic by Driving at Low Speed	17
11-228	Racing on Highways	18
11-229	Driving While Using Wireless Communication Device	18
11-330	Homicide by Vehicle	18

CHAPTER 3. DRIVING UNDER THE INFLUENCE OF ALCOHOL OF INTOXICATING DRUGS/ACTUAL PHYSICAL CONTROL

11-301	Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Drugs	18
11-302	Chemical Blood, Breath or Urine Tests	20
11-303	Admissibility of Evidence	22
11-304	Suspensions for Violations of this Chapter	23

CHAPTER 4. TRAFFIC PROCEDURES

11-401	Provisions Supersede Conflicting Procedures	24
11-402	Traffic Violations Procedures	24

11-403	Notification of Parents or Guardians of Juvenile Traffic Offenders	25
11-404	Law Officers to Report Accidents	26
11-405	Speeding Complaints and Summons	26
11-406	Citations	26

CHAPTER 5. EMERGENCY-RELATED PROVISIONS

11-501	Emergency Medical Assistance	26
11-502	Authorized Emergency Vehicles - Exceptions	27

CHAPTER 6. AUTOMOBILE OCCUPANT SAFETY

11-601	Child Restraint Systems	27
11-602	Child Restraint System Guidelines	28
11-603	Safety Belts	28
11-604	Primary Enforcement	29

CHAPTER 7. SPECIFIC SAFETY PROVISIONS REGARDING MOTOR VEHICLES OTHER THAN AUTOMOBILES

11-701	Operation of All-Terrain Vehicles (ATVs); Utility Task Vehicles (UTVs)	29
11-702	Operation of Motorcycles	31
11-703	Operating Motorcycles on Roadways Laned for Traffic	32

CHAPTER 8. BICYCLES

11-801	Bicycles Not Motor Vehicles	32
11-802	Operation of Bicycles	33
11-803	Operating Bicycles on Roadways and Bicycle Lanes	33

TITLE XI. TRAFFIC CODE

**Chapter 1.
General Provisions**

11-101. Scope

The provisions of this Title shall be applicable to the fullest extent allowable under the law and the jurisdiction of the Standing Rock Sioux Tribe. All criminal violations, regardless of offense level, shall be applicable to all Indians who commit an offense within the exterior boundaries of the Reservation. All civil violations shall be applicable to all Indians and all non-Indians who commit a violation within the exterior boundaries of the Reservation.

11-102. Definitions

- a) "Actual Physical Control" shall mean that (1) a person's vehicle was operable; (2) the person was in a position to manipulate one or more of the controls of the vehicle that cause it to move or affect its movement in some manner or direction; and (3) the person's control was such as would enable her or him to actually operate the vehicle in the usual and ordinary manner.
- b) "Authorized Emergency Personnel" shall mean any individual who is duly authorized to operate an authorized emergency vehicle, as defined in this Title.
- c) "Authorized Emergency Vehicle" shall mean vehicles that, as a normal course of business, respond to emergency situations and are owned and operated by an official department or entity that has a duty to respond to the same, including:
 - 1. Vehicles of a governmentally-owned or authorized fire department;
 - 2. Vehicles when operated by or under the control of a law enforcement officer having authority to enforce the provisions of this Title, and of Title IV to the Standing Rock Code of Justice, or by a salaried employee of a federal, county, state, or municipal police department within his or her jurisdiction;
 - 3. Vehicles clearly identifiable as property of a department of corrections and rehabilitation when operated or under the control of the direction of the department; and
 - 4. Ambulances.
- d) "Business District" shall mean any area where the primary characteristics of the structures are places of commerce, offices, and other buildings for which the primary purpose is to carry on business operations.

- e) "Child" shall mean any person under the age of 18 years old.
- f) "Child restraint system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.
- g) "Highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to use of the public for purposes of vehicular travel and of every way privately maintained when any part thereof is open for purposes of travel. For the purpose of Chapter 3 of this Title and provisions governing driving under the influence and actual physical control, the term "highway" shall include any surface upon which a vehicle can be driven.
- h) "Juvenile" shall have the same meaning as "child."
- i) "Juvenile Officer" shall be the individual hired or appointed by the Court to prosecute juvenile matters in the Standing Rock Sioux Tribal Court.
- j) "Motor Vehicle" or "Vehicle" shall mean any device in, upon, or by which any person or property may be transported or drawn upon a highway, except devices moved solely by human power or used exclusively upon stationary rails or tracks, and includes any such device that is self-propelled, including, but not limited to: automobiles, all-terrain vehicles, utility-terrain vehicles; snowmobiles and motorcycles/motorized bicycles.
- k) "Offense" shall have the same legal effect as the term "violation" as such terms pertain to acting in a manner prohibited in this Title, or to failing to perform any act required in this Title.
- l) "Off Road Vehicle" shall mean any vehicle which is capable and commonly-used for travelling on surfaces other than pavement and gravel, and shall include All-Terrain Vehicles, Utility Task Vehicles, snowmobiles and motorized dirt bikes.
- m) "Reservation" shall mean lands within the exterior boundaries of the Standing Rock Sioux Indian Reservation, as defined by the Act of March 2, 1889 (25 Stat. L. 888).
- n) "Residential District" shall mean any area where the primary characteristics of the structures are houses, apartment buildings, condominiums, or other buildings for which the primary purpose is to serve as living quarters for individuals.
- o) "Road" shall have the same definition as "Highway" under subsection (g) of this Section.
- p) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.
- q) "Safety zone" shall mean an area where driving is restricted due to the condition of the roadway or surrounding area, and where such restriction was implemented by authorized personnel.

- r) "Serious Bodily Injury" shall mean (i) a bodily injury that creates a substantial risk of death; (ii) a bodily injury that causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily member, organ or mental faculty; (iii) unconsciousness; (iv) extreme pain; (v) bone fracture; or (vi) impediment of air flow or blood flow to the brain or lungs.
- s) "Street" shall have the same definition as "Highway" under subsection (g) of this Section.
- t) "Traffic" shall mean vehicles, bicycles and pedestrians either singly or together while using any highway for purposes of travel.
- u) "Traffic-Control Device" or "official traffic control device" is any device, whether manually, electrically or mechanically operated, which is properly situated in a location by an individual authorized to do so, and by which traffic is alternately directed to stop and proceed.
- v) "Tribal Court" or "Court" shall mean the Standing Rock Sioux Tribal Court as established by the Constitution of the Standing Rock Sioux Tribe.
- w) "Unsafe Condition" shall mean any condition of a vehicle that could reasonably cause, or that would reasonably become the proximate cause of, damage to any individual or property.
- x) "Urban Area" means a geographic area – such as a town, city or community - that is characterized as such by the totality of the circumstances, including the density of the population relative to the overall characteristics of the Reservation, and the availability of local services and businesses.
- y) "Valid Driver's License" is a license issued by a State department or agency tasked with issuing licenses permitting people to operate a vehicle, and which is current and has not expired, been suspended or otherwise rescinded.
- z) "Violation" shall have the same legal effect as the term "offense" as such terms pertain to act in a manner prohibited in this Title, or to fail to perform any act required in this Title.

11-103. Incorporation of Other Titles

Unless otherwise specifically provided herein, the provisions of any applicable and relevant Title of the Standing Rock Sioux Tribal Code of Justice shall apply to offenses or violations of this Title. This shall include provisions regarding penalties in Section 4-104 of Title IV, including the available and maximum penalties for each offense level, and the procedural provisions of Titles II and III.

11-104. Nature of Offenses

- a) Except as provided in subsection (b) of this Section, a violation of any provision in this Title is a criminal offense.

- b) A violation of any provision in this Title governing speeding is a civil offense.

11-105 Offense Level if Not Specified

- a) Except as provided in subsection (b) of this Section, if any provision in this Title sets forth an offense or violation, and does not specifically provide an offense level, the offense level for such offense or violation shall be an infraction.
- b) A violation of any provision in this Title governing speeding, failure to wear a safety belt or failure to properly secure a child is a civil offense, and not a criminal offense, and is therefore assigned no offense level.

11-106. Statute of Limitations

No prosecution shall be maintained under this Title unless the action shall have been commenced within one (1) year after the commission of the offense.

11-107. Privilege and Not a Right

Driving on the Reservation is a privilege and not a right. While the Tribe does not issue driver's licenses, and therefore lacks authority to generally suspend or rescind such licenses, the Tribe has and may exercise its authority to restrict an individual's ability to exercise their driving privilege on the Reservation upon the commission of certain offenses. The Standing Rock Sioux Tribal Court is hereby granted authority, within its discretion, to civilly deprive an individual of his or her driving privileges on the Reservation, provided that such penalty may be levied only for offenses where such penalty is specifically provided for in the relevant Section of this Title, and that – unless such suspension is the result of a conviction reached after the suspended individual was provided all due process rights - the individual be provided a right to a hearing as set forth in this Title.

11-108. Costs

In addition to the authority of the Court to charge an individual convicted of an offense with costs under Title II and Title III of the Standing Rock Sioux Tribal Code of Justice, an individual convicted of an offense under this Title may be charged with reasonable costs resulting from any action or failure to act when such action or failure to act constituted the offense or from a foreseeable result of such action or failure to act.

11-109 Infractions Fine Schedule

- a) While a maximum fine amount for infractions is set forth in section 4-104 of the Standing Rock Code of Justice, for the purpose of convenience and expedience, the Court shall issue a fine schedule for all infractions provided for in this Title, setting forth specific fine amounts for specific offenses. Provided that any such fines set forth in such a schedule shall not exceed the statutory limit in 4-104. Provided further that any such fine schedule must be ratified by a majority of the Tribal Council members voting on the issue prior to its taking effect.

- b) A schedule adopted under this Section shall be deemed official when ratified by the Tribal Council and thereafter signed by the Chief Judge and an Associate Chief Judge of the Standing Rock Sioux Tribal Court and posted in a conspicuous place in the Standing Rock Sioux Tribal Court. Such schedule shall thereafter be provided to law enforcement and made available to the public.

- c) In the discretion of the Court, a schedule adopted under this Section may set heightened fines for subsequent offenses.

- d) An infractions fine schedule adopted pursuant to this Section may be amended in the same manner as it may be adopted, by ratification by the Tribal Council, signed by the Chief Judge and an Associate Chief Judge and posted in a conspicuous place in the Court.

11-110 Protective Custody

Law enforcement has the authority to place an individual in protective custody when the following factors apply:

- a) The individual committed an infraction under this Title;

- b) The officer has a reasonable belief the individual is under the influence of alcohol, drugs, or any mind-altering substance; and

- c) The officer has a reasonable belief that protective custody will (i) protect the individual to be placed in custody; and/or (ii) protect others.

Law enforcement may keep an individual in protective custody until the individual's alcohol concentration is back to a 0.0, as measured by a chemical test used by law enforcement pursuant to Section 11-302 of this Title.

Chapter 2.
General Regulations Regarding Traffic

11-201. Driving Without a License

- a) No person shall drive a motor vehicle on a highway without a valid driver's license.
- b) Driving without a valid driver's license is an infraction for a first or second offense, and a Class A misdemeanor for a third and any subsequent offense.

11-202. Permitting an Unauthorized Child to Drive

- a) No person shall permit a child to drive a motor vehicle on a highway, unless such child is licensed to drive.
- b) Permitting an unauthorized minor to drive is an infraction.

11-203. Driving Without Required Registration

- a) No person shall operate a motor vehicle on the roadways within the Reservation unless such vehicle is in compliance with the registration laws of any State or Tribe.
- b) Driving without required registration is an infraction.

11-204. Starting, Turning and Stopping Without Regard to Safety

- a) No person shall start a vehicle that is stopped, standing or parked unless and until such movement can be made with reasonable safety.
- b) No person shall turn a vehicle at an intersection unless the vehicle is in such position on the highway that such movement can be made with reasonable safety and a signal of intention to turn right or left, when required, has been given continuously during not less than the last 100 feet traveled by the vehicle before turning.
- c) The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable, the left turn must be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

- d) Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway.
- e) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear where there is opportunity to give such signal.
- f) The signals herein required shall be given either by means of the standard hand and arm signals or by mechanical or electrical signal device.
- g) Every driver of a vehicle approaching a marked crosswalk, intersection or crossing with a stop sign or a flashing warning light, or a sidewalk shall stop on the near side of the crosswalk, intersection, crossing, or sidewalk at the point where the view of approaching traffic is clear, and shall not proceed until the crosswalk, intersection, crossing, or sidewalk is clear.
- h) No vehicle shall at any time be driven through, over or within a safety zone.
- i) A violation of any subsection of this Section is an infraction.

11-205. Speeding

- a) Every person operating or driving a vehicle of any character on a highway shall drive in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, condition of surface, freedom from obstruction to view ahead and the rights of any other person entitled to use the street or highway.
- b) Where no special hazard exists that requires lower speed for compliance with paragraph (a), it is illegal for any person to drive at any speed in excess of the limits specified in this section:
 - 1) Twenty-five (25) miles per hour in any urban district unless a different speed limit is posted;
 - 2) Twenty (20) miles per hour when passing a school during recess or when children are coming to or from school during opening or closing hours;
 - 3) Twenty (20) miles per hour when approaching within 50 feet of a railroad grade crossing or highway intersection or when the driver's view is obstructed within a distance of 100 feet; and
 - 4) 55 miles per hour in any other location unless a different speed limit is posted.

- c) The speed limitations set forth above shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire departments when travelling in response to a fire alarm, nor to public or private ambulances when travelling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others, and drivers must conform to the provisions of Section 11-502 of this Title.
- d) Any person who drives in excess of the maximum speed as provided in this section, or at a speed greater than is reasonable and proper under the conditions then existing, has committed the civil violation of speeding and shall be civilly penalized by a fine not to exceed:
 - 1) \$5.00 (five dollars) for each mile per hour that the person was driving over the speed limit; and
 - 2) A fee of \$50.00.

11-206. Reckless or Careless Driving.

- a) Any person who drives a vehicle carelessly and heedlessly in willful or wanton disregard of the rights or safety of others or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or the property of another is guilty of reckless driving.
- b) Any person who drives any vehicle upon a highway carelessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to be likely to endanger any person or property shall be guilty of careless driving.
- c) Reckless or careless driving is a Class A Misdemeanor. In addition to all penalties set forth in Section 4-104 of the Standing Rock Sioux Tribal Code of Justice, any individual convicted of reckless or careless driving may be deprived of the right privilege to operate a motor vehicle on the Reservation, as provided further in Section 11-206.1 of this Title.

11-206.1 Suspensions for Reckless or Careless Driving

An individual's privilege to drive on the Reservation may be suspended for Reckless or Careless Driving upon the individual's conviction for the same, in which case it shall be within the discretion of the Tribal Court whether to order a suspension of the individual's driving privileges as part of the sentence on the conviction. Such suspension shall not exceed a period of one (1) year. The Tribal Court shall have the

discretion to issue a school/work permit for the pendency of the suspension period to an individual whose privilege to drive on the Reservation has been suspended under this Section.

11-207. Failure to Drive on Right Side of Roadway

- a) Upon all highways of sufficient width, the driver of a vehicle shall drive upon the right half of the highway, except (1) when overtaking and passing another vehicle proceeding in the same direction; (2) when the right half of the roadway is closed to traffic while under construction or repair or signposted for one-way traffic or other conditions; or (3) when an obstruction makes it necessary to drive to the left of the center of the highway.
- b) Failure to drive on the right side of the roadway is an infraction.

11-208. Driving in Left Lane; Overtaking Vehicles

- a) No person shall at any time drive a vehicle to the left side of the center line of the road way(1) when approaching the crest of a grade or upon a curve in the highway where the driver's view of the highway is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; (2) when approaching within 100 feet of or traversing any intersection or railroad grade crossing; (3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel; or (4) when any vehicle travelling in the normal direction in the opposite lane, upon the unobstructed portion of the highway, is within such distance as to constitute an immediate threat.
- b) When overtaking a vehicle on the left, or when operating a vehicle being overtaken on the left, a driver must use all due regard for the safety of others as follows: (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass it at a safe distance to the left, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; (2) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle; and (3) A person shall not drive a vehicle to the left side of the center line of a highway in overtaking another vehicle unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking to be made in safety. No driver shall overtake another vehicle in a NO PASSING zone.
- c) Violation of any subsection of this Section is an infraction.

11-209. Following too Closely

- a) The driver of motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the highway.
- b) Following too closely is an infraction.

11-210. Overtaking or Passing School Bus

- a) Every driver 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, or the school bus driver signals to proceed.
- b) Failure to stop for school bus flashing lights is an infraction.

11-211. Failure to Give Right of Way

- a) 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.
- b) 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.
- c) The driver of a vehicle within an intersection intending to turn left shall yield the right of way to any vehicle approaching from the opposite direction that is so close as to constitute an immediate hazard.
- d) The driver of a vehicle approaching, but not having entered, an intersection, shall yield the right of way to a vehicle already within such intersection and making a left turn, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn.
- e) Upon the immediate approach of an authorized emergency vehicle making the use of audible or flashing light signals, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position as close as possible to the right hand edge of the road and stop until the emergency vehicle has passed. This provision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

- f) The driver of any vehicle upon a highway must follow all stop, yield and railroad crossing signs before entering crosswalks, and shall yield the right of way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.
- g) The driver of a vehicle shall yield the right of way to any authorized emergency vehicle or pedestrian engaged in work upon a highway:
 - 1) Within any highway construction or maintenance area indicated by official traffic control devices; and/or
 - 2) Whenever such authorized emergency vehicle displays flashing lights.
- h) A violation of any subsection in this Section is an infraction.

11-212. Stopping, Standing or Parking on Highway

- a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or unpaved or main travelled portion of any highway outside of a business or residence district when it is practicable to park or leave such vehicle standing off of the paved or unpaved or main travelled portion of such highway; but in every event an unobstructed width of highway opposite the standing vehicle shall be left free for the passage of other vehicles and the stopped vehicle must be clearly visible to the drivers of vehicles approaching from either direction for a distance of 500 feet.
- b) Whenever any duly authorized law officer finds a vehicle standing upon a highway in violation of this provision, he is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to the nearest place of safety.
- c) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, effectively setting the brake, and when standing upon any grade, turning the front wheels to the curb or side of the highway.
- d) Except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a police officer or traffic-control device, no person shall stop, stand or park a vehicle:
 - 1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - 2) On a sidewalk;
 - 3) Within an intersection;

- 4) On a crosswalk;
 - 5) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
 - 6) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - 7) On any railroad tracks;
 - 8) In the area between roadways of a divided highway, including crossovers;
 - 9) In any parking space designated by the International Symbol of Access (wheelchair symbol) without displaying an authorized disabled parking registration plate, removable windshield placard, or temporary removable windshield placard; or
 - 10) At any place where official traffic-control devices prohibit stopping or parking.
- e) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
- 1) In front of a public or private driveway;
 - 2) Within 15 feet of a fire hydrant;
 - 3) Within 20 feet of a crosswalk at an intersection;
 - 4) Within 30 feet of any flashing signal, stop sign, yield sign or other traffic-control device located at the side of a roadway;
 - 5) Within 50 feet of the nearest rail of a railroad crossing;
 - 6) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly sign-posted); or
 - 7) At any place where official traffic control devices prohibit standing or parking.

- f) No person shall move a vehicle under such person's control into any such prohibited area or away from a curb such a distance as to make it unlawful.
- g) Violation of any subsection of this Section is an infraction.

11-213. Coasting

- a) No driver of a motor vehicle when travelling upon a down grade shall coast with the gears of the vehicle in neutral or with the clutch manually disengaged.
- b) Coasting as provided in this Section is an infraction.

11-214. Obstruction to Driver's View or Driving Mechanism

- a) No such person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or so as to interfere with the driver's control over the driving mechanism of the vehicle.
- b) No person shall drive a vehicle when there are more than three (3) persons, including the driver, in the front seat area of the vehicle.
- c) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.
- d) A violation of any subsection of this Section is an infraction.

11-215. Riding on Fenders, Bumpers, or Running Boards

- a) No driver shall permit passengers to ride on the fenders, bumpers, or running boards, nor shall any passenger ride on the fenders, bumpers, or running boards of a vehicle.
- b) Any driver permitting a violation of this Section, or passenger riding in violation of this Section, shall be guilty of an infraction.

11-216. Pedestrians on Roadways without Regard for Safety

- a) Pedestrians must obey all traffic control devices, always yield to emergency vehicles, and may not stand or cross on bridges or railroads when a signal is in operation or crossing presents an immediate hazard.

- b) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield right of way to all vehicles upon the roadway.
- c) Where sidewalks are provided, it is unlawful for any pedestrian to walk along or upon an adjacent roadway. Where sidewalks are not provided, a pedestrian walking along a highway shall, when practical, walk only on the left side of the roadway or its shoulder facing traffic that may approach from the opposite direction.
- d) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
- e) No person shall walk upon or along the highway where the posted speed limit is 55 mph or over while under the influence of intoxicating substances.
- f) A violation of any subsection of this Section is an infraction.

11-217. Garbage, Glass, etc. on Highways

- a) No person shall throw or deposit upon the highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other thing likely to injure any person, animal or vehicle.
- b) Any person who drops or permits to be dropped or thrown, upon any highway, any destructive or injurious material shall immediately remove the same or cause it to be removed.
- c) Any person removing a wrecked or damaged vehicle from the highway shall remove any glass or injurious substance dropped upon the highway from such vehicle.
- d) A violation of any subsection of this Section is an infraction.

11-218. Driving in Violation of an Order of the Court

- a) Any person whose license to operate a motor vehicle has been suspended by the Court, and who within the period fixed by the Court's order drives or attempts to drive a motor vehicle upon a public highway, is guilty of an offense.
- b) An occupational permit may be issued by the Court on such conditions as the Court may impose to any person whose license to operate a motor vehicle has been suspended.

- c) Driving in violation of a Court order shall be a Class A Misdemeanor, and any person convicted of driving in violation of a Court order where such order was a suspension of an individual's privilege to drive on the Reservation may have such suspension extended for an additional period of up to one year.

11-219. Duties in the Event of Accident

- a) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle that is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall give his name, address, and the registration number of the vehicle he is driving and shall upon request, and if available, exhibit his driver's or chauffer's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including hospital or medical attention.
- b) The driver of any vehicle that collides with any vehicle that is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.
- c) The driver of any vehicle involved in any accident resulting only in damage to fixtures, or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of the accident, and of his name and address, and of the registration number of the vehicle he is driving, and shall upon request and if available exhibit his operator's or chauffer's license.
- d) The driver of any vehicle involved in an accident resulting in injury to or death of any person or property damage to another or others shall, as soon as practicable thereafter, give notice of such accident to a police officer.
- e) A violation of any subsection of this Section is an infraction.

11-220. Unlawful Use or Tampering of a Motor Vehicle

- a) Any person who shall tamper with the motor vehicle of another, with intent to injure the same or cause inconvenience to the owner thereof, or who shall take and operate the motor vehicle of another without the consent of the owner or person lawfully in charge thereof, under such circumstances as not to constitute theft, shall be guilty of an offense.

- b) Unlawful use or tampering of a motor vehicle is a Class B Misdemeanor.

11-221. Open Container in a Motor Vehicle

- a) A person may not drink or consume alcoholic beverages in or on any motor vehicle when the vehicle is upon a public highway or in an area used principally for public parking. A person may not have in that person's possession on that person's person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. However, it is lawful to keep any open container in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment must be deemed to be within the area occupied by the driver and passengers.
- b) A violation of this Section is an infraction.

11-222. Driving without Liability Insurance

- a) No person may drive or knowingly permit another to drive a motor vehicle without a valid policy of liability insurance in effect in order to respond to damages or liability arising out of the ownership, maintenance, or use of that motor vehicle. The liability insurance must be, at a minimum, for the amount of \$25,000.00 because of bodily injury to or death of one person in anyone accident and subject to that limit for one person, \$50,000.00 because of bodily injury or death of two or more persons in anyone accident and \$25,000.00 because of injury to or destruction of property of others in any one accident.
- b) Driving without liability insurance in a Class A Misdemeanor.

11-223. Obedience to Authorized Persons Directing Traffic

- a) No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer, firefighter, construction or maintenance site worker or school crossing guard invested with authority to direct, control or regulate traffic.
- b) Failure to obey authorized persons directing traffic is an infraction.
- c) This Section does not apply to persons, motor vehicles or equipment engaged in highway work, but does apply to such persons, vehicles and equipment when travelling to or from such work.

11-224. Obedience to Traffic-Control Devices

- a) All drivers must obey the instructions of all official traffic-control devices placed or held in accordance with this Title, unless otherwise directed by a person authorized to direct traffic.
- b) Failure to obey traffic-control devices is an infraction.
- c) This Section does not apply to persons, motor vehicles or equipment engaged in highway work, but does apply to such persons, vehicles and equipment when travelling to or from such work.

11-225. Interference with Officially Authorized Persons or Traffic Control Devices

- a) No person may impersonate any police officer, firefighter, construction or maintenance site worker or school crossing guard invested with authority to direct, control or regulate traffic.
- b) No person may place or display unauthorized traffic control devices upon any area to which the public has access for vehicular traffic.
- c) No person may alter, twist, deface, injure, knock down, remove or interfere with any official traffic control device.
- d) A violation of any subsection of this Section is an infraction.

11-226. Driving a Vehicle in an Unsafe Condition

- a) No person shall operate a motor vehicle on the highways within the Reservation unless such vehicle is in safe condition.
- b) Driving a vehicle in an unsafe condition is an infraction.

11-227. Impeding Traffic by Travelling at Low Speed

- a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law.
- b) A violation of this Section is an infraction.

11-228. Racing on Highways

- a) No person shall drive any vehicle on a highway in any race, speed competition, drag race or acceleration contest, test of physical endurance of speed or acceleration, or for the purpose of making a speed record. No person shall in any manner participate in any such race, competition, contest, test or exhibition, whether or not she or he is operating the vehicle.
- b) A violation of this Section is an infraction.

11-229. Driving while Using Wireless Communication Device

- a) The operator of a motor vehicle that is part of traffic may not use a wireless communications device unless the device may be so used completely without the use of the driver's hands.
- b) A violation of this section is an infraction.

11-230. Homicide by Vehicle

- (a) Whoever shall unlawfully and unintentionally cause the death of another person, while engaged in a violation of any tribal law applying to the operation or use of a vehicle or to the regulation of traffic, shall be guilty of homicide by vehicle when such violation is the proximate cause of that death.
- (b) Homicide by vehicle is a felony.

Chapter 3

Driving Under the Influence of Alcohol or Intoxicating Drugs/Actual Physical Control

11-301. Driving a Motor Vehicle While Under the Influence of Intoxicating Liquors 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 that renders him/her incapable of safely driving a motor vehicle to operate or be in actual physical control of any motor vehicle upon a highway or upon public or private areas to which the public accesses for vehicular use within the Reservation.

- b) A person will be deemed to be driving a motor vehicle while under the influence of intoxicating liquor or drugs or in actual physical control of a vehicle if the person was driving a vehicle or was in actual physical custody of a vehicle and any of the following apply:
1. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two (2) hours after the driving or being in actual physical control of a vehicle; a person's alcohol concentration is the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of the person's blood, urine, breath or other bodily substance, and shall be based upon grams of alcohol per one hundred milliliters of blood, or grams of alcohol per two hundred ten liters of end expiratory breath, or grams of alcohol per sixty-seven milliliters of urine;
 2. That person is under the influence of intoxicating liquor;
 3. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving; or
 4. That person is under the combined influence of alcohol and any other drugs or substances to a degree that renders that person incapable of safely driving.
- c) Every person convicted of a first offense within five (5) years shall be guilty of a class A misdemeanor. In addition to all penalties provided by Section 4-104 of the Standing Rock Code of Justice, any individual convicted under this subparagraph shall be ordered to undergo an evaluation for addiction to alcohol or other drugs by an appropriate addiction program and to follow all recommendations of that evaluation, ordered to complete an appropriate course consisting of a class or classes relating to Driving While Under the Influence, and have her or his privilege to operate a motor vehicle within the Reservation suspended for a period of 30 days.
- d) Every person convicted of a second offense within a five (5) year period shall be guilty of a Class A Misdemeanor. In addition to all penalties provided by Section 4-104 of the Standing Rock Code of Justice, any individual convicted under this subparagraph shall be ordered to undergo an evaluation for addiction to alcohol or drugs by an appropriate addiction program and to follow all recommendations of that evaluation, and have her or his privilege to operate a motor vehicle within the Reservation suspended for a period of 180 days.
- e) Every person convicted of a third or subsequent offense within five (5) years shall be guilty of a felony. In addition to all penalties provided by Section 4-104 of the Standing Rock Code of Justice, any individual convicted under this subparagraph shall be ordered to undergo an evaluation for addiction to alcohol or drugs by an appropriate addiction program and to follow

all recommendations of that evaluation, and have her or his privilege to operate a motor vehicle within the Reservation suspended for a period of one (1) year.

- f) Failure to abide by conditions imposed by the Court under this section within the time period ordered by the court shall result in the revocation of the suspension of any suspended imprisonment imposed as a part of the sentence.
- g) The five (5) year period for the consideration of prior convictions under this section for the purpose of sentencing shall be dated from date of conviction.
- h) A preliminary breath test under Section 11-302(a)(2) may be used as evidence of a violation of this Section under subsection (b)(2) herein, provided that, where no additional chemical test is administered under 11-302(a)(1), the results of the preliminary breath test must be accompanied by additional, competent evidence in determining the guilt or innocence of the defendant.
- i) An offense committed in violation of this Section under subsections (b)(2), (b)(3) or (b)(4) need not be supported by an alcohol concentration at any given level, but may be proved by competent evidence including the officer's observations – including through field sobriety tests administered at the direction of, or by, a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle on the highways of the Reservation - as well as any test administered under subsection (h) of this section.

11-302 Chemical Blood, Breath or Urine Tests

- a) Any person who operates a motor vehicle upon the highways, roads, or private areas to which the public accesses for vehicular use within the Reservation shall be deemed to have given consent subject to the provisions of this section, to:
 - 1. A chemical test of his/her blood, breath, or urine for the purpose of determining the alcoholic concentration of his/her blood after the individual has been placed under arrest for driving under the influence or being in actual physical control of a motor vehicle in violation of this Chapter, performed at a facility appropriate and equipped for such tests, and administered at the direction of an arresting police officer. The arresting officer may designate which one of the aforesaid tests shall be administered. Such test must be given within two (2) hours of the time the individual was driving or in actual physical control of a motor vehicle to be admissible in Court; and
 - 2. A preliminary breath test administered at the direction of, or by, a law enforcement officer having reasonable grounds to believe the person to have been driving or in

actual physical control of a motor vehicle upon the highways, roads, or private areas to which the public has a right of access for vehicular use within the Reservation while under the influence of intoxicating liquor or drugs.

- b) A preliminary breath test as provided under subsection (a)(2) of this Section may be (i) utilized by law enforcement for the purpose of estimating the alcohol concentration in the individual's breath upon request of the law enforcement officer in a determination of whether the officer has sufficient cause to continue the stop of an individual and/or to arrest, and (ii) utilized by any party in Court to help prove or disprove the ultimate question of guilt in accordance with the provisions of this Chapter.
- c) Any person who is unconscious or who is otherwise in a condition rendering him/her incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this section.
- d) If the test given is a blood test, only a physician or registered nurse acting at the request of a police officer may administer the test, and neither shall incur any civil or criminal liability as a result of his/her assistance.
- e) If the test to be given is a chemical test of urine, the person tested shall be given such 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.
- f) 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 counsel.
- g) The person tested may, at his or her own expense, have a physician or registered nurse of his/her own choosing administer a test, in addition to any administered at the direction of a police officer, for the purpose of determining the alcohol concentration in his/her blood at the time alleged as shown by chemical analysis of his/her blood, breath or urine.
- h) The law enforcement officer who is to administer the test shall warn the person who is to be tested that she or he has given her or his implied consent to be tested by driving on the highways, and that refusal to take a test requested by law enforcement shall result in a suspension of her or his driving privileges on the Reservation as provided in Section 11-304 of this Title.
- i) Except as otherwise provided in this Section, if a person under arrest refuses the request of a police officer to submit to a chemical test designated by the arresting officer as provided in paragraph (a) of this section, none shall be given, but the officer shall submit a sworn report that he/she had reasonable grounds to believe the arrested person had been driving or was in actual

physical control of motor vehicle upon the highways, roads, or private areas to which the public has a right of access for vehicular use within the Reservation while under the influence of intoxicating liquor or drugs, and that the person had refused to submit to the test on the request of the police officer, and such sworn report shall be forwarded to the Court. The Court shall thereafter proceed to Section 11-304 of this Title for suspension of the individual's driving privileges.

- j) If the chemical test that has been refused is a preliminary breath test, the law enforcement officer shall inform the individual - if such a test may be conducted within the timeframes set by this Title - that she or he may remedy the refusal if the individual either: (i) immediately revokes her or his refusal and takes the chemical test previously refused; or (ii) if such test is available and may still be reasonably taken within two (2) hours after the driving or being in actual physical control of a vehicle, takes a chemical test under subsection (a)(1) of this Section for the same incident. If such person thereby cures her or his refusal, the individual's previous refusal of the preliminary breath test shall not be grounds for finding the individual guilty of an offense under this Chapter, nor for suspension of the person's privilege to drive on the highways of the Reservation.
- k) Notwithstanding the provisions of any other law, when the driver of a vehicle is involved in a crash resulting in death or serious bodily injury of another person, and there is reason to believe that the driver was driving under the influence of alcohol or drugs, the driver may be compelled by a police officer to submit to a test or tests of his or her blood, breath or urine to determine the person's alcohol concentration or the presence of other drugs.

11-303 Admissibility of Evidence

- a) Upon the trial 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 or drugs, evidence of the alcohol concentration 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 person under arrest refused to submit to the test as hereinabove provided, proof of refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon a highway while under the influence of intoxicating liquor or drugs.
- c) The provisions of this section do not limit the introduction of any competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor or drugs.

11-304 Suspensions for Violations of this Chapter

- a) An individual's privilege to drive on the Reservation may be suspended for violations under this Chapter in two circumstances:
1. Upon an individual's conviction for Driving Under the Influence, in which case the individual's privilege to drive on the Reservation shall be suspended automatically upon conviction during the sentencing phase of the trial or hearing; and
 2. Upon an individual's refusal to comply with a law enforcement officer's request to perform a chemical test.
- b) When an individual has refused to comply with a law enforcement officer's request to perform a chemical test, and the Court is in receipt of the law enforcement officer's sworn report as provided in Section 302(i), it shall thereafter begin proceedings to suspend the individual's driving privileges on the Reservation for a period of 90 days as follows:
1. The Court shall issue a temporary driving permit to the individual which shall allow the individual to drive to work and/or school for ten (10) days after issuance. The temporary driving permit shall note that the individual's driving privileges on the Reservation shall be suspended for 90 days upon the expiration of the temporary driving permit, provided that the individual may file an appeal with the Court prior to the expiration of the temporary driving permit. For the purpose of this Section, an appeal is filed when it is in possession of the Standing Rock Tribal Clerk of Court's office.
 2. If no appeal is filed with the Court as provided in subsection (b)(1) of this Section, the individual's driving privileges shall be suspended immediately upon the expiration of the temporary driving permit.
 3. If an appeal is timely filed under subsection (b)(1) of this Section, the Court shall set the matter for hearing, and the individual's temporary driving permit shall be extended until the hearing scheduled for appeal of the matter.
 4. For an appeal of any suspension arising from a refusal, the issues on appeal shall be limited to whether the arresting officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a motor vehicle upon the highways, roads, or private areas to which the public had access for vehicular use within the Reservation while under the influence of intoxication liquor or drugs, whether the person was placed under arrest, whether any chemical test administered was done so in accordance with the law and any applicable regulations or guidelines, and whether the person refused to submit to the test.

5. After the hearing on the matter, the Court may either: (i) uphold the suspension, which shall take effect immediately at the close of the hearing; or (ii) reverse the suspension and reinstate the appellant's privileges to drive on the Reservation.
 6. The outcome of a suspension appeal does not, in itself, have any effect on any related or contemporary charges stemming from the same conduct which led to the individual's suspension.
- c) Under any circumstance where an individual has their privilege to drive on the Reservation suspended by the Tribal Court, the Tribal Court may issue a work/school permit allowing the individual to drive for such purposes during the period of suspension. Such issue shall be wholly within the discretion of the Court unless specifically required by any provision of this Chapter.

Chapter 4 Traffic Procedures

11-401 Provisions Supersede Conflicting Procedures

To the extent any provision in this Chapter conflicts with Title II or Title III of the Standing Rock Sioux Tribal Code of Justice regarding procedure, the provision of this Chapter shall supersede the conflicting provision for purposes of this Title.

11-402. Traffic Violations Procedures

With the exception of subsection (g) of this Section, all subsections in this Section apply to infractions and civil offenses (speeding, failure to wear safety belt, failure to properly secure child).

- a) Any person cited for violations of any provision of this Title when such violations constitute an infraction or a civil offense shall elect among the following alternative options:
 - 1) Prior to the date scheduled for hearing on the citation, he may pay a fine in the amount provided in the fine schedule adopted under Section 11-109, or for those fines set forth in this Title for civil offenses, either in person or by mail, which fine shall be specifically noted on the citation; or
 - 2) The person shall appear for a hearing in Court at the time scheduled on the citation. At that appearance, he may either:

- A. Make a statement in explanation of his action, and the Judge may at that time, in his discretion, impose, waive, increase, reduce, or suspend the fine ; or
 - B. Request a hearing on the violation charged.
-
- b) Any individual cited for an infraction shall have no less than 30 days to pay the fine prescribed to the offense before being made to appear in Court.
 - c) If the person cited follows the procedures in Sections 11-402(a)(1) or 11-402(a)(2)(A), he shall be deemed to have admitted the violation and to have waived his right to hearing on the issue of commission of the violation.
 - d) If a person fails to choose one of the methods of proceeding set forth in Section 11-402(a), he shall be deemed to have admitted commission of the violation charged. Failure to appear at the time designated, without first paying the fine, shall be punishable as contempt of Court, and shall also be deemed to admit commission of the violation charged.
 - e) A person who pays his or her fine in advance of the scheduled hearing need not attend the hearing scheduled on the citation and shall have no additional costs or fees imposed.
 - f) Persons cited for an infraction must be informed of their right to pay the prescribed fine prior to the scheduled Court hearing, and that if they so pay they need not appear at the scheduled Court hearing on the matter cited.
 - g) A person cited for a violation of a provision in this Title when such violation is not an infraction or a civil offense shall appear for a hearing in Court at the same time scheduled on the citation. Failure to appear at the time designated shall be punishable as contempt of Court.

11-403. Notification of Parents or Guardians of Juvenile Traffic Offenders

The juvenile officer shall notify the parent or guardian of any juvenile scheduled to appear before the Court on a traffic offense of the charge as contained in the citation, the penalty attached to the offense, and the time and place of any court hearing on the matter.

11-404. Law Officers to Report Accidents

Every Reservation law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of such accident to the Chief of Police.

11-405. Speeding Complaints and Summons

In a charge for a violation of any speeding provision in this Title, the complaint and summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location at which the alleged speeding occurred.

11-406. Citations

Each citation for an infraction shall clearly and plainly advise the person of the fine to be paid for the offense charged, and of the person's right to pay the fine in advance of the scheduled hearing, and that if such fine is not paid in advance, she or he must attend the scheduled hearing or be held in contempt of court.

**Chapter 5.
Emergency-Related Provisions**

11-501. Emergency Medical Assistance

Any person who in good faith shall administer emergency care at or near the scene of a motor vehicle accident to the victims of the accident shall not be held liable for any damages resulting from the rendering of that care, provided that a physician rendering such care shall at the least render such emergency care as in his judgment is indicated at the time. The provisions of this section shall not apply to injuries or death resulting from intoxication, willful misconduct or gross negligence of the person rendering the care, nor in instances where the emergency care was provided with the expectation of remuneration.

11-502 Authorized Emergency Vehicles - Exceptions

- a) When responding to an emergency, fire alarm, or the pursuit of a suspected violator of the law, the driver of an authorized emergency vehicle may exercise the following privileges, subject to the conditions stated herein:
 - (1) Park or stand, irrespective of the provisions of this Title;
 - (2) Proceed past a stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as life or property are not thereby endangered; and
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- b) The exemptions herein granted apply only when the vehicle is making use of audible and/or visual signals meeting code requirements.
- c) The above provisions do not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all people, nor will the provisions protect the driver from the consequences of reckless disregard for the safety of others. When determining whether a driver has failed to act with due regard, or has acted with reckless disregard for the safety of others, the environment in which she or he is driving must be a factor (i.e., urban district, rural area, school zone, etc.).

**Chapter 6
Automobile Occupant Safety**

11-601. Child Restraint Systems

- a) If a child is an occupant in a motor vehicle, the motor vehicle must be equipped with one child restraint system (car seat or booster seat) for each such child unless the child is over 57 inches tall (4 feet, 9 inches).
- b) While the motor vehicle is in motion:
 - 1) Each child below the height limits in section (a) must be properly secured in a child restraint system in accordance with the manufacturer's instructions.
 - 2) Each child above the height limits in section (a) must be properly secured in a safety belt.
- c) A violation of any provision of subsections (a) or (b) or this Section is a civil violation, and any driver in violation shall be subject to a civil penalty up to \$100 for each child not secured.

- d) Exceptions:
 - 1) Use of child restraint systems and safety belts is not required in motor vehicles that were not equipped with safety belts when manufactured.
 - 2) If a child is being transported in an emergency, use of safety belts and child restraint systems is strongly encouraged but not required.
- e) Any fourth (4th) or subsequent civil violation obtained by an individual under this Section shall per se constitute a charge of child neglect under Title IV of the Standing Rock Sioux Tribal Code of Justice.

11-602. Child Restraint System Guidelines

- a) Rear-Facing Seats. Children should ride in rear-facing car seats until they have outgrown the manufacturer's specifications for the seat used for the child.
- b) Forward-Facing Seats. Once a child has outgrown a rear facing seat under subsection (a) of this Section, she or he should ride in a forward-facing car seat with a five-point harness until they have outgrown the manufacturer's specifications for the seat used for the child.
- c) Booster Seats. Once a child has outgrown a forward-facing seat under subsection (b) of this Section, she or he should be seated in a Booster Seat until she or he has grown more than 4'9" tall.
- d) Safety Belts. Once a child has grown more than 4'9" tall, she or he should use a lap and shoulder safety belt.

11-603. Safety Belts

- a) A person may not operate nor ride as a passenger in a motor vehicle on a public highway without wearing a properly secured and adjusted safety belt.
- b) Exceptions. This section does not apply to:
 - 1) Motor vehicles that were not manufactured with safety belts;
 - 2) Children covered under sections 11-601 through 11-603;
 - 3) Operators of implements of husbandry or farm vehicles;

- 4) Rural mail carriers while on duty delivering mail; and
 - 5) Occupants with medical conditions or disabilities that physically prevent them from wearing a safety belts, provided that a qualified physician states in a signed writing the nature of the condition and the reason use of a safety belt is inappropriate.
- c) A violation of this section does not constitute negligence per se or contributory negligence, and is not admissible as evidence in a civil action.
- d) A violation of subsection (a) of this Section is a civil offense, and any individual in violation – including both an operator of a vehicle and a passenger in a vehicle - shall be subject to a civil penalty of up to \$100.

11-604. Primary Enforcement

Law Enforcement agencies shall enforce this Chapter as a primary law, and so may stop a motor vehicle for a violation of this Chapter, provided, however, that no vehicle, driver, or occupant in a vehicle may be searched solely because of a violation of this chapter or a stop made under this Chapter.

Chapter 7
Specific Safety Provisions Regarding Motor Vehicles Other Than Automobiles

11-701. Operation of Off-Road Vehicles

This Section shall apply to Off-Road vehicles as defined in this Title.

- (a) Unless otherwise declared in this chapter, a person may not operate an Off-Road Vehicle on a highway unless it has been registered with any state or tribe.
- (b) A person may not operate an Off-Road Vehicle on any sidewalk or designated walkway except that Off-Road Vehicles may be operated on a public right-of-way during emergency conditions or for the performance of construction or maintenance in the public right-of-way.
- (c) The operator of an Off-Road Vehicle may make a direct crossing of a street or highway only if:
 - (1) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

- (2) The Off-Road Vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
 - (3) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate hazard; and
 - (4) In crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway.
- (d) A person may not operate an Off-Road Vehicle on a highway unless it is equipped with at least one headlamp, one tail lamp, and brakes, all in working order.
- (e) The emergency conditions under which an Off-Road Vehicle may be operated other than as provided by this chapter are only those that render the use of an automobile impractical under the conditions and at the time and location in question.
- (f) A person may not operate an Off-Road Vehicle in the following ways, which are declared to be unsafe and a public nuisance:
- (1) At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
 - (2) In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
 - (3) While under the influence of intoxicating liquor or a controlled substance.
 - (4) Without a manufacturer-installed or equivalent muffler/baffles in good working order and connected to the Off-Road Vehicle exhaust system.
 - (5) On any private land where the private land is posted prohibiting trespassing. The name and address of the person posting the land and the date of posting must appear on each sign in legible characters. The posted signs must be readable from outside the land and be placed conspicuously at a distance of not more than eight hundred eighty yards apart. Land entirely enclosed by a fence or other enclosure is sufficiently posted by posting of such signs, at or on all gates through the fence or enclosure.
- (g) A person may not operate an Off-Road Vehicle without having in her or his possession a valid driver's license or permit.
- (h) When an Off-Road Vehicle is operated within the right-of-way of any road, street, or highway, during times or conditions that warrant the use of lights by other motor vehicles, the Off-Road Vehicle must be operated in the same direction as the direction of other motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the Off-Road Vehicle.

- (i) A person may not operate an Off-Road Vehicle within the right-of-way of any highway while towing a sled, skid, or other vehicle, unless the object towed is connected to the Off-Road Vehicle by a hinged swivel and secure hitch.
- (j) Helmet required. No person under the age of 16 years may operate, ride, or otherwise be propelled on an Off-Road Vehicle unless the person wears a safety helmet meeting United States Department of Transportation standards.
- (k) Passenger restrictions. No operator of an Off-Road Vehicle may carry passengers in excess of the provided seating.
- (l) A person under 16 years of age who is not in possession of a valid operator's license or permit to operate an Off-Road Vehicle may not, except upon the lands of the person's parent or guardian, operate an Off-Road Vehicle. A person at least 12 years of age may operate an Off-Road Vehicle if the person has completed an Off-Road Vehicle safety training course. The failure of an operator to exhibit an Off-Road Vehicle safety certificate on demand to any official authorized to enforce this chapter is presumptive evidence that that person does not hold such a certificate.
- (m) Authorized emergency personnel, in the performance of their official duties, shall not be subject to the provisions of this chapter.
- (n) Only authorized emergency personnel and their respective duly authorized representatives may enforce this chapter.
- (o) Violation of any subsection of this Section is an infraction.

11-702. Operation of Motorcycles

- (a) Every person operating a motorcycle or motorized bicycle is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this Section and except as to those provisions of this chapter which by their nature can have no application.
- (b) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and may not carry any other person, nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
- (c) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.
- (d) A person may not operate a motorcycle while carrying any package, bundle, or other article that prevents the operator from keeping both hands on the handlebars.

- (e) An operator may not carry any person, nor may any person ride in a position, that will interfere with the operation or control of the motorcycle, or obstruct the view of the operator.
- (f) A person riding upon a motorcycle may not attach himself or herself or the motorcycle to any other vehicle on a roadway.
- (g) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for such passengers.
- (h) No person, under the age of 16, may operate or ride upon a motorcycle unless protective headgear that complies with safety standards is worn on the head of the operator and/or rider, except when participating in a lawful parade.
- (i) A violation of any subsection of this Section is an infraction.

11-703. Operating Motorcycles on Roadways Laned for Traffic

- (a) All motorcycles are entitled to a full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection does not apply to the operation of motorcycles two abreast in a single lane.
- (b) The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.
- (c) A person may not operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
- (d) Motorcycles may not be operated more than two abreast in a single lane.
- (e) A violation of any subsection of this Section is an infraction.

**Chapter 8
Bicycles**

11-801. Bicycles Not Motor Vehicles

Bicycles are not considered motor vehicles under this Title, and therefore are only subject to the provisions of this Chapter.

11-802. Operation of Bicycles

- (a) Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle, except as to special regulations in this Chapter and except as to those provisions of this chapter which by their nature can have no application.
- (b) A person may not ride a bicycle, skateboard or roller blade on any public or private property signed to prohibit those activities.
- (c) Whenever any person is riding a bicycle, skate boarding or roller blading upon a sidewalk, such person shall yield the right-of-way to any pedestrian.
- (d) A person propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.
- (e) A bicycle may not be used to carry more persons at one time than the number for which it is designed and equipped.
- (f) Any person under the age of 16 who is riding a bicycle must wear a helmet.
- (g) A violation of any subsection of this Section is an infraction.

11-803. Operating Bicycles on Roadways and Bicycle Lanes

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, except when turning left, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a roadway must ride single file on lanes or parts of roadways set aside for the exclusive use of bicycles except while passing another cyclist.
- (c) A person riding upon any bicycle, coaster, roller-skates, skateboard, rollerblades, sled or toy vehicle may not attach the same or himself to any vehicle upon a roadway.
- (d) A person operating a bicycle may not carry any package, bundle, or article that prevents the driver from keeping at least one hand upon the handlebars.
- (e) Every bicycle when in use at nighttime must be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the applicable state's motor vehicle department. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

- (f) Any portion of a roadway designated for use by bicycles that is distinguished from that portion of the roadway to be used by motor vehicles by a paint strip, pavement markings, or official signs must be used by bicycle operators when traveling on the roadway except as necessary to leave such portion of the roadway to take the same lane to make a left turn or navigate around obstacles located in the area designated for use by bicycles.
- (g) No person shall operate a bicycle on a roadway against the flow of traffic.
- (h) The operator of a bicycle traveling on a roadway at a rate of speed that delays a motor vehicle or motor vehicles following in the same lane shall be required, when it is unlawful or unsafe for the following motor vehicle to pass, to move as far to the right of the traveled roadway, or to the left where the bicycle is in the left lane of a one-way roadway, as is safe under the conditions then existing; provided, however, that when the bicyclist is within fifty feet (50') of an intersection, operator shall not be required to move to the right or left until operator has moved through the intersection.
- (i) A violation of any subsection of this Section is an infraction.