

POTAWATOMI LAW AND ORDER CODE

**TITLE 17
MOTOR VEHICLE CODE**

**CHAPTER 17-1
GENERAL PURPOSE STATEMENT**

Section 17-1-1. Purpose.

The purpose of this title is to implement reasonable rules, regulations, and penalties essential to maintaining a safe and efficient transportation system within the Prairie Band of Potawatomi Indian jurisdiction.

The Prairie Band Potawatomi Nation, under its inherent sovereign powers has, since the creation of its Reservation in 1846, controlled the access and presence of persons to and on its Reservation territory. An increasing number of tribal members are seeking to reside on the Reservation, an increasing number of motor vehicles are being used by Indian and non-Indian persons to enter the Reservation territory in order to engage in gaming and other activities with Tribal enterprises or members and there has been a significant increase in the amount of motor vehicle traffic on the Reservation. The provisions of this Title are required and necessary in order to for the Nation to regulate and control motor vehicle traffic on its Reservation. For the purpose of this Title, the term Reservation shall be as defined in Article I of the Prairie Band Potawatomi Nation's Constitution.

**CHAPTER 17-2
DEFINITIONS**

Section 17-2-1. Definitions.

In this section, unless the context or subject matter otherwise requires:

(A) **Actual Physical Control** means possessing the present ability to operate any motor vehicle, notwithstanding the fact that such vehicle is not in motion, while under the influence of intoxicating alcohol or drugs.

(B) **Authorized emergency vehicles shall include:**

- (1) vehicles owned or leased by the Prairie Band Potawatomi Nation or the United States Government, and used for law enforcement purposes,
- (2) vehicles of a governmentally owned fire department,
- (3) ambulances or
- (4) vehicles clearly marked or designated for law enforcement purposes when operated by a recognized law enforcement officer, any municipal department, sheriff or deputy sheriff or state trooper.

- (5) Only Tribal Police, Fire and Ambulance vehicle are authorized to display or operate Red and/or Blue emergency light and/or siren.
- (C) **Bus** shall mean every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (D) **Business district** shall mean the territory contiguous to a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
- (E) **Controlled-access highway** shall mean every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
- (F) **Crosswalk** shall mean that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- (G) **Dealer** shall mean every person, partnership or corporation engaged in the business of buying, selling or exchanging motor vehicles, or who advertises or holds himself or herself out to the public as engaged in the buying, selling or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale.
- (H) **Essential parts** shall mean all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.
- (I) **Farm tractor** shall include every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
- (J) **Guest** shall mean and include a person who accepts a ride in any vehicle without giving compensation therefore.
- (K) **Gross weight** shall mean the weight of a vehicle without load plus the weight of any load thereon.
- (L) **Highway** shall mean the entire width between the boundary lines of every way publicly maintained right of way when any part thereof is open to the use of the public for purposes of vehicular travel.

(M) **Implement of husbandry** shall mean every vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.

(N) **Intersection** shall mean the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways, each roadway shall be regarded as a separate intersection.

(O) **Intoxicating liquor** shall mean and include any beverage containing alcohol and illegal or controlled substances.

(P) **Judgment** shall mean an adjudication which shall have become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any Indian Nation or a state of the United States, upon a cause of action arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on agreement of settlement for such damages.

(Q) **Legal owner** shall mean a person who holds the legal title to a vehicle.

(R) **Mail** shall mean to deposit mail properly addressed and with postage prepaid with the United States postal service.

(S) **Manufacturer** shall mean any person engaged in the business of manufacturing motor vehicles or trailers.

(T) **Metal tires** shall include all tires the surface of which in contact with the highway is wholly or partly of metal or other hard non-resilient material except that this provision shall not apply to pneumatic tires.

(U) **Motor vehicle** shall include every vehicle which is self-propelled, but not operated upon rails.

(V) **Motorcycle** shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding implements of husbandry.

(W) **Nonresident** shall mean any person who is not a resident of the Prairie Band Potawatomi jurisdiction.

(X) **Official traffic-control** devices shall mean all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of the Prairie Band of Potawatomi Indian Nation or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

(Y) **Operator** shall mean every person who drives or is in actual physical control of a motor vehicle upon a highway or who exercises control over or steers a vehicle being towed by a motor vehicle.

(Z) **Owner** shall mean a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this title.

(AA) **Pedestrian** shall mean any person on foot.

(AB) **Park when prohibited** shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(AC) **Person** shall include every person, firm, partnership, association, or corporation.

(AD) **Pneumatic tires** shall include all tires inflated with compressed air.

(AE) **Pole trailer** shall mean every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(AF) **Police officer** shall mean every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations within the Prairie Band Potawatomi Tribe jurisdiction.

(AG) **Private road or driveway** shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(AH) Railroad shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(AI) Railroad sign or signal shall mean any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(AJ) Residence district shall mean territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred (300) feet or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.

(AK) Right of way shall mean the privilege for the immediate use of a roadway.

(AL) Road tractor shall mean every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(AM) Roadway shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.

(AN) Safety zone shall mean the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.

(AO) School bus shall mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(AP) Semi-trailer shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle so that some part of its own weight rests upon or is carried by a motor vehicle, except that it shall not include a "house trailer" or "mobile home."

(AQ) Sidewalk shall mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

(AR) Solid tire shall include every tire made of rubber or other resilient material other than a pneumatic tire.

(AS) Specially constructed vehicle shall mean any vehicle under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(AT) Stand or standing shall mean the halting of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(AU) State shall mean a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.

(AV) Stop when required shall mean complete cessation from movement.

(AW) Stop or stopping when prohibited shall mean any halting, even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(AX) Street shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(AY) Through highway shall mean every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.

(AZ) Traffic shall mean pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purpose of travel.

(BA) Traffic-control signal shall mean any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(BB) Trailer shall include every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it shall not include a "house trailer" or "mobile home," which terms shall mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.

(BC) Truck shall include every motor vehicle designed, used or maintained primarily for transportation of property.

(BD) Truck tractor shall include every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(BE) Prairie Band Potawatomi jurisdiction shall mean all geographical areas within the territorial jurisdiction of the Prairie Band Potawatomi Nation, including, without limitation, all territory within the exterior boundaries of its reservation.

(BF) Urban district shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than one hundred (100) feet for a distance of a quarter of a mile or more.

(BG) Vehicle shall include every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

CHAPTER 17-3 ARREST

Section 17-3-1. Arresting Person for Violating Traffic Regulation; Duty of Officer Arresting.

Whenever any person is detained for the violation of any of the provisions of this Title, the officer detaining such person, except as otherwise provided in section of this Title shall:

- (1) take the name and address of such person;
- (2) take the license number of the person's vehicle; and
- (3) issue a summons or otherwise notify the person in writing to appear at a time and place to be specified in such summons or notice.

CHAPTER 17-4 COMPLAINT AND SUMMONS

Section 17-4-1. Uniform Traffic Complaint and Summons.

There is hereby established a uniform complaint and summons which may be used in cases involving violations of statutes or ordinances relating to the operation or use of motor vehicles. Whenever the complaint and summons established by this section is used, the provisions of the sections relating to arrests without warrants shall not apply, and the judges or prosecuting attorneys shall not be required to make another complaint of the offense charged in the uniform complaint and summons. The uniform complaint established herein shall be printed as a three part self-carboning citation book.

Section 17-4-2. Failure to appear; Hearing Upon Arrest Time; Promise of Defendant to Appear;

The time to be specified in the summons or notice provided for in section shall be at least five (5) days after such arrest unless the person arrested shall demand an earlier hearing, and, if the person arrested desires, the person may have the right, at a convenient hour, to an immediate hearing or to a hearing within twenty-four (24) hours, excluding weekends or court observed holidays. Such hearing shall be before a judge of the Prairie Band of Potawatomi Tribal Court. Upon receipt from the arrested person of a written promise to appear at the time and place mentioned in the summons or notice, such officer may release the person from custody. Any person willfully violating a written promise to appear shall pay a fine of not more than \$500 and may be subject to the provisions of the Nonresident Violator Compact, an additional assessment of court costs or other procedures provided for by this Title.

Section 17-4-3. Offenses Under Which Person Arrested may not be Entitled to Release Upon Promise to Appear.

Notwithstanding other provisions of this Title, an arrested person may not be entitled to release when:

(A) The arresting officer shall have good reason to believe such person guilty of any felony or when such person is arrested and charged with either of the following offenses;

- (1) causing or contributing to an accident resulting in injury or death of any person;
- (2) driving while under the influence of intoxicating liquor or a narcotic drug.

(B) The arresting officer, acting within discretion, deems it inadvisable to release such person upon a promise to appear when arrested and charged with reckless driving.

Section 17-4-4. Display of Number Plates.

Except as otherwise specifically provided, no person shall operate or drive a vehicle on the public highways within the Prairie Band Potawatomi jurisdiction unless such vehicle shall have a current registration tag with distinctive numbers assigned to it by a motor vehicle registration department or similar legally authorized agency on the rear of such vehicle, securely fastened. Numbered plates assigned to a motorcycle, trailer or house trailer shall be attached to the rear thereof. As far as is reasonably possible, such plates shall at all times be kept free and clear of mud, ice or snow so as to be clearly visible and all number plates, markers, or evidence of registration or licensing except for the current year shall be removed from such vehicle. Any person violating this section will be charged with an infraction and penalized with a fine not to exceed seventy-five dollars (\$75).

Section 17-4-5. Driving Without a License.

(A) No person shall drive a motor vehicle on the public and/or state highways within the jurisdiction of the Prairie Band Potawatomi Tribal Court without a valid driver's or chauffeur's license in possession.

(B) Any person violating this section will be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100.00).

Section 17-4-6. Permitting an Unauthorized Minor to Drive.

(A) No person shall permit a child or ward under the age of eighteen years to drive a motor vehicle on the public highways unless such minor is licensed to drive or has a valid permit issued by a motor vehicle department or similar legally authorized agency and is accompanied by an adult with a valid driver's license.

(B) Any person convicted of violating this section shall be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100).

Section 17-4-7. Driving Without Required Registration or with Vehicle in Unsafe Condition.

(A) No person shall operate a motor vehicle on the roadways within the Prairie Band Potawatomi jurisdiction unless such vehicle is in safe condition and complies with applicable registration laws of the Prairie Band Potawatomi and/or the State of Kansas.

(B) Any person convicted of violating this section shall be charged with an infraction and penalized with a fine not to exceed seventy-five dollars (\$75).

Section 17-4-8. Starting, Turning and Stopping without Regard to Safety.

(A) No person shall start a vehicle, which 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 one hundred (100) feet traveled by the vehicle before turning.

(C) 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 when there is opportunity to give such signal.

(D) The signals herein required shall be given either by means of the standard hand and arm signals or by mechanical or electrical signal device.

(E) Every person driving a vehicle approaching an intersection with a stop sign, or flashing red light, shall stop on the near side of the intersection, or railroad grade crossing at the point where the person has a view of approaching traffic and shall not proceed until the intersection is clear.

(F) No person shall drive a vehicle through, over or within a safety zone.

(G) Any person who violates a provision within this section shall be charged with an infraction and penalized with a fine not to exceed fifty dollars (\$50).

Section 17-4-9. Speeding; Driving Without Due Caution.

(A) Every person operating or driving a vehicle of any character on a highway within the Prairie Band Potawatomi jurisdiction 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 the use of the street or highway.

(B) Any speed not in excess of the limits specified in this section shall be lawful, subject to subsection (A), but 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 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 and closing hours;

(3) Twenty (20) miles per hour when approaching within fifty (50) feet of a railroad grading or highway intersection or when the driver's view is obstructed within a distance of one hundred (100) feet;

(4) Forty-five (45) miles per hour on all other roadways except fifty (50) miles per hour on 150th Road between U.S. highway 75 and Harrah's Casino, fifty-five (55) miles per hour on 158 Road and seventy (70) miles per hour on U.S. Highway 75, except if posted at a lower speed limit. The speed limits 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 nor to fire departments when traveling in response to a fire alarm, nor to public or private ambulances when traveling in emergencies, this exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of maximum speed greater than is reasonable and proper under the conditions then existing.

(5) Any person who speeds, drives without due caution or drives at a speed greater than is reasonable under the conditions then existing, shall be charged with an infraction and pay a base fine of not more than \$50 plus not more than the following amounts:

- (a) for 1-10 mph over the limit, \$10,
- (b) for 11-20 mph over the limit, \$10 plus \$2 for each mph over 10 mph over the limit,
- (c) for 21-30 mph over the limit, \$30 plus \$3 for each mph over 20 mph over the limit,
- (d) for 31 or more mph over the limit, \$60 plus \$5 for each mph over 30 mph over the limit.
- (e) For any second offenses of this section occurring within one year of the first offense, an additional base fine of not more than \$50 may also be imposed.

Section 17-4-10. Radar Evidence in Speed Violations.

The speed of any motor vehicle may be checked by the use of radio microwaves or other electrical device. The results of such checks shall be accepted as prima facie evidence of the speed of such motor vehicle where the speed of the motor vehicle is at issue. The driver of any such motor vehicle may be arrested without a warrant or may be issued a traffic complaint and summons under this section, provided the arresting officer is in uniform or displays his or her badge of authority and provided that such officer has observed the recorded of speed of such motor vehicle by the radio microwaves or other electrical device, or has received a radio message from the officer who observed the speed of the motor vehicle recorded by the radio micro waves or other electrical device.

Section 17-4-11. Garages to Report.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in a reportable accident or of being struck by any bullet, shall report or cause a report to be made to the Prairie Band Potawatomi Police within twenty-four (24) hours after such motor vehicle is received, and, before any repairs are made to such vehicle, giving to the police the registration number, and the name and address of the owner, operator, or person in control of such vehicle with a description of the location and type of damage to the vehicle or any missing parts. Any person intentionally violating this section shall be charged with an infraction and pay a fine not to exceed one hundred dollars (\$100.00) and may be subject to criminal violations under this Code.

Section 17-4-12. Reckless Driving.

(A) Any person who drives a vehicle carelessly and heedlessly in willful or wanton disregard of the rights and safety of others or without due caution and circumspection at a speed or in a manner so as to endanger or likely to endanger any person or the property of another is guilty of reckless driving.

(B) Any person violating this section shall be guilty of a misdemeanor offense and subject to a fine of not more than \$500, imprisonment of not more than six months, court costs and may be deprived of the right to operate a motor vehicle for a period not to exceed one (1) year.

Section 17-4-13. Driving Or In Actual Physical Control While Under the Influence of Intoxication Liquors or Drugs.

(A) It is unlawful and punishable for any person who is under the influence of intoxicating liquor or who is under the influence of any drug to a degree which renders the person incapable of safely driving a motor vehicle to operate or be in actual physical control of any motor vehicle upon a public highway, roadway or public parking area within the jurisdiction of the Prairie Band Potawatomi jurisdiction.

(B) It is unlawful and punishable for any person who has 0.08 percent or more by weight of alcohol in the person's blood to drive or be in actual physical control of a vehicle upon a public highway, roadway or public parking area within the Prairie Band Potawatomi jurisdiction

(C) Every person who is convicted of a violation of subsection (A) or (B) shall, notwithstanding anything to the contrary in this code, be subject to mandatory sanctions in accordance with the following:

(1) For a first offense, the sentence must include both a fine of at least \$250 and not more than \$2,500 and an order for addiction evaluation by an appropriate licensed addiction treatment program and three (3) days imprisonment or ten (10) days community service.

(2) For a second offense within five years, the sentence shall include at least four (4) days imprisonment of which forty-eight (48) hours must be served consecutively, or a maximum of eighty (80) hours of community service; a fine of at least \$500 and not more than \$2,500; and an order for addiction evaluation by an appropriate licensed addiction treatment program.

(3) For a third or additional offense within five years, the sentence shall include at least sixty (60) days but not more than one year of imprisonment of which forty-eight (48) hours must be served consecutively; a fine of at least \$1,000 and not more than \$2,500 and an order for addiction evaluation by an appropriate licensed addiction treatment program.

(4) The execution or imposition of a minimum sentence under this section may not be suspended or deferred except that the court may, in lieu of all or part of the fines or imprisonment, order community service.

Section 17-4-14. Implied Consent to Determine Alcoholic Content of Blood.

(A) Any person who operates a motor vehicle upon the public highways within the Prairie Band Potawatomi jurisdiction shall be deemed to have given consent subject

to the provisions of this chapter to a chemical test or tests, of his or her blood, breath, saliva or urine for the purpose of determining the alcohol or drug content of his or her blood. The test or tests shall be administered at the direction of a law enforcement officer only after placing such person under arrest and informing the person that he or she is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor or any drug. The arresting officer shall determine which of the aforesaid tests shall be used.

(B) In any prosecution if it is shown that the person operated a motor vehicle and refused to consent to a chemical test or test of his or her blood, breath, saliva or urine for the purpose of determining the alcohol or drug content of blood, proof of refusal is admissible in any criminal or civil action and raises a presumption that the person was under the influence of alcohol and or drugs at the time he or she was driving.

(C) If a person operates a motor vehicle and refuses to consent to a chemical test or test of his or her blood, breath, saliva, or urine for the purpose of determining the alcohol or drug content of his or her blood, the person will be subject to costs and deprived of the right to operate a motor vehicle for one (1) year.

Section 17-4-15. Persons Qualified to Administer Tests.

Only a physician, or a qualified technician, chemist or registered nurse acting at the request of a law enforcement officer may withdraw blood for purpose of determining the alcohol or drug content therein. This limitation shall not apply to the taking of breath, saliva or urine specimen. The person tested may, at the person's own expense, have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer; however, the results of this additional test shall be made available to the clerk of the Tribal Court for purposes of introduction into evidence, without defendant's consent. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of law enforcement officer. Upon the request of the person who is tested, full information of the test or tests taken at the direction of the law enforcement officer shall be made available to the person.

Section 17-4-16. Consent of Person Incapable of Refusal not Withdrawn.

Any person who is dead, unconscious or who is otherwise in a condition rendering him or her incapable of consent, shall be deemed to have consented to such test or tests and the test or tests may be given.

Section 17-4-17. Interpretation of Chemical Tests.

Upon the trial of any civil or 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 amount of

alcohol or drugs in the persons blood at the time of the act alleged as shown by a chemical analysis of blood, breath, saliva or urine is admissible. For the purpose of this section:

(A) If there was at that time less than 0.06 percent by weight of alcohol in the person's blood, it shall be a rebuttable presumption that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(B) If there was at that time 0.06 percent or more, but less than 0.08 percent by weight of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(C) If there was at that time 0.08 percent or more by weight of alcohol in the person's blood, it shall be a rebuttable presumption that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(D) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per 210 liters of breath.

(E) The results of such chemical analysis shall be received in evidence when it is shown that the test was fairly administered, provided that a test of a person blood, urine, breath or other bodily substance and the result thereof is further shown to have been performed according to methods and/or with devices approved by the State of Kansas Toxicologist and by an individual possessing a certificate of qualification to administer the test issued by the State Toxicologist. The State Toxicologist is authorized to approve satisfactory techniques, devices and methods of chemical analysis. The State Toxicologist may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the State Toxicologist for appropriate action.

(F) If there is evidence the person had also consumed a drug it will be in the Tribal Court's discretion whether or not to allow the presumption provision of this section into evidence.

Section 17-4-18. 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; or

(2) when the right half of the roadway is closed to traffic while under construction or a repair or a sign is posted for one-way traffic or other conditions.

(B) No person shall at any time drive a vehicle to the left side of the roadway when:

(1) approaching the crest of a grade or upon a curve in the distance so as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing; or

(3) the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

(C) Any person violating this statute shall be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100).

Section 17-4-19. Following too Closely.

(A) The driver of a 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) Any person violating this section shall be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100).

Section 17-4-20. Overtaking a Vehicle Without Regard to Safety.

(A) 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.

(B) The driver of the vehicle overtaken shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(C) No person shall 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 or where the solid yellow/white stripe is in the lane the driver is traveling in, indicating no passing.

(D) A driver who overtakes a vehicle in violation of this section will be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100).

Section 17-4-21. Failure to Stop for School Bus Flashing Lights.

(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 signaled by the bus driver to proceed.

(B) Any driver failing to stop and wait at such signal will be charged with an infraction and upon conviction thereof shall be penalized with a fine not to exceed one hundred twenty dollars (\$120).

Section 17-4-22. 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 (2) 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 all vehicles approaching on the highway.

(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 which 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, providing the driver of the vehicle turning left has given a plainly visible signal of intention to turn.

(E) The driver of any vehicle upon a highway within a business or residence district shall yield the right of way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.

(F) Any driver who fails to give right of way will be charged with an infraction and penalized with a fine not to exceed fifty dollars (\$50).

Section 17-4-23. Stopping, Standing or Parking on a Highway.

(A) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or unpaved traveled 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 vehicle must clearly be visible for a distance of five hundred (500) feet to the driver of vehicles approaching from either direction.

(B) When any duly authorized law officer finds a vehicle standing upon a highway within the Prairie Band Potawatomi jurisdiction in violation of this statute,

the officer is hereby authorized to move or tow such vehicle or require the driver or person in charge of such vehicle to move such vehicle to the nearest place of safety. If a vehicle is towed at the request of a law enforcement officer, the owner of the vehicle will be required to pay all expenses for towing and storage of the vehicle.

(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) Any driver who starts, stops or parks on a roadway in violation of this section will be charged with an infraction and pay a fine not to exceed \$50.

Section 17-4-24. Stopping, Standing, or Parking Prohibited.

(A) No person may stop, stand, or park a vehicle in any of the following places:

- (1) within ten (10) feet of a fire hydrant;
- (2) in a designated fire lane;
- (3) on the roadway side of any vehicle stopped or parked;
- (4) at any place where official signs prohibit stopping; or
- (5) in front of a public or private driveway.

(B) Any driver who stops, stands, or parks on a roadway in violation of this section will be charged with an infraction and pay a fine not to exceed \$50.

(C) When any duly authorized law officer finds a vehicle in violation of this statute, the officer is authorized to move such vehicle at the owner's expense or require the driver or person in charge of such vehicle to move such vehicle out of the prohibited area.

Section 17-4-25. Obstruction to Driver's View or Driving Mechanism.

(A) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No driver shall allow any passenger in a vehicle to ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his or her control over the driver's mechanism of the vehicle.

(C) Any driver who violates this section will be charged with an infraction and pay a fine not to exceed twenty-five (\$25).

Section 17-4-26. Driving Without Liability Insurance Prohibited.

No person may drive a motor vehicle within the Prairie Band Potawatomi jurisdiction without having proof of adequate liability insurance in possession in the vehicle. The Prairie Band Potawatomi Motor Vehicle Registrar will have the authority to implement regulations in accordance with this section. Any person violating this section will be charged with an infraction and pay a fine not to exceed five hundred dollars (\$500) and/or be subject to suspension or revocation of driving privileges until the driver can present liability insurance. Until such time as the Nation may specifically enact different insurance requirements, the scope and amounts of the required liability insurance coverage shall be at least the scope and no less than the coverage amounts that are required by the State of Kansas for its citizens in general.

(Amended by PBP TC No. 2002-082, June 18, 2002)

Section 17-4-27. Riding on Fenders, Bumpers or Running Boards.

No driver shall permit passengers to ride on the fenders, bumpers, running boards or anywhere outside the interior passenger areas of the vehicle nor shall any passenger ride on the fenders, bumpers, running boards or anywhere outside the interior passenger areas of the vehicle. It shall be an exception to this section when the action is done as part of an occupational requirement not otherwise in violation of the Occupational Safety and Health Act. Any person who violates this section will be charged with an infraction and pay a fine not to exceed one hundred fifty dollars (\$150).

Section 17-4-28. Pedestrians on Roadways without Regard for Safety.

- (A) 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.
- (B) 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 which may approach from the opposite direction.
- (C) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any car.
- (D) No person shall walk upon or along the highway while under the influence of intoxicants.
- (F) Any person who violates this section will be charged with an infraction and pay a fine not to exceed one hundred dollars (\$100).

Section 17-4-29. Driving in Violation of an Order of the Court.

(A) Any person whose right to operate a motor vehicle has been suspended or revoked by the Tribal Court or any Department of Motor Vehicles and who, within the period fixed by the Court order, knowingly drives or attempts to drive a motor vehicle in violation of this section upon a public highway, shall be fined not more than \$1,000 and imprisoned not more than 90 days.

(B) Every person who is convicted of driving in violation of this section shall be sentenced pursuant to this Code, with costs, and within the discretion of the Court may be further deprived of the right to operate a motor vehicle for an additional period of one (1) year and required to pay an additional fine of not more than \$2,500.

Section 17-4-30. Duties in the Event of an 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 which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident as close thereto as possible and shall give his or her name, address, and the registration number of the vehicle he or she is driving and shall upon request, and if available, exhibit his or her driver's or chauffeur's license to the person struck or to the driver of any vehicle collided with or to the peace officer who comes to the accident scene and shall render to any person injured in such accident reasonable assistance, including hospital or medical attention.

(B) The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there locate and notify the operator or owner of such vehicle of the name and address of the driver and of the owner of such vehicle doing the striking and a statement of the circumstances thereof or if unable to locate or notify the operator or owner leave a written statement of the same.

(C) The driver of any vehicle involved in an accident resulting in damage of 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 or her name and address and of the registration number of the vehicle he or she is driving and shall upon request and if available, exhibit his or her operator's or chauffeur's license or if unable to locate the owner or person in charge leave a written statement of the same.

(D) The driver of a vehicle involved in an accident:

- (1) resulting in injury to or death of any person; or
- (2) resulting in property damage to another or others to an apparent extent of one-thousand dollars (\$1,000) or more shall, as soon as practicable thereafter, give notice of such accident to a police officer of the Prairie Band Potawatomi.

(E) Any driver who willfully violates this section will pay a fine not to exceed \$1,000 and be imprisoned for not more than 30 days.

Section 17-4-31. Law Officers to Report Accident.

Every Prairie Band Potawatomi 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 twenty-four (24) hours after completing such investigation, forward a written report of the accident to the Prairie Band Potawatomi Chief of Police. Any officer who fails to comply with this section will be subject to disciplinary action as determined by the Tribal Police Chief.

Section 17-4-32. Seat Belt Usage.

All persons riding in the front seat of a passenger vehicle must be secured with a safety belt. Children under the age of two must be properly secured in an approved child restraint system when riding in a passenger vehicle that is operated by the child's parent or legal guardian. All children age two, three or four must be secured in an approved child restraint system or safety belt when residing in any passenger vehicle that is operated by the child's parent or legal guardian. All child restraint and safety belts must meet the safety standards adopted by the U.S. Department of Transportation or its successors and must be used according to manufacturer's instruction.

Section 17-4-33. Crash Helmets and Eye-Protective Devices Required for Operators of and Passengers on Motorcycles, Snowmobiles, and All-terrain Vehicles.

Every operator and passenger on a motorcycle, snowmobile or all-terrain vehicle who is under 18 years of age shall at all times when in motion be required to wear a crash helmet. No person shall operate a motorcycle unless the person is wearing an eye-protective device except when the motorcycle has a windscreen that is at least 10 inches high when measured from the center of the handlebars. Any operator or passenger who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

(Amended by PBP TC No. 99-102, July 7, 1999)

Section 17-4-34. Number of Riders on Motorcycles, All-terrain Vehicles and Snowmobiles Limited.

No motorcycle, designed to travel with fewer than three (3) wheels in contact with the ground, nor all-terrain vehicle or snowmobile shall be operated with more than one (1) person thereon except that a motorcycle or snowmobile may be operated with not more than two (2) persons riding thereon, if it is designed specifically for the purpose of carrying more than one (1) person in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat attached firmly behind the operator.

Any driver who violates this section will be charged with an infraction and pay a fine not to exceed fifty dollars (\$50).

Section 17-4-35. When Lighted Lamps are Required.

Every vehicle upon a highway within the Prairie Band Potawatomi jurisdiction at any time from sunset to sunrise and at any time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred (500) feet ahead, shall display lighted lamps and illuminating devices. Any driver who violates this section will be charged with an infraction and pay a fine not to exceed \$50.

Section 17-4-36. Visibility Distance and Mounted Height of Lamps.

(A) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices on vehicles, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(B) Every head lamp on every motor vehicle, including every motorcycle and motor driven cycle shall be located at a height measured from the center of the head lamp of not more than fifty-four (54) inches nor less than twenty-four (24) inches. Any driver who violates this section will be charged with an infraction and pay a fine not to exceed \$50.

(C) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches and not less than twenty (20) inches. Any driver who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

Section 17-4-37. Head Lamps on Motor Vehicles.

(A) Every motor vehicle other than a motorcycle or motor driven cycle shall be equipped with at least two head lamps with at least one on each side of the front of motor vehicle.

(B) Every motorcycle, all-terrain vehicle, snowmobile and every motor driven cycle shall be equipped with at least one and no more than two head lamps.

(C) Any driver who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

Section 17-4-38. Tail Lamps.

(A) Every motor vehicle, motorcycle, all-terrain vehicle, snowmobile, trailer, semi-trailer, pole-trailer, and any other vehicle which is being drawn at the end of a train or vehicle, shall be equipped with at least one tail lamp mounted on the rear,

which, when lighted as herein before required, shall emit a red light plainly visible from a distance of one thousand (1,000) feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rear most vehicle need actually be seen from the distance required. Every such above mentioned vehicle manufactured or assembled after January 1, 1964, shall be equipped with at least two (2) tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable, which when lighted as herein required shall comply with the provisions of this section.

(B) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(C) Any driver who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

Section 17-4-39. Lamp or Flag on Projecting Load.

Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load at the times when lighted lamps are required to be on, a red light or lantern plainly visible from a distance of at least six hundred (600) feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme ends of such load a red flag or cloth not less than twelve (12) inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear, unless such vehicle is not on a public highway or roadway. Any driver who violates this section will be charged with an infraction and penalized with a fine not to exceed one hundred dollars (\$100).

Section 17-4-40. Brake Equipment Required.

(A) Every motor vehicle, other than a motorcycle or motor driven cycle, when operated upon a highway within the Prairie Band Potawatomi jurisdiction shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(B) Every farm tractor, motorcycle, all-terrain vehicle, snowmobile and motor driven cycle, when operated upon a highway within the Prairie Band Potawatomi jurisdiction shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(C) Every trailer or semitrailer when operated upon a highway within the Prairie Band Potawatomi jurisdiction at a speed in excess of fifteen miles per hour shall be equipped with safety chains or brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental break away of the towed vehicle the brakes shall be automatically applied.

(D) Any driver who violates this section commits an infraction and will be fined in an amount not to exceed fifty dollars (\$50).

Section 17-4-41. Horns and Warning Devices, Mufflers, Prevention of Noise.

(A) Every motor vehicle when operating on a highway within the Prairie Band Potawatomi jurisdiction shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with the driver's horn but shall not otherwise use such horn when upon a highway.

(B) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell except as otherwise permitted in this section.

(C) Any commercial vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

(D) Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof and to attract the attention of the pursued car thereby giving the driver of the pursued car an order to pull over to the side of the road and to stop.

(E) Any driver, who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

Section 17-4-42. Mufflers, Prevention of Noise.

Every motor vehicle, motorcycle, all-terrain vehicle and snowmobile shall be equipped with a muffler in good working operation to prevent excessive or unusual noise and

annoying smoke, and no person shall use a muffler cut out, bypass or similar device upon a motor vehicle. Any driver who violates this section will be charged with an infraction and penalized with a fine not to exceed \$50.

Section 17-4-43. Mirrors.

Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred (200) feet to the rear of such motor vehicle. Any driver who violates this section will be charged with an infraction and be fined not to exceed \$50.

Section 17-4-44. Windshields must be Unobstructed and Equipped with Wipers.

(A) No person shall drive any motor vehicle with any sign, poster or other non-transparent material upon the front windshield, side wings or side or rear windows of such vehicle which obstructs the drivers clear view of the highway or any intersecting highway.

(B) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield which device shall be so constructed as to be controlled by the driver of the vehicle.

(C) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(D) Any driver who violates this section will be charged with an infraction and be fined not to exceed \$50.

Section 17-4-45. Restrictions on Tire Equipment.

(A) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(B) No person shall operate or move on any highway within the Prairie Band Potawatomi jurisdiction any motor vehicle trailer or semi-trailer having any metal tire in contact with the roadway.

(C) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires which have protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions.

(D) It shall also be permissible to use from October 15th to April 15th, pneumatic tires which have metal studs which do not project more than one-sixteenth (1/16) of an inch beyond the tread of the traction surface of the tire.

(E) Any driver who violates this section will be charged with an infraction and be fined not to exceed \$50.

Section 17-4-46. Vehicle to be Constructed to Prevent Sifting or Leaking Loads.

No vehicle shall be driven or moved on any highway unless it is so constructed or loaded as to prevent its contents from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway. No person shall operate on any highway any vehicle with any load unless the load and any covering thereon is securely fastened, so as to prevent said covering or load from becoming loose, detached or in any manner be a hazard to other users of the highway. Any driver who violates this section will be charged with an infraction and be fined not to exceed one hundred dollars (\$100).

Section 17-4-47. Registration Card to be Carried in Driver's Compartment; Inspection of Card.

The registration card issued for a vehicle shall be carried in the driver's compartment of the vehicle at all times while the vehicle is being operated upon a highway within the Prairie Band Potawatomi jurisdiction. Such card shall be subject to inspection by police officers commissioned to enforce the tribal laws. Any person violating any of the provisions of this section will be charged with an infraction and be fined not to exceed one hundred dollars (\$100). Any person who can show proof of registration to the Tribal Court within thirty (30) days may have the fine waived at the discretion of the Tribal Court.

Section 17-4-48. Special Lighting and Warning Equipment on School Buses.

It shall be unlawful to operate any flashing warning signal light on any school bus except when said school bus is stopped on a highway for the purpose of permitting school children to board or alight from said school bus. Any driver who violates this section will be charged with an infraction and be fined not to exceed \$50.

Section 17-4-49. Supervision of Students on School Buses.

It shall be unlawful to operate any school bus with more than five school children unless, in addition to the driver, there is another adult who shall be responsible for the supervision of the children riding on the bus.

Section 17-4-50. Duty of Drivers upon Approach of Police or Fire Department Vehicle.

Upon the approach of any police, fire department vehicle, or authorized emergency vehicle giving an audible signal by bell, siren, exhaust whistle, or emergency lights, the driver of every vehicle shall immediately drive to a position on the side of the roadway unless otherwise directed by a police or traffic officer until the police, fire department vehicle, or authorized emergency vehicle shall have passed. Any person found in violation of the above will be charged with an infraction and be fined not to exceed one hundred dollars (\$100). This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highways.

Section 17-4-51. Fleeing or Attempting to Elude a Peace Officer.

Any driver of a motor vehicle who willfully fails or refuses to bring the vehicle to a stop, or who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or peace officer, when given a visual or audible signal to bring the vehicle to a stop, shall be fined not more than \$1,000 and imprisoned not more than six months unless such failure to stop, fleeing or attempt to elude occurs in a residential area, school zone or within the boundaries of a town or village, then the person shall be fined not more than \$5,000 and imprisoned not more than one year. A signal complies with this section if the signal is perceptible to the driver and:

- (1) if given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the stopping vehicle is appropriately marked showing it to be an official police vehicle; or
- (2) if not given from a vehicle, the signal is given by hand, voice, emergency light, or siren, and the officer is in uniform and prominently displays the officer's badge.

Section 17-4-52. Penalties not Otherwise Prescribed.

Any person convicted of an offense enumerated in this Title for which the penalty is not otherwise prescribed will be charged with an infraction, be fined not to exceed one hundred dollars (\$100), and pay all related costs. For all offenses, court cost may be imposed.

Section 17-4-53. Statute of Limitations.

No legal action shall be maintained under this chapter unless the action shall have been commenced within twelve (12) months after the commission of the infraction or offense.

CHAPTER 17-5
ADDITIONAL PROVISIONS

Section 17-5-1. Tribal Court Enforcement Authority.

(A) The Tribal Court will have full jurisdiction and authority to enforce this Title to the fullest extent legally possible. All civil provisions of this Title shall apply to non-Tribal members and non-Indians over which the Prairie Band Potawatomi Tribal Court has no criminal jurisdiction. The Prairie Band Potawatomi Tribal Court will have the authority to enforce civil fines for any driver who violates this Title.

(B) All provisions enumerated within this Code may be enforced through this Chapter. A civil fine may imposed in the amount enumerated for any activity for which criminal punishment is provided.

(C) Civil penalties may include:

- (1) Fines
- (2) Court Costs
- (3) Civil Court Orders
- (4) Contempt of Court

(D) The Tribal Court will be authorized to issue civil contempt against any individual who fails to comply with an order of the court. Civil contempt may include incarceration and fines. This subsection will apply to both tribal and non-tribal members.

(E) Officers commissioned to enforce tribal law will initiate complaints using the tribal complaint and summons created in this Title and alternatively, civil complaints may be signed by private citizens who have witnessed a civil violation.

Section 17-5-2. Public Nuisance.

Violations of the any civil or criminal provision of this Code will be determined by the Tribal Court to be an unlawful public nuisance.

Section 17-5-3. Tribal Reciprocity with State of Kansas.

The State of Kansas will be authorized to enforce any Prairie Band Potawatomi Tribal Court orders made in accordance with this Chapter. The State of Kansas will have the authorization to enforce court orders from Tribal Court affecting an individual's driving privileges.

Section 17-5-4. 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 of the above materials or any other destructive or injurious material shall immediately remove the same or cause it to be removed. Any person violating subsection (A) or (B) will be charged with an infraction and be fined not to exceed two hundred dollars (\$200).

(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. Any person who violates this section will be charged with an infraction and be fined not to exceed one hundred dollars (\$100).

Section 17-5-5. Open Bottle in Vehicle.

No person shall drink or consume alcoholic beverages in or on any motor vehicle when such vehicle is upon a highway or in any area used principally for public parking or any area that is adjacent to or readily accessible by any roadway. No person shall have in possession on his or her person while in or on a private vehicle upon a highway or in an area used principally for public parking within the Prairie Band Potawatomi jurisdiction, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking within the Prairie Band Potawatomi jurisdiction, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle shall be kept 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 is within the area occupied by the driver and passenger. Any person violating the provisions of this section will be charged with an infraction and be fined not to exceed one hundred dollars (\$100).

Section 17-5-6. Handicap Zone.

Handicap Zone shall mean the area or space officially set aside within a parking area for the exclusive use of handicapped persons and which is so plainly marked or indicated by proper handicap signs that are plainly visible at all times while set aside as a Handicap Zone. No driver can park in a Handicap Zone without a handicap sticker clearly visible or attached on the rear window or license plate of the vehicle. Any person violating the provisions of

this section shall be charged with an infraction and be fined not to exceed one hundred dollars (\$100).

Section 17-5-7. Exhibition Driving and Drag Racing; Definitions; Penalty.

(A) No person may engage in exhibition driving of any vehicle on a highway, street, alley, sidewalk, or any public or private parking lot or area, nor may any person engage in a race, speed competition, drag race or acceleration contest, test of physical exhibition of speed or acceleration. Any person who violates this section by engaging in exhibition driving will be charged with an infraction and fined not to exceed one hundred dollars (\$100). Any person who violates this section by engaging in a drag race or a race will be charged with an infraction and be fined not to exceed two hundred and fifty dollars (\$250) with court costs.

(B) As used in this section:

(1) Drag race means the operation of two or more vehicles from a point side by side by accelerating rapidly in a competitive attempt to cause one vehicle to outdistance the other; or the operation of one or more vehicles over a common selected course from the same point to the same point for the purpose of comparing the relative speed or powers of such vehicle or vehicles within a certain distance or time limit.

(2) Exhibition driving means driving a vehicle in a manner which disturbs the peace by creating or causing unnecessary engine noise, tire sequel, skid, or slide upon acceleration or braking; or driving and executing or attempting one or a series of unnecessarily abrupt turns.

(3) Race means the use of one or more vehicles in an attempt to out gain, outdistance or to arrive at a given distance ahead of another vehicle or vehicles; or the use of one or more vehicles or willfully prevent another vehicle from passing the racing vehicle or vehicles or to test the physical stamina or endurance of the persons driving the vehicles over a long distance driving route.

(4) Nothing in this section shall be construed as prohibiting drag racing, exhibition driving, or similar events when carried out in an organized manner legally approved by the Prairie Band Potawatomi on a track or other privately owned area specifically set aside and used solely for such purposes by drivers of motor vehicles, including snowmobiles.

Section 17-5-8. Emergency and Law Enforcement Vehicles.

(A) All emergency and law enforcement vehicles, whether authorized by tribal, state or federal law while within the Prairie Band Potawatomi reservation boundaries, must comply with tribal non-emergency traffic regulations unless the vehicle is being driven in response to an emergency call, is engaged in rescue operations, or is being used in the immediate pursuit of an actual or suspected violator of the law.

(B) It is the duty of each individual operating an emergency vehicle or law enforcement to use due care and to discontinue the emergency run and/or high speed chase if the danger/s outweigh the justification;

(C) Emergency and law enforcement vehicles shall proceed through controlled intersections slowing down as is necessary to ensure safe operation;

Section 17-5-9. Payment of Traffic Fines.

All persons guilty of a violation of this Title must pay their fines by the time prescribed on the ticket or by the court. Any person failing to pay a fine by the time prescribed will have his or her license to drive or permission to drive within the Prairie Band Potawatomi jurisdiction automatically revoked by the court. The license will remain revoked until the fine is paid. A person guilty of a violation must come to court prepared to pay the fine.

**CHAPTER 17-6
VEHICLES FOR HIRE**

Section 17-6-1. Taxicab, Definition and Licensing.

(A) “**Taxicab**” shall mean and include all vehicles furnished with a driver and carrying passengers for hire. Automobiles used exclusively for the hotel business, buses operating a fixed route and ambulances shall not be considered as taxicabs.

(B) Any person, firm, corporation, or limited liability company wishing to operate a taxicab within Tribal jurisdiction must be licensed by the Nation.

Section 17-6-2. Furnishing of Approved Vehicles.

The vehicles to be used as taxicabs shall be of a kind and quality reasonably suitable for such purposes and shall be kept and maintained in good mechanical repair and condition, with efficient brakes and all other appliances as required by the Tribal Code or by legally constituted regulatory agencies. Licensed operators shall keep such equipment in a safe and sanitary condition and must meet all regulatory safety requirements.

Section 17-6-3. Cleaning of Vehicle.

Licensed operators shall see to it that taxicabs are vacuumed and the windows cleaned each day and that license plates and all lights are clearly visible; and that the cabs are washed and the floors cleaned with a disinfectant at least every other week.

Section 17-6-4. Inspection.

The Nation reserves the right for its duly authorized agents to inspect any and all taxicabs and the operation by riding as passengers or by other reasonable means.

Section 17-6-5. Speed Limit.

No taxicab shall exceed the designated speed limit while transporting passengers.

Section 17-6-6. Prohibited; Abusive Language, Alcohol, Drugs.

(A) No owner or driver of any taxicab shall assault, threaten, abuse or use profane violent or improper language toward any passengers employing the taxicab.

(B) No owner or driver while operating a taxicab will use any alcohol or illegal drug.

Section 17-6-7. Compliance with Laws and regulations.

Licensed operators and their drivers are required to comply with the laws of the Prairie Band Potawatomi Nation and of applicable regulatory agencies.

Section 17-6-8. Drivers.

All drivers for a licensed operator must:

(A) be eighteen (18) years of age or over and have not had a license suspension within the last five (5) years;

(B) be of sufficient eyesight and hearing and not be subject to any infirmity of body or mind which might render him or her unfit for the safe operation of the vehicle;

(C) be able to speak, read and write the English language proficiently;

(D) be clean of dress and person and not be addicted to the use of intoxicating liquors or narcotics; and

(E) possess a valid commercial driver's license.

Section 17-6-9. Liability Insurance.

(A) A licensed taxicab must obtain, as a prerequisite, insurance coverage with respect to the vehicle for property damages, bodily injury or death resulting from the use or operation of the vehicle as a taxi cab. The coverage provided shall be in at least the following amounts:

- (1) Property damage-\$100,000.00; and
- (2) Bodily injury or death-\$500,000.00 per person/\$500,000.00 per occurrence.

(B) Proof of current insurance must be in the possession of the driver of the taxicab.

Section 17-6-10. Fares.

(A) All person operating taxicabs shall post outside or inside of the taxi the fares for transporting passengers.

Section 17-6-11. Fares in Advance.

Every driver of a licensed taxicab shall have the right to demand payment in advance if the charge for the fare is clearly ascertainable from the posted charges outside or inside the cab and may refuse employment unless prepaid, but no person shall refuse to convey an elderly person (i.e., any person age 65 or above) on request, unless the driver is previously engaged.

Section 17-6-12. Receipt to Passenger.

If demanded by the passenger, the driver of the taxicab shall deliver to the person paying the fare at the time of payment a receipt for the total amount paid and the date of payment.

Section 17-6-13. Shortest Route.

The driver of a taxicab shall transport passengers to their place of destination by the shortest route practicable under the circumstances.

Section 17-6-14. Displays.

(A) The licensed taxicab must prominently display on the outside of the vehicle the name of the taxicab company or the telephone number of the company where a representative can be reached during daytime work hours.

(B) A licensed taxicab may carry an advertisement on the cab if it is carried in a neat frame and is located on the cab in an area where it will not interfere with or cover the name of the cab company or telephone number. No advertisement for intoxicating liquors of any kind shall be allowed.

Section 17-6-15. Overloading Prohibited.

No driver of any taxicab shall at anytime overload or carry so many people that the driver's ability to observe the roadway is diminished, or his or her ability to safely operate the vehicle is obviously impaired, or it is apparent there is not a designated seat available for each passenger.

Section 17-6-16. Lost Articles.

Whenever any package or articles of baggage, or goods of any kind are left in any taxicab, the driver shall upon discovery, if the driver knows the name or address of the passenger or name of the establishment where the passenger was delivered, attempt to contact the passenger or deliver the package to the passenger. If the driver is unable to contact the passenger, the driver shall document any attempts and deliver the goods to the law enforcement station nearest to where the passenger was delivered and into the hands of the officer in charge.

Section 17-6-17. Temporary and Replacement Vehicles.

A licensed taxicab may make temporary use of another vehicle to take the place of any licensed cab during any period when such licensed cab is out of service because of the necessity of repairing or servicing. The temporary taxicab must be included in the required insurance policy. Temporary cabs must meet all the requirements of a licensed taxicab.

Section 17-6-18. Trade Name and Insignias.

Any taxicabs licensed under the Prairie Band Potawatomi Nation shall state the trade name under which the applicant intends to conduct the business and the peculiar or distinguishing color scheme or design, including any monogram or insignia, intended to be used upon the vehicle.

Section 17-6-19. Ambulance.

In no event will a licensed operator advertise or hold him or herself out to the public to be an ambulance service or capable of providing transportation service to individuals who are sick, injured, wounded, or otherwise incapacitated or helpless and in the need of medical treatment during transit or in the need of an Emergency Medical Technician.

Section 17-6-20. Penalty.

(A) Any licensed operator determined to be in violation of any of the sections or provisions of the Title or any other provisions of the Code is subject to license termination, revocation, or suspension or any other action determined appropriately by the Tribal Court. This can include a fine of up to five hundred dollars (\$500) for each violation.

CHAPTER 17-7
REGULATION & REGISTRATION OF RECREATIONAL VEHICLES

Section 17-7-1. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

(A) **“All-terrain vehicle”** means any motorized off-highway vehicle fifty inches (1270.00 millimeters) or less in width, having a dry weight of six hundred pounds (272.15 kilograms) or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.

(B) **“Dealer”** means every person, partnership, or corporation engaged in the business of buying, selling, or exchanging recreational vehicles, or who advertises, or holds him or herself out to the public as engaged in the buying, selling, or exchanging of recreational vehicles, or who engages in the buying of recreational vehicles for resale.

(C) **“Department of Motor Vehicles”** the Department of Motor Vehicles shall refer to the Motor Vehicle Registrar of the Prairie Band Potawatomi Nation.

(D) **“Motorboat”** means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States Government or any federal agency successor thereto.

(E) **“Owner”** means a person, other than a lien holder, having the property interest in or title to a recreational vehicle and entitled to the use or possession thereof.

(F) **“Operate”** means to ride in or on and control the operation of a recreational vehicle.

(G) **“Operator”** means every person who operates or is in actual physical control of a recreational vehicle.

(H) **“Personal water craft”** means a motorboat that is powered by an inboard motor powering a water jet pump or by an inboard or outboard marine engine and which is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

(I) **“Recreational Vehicle”** means an all-terrain vehicle, motorboat, personal watercraft and/or snowmobile as defined in this Chapter.

(J) **“Register,”** means the act of assigning a registration number of a recreational vehicle.

(K) **“Roadway”** means that portion of a highway, improved, designed, or ordinarily used for vehicular travel exclusive of the berm or shoulder.

(L) **“Snowmobile”** means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by wheels, skis, or runners.

(M) **“Vessel”** means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(N) **“Waters of the Prairie Band Potawatomi Jurisdiction”** means any waters within the Prairie Band Potawatomi jurisdiction.

Section 17-7-2. Registration; General Requirements.

Except as hereafter provided, no person shall operate a recreational vehicle (except motorboats propelled by a motor having ten (10) horsepower or less) on easements, trails, accesses, lands, lakes, rivers, or streams, within the Prairie Band Potawatomi jurisdiction unless such recreational vehicle shall have a current distinctive number assigned to it by a motor vehicle registration department. Such registration number shall be:

(A) at least two (2) inches in height and of a reflective material and

(B) securely affixed on each side of the forward half of the recreational vehicle in such position as to provide clear legibility and identification. A certificate of registration shall be carried by the operator while operating the recreational vehicle. Such certificate of registration shall include information regarding the manufacturer, make, model, year and serial number, if such information is available; the address of the owner and the address of the former owner or the dealer, as the case may be.

(C) Any recreational vehicle registered with the Motor Vehicle Registrar shall pay the registration fee as set forth in this Title.

(D) As far as is reasonably possible, such numbers shall at all times be kept free and clear of mud, ice or snow, so as to be clearly visible. A person found in violation of this provision will be guilty of an infraction and fined not to exceed one hundred dollars (\$100).

Section 17-7-3. Operation of ATV'S and Snowmobiles.

(A) No person shall operate an all-terrain vehicle or snowmobile upon the roadway, shoulder or inside bank or slope of any road, street, or highway in Prairie Band Potawatomi jurisdiction except as provided pursuant to the Title. Not all-terrain vehicle or snowmobile shall be operated at any time within the right of way of any

highway within the Prairie Band Potawatomi jurisdiction except for emergency purposes.

(B) An all-terrain vehicle or snowmobile may make a direct crossing of a street or highway provided:

- (1)** the crossing is made at an angle of approximately ninety (90) degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;
- (2)** the all-terrain vehicle or snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway;
- (3)** the driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
- (4)** in crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

(C) No all-terrain vehicle or snowmobile shall be operated on or within the boundaries of any bicycle, hiking or walking path, except that an all-terrain vehicle or snowmobile may make a direct crossing of a bicycle, hiking or walking path.

(D) No all-terrain vehicle or snowmobile shall be operated unless it is equipped with at least one head lamp, one tail lamp, and brakes, all in working order.

(E) It shall be unlawful for any person to drive or operate any all-terrain vehicle or snowmobile 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 existing 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 lighted head lamp when required for safety.
- (5)** Which results in damage or destruction to any tree, nursery, planting or growing stock.
- (6)** Without a manufacturer-installed or equivalent muffler in good working order and connected to the all-terrain vehicle or snowmobile exhaust system.
- (7)** Upon any private land where the private land is posted by the owner or tenant prohibiting trespassing. The name and address of the person posting the land and the date of posting shall appear on each sign in legible characters. The posted signs shall be readable from the outside of the land and shall be placed conspicuously at a distance of not more than a quarter of a mile apart, provided further that as to land entirely enclosed by a fence or other enclosure,

posting of such signs at or on all gates through such fence or enclosure, shall be construed to be a posting of all such enclosed lands.

(F) When all-terrain vehicles or snowmobiles are operated within the right of way of any road, street, or highway of this jurisdiction pursuant to this Title, during times or conditions that warrant the use of lights, such all-terrain vehicles or snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right of way traveled by the snowmobile.

(G) It shall be unlawful for any person to operate an all-terrain vehicle or snowmobile within a highway right of way between April first and November first of any year.

(H) It shall be unlawful for any person to operate an all-terrain vehicle or snowmobile on any water while involved in a drag race as defined by this Title.

(I) A person found in violation of this section will be guilty of an infraction and subject to a fine not to exceed one hundred dollars (\$100).

Section 17-7-4. Rules for Operation of All-terrain Vehicles and/or snowmobiles within the Prairie Band Potawatomi Jurisdiction.

No person shall operate an all-terrain vehicle or snowmobile on the streets or alleys within the Prairie Band Potawatomi jurisdiction in violation of this section.

(A) Operators of all-terrain vehicles or snowmobiles may use streets and alleys to leave the town limits and/or to return to their places of residences, by the most direct route only.

(B) All-terrain vehicles and snowmobiles shall not be operated in excess of fifteen (15) miles per hour and shall yield to all automobile traffic and shall observe all traffic controls.

(C) All-terrain vehicles and snowmobiles shall not be operated unless equipped in working order with standard factory muffler that meets reasonable noise standards, one head lamp, one tail lamp, and brakes.

(D) All-terrain vehicles and snowmobiles may be used on the streets in case of an emergency, and when weather and street conditions make the use of automobiles impractical.

(E) All-terrain vehicles and snowmobiles shall not be operated so as to trespass upon any private property or public grounds without consent of the owner, and shall not be operated as to run over any tree, shrub or nursery planting in any park, vacant lot, private property or public property.

(F) All-terrain vehicles and snowmobiles shall not be operated in a careless manner as likely to endanger any person or any property.

(G) All-terrain vehicles and snowmobiles shall not be operated in a reckless manner as to endanger or cause injury or damage to any person or any property. A person found in violation of this subsection shall be subject to the punishment prescribed for the reckless use of a motor vehicle.

(H) A person found in violation of this section, except as provided in subsection (G), will be guilty of an infraction and subject to a fine not to exceed one hundred dollars (\$100).

Section 17-7-5. Water Vessels.

Every vessel shall have aboard:

(A) One life preserver, buoyant vest, ring buoys or buoyant cushion officially approved and in good and serviceable condition for each person on board.

(B) When in operation during hours of darkness, a light sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.

(C) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.

(D) Such additional equipment designed to promote the safety of navigation and of persons as the Prairie Band Potawatomi Nation may find to be appropriate and for which it has provided in its rules and regulations.

(E) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

(F) A person found to be in violation of this section will be guilty of an infraction subject to a fine not to exceed one hundred dollars (\$100) plus costs.

Section 17-7-6. Vessels – Prohibited Operations.

(A) No person shall operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb or property of another person.

(1) Reckless or negligent operation of a motorboat or vessel includes weaving through congested motorboat or vessel traffic, jumping the wake of

another motorboat or personnel water craft, or vessel within one hundred feet (100 ft.) of the motorboat or vessel or any other manner that is not reasonable or prudent.

(2) A person found in violation of this subsection will be guilty of an infraction and subject to a fine not to exceed five hundred dollars (\$500) plus costs.

(B) No person shall operate any motorboat, vessel, or personal watercraft:

(1) Without each person on board the personal water craft wearing a United States coast guard approved type I, II, III or V personal flotation device;

(2) Within fifty feet (50ft.) of a person fishing from a shoreline, swimmer, swimming diving raft or an occupied, anchored, or non-motorized vessel at greater than slow or no wake speed;

(3) While towing a person on water skis, a kneeboard, an inflatable craft, or any other device unless an observer is on board;

(4) Without a lanyard-type engine cutoff switch being attached to the person, clothing or personal flotation device of the operator, if the personal water craft is equipped by the manufacturer with such a device;

(5) If any part of the spring-loaded throttle mechanism has been removed, altered, or tampered with so as to interfere with the return-to-idle system;

(6) To chase or harass wildlife;

(7) Through emergent or floating vegetation at other than slow or no wake speed;

(8) In a manner that unreasonably or unnecessarily endangers life, limb, or property, including weaving through congested water craft traffic, jumping the wake of another water craft within fifty feet (50 ft.) of the other water craft; or

(9) In any other manner that is not reasonable and prudent.

(C) A person found in violation of this subsection will be guilty of an infraction and subject to a fine not to exceed one hundred dollars (\$100) plus costs.

Section 17-7-7. Collisions, Accidents and Casualties.

(A) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as the operator can do so without serious danger to his or her own vessel, crew and passengers to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty. It should also be the operator's duty to give his or her name, address and identification of the vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(B) A person found in violation of this section will be guilty of an infraction and subject to a fine not to exceed five hundred dollars (\$500) plus costs.

Section 17-7-8. Water skis and Surfboards.

- (A) No person shall manipulate any water skis, surfboard or similar device, without wearing an officially approved life preserver.
- (B) No person shall operate a vessel on any waters of the Prairie Band Potawatomi jurisdiction towing a person or persons on water skies, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.
- (C) No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, a surfboard, or a similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.
- (D) No person may operate a vessel towing a person or persons on water skis, a surfboard, or similar device unless there is a person in the towing vessel observing the person or persons being towed.
- (E) The provisions of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under the following section.
- (F) A person found to be in violation of this section will be guilty of an infraction and subject to a fine not to exceed one hundred dollars (\$100) plus costs.

Section 17-7-9. Regatta, Races, Marine Parades, Tournaments, Fishing Derbies or Exhibitions.

- (A) The Prairie Band Potawatomi Nation may authorize the holding of regattas, motorboat, or other boat races, marine parades, tournaments or exhibitions on any waters in the Prairie Band Potawatomi jurisdiction. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat, or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall, at least thirty days prior thereto file an application with the Tribal Council for permission to hold such a regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such a regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the Tribal Council.
- (B) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation

(C) A person found in violation of this section will be guilty of an infraction and subjected to a fine not to exceed two hundred dollars (\$200) plus costs.

Section 17-7-10. Civil Enforcement.

Violations of this chapter by non-Indians, over which the Prairie Band Potawatomi Tribal Court has no criminal jurisdiction, are declared to be an unlawful public nuisance and subject to civil enforcement. A civil fine may be imposed for any civil violation.

Section 17-7-11. Owner's Civil Liability.

The owner of a recreational vehicle shall be liable for any injury or damage occasioned by the negligent operation of such vehicle whether such negligence consists of a violation of the provisions of the statutes of the Prairie Band Potawatomi Nation, or neglecting to observe such ordinary care and such operation as the rules of the common law require. The owner shall not be liable, however, unless such vehicle is being used with his or her express or implied consent. It shall be presumed that such vehicle is being operated with the knowledge and consent of the owner if at the time of the injury or damage, it is under the control of his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which the person would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

**HAPTERS 17-8 THROUGH 17-9 RESERVED.
(Repealed by PBP TC No. 99-35)**

CHAPTER 17-10

MOTOR VEHICLE REGISTRATION AND TITLES

This Chapter of Prairie Band of Potawatomi Code is enacted by the Prairie Band of Potawatomi to provide for the establishment of standards for the registration of motor vehicles, the issuance of certificates of title for conveyance of ownership, and any subsequent transfer of title, the establishment of lawful regulation for the operation of motor vehicle and other related purposes.

Section 17-10-1. Purpose.

(A) The Prairie Band Potawatomi Indian Tribe, under its inherent sovereign powers since the creation of its Reservation, has controlled the access and presence of persons to and on its Reservation territory. An increasing number of tribal members are seeking to reside on the Reservation, and an increasing number of motor vehicles

are being used by Indian and non-Indian persons to enter the Reservation territory in order to engage in gaming and other activities with Tribal enterprises or members. This has greatly increased the amount of motor vehicle traffic on the Reservation.

The Prairie Band Tribal Council of the Prairie Band of Potawatomi Nation finds that the issuance of motor vehicle license plates and registration title certificates within the boundaries of the Reservation is necessary in order for the Tribe to be able to control and regulate the ever-increasing amount of motor vehicle traffic on the Reservation. Pursuant to the inherent powers of the Prairie Band to exercise civil regulatory authority in such matters and pursuant to the authorities in Article I, Article II, Section 1, Article V, Section 1 (a), (f), (g), (i), (m), (p) and (r) of the Constitution of the Prairie Band of Potawatomi, the Prairie Band of Potawatomi Tribal Council has enacted this Prairie Band of Potawatomi Motor Vehicle Registration and Title Ordinance to regulate motor vehicle traffic, licensing and titling within the boundaries of its Reservation.

It is also the purpose of the Nation in enacting this Chapter to provide for the orderly registration and licensing of vehicles owned by tribal members and located on the public roads and highways of the Nation's reservation, to assist law enforcement in identifying the owners of such vehicles, to prevent fraudulent transfers, theft, conversion, or other wrongful transactions or use of vehicles, to provide positive identification of vehicles within the service area in cases of emergency, to provide revenue to the Nation through taxation and the levying of fees and charges for the privilege of operating vehicles within the service area, to allow for the orderly transfer of title and other commercial transactions involving vehicles, including the giving of security to secure loans or other advances, and for other purposes.

(B) Application. The provisions of this chapter shall apply to vehicle owners who are enrolled members of the Prairie Band of Potawatomi Tribe and who reside within the boundaries of the Potawatomi Reservation, and to vehicles owned and operated by the governing body of the Prairie Band of Potawatomi. All vehicles owned in full or in part by an enrolled member who resides on the reservation are required to have a tribal registration and tribal certificate of title.

(Amended by PBP TC No. 2004-060, April 8, 2004)

Section 17-10-2. Definitions.

In this chapter the following words and phrases have the designated meanings unless a different meaning is expressly provided or the content clearly indicates a different meaning.

(A) Court means the Potawatomi Tribal Court or any other court having jurisdiction over matters that arise from the application of this chapter.

(B) Prairie Band means Prairie Band of Potawatomi.

(C) Potawatomi Reservation or Reservation means all lands within the exterior boundaries of the Prairie Band of Potawatomi Indian Reservation.

(D) **Manufacturer** means every person engaged in the business of constructing or assembling vehicles of a type for which a certificate of title is required hereunder.

(E) **Manufacturer's or Importer's Certificate of Origin** means a certificate over the authorized signature of the manufacturer or importer of a vehicle, describing and identifying the vehicle, giving the name and address of the person to whom the vehicle is first sold by the manufacturer or importer, and containing assignments, duly executed, assigning the same to an applicant for a certificate of title on the vehicle on the Prairie Band of Potawatomi.

(F) **Mobile Home** means a vehicle designated to be towed as a single unit or in sections upon the highway by a motor vehicle and equipped and used or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction.

(G) **Owner** means a person, other than a secured party, having the property in or title to a vehicle. This term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. An Owner also means any person, firm, association, or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under a lease or otherwise, for a period of greater than 30 days.

(H) **Register** means the act of assigning a registration plate and validation sticker (s) to a vehicle, and to renew the same.

(I) **Registrar** means the duly appointed Registrar of Motor Vehicles of the Prairie Band of Potawatomi and any designees of the Registrar.

(J) **Secured Party** means a lender, seller or other person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party having an interest in the vehicle.

(K) **Vehicle** means every device in, upon or by which any person or property is or may be transported or drawn upon a highway or roadway.

(L) For the purpose of effectuating the terms of this chapter, any terms not defined herein shall have the meanings given to them in the statutes of the State of Kansas, as amended for time to time, except where the context otherwise indicates or requires.

(Amended by PBP TC No. 99-97, July 2, 1999)

Section 17-10-3. Application; Process; Forms.

Application for original registration and for renewal of registration shall be made to the Registrar of Motor Vehicles of the Prairie Band of Potawatomi upon forms prescribed by the Registrar and shall be accompanied by the required fee.

(A) Required Information. Applications for original registration of a vehicle shall contain the following information:

- (1) The name of the owner.
- (2) The address of the owner.
- (3) A description of the vehicle, including make, model, identifying number and any other information which the Prairie Band may reasonably require for the proper identification of the vehicle.
- (4) Such further information as the Registrar may reasonably require to determine whether the vehicle is by law entitled to registration or to determine the proper registration fee for the vehicle.
- (5) Proof of liability insurance. The Registrar shall conduct periodic insurance checks on any vehicles registered under the jurisdiction of the Band. Any such checks shall be random in nature and occur 60 days after the issuance of license plates. Proper proof of liability insurance must be within the motor vehicle at all times and must be assessable and provided to any Law Enforcement officer upon proper request for same.

(B) Application by Person under the age of 18. If the applicant for a certificate of registration is under 18 years of age, the application shall be accompanied by a statement made and signed by the applicant's father or mother if he or she has custody of the applicant; or if neither parent has custody, then by the person or guardian having such custody, stating that the applicant has the consent of such person or guardian to register such vehicle in the applicant's name. The signature of such statement shall not impute any liability for the negligence or misconduct of the applicant while operating such motor vehicle on the highways. Any person who violates this section may be fined not more than \$500.00 or required to perform community service in lieu of all or part of the fine at the rate of the minimum wage, or both.

(C) Vehicle Inspections. The Registrar shall cause the inspection of motor vehicles subject to registration under this chapter. These inspections shall be conducted in accordance with the generally accepted inspection practices commonly utilized by other jurisdictions in the United States, and in accordance with applicable policies of the American Association of Motor Vehicle Administrators.

- (1) Identification and recording of the individual who brought the vehicle for inspection, including examination of photo identification, and recording of such additional information as the Tribal Police may require, including at least the name and current address of the owner, the class, body type, make

and year of vehicle, the date of inspection, the VIN number, defects by category, name of inspector and the mileage or odometer reading.

(2) Matching and inspection of VIN as shown on the current certificate of title or certificate of origin, if applicable, and on the vehicle's public VIN plate and EPA sticker VIN. Inspection of VINs on the vehicle for signs of alteration, tampering, defacing, removal or switching.

(3) Processing of all VINs identified for the vehicle through an NCIC check to determine if all or part of the vehicle was stolen. Physical examination of the vehicle to determine if there are indications of stolen parts.

(4) Verification of the odometer reading, including a comparison of the reading to the odometer statement on the title.

The Tribal Police may notify the Kansas Highway Patrol in the event it appears that a VIN may have been destroyed, removed, altered or defaced or there are other particular circumstances warranting such notification, including possible criminal offenses such as the theft of all or part of a vehicle. The inspection shall cover parts of the vehicle having substantial relation to safe vehicle performance. If during the inspection it is evident that the vehicle has a safety defect, the defect shall be corrected before the vehicle is registered.

(D) Salvage or non-highway registrations or titles shall not be issued by the Nation or used by the Registrar as a basis for issuing regular tribal registrations or titles.

(E) The Registrar may utilize validation stickers to be attached to registration plates to indicate registration expiration dates or other appropriate information.

(Amended by PBP TC Resolution No. 2002-046, March 27, 2002; amended by PBP TC No. 2002-082, June 18, 2002; amended by PBP TC No 2004-004, January 8, 2004)

Section 17-10-4. Grounds for Refusing Registration.

The Registrar shall refuse registration of a vehicle under the following circumstances:

(A) No registration shall be issued unless the applicant is residing or domiciled within the boundaries of the Potawatomi Reservation;

(B) The required fee has not been paid;

(C) The applicant has failed to furnish the information or documents required by the Prairie Band of Potawatomi pursuant to this chapter;

(D) Because certificate of title is a prerequisite to registration of the vehicle, the applicant does not hold a valid certificate of title and is not entitled to the issuance of a certificate of title;

(E) The applicant has had his or her registration suspended or revoked in accordance with Section X-17 and such suspension or revocation is still in effect; or

(F) Applicant has not provided proof of liability insurance.

Section 17-10-5. Vehicles Exempt from Registration.

A vehicle, even though operated upon roads within the boundaries of this Reservation, is exempt for registration when such vehicle:

(A) Is operated in accordance with any other specific tribal laws exempting nonresident or foreign-registered vehicles from registering;

(B) Is an implement of husbandry used exclusively in or incidental to agricultural operations, not to include trucks;

(C) Is a trailer or semitrailer permanently equipped with a well-drilling outfit and used exclusively for such purposes;

(D) Is a forklift truck, a specially constructed road or truck tractor used for shunting trailers or semitrailers in terminal areas.

(E) Is a trailer or semitrailer not operated in conjunction with a motor vehicle;

(F) Is a motor vehicle being towed;

(G) Is a piece of road machinery;

(H) Is a motor truck which is operated upon a highway only when directly crossing such highway; or

(I) Is a motor vehicle currently registered in another Jurisdiction and not required to be registered with the Prairie Band Potawatomi under §17-10-1(B). This exemption shall apply only to the extent that the other Jurisdiction provides the same privileges and recognition for the tags and titles issued by the Prairie Band Potawatomi Nation.

(Amended by PBP TC No. 99-97, July 2, 1999; amended by PBP TC No. 2004-060, April 8, 2004)

Section 17-10-6. 30-day Permit; Temporary Registration Certificate.

A vehicle may be operated by a private person after the date of purchase of such vehicle by such private person, or after the date such person moved to this reservation or lands subject to the jurisdiction of the Band, once the person has obtained a temporary 30-day registration certificate from the Registrar. The owner shall make application upon forms prescribed by the Registrar and remit the required fee of \$5.00. All temporary certificates

shall be affixed to the interior rear window of the vehicle, on the driver's side of the car and in a position as not to obstruct the rear-view of any driver. The Registrar shall issue no other temporary registration certificate upon expiration of the first 30-day permit.

Section 17-10-7. Penalty for operating Unregistered or Improperly Registered Vehicle(s).

It is unlawful for any person to operate or for an owner to consent to being operated on any roads within the boundaries of the Potawatomi Reservation, any motor vehicle, trailer, or semitrailer or any other vehicle for which a registration fee is specifically prescribed unless at the time of operation the vehicle in question either is registered with the Potawatomi Reservation or is exempt from registration.

(A) All vehicles subject to renewal of registration may be operated provided that application of re-registration has been made.

(B) Any person violating this Section may be fined by the Court not less than \$5.00 and not more than \$50.00 or given the same in equivalent community service, or both. In addition to imposing the penalty, the Court shall order the offender to make application for registration or re-registration and to pay the fee thereof. The Court is hereby authorized to establish a bail and a bail forfeiture penalty schedule for offenses under this ordinance.

(C) If upon order of the Court to register or re-register a vehicle, the owner fails to comply, the Court shall have the power to order any Law Enforcement Officer of the Band to seize and impound any unregistered or unlawfully registered vehicle and to hold the same until such time as the owner complies with the provisions of this chapter. All costs incurred in the holding after seizure by order of the Court shall be the responsibility of the owner of the vehicle. Any vehicle held, under seizure order of the Court, shall be sold at public auction to the highest bidder, including all costs incurred, after thirty (30) days from the date of seizure. The owner of the vehicle shall have the right to petition the Court to halt any public auction of the said vehicle at any time prior to the sale. The Registrar shall have the right to reject any and all bids received which are less than the appraised value of the vehicle. All proceeds derived from the sale of the vehicle, less all cost incurred by the Band, including Court fines and costs, shall become the property of the legal owner. If, in the event the sale does not realize sufficient proceeds to pay off any security interest, the owner prior to auction shall be obligated to the secured party for any balance remaining. The secured party shall have the right to be listed as a secured party on any other certificate of title for a vehicle registered in the Band and owned by the person prior to the auction. Nothing herein shall limit the rights of any secured party in any vehicle registered with the Prairie Band of Potawatomi.

Section 17-10-8. Removal of Registration.

Applications for removal of registration shall contain the information required in Section 3 for application or such parts thereof as the Registrar deems necessary to assure the proper registration of the vehicle.

Section 17-10-9. Design, Procurement and Issuance of Registration Plates.

(A) The Band shall determine the size, color, and design of registration plate provided the plate contains visible evidence of the period for which the vehicle is registered, as well as being a means of identifying the specific vehicle or owner that the plates were issued to.

The Registrar upon registering a vehicle pursuant to this chapter shall issue and deliver prepaid to the applicant a registration plate for each automobile, motor truck, motor bus, school bus or self-propelled mobile home registered.

The Registrar upon registering a trailer or motorcycle pursuant to this chapter shall issue and deliver prepaid to the applicant one registration plate.

All registration plates shall have displayed upon them the following:

- (1) The registration number or letter assigned to the vehicle or owner.
- (2) The name "Prairie Band of Potawatomi" or an abbreviation thereof.
- (3) An indication of the period for which the specific plate is issued or the date of expiration of registration.
- (4) All registration plates issued shall be treated with a reflective material and be otherwise designed to make them legible.

(B) **Issuance of Replacement or Duplicate Plates.** Whenever a current registration plate is illegible, lost or destroyed, the owner of the vehicle shall immediately apply to the Registrar for replacement. Upon satisfactory proof of the loss or destruction of the plate and upon payment of a fee of \$5.00 and the cost of replacement, the Registrar shall issue a replacement.

Upon receipt of a replacement plate, the applicant shall forthwith surrender to the Registrar the illegible plates.

When issuing a replacement plate, the Registrar may assign a new number and issue a new plate rather than a duplicate of the original if in the Registrar's judgment that is in the best interest of economy or prevention of fraud. In such event, the person receiving the replacement plate shall surrender the original plate.

(C) **Fine for Failure to Surrender Illegible Plate.** Any person issued a replacement plate who fails to surrender his or her illegible plate as required above may be required to pay a fine of not less than \$5.00 and not more than \$500.00.

(D) Disposition of Plate Upon Sale Of Vehicle. Registration plates shall remain with the owner upon sale or disposal of the vehicle.

(E) Transfer of Registration Plate. Registration plate may be transferred upon application as prescribed in Section 3, including additional information as the Registrar may deem necessary, and upon payment of transfer fees and any additional registration fees. Transfer of staggered registration may require a pro-rating of registration fees at 1/12th the total cost of registration for the remaining portion of previous registration, with a credit allowed for the unused portion of previous registration.

Section 17-10-10. Display of Registration Plate.

Plat issued to an automobile, motor truck, motor bus, school bus or self-propelled mobile home shall be attached firmly and rigidly in a horizontal position, one to the rear of the vehicle. Plate issued to a trailer or motorcycle shall be attached firmly and rigidly in a horizontal position to the rear of said trailer or motorcycle. The plate shall at all times be maintained in a legible condition and shall be so displayed that they can be readily and distinctly seen and read. Any peace officer may require the operator of any vehicle on which plate is not properly displayed to display such plate as required by this section.

(A) Fines for Improper Display of Registration Plate. Any of the following may result in a fine of not less than \$50.00 and not more than \$500.00 for each occasion:

- (1)** A person who operates a vehicle for which current registration plate or validation sticker have been issued without such plate or tag being attached to the vehicle.
- (2)** A person who operates a vehicle with a registration plate attached in an non-rigid or non-horizontal manner or in an inconspicuous place so as to make it difficult to see and read the plate; or
- (3)** A person who operates a vehicle with a registration plate in an illegible condition due to the accumulation of dirt or other foreign matter as the deterioration or mutilation of the plate.

(Amended by PBP TC No. 2002-082, June 18, 2002)

Section 17-10-11. Annual Registration Fees.

A registration fee as herein set forth shall be paid for all motor vehicles, not exempted by Section 5, using the public streets or roads within the boundaries of the Potawatomi Reservation for each calendar year on the following basis:

Prairie Band of Potawatomi government owned vehicles shall be exempt from all fees imposed by this chapter. All other vehicles shall be assessed a \$20 fee for registration, renewal or transfer of registration.

(A) Additional Fees. The following additional charges must be included when computing registration costs:

- (1) \$20.00 Late Transfer Penalty for all vehicles that are registered more than thirty (30) days after purchase.
- (2) 1/12 of the annual registration fee for every month or part thereof that registration renewal is late.

(B) Other Fees.

- (1) Duplicate Validation Sticker - \$2.50 (each).
- (2) Duplicate Registration Renewal Card - \$2.00.
- (3) Duplicate Registration Certificate - \$2.00.
- (4) Duplicate Registration Plate(s) - \$5.00, plus the cost of replacement.

(C) Motorcycle Registration Fee. A registration fee as herein set forth shall be paid for all nonexempt motorcycles using the public streets and roadways within the boundaries of the Potawatomi Reservation on the following basis:

- (1) \$10.00 registration fee for each calendar year shall be paid for all motorcycles.

(D) Trailer Registration Fee. A registration fee as herein set forth shall be paid for all nonexempt trailers drawn upon the public streets and roadways within the boundaries of the Potawatomi Reservation.

- (1) \$10.00 per calendar year shall be paid for all two-wheel utility and recreational trailers with a gross weight of less than 1,500 pounds.
- (2) \$20.00 per calendar year shall be paid for all other two-axle trailers with a gross weight of more than 1,500 pounds, but less than 25,000 pounds.

Section 17-10-12. Refundable Fees.

The Prairie Band of Potawatomi shall not refund a fee paid to it except when expressly authorized or directed by this Section.

(A) The Potawatomi Registrar shall refund the unused portion of the registration fee paid for the registration of a vehicle upon application for such refund upon a form prescribed by the Registrar and upon furnishing of such proof as the Registrar may require that the vehicle will not be operated within the boundaries of the Potawatomi Reservation during the remainder of the period for which the vehicle is registered, and return to the Prairie Band of Potawatomi the certificate of registration and

registration plates. The refund shall be computed on a monthly basis, one-twelfth of the annual registration fee for each calendar month or fraction thereof, during which the motor vehicle will not be used on any road within the boundaries of the Potawatomi Reservation.

Section 17-10-13. Contents, Issuance and Display of Certificates of Registration; Issuance of Duplicate Certificate.

The Registrar upon registering a vehicle shall issue and deliver to the owner a certificate of registration. The certificate shall contain the name and address of the owner, a brief description of the vehicle, the registration number assigned and the date of expiration of registration. The certificate shall be in such form and may contain such additional information as the Registrar deems advisable. A Vehicle Seller's Report of Sale form shall be on the reverse side of the Certificate of Registration, as required by Section 24.

(A) The Registrar shall issue a duplicate certificate of registration upon application thereof by any person in whose name the vehicle is registered and upon payment of a fee of \$2.00.

Section 17-10-14. Fraudulent Application for Registration or License.

A person who with fraudulent intent uses a false or fictitious name or address, or makes a materially false statement, or fails to disclose a security interests, or conceals any other material fact in an application for a certificate of title or submits a false, forged, or fictitious document in support of an application for a certificate of title, shall be guilty of fraud and may be sentenced to a fine of not less than \$50.00 and not more than \$500.00 or six months in jail.

(A) **Violations/Penalties.** A person is in violation of the provisions of this chapter and shall be guilty of fraudulent practices involving the registration and titling of a motor vehicle and upon conviction sentenced to a fine of not less than \$50.00 and not more than \$500.00 or six months in jail, as follows:

- (1) who with fraudulent intent permits another, not entitled thereto, to use or have possession of a certificate of title;
- (2) who willfully fails to mail or deliver a certificate of title to the Registrar of Motor Vehicles within ten days after legal sale or transfer of interest;
- (3) who commits fraud in any application for a certificate of title;
- (4) who fails to notify the Registrar of Motor Vehicles or his or her designee of any fact required by the provisions of this chapter;
- (5) who willfully violates any provisions of this chapter; or
- (6) except as part of an official government function, who destroys, removes, alters or defaces a VIN on a vehicle or who sells, barter, exchanges or knowingly owns or possesses a vehicle the VIN of which has been

destroyed, removed, altered or defaced. The Tribal Police shall seize any such vehicle for which a VIN has been destroyed, removed, altered or defaced.

(B) Odometer Reading. A person who knowingly tampers with or alters a motor vehicle odometer reading, or causes another person to alter or tamper with a motor vehicle odometer reading, shall be guilty and sentenced to a fine of not less than \$200.00 and not more than \$500.00 or six months in jail.

(Amended by PBP TC No. 2002-082, June 18, 2002)

Section 17-10-15. Improper Use of Registration.

Any person who does any of the following may be fined \$25.00 and not more than \$300.00:

(A) Lends to another a registration plate, knowing that the person borrowing the plate is not authorized by law to use it;

(B) Displays upon a vehicle a registration plate not issued for such vehicle, or not otherwise authorized by law to be used thereon; or

(C) Willfully twists, paints, alters or adds to, or cuts off any portion of a registration plate or sticker; or who places or deposits or causes to be placed or deposited on such plate or sticker any substance to hinder the normal reading of such plate; or who defaces, disfigures changes or attempts to change any letter or figure thereon.

(D) Sells, trades, barter, or otherwise disposes of the plate(s) in a manner which is prohibited by provisions of this chapter.

Section 17-10-16. False Evidence of Registration.

Whoever operates or has in possession of a motor vehicle, motor home, trailer or semitrailer or other vehicle registration which has attached thereto any plate or similar device fashioned in imitation of or altered so as to resemble the current registration plate issued by the Prairie Band of Potawatomi may be fined not less than \$50.00 and not more than \$250.00.

Section 17-10-17. Suspension/Revocation of Registration.

(A) The Registrar of the Prairie Band of Potawatomi shall suspend and/or revoke the registration when:

(1) The registration was completed through fraud or error and the person who registered the vehicle does not or cannot register the vehicle properly; or

(2) The required fee has not been paid and the same is not paid with interest at the rate of 12 percent per annum within 30 days of the date due.

The registered owner is in violation of any provision of this chapter.

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

(C) Return of Registration Plates; Penalty for Non-Compliance. Whenever the registration of a vehicle is suspended under this Section, the owner or person in possession of the registration plates shall forthwith return them to the Prairie Band of Potawatomi. Any person who fails to return the plates as required by this Section may be required to forfeit not more than \$50.00.

(D) Revocation. Revocation of registration shall occur when the period of suspension exceeds 90 days. The owner shall be notified in writing that the registration has been revoked pursuant to this Section. The owner shall also be notified of the revocation of the Certificate of Title and the provisions of Section 32 shall apply.

(E) Any disputes arising under this Section shall be brought before the Potawatomi Tribal Court.

Section 17-10-18. When Certificate of Title Required.

(A) The owner of a vehicle subject to registration on the Potawatomi Reservation, shall make application for certificate of title for the vehicle under the following circumstances:

- (1) If the owner has newly acquired the vehicle;
- (2) If the owner applies for registration of the vehicle for which the owner does not hold a valid certificate of title previously issued to him or her by the Registrar for the vehicle in question, the owner shall at the same time apply for a certificate of title; or
- (3) A vehicle which is presently in possession.

(B) Eligibility a Prerequisite. An applicant's eligibility for a certificate of title is a prerequisite to registration of the vehicle. If the applicant for registration holds a valid certificate of title previously issued to him or her by the Registrar for the vehicle in question, that is prima facie evidence that the applicant is the record owner of the vehicle and need not apply for a new certificate of title each time of application for registration.

Section 17-10-19. Application for Certificate of Title.

(A) An application for a certificate of title shall be made to the Registrar upon a form prescribed by the Registrar and shall be accompanied by the required fee. Each application for a certificate of title shall contain the following information:

- (1) The name and address of the owner;
- (2) A description of the vehicle, including make, model, year, identifying number and any other information which the Registrar may reasonably require for proper identification of the vehicle;
- (3) The date of purchase by the applicant, the name and address of the person from whom the vehicle was acquired and the name and address of any secured parties in the order of their priority and the dates of their security agreements;
- (4) If the vehicle is a new vehicle being registered for the first time, the signature of the dealer authorized to sell such new vehicle;
- (5) Any further evidence of ownership, which may reasonably be required by the Registrar to enable a determination whether the owner is entitled to a certificate of title and the existence or non-existence of security interests in the vehicle;
- (6) If the vehicle is a used motor vehicle which was previously registered in another jurisdiction, and a statement pertaining to the title history and ownership of such motor vehicle, such statement to be in the form the Registrar prescribes;
- (7) The Registrar may, at his or her discretion, require the applicant to furnish a certification by a law enforcement officer, or by an employee designated by the Registrar to the effect that the physical description of the motor vehicle has been checked and conforms to the description given in the application;
- (8) Each applicant for a certification of title shall surrender to the Registrar or his or her designee any and all other certificate of title issued by any other governmental agency of any state which is held by the applicant or any other person or entity as a prerequisite to receiving a certificate of title from the Prairie Band of Potawatomi; and
- (9) The vehicle odometer reading with the owner's certificate of the accuracy and that to the best of his or her knowledge neither he nor she or any other person has altered the odometer.

(B) It is hereby specifically required that the automobile manufacturer's certificate of origin be surrendered to the Registrar or his or her designee prior to any lawful registration and titling of any new vehicle.

Section 17-10-20. Contents of Certificate of Title.

(A) Each certificate of title issued by the Registrar shall contain:

- (1) The name and address of the owner;
- (2) The names of any secured parties in order of priority as shown on such certificate;
- (3) The title number assigned to the vehicle;
- (4) A description of the vehicle, including make, model and identifying number;
- (5) Any other data which the Registrar deems pertinent and desirable;
- (6) Vehicle odometer reading and a certification of accuracy of the reading when the vehicle is first registered and every time the ownership is transferred thereafter; and
- (7) The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and may contain forms for application for a certificate of title by a transferee and for the naming of a secured party and the assignment or release of a security interest.

(B) **Prima Facie Evidence.** A certificate of title issued by the Registrar is prima facie evidence of the facts appearing on it.

Section 17-10-21. Grounds of refusing Issuance of Certificate of Title.

The Registrar shall refuse issuance of a certificate of title if any required fee is not paid or if the Registrar has reasonable grounds to believe that:

- (A) The person alleged to be the owner of the vehicle is not the owner;
- (B) The application contains false or fraudulent statement;
- (C) The applicant fails to furnish the information or documents required by this ordinance to the satisfaction of the Registrar; and
- (D) The vehicle odometer reading is inaccurate or the vehicle odometer has been altered in any manner so as to unlawfully alter the value of the vehicle.

Section 17-10-22. Lost, Stolen or Mutilated Certificates.

If a certificate of title is lost, stolen, mutilated, destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the Registrar shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Registrar. The duplicate certificate of title shall contain the legend, "This a duplicate Certificate and may be subject to the rights of a person under the original certificate."

Section 17-10-23. Titling Fees.

The Registrar shall be paid the following fees:

- (A) \$5.00 by the owner for filing an application for the first certificate of title.
- (B) \$5.00 by the owner of the vehicle for the original notation and subsequent release of each security interest noted upon a certificate of title.
- (C) \$10.00 by the owner of the vehicle for a duplicate certificate of title.
- (D) \$10.00 by the owner of the vehicle for all other issuance's of certificate of title for any other reason.
- (E) Notwithstanding the above, Prairie Band Potawatomi government owned vehicles shall be exempt from all titling fees.

Section 17-10-24. Transfer of Interest in a Vehicle.

- (A) If an owner transfer an interest in a vehicle, the owner shall at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefore on the certificate, cause the certificate to be mailed or delivered to the transferee, and verify the odometer reading in the proper space provided.
- (B) The transferee shall promptly, after delivery of the vehicle, execute the application for a new certificate of title in the space provided therefore on the certificate and cause the certificate and application to be mailed or delivered to the Registrar.
- (C) "Vehicle Seller's Report of Sale." The seller of a vehicle which is registered pursuant to this ordinance shall deliver to the Registrar, within five days of the sale, a fully completed Vehicle Seller's Report of Sale form, which is located on the reverse side of the Certificate of Registration for said vehicle.
- (D) A transfer by an owner is not effective until the provision of this section have been complied with. An owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of the section requiring action by him or her is not liable as owner for any damages thereunder resulting from operation of the vehicle.
- (E) An owner of a vehicle for which a certificate of title has been issued, who upon transfer of the vehicle fails to execute and deliver the assignment and warranty of title required by this Section, may be required to pay not more than \$50.00.
- (F) Any transferee of a vehicle who fails to make application for a new certificate of title within ten days after legal sale of a vehicle may be required to pay not more than \$50.00. A certificate is considered to have been applied for when the application

accompanied by the required fee has been delivered to the Registrar or deposited in the mail properly addressed with the required postage.

(G) When any person who dies testate or interstate and that person is the legal owner of a vehicle registered under the laws of the Prairie Band of Potawatomi the Registrar shall issue a new certificate of title, as follows:

(1) Upon receipt of an order from the Potawatomi Tribal Court or a court of competent jurisdiction so directing any said issuance; or

(2) Upon receipt of a properly executed form(s) as prescribed by the Registrar and all required accompanying documents which provides for the transfer of interest and ownership to an individual (or individuals) stated thereon.

(H) When a certificate of title is issued to a new owner pursuant to this Section and the new owner is not eligible to have said vehicle registered under the laws of the Band, said new owner shall promptly register the vehicle with the appropriate jurisdiction.

Section 17-10-25. When Registrar to Issue a New Certificate.

The Registrar upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other transfer document required by chapter, to support the transfer, shall issue a new certificate of title in the name of the transferee as owner.

Section 17-10-26. Perfection of Security Interests.

(A) A security interest in a vehicle of a type for which a certificate of title exists hereunder is not valid against creditors of the owner or subsequent transferees or secured parties of the vehicle unless perfected as provided by this chapter.

(B) A security interest for tribal titles is perfected by the delivery to the Registrar of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the secured party and the date of the security agreement, with the required fee. It is perfected as of the time of its creation if such delivery is completed within 10 days thereafter.

Section 17-10-27. Duties on Creation of Security Interest.

If an owner creates a security interest in a vehicle:

(A) The owner shall immediately execute, in the space provided therefore on the certificate of title or on a separate form prescribed by the Registrar an application to name the secured party on the certificate, showing the name and address of the

secured party and the date of the security agreement, and cause the certificate, application and the required fee to be delivered to the secured party.

(B) The secured party shall immediately cause the certificate, application and the required fee to be mailed or delivered to the Registrar.

(C) Upon receipt of the certificate of title, application and the required fee the Registrar shall issue to the secured party a new certificate which contains the name and address of the lienholder.

Section 17-10-28.

(A) **Assignment of Security Interest.** A secured party may assign, absolutely or otherwise, the security interest in a vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party, as the holder of the security interest and the secured party remains liable for any obligations as a secured party until the assignee is named as secured party on the certificate.

(B) The assignee may not need to perfect the assignment, have the certificate of title endorsed or issue with the assignee named as secured party, upon delivering to the Registrar the certificate and an assignment by the secured party named in the certificate in the form the Registrar prescribes.

Section 17-10-29.

(A) **Release of Security Interest.** Whenever there is no outstanding obligation and no commitment to make advances, incur obligations or otherwise give value, secured by the security interest in a vehicle under any security agreement between the owner and the secured party, the secured party shall execute and deliver to the owner, as the Registrar prescribes, a release of the security interest in the form and manner prescribed by the Registrar. If the secured party fails to execute and deliver such a release within 10 days after the receipt of the owner's written demand therefore, such party shall be liable to the owner for \$25.00 and for any loss caused to the owner by such failure.

(B) The owner, other than a dealer holding the vehicle for resale, shall promptly cause the certificate and release to be mailed or delivered to the Registrar, which shall release the secured party's rights on the certificate and issue a new certificate.

Section 17-10-30. Secured Party's and Owner's Duties.

(A) A secured party named in a certificate of title shall, upon written request of the owner or of another secured party named on the certificate, disclose any pertinent information as to the security agreement and the indebtedness secured by it.

(B) An owner shall promptly deliver the certificate of title to any secured party who is named on it or who has a security interest in the vehicle described in it upon receipt of a notice from such secured party that the interest is to be assigned, extended or perfected.

(C) Any secured party who fails to disclose information pursuant to Section 30 shall be liable for any loss caused to owner thereby.

(D) Any owner who fails to deliver the certificate of title to a secured party requesting it pursuant to Section 30 shall be liable to such party for any loss caused to the secured party thereby and may be required to pay a fine of not more than \$100.00.

Section 17-10-31. Methods of Perfecting Exclusive.

The method provided in this chapter of perfecting and giving notice of security interests subject to this ordinance is exclusive.

Section 17-10-32. Suspension or Revocation of Certificate.

(A) The Registrar shall suspend or revoke a certificate of title if:

- (1) The certificate of title was fraudulently procured, erroneously issued, or prohibited by law,
- (2) The vehicle has been scrapped, dismantled, or destroyed,
- (3) A transfer of title is set aside by a court by order or judgment, or
- (4) Registration has been revoked pursuant to Section 17.

(B) Suspension or revocation of a certificate of title does not, in itself, affect the validating of a security interest noted on it.

(C) When the Registrar suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Registrar.

(D) The Registrar may seize and impound any certificate of title which has been suspended or revoked.

Section 17-10-33. Cancellation of Title or Registration.

The Registrar shall cancel a title or registration whenever:

(A) A transfer of title is set aside by the Court by order or judgment; or

(B) It is subsequently discovered the issuance or possession of a title or registration is prohibited by law.

Section 17-10-34. Remedies for Holders of Security Interests.

For purpose of this chapter, the Prairie Band of Potawatomi hereby adopts and incorporates by reference applicable sections of Article IX of the Uniform Commercial Code as enacted in Kansas and requires the Registrar to notify by registered mail, return receipt requested, any holder of any registered security interest of any action under this chapter that may affect their rights as registered.

Section 17-10-35. Maintenance of Records.

The Registrar shall maintain records of all applications and all certificates of title issued by the Registrar:

- (A) According to title number,
- (B) Alphabetically, according to the name of owner, and
- (C) In any other manner which the Registrar may determine to be desirable.

Section 17-10-36.

The Registrar shall keep accurate and updated list of all registration plates issued, the number thereof, the name of the owner and the description of the motor vehicle.

Section 17-10-37. Police Powers.

(A) Any duly sworn Law Enforcement Officer, including Law Enforcement Officer of the State of Kansas, are hereby authorized and empowered to enforce the provisions of this chapter and to execute and serve all warrants and processes issued by the Potawatomi Tribal Court under any law of the Prairie Band of Potawatomi.

(B) When a person is cited for any violation of this chapter, the arresting officer shall prepare in triplicate, written notice to appear before the Court. This notice has the effect of, and serves as a summons and complaint. The written notice must be signed by the arresting officer, describe the violation, the date and time of return or first appearance before the court and the address of the court. In order to secure appearance, the cited person must give a written promise so to appear before the Court by signing, in triplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons" to the person cited. If the person so summoned fails to appear on the day, the Court shall issue an order to show cause, and may subject the person to the court powers of contempt.

(C) Any duly sworn tribal law enforcement officer is hereby authorized and empowered to enter upon any trust or other land within the jurisdiction of the Band for the purpose of carrying out the proper duties of his or her office.

Section 17-10-38. Enforcement.

No person shall willfully hinder, resist, or obstruct a tribal law enforcement officer in the legal and proper performance of the officer's official duty, including refusing to submit anything called for by the officer for inspection when authorized by law. No tribal criminal prosecution of non-Indians will be brought under this chapter.

Section 17-10-39. Potawatomi Tribal Court.

The Potawatomi Tribal Court is hereby granted jurisdiction for any cause of action which arises from this chapter and where jurisdiction is appropriate. Nothing in this chapter shall waive the sovereign immunity of the Prairie Band of Potawatomi, the Prairie Band of Potawatomi Tribal Council or any tribal employees or agents.

Section 17-10-40. Enforcement by Registrar.

The Registrar shall enforce all provisions of this chapter. The Registrar may prescribe all rules and regulation consistent with the provisions of this Chapter through the issuance of Registrar Orders. The Registrar may request the Potawatomi Tribal Council or any Band law enforcement officer to aid in the performance of the Registrar's official duties. The Registrar may appoint current employees of the Prairie Band of Potawatomi as designees as may be required to administer the provisions of this chapter.

Section 17-10-41. Severability.

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

Section 17-10-42. Limited Waiver of Sovereign Immunity.

The Prairie Band of Potawatomi hereby waives sovereign immunity to be used only by tribal members in the Potawatomi Tribal Court or such other Court as the Potawatomi Tribal Council may designate in any seizure of property matter pursuant to the provisions of this chapter. However, any such action shall only be directed against the Registrar, in his or her official capacity in order to challenge any seizure action. Any and all seizure cause of action which arise pursuant to this chapter shall be limited to actions against the Registrar in his or her official capacity for any order returning any seized goods or the proceeds of a sale of such seized goods if in the possession of the Registrar or his or her office. All other causes of action which arise pursuant to this chapter shall be limited in relief to declaratory or injunctive measures and no damages, monetary or otherwise, including but not limited to attorney fees, shall be permitted. All causes of action arising must be commenced by service of complaint and filing same within 90 days of the first event giving rise to the cause of action.

Section 17-10-43. Reservation of Right.

The Potawatomi Tribal Council hereby reserves the right to alter, amend or increase or decrease the fees, forfeiture and penalties imposed herein, amend or repeal the several provisions of this chapter, and all rights and privileges granted or extended hereunder shall be subject to such reserved right.

Section 17-10-44. Revenue Distribution.

All revenue derived from fees imposed by this chapter shall be deposited in the general revenue account of the Prairie Band of Potawatomi.

Section 17-10-45. Band Attorney Obligations.

The Attorney(s) designated by the Potawatomi Tribal Council shall represent the interests of the Prairie Band of Potawatomi and the Registrar of Motor Vehicle in any matter arising from any provision of this chapter before the Potawatomi Tribal Court.

Section 17-10-46. American Association of Motor Vehicle Administrators: Policy Positions.

The Potawatomi Tribal Council hereby declares that the implementation of the provisions of this chapter shall be accomplished, as much as feasible, according to the policies promulgated by the American Association of Motor Vehicle Administrators.

Section 17-10-47. Motor Vehicle Information.

(A) The Registrar shall endeavor to develop procedures to provide pertinent vehicle information for vehicles registered under this chapter through the National Law Enforcement Telecommunication System (NLETS), NCIC and the Kansas Criminal Justice Information System (KCJIS) in a timely and reasonable manner. This information shall include at least the make, model year, VIN number, body type, and tribal license plate number of the vehicle, the name and current address of the owner and the registered gross laden weight of every commercial vehicle.

(B) Motor vehicle information held by the Registrar shall be made available in a reasonable and timely manner to other government agencies for purposes of law enforcement and motor vehicle regulation.

(Amended by PBP TC No. 2002-082, June 18, 2002)

Section 17-10-48. Regulations.

The Registrar may issue interpretations or regulations for the purpose of carrying out the functions and purposes of this Title.

CHAPTER 17-11
SHAB-EH-NAY

Section 17-11-1. Shab-eh-nay.

In all cases involving the Shab-eh-nay Reservation, the jurisdiction of the Nation and the substantive and procedural requirements of this Title shall apply, provided that, if the substantive requirements of this Title directly conflict with the substantive requirements of the laws of Illinois or DeKalb County, compliance with those requirements shall be sufficient for the purposes of tribal law. However, in no event shall the jurisdiction of the State of Illinois or DeKalb County or the procedural requirements of Illinois state law or DeKalb County code apply to any activity within the boundaries of the Shab-eh-nay Reservation.

(Enacted by PBP TC Resolution No. 97-30, June 17, 1997; amended by PBP TC 98-55, March 6, 1999; amended by PBP TC No. 99-24, March 16, 1999; amended by PBP TC No. 99-35, March 16, 1999; amended by PBP TC No. 99-97, July 2, 1999; amended by PBP TC No. 99-102, July 7, 1999; amended by PBP TC No. 2002-046, March 27, 2002; enacted by PBP TC No. 2002-082, June 18, 2002; amended by PBP TC No. 2004-004, January 8, 2004; amended by PBP TC No. 2004-060, April 8, 2004; amended by PBP TC No. 2005-024, March 3, 2005)

