



**RESOLUTION OF THE GOVERNING BODY OF THE
THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution Entitled: "Adoption of Civil Motor Vehicle Code"

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-Laws pursuant to said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribe generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies; and

WHEREAS, Article VI, Section 3 of the Constitution grants the Tribal Business Council all necessary sovereign authority, both legislative and judicial for the purpose of exercising the jurisdiction granted by Article I of the Constitution ; and

WHEREAS, The rapid development of the oil industry on the Fort Berthold Indian Reservation due to oil exploration and production has resulted in a myriad of public safety concerns, including traffic safety due to the increased commercial traffic; and

WHEREAS, The majority of the oil Industry motor vehicle operators are non- Indian for whom the Tribe has no criminal jurisdiction to enforce criminal traffic and motor vehicle laws or regulations against; and

WHEREAS, non-Indian operators are aware of the jurisdictional gap and have engaged in blatant violations of motor vehicle laws and there is no deterrent to violating motor vehicle laws; and

WHEREAS, Enforcement of motor vehicle and traffic regulations by state and local law enforcement is limited by the high volume of traffic coupled with the limited number of state and local law enforcement officers available and the inability of tribal law enforcement officers to become cross deputized to enforce state laws against non- members; and





WHEREAS, the increase in traffic and limited law enforcement has lead to increased accidents and increased motor vehicle fatalities and traffic safety has become a number one public safety concern for the Three Affiliated Tribes and the Fort Berthold Reservation that must be addressed by the Tribal Business Council through the alternative means; and

WHEREAS, The United States Supreme Court held in *Montana v. United States* 450 U.S. 544, 1980, that Indian Tribes may have inherent power to exercise civil authority over the conduct of non- Indians on fee lands within a reservation when that conduct threatens or has some direct effect on the political integrity, the economic security or the health and welfare of the Tribe; and

WHEREAS, The Tribal Business Council has determined that that traffic violations by non-members particularly those operating in the oil and gas industry is conduct that has direct effect on the political integrity, the economic security and the health and welfare of the Tribe and its members and therefore adoption of a civil motor vehicle code is necessary to ensure enforcement of motor vehicle laws on the Reservation and provide a deterrent for violations of motor vehicle laws on the Reservation.

NOW THEREFORE BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribes hereby adopts the attached Civil Motor Vehicle Code which shall be codified as Chapter 3 of Title X of the Three Affiliated Tribes Law and Order Code.

BE IT FURTHER RESOLVED, that the Tribal Business Council finds that an emergency exists and therefore waives the reading, public notice and comment period required by Resolution #08_56__VJB and these code provisions shall take effect immediately upon adoption and certification of this Resolution



THREE AFFILIATED TRIBES
CIVIL MOTOR VEHICLE CODE

TITLE X

CHAPTER 3

10-3-1. PURPOSE AND FINDINGS

The production of oil and gas on the Fort Berthold Indian Reservation has resulted in a high volume of commercial motor vehicle traffic on the Fort Berthold Reservation with a majority of these commercial operators being non-Indians for whom the Three Affiliated Tribes lacks criminal jurisdiction to enforce its motor vehicle laws against. Enforcement by those agencies having jurisdiction over these operators has been limited, and in some areas non-existent. The result of this lack of enforcement of state motor vehicle laws against these operators has been a disregard by such operators of motor vehicle laws, a high rate of accidents, traffic fatalities, and damage to tribal roads and other vehicles using the roads on the Fort Berthold Indian Reservation.

The Tribal Council finds that the lack of enforcement of motor vehicle laws on the Highways and roads on the Reservation against non-Indian operators has become a number one public safety concern on the Reservation and that the disregard for motor vehicle laws on the Reservation threatens and has direct effect on the political integrity, the economic security and the health and welfare of the Tribe and its members.

The Tribal Business Council further finds that the Tribe through its law enforcement agencies and law enforcement officers has the inherent sovereign power to stop, investigate, detain, and civilly cite any individual including non-Indians suspected of violating tribal or state motor vehicle laws.

The Tribal Council further finds that due to federal case law that has denied Indian tribes their sovereign rights to prosecute non-Indian offenders and the failure of other agencies to adequately respond to such offenders, Indian Tribes must assert their sovereign rights to regulate the conduct of non-members on the Reservation through civil measures.

The Tribal Business Council further finds that this problem can only be addressed by the adoption of a civil motor vehicle code which is applicable to those individuals for whom the Three Affiliated Tribes does not have criminal jurisdiction.

The purpose of this Chapter is to address the issue of the impact that the oil industry has had on traffic safety on the Fort Berthold Indian Reservation and encourage a safe driving environment through aggressive law enforcement, designed to reduce the number and severity of traffic accidents, and preserve and protect human life. This Chapter is also intended to provide an alternative remedy to criminal prosecution against traffic offenders over whom the Tribe does not have criminal jurisdiction.



10-3-2. SOVEREIGN IMMUNITY

No provision set out in this Chapter shall be construed or interpreted as a waiver of any sovereign rights or of the sovereign immunity of the Three Affiliated Tribes.

10-3-3. AUTHORITY AND CONSTRUCTION

This Chapter is adopted by the Tribal Business Council pursuant to Article VI of the Constitution and By-laws of the Three Affiliated Tribes and pursuant to the Tribe's inherent sovereign authority to regulate the conduct of all individuals on the Reservation, the intent of which is to protect all persons and resources, and to achieve self-sufficiency.

10-3-4. APPLICATION

This Chapter shall be applicable to all persons for whom the Three Affiliated Tribes lacks criminal jurisdiction according to federal law.

10-3-5. DEFINITIONS

The following definitions shall be used and applied to this Chapter:

1. "Class A" authorized emergency vehicles means:
 - a) Vehicles of a governmentally owned fire department.
 - b) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this chapter by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs.
 - c) Ambulances.
 - d) Vehicles operated by or under the control of a game warden of the tribal game and fish department.
 - e) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - f) Vehicles operated by the state division of homeland security or local division of emergency management organizations.
 - g) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - h) Vehicles, other than ambulances, used by emergency medical services personnel.
2. "Bus" means every motor vehicle designed for carrying more than ten 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. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".
3. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.



4. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.
5. "Crosswalk" means 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.
6. "Driver" means every person who drives or is in actual physical control of a vehicle.
7. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.
8. "Essential parts" means 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 and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.
9. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.
10. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
11. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.
12. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
13. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.
14. "Intersection" means 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 roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.
15. "Legal owner" means a person who holds the legal title to a vehicle.



16. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's license and motorized bicycles. The term does not include a snowmobiles
17. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.
18. "Nonresident" means any person who is not a resident of the State of North Dakota.
19. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
20. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
21. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate motor vehicle issued under, or granted by, the laws of this state, including:
 - a) Any temporary license or instruction permit;
 - b) The privilege of any person to drive a motor vehicle whether such person holds a valid license; or
 - c) Any nonresident's operating privilege as defined in this section.
22. "Owner" means a person, other than a lien holder, having the property in or title to a vehicle. The 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.
23. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
24. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.
25. "Pedestrian" means any person afoot.
26. "Person" includes every natural person, firm, copartner ship, association, corporation, or limited liability company.
27. "Pneumatic tires" includes all tires inflated with compressed air.
28. "Law Enforcement Officer" means every officer authorized by the Tribe to direct or regulate traffic or to make arrests for violations of traffic regulations.
29. "Private road or driveway" means 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.
30. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in anyone accident,



and in the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident.

31. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.
32. "Railroad sign or signal" means 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.
33. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.
34. "Right of way" means the privilege of the immediate use of a roadway.
35. "Roadway" means 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 or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.
36. "Safety zone" means 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.
37. "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school student from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "school bus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events. School bus does not include a bus used as a common carrier.
38. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "house trailer" or "mobile home".
39. "Sidewalk" means 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.
40. "Stand" or "standing" means 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.
41. "Stop", when required, means complete cessation from movement.
42. "Stop" or "stopping", when prohibited, means 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.
43. "Street" means 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.
44. "Through highway" means 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.

45. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
46. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
47. "Trailer" includes 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 does not include a "house trailer" or "mobile home", which terms 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.
48. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.
49. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.

10-3-6. CIVIL MOTOR VEHICLE LAWS

The following Provisions of the North Dakota Century Code are hereby adopted as applicable to all individuals for whom this Chapter applies and any person in violation of any such provision shall be guilty of a civil offense:

- a. 39-04-motor vehicle registration
- b. 39-06-operator's license
- c. 39-06.2- 06 commercial drivers license required
- d. 39-07-general regulations governing traffic
- e. 39-08regulations governing operators
- f. 39-09-speed restrictions
- g. 39-10- general rules of the road
- h. 39-10.2motorcycles

- i. 39-12-size width and height restrictions
- j. 39-13-traffic signs
- k. 39-16.- Financial responsibility of owners and operators
- l. 39-16.2- Gas Transporter Liability
- m. 39-21- equipment of vehicles

10-3-7. ENFORCEMENT

The Three Affiliated Tribe Law enforcement services and Game and Fish Department officers shall have authority to stop, investigate and cite any individual who is in violation



of any provision of Section 10-3 -6 of this Chapter. Upon stopping a person for such violation, the officer shall take the person's name, address, license number of the vehicle, the driver's license number of the person, and the name and address of the person's employer if the person is engaged in commercial driving as that term is defined in Section 10- 3-6 of this Chapter.

10-3-8. CITATION AND SUMMONS.

After obtaining the information required by Section 3-10-7 the officer shall issue a written citation, setting forth the violation (s) along with a summons notifying the person to appear at a time and place to be specified in the summons and notify the person of the right to request a hearing to challenge the citation. The hearing must be set within thirty five (35) days after issuance of the summons or earlier if so requested by the person cited. The person shall also be notified that they may pay the fine in lieu of attending the hearing.

10-3-9. CRIMINAL OFFENSES.

If the violation is one that would be a criminal offense under North Dakota Law, the officer shall in addition to issuing the citation and summons, detain the person and immediately contact the law enforcement agency having criminal jurisdiction over the person and turn the person over to said agency.

10-3-10. FINES AND PENALTIES

The Following fines and penalties shall be assessed for any violations of Section 10-3-6 of this Chapter:

- a. Except as may specifically provided in a statute cited in 3-10-7 fines shall be assessed as set forth in the Classification of offenses published by the North Dakota Highway patrol.
- b. Any individual cited under this chapter shall be immediately reported to the company he or she works for if operating a commercial vehicle.
- c. Law enforcement is authorized to immediately impound any vehicle in violation 39-29 when the officer believes the vehicle poses a threat to public safety or the environment.
- d. Failure to pay any fine may result in further legal proceedings including reporting the person to the company the person is employed with and further reporting such company to the TERO Commission for consideration of suspension of the companies TERO License.

10-3-11. DISOSITION OF CITATIONS.

- a. The Fort Berthold District Court is hereby authorized to adjudicate hearings, as provided herein.

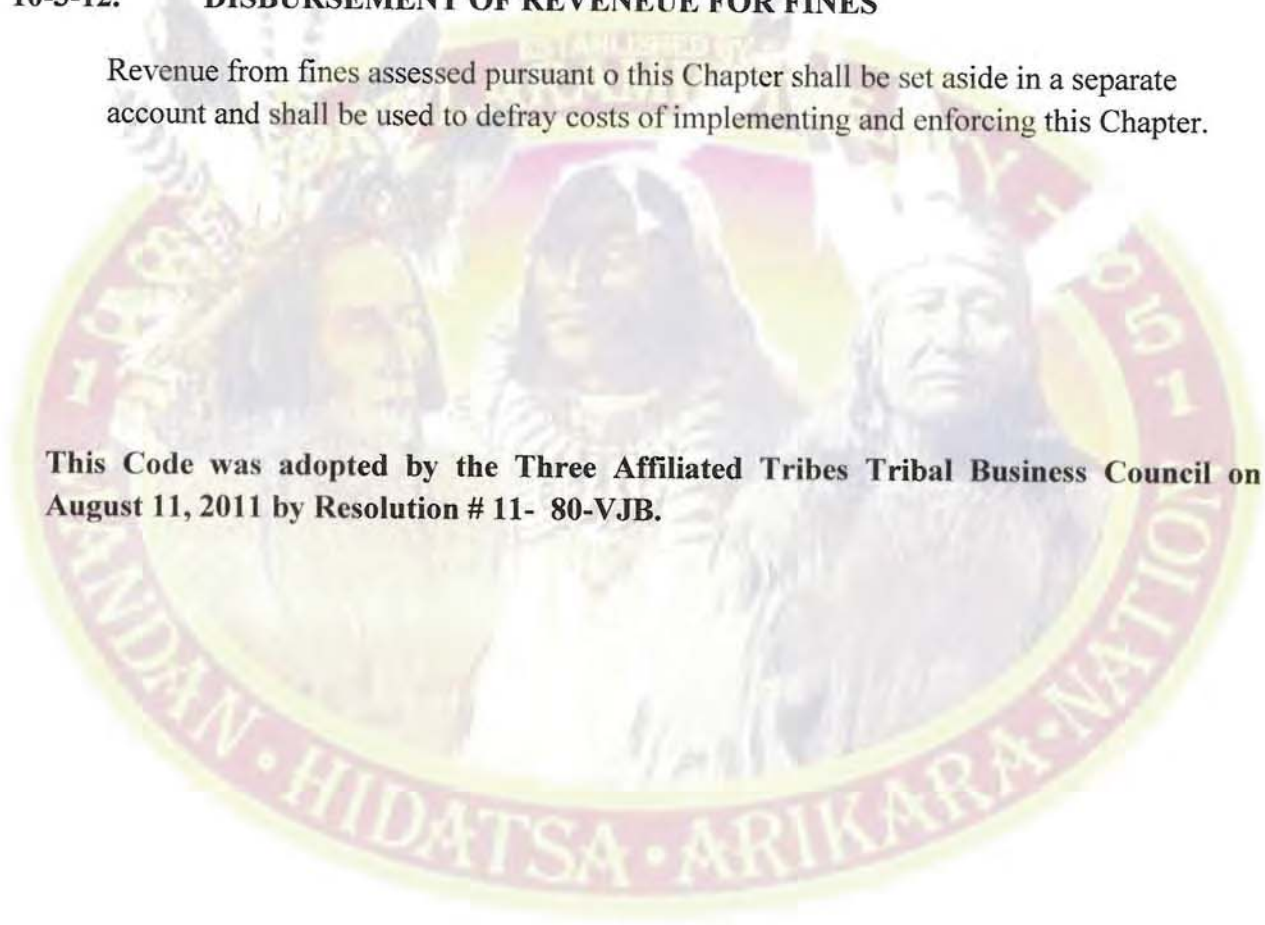


- b. The person cited may pay the fine assessed by money order payable to the Three Affiliated Tribes and sent to Fort Berthold District Court prior to the date set for the hearing. If the person cited challenges citation the person shall appear at the hearing at the time specified in the summons. The hearing must be held within thirty five days of issuance of the summons or earlier if so requested by the person cited.
- c. The tribal prosecutor or a special prosecutor appointed by the Tribe shall represent the Tribe in all hearings.

10-3-12. DISBURSEMENT OF REVENUE FOR FINES

Revenue from fines assessed pursuant to this Chapter shall be set aside in a separate account and shall be used to defray costs of implementing and enforcing this Chapter.

This Code was adopted by the Three Affiliated Tribes Tribal Business Council on August 11, 2011 by Resolution # 11- 80-VJB.





CERTIFICATION

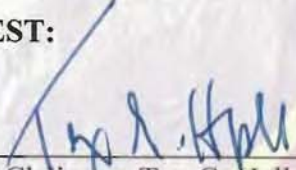
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Indian Reservation hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened and held on the 11 day of August, 2011, that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman Voting. Not Voting.

Dated this 11 day of August, 2011.



Tribal Secretary V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes

ATTEST:


Tribal Chairman Tex G. Hall
Tribal Business Council
Three Affiliated Tribes

