

## Chapter VIII

### MOTOR VEHICLE AND PARKING CODE

801. TITLE – This Code shall be known and cited as the Bay Mills Indian Community “Motor Vehicle and Parking Code.”
802. DEFINITIONS – The following terms shall have the meanings described below for the purposes of this Code:
- A. “Authorized Emergency Vehicle” – Vehicles of the fire department, police vehicles, ambulances, privately owned motor vehicles of volunteer or paid fireman, or privately-owned motor vehicles of volunteer ambulance drivers or licensed ambulance drivers or attendants as are authorized by the Michigan Department of State Police or Bay Mills Department of Law Enforcement.
  - B. “Autocycle” – An enclosed motorcycle that is equipped with safety belts, roll bar, windshield, wipers, steering wheel, and equipment otherwise required on a motorcycle, and which has not more than 3 wheels in contact with the roadway at any one time.
  - C. “Bicycle” – A device propelled by human power upon which a person may ride, having either 2 or 3 wheels in a tandem or tricycle arrangement, all of which are over 14 inches in diameter.
  - D. “Bus” – A motor vehicle designed for carrying 16 or more passengers, including the driver. Bus does not include a school bus.
  - E. “Code” – The Bay Mills Indian Community Motor Vehicle and Parking Code.
  - F. “Commercial Vehicle” – Includes all motor vehicles used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles 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.
  - G. “Controlled Substance” – Marijuana, cocaine, amphetamines, opiates, phencyclidine, barbiturates, and any derivative of any of the above substances, and any other controlled substances as defined in Section 7104 of the Michigan Public Health Code, Act No. 368 of the Public Acts of 1978 (MCL 333.7104).

- H. “Court” – The Bay Mills Indian Community Tribal Court, also known as the Bay Mills Tribal Court.
- I. “Cross-walk” –
  - (1) 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 highway.
  - (2) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- J. “Driver” – Every person who drives or is in actual physical control of a vehicle.
- K. “Handicapper” – A person who is determined by a physician or an optometrist as specifically provided in this Code licensed to practice in the State of Michigan to have 1 or more of the following physical characteristics:
  - (1) Blindness as determined by an optometrist or a physician.
  - (2) Inability to walk more than 200 feet without having to stop and rest.
  - (3) Inability to do both of the following:
    - (a) Use one (1) or both legs or feet.
    - (b) Walk without the use of a wheelchair, walker, crutch, brace, prosthetic, or other device, or without the assistance of another person.
  - (4) A lung disease from which the person’s forced expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person’s arterial oxygen tension is less than 60 mm/hg of room air at rest.
  - (5) A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American Heart Association.
  - (6) An arthritic, neurological, or orthopedic condition that severely limits the person’s ability to walk.

- (7) The persistent reliance upon an oxygen source other than ordinary air.
- L. “Highway” or “Street” – 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.
- M. “Intersection” –
  - (1) 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 2 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.
  - (2) Where a highway includes two (2) roadways 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 30 feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.
- N. “License” – Any driving privilege, license, temporary instruction permit, or temporary license issued under the laws of the State of Michigan pertaining to the licensing of persons to operate motor vehicles.
- O. “Motorcycle” – Every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground but excluding a tractor.
- P. “Moped” – 2- or 3-wheeled vehicle which is equipped with a motor that does not exceed 50 cubic centimeters piston displacement, produces 2.0 brake horsepower or less, and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. The power drive system shall not require the operator to shift gears.
- Q. “Motor vehicle” – Every vehicle that is self-propelled but does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under the laws of the State of Michigan.
- R. “Officer” – A law enforcement officer who is employed by the Bay Mills Indian Community, including Conservation Officers, or any officer deputized by the Bay Mills Indian Community.

- S. “Operator” or “Operating” – Being in actual physical control of a vehicle regardless of whether or not the person is licensed under this Code as an operator or chauffeur.
- T. “Operator” – Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.
- U. “Owner-operator” – An individual who holds the legal title of a commercial vehicle and who leases the commercial vehicle under a lease or arrangement whereby the individual is employed by the lessee to operate the leased vehicle.
- V. “Owner” – Means any of the following:
  - (1) Any person, firm, association, or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period that is greater than 30 days.
  - (2) A person who holds the legal title of a vehicle.
  - (3) A person who has the immediate right of possession of a vehicle under an installment sales contract.
- W. “Parking” – Standing a vehicle, whether occupied or not, upon a highway, when not loading or unloading except when making necessary repairs.
- X. “Pedestrian” – Any person afoot.
- Y. “Person” – Every natural person, firm, co-partnership, limited liability company, association, or corporation and their legal successors.
- Z. “Registration” – A registration certificate, plate, adhesive tab, or other indicator of registration required for display on a vehicle pursuant to this Code.
- AA. “Revocation” – When the operator’s or chauffeur’s license and privilege to operate a motor vehicle on the public highways are terminated and shall not be renewed or restored until the later of the following:
  - (1) The expiration of not less than 1 year after the license was revoked.
  - (2) The expiration of not less than 5 years after the date of a subsequent revocation occurring within 7 years after the date of a prior revocation.
- BB. “Right-of-way” – The privilege of the immediate use of the highway.

- CC. “Roadway” – That portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes 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.
- DD. “School bus” – Every motor vehicle, except station wagons, with a manufacturer’s rated seating capacity of 16 or more passengers, including the driver, owned by a public, private, 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. School bus does not include buses operated by a tribe or a municipally-owned transportation system or by a common passenger carrier certificated by the Michigan Transportation Department.
- EE. “Sidewalk” – That portion of a street between the curb lines, or the lateral lines of roadway, and the adjacent property lines intended for the use of pedestrians.
- FF. “Street” or “Highway” – 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.
- GG. “Stand” or “Standing” – The halting of a vehicle, other than for the purpose of, and while engaged in, receiving or discharging passengers.
- HH. “State” – Any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.
- II. “Stop” or “Stopping” – Stop or stopping when prohibited, means the halting, even momentarily, of a vehicle, whether occupied or not. The terms do not apply to the halting of a vehicle which is necessary to avoid conflict with other traffic or which is in compliance with the direction of a police officer or traffic control sign or signal.
- JJ. “Suspension” – When the driver’s license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension.
- KK. “Traffic” – Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.
- LL. “Traffic control devices” – All signs, signals, markings, and devices not inconsistent with this Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

- MM. “Traffic control signal” – Any device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- NN. “Tribal Court” – Bay Mills Indian Community Tribal Court, also known as the Bay Mills Tribal Court.
- OO. “Tribal Police Officer” – A law enforcement officer who is employed by the Bay Mills Indian Community, including Conservation Officers.
- PP. “Tribe” –
- (1) “The Tribe” – The Bay Mills Indian Community.
  - (2) “A Tribe” – Any federally recognized Tribe.
- QQ. “Vehicle” – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and except only for the purpose of titling and registration under the Michigan Motor Vehicle Code, a mobile home as defined in Section 2 of the Michigan Mobile Home Commission Act, Act No. 96 of the Public Acts of 1987, being Section 125.2302 of the Michigan Compiled Laws.
- RR. “Tenses” – The present tense includes the past and future tenses; and the future, the present.
- SS. “Number” and “Gender” – The singular shall include the plural and the plural shall include the singular; the masculine shall include the feminine and neuter, as requisite.
- TT. “Shall” and “May” – Shall is mandatory and may is permissive.
803. CIVIL INFRACTION – Any offense within this Motor Vehicle Code that does not include imprisonment as a possible penalty is deemed to be a civil infraction. As such, the standard of proof is by a preponderance of the evidence at any hearing or trial on a civil infraction offense.
804. BAY MILLS TRIBAL COURT; JUDGE; MAGISTRATE – The Judge of the Bay Mills Tribal Court shall preside over any hearing or trial involving an alleged violation of this Code. However, the Bay Mills Tribal Court Magistrate shall have the authority to conduct arraignments on any and all offenses within this Code; in addition, the Magistrate may impose sentencing where a person pleads guilty to an offense under this Code that imposes a fine of less than or equal to \$100.
805. PENALTIES NOT OTHERWISE PRESCRIBED – Any person who is convicted of or found responsible for an offense enumerated in this Code for which the

penalty is not otherwise prescribed may be sentenced to a payment of a fine not to exceed \$50.

806. COMPLIANCE WITH ORDER OR DIRECTION OF TRIBAL POLICE OFFICER –

A person who refuses to comply with the lawful order or direction of a tribal police officer when that officer, for public interest and safety, is guiding, directing, controlling, or regulating traffic upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community may be sentenced to payment of a fine not to exceed \$100.

807. FAILURE TO OBEY SIGNAL OF TRIBAL POLICE OFFICER – Any driver of a

motor vehicle who is given by hand, voice, emergency light, or a siren a visual or audible signal by a tribal police officer or conservation officer, acting in lawful performance of his/her duty, directing the driver to bring his or her motor vehicle to a stop, and who willfully fails to obey that direction by increasing the speed of the motor vehicle, extinguishing the lights of a motor vehicle, or otherwise attempting to flee or elude the officer may be sentenced to imprisonment of not more than thirty (30) days, or to payment of a fine of not to exceed \$500, or both. In addition, the Tribal Court may order that such driver be prohibited from driving or otherwise operating a motor vehicle upon the highway(s) of the Bay Mills Indian Community for up to sixty (60) days. The officer giving the signal shall be in uniform and/or the vehicle driven shall be adequately identified as an official police vehicle.

808. SPEED RESTRICTIONS

A. Careful and prudent speed (where no posted speed limitation) – A person operating or driving a vehicle on a highway within the Bay Mills Indian Community shall drive at a careful and prudent rate of speed not greater nor less than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and of any other existing condition. A person shall not drive a vehicle upon a highway greater than that which will permit a stop within the assured, clear distance ahead. A person who violates this provision may be sentenced to payment of a fine not to exceed \$100.

B. Posted speed limitation – A person who exceeds any posted speed limitation within the boundaries of the Bay Mills Indian Reservation, may be sentenced as follows:

(1) To payment of a fine of \$10.00 for each mile per hour over the posted speed limit in a school zone during such time periods and on such days as are posted for each school zone.

(2) To payment of a fine of not less than \$30.00 and not more than \$350.00.

(3) To incarceration for violation of sec. 819 (H) of this chapter.

C. Exemption – The speed limitations set forth in this provision shall not apply to vehicles when operated with due regard to safety under the direction of the police in the chase or apprehension of violators of the law or persons charged with or suspects of any such violation, nor to fire departments when traveling in response to a fire alarm, nor to a public or private ambulance when traveling in emergencies. However, this exemption shall not protect the driver of such vehicle from the consequences of reckless disregard of the safety of others.

809. FAILURE TO STOP FOR SCHOOL BUS FLASHING RED LIGHTS – The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two (2) alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than twenty (20) feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer activated. A person violating this provision is deemed guilty of a misdemeanor and may be sentenced to imprisonment of not more than sixty (60) days, payment of a fine not to exceed \$300, community service not to exceed 100 hours (preferably to be served at a school), or all of these.

810. TRAFFIC DEVICES AND SIGNS; FAILURE TO OBEY – The driver of a motor vehicle shall not disobey the instructions of a traffic-control device, sign, or signal, unless otherwise directed by an officer at the time. In addition, the driver of a vehicle shall not, for the purpose of avoiding obedience to a traffic-control device or sign, drive upon or through private or public property which is not a street or highway. A person violating this provision may be sentenced to payment of a fine not to exceed \$50.

811. TRAFFIC SIGNS OR SIGNALS; DEFACING, DESTROYING AND/OR REMOVING – No person shall deface, destroy, alter, damage and/or remove a traffic or parking sign, signal or traffic-control device that is located within the Bay Mills Indian Community. A person who violates this provision may be sentenced to imprisonment of not more than thirty (30) days, payment of a fine not to exceed \$200, restitution, or all of these.

812. DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING; FOLLOWING TOO CLOSELY

A. Driving on right half of roadway – Upon all highways of sufficient width, the driver of the vehicle shall drive upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction; or
  - (2) When the right half of a roadway is closed to traffic while under construction or repair or when an obstruction exists making it necessary to drive to the left of the center of the highway. A driver who is driving on the left half of a roadway under this subsection shall yield the right-of-way to any oncoming vehicle traveling in the proper direction upon the unobstructed portion of the roadway.
- B. Passing vehicle proceeding in opposite direction – Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other (as nearly as possible) not less than one-half (1/2) of the main traveled portion of the roadway.
- C. Overtaking and passing of vehicles proceeding in same directions – The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in Subsections D to F herein:
- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left of that vehicle, and when safely clear of the overtaking vehicle shall take up a position as near the right-hand edge of the main traveled portion of the highway as is practicable.
  - (2) Except when overtaking and passing on the right is permitted; the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.
- D. Overtaking and passing on left of another vehicle – A vehicle shall not overtake and pass another vehicle proceeding in the same direction unless the left side or center lane is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of a vehicle approaching from the opposite direction or the vehicle overtaken.
- E. Limitations applicable to driving left side of roadway – No person shall at any time drive a vehicle to the left side of the roadway under the following conditions:
- (1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within a distance as

to create a hazard in the event another vehicle might approach from the opposite direction;

- (2) When the view is obstructed upon approaching within one hundred (100) feet of a bridge, viaduct, or tunnel; or
- (3) When a no-passing zone is appropriately signed or marked on the roadway.

F. Overtaking and passing on right of another vehicle – The driver of a vehicle may overtake and pass upon the right of another vehicle only if one or more of the following conditions exist:

- (1) When the vehicle overtaken is making or about to make a left turn.
- (2) Upon a highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction and when the vehicles are moving in substantially continuous lanes of traffic.
- (3) Upon a one-way street or upon a roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and a sufficient width for two (2) or more lines of moving vehicles and when the vehicles are moving substantially continuous lanes of traffic.

Further, the driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting the overtaking and passing in safety. The driver of a vehicle shall not overtake and pass another vehicle upon the right by driving off the pavement or main traveled portion of the roadway.

- G. Following too closely; distance between vehicles – 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 the vehicles and the traffic upon and the condition of the highway.
- H. Penalty – A person violating this provision may be sentenced to a fine not to exceed \$50.

813. RIGHT-OF-WAY; STOP; AUTHORIZED EMERGENCY VEHICLE OR FUNERAL PROCESSION; PEDESTRIAN

- A. Right-of-way; vehicle(s) approach at different time – The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

- B. Right-of-way; vehicle(s) approach at same time – When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- C. Yield sign – The driver of a vehicle approaching a yield sign, in obedience to the sign, shall slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to a vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver would be moving across or within the intersection. However, if required for safety to stop, the driver shall stop before entering the crosswalk on the near side of the intersection or, if there is not a crosswalk, at a clearly marked stop sign; but if there is not a crosswalk or a clearly marked stop sign, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
- D. Stop sign – The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the nearest side of the intersection, or if there is not a crosswalk shall stop at a clearly marked stop line; or if there is not a crosswalk or a clearly marked stop line, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After having stopped, the driver shall yield the right-of-way to a vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.
- E. Turning left at intersection/right-of-way
  - (1) Turning left without a signal or with a 4-way stop – The driver of a vehicle within an intersection where there are no signals or where there is a 4-way stop intending to turn to the left shall yield the right-of-way to a vehicle approaching from the opposite direction which is within the intersection or so close to the intersection as to constitute an immediate hazard; but the driver, having so yielded and having given a signal when and as required by this provision, may make the left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.
  - (2) Turning left at a signal – At an intersection where a traffic signal is located, a driver intending to make a left turn shall permit vehicles

bound straight through in the opposite direction to pass through the intersection before making the turn.

- F. Turning left from a highway into a driveway - The driver of a vehicle turning left from a highway into a driveway shall yield the right-of-way to vehicle(s) approaching on the highway.
- G. Entering or crossing highway from alley, private road, or driveway – The driver of a vehicle about to enter or cross a highway from an alley, private road, or driveway shall come to a full stop before entering the highway and shall yield the right-of-way to vehicles approaching on the highway.
- H. Immediate approach of authorized emergency vehicle – Upon the approach of an authorized emergency vehicle equipped with and making use of audible signals and/or flashing, rotating, or oscillating signals, the driver of another vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of any intersection, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a tribal police officer. This provision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the highway.
- I. Approach of funeral procession – Upon the approach of a funeral procession, the driver of another vehicle, with the exception of fire apparatus, ambulances and police vehicles, shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of any intersection, and shall stop and remain in that position until the entire funeral procession has passed, except when otherwise directed by a tribal police officer. In addition, the driver of a vehicle that approaches a funeral procession from the rear shall not pass said funeral procession.
- J. Pedestrians – Where sidewalks are provided, a pedestrian shall not walk upon the main traveled portion of the highway. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the highway facing traffic which passes nearest.
- K. Penalty – A person who violates any subsection of this provision may be sentenced to a fine not to exceed \$100.

#### 814. TURNING; SIGNALS ON STOPPING AND TURNING

- A. Turning at intersection – The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line in a manner as not to interfere with the progress of any other vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered.
- (3) Approach for a left turn from a 2-way roadway into a 1-way roadway shall be made in that portion of the right half of the roadway nearest the center line and clear of existing car tracks in use, and by passing to the right of the center line where it enters the intersection. Approach for a left turn from a 1-way roadway into a 2-way roadway shall be made as close as practicable to the left curb or edge of the roadway and by passing to the right of the center line of the roadway being entered.
- (4) Where both streets or roadways are 1-way, both the approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

B. Signals for stopping or turning

- (1) Signal required – The driver of a vehicle or bicycle upon a highway, before stopping or turning from a direct line, shall first see that the stopping or turning can be made in safety and shall give a signal as required in this Section.
- (2) Signal defined – A signal required in this Section shall be given either by means of the hand and arm in the manner specified in this Section, or by a mechanical or electrical signal device which conveys an intelligible signal or warning to another highway traffic. When a signal is given by means of the hand and arm, the driver shall indicate his or her intention to stop or turn by extending his hand and arm from and beyond the left side of the vehicle and signal as follows:
  - (a) Left turn---hand and arm extended horizontally.
  - (b) Right turn---hand and arm extended upward.
  - (c) Stop or decrease speed---hand and arm extended downward.

- C. Penalty – A person violating this Section may be sentenced to a fine not to exceed \$50.

815. STOPPING, STANDING OR PARKING ON A HIGHWAY

- A. Offense re: stop engine/set brake – 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.
- B. Penalty – A person who violates this Section may be sentenced to a fine not to exceed \$100.

816. PROHIBITED PARKING

- A. Offense – No person shall park a vehicle, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of an officer or traffic-control device, in any of the following places:
  - (1) On a sidewalk.
  - (2) In front of a public or private driveway, which blocks entry or exit from said driveway.
  - (3) Within an intersection.
  - (4) Within 15 feet of a fire hydrant.
  - (5) On a crosswalk.
  - (6) Within 20 feet of a crosswalk, or if there is not a crosswalk, then within 15 feet of the intersection of property lines at an intersection of highways.
  - (7) Within 30 feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway.
  - (8) Between a safety zone and the adjacent curb or side of roadway or within 30 feet of a point on the curb or immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking.
  - (9) Within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance if properly marked by an official sign.

- (10) Alongside or opposite a street excavation or obstruction, if the stopping, standing or parking would obstruct traffic.
- (11) On the roadway side of a vehicle stopped or parked at the edge or curb of a roadway.
- (12) Upon a bridge or other elevated highway structure or within a highway tunnel.
- (13) At a place where an official sign prohibits stopping or parking.
- (14) Within 500 feet of an accident at which a police officer is in attendance.
- (15) In a place or in a manner which blocks or hampers the immediate use of an immediate egress from an emergency exit or fire escape conspicuously marked as an emergency exit or fire escape from a building.
- (16) In a parking space clearly identified by an official sign as being reserved for use by handicappers which is on public property or private property available for public use, unless the person is a handicapper as described in Section 802(K) or unless the person is parking the vehicle for the benefit of a handicapper. In order for the vehicle to be parked in the parking space, the vehicle shall display one (1) of the following:
  - (a) A certificate of identification or windshield placard issued under MCLA 257.675 to a handicapper.
  - (b) A special registration plate issued pursuant to MCLA 257.803d to a handicapper.
  - (c) A similar special certificate of identification or windshield placard issued by a state or a tribe to a handicapper.
  - (d) A similar registration plate issued by a state or a tribe to a handicapper.
  - (e) A special registration plate to which a handicapper tab is attached issued under the Michigan Motor Vehicle Code.
- (17) Within 500 feet of a fire at which fire apparatus is in attendance. However, volunteer fire fighters responding to the fire may park within 500 feet of the fire in a manner not to interfere with fire

apparatus at the scene. A vehicle parked legally previous to the fire is exempted from this Subsection.

- (18) In violation of an official sign restricting the period of time for or manner of parking.
- (19) On a street or highway in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States Postal Service.
- (20) Outside the boundaries of lines so designated for parking within parking lots or otherwise.
- (21) Parking so as to encroach on the designated travel lane of any street or highway.

B. Removal of illegally parked vehicle – Whenever an officer finds a vehicle in violation of this Section, such officer is authorized to remove such vehicle, or require the driver or other person in charge of the vehicle to move the same to a position deemed to be legal parking. Any costs associated with removal of such a vehicle shall be the responsibility of either the driver, owner or lessee of the vehicle as may be determined to be applicable by the Court.

C. Penalty – A person who violates any Section of this provision shall be sentenced to a fine not less than \$25 but not to exceed \$50 with the exception of a violation to Subsection A (16) wherein a fine shall be imposed in the amount of \$100.

817. INTERFERENCE WITH VIEW OR CONTROL OF DRIVER OR OPERATION; OBSTRUCTION

A. Driver – A person shall not drive a vehicle when it is loaded or when there are in the front seat a number of persons so as to obstruct the view of the driver to the front or sides of the vehicle or so as to interfere with the driver's control over the driving mechanism of the vehicle.

B. Passenger – A passenger in a vehicle shall not ride in a position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

C. Penalty – A person who violates any Section of this provision may be sentenced to a fine not to exceed \$50.

818. STOPPING AT SCENE OF ACCIDENT; DUTIES AND REPORTING; GIVING INFORMATION AND AID

- A. Accident where injury or death – The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon either public or private property, when the property is open to travel by the public, resulting in either injury to or death of a person shall immediately stop his or her vehicle at the scene of the accident and shall remain there until he or she complies with the provisions of Subsection (C ) herein; the stop shall be made without obstructing traffic more than is necessary. A person violating this provision may be sentenced to imprisonment of not more than one (1) year, or to payment of a fine not to exceed \$2500, or both. In addition, the Tribal Court may order that said driver be prohibited from driving or otherwise operating a motor vehicle upon the highways of the Bay Mills Indian Community for up to one (1) year.
- B. Accident where damage to property. The driver of the vehicle who knows or who has reason to believe that he or she has been involved in either an accident resulting only in damage to a vehicle which is driven or attended by any person or an accident resulting only in damage to fixtures or other property legally on or adjacent to the highway shall immediately stop such vehicle at the scene of the accident and shall remain there until he or she has complied with the provisions of Subsection (C )herein; the stop shall be made without obstructing traffic more than is necessary. A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, or to payment of a fine not to exceed \$1,000, or both.
- C. Reporting to other driver/person; giving information and aid. The driver of any vehicle who knows or who has reason to believe that he or she has been 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 give his/her name and address, the registration number of the vehicle he or she is driving, the name and address of the owner of the vehicle he or she is driving and shall also exhibit his/her operator's or chauffeur's license to the person struck or the driver or occupant(s) of any vehicle collided with and shall render to any and all person(s) injured in such accident reasonable assistance in securing medical aid or transportation of said person(s). Further, the driver of any vehicle which collides with another vehicle that is unattended, or who knows or has reason to know that he or she has been involved in an accident resulting only in damage to fixtures or other property legally on or adjacent to the highway, shall take reasonable steps to locate and notify the owner or person in charge of such unattended vehicle, fixtures, or other property involved in the accident and also provide his/her name and address, the name and

address of the owner of the vehicle which he or she is driving, and the registration number of the vehicle he or she is driving, and shall upon request, exhibit his/her operator's or chauffeur's license to said owner or person in charge; or if such person cannot be located, said driver shall report said accident to the nearest tribal police officer. A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, or to payment of a fine not to exceed \$1,000, or both.

- D. Reporting to Tribal Police Officer – The driver of a vehicle involved in an accident either resulting in injury to or death of any person or resulting in property damage to a motor vehicle, fixtures or other property legally on or adjacent to the highway that appears to be in excess of \$100 or more, shall as soon as practical thereafter, give notice of such accident to a tribal police officer of the Bay Mills Indian Community. A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$1,000, or both.

819. DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR CONTROLLED SUBSTANCE; RECKLESS DRIVING; CARELESS OR NEGLIGENT DRIVING

A. Driving under intoxicating liquor or controlled substance

- (1) Offense – A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community if either of the following applies:
  - (a) The person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance.
  - (b) The person has an alcohol content of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) Penalty; First Offense – A person violating this provision for a first time may be sentenced to community service of not more than forty-five (45) days, imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$500, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

- (3) Penalty; Second Offense – A person violating this provision for a second time may be sentenced to community service of not more than ninety (90) days, imprisonment of not more than one hundred eighty (180) days, payment of a fine not to exceed \$1,000, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
- (4) Penalty; Third Offense or More – A person violating this provision for the third time or more may be sentenced to community service of not more than (180) days, imprisonment of not more than one (1) year, payment of a fine not to exceed \$2,500, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
- (5) Penalty Enhancer Provision – Penalties set forth in this Section may be enhanced at the Court’s discretion. In exercising such discretion, the Court may take into account whether an accident occurred where there was a serious injury or death; whether the driver has a prior criminal record; treatment of the officer at the time of arrest by the driver; and other similar factors.

B. Permitting person to drive vehicle while under influence of intoxicating liquor or controlled substance.

- (1) Offense – The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within the Bay Mills Indian Community by a person who is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (2) Penalty – A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, or to payment of a fine not to exceed \$500, or both.

C. Visibly impaired

- (1) Offense – A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area

designated for the parking of vehicles, within the Bay Mills Indian Community, when due to the consumption of an intoxicating liquor, a controlled substance, or a combination of an intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating Subsection (A) herein, a finding of guilty under this Subsection may be rendered.

- (2) Penalty; First Offense – A person violating this provision for a first time may be sentenced to community service of not more than thirty (30) days, imprisonment of not more than sixty (60) days, payment of a fine not to exceed \$300, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
- (3) Penalty; Second Offense – A person violating this provision for a second time may be sentenced to community service of not less than sixty (60) days, imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$750, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
- (4) Penalty; Third Offense or more – A person violating this provision for a third time or more may be sentenced to community service of not more than one hundred eighty (180) days, imprisonment of not more than one hundred twenty (120) days, payment of a fine not to exceed \$1,250, or all of these. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

D. Driving under the influence of intoxicating liquor when person is less than 21 years of age

- (1) Offense – A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community if the person has any bodily alcohol content. As used in this Subsection, “any bodily alcohol content” means either of the following:
  - (a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

- (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, excepting consumption of intoxicating liquor as a part of a generally recognized religious service or traditional ceremony.
  - (2) Penalty; First Offense. A person violating this provision for a first time may be sentenced to community service of not more than forty-five (45) days, payment of a fine not to exceed \$250, or both. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
  - (3) Penalty; Second Offense or more. A person violating this provision for a second time or more may be sentenced to community service of not more than sixty (60) days, payment of a fine not to exceed \$500, or both. In addition, see Subsections E and F below with regard to rehabilitation and license sanctions that may also be imposed by the Court.
- E. Screening and Assessment; Rehabilitative Services/Treatment Programs – Before imposing a sentence for a violation of Subsections A, B, C, or D herein, the Tribal Court may order the person to undergo screening and assessment by a person or agency designated by the Bay Mills Office of Substance Abuse Services or other similar agency to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and/or treatment programs. As a part of the sentence, the Court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs. The person shall pay for the cost of the screening, assessment, and rehabilitative services; however, if the person is unable to afford the screening, assessment, and/or rehabilitative/treatment programs, the Tribal Court may still order the same provided that the Bay Mills Indian Community Health Services advises the Tribal Court that there are other available means for covering the cost(s).
- F. Licenses Sanctions; Acceptance of Plea of Guilty/Advising of Suspension or Revocation – Before accepting a plea of guilty under this Section, the Tribal Court shall advise the accused that the consequences of a plea of guilty include the suspension or revocation of his or her operator's or chauffeur's license being a possible penalty imposed for violation of this Section. In addition to the other penalties set forth in this Section, the Court may order any of the following concerning the operator's or chauffeur's license of the driver:
  - (1) Suspend or revoke said License; and/or

- (2) Require the driver to surrender his or her operator's or chauffeur's license to the Court immediately; or
- (3) Order that the person may not drive or otherwise operate a motor vehicle upon the highways or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community for a definite or indefinite period of time, subject to the Court's discretion.

G. Restricted License – In the event that the Tribal Court either suspends or revokes the privilege of driving as set forth in Subsection F above, the defendant may petition or request a restricted license or restricted order upon good cause shown. In making such a request, the defendant must also demonstrate that he or she is unable to take public transportation to and/or from his or her work location, educational institution, treatment location or Court-Ordered Community Service Program and that he or she does not have any family members or others able to provide such transportation. In the event that the Court determines that good cause has been shown for a restricted license, such a restricted license or Court Order restricting the driving of a motor vehicle within the Bay Mills Indian Community shall be limited to one or more of the followings:

- (1) Drive to and from the person's residence and work location.
- (2) Drive in the course of the person's employment or occupation.
- (3) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the Court.
- (4) Drive to and from the person's residence and the Court probation department, or a court-ordered community service program, or both.
- (5) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.

In the event that the Tribal Court orders such a license restriction, the Court Order shall indicate the work, school or other appropriate location of the person to whom it is issued and the approved route or routes and permitted times of travel.

H. Reckless driving – Any person who drives any vehicle upon the highway or frozen public lake, stream or pond or other place open to the general public, including any area designated for the parking of motor vehicles, within the Bay Mills Indian Community in willful or wanton disregard for the

safety of persons or property is guilty of reckless driving and may be sentenced to imprisonment of not more than forty-five (45) days, payment of a fine not to exceed \$200, or both.

- I. Careless or negligent driving – A person who operates a vehicle upon a highway or a frozen public lake, stream, or pond or other place open to the general public, including any area designated for the parking of motor vehicles, within the Bay Mills Indian Community in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, may be sentenced to a fine not to exceed \$150.

820. ARREST WITHOUT WARRANT WHERE REASONABLE CAUSE TO BELIEVE THE OPERATOR OF VEHICLE INVOLVED IN ACCIDENT IN VIOLATION OF SECTION 819 A, C or D; PRELIMINARY CHEMICAL BREATH ANALYSIS; TESTING; EVIDENCE; AVAILABILITY OF TEST RESULTS; PRESUMPTIONS; ADMISSIBILITY OF EVIDENCE; REFUSAL TO SUBMIT TO CHEMICAL TEST

- A. Arrest without warrant where reasonable cause – An officer may arrest a person without a warrant or detain a person for such arrest when the officer has reasonable cause to believe the person was, at the time of an accident within the Bay Mills Indian Community, the operator of a vehicle involved in an accident and was operating the vehicle in violation of Section 819 A, C or D.
- B. Preliminary chemical breath analysis – An officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the Bay Mills Indian Community while the person’s blood, breath or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than twenty-one (21) years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community while the person had any bodily alcohol content as the term is defined in Section 819 (D)(1) may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered pursuant to this Subsection:

- (1) An officer may arrest a person or detain a person for arrest based in whole or in part upon the results of a preliminary chemical breath analysis.
- (2) The results of a preliminary chemical breath analysis are admissible in a prosecution for a violation of Section 819 for one or more of the following purposes:
  - (a) To assist the Tribal Court in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
  - (b) As evidence of the defendant's breath alcohol content, if offered by the defendant.
  - (c) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony or other evidence, including but not limited to testimony elicited on cross-examination of a prosecution witness, that is offered or elicited to prove that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered pursuant to Subsection C herein.
- (3) A person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by an officer is responsible for a civil infraction.

C. Chemical test and analysis of blood, urine or breath (other than preliminary chemical breath analysis). The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

- (1) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.
- (2) A person arrested and/or charged with violating Section 819 shall be advised of all of the following:
  - (a) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of an officer, he or she

has the right to demand that a person of his or her own choosing administer 1 of the chemical tests.

- (b) The results of the test are admissible in a Court proceeding as provided under this Motor Vehicle and Parking Code and will be considered with other competent evidence in determining the defendant's innocence, guilt or responsibility.
  - (c) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
  - (d) If he or she refuses the request of an officer to take a test described in Subparagraph (a), a test shall not be given without a Court order, but the officer may seek to obtain such a Court order.
  - (e) Refusing an officer's request to take a test described in Subparagraph (a) will result in either the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege or entry of a Court Order prohibiting the operation of a motor vehicle within the Bay Mills Indian Community.
- (3) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician who is qualified to withdraw blood and acting in a medical environment, may withdraw blood at an officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this Subsection.
- (4) A chemical test described in this Subsection shall be administered at the request of an officer having reasonable grounds to believe the person has violated Section 819. A person who takes a chemical test administered at an officer's request as provided in this Section shall be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests described in this Subsection within a reasonable time after his or her detention. The test results are admissible in Court and shall be considered with other competent evidence in determining the defendant's innocence, guilt or responsibility. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining the chemical analysis of the test sample.

- (5) If, after an accident, the driver of a vehicle involved in an accident is transported to a medical facility and a sample of the driver's blood is withdrawn at the time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time of the accident, regardless of whether the person had been offered or refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a tribal or other applicable prosecuting attorney who requests the results for use in a prosecution. A medical facility or person disclosing information in compliance with this Subsection is not civilly or criminally liable for making the disclosure.
  - (6) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a matter directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood at the time of the accident. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to any other applicable law enforcement agency.
  - (7) In administering chemical tests for the purposes of this Section, a tribal officer shall comply with any uniform rules that are promulgated by the Michigan Department of State Police; similarly, an instrument for preliminary chemical breath analysis may be used for a chemical test described in this Subsection if approved pursuant to rules promulgated by the Michigan Department of State Police.
- D. Evidence – The provisions of Subsection C relating to chemical testing do not limit the introduction of any other competent evidence bearing upon the question of whether a person was impaired by, or under the influence, of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this Subsection, "any bodily alcohol content" means either of the following:

- (1) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  - (2) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, excepting consumption of intoxicating liquor as a part of a generally recognized religious service or traditional ceremony.
- E. Availability of test results – If a chemical test described in Subsection C is administered, the test results shall be made available to the person charged or the person's attorney or advocate upon written request to the prosecution, with a copy of the request filed with the Tribal Court. The prosecution shall furnish the results at least ten (10) days before the day of the trial. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.
- F. Presumptions – Except in a prosecution relating solely to a violation of Section 819 (A)(1)(b) and (D), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath, or urine gives rise to the following presumptions:
- (1) If there were at the time 0.06 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor, and that the defendant was not under the influence of intoxicating liquor.
  - (2) If there were at the time more than 0.06 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provision of Section 819 (C) due to the consumption of intoxicating liquor.
  - (3) If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.
- G. Admissibility of evidence – A person's refusal to submit to a chemical test as provided in Subsection C is admissible in a prosecution described in Section 819 (C)(1) only to show that a test was offered to the defendant,

but not as evidence in determining the defendant's innocence, guilt or responsibility. In a jury trial, the jury shall be instructed accordingly.

- H. Refusal to submit to chemical test – If a person refuses the request of an officer to submit to a chemical test offered pursuant to Subsection C above, a test shall not be given without a Court Order, but the officer may seek to obtain the Court Order.

821. OPEN INTOXICANT(S) IN MOTOR VEHICLE.

- A. Driver/Owner – The owner and/or driver of a motor vehicle shall not possess or allow to be maintained open intoxicant(s) in or on a motor vehicle when such vehicle is in operation upon the highway(s) of or in an area used principally for public parking within the Bay Mills Indian Community.
- B. Passenger – No person shall have in his or her possession or on his or her person any open intoxicant(s) while in or on a motor vehicle in operation upon the highway(s) of or in an area used principally for public parking within the Bay Mills Indian Community.
- C. Open intoxicants defined – An open intoxicant is any bottle or receptacle containing alcoholic beverages that has been opened, or the seal broken, or the contents of which have been partially removed.
- D. Utility/Glove Compartment – A utility compartment or glove compartment of a motor vehicle shall be deemed to be within the area occupied by the driver and passengers of said vehicle.
- E. Penalty – A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$500, or both.

822. SAFETY BELT REQUIRED.

- A. Driver and/or passenger – Each driver and front seat passenger of a motor vehicle operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community shall wear a properly adjusted and fastened safety belt, except that a child less than four (4) years of age shall be protected by a child restraint system as required in Section 823 of this Code.

B. Child four (4) years of age but less than sixteen (16) years of age. Each driver of a motor vehicle transporting a child four (4) years of age or more but less than sixteen (16) years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(1) The first exception to Subsection B is that a child at least four (4) years of age or more but less than sixteen (16) years of age may be transported in the rear seat or seats of a vehicle with no safety belt if:

- (a) the vehicle is transporting more children than there are safety belts, and
- (b) all passengers in the front seat are in compliance with Subsection A above.

(2) The second exception to Subsection B is if:

- (a) the motor vehicle is a pick-up truck without an extended cab or jump seats and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

C. Exceptions – This Section shall not apply to a driver or passenger of:

(1) A motor vehicle manufactured before January 1, 1965.

(2) A bus.

(3) A motorcycle.

(4) A moped.

(5) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(6) A motor vehicle which is not required to be equipped with safety belts under federal law.

(7) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.

(8) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(9) A passenger of a school bus.

D. Penalty – A person who violates this Section may be sentenced to a fine not to exceed \$200.

823. CHILD RESTRAINT SYSTEM REQUIRED

A. Offense. A driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system which meets the standards prescribed in 49 CFR 571.213 as follows:

(1) Any child less than one (1) year of age.

(2) Any child one (1) year of age or more but less than four (4) years of age, when transported in the front seat.

(3) Any child one (1) year of age or more but less than four (4) years of age, when transported in the rear seat; however, as an alternative, a child of this age when transported in the rear seat may be secured by a safety belt provided in the motor vehicle.

B. Exception – This Section does not apply if the motor vehicle being driven is a bus, school bus, taxi cab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulation.

C. Penalty – A person who violates this Section may be sentenced to a fine not to exceed \$250.

824. OPERATOR'S AND CHAUFFEUR'S LICENSE

A. Possession of valid license – A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community unless he or she possesses at all times a valid operator or chauffeur license, and shall display the same upon demand of any Tribal Police Officer, who shall identify himself or herself as such. A person violating this provision may be sentenced to imprisonment of not more than sixty (60) days, payment of a fine not to exceed \$100, or both.

B. Invalid License – A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community unless that person has a valid operator's or chauffeur's license with the appropriate group designation and/or other

endorsements for the type or class of vehicle being driven or towed as required by the State or Tribe that issued said license. A person violating this provision may be sentenced to imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$150, or both.

- C. Suspended or Revoked License – A person shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community if that person’s license has been canceled, suspended or revoked by any State or Tribe. A person violating this provision may be sentenced to imprisonment of not more than one hundred eighty (180) days, payment of a fine not to exceed \$1,000, or both. In addition, the Tribal Court may report this violation and the disposition of the same to the State or Tribe that canceled, suspended or revoked said license.
- D. Restricted License (via Court Order) – A person whose license has been restricted by any State or Tribal Court shall not drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community in violation of the restrictions set forth in said Court Order. A person violating this provision may be sentenced to imprisonment of not more than one hundred eighty (180) days, payment of a fine not to exceed \$1,000, or both. In addition, the Tribal Court may report this violation and its disposition to the Court that restricted the license of said driver.
- E. Permit operation of vehicle in violation of this section – No person shall knowingly authorize or permit a motor vehicle owned by him/her or under his/her control to be driven by any person who is in violation of Subsections A, B, C or D herein. A person violating this provision may be sentenced to imprisonment of not more than thirty (30) days, payment of a fine not to exceed \$300, or both.
- F. Permit operation of vehicle by unlicensed minor – It shall be unlawful for any person to cause or knowingly permit any minor to drive a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community unless the minor has first obtained either a license to drive a motor vehicle or a temporary instruction driving permit as referred to in Subsection (G) herein. A person violating this provision may be sentenced to imprisonment of not more than thirty (30) days, payment of a fine not to exceed (\$300), or both.

- G. Temporary instruction driving permit – In the event that a person has been issued a temporary instruction driving permit by a Tribe or State, said person shall not drive a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community unless he or she possesses said temporary instruction driving permit and is accompanied by a licensed adult operator or chauffeur who is actually occupying a seat beside the driver. A person violating this provision may be sentenced to imprisonment of not more than thirty (30) days, payment of a fine not to exceed \$300, or both.

825. PICK-UP TRUCK; PASSENGER PROHIBITION

- A. Owners/Operator – The owner of a pick-up truck or a person in charge or in control of a pick-up truck shall not permit any passenger who is less than the age of eighteen (18) years to ride in the box portion of the pick-up truck at any time.
- B. Passenger – A passenger in a pick-up truck who is less than the age of eighteen (18) years shall not ride in the box portion of a pick-up truck at any time.
- C. Penalty – A person violating this Section may be sentenced to imprisonment of not more than ninety (90) days, payment of a fine not to exceed \$1,000, or both.

826. REGISTRATION; LICENSE PLATE; AND INSURANCE

- A. Registration – A person shall not drive or otherwise operate a motor vehicle or other vehicle that is required to be registered under the laws of the State of Michigan or a Tribe upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community that is not properly registered in accordance with the laws of the State of Michigan or a Tribe.
- B. Registration/License Plate – A person shall not operate, nor shall an owner knowingly permit to be operated, upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community a vehicle required to be registered in accordance with the laws of the State of Michigan or a Tribe unless there is attached to and displayed on the vehicle a valid registration or license plate in the location on said vehicle as required by Michigan or Tribal Law.

- C. Liability Insurance – A person shall not operate, nor shall an owner knowingly permit to be operated, upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community a vehicle unless said vehicle shall have in full force and effect at the time of said operation a policy of liability insurance comporting in all respects with the laws of the State of Michigan or the Tribe.
- D. Penalty – A person violating this provision may be sentenced to a fine not to exceed \$100. In addition, the Tribal Court may require the driver and/or owner of a vehicle to secure the appropriate registration, license plate, or insurance within a designated time period and to provide proof of the same to the Tribal Court.

827. REPRODUCTION; ALTERATION; COUNTERFEIT; FORGING OF VEHICLE DOCUMENT – A person shall not reproduce, alter, counterfeit, forge or duplicate a certificate of title, registration certificate, registration plate, operator’s or chauffeur’s license, motorcycle endorsement, or other document required by this Code. In addition, a person shall not knowingly possess, sell, offer for sale, or otherwise use any such document that has been reproduced, altered, counterfeited, forged, duplicated or otherwise aid in the commission of such offense. A person violating this provision may be sentenced to imprisonment of not more than one (1) year, payment of a fine not to exceed \$1,500, or both.

828. EQUIPMENT REQUIRED; UNSAFE CONDITION – A person shall not drive or move or the owner shall not cause or knowingly permit to be driven or moved on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community a vehicle or combination of vehicles which is in such an unsafe condition as to endanger a person, or which does not contain those parts or is not at all times equipped with such equipment as required by the Michigan Motor Vehicle Code (more specifically, MCL 257.683-.715a) or comparable tribal provision. A person who violates this provision with respect to equipment on vehicles may be sentenced to payment of a fine not to exceed \$100, a Court Order requiring immediate correction or modification of any unsafe condition or defective equipment, or both. In addition, a tribal police officer upon reasonable grounds shown may stop a vehicle to inspect the vehicle, and if any defects in equipment are found, issue a citation to the driver and also order, in said citation, the driver to have the defect or defects repaired immediately.

829. OPERATION OF BICYCLES, MOTORCYCLES AND MOPEDS

- A. Duty of parent or guardian; laws applicable to bicycles or motorcycles.
  - (1) The parent of a child or the guardian of a ward shall not authorize or knowingly permit the child or ward to violate this Section.

- (2) The provisions applicable to bicycles in this Section shall apply when a bicycle is operated upon a highway or upon a path set aside for the exclusive use of bicycles within the Bay Mills Indian Community, subject to any exceptions stated in this Section.
  - (3) The provisions applicable to motorcycles in this Section shall be considered supplementary to other Sections of this Code governing the operation of motorcycles.
- B. Rights/Duties of persons operating bicycle/moped – Every person riding a bicycle or moped upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle as set forth in this Code, except as to special regulations in this Section and except as to those provisions of this Code which by their nature do not have application.
- C. Riding on seat; number of persons; crash helmets; autocycle requirements
- (1) Permit and regular seat – A person propelling a bicycle or operating a motorcycle or moped shall not ride other than upon and astride a permanent and regular seat attached to that vehicle.
  - (2) Bicycle or motorcycle; number of persons – A bicycle or motorcycle shall not be used to carry more persons at one (1) time than the number for which it is designed and equipped.
  - (3) Moped; number of persons – A moped shall not be used to carry more than one person at a time.
  - (4) Crash helmet – A person operating or riding on a motorcycle or a moped on a public thoroughfare shall wear a crash helmet on his or her head. Such crash helmet shall be of a type that has been approved by the Michigan Department of State Police and any and all rules or regulations promulgated by the Michigan Department of State Police regarding such helmets shall apply to this Subsection. However, this Subsection does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.
  - (5) Bike Helmet – A person less than sixteen (16) years of age operating or riding on a bicycle shall wear a bike helmet on his or her head. Any person violating this provision shall be subject to the penalty provision set forth in Subsection 829(l); in addition, the

parent(s) or guardian(s) of said person may also be charged with violating this provision.

- (6) Autocycle; seat belts – A person operating or riding in an autocycle shall wear seat belts when on a highway within the Bay Mills Indian Community.
  - (7) Seats and foot rest – In addition to Subsection C (1) herein, a motorcycle shall be equipped with adequate seats and foot rests or pegs for each designated seating position. Foot rests or pegs must be securely attached. A passenger shall not ride on a motorcycle unless his or her feet can rest on the assigned foot rests or pegs except that this requirement does not apply to a person who is unable to reach the foot rests or pegs due to a permanent physical disability.
- D. Operation while attached to vehicle – A person riding upon a bicycle, moped or motorcycle, coaster, roller skates, roller blades, sled, or toy vehicle shall not attach the same or himself or herself to a vehicle upon any roadway or highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community.
- E. Operation of bicycles, motorcycles, or mopeds on roadway, bicycle path, or sidewalk
- (1) A person operating a bicycle or moped upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. A motorcycle is entitled to full use of a lane and a motor vehicle shall not be driven in such a manner as to deprive a motorcycle of the full use of a lane. This Subsection shall not apply to motorcycles operated two (2) abreast in a single lane.
  - (2) A person riding a bicycle or moped upon a roadway or part of a roadway set aside for the use of those vehicles shall ride single file.
  - (3) Where a usable and designated path for bicycles is provided adjacent to a roadway, a bicycle rider shall use such path and shall not use the roadway.
  - (4) A person operating a motorcycle, moped, or a bicycle shall not pass between lines of traffic, but may pass on the left of traffic moving in his direction in the case of a 2-way street, or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

- (5) A person operating a bicycle on a sidewalk constructed for the use of pedestrians shall yield the right-of-way to a pedestrian and shall give an audible signal before overtaking and passing the pedestrian.
  - (6) A moped shall not be operated on a sidewalk constructed for the use of pedestrians.
  - (7) A person shall not operate a bicycle, motorcycle, or moped at a speed greater than is reasonable and prudent under the conditions then existing.
  - (8) The operator of a bicycle who emerges from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk area and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.
  - (9) A person shall not park a bicycle on a sidewalk where bicycle parking is prohibited by official traffic-control devices. A person shall not park a bicycle on a sidewalk in a manner that would unreasonably obstruct pedestrian or other traffic.
  - (10) When a sign is erected on a sidewalk which prohibits the riding of bicycles thereon by any person, a person shall obey the sign.
  - (11) This Section shall not apply to a tribal police officer in the performance of his or her official duties.
- F. Carrying package, bundle or article – A person operating a bicycle, moped, or motorcycle shall not carry any package, bundle, or article which prevents the driver from keeping both hands upon the handlebars of the vehicle.
- G. Motorcycle or moped; equipment – A person shall not operate on a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Bay Mills Indian Community a motorcycle or moped equipped with handlebars that are higher than 15 inches from the lowest point from the undepressed saddle to the highest point of the handle grip of the operator.
- H. Bicycles; equipment

- (1) A bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (2) A person shall not operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall a person use upon a bicycle a siren or whistle.
- (3) A bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
- (4) A person shall not sell, offer for sale, or deliver for sale within the Bay Mills Indian Community a bicycle or a pedal for use on a bicycle, either of which was manufactured after January 1, 1976, unless it is equipped with a type of reflex reflector located on the front and rear surfaces of the pedal. The reflector elements may be either integral with the construction of the pedal or mechanically attached but shall be sufficiently recessed from the edge of the pedal, or of the reflector housing, to prevent contact of the reflector element with a flat surface placed in contact with the edge of the pedal. The pedal reflectors shall be visible from the front and rear of the bicycle during the nighttime from a distance of 200 feet when directly exposed to the lower beam head lamps of a motor vehicle.
- (5) A person shall not sell, offer for sale, or deliver for sale within the Bay Mills Indian Community a bicycle manufactured after January 1, 1976, unless it is equipped with either tires which have reflective sidewalls or with wide-angle prismatic spoke reflectors. If the bicycle is manufactured with reflective sidewalls, the reflective portion of the sidewall shall form a continuous circle on the sidewall and may not be removed from the tire without removal of tire material. If the bicycle is equipped with wide-angle prismatic spoke reflectors, the reflectors of the front wheel shall be essentially colorless or amber, and the reflectors on the rear wheel shall be essentially colorless or red. Reflective sidewalls or spoke reflectors shall cause the bicycle to be visible from all distances from 100 feet to 600 feet when viewed under lawful low beam motor vehicle head lamps under normal atmospheric conditions.

- I. Penalty. A person who violates any Section of this provision may be sentenced to a fine not to exceed \$100, community service not to exceed twenty (20) days, or both.

830. BICYCLE PATHS AND PEDESTRIAN WALKWAYS

A. Definitions.

(1) "Bicycle path" means:

- (a) a non-motorized trail comprised of a portion of a street or highway that is separated from the roadway by an open unpaved space which is specifically designated for bicycle travel, or
- (b) a non-motorized path or trail which is posted for the exclusive use by pedestrians and persons riding bicycles.

(2) "Pedestrian Walkway" means a sidewalk or trail separated from the roadway and designated for use by a person afoot or utilizing a wheelchair or electric personal assistive mobility device.

(3) "Wheelchair" means a mobility aid, useable indoors, and designated for use by individuals with mobility impairments, whether operated manually or motorized.

B. Speed Limits. No person shall travel on any walk way or bicycle path, using a bicycle or any other vehicle, at a rate of speed exceeding 20 miles per hour. A person who violates this provision may be sentenced to imprisonment of not more than ten (10) days, payment of a fine not to exceed \$200, or both.

C. Operating Motorcycle, Moped, Snowmobile, or Other Motor Vehicle on Sidewalk, Walkways, or Bicycle Path. A person shall not operate or ride a motorcycle, moped, snowmobile, or other motor vehicle, excepting a motorized wheelchair, upon a bicycle path, or pedestrian walkway, not including a crosswalk or driveway.

- (1) Penalty. A person violating this Section may be sentenced to payment of a fine not to exceed \$200 for the first offense, and not to exceed \$500 for each subsequent offense.

831. ANIMAL OR DRIVING ANIMAL-DRAWN VEHICLE ON ROADWAY – A person riding an animal or driving an animal-drawn vehicle upon a roadway within the Bay Mills Indian Community shall be granted all the rights and shall be subject to all the duties, criminal penalties, and civil sanctions applicable to the driver of a vehicle by this Code, except those provisions of this Code which by their very nature may not have application.

832. PROHIBITED OPERATION OF MOTOR VEHICLE, MOTORCYCLE, MOPED OR OTHER MOTORIZED VEHICLE IN PLAYGROUND/LAWN AREAS

- A. Offense Re: Bay Mills Indian Community. No person shall operate a motor vehicle, moped or other motorized vehicle of any type in or on any playground, lawn areas or other posted areas within the Bay Mills Indian Community, unless otherwise authorized.
- B. Offense Re: Bay Mills Housing Authority. No person shall operate a motor vehicle, moped or other motorized vehicle within any playground or lawn areas controlled by the Bay Mills Housing Authority.
- C. Penalty. A person violating this Section may be sentenced to community service of not more than thirty (30) days, imprisonment of not more than sixty (60) days, payment of a fine not to exceed \$400, or all of these. In addition, the Court may order the defendant to pay restitution for any and all property damage that may have occurred as a result of this offense.

833. VIOLATION OF COURT ORDER RESULTING FROM PRIOR CODE

VIOLATION – In the event that this Court issues an Order as a result of the violation of this Code and a person violates said Court Order, said person may then be sentenced to imprisonment up to one (1) year, payment of a fine not to exceed \$5,000, or both as a result of violating said Court Order.

834. “ABANDONED VEHICLE” DEFINITION AND PROCEDURE FOR DISPOSITION

- A. Abandoned Vehicle Defined – “Abandoned Vehicle” means a vehicle that has remained on public property, including a roadway maintained by the Tribe or by the Chippewa County Road Commission, or property under lease by the Tribe to an individual or entity, for a period of 48 hours, after the Law Enforcement Department has affixed a written notice to the vehicle.
- B. Apparent Abandonment; Procedure – If a vehicle has remained on public property for at least 18 hours, or leased property for a period of time so that it appears to the Law Enforcement Department to be abandoned, the Department shall do all of the following:
  - (1) Determine if the vehicle has been reported stolen.
  - (2) Affix a written notice to the vehicle, which shall contain the following information:
    - (a) The date and time the notice was affixed.
    - (b) The name and address of the Department.

- (c) The name and badge number of the officer affixing the notice.
  - (d) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.
  - (e) The year, make, and vehicle identification number of the vehicle, if available.
- C. Failure to Remove; Custody – If the vehicle is not removed within 48 hours after the date the notice was affixed, the property is considered abandoned and the Department may have the property taken into custody.
- D. Department Custody; Consequences – Upon taking custody of a vehicle, the Department shall do all of the following:
  - (1) Recheck to determine if the vehicle has been reported stolen.
  - (2) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network (LIEN).
  - (3) Within seven (7) days after taking the vehicle into custody, send to the registered owner and secured party, as shown in the records of the Michigan Secretary of State, by first class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be that provided by the Secretary of State, and shall contain the following information:
    - (a) The year, make, and vehicle identification number of the vehicle if available.
    - (b) The location from which the vehicle was taken into custody.
    - (c) The date on which the vehicle was taken into custody
    - (d) The name and address of the Law Enforcement Department.
    - (e) The business address of the custodian of the vehicle.
    - (f) The procedure to redeem the vehicle.
    - (g) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

- (h) A form petition that the owner may file in person or by mail with the Tribal Court that requests a hearing on the Department's action.
  - (i) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle, or to the proceeds of the sale.
- E. Request for Hearing – The registered owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for hearing shall be made by filing a petition with the Tribal Court within 20 days after the date of the notice. If the owner requests a hearing, it shall be conducted as provided in this Section. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the Tribal Court in an amount equal to the accrued towing and storage fees. If the Court finds that the vehicle was not properly considered abandoned, the Department shall reimburse the owner of the vehicle for the accrued towing and storage fees.
- F. Payment of Charges without Hearing Request – If the owner does not request a hearing, s/he may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.
- G. Payment by Secured Party for Release – If the owner does not redeem the property or request a hearing within the requisite 20 days after the date of the notice, the secured party may obtain the release of the property by paying the accrued charges to the custodian of the property and the Department for its accrued costs.
- H. Public Sale Authorized – No less than 20 days after the disposition of the hearing described in Subsection (K) of this Section, or, if a hearing is not requested, not less than 20 days after the date of the notice, the Tribal Court shall offer the vehicle for sale pursuant to Subsection (L).
- I. Ownership Not Ascertainable – If the ownership of the vehicle that is considered abandoned cannot be determined either because of the condition of the vehicle identification numbers or because a check of the records of the Michigan Secretary of State does not reveal ownership, the Tribal Court shall sell the vehicle at public sale pursuant to Subsection (L), not less than 30 days after public notice of the sale has been published.
- J. Scrap Vehicle Procedures – If an abandoned vehicle is also seven (7) or more years old, and apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and

safe would exceed the fair market value of that vehicle, the Department may take the vehicle into custody and, in addition to the requirements of Subsection (D), make a report detailing the damage or missing equipment which includes two (2) photographs of the vehicle, and complete a release form and release the vehicle to the towing service or used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit the release form to the Michigan Secretary of State and apply for a certificate of the title or a certificate of scrapping. In the event that a hearing is requested by the registered owner as provided in Subsection (E), the Department shall maintain custody of the vehicle and shall not issue a release form unless or until so authorized by an order of the Tribal Court.

K. Hearing in Tribal Court – Upon receipt of a petition signed by the owner of the vehicle taken into custody by the Department as prescribed in Subsection (E), the Tribal Court shall schedule a hearing within 20 days for the purpose of determining whether the Department acted properly, at which hearing the Department shall have the burden of demonstrating, by a preponderance of the evidence, that it complied with the requirements of this Section. At the conclusion of the hearing, the Tribal Court shall issue a decision which shall include one or more of the followings:

- (1) A finding that the Department complied with the procedures for processing an abandoned vehicle and order providing a period of 20 days after the decision for the owner to redeem the property. If the owner does not redeem the property, the Tribal Court shall dispose of the property as provided in Subsection (L).
- (2) A finding that the Department did not comply with the procedures for processing an abandoned vehicle, and an order directing that the property be immediately released to the owner, and that the Department is responsible for the accrued towing and storage fees.
- (3) A finding that the towing and daily storage fees were reasonable.
- (4) A finding that the towing and daily storage fees were unreasonable and an order directing an appropriate reduction.

L. Public Sale of Abandoned Vehicles – A public sale for a vehicle deemed abandoned shall be conducted in the following manner:

- (1) It shall be conducted by the Tribal Court Clerk's office.
- (2) It shall be open to the public and consist of bidding by sealed bids. Any bid received shall cause to be issued by the Clerk a receipt to the person submitting the bid.
- (3) Public notice of the sale shall be published in the newspaper of the Bay Mills Indian Community and at least once in a newspaper

having general circulation within the county in which the vehicle was abandoned, which shall describe the vehicle for sale and the time, date and location of the sale.

- (4) The sale shall not occur less than five (5) days after the public notice is published in the newspaper of the Bay Mills Indian Community.
- (5) The money received from the public sale shall be applied in the following order of priority:
  - (a) Towing and storage charges.
  - (b) Expenses incurred by the Law Enforcement Department.
  - (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
  - (d) Remainder, if any, to the owner, which shall be remitted by registered first class mail, return receipt requested. In the event that such mail is not deliverable, the sum shall become the property of the Bay Mills Indian Community.
6. If the Tribal Court Clerk receives no bids on the vehicle, the Clerk may either turn the vehicle over to the towing firm to satisfy charges against the vehicle, hold another public sale, or declare the property to be forfeited to the Bay Mills Indian Community and subject to the Tribe's disposition.
7. Upon disposition of the vehicle, the Department shall cancel the entry into the law enforcement information network (LIEN).