WAGANAKISING ODAWAK STATUTE 2006-021

MOTOR VEHICLE AND PARKING STATUTE

SECTION I TITLE

This Statute shall be known and cited as the Little Traverse Bay Bands of Odawa Indians (LTBB) "Motor Vehicle and Parking Statute."

SECTION II DEFINITIONS

The following terms shall have the meanings described below for the purposes of this Statute:

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 LTBB Department of Law Enforcement or the Michigan Secretary of State.

B. "Careless". Absence of care; negligent; reckless.

C. "Negligence". Is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

D. "Reckless" For conduct to be ' reckless' it must be such as to evince disregard of, or indifferent to, consequences, under circumstances involving danger to life or safety to others, although no harm was intended.

E "Snowmobile": Any of various automotive vehicles for travel on snow.

F. "Bicycle": A device propelled by human power upon which a person may ride, having either two (2) or three (3) wheels in a tandem or tricycle arrangement, all of which are over fourteen (14) inches in diameter.

G. "Bus": A motor vehicle designed for carrying sixteen (16) or more passengers, including the driver. Bus does not include a school bus.

H. "Careless": Absence of care; negligent; reckless

I. "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.

J. "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).

K. "Court": The Little Traverse Bay Bands of Odawa Indian Tribal Court, also known as the LTBB Tribal Court or the Court.

L. "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 roadway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.
2. Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

M. "Driver": Every person who drives or is in actual physical control of a vehicle.

N. "Handicapper": A person who is determined by a physician or an optometrist licensed to practice in the State of Michigan to have a physical handicap.

O. "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 two (2) roads which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.
2. Where a road includes two (2) roadways thirty (30) feet or more apart, then every crossing of each road shall be regarded as a separate intersection. In the event such intersecting road also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways shall be regarded as a separate intersection.

P. "License": Any driving privilege, license, temporary instruction permit, or temporary license issued under the laws of the Tribe or any U.S. state pertaining to the licensing of persons to operate motor vehicles.

Q. "Motorcycle": Every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor.

R. "Moped": two (2) or three (3) wheeled vehicle which is equipped with a motor that does not exceed fifty (50) cubic centimeters piston displacement, produces 2.0 brake horsepower or less, and cannot propel the vehicle at a speed greater than thirty (30) miles per hour on a level surface. The power drive system shall not require the operator to shift gears.

S. "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 Tribe or the State of Michigan.

T. “Negligence”: Is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances; it is the doing of some act which a person of ordinary prudence would not have done under similar circumstances or failure to do what a person of ordinary prudence would have done under similar circumstances. Conduct which falls below the standard establishes by law for the protection of others against unreasonable risk of harm; it is a departure from the conduct expectable of a reasonably prudent person under like circumstances.

U. "Officer": A law enforcement officer who is employed by the LTBB, including Conservation Officers, or any officer deputized by the LTBB.

V. "Operating": Being in actual physical control of a vehicle regardless of whether or not the person is licensed under this Statute as an operator or chauffeur.

W. "Operator": Every person, other than a chauffeur, who is in actual physical control of a motor vehicle upon a highway.

X. "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.

Y. "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 thirty (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.

Z. "Parking": Standing a vehicle, whether occupied or not, upon a roadway, when not loading or unloading except when making necessary repairs.

AA. "Pedestrian": Any person on foot.

BB. "Person": Every natural person, firm, co-partnership, limited liability company, association, or corporation and their legal successors.

CC. “Reckless”: Careless, heedless, inattentive; indifferent to consequences. For conduct to be “reckless” it must be such as to evince disregard of, or indifferent to, consequences, under circumstances involving danger to life or safety to others, although no harm was intended.

DD. "Registration": A registration certificate, plate, adhesive tab, or other indicator of registration required for display on a vehicle pursuant to this Statute.

EE. "Revocation": When the operators or chauffeur's license and privilege to operate a motor vehicle on the public roadways are terminated and shall not be renewed or restored until a later date.

EE. "Right-of-way": The privilege of the immediate use.

FF. "Roadway" or "Road": That portion of a road improved, designed, or ordinarily used for vehicular travel.

GG. "Road" or "Street": The entire width between the boundary lines of every roadway publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

HH. "School bus": Every motor vehicle, except station wagons, with a manufacturer's rated seating capacity of sixteen (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.

I I. "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.

JJ. "Street" or "Highway": That portion of a road improved, designed, or ordinarily used for vehicular travel.

KK. "Stand" or "Standing": The halting of a vehicle, other than for the purpose of, and while engaged in, receiving or discharging passengers.

LL. "State": Any state, territory, or possession of the United States, the District of Columbia, or any province of Canada.

MM. "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.

NN. "Suspension": When the driver's license and privilege to drive a motor vehicle on the public roadways are temporarily withdrawn but only during the period of the suspension.

OO. "Traffic": Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any roadway for purposes of travel.

PP. "Traffic control devices": All signs, signals, markings, and devices not inconsistent with this Statute placed or erected by order of the Executive Branch, for the purpose of regulating, warning or guiding traffic.

QQ. "Traffic control signal": Any device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

RR. "Tribal Court": Little Traverse Bay Bands of Odawa Indians Tribal Court, also known as the LTBB Tribal Court and Tribal Court.

SS. "Tribal Police Officer": A law enforcement officer who is employed by the LTBB, including Conservation Officers.

TT. "Tribe":

1. "The Tribe": The Little Traverse Bay Bands of Odawa Indians (LTBB)
2. "A tribe": Any federally recognized tribe.

UU. "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.

VV. "Tenses": The present tense includes the past and future tenses; and the future, the present.

WW. "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.

XX. "Shall" and "May": Shall is mandatory and may is permissive.

SECTION III CIVIL INFRACTION

Any offense within this Motor Vehicle Statute that does not include incarceration 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.

SECTION IV TRIBAL COURT; JUDGE

A. The Judge of the LTBB Tribal Court shall preside over any arraignment, hearing or trial involving an alleged violation of this Statute. The Judge may impose sentencing where a person pleads guilty to an offense under this Statute as proscribed by LTBB Court Rules or Court Fine Schedule. All fines and costs under this statute shall revert to cover the costs of incarceration.

B. Court Fine Schedule. The Tribal Court shall develop a Court Fine Schedule within ninety (90) days of enactment of this Statute.

SECTION V 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 proscribed may be sentenced at the Court's discretion.

SECTION VI 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 road 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 LTBB reservation may be sentenced to not more than ninety (90) days of incarceration or fined in accordance with the Court Fine Schedule.

SECTION VII 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 duty, directing the driver to bring his 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 incarceration of not more than thirty (30) days, or fined in accordance with the Court Fine Schedule, or both.. The officer giving the signal shall be in uniform and/or the vehicle driven shall be adequately identified as an official police vehicle.

SECTION VIII SPEED RESTRICTIONS

A. Careful and prudent speed (where no posted speed limitation). A person operating or driving a vehicle on a highway within the LTBB reservation 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 as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

B. Posted speed limitation. A person who exceeds any speed limitation within the boundaries of the LTBB Reservation posted by Executive Order or the State of Michigan may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

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.

SECTION IX 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 as proscribed by Court rules or fined in accordance with the Court Fine Schedule.

SECTION X 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 as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule.

SECTION XI TRAFFIC SIGNS OR SIGNALS; DEFACING, DESTROYING AND/OR REMOVING

No person shall deface, destroy, alter, damage and/or remove traffic or parking sign, signal or traffic-control device that is located within the LTBB reservation. A person who violates this provision may be sentenced to incarceration of not more than thirty (30) days or fined in accordance with the Court Fine Schedule, or both.

SECTION XII 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
3. 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.
4. 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 as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule.

SECTION XIII 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 (2) 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 road 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 road or which is approaching so closely on the road as to constitute an immediate hazard during the time when the driver would be moving across or within the intersection.

E. 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.

F. 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.

G. Turning left from a road into a driveway. The driver of a vehicle turning left from a road into a driveway shall yield the right-of-way to vehicle(s) approaching on the road.

H. Entering or crossing road from alley, private road, or driveway. The driver of a vehicle about to enter or cross a road from an alley, private road, or driveway shall come to a full stop before entering the road and shall yield the right-of-way to vehicles approaching on the road.

I. 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 road.

J. 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.

K. Pedestrians. Where sidewalks are provided, a pedestrian shall not walk upon the main traveled portion of the road. Where sidewalks are not provided, pedestrians shall, when practicable, walk on the left side of the roadway facing traffic which passes nearest.

L. Penalty. A person who violates any subsection of this provision may be sentenced as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XIV 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 and 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. The driver of a vehicle before stopping or turning from a direct line shall first see that the stopping or turning can be made in safety and shall use a vehicle's signal to alert other drivers to the direction being turned.

C. Penalty. A person violating this Section may be sentenced as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule.

SECTION XV STOPPING, STANDING OR PARKING ON A ROAD

A. Offense regarding stopping the engine/set brakes. 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 as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule.

SECTION XVI 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 blocking entry or exit from said driveway.
3. Within an intersection.
4. Within fifteen (15) feet of a fire hydrant.
5. On a crosswalk.
6. Within twenty (20) feet of a crosswalk, or if there is not a crosswalk, then within fifteen (15) feet of the intersection of property lines at an intersection of highways.
7. Within thirty (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 thirty (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 twenty (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 seventy-five (75) feet of the entrance if property 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. Or within a safe distance seventy-five (7).
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 Chapter II Section I 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 the Tribe to a handicapper.

d. A similar registration plate issued by the 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 five-hundred (500) feet of a fire when emergency service vehicles or personnel are present. However, volunteer fire fighters responding to the fire may park within five-hundred (500) feet of the fire in a manner not to interfere with emergency services personnel 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.

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 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 as proscribed by LTBB Court rules fined in accordance with the Court Fine Schedule, or both.

SECTION XVII. 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 as proscribed by LTBB Court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XVIII 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 incarceration of not more than one (1) year or fined in accordance with the Court Fine Schedule, or both.

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 incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, or both.

C. Reporting to other driver/person; giving information and aid; exchanging information for safety reasons and help when needed. The driver of any vehicle who knows or who has reason to believe that s/he 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 her/his name and address, the registration number of the vehicle s/he is driving, the name and address of the owner of the vehicle s/he is driving and shall also exhibit his 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 the accident reasonable assistance in securing medical aid or transportation of the 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 s/he 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 name and address, the name and address of the owner of the vehicle which s/he is driving, and the registration number of the vehicle he is driving, and shall upon request, exhibit his 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 incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, 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 road that appears to be in excess of one-hundred dollars ($100) or more, shall as soon as practical thereafter, give notice of such accident to a Tribal police officer of the LTBB. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, fined in accordance with the Court Fine Schedule, or both.

SECTION XIX 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 road 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 LTBB reservation 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 one hundred (100) milliliters of blood, per two hundred ten (210) liters of breath, or per sixty seven (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, incarceration of not more than ninety (90) days, or a fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E 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, incarceration of not more than one-hundred-eighty (180) days, or fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E 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 one-hundred-eighty (180) days, incarceration of not more than one (1) year, or fined in accordance with the Court Fine Schedule, or any combination of the above. In addition, see Subsections D and E below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

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 road 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 Little Traverse Bay Bands of

Odawa Indians' reservation 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 0.08 grams or more per one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty-seven (67) milliliters of urine.

2. Penalty. A person violating this provision may be sentenced to incarceration of not more than ninety (90) days, or fined in accordance with the Court Fine Schedule, or both.

C. Driving under the influence of intoxicating liquor when person is less than twenty-one (21) years of age.

1. Offense. A person who is less than twenty-one (21) years of age, whether licensed or not, shall not operate a vehicle upon a roadway 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 Little Traverse Bay Bands of Odawa Indians' reservation 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 one hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty- seven (67) milliliters of urine.

b. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor.

2. Penalty: First Offense.

a. A person violating this provision for a first time may be sentenced to community service of not more than forty-five (45) days, or fined in accordance with the Court Fine Schedule, or both..

b. In addition, see Subsections 4 and 5 below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

3. Penalty; Second Offense or more.

a. A person violating this provision for a second time or more may be sentenced to community service of not more than sixty (60) days, or fined in accordance with the Court Fine Schedule, or both..

b. In addition, see Subsections 4 and 5 below with regard to rehabilitation and license sanctions that may also be imposed by the Court.

4. Screening and Assessment: Rehabilitative Services/Treatment Programs. Before imposing a sentence for a violation of Subsections A, B, or C herein, the Tribal Court may order the person to undergo screening and assessment by a person or agency designated by the LTBB 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 LTBB Health Services advises the Tribal Court that there are other available means for covering the cost(s).

D. 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 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 operator a motor vehicle upon the roads 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 LTBB reservation for a definite or indefinite period of time, subject to the Court's discretion.

E. Restricted License. In the event that the Tribal Court either suspends or revokes the privilege of driving as set forth in Subsection 3 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 is unable to take public transportation to and/or from his work location, educational institution, treatment location or Court-Ordered Community Service Program and that he 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 LTBB reservation shall be limited to one or more of the following:

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.

F. Reckless driving. Any person who drives any vehicle upon the road 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 LTBB reservation in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and may be sentenced to incarceration of not more than forty-five (45) days, or fined in accordance with the Court Fine Schedule, or both.

G. Careless or negligent driving. A person who operates a vehicle upon a road 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 LTBB reservation in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness, may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XX ARREST WITHOUT WARRANT WHERE REASONABLE CAUSE EXISTS; 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 exists. 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 LTBB reservation, the operator of a vehicle involved in an accident and was operating the vehicle in violation of Section XIX A or C.

B. Preliminary chemical breath analysis. An officer who has reasonable cause to believe that a person was operating a vehicle upon a public road or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation and that the person by the consumption of intoxicating liquor may have affected his ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the LTBB reservation 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 road or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the LTBB reservation while the person had any bodily alcohol content 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. The results of a preliminary chemical breath analysis are admissible in a prosecutor for a violation of Section XIX 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 prosecutor to rebut testimony or other evidence, including but not limited to testimony elicited on cross-examination of a prosecutor 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.

2. 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 breathe, 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 XIX shall be advised of all of the following:

a. If he takes a chemical test of his blood, urine, or breath administered at the request of an officer, he has the right to demand that a person of his 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 is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his own request.

d. If he 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 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 LTBB reservation.

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 XIX. 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 own choosing administer one of the chemical tests described in this Subsection within a reasonable time after his 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 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 prosecutor. 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.

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 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 0.08 grams or more per one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty-seven (67) milliliters of urine, or if the person is less than twenty-one (21) years of age, whether the person had any bodily alcohol content within his 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 one-hundred (100) milliliters of blood, per two-hundred (210) liters of breath, or per sixty (67) milliliters of urine.

2. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor.

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 prosecutor, with a copy of the request filed with the Tribal Court. The prosecutor shall furnish the results at least ten (10) days before the day of the trial the Prosecutor 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 prosecutor.

F. Admissibility of evidence. A person's refusal to submit to a chemical test as provided in Subsection C is admissible in a prosecutor described in Section XIX (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.

G. 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.

SECTION XXI 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 road(s) of or in an area used principally for public parking within the LTBB reservation.

B. Passenger. No person shall have in his possession or on his person any open intoxicant(s) while in or on a motor vehicle in operation upon the road(s) of or in an area used principally for public parking within the LTBB reservation.

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 a vehicle.
E. Penalty. A person violating this provision may be sentenced as proscribed by Court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XXII 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 as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XXIII 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 LTBB reservation unless he 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 as such. A person violating this provision may be sentenced to incarceration of not more than sixty (60) days, or fined in accordance with the Court Fine Schedule, 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 LTBB reservation 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 the license. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, 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 LTBB reservation if that person's license has been canceled, suspended or revoked by any State or Tribe. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both. In addition, the Tribal Court may report this violation and the disposition of the same to the Tribe or State that canceled suspended or revoked said license.

D. Restricted License (via Court Order). A person whose license has been restricted by any Tribal Court or State Court shall not drive a motor vehicle upon a road 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 LTBB reservation in violation of the restrictions set forth in said court order. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, 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 or under his 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 as proscribed by court rules or fined in accordance with the Court Fine Schedule, 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 LTBB reservation 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 as proscribed by court rules or fined in accordance with the Court Fine Schedule, 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 LTBB reservation 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 as proscribed by court rules fined in accordance with the Court Fine Schedule, or both.

SECTION XXIV 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 Tribe or the State of Michigan upon a road 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 LTBB reservation that is not properly registered in accordance with the laws of the Tribe or the State of Michigan.

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 LTBB reservation a vehicle required to be registered in accordance with the laws of the Tribe or the State of Michigan 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 Tribal or Michigan 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 LTBB reservation 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 Tribe or the State of Michigan.

D. Penalty. A person violating this provision may be sentenced as proscribed by court rules fined in accordance with the Court Fine Schedule, or both. 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.

SECTION XXV OPERATION OF BICYCLES, MOTORCYCLES AND MOPEDS

A. Duty of parent or guardian; laws applicable to bicycles or motorcycles. 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. The provisions applicable to bicycles in this Section shall apply when a bicycle is operated upon a road or upon a path set aside for the exclusive use of bicycles within the LTBB reservation, subject to any exceptions stated in this Section. 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; snowmobile requirements.

1. Moped; number of persons. A moped shall not be used to carry more than one person at a time.

2. Crash helmet. A person operating or riding on a motorcycle or a moped on a public thoroughfare shall wear a crash helmet on his head. Such crash helmet shall be of a type that has been approved by the Michigan Department of Transportation and any and all rules or regulations promulgated by the National and State Departments of Transportation. Regarding such helmets shall apply to this Subsection. However, this Subsection does not apply to a person operating or riding in a snowmobile if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.

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 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 LTBB reservation.

E. Operation of motorcycles or mopeds on roadway or sidewalk.

1. A person operating a 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 moped upon a roadway shall ride single file.

3. A person operating a motorcycle or moped 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.

4. A moped shall not be operated on a sidewalk constructed for the use of pedestrians.

5. A person shall not operate motorcycle or moped at a speed greater than is reasonable and prudent under the conditions then existing.

6. This Section shall not apply to a Tribal police officer in the performance of his official duties.

F. Penalty. A person who violates any Section of this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XXVI OPERATING MOTORCYCLE OR MOPED ON SIDEWALK OR BICYCLE PATH

A person shall not operate or ride a motorcycle or moped, or other motor vehicle, excepting a motorized wheel chair, upon a bicycle path or sidewalk regularly laid out and constructed for the use of pedestrians, not including a crosswalk or driveway. A person violating this provision may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or

both.

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

A. Offense Re: Little Traverse Bay Bands of Odawa Indians. 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 LTBB reservation, unless otherwise authorized.

B. Offense Re: LTBB Housing Department. No person shall operate a motor vehicle, moped or other motorized vehicle within any playground or lawn areas controlled by the Housing Department.

C. Penalty. A person violating this Section may be sentenced as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XXVIII 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 for such a violation as proscribed by court rules or fined in accordance with the Court Fine Schedule, or both.

SECTION XXIX 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 Emmet County Road Commission, or property under lease by the Tribe to an individual or entity, for a period of forty (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 24 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 forty (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 (LEIN).
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.

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 twenty (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 costs, storage fees and actual damages.

F. Payment of Charges without Hearing Request. If the owner does not request a hearing, 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 twenty (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 twenty (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 twenty (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 thirty (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 twenty (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 following:

1. A finding that the Department complied with the procedures for processing an abandoned vehicle and order providing a period of twenty (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. The sale shall not occur less than five (5) days after the public notice is published in the newspaper of the LTBB and the Tribe's website.
4. 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 LTBB.
5. 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 LTBB and subject to the Tribe's disposition.
6. Upon disposition of the vehicle, the Department shall cancel the entry into the law enforcement information network (LEIN).

SECTION XXV EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive Branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on October 22, 2006 at which a quorum was present, by a vote of _8_ in favor, _0_ opposed, _0_ abstentions, and _1_ absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Regina Gasco Bentley	X			
Fred Harrington, Jr.	X			
Dexter McNamara	X			
Mary Roberts	X			
Rita Shananaquet	X			
Alice Yellowbank	X			
Shirley Oldman				X
Melvin L. Kiogima	X			
Beatrice A. Law	X			

Date: 10/22/06 Beatrice A. Law

Beatrice A. Law, Legislative Leader

Date: 10/22/06

Melvin L. Kiogima, Secretary

Received by the Executive Office on 10-24-06 by Ellen Payton

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 11-22-2006

Frank Ettawageshik, Tribal Chairperson