

TITLE 9 TRAFFIC REGULATION

CHAPTER 1 GENERAL PROVISIONS

Section 9-1-1. Application. This Code shall apply to any person who operates a motor vehicle upon the Flathead Santee Sioux Reservation and pedestrians as herein provided.

Section 9-1-2. Definitions.

- (a) "Authorized Emergency Vehicle" shall mean vehicles of the fire department, law enforcement vehicles, and such ambulances and other emergency vehicles designated or authorized as such.
- (b) "Laned Roadway" shall mean a roadway which is divided into two or more clearly marked lanes for vehicular traffic.
- (c) "Motor Vehicle" shall mean every vehicle which is propelled or drawn by mechanical power.
- (d) "Road or Highway" shall mean the entire width between the boundary lines of every way when any part thereof is open to the use of the public for purposes of vehicular travel.
- (e) "Roadway" shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Section 9-1-3. Enforcement. The agency authorized to provide law enforcement on the reservation shall be responsible for the enforcement of all regulations, rules and controls as established in this Title.

Section 9-1-4. Violations. Any violation of any provision under this Title shall result in a civil fine which shall not exceed five hundred dollars. The judges of the tribal court shall establish a schedule of fines for violations of this Title.

Section 9-1-5. Citations. Whenever a person is charged by law enforcement with a violation of this Title, the law enforcement officer shall issue a citation to the person which shall include the name, address, drivers license number of the person cited and the year, make, and model of the vehicle that the person was operating, and a description of the provision of this Title the

person is charged with violating. If the person so cited does not contest the violation he may pay the fine to the Clerk of Courts in accordance with the fine schedule established under section -1-4. If the person contests the citation a court date shall be set for hearing on the citation. Non contest citations shall be paid within fifteen days of issuance of the citation unless the court extends the time for payment of the fine.

CHAPTER 2 SPEED REGULATION

Section 9-2-1. Speed limits set in accordance with the state law. Except as specifically provided in this Title, speed limits on the reservation shall be set in accordance with the laws of the state of South Dakota regulating the maximum allowable speed for motor vehicles.

Section 9-2-2. Speed limits in residential areas/punishment for violation. The maximum speed permitted in any residential area on the reservation shall be fifteen (15) miles per hour. Residential areas include but is not limited to the all streets, roadways and driveways within the Flandreau Santee Sioux Tribal Housing cluster site any any other area on the reservation which is occupied by residential units with adjacent roadways or streets. The Tribe shall properly post the speed limit in all residential areas.

Any person who violates this section shall be fined a minimum of one hundred dollars.

Section 9-2-3. Apprehension by law enforcement officer not necessary for violation of Section 9-2-4. Apprehension and radar detection by a law enforcement officer shall not be necessary for the finding of a violation of Section 9-2-3. Any person may make a report to either law enforcement or the Tribal Prosecutor of a suspected violation of Section 9-2-3 and upon such report the Tribal prosecutor shall file a civil action against the alleged violator and such action shall be heard by the court and evidence of witnesses may be considered in making a determination of whether the person violated the speed limit.

Section 9-2-4. Violation for excessive speed. It shall be a violation of this Title for any individual to operate a motor vehicle on the reservation in excess of the posted speed limit.

Section 9-2-3. Unreasonably slow speed prohibited. It shall be a violation of this Title for any person to drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced traffic is necessary for safe operation or in compliance with law.

Section 9-2-4. Drag racing and racing prohibited. It shall be a violation of this Title for any person to drive any vehicle in any race on a highway, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, or for any person to in any manner participate in any such race, competition, contest, test, or exhibition.

CHAPTER 3 RULES OF THE ROAD

Section 9-3-1. Use of right half of highway required-Slow-moving vehicles-Overtaking and passing excepted-Violation as misdemeanor. Upon all highways of sufficient width, except upon one-way streets, the driver of a vehicle shall drive the same upon the right half of the highway and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of such highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing set forth in Section -3-6 to -3-, inclusive.

Section 9-3-2. Passing oncoming vehicles to right-Yielding one-half of highway-Violation as misdemeanor. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

Section 9-3-3. Lane driving required-Changing lanes-Violation as misdemeanor. On a roadway divided into lanes, a vehicle shall be driven as nearly as practicable entirely within a single lane and may not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

Section 9-3-4. Entry of roadway from alley, building or private road. The driver of a vehicle about to enter or cross a public highway from an alley, building, private road or driveway shall yield the right-of-way to all vehicles approaching on such public highway.

Section 9-3-5. Highway equipment and personnel as having right-of-way-Use of left-hand side of highway-Display of light-Reasonable room for traffic. Highway equipment and personnel in the performance of their duties of maintaining the highway shall have the preference of right-of-way and shall be permitted to drive upon the left-hand side of the traveled portion of the highway for the purpose of dumping materials, for repairing highway and also for smoothing the road surface.

Highway equipment shall, at all times, display a flashing or revolving light to warn the public. Highway equipment may not indiscriminately block the traffic, but shall allow reasonable room on the traveled portion of the highway for other vehicles to pass. The equipment may not be bound by the provisions of this chapter to turn to the right when meeting other vehicles or allowing them to pass when work requires such equipment to remain on the other side of the traveled portion of the highway.

Any violation of the rules proscribed in this section shall subject the violator to civil penalties as provided in this Title.

Section 9-3-6. Exhibition driving. It shall be a violation of this Title for any person to drive a vehicle within the reservation in such manner that creates or causes unnecessary engine noise or tire squeal, skid or slide upon acceleration or stopping, or that simulates a temporary race, or that causes the vehicle to unnecessarily turn abruptly or away.

Section 9-3-7. Open container. It shall be a violation of this Title for any person to have or keep in a motor vehicle or have in his possession while in a vehicle, a bottle or receptacle containing alcoholic beverages which has been opened or the contents of which have been partly consumed.

Section 9-3-8. Passing oncoming vehicles. Drivers of vehicles proceeding in opposite directions shall pass each other to the left, each giving to the other at least one-half of the traveled portion of the roadway as nearly as possible.

Section 9-3-9. Right of way at intersection. When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle at the left shall yield the right-of-way to the vehicle on the right.

Section 9-3-10. Yielding right of way to emergency vehicles. Any driver of a vehicle on a highway or roadway shall yield the right-of-way to authorized emergency vehicles when such vehicles are operated upon official business and the drivers thereof use appropriate signal by siren, whistle, horn, and/or warning lights.

Section 9-3-11. Right turning vehicles. Any driver of a vehicle attempting to turn to the right of an intersection shall approach the intersection in the lane of traffic nearest to the right hand side of the highway and in turning shall keep as close as possible to the right hand curve or edge of the highway.

Section 9-3-12. Left turning vehicles. Any driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left hand lane which is available to traffic moving in the direction of travel of the

vehicle and after entering the intersection, the left turn shall be made so as to leave the intersection of lane lawfully available to traffic.

Section 9-3-13. Turning from wrong lane. No driver of a motor vehicle shall turn the vehicle at an intersection unless the vehicle is in proper position as defined in section -3-11 and Section -3-12.

Section 9-3-14. Turn signal required. A signal of an intention to turn right or left shall be given continuously during not less than two hundred (200) feet traveled by the vehicle. The signal required shall be given either by means of the hand and arm or by an approved mechanical or electrical device.

Section 9-3-15. Left turning vehicles right of way of opposing traffic. Any driver of a vehicle within the intersection intending to turn to the left shall yield the right of way to the vehicles approaching from the opposite direction which is in the intersection or so close as to constitute an immediate hazard.

Section 9-3-16. Driving upon sidewalk prohibited. No person shall drive any vehicle upon a sidewalk or sidewalk area except when crossing the sidewalk for entry upon a driveway.

Section 9-3-17. U-turn prohibited. No vehicles within a passing zone which is marked as required under state law shall be turned to proceed in the opposite direction, nor may any such turning movement be made unless it can be made safely without interfering with other traffic.

Section 9-3-18. Passing of vehicles. Any driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass with a safe distance to the left. The driver of the overtaking vehicle shall pass in a safe distance to the side of the overtaken vehicle.

Section 9-3-19. Driving to left of center. Any driver of a vehicle shall not drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made safely.

Section 9-3-20. Passing curves. No vehicle shall be driven on the left side of the roadway when approaching or upon the rest of a grade or curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the other direction.

Section 9-3-21. No passing zones. It shall be a violation of this Title for a driver of a vehicle to overtake and pass any other vehicle proceeding in the same direction when traveling in a no passing zone on a highway or bridge whether the passing maneuver is safely completed or not.

Section 9-3-22. Following too closely. It shall be a violation of this Title for a driver of a vehicle to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and condition of the highway.

Section 9-3-23. Failure to stop on signal or eluding a law enforcement officer. It shall be a violation of this Title for a driver of a vehicle to intentionally fail or refuse to bring a vehicle to a stop or otherwise flee or attempt to elude a pursuing law enforcement vehicle when given visual or audible signal to bring the vehicle to a stop.

Section 9-3-24. Duty to stop in case of accident. It shall be a violation of this Title for a driver of a vehicle involved in any accident, resulting in injury or death to any person or damage to property, to fail to immediately stop and give his name and address and the name and address of the owner and the license number of the vehicle he is driving to the person struck or the driver or occupants of any vehicle collided with and render to any person injured in such accident reasonable assistance and to fail to without unnecessary delay, notify the nearest law enforcement agency. If the driver of a vehicle collides with or is involved in an accident with any vehicle other property which is unattended and such accident results in damage to the other vehicle or property the driver shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address, and the name and address of the owner and license number of the vehicle he is driving, or shall attach securely, in a conspicuous place in or on such vehicle or other property, a written notice giving his name, address, and the name and address of the owner and license number of the vehicle he is driving, and shall without unnecessary delay, notify the nearest officer of a law enforcement agency.

Section 9-3-25. Action required at stop signs. Unless directed to proceed by a law enforcement officer or traffic control stop, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered or is approaching the intersection from another highway and may not proceed into the intersection until certain that such intersecting roadway is free from oncoming traffic which may affect safe passage.

Section 9-3-26. Duty when approaching yield sign. The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary in a similar manner as required by Section -3-25, and shall yield right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. The driver, having so yielded, may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding.

Section 9-3-27. Stopping or parking on rural highway prohibited. No person may stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled portion of any highway, outside of business or residence district, when it is practical to stop, park or leave such vehicle standing off of the paved or improved or main-traveled portion of the highway.

Section 9-3-28. Standing or parked vehicles. No person may park or leave standing any vehicle, whether attended or unattended, upon any highway unless a clear or unobstructed width of not less than twenty feet upon the main-traveled portion of such highway opposite such standing vehicle shall be left for free passage of other vehicles thereon, nor unless a clear view of such vehicle may be obtained from a distance of two hundred feet in each direction upon such highway.

Section 9-3-29. Position of parking on two-way road. Every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or edge of the roadway.

Section 9-3-30. Position of parking on one-way road. Every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway, or its left-hand wheels within twelve inches of the left-hand curb or edge of the roadway.

Section 9-3-31. Disabled vehicles exempted. The provisions of -3-2 through -3-30, inclusive, do not apply to the driver of any vehicle which is disabled while on the paved, improved, or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. If a vehicle is disabled, the driver shall activate all emergency lamps and, if the vehicle is required to be equipped with flags or flares, the flags or flares shall be deployed

immediately. The driver or the person in charge of the vehicle shall make provisions to remove the vehicle in the most expeditious manner.

Section 9-3-32. Removal of vehicles improperly parked or standing. If a law enforcement officer finds a vehicle standing upon a highway in violation of the provisions of -3-2 through -3-30, he may move the vehicle or require the driver or person in charge of the vehicle to move the vehicle to a position permitted under said sections.

Section 9-3-33. Places where standing and parking prohibited. Unless necessary to avoid conflict with other traffic, or unless a law enforcement officer or official traffic control device has so directed, no person may stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

- (1) In front of a public or private driveway;
- (2) Within fifteen feet of a firehydrant;
- (3) Within twenty feet of a crosswalk at an intersection;
- (4) Within thirty feet upon the approach to any flashing signals, stop sign, yield sign or traffic control signal located at the side of a roadway; or
- (5) At any place where official signs prohibit parking or standing.

Section 9-3-34. Places where stopping prohibited. Unless necessary to avoid conflict with other traffic, or unless a police officer or official traffic control device has so directed, no person may stop, stand or park a vehicle:

- (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (2) On a sidewalk;
- (3) Within an intersection;
- (4) On a crosswalk;
- (5) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (6) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
- (7) Upon a bridge or other elevated structure upon a highway or with a highway tunnel; or
- (8) At any place where official signs prohibit stopping.

Section 9-3-35. Physically handicapped person entitled to park without time limitations-Reserved spaces. Any physically handicapped person who displays a special license plate or other certificate issued for handicap parking shall be entitled to park without limitation in areas where parking is normally restricted by time factors and to park in any space reserved for the handicapped.

Section 9-3-36. Unauthorized parking in handicapped space. Any person who is not physically handicapped and who exercise the privileges granted a physically handicapped person under -3-35 shall be subject to civil penalty under this Title.

Section 9-3-37. Parking and Parking Zones. The Tribe and the agency authorized to provide law enforcement are hereby authorized to place signs prohibiting, restricting or allowing parking, stopping, or restricting vehicles from those areas which are posted by signs. It shall be a violation of this Title for any person to violate the prohibition or restriction posted on the reservation in accordance with this section.

Section 9-3-38. Headlights required. Every motor vehicle, other than a motorcycle, road roller, road machinery or farm tractor shall be equipped with at least two head lights with at least one on each side of the front of the motor vehicle.

Section 9-3-39. Periods during which headlights must be lighted. Every vehicle upon a highway or roadway within the reservation during the period from a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible any person on the highway or roadway at a distance of two hundred feet ahead, shall be equipped with lighted front and rear lights as required in Section -3-38 and -3-40.

Section 9-3-40. Rear lights required. Every motor vehicle, trailer, semi-trailer, and pole trailer, or any other vehicle which is being drawn at the end of a combination of vehicles shall be equipped with at least two tail lights mounted on the rear, when lighting is required by -3-39 and shall emit a red light plainly visible from a distance of one thousand feet from the rear.

Section 9-3-41. Stop lights required. Every motor vehicle, trailer, semi-trailer and pole trailer shall be equipped with two or more stop lamps which shall display a red light visible from a distance of not less than three hundred feet to the rear.

Section 9-3-42. Circumstances under which headlights must be dimmed. Whenever a motor vehicle is being operated on a highway or roadway, or

portion thereof, which is sufficiently lighted to reveal a person on the highway at a distance of two hundred feet ahead of the vehicle, it shall be mandatory to dim the headlights. Whenever a motor vehicle meets another vehicle or overtakes another vehicle proceeding in the same direction on highway or roadway it shall be mandatory to dim the headlights of the vehicle.

Section 9-3-43. Red lights on front of vehicle prohibited. Except for authorized emergency vehicles, it shall be a violation of this Title to drive or move any vehicle upon a highway or roadway with any red light visible from directly in front thereof.

Section 9-3-44. Lights on parked vehicles. Whenever a vehicle is stopped or parked on a highway whether attended or unattended during the times proscribed by Section -3-39 there shall be displayed upon such vehicle one or more lights projecting a white or amber light visible under normal conditions from a distance of five hundred feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of five hundred feet to the rear, except that no lights need be displayed upon any such vehicle parked within corporate limits of a municipality or within a housing site.

Section 9-3-45. Nontransparent material on windows prohibited. It shall be a violation of this Title for any person to operate any motor vehicle upon a highway with any sign, poster, or other nontransparent material upon the front windshield, side wings, side windows or rear window of such motor vehicle other than a certificate or other paper required to be displayed by law or other temporary driving instruction placed thereon by the manufacturer unless the same shall not obstruct the driver's clear view of the highway or any intersecting highway.

Section 9-3-46. Windshield wipers required. It shall be a violation of this Title for any person to operate a vehicle except farm tractors and motorcycles without a device or devices for cleaning rain, snow, or other moisture from the windshield and such device or devices shall be in good working order capable of cleaning the windshield and shall provide the driver a clear view of the highway.

Section 9-3-47. Rear-vision mirrors required. Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle, whether operated singly or towing another vehicle.

Section 9-3-48. Muffler required. It shall be a violation of this Title for any person to operate a motor vehicle which is not equipped with a muffler in

good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.

Section 9-3-49. Brakes required. It shall be a violation of this Title to operate a motor vehicle that is not equipped with brakes that are in good working order.

Section 9-3-50. Cracked or broken glass prohibited. It shall be a violation of this Title to operate a motor vehicle wherein any glass or glazing material is cracked, broken shattered or otherwise distorted to the extent that it significantly impairs the vision of the motor vehicle operator.

Section 9-3-51. Duty of motorists to slow or stop for school The operator of a motor vehicle on a two-lane highway or a private road meeting or overtaking a school bus on which the amber warning lights are flashing shall reduce the speed of his vehicle to not more than twenty miles per hour and proceed past the school bus with caution. When the operator of a motor vehicle meets or overtakes a school bus on which the red signal lights are flashing the operator shall bring his vehicle to a complete stop not closer than fifteen feet from the school bus and shall remain stopped until the flashing red signals are extinguished.

The operator of a motor vehicle on a highway providing two or more lanes in each direction need not stop when he meets a school bus which is traveling in the opposite direction even though the school bus is stopped and its red signal lights flashing. The operator of a motor vehicle on a highway providing two or more lanes in each direction shall stop when he overtakes a school bus traveling in the same direction when the school bus is stopped and its red signal lights are flashing.

Section 9-3-52. Littering from a motor vehicle. It shall be a violation of this Title for any person to throw or dispose of any trash, garbage or other item from a moving or standing vehicle.

CHAPTER 4 VEHICLE LICENSING AND REGISTRATION, DRIVERS LICENSE AND FINANCIAL RESPONSIBILITY

Section 9-4-1. Vehicle license required. All motor vehicles operated within the reservation shall be licensed and registered in accordance with the applicable laws of the state of South Dakota. The Tribe herein adopts all

regulations related to the licensing and registration of motor vehicles now in existence or hereinafter adopted by the state. Any person who violates any of the provisions on licensing and registration of vehicles shall be subject to civil penalties under this Title.

Section 9-4-2. Prohibition against driving without Driver's license. No person, except those exempt under -4-3- to -4-6, inclusive, shall drive a motor vehicle within the reservation unless such person has a valid license as an operator issued in accordance with the applicable laws of the state of South Dakota.

Section 9-4-3. License not required for operation of tractor or implement in farm operations. Any person is exempt from license under this chapter while operating a farm tractor or implement of husbandry to or from the home and farm buildings to or from any adjacent or nearby farmland for the exclusive purpose of conducting farm operations.

Section 9-4-4. Government employees exempt from licensing requirements. Any employee of the United States government is exempt from license under this chapter while operating a motor vehicle owned by or leased to the United States government and being operated on official business.

Section 9-4-5. Nonresident out-of-state licensee exempt from licensing requirement. A nonresident who is at least sixteen years of age and who has in his immediate possession a valid operator's license issued to him in his home state or country may operate a motor vehicle upon the reservation without a license issued by the state of South Dakota.

Section 9-4-6. Requirement that license be in possession of driver. Every person operating a motor vehicle on the reservation shall have his operator's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a law enforcement officer.

Section 9-4-7. Driving while license is revoked, suspended or cancelled. It shall be a violation of this Title for any person to operate a motor vehicle within the reservation when his operator's license has been revoked, suspended or cancelled by the state.

Section 9-4-8. Permitting use of operator's license. No person shall permit any unlawful use of an operator's license issued to him.

Section 9-4-9. Displaying another's license. No person shall display or represent as one's own any operator's license not issued to him.

Section 9-4-10. Permitting unauthorized person to use vehicle. No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven within the reservation by any person who is not authorized under tribal or state law to operate a vehicle.

Section 9-4-11. Unauthorized use of a vehicle under restricted license. No person shall operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him by the state.

Section 9-4-12. Proof of financial responsibility for future defined. The term "proof of financial responsibility for the future" as used in this chapter means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of proof, arising out of the ownership, maintenance, or use of a vehicle of a type subject to registration under this Title, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and , subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

Section 9-4-13. Maintenance of financial responsibility.

Every driver or owner of a motor vehicle within the reservation shall at all times maintain in force one of the forms of financial responsibility on the motor vehicle as provided under the laws of the of the state of South Dakota. Failure to maintain financial responsibility on a motor vehicle within the reservation as required by the laws of the state of South Dakota shall be a violation of this Title.

Section 9-4-14. Penalties for violation of -4-14. In addition to any civil fines imposed for a violation of -4-13, when the owner of a motor vehicle is charged with a violation of -4-13 the owner's vehicle may be seized by law enforcement until such time as the owner provides adequate proof of financial responsibility on the vehicle to the court or law enforcement.

CHAPTER 5 MOTORCYCLE REGULATION

Section 9-5-1. Definitions. As used in this chapter, the following words shall mean:

- (1) Moped: A motor driven cycle equipped with two or three wheels. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless

of the number of chambers in such power source. The power source shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

- (2) **Motorcycle:** Includes motorcycles, motorbikes, mopeds, bicycles with motor attached and all motor operated vehicles of the bicycle or tricycle type, whether the motive power be a part thereof or attached thereto, and having a saddle or seat with the driver sitting astride or upon it, or a platform on which the driver stands, but excluding a tractor.
- (3) **Off-road vehicle:** Any self propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all terrain vehicles, dune buggies and any vehicle whose manufacturer's statement of origin or certificate of origin states that the vehicle is not for highway use. Off-road vehicle does not include a farm vehicle.

Section 9-5-2. Special qualifications required to operate a motorcycle-Exceptions-Valid license required to operate moped and all-terrain vehicles No person may operate a motorcycle, except a moped as defined in Section 5-1 or a licensed all-terrain vehicle as provided by -5-1, on the streets or highways of the reservation without a motor vehicle driver's license or permit upon which a state testing officer has certified that such person is qualified to operate such motorcycle. The operator of a moped or licensed all-terrain vehicle shall have a valid motor vehicle operator's license or permit.

Section 9-5-3. Required handlebar height. No person may operate on a street or highway within the reservation a motorcycle equipped with a handlebar positioned so that the grips of the handlebar are at or above shoulder height of the person when sitting astride the seat.

Section 9-5-4. Protective helmet required for minor. No person under eighteen years of age may operate or ride upon a motorcycle on the streets or highways within the reservation unless the person wears a protective helmet meeting state safety standards. No person may operate a motorcycle with any person under the age of eighteen as a passenger if the passenger is not wearing a protective helmet.

Section 9-5-5. Muffler required. Every motorcycle shall at all times be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise, and no muffler or exhaust system shall be complete with a cutout, bypass, or similar device. No person may make any alterations either by way of addition or modifications of any original or stock muffler.

Section 9-5-6. Operator and passenger restricted to permanent and regular seats. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator may not carry any other person nor may any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

Section 9-5-7. Position of motorcycle. No person may ride upon a motorcycle unless sitting astride the motorcycle seat and facing forward. No persons may operate a motorcycle unless he has at least one hand on the handlebars at all times while the motorcycle is in motion.

Section 9-5-8. Carrying package on a motorcycle. No person may operate a motorcycle while carrying any package, bundle, or other article which prevents him from keeping both hands on the handlebars.

Section 9-5-9. Attachment together of vehicles prohibited. No person riding upon a motorcycle may attach himself or the motorcycle to any other vehicle on a street or highway within the reservation.

Section 9-5-10. Carrying firearm on motorcycle. No person other than a law enforcement officer may operate or ride on any motorcycle with any firearm in his possession unless the firearm is completely unloaded and within a carrying case which encloses the entire firearm.

Section 9-5-11. Motorcycles entitled to full traffic lane. All motorcycles are entitled to full use of a lane and no motor vehicle may be driven in such manner as to deprive any motorcycle of the full use of a lane.

Section 9-5-12. Motorcycle prohibited from overtaking in the same lane. The operator of a motorcycle may not overtake and pass in the same lane occupied by the vehicle being overtaken. This section does not apply to motorcycles being operated two abreast in the same lane.

Section 9-5-13. Motorcycle operation between lanes prohibited. No person may operate a motorcycle between adjacent lanes of traffic, or between adjacent lines or rows of vehicles.

Section 9-5-14. Off-road vehicles-operation on certain lands- registration. No person may operate on a street or highway within the reservation an off-road vehicle except for crossing from one side of the road to the other. A person twelve years of age or older may operate an off-road vehicle in a highway ditch if the vehicle is operated as close as possible to the outer edge of the highway right-of-way. Off-road vehicles need not be registered and licensed for use upon the highways except as provided under state law.

CHAPTER 6 PEDESTRIANS

Section 9-6-1. Yielding right-of-way to pedestrians making proper crossing. The driver of any vehicle upon a highway within business or residential district shall yield the right-of-way to a pedestrian crossing such highway within any clearly marked crosswalk or any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, except at intersections where the movement of traffic is being regulated by traffic officers or traffic direction devices.

Section 9-6-2. Pedestrian defined. The term pedestrian when used in this chapter means any person moving or traveling on foot, including any person riding a bicycle, wearing roller skates or riding on a skateboard.

Section 9-6-3. Jaywalking-Duty to yield right-of-way to vehicles. Every pedestrian crossing a highway within a business or residence district at any point other than a pedestrian crossing, crosswalk or intersection shall yield right-of-way to vehicles upon the highway.

Section 9-6-4. Highways without sidewalks. Where sidewalks are not provided, any pedestrian walking along or upon a highway shall, when practical, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

Section 9-6-5. Duty of motorists to stop for pedestrian carrying cane or guided by dog. Whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection, or place where such pedestrian is attempting to cross, shall bring his vehicle to a full stop before arriving at such intersection or place of crossing, and before

proceeding shall take such precautions as may be necessary to avoid injuring such person.

Section 9-6-6. Yielding right of way to persons working on highways. Every driver of a motor vehicle shall yield the right-of-way to persons engaged in the maintenance, survey or construction work on any public road, highway or highway right-of-way whenever the driver is notified of the presence of the workers by flagmen, warning signs or signals, or any other manner of warning.

Flandreau Santee Sioux Tribe

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RESOLUTION NO. 19-57A

WHEREAS, the Flandreau Santee Sioux Tribe is a recognized Indian tribe organized pursuant to a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, and further amended November 16, 1967, and further amended November 14, 1984, and further amended May 17, 1997; and

WHEREAS, Article III of the Tribe's Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee; and

WHEREAS, Article VIII Section 1 of said Constitution sets forth the Executive Committee's enumerated powers. Section 1(f) provides that the Executive Committee may promulgate and enforce ordinances governing and regulating the conduct of all persons on the reservation; and

WHEREAS, Article VIII Section 1(h) of said Constitution provides that the Executive Committee may adopt resolutions consistent with said Constitution and By-Laws, regulating the procedure of the Executive Committee itself and of other tribal agencies, tribal officials or tribal organizations of the Flandreau Santee Sioux Tribe; and

WHEREAS, The Executive Committee reaffirms its findings set forth in Tribal Resolution number 19-57 and reincorporates them by reference; and

WHEREAS, The Executive Committee also finds that while the decriminalization of some marijuana-related acts are in the best interests of the community, certain acts should still be prohibited as civil offenses.

NOW THEREFORE BE IT RESOLVED that the Flandreau Santee Sioux Tribe Tribal Law and Order Code is further amended. The amendments are attached hereto.


BE IT FURTHER RESOLVED that the Tribal Prosecutor is directed to provide notice of this resolution to the FSST Tribal Courts and tribal law enforcement agency.

[Certification follows on next page.]

CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 18th day of July, 2019, by the Executive Committee of the Flandreau Santee Sioux Tribe during a duly called meeting with a quorum was present of 4 In Favor, 0 Opposed, 0 Abstaining, and 3 Not Voting, as follows:

Vice President, Andrew Weston:	YES	NO	ABSTAIN	<u>NOT PRESENT</u>
Secretary, Donalda Montoya:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee I, Kristi Bietz:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee II, David Kills-A-Hundred:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee III, Kenneth Weston:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee IV, John Jason Armstrong:	YES	NO	ABSTAIN	<u>NOT PRESENT</u>
President, Anthony Reider (<i>If Required</i>):	YES	NO	ABSTAIN	NOT PRESENT



Donalda Montoya, Tribal Secretary



Anthony Reider, Tribal President

The following section of Title 9, Traffic Regulations, shall be amended to state:

Section 9-3-7. Open Container. It shall be a violation of this Title for any person to have or keep in a motor vehicle or having in his possession while in a vehicle, a bottle or receptacle containing alcoholic beverages which has been opened or the contents of which have been partly consumed.

While on a public roadway, it shall also be a violation of this Title for any person to ingest, process, handle, or possess any marijuana that is not contained in a closed package.

The following section of Title 29, Marijuana Control Ordinance, shall be amended to include:

Section 29-2-5. No public ingestion. It shall be a violation of this Title for any person to ingest marijuana in a public place.

Section 29-10-6. Dual Enforcement. Tribal law enforcement shall have dual authority to enforce the criminal and civil provisions of this Ordinance.