

LOWER BRULE SIOUX TRIBAL COURT LAW AND ORDER CODE

TRAFFIC CODE



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Table of Contents

SECTION 1-6-01. APPLICATION.....	4
SECTION 1-6-02. DEFINITIONS.....	4
SECTION 1-6-03. DRIVING WITHOUT A LICENSE	6
SECTION 1-6-04. PERMITTING AN UNAUTHORIZED MINOR TO DRIVE.....	6
SECTION 1-6-05. DRIVING WITHOUT REQUIRED EQUIPMENT OR WITH VEHICLE IN UNSAFE CONDITION .	6
SECTION 1-6-06. REQUIRED SAFETY EQUIPMENT.....	6
SECTION 1-6-07. SAFETY BELTS AND CHILD PASSENGER RESTRAINTS.....	8
SECTION 1-6-08. MOTORCYCLE SAFETY EQUIPMENT	9
SECTION 1-6-09. MOTORCYCLE OPERATION.....	10
SECTION 1-6-10. OFF ROAD VEHICLES	11
SECTION 1-6-11. STARTING, TURNING, AND STOPPING WITHOUT REGARD TO SAFETY.....	11
SECTION 1-6-12. SPEEDING	12
SECTION 1-6-13. RECKLESS DRIVING	13
SECTION 1-6-14. NEGLIGENT DRIVING.....	13
SECTION 1-6-15. DRIVING WHEN TRAVEL NOT ADVISED.....	13
SECTION 1-6-16. EXHIBITION DRIVING.....	13
SECTION 1-6-17. DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS	14
SECTION 1-6-18. OPEN CONTAINER IN A VEHICLE	14
SECTION 1-6-19. ELUDING LAW ENFORCEMENT	14
SECTION 1-6-20. COMPLIANCE WITH ORDER OR DIRECTION OF LAW ENFORCEMENT OFFICER.....	15
SECTION 1-6-21. FAILURE TO DRIVE ON RIGHT SIDE OF ROADWAY.....	15
SECTION 1-6-22. FOLLOWING TOO CLOSELY	15
SECTION 1-6-23. OVERTAKING A VEHICLE WITHOUT REGARD FOR SAFETY.....	16
SECTION 1-6-24. FAILURE TO STOP FOR SCHOOL BUS FLASHING LIGHTS	16
SECTION 1-6-25. FAILURE TO GIVE RIGHT-OF-WAY	16
SECTION 1-6-26. STOPPING, STANDING OR PARKING ON ROADWAY	17
SECTION 1-6-27. COASTING	18
SECTION 1-6-28. OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM	18
SECTION 1-6-29. RIDING ON FENDERS, BUMPERS OR RUNNING BOARDS.....	18
SECTION 1-6-30. PEDESTRIANS ON ROADWAYS WITHOUT REGARD FOR SAFETY	18
SECTION 1-6-31. FAILURE TO STOP IN THE EVENT OF AN ACCIDENT	19

SECTION 1-6-32. USING A WIRELESS COMMUNICATIONS DEVICE WHILE DRIVING.....	19
SECTION 1-6-33. TEXT MESSAGING WHILE DRIVING	20
SECTION 1-6-34. DRIVING IN VIOLATION OF AN ORDER OF THE COURT.....	20
SECTION 1-6-35. JUNK VEHICLES.....	21
SECTION 1-6-36. STATUTE OF LIMITATIONS	22

LOWER BRULE SIOUX TRIBE TRAFFIC CODE

SECTION 1-6-01. APPLICATION

This Code shall apply to all persons within the jurisdiction of the Lower Brule Sioux Tribal Court. The purpose of this Code is to promote the safety and welfare of all persons within the Lower Brule Reservation.

SECTION 1-6-02. DEFINITIONS

The terms used in this section, unless the context plainly requires otherwise, shall mean:

1. Business District: The territory contiguous to a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred feet (300') or more is occupied by buildings in use for business.

2. Driver, Pedestrian and Passenger: Any person of Indian descent who is a member of any recognized Indian Tribe now under the jurisdiction of the Federal Government.

3. Farm Tractor: Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

4. Highway: Every way or place of whatever nature open to use of the public, as a matter of right, for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private persons or institutions, except the driveways and roadways within the Federal lands reserved for administrative purposes which shall be deemed highways.

5. Intersection: The area embraced within the prolongation of the lateral curb lines or, if none, then of the lateral boundary lines of two (2) or more highways which join one another at an angle, whether or not one (1) such highway crosses the other, but such area, in the case of the point where an alley and a street meet within a city or town, shall not be deemed an intersection.

6. Local Authorities: The Lower Brule Tribal Council, Tribal Court and Bureau of Indian Affairs employees assigned to the Lower Brule Reservation for administrative purposes.

7. Motor Vehicle: Every vehicle defined below, which is self-propelled.

8. Motorcycle: Every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground, except any such vehicle as may be included within the term “tractor” as herein defined.

9. Off-road vehicle— Any motorized vehicle when used for recreational travel on trails or cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain.

10. Owners: Person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and within an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then, such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

11. Person: Any person of Indian descent who is a member of any recognized Indian Tribe now under Federal jurisdiction. Reference to person, persons, driver, and drivers shall be interpreted as Indian persons.

12. Private Road or Driveway: Every road or driveway not open to the use of the public for purposes of vehicular travel.

13. Reservation: The Lower Brule Reservation shall be taken to include all territory within the reservation boundaries including fee patented lands, roads, waters, bridges, and federal lands reserved for administrative purposes.

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

15. Right of Way: The privilege of the immediate use of the highway.

16. Road Tractor: Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

17. Safety Zone: The area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

18. Semitrailer: Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

19. Trailer: Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

20. Truck Tractor: Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

21. Vehicle: Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided that for the purposes of Sections 1-6-11, -13, -14 of this chapter, a bicycle or a ridden animal shall be deemed a vehicle.

SECTION 1-6-03. DRIVING WITHOUT A LICENSE

Any person who drives a motor vehicle on the public highways without a valid government-issued license commits a Class D offense.

SECTION 1-6-04. PERMITTING AN UNAUTHORIZED MINOR TO DRIVE

Any person who permits a child under the age of eighteen (18) years to drive a motor vehicle on a public highway, when such minor is not licensed to drive, commits a Class D offense.

SECTION 1-6-05. DRIVING WITHOUT REQUIRED EQUIPMENT OR WITH VEHICLE IN UNSAFE CONDITION

No person shall operate a motor vehicle on the roadways within the reservation unless such vehicle is in safe mechanical condition. Any violation of this section is a Class D offense.

SECTION 1-6-06. REQUIRED SAFETY EQUIPMENT

A. No person shall drive any vehicle on a roadway which does not have the following equipment in proper condition and adjustment:

1. Bumpers. Every motor vehicle shall be equipped with bumpers maintained in good condition.
2. Flags on Projecting Load. No person shall drive or move any vehicle on a roadway without red signal flags, at least twelve (12) inches square, marking the extremities, whenever the load upon the vehicle extends four (4) or more feet beyond the body of the vehicle. During hours of darkness such extremities shall be marked with a red light plainly visible from a distance of at least five hundred (500) feet from the sides and rear. This light shall be in addition to the red taillights required on every vehicle.

3. **Headlights.** Every motor vehicle shall be equipped with at least two (2) head lights, one on each side of the front of the vehicle. The headlights of all motor vehicles shall be so arranged that the driver may select at will between high and low beams of lights.
 - a. The high beams shall be so aimed and of such intensity as to reveal persons and vehicles at a distance of four hundred fifty (450) feet ahead. The low beams shall be so aimed and of such intensity to reveal persons and vehicles at a distance of one hundred fifty (150) feet ahead. On a straight level road none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver.
 - b. No person shall drive or move any vehicle on a roadway without headlights and taillights turned on, from a half hour after sunset to a half hour before sunrise and any time weather conditions diminish a driver's clear view.
4. **Horns.** Every motor vehicle shall be equipped with a horn in good working order.
5. **License plate.** No person shall operate a vehicle within the Lower Brule Reservation unless the vehicle has mounted on it proper vehicle license plates and current license tags issued by any jurisdiction recognized by the Lower Brule Sioux Tribe.
6. **Muffler.** Every motor vehicle shall be equipped with a muffler in good working order to prevent excessive or unusual noise.
7. **Parking Brakes.** Every motor vehicle shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated.
8. **Reflectors.** Every motor vehicle shall carry on the rear at least two (2) red reflectors. Every reflector shall be of such size and so mounted as to be clearly visible at night within six hundred (600) feet, when directly in front of lawful upper beams of head lamps.
9. **Service Brakes.** Every motor vehicle shall be equipped with service brakes maintained in good working order and adequate to control the movement of and to stop and hold such vehicle on any grade incident to its operation.

10. Stop Lamps. Every motor vehicle shall be equipped with at least two (2) stop lamps on the rear of the vehicle which shall clearly display a red or amber light and which shall be visible upon application of the service brakes.
11. Taillights. Every motor vehicle shall be equipped with at least two (2) taillights mounted on the rear which shall emit a red light plainly visible from a distance of one thousand (1000) feet to the rear of the vehicle.
12. Tires. Every motor vehicle shall be equipped with tires in safe operating condition.
13. Windshield. Every motor vehicle shall be equipped with a front windshield in such condition as to permit the driver a clear view.
14. Windshield Wipers. Every motor vehicle shall be equipped with windshield wipers maintained in good working order.
15. Safety belts and child restraints as described in Sec 1-6-07 below.

B. Prohibited items on vehicles

1. Wheel Projections. No vehicle shall be equipped with wheel nuts, hub caps, or wheel disks which project outside the body of the vehicle in a manner constituting a hazard to pedestrians and cyclists.
2. Body Projections. The body, fenders, and bumpers of all vehicles shall be maintained without protrusions which could be hazardous to pedestrians and cyclists.

C. A violation of this section is a Class D offense.

SECTION 1-6-07. SAFETY BELTS AND CHILD PASSENGER RESTRAINTS

A. Use Required

1. Every person operating or riding in a motor vehicle, except as described in para.2 below, shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

2. No person may operate a motor vehicle unless all passengers under the age of 16 are either wearing a safety belt assembly or are securely fastened into an approved child restraint device.

B. Child Passenger Restraints Required

1. The parent or legal guardian of a child under the age of three (3) years shall have the child properly secured in a federally approved child safety seat when the child is a passenger in a vehicle owned and operated by the parent or legal guardian.
2. The parent or legal guardian of a child aged three (3) years or four (4) years shall have the child properly secured in a federally approved child safety seat or seat belt when the child is a passenger in a vehicle owned and operated by the parent or legal guardian.

C. A violation of this section is a Class D offense.

SECTION 1-6-08. MOTORCYCLE SAFETY EQUIPMENT

A. No person shall drive or move any motorcycle which does not have the following safety equipment in proper condition and adjustment:

1. **Brakes.** Every motorcycle shall be equipped with service brakes in safe, working order and which operate on the front and rear wheels.
2. **Head Lights.** Every motorcycle shall be equipped with at least one (1) head light in good working order. Every motorcycle shall have its headlight and taillight on whenever such vehicle is in motion on any roadway.
3. **Reflector.** Every motorcycle shall carry on the rear either as part of the taillight or separately, at least one (1) red reflector.
4. **Stop Lamps.** Every motorcycle shall be equipped with at least one (1) stop lamp which shall clearly display a red or amber light and which shall be visible upon application of the service brake.
5. **Taillights.** Every motorcycle shall be equipped with at least one (1) taillight in good working order.

B. Exhaust System. No person shall modify the exhaust system of a motorcycle in a manner or fail to maintain the exhaust system so as to amplify or increase the noise above the level emitted by the muffler originally installed on the motorcycle.

C. A violation of this section is a Class D offense.

SECTION 1-6-09. MOTORCYCLE OPERATION

A. In addition to the following provisions specifically applicable to motorcycles, operators of motorcycles shall comply with the rules of the road set forth in this Code.

B. Motorcycle—Operation on Laned Roads

1. All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in a way that deprives a motorcycle of the full use of a lane.
2. The operator of a motorcycle shall not overtake and pass in the same lane as is occupied by the vehicle being overtaken.
3. The operator of a motorcycle shall not overtake and pass a vehicle while any oncoming vehicles are adjacent to the vehicle being overtaken.
4. Motorcycles shall not be operated more than two abreast in a lane.
5. Subsections (2) and (3) shall not apply to law enforcement officers in the performance of their official duties.

C. Motorcycle - Riding on the Permanent Seat Only

A person operating a motorcycle shall ride only upon the permanent and regular seat attached to the motorcycle and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person. A passenger shall ride only upon a seat designed for that purpose.

D. Motorcycle - Footpegs

A motorcycle must be equipped with foot pegs for each person the motorcycle is designed to carry.

E. Motorcycle - Both Feet Not to Be on the Same Side

No person shall ride a motorcycle in a position where both feet are placed on the same side of the motorcycle.

F. Motorcycle - Clinging to Other Vehicles

No person riding upon a motorcycle shall attach him or herself or the motorcycle to any other vehicle on a roadway.

G. A violation of this section is a Class D offense.

SECTION 1-6-10. OFF ROAD VEHICLES

It shall be unlawful for any person to drive an off-road vehicle within the Lower Brule Reservation unless the person has prior permission of the landowner. Off-road vehicles may not be driven on streets or highways except to cross safely. All vehicles driven within the jurisdiction of the Lower Brule Reservation are subject to all applicable safety, equipment, and other provisions of this Code.

A violation of this section is a Class D offense.

SECTION 1-6-11. STARTING, TURNING, AND STOPPING WITHOUT REGARD TO SAFETY

- A. No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.
- B. No person shall turn a vehicle at an intersection unless the vehicle is in such a position on the highway that such movement can be made with reasonable safety and a signal of intention to turn right or left, when required, has been given continuously during not less than the last one hundred feet (100') travelled by the vehicle before turning.
- C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
- D. The signals herein required shall be given either by means of the standard hand and arm signals or by mechanical or electrical signal device.
- E. Every driver of a vehicle approaching an intersection with a stop sign, or a flashing red light, shall stop on the near side of the intersection, or railroad grade crossing, at the point where he/she has a view of approaching traffic and shall not proceed until the intersection is clear.
- F. Any violation of this section is a Class D offense.

SECTION 1-6-12. SPEEDING

- A. Every person operating or driving a vehicle of any character on a highway shall drive in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, condition of surface, freedom from obstruction of view ahead and the rights of any other person entitled to the use of the street or highway.
- B. Where no special hazard exists that requires lower speed for compliance with paragraph A, any speed not in excess of the limits specified in this section shall be lawful, but it is illegal for any person to drive at any speed in excess of the limits specified in this section:
 - 1. Twenty (20) miles per hour in any business or resident district of the townsite of Lower Brule including Streets "A," "B," "C," "D," "E," "F" and any extensions thereof or any newly developed streets within the townsite but not including "Road 3-3," Crazy Horse St., Spotted Tail Ave., Sitting Bull St., Iron Nest Ave., Bull Head Ave., Red Cloud St., Gall St., Medicine Bird St. Also including any street not named here in communities of Lower Brule and West Brule.
 - 2. Fifteen (15) miles per hour when approaching within fifty feet (50') of a railroad grade crossing or intersection of highways, when the driver's view is obstructed.
 - 3. Fifteen (15) miles per hour when passing a school during recess or while children are going to or from school during opening or closing hours.
 - 4. Fifty-five (55) miles per hour in the daytime and fifty-five (55) miles per hour in the nighttime in other places.
- C. The speed limitations set forth above shall not apply to vehicles when operated with due regard for safety under the direction of law enforcement in the chase or apprehension of violators of the law or of such persons charged with or suspected of any such violation, nor to fire departments when traveling in response to a fire alarm, nor to public or private ambulances when traveling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.
- D. Any person who drives in excess of the maximum speed as provided in this section, or at a speed greater than is reasonable and proper under the conditions then existing is guilty of speeding, and upon conviction thereof, shall be sentenced as a Class D offense

for the first offense, not exceeding a Class C offense for the second offense committed within one (1) year of the first offense, and not to exceed a Class B offense for every further offense committed within one (1) year of such first offense.

SECTION 1-6-13. RECKLESS DRIVING

- A. Any person who drives any vehicle carelessly and heedlessly in disregard for the rights and safety of others or in a manner so as to endanger or be likely to endanger any person or property is guilty of reckless driving.
- B. A violation of this section is a Class C offense.

SECTION 1-6-14. NEGLIGENT DRIVING

- A. A person is guilty of negligent driving if he or she operates any vehicle in a manner as to endanger or be likely to endanger any person or property.
- B. The offense of operating a vehicle in a negligent manner shall be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner.
- C. Negligent driving is a Class D offense.

SECTION 1-6-15. DRIVING WHEN TRAVEL NOT ADVISED

- A. Any person who drives any vehicle other than an emergency vehicle, under conditions when a formal advisory that TRAVEL IS NOT ADVISED within the Lower Brule Reservation has been issued, shall be subject to prosecution under this section. A penalty up to \$1000 may be assessed, in addition to costs arising from law enforcement officials' response to any emergency caused by said driving.
- B. A violation of this section is a Class D offense.

SECTION 1-6-16. EXHIBITION DRIVING

- A. Any person who drives any vehicle upon a highway, alley, public park, recreational area or upon the property of a public or private school, college or university in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway is guilty of exhibition driving.

- B. A violation of this section is a Class D offense.

SECTION 1-6-17. DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

- A. It is unlawful and punishable for any person who is under the influence of intoxicating liquor or who is under the influence of any drug to a degree which renders the person incapable of safely driving a motor vehicle to operate or be in actual physical control of any motor vehicle upon the highway.

- B. Operating or physical control with .08 or more—

Any person who drives or has actual physical control of a motor vehicle while he or she has a blood alcohol concentration (BAC) of 0.08 or above as measured by a test of his or her breath or blood shall be guilty of driving under the influence.

- C. A first violation of this section is a Class B offense.
- D. Every person who is convicted of a violation of this section for a second time within one (1) year of the first conviction shall be punished not to exceed a Class A offense.

SECTION 1-6-18. OPEN CONTAINER IN A VEHICLE

- A. A person who has a package or any receptacle containing an alcoholic beverage in his/her possession in a motor vehicle unless the seal of the original package remains unbroken or the alcoholic beverage is so removed that no occupant of the motor vehicle shall have access to it while the vehicle is in motion is guilty of possession of an open container in a motor vehicle.
- B. Possession of an open container in a motor vehicle is a Class D offense.

SECTION 1-6-19. ELUDING LAW ENFORCEMENT

- A. Any driver of a motor vehicle who intentionally fails or refuses to bring his/her vehicle to a stop, or who otherwise flees or attempts to elude a pursuing law enforcement vehicle, when given visual or audible signal to bring the vehicle to a stop shall be guilty of a Class C offense. The signal given by the law enforcement officer may be hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying his/her badge of office, and the officer's vehicle shall be appropriately marked showing it to be an official police vehicle.
- B. A violation of this section is a Class C offense.

SECTION 1-6-20. COMPLIANCE WITH ORDER OR DIRECTION OF LAW ENFORCEMENT OFFICER

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

SECTION 1-6-21. FAILURE TO DRIVE ON RIGHT SIDE OF ROADWAY

- A. Upon all highways of sufficient width, the driver of a vehicle shall drive upon the right half of the highway, except (1) when overtaking and passing another vehicle proceeding in the same direction; (2) when the right half of the roadway is closed to traffic while under construction or repair or signposted for one-way traffic or other conditions.
- B. No person shall at any time drive a vehicle to the left side of the roadway (1) when approaching the crest of a grade or upon a curve in the highway where the driver's view of the highway is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; (2) when approaching within one hundred feet (100') of or traversing any intersection or railroad grade crossing; or (3) when the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct, or tunnel.
- C. Any violation of this section shall be punished as a Class D offense.

SECTION 1-6-22. FOLLOWING TOO CLOSELY

- A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the highway.
- B. Any violation of this section shall be a Class D offense.

SECTION 1-6-23. OVERTAKING A VEHICLE WITHOUT REGARD FOR SAFETY

- A. A driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass it at a safe distance to the left, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- B. The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on signal and shall not increase the speed of his/her vehicle until completely passed by the overtaking vehicle.
- C. No person shall drive a vehicle to the left side of the center line of a highway in overtaking another vehicle unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking to be made in safety.
- D. Any violation of this section shall be a Class D offense.

SECTION 1-6-24. FAILURE TO STOP FOR SCHOOL BUS FLASHING LIGHTS

- A. Every driver shall stop before reaching a school bus receiving or discharging school children, when flashing lights are in operation, and shall not proceed until the school bus resumes motion.
- B. Any driver failing to stop and wait at such signal commits a Class D offense.

SECTION 1-6-25. FAILURE TO GIVE RIGHT-OF-WAY

- A. The driver of a vehicle about to enter or cross a highway from a private drive or road shall yield the right-of-way to all vehicles approaching in the highway.
- B. When two (2) vehicles from different highways enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- C. The driver of a vehicle within an intersection intending to turn left shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close as to constitute an immediate hazard.

- D. The driver of a vehicle approaching, but not having entered, an intersection, shall yield the right-of-way to a vehicle already within such intersection and making a left turn, provided the driver of the vehicle turning left has given a plainly visible signal of the intention to turn.
- E. Upon the immediate approach of an authorized emergency vehicle making use of audible or flashing light signals, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position as close as possible to the right hand edge of the road and stop until the emergency vehicle has passed. 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 all persons using the highway.
- F. The driver of any vehicle upon a highway within a business or residence district shall yield the right-of-way to a pedestrian crossing at any marked or unmarked crosswalk at an intersection.
- G. Any violation of this section shall be considered a Class D offense.

SECTION 1-6-26. STOPPING, STANDING OR PARKING ON ROADWAY

- A. No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or unpaved or main traveled portion of any highway outside of a business or residence district when it is practicable to park or leave such vehicle standing off of the paved or unpaved or main traveled portion of such highway; but in every event an unobstructed width of not less than fifteen feet (15') of highway opposite the standing vehicle shall be left free for the passage of other vehicles, and the vehicle must be clearly visible for a distance of five hundred feet (500') to the drivers of vehicles approaching from either direction.
- B. Whenever any duly authorized law enforcement officer finds a vehicle standing upon a highway in violation of this provision, he/she is hereby authorized to move such vehicle or require the driver or person in charge of such vehicle to move such vehicle to the nearest place of safety.
- C. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the brakes thereon and stopping the motor and when standing upon any grade without turning the front wheels to the curb side of the highway.

- D. Any person whose land is close to a roadway shall make reasonable efforts to maintain fencing to keep any animals on the property off the roadway.
- E. Any violation of this section shall be a Class D offense.

SECTION 1-6-27. COASTING

- A. No driver of a motor vehicle when travelling upon a down grade shall coast with the gears of the vehicle in neutral or with the clutch manually disengaged.
- B. Any violation of this section shall be a Class D offense.

SECTION 1-6-28. OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM

- A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding three (3), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- B. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.
- C. Any violation of this section is a Class D offense.

SECTION 1-6-29. RIDING ON FENDERS, BUMPERS OR RUNNING BOARDS

- A. No driver shall permit passengers to ride on the fenders, bumpers or running boards, or in the open bed of a pickup truck, nor shall any passenger ride on the fenders, bumpers or running boards of a vehicle or in the open bed of a pickup truck.
- B. Any violation of this section is a Class D offense.

SECTION 1-6-30. PEDESTRIANS ON ROADWAYS WITHOUT REGARD FOR SAFETY

- A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield right-of-way to all vehicles upon the roadway.
- B. Where sidewalks are provided, it is unlawful for any pedestrian to walk along or upon an adjacent roadway. Where sidewalks are not provided, a pedestrian walking along a

highway shall, when practical, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

- C. No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.
- D. No person shall walk upon or along the highway while under the influence of intoxicating liquor.
- E. Any violation of this section is a Class D offense.

SECTION 1-6-31. FAILURE TO STOP IN THE EVENT OF AN ACCIDENT

- A. The driver of any vehicle involved in an accident resulting in injuries or death to any person or property damage to an apparent extent of one hundred dollars (\$100) or more shall immediately, by the quickest means of communication, give notice of such accident to the nearest available law enforcement officer who has jurisdiction.
- B. Any violation of this section is a Class D offense.

SECTION 1-6-32. USING A WIRELESS COMMUNICATIONS DEVICE WHILE DRIVING

- A. No person shall operate a moving motor vehicle while holding a wireless communications device to his or her ear.
- B. Subsection (A) of this section does not apply to a person operating:
 - 1. An authorized emergency vehicle, or a tow truck responding to a disabled vehicle;
 - 2. A moving motor vehicle using a wireless communications device in hands-free mode (i.e., by means of speaker phone, headset, or earpiece);
 - 3. A moving motor vehicle while using a hearing aid;
 - 4. An amateur radio station when he or she holds a valid amateur radio operator license issued by the federal communications commission; or
 - 5. A moving motor vehicle using a hand-held wireless communications device to: (i) report illegal activity; (ii) summon medical or other emergency help; (iii) prevent injury to a person or property; or (iv) relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, where the device is permanently affixed to the vehicle.

C. A violation of this section is a Class D offense.

SECTION 1-6-33. TEXT MESSAGING WHILE DRIVING

- A. No person shall operate a moving motor vehicle while sending, reading, or writing a text message by means of an electronic wireless communications device.
- B. A person does not send, read, or write a text message when he or she reads, selects, or enters a phone number or name into a wireless communications device for the purpose of making a phone call.
- C. Subsection (A) of this section does not apply to a person operating:
 - (1) An authorized emergency vehicle;
 - (2) A voice-operated global positioning or navigation system that is affixed to the vehicle and that allows the user to send or receive messages without diverting visual attention from the road or engaging the use of either hand; or
 - (3) A moving motor vehicle while using an electronic wireless communications device to: (i) report illegal activity; (ii) summon medical or other emergency help; (iii) prevent injury to a person or property; or (iv) relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.
- D. A violation of this section is a Class D offense.

SECTION 1-6-34. DRIVING IN VIOLATION OF AN ORDER OF THE COURT

- A. Any person whose right to operate a motor vehicle has been suspended by the Court and who within the period fixed by the Court order drives or attempts to drive a motor vehicle upon a public highway is guilty of a violation of this section.
- B. A violation of this section is a Class C offense.

SECTION 1-6-35. JUNK VEHICLES

A. Definition--Vehicle” includes automobiles, cars, trucks, trailers, motor homes, mobile homes, boats, airplanes, motorcycles and motor scooters, and any other transportation device that is propelled by force other than human effort or that is designated to be towed by such device.

B. Abandoned Vehicles-- Unattended for more than 8 Hours

Whenever any vehicle is left unattended on any public road, highway, or highway right of way for a longer period than eight (8) hours without notifying Lower Brule law enforcement, it shall be deemed an abandoned vehicle. A vehicle found unattended upon a bridge or causeway or in a tunnel or where such vehicle constitutes an obstruction and hazard to traffic, or a wrecked vehicle, shall be considered abandoned and may be removed at any time without regard to an 8-hour period. A vehicle left on private property may be considered abandoned after 48 hours after being reported to the Lower Brule law enforcement by the landowner or resident of the property.

C. Removal of Abandoned Vehicles

Whenever Lower Brule law enforcement finds an abandoned vehicle, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or place of safety.

D. Notification to Owner of Removal

Any law enforcement officer who has provided for the removal of an abandoned or wrecked vehicle shall notify the registered owner and, if applicable, the lienholder, by certified mail of the removal and in whose custody such vehicle has been placed, and that the registered owner may recover said vehicle upon payment of all costs incident to the removal and storage of the vehicle.

E. Sale of Unclaimed Vehicle

If after three (3) months from the date of mailing notice pursuant to Section C. above the vehicle remains unclaimed, such vehicle may be sold by Lower Brule law enforcement after public notice of said proposed sale is posted at the Lower Brule Sioux Tribal Court, Tribal Council building, and on the Lower Brule Sioux Tribe's

Facebook Page (or other social media of wide circulation) for at least two weeks prior to the proposed sale. After any costs associated with removing and storing the vehicle have been deducted, any balance of the sale price will be held for the owner for at least 90 days and notice will be sent to the owner that such funds are available for retrieval. After 90 days, any proceeds shall be deposited into the Lower Brule treasury.

If the costs of removing and storing the abandoned vehicle exceed the sale price, the owner of the abandoned vehicle may have those costs assessed against him or her as a fine collectible in a civil proceeding brought by the Lower Brule Sioux Tribe in the Tribal Court.

SECTION 1-6-36. STATUTE OF LIMITATIONS

No prosecution shall be maintained under this chapter unless the action shall have been commenced within six (6) months after the commission of the offense. Absence from the Reservation tolls the running of this statute.