

TITLE 23 – TRAFFIC CODE

CHAPTER 3 - SPEED RESTRICTIONS

Legislative History: Ordinance No. 52, "Speed Restrictions," was enacted by the Papago Council on January 3, 1975 and approved by the Papago Agency Superintendent on January 9, 1975. Ordinance No. 52 was compiled within the Traffic Code of the Tohono O'odham Nation on July 5, 2005 pursuant to Resolution No. 05-361.

WHEREAS, the traffic rules and regulations adopted from Title 66 of the Arizona Code Annotated in Resolution Number 242, have not been rewritten or modified to specifically apply to the Papago Reservation; and

WHEREAS, it has been the policy of the Papago Council to revise the Law and Order Code from time to time in order to provide greater traffic safety.

WHEREAS, it has been shown that the Papago Reservation is in need of its own traffic regulations particularly suited to the Papago Tribe in order to provide for the safety and welfare of the Papago people; and

THEREFORE BE IT RESOLVED: that Resolution Number 242 be amended as follows:

That Section 66-156 of the Arizona Code Annotated, dealing with Speed Restrictions is hereby repealed and is no longer a part of Chapter V of the Law and Order Code. Any other Resolution or Ordinance of the Papago Council that conflicts with, or modifies, or amends this Ordinance is hereby expressly repealed and revoked.

BE IT FURTHER RESOLVED: that the following Section be added to Chapter V of the Law and Order Code of the Papago Tribe.

SPEED RESTRICTIONS

- A. No person shall drive a vehicle on a highway within the boundaries of the Papago, San Xavier, or Gila Bend Reservation at a speed that is greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every case to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.
- B. No person shall drive a motor vehicle at a speed that is less than reasonable and prudent under existing conditions as to impede or block the reasonable movement of traffic.
- C. Except where a special hazard requires a lesser speed, any speed in excess of these speeds shall be prima facie evidence that the speed is too great and therefore unreasonable and unlawful:
 1. Fifteen miles per hour approaching a school crossing.
 2. Twenty-five miles per hour in any business or residential district.
 3. Fifty-five miles per hour in other locations.
- D. Special hazards that require lower speeds to that which is reasonable and prudent under the conditions then existing includes but is not limited to the following:
 1. Approaching and crossing highway intersections and railroad crossings.
 2. Approaching and going around a curve.
 3. Approaching a hill crest.
 4. Approaching livestock on or near the highway surface or shoulder.
 5. Approaching pedestrians on or near the highway surface or shoulder.
 6. Travelling on unsurfaced, dirt or gravel topped roadway.

The foregoing Ordinance was duly enacted by the Papago Council on the 3 day, of January, 1975 at a meeting at which a quorum was present, with a vote of 1 for, 0 against, 2 not voting, and 2 absent, pursuant to the authority vested in the Council by Article V, Section 2 (h) of the Constitution and By-laws of the Papago Tribe as amended, ratified by the Tribe on December 12, 1936 and approved by the Secretary of the Interior on January 6, 1937 (48 Stat: 984) pursuant to Section 16 of the Act of June 18, 1934.

THE PAPAGO COUNCIL

ATTEST:

Jacob A. Escalante
Jacob A. Escalante, Chairman

Delma M. Garcia
Delma M. Garcia, Secretary

Joseph M. Lucero
Joseph M. Lucero, Superintendent



APPROVED: Jan. 9, 1975

RECEIVED JAN 9 1975

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Compiling Traffic Laws Within the Traffic Code of the Tohono O'odham Nation
and Referring to the Domestic Affairs Committee for Review)**

RESOLUTION NO. 05-361

1 **WHEREAS, the Legislative Council is vested with the power "to enact criminal and civil laws**
2 **governing the conduct of any person within the Tohono O'odham Nation" and to**
3 **provide laws "to promote, protect and provide for public health, peace, morals,**
4 **education and general welfare of the Tohono O'odham Nation and its members"**
5 **(Constitution of the Tohono O'odham Nation, Article VI, Section 1(c)(6) and 1(c)(2));**
6 **and**

7 **WHEREAS, in 1945 the Papago Tribal Council enacted thirty-six criminal laws as Chapter 5 of the**
8 **Law and Order Code of the Papago Tribe; and**

9 **WHEREAS, in 1955 the Tribal Council adopted numerous Arizona traffic statutes, including the**
10 **then-current Arizona driving under the influence ("DUI") statute, as the traffic laws**
11 **of Papago Tribe (Resolution No. 842); and**

12 **WHEREAS, in 1975 the Tribal Council (1) enacted Ordinance No. 51, thereby repealing the Arizona**
13 **DUI law adopted in 1955 and replacing it with a new DUI law, and (2) enacted**
14 **speeding restrictions pursuant to Ordinance No. 52; and**

15 **WHEREAS, the Tribe's traffic laws were never compiled within a single traffic code but were**
16 **instead added to Chapter 5 of the Law and Order Code; and**

17 **WHEREAS, the criminal laws originally enacted in 1945 as Sections 1-36 of Law and Order Code**
18 **Chapter 5 were repealed and replaced by the Nation's Criminal Code in 1985 pursuant**
19 **to Ordinance No. 02-85; and**

20 **WHEREAS, Ordinance No. 02-85 also repealed laws conflicting with the Criminal Code but did not**
21 **repeal the traffic laws added to Law and Order Code Chapter 5 after its enactment in**
22 **1945; and**

23 **WHEREAS, there is a need to organize the Nation's traffic laws into a single, separate volume of**
24 **laws known as the Traffic Code of the Tohono O'odham Nation ("Traffic Code") and to**
25 **update and otherwise revise these laws; and**

26 **WHEREAS, the importance of updating the Nation's traffic laws has been highlighted by**
27 **members of the Nation and, particularly, by surviving family members of DUI victims**
28 **who have expressed concern regarding the Nation's DUI sentencing provisions and**
29 **who have recommended that Ordinance No. 51 be amended; and**

30

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1 **WHEREAS, concern has also been expressed that the Nation does not have a seatbelt or child**
2 **restraint law despite the fact that these laws have proven effective in reducing the**
3 **number of traffic fatalities and serious injuries to children and adults in other**
4 **jurisdictions; and**

5 **WHEREAS, the Domestic Affairs Committee is vested with the power to "draft, review and make**
6 **recommendations on proposed laws, ordinances, or resolutions" and exercises**
7 **jurisdiction over the "enactment of civil and criminal laws" (Plan of Operation for**
8 **Domestic Affairs Committee, Article III.B.5. and C.2(b)); and**

9 **WHEREAS, it is in the Nation's best interest to both enact the Traffic Code and refer the Traffic**
10 **Code to the Domestic Affairs Committee to be updated and otherwise amended in a**
11 **manner that will protect public health, safety, and welfare.**

12 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby enacts the Traffic**
13 **Code of the Tohono O'odham Nation, which shall be comprised of (1) the provisions**
14 **of Ordinance No. 52 and (2) the Arizona traffic laws incorporated and enacted as laws**
15 **of the Tohono O'odham Nation (then known as the Papago Tribe) pursuant to**
16 **Resolution No. 842, as revised by Ordinance No. 51.**

17 **BE IT FURTHER RESOLVED that each provision of the Traffic Code shall stand separate and**
18 **independent of every other provision. If any provision of the Traffic Code or its**
19 **application to any person or circumstance is held invalid by a court of competent**
20 **jurisdiction, the invalidity shall not affect any other provisions or applications of the**
21 **Traffic Code which can be given effect without the invalid provision or application,**
22 **and to this end the provisions of the Traffic Code are severable.**

23 **BE IT FINALLY RESOLVED that the Tohono O'odham Nation Legislative Council hereby**
24 **directs the Domestic Affairs Committee to review the Traffic Code and to make**
25 **recommendations to the Council within 90 days for enacting new and updated traffic**
26 **laws, including but not limited to seatbelt and child restraint laws and revisions to**
27 **the Nation's DUI law.**

28 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 27TH Day**
29 **of JUNE, 2005 at a meeting at which a quorum was present with a vote of 2,347.45 FOR; 93.35**
30 **AGAINST; -0- NOT VOTING; and [01] ABSENT, pursuant to the powers vested in the Council by**
31 **Section 1 (c)(1), 1(c)(2), 1(c)(6), and 1(l) of Article VI of the Constitution of the Tohono 'Odham**
32 **Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting**
33 **Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16**
34 **of the Act of June 18, 1934 (48 Stat. 984).**

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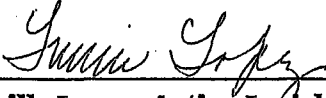
TOHONO O'ODHAM LEGISLATIVE COUNCIL



Evelyn B. Juan Manuel, Legislative Chairwoman

30th day of June, 2005

ATTEST:

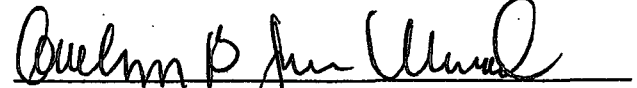


Lucille Lopez, Acting Legislative Secretary

30th day of June, 2005.

Said Resolution was submitted for approval to the office of the Chairwoman of the Tohono O'Odham Nation on the 30th day of June, 2005 at 11:45 o'clock, A.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon her approval or upon her failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Evelyn B. Juan Manuel, Legislative Chairwoman

APPROVED

on the 5 day of July, 2005

DISAPPROVED

at 11:35 o'clock, A.M.



VIVIAN JUAN SAUNDERS, CHAIRWOMAN
TOHONO O'ODHAM NATION

RESOLUTION NO. 05-361

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Returned to the Legislative Secretary on the 05th day of

July, 2005, at 11:46 o'clock, A.M.

Lucille Lopez

Lucille Lopez, Acting Legislative Secretary