

TRANSPORTATION CODE

ARTICLE 4

CLOSURE OF ROADS AND HIGHWAYS

[NOTE: Except as otherwise noted, the provisions of Article 4 of the Transportation Code were enacted on April 30, 1976 by Ordinance No. 28. The provisions of Ordinance No. 28 were renumbered and codified to the Transportation Code of the Colorado River Indian Tribes on January 11, 1992 by Section 5 of Ordinance 92-2.]

Section 4-101. Upon submission of a written determination by the Commissioner of the Tribal Police Department that commercial activity, the harvesting of an agricultural crop, public or Tribal event, or any other activity for accident or disaster upon the Reservation is likely to result in abnormally heavy or unusual usage of public highways and roads within the Reservation, which could increase the danger to persons and the likelihood of property damage, the Chairman or Vice-Chairman of the Tribal Council is authorized to direct the Tribal Police Department to close all or specifically designated public highways and roads, or portions thereof, to general public use, and to restrict traffic thereupon to that authorized in such directive. In such circumstances, the Chairman or Vice-Chairman is authorized to request the Secretary of Interior, through the Superintendent of the Colorado River agency, to similarly close or restrict such roads, where such action by the Secretary of Interior, or his designated representative, is necessary or appropriate for such closing or restriction upon use.

Section 4-102. The basis for such a determination may include, but shall not be necessarily limited to, all or any of the following factors:

- a. Increased number of vehicles;
- b. increased amount of pedestrian traffic;
- c. Use by vehicles of unusually large size and weight;
- d. Increased usage by multi-passenger vehicles, large commercial vehicles or equipment;
- e. Increased frequency of vehicles driven by operators who are unfamiliar with the highways and roads, or their conditions;
- f. Increase in incidents of entry upon and exit from highways and roads at unusual times and places;
- g. Increase in instances of excessive speed;
- h. Likelihood that members of the public normally utilizing the highways and roads may be unaware of the increased and

unusual usage of the roads, and fail to take necessary precautions;

- i. Usage which may pose an unusually high degree of risk of damage to the surface and shoulders of the roadways;
- j. Use or obstruction of the roads and highways for purposes other than normal traffic, such as public, community or Tribal events, whether social, religious, patriotic, commercial, or otherwise, accident, disaster, act of nature, or other circumstance posing jeopardy to public safety, such as fire, flood, or escape of dangerous gases or other substances; or civil disorder or other threat to the public peace and welfare.

Section 4-103. The direction and request of the Chairman or Vice-Chairman shall be for a specifically designated period of time, not to exceed forty-five (45) days without approval or extension by action of the Tribal Council. The direction and request may be limited to specific hours or specific days, or a combination thereof. The Chairman or Vice-Chairman making such directive or request, or the Tribal Council, may rescind or modify such directive and request at any time and from time-to-time.

Section 4-104. Any person who knowingly goes upon or uses, in any manner, any public highway or road on the Reservation contrary to any order or directive closing or restricting the usage of that highway or road pursuant to this Ordinance may be punished by imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

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ARTICLE 5

IMPOUNDMENT OF VEHICLES

[NOTE: Except as otherwise noted, the provisions of Article 5 of the Transportation Code were enacted on February 12, 1977 by Ordinance No. 30. The provisions of Ordinance No. 30 were renumbered and codified to the Transportation Code of the Colorado River Indian Tribes on January 11, 1992 by Section 6 of Ordinance No. 92-2.]

Section 5-101. For the purposes of this Ordinance, the term vehicle is defined to include any motorized, self-propelled vehicle such as an automobile, truck, tractor, motorcycle or aircraft, and also any boat, trailer, mobile home, bicycle, or farm equipment or industrial equipment, or equipment of any other nature, whether or not motorized or self-propelled.

Section 5-102. Any vehicle which is abandoned anywhere within the Colorado River Indian Reservation may be impounded by the Tribal Police Department, or at its direction.

Section 5-103. Any vehicle stopped, parked or left standing in violation of any provision of Chapter L of Article VI of the Law and Order Code of the Colorado River Indian Tribes may be impounded by the Tribal Police Department, or at its direction, in either of the following circumstances:

(a) If the vehicle is unattended; or

(b) If the vehicle is attended, but it is incapable of being moved by the attendant to a place where said vehicle no longer is in violation of said Chapter L, or if the attendant upon request of the member of the Tribal Police Department fails or refuses to so move the vehicle.

Section 5-104. If the driver, operator or attendant of any vehicle is taken into custody within the Reservation by any law enforcement officer for a suspected violation of the Law and Order Code, that vehicle may be impounded by the Tribal Police Department.

Section 5-105. Any impoundment of a vehicle, or any movement of a vehicle at the request of a member of the Tribal Police Department, shall not excuse or waive any violation or offense under the Law and Order Code, nor shall it serve as a defense upon prosecution of such offense.

Section 5-106. The Tribal Police Department shall establish or designate an impoundment area to which all vehicles which are impounded hereunder shall be moved.

Section 5-107. This Section shall apply only to impoundment of vehicles pursuant to Section 5-102 (abandoned vehicles) or Section 5-103(a) (unattended vehicles) of this Ordinance. No vehicle shall be impounded pursuant to Section 5-102 or Section 5-103(a) of this Ordinance until the

expiration of at least twelve (12) hours after a written notice of intention to impound has been served (1) on the registered owner of the vehicle, or (2) on the apparent owner where registration is inapplicable. A notice of intention to impound shall be served only in the following manner:

(a) Physical delivery of the notice of intention to impound. The notice shall be deemed served at the time of its delivery, or

(b) Mailing of the notice of intention to impound to the last known residence or business address of the registered owner or apparent owner, as applicable. The notice shall be deemed served as of 5:00 p.m. on the following business day after deposit of same with the United States mails. Saturday and Sunday shall not be business days for this purpose, or

(c) Posting the notice of intention to impound on or about the vehicle in a conspicuous place. The notice shall be deemed served twelve (12) hours after it is so posted.

The notice of intention to impound shall contain the following information:

- (1) a statement that the vehicle and its contents will be impounded;
- (2) the reason(s) for the impoundment (i.e., abandoned, unattended);
- (3) the date and time at which the vehicle becomes subject to actual impoundment;
- (4) an address and telephone number where information may be obtained regarding the vehicle upon its actual impoundment;
- (5) the manner in which the notice is served (i.e., physical delivery, mailing, posting);
- (6) the date and time of the physical delivery, mailing, or posting of the notice, as applicable;
- (7) the citing officer's name and badge number and date of his signing of the notice; and
- (8) any other information as may be from time to time required by the Police Commissioner.

Notice of intention to impound may be served only by an on-duty Tribal Police Officer. The officer making the service shall promptly prepare and execute an affidavit indicating the date, time, and place of execution of the notice of intention to impound and the date, time, and place, upon whom, and in what manner it was served, attaching a copy of the notice as an Exhibit to the affidavit. The affidavit and attached Exhibit shall be filed with the Tribal

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Court in any proceeding involving the impoundment or where deemed otherwise relevant.

Any notice served prior to actual impoundment pursuant to this Section shall not be deemed notification as may be required under any other Section of this Ordinance.

Section 5-108. When a vehicle has been impounded, the Tribal Police Department or other agency designated by the Tribal Council promptly shall:

(a) make reasonable effort to determine the names and addresses of all parties who own, are entitled to possession, or otherwise have an interest in that vehicle; and

(b) make reasonable effort to notify all such parties of the impoundment.

Section 5-109. Any parties having any such interest in an impounded vehicle shall have thirty (30) days after notification of the impoundment in which to claim said vehicle by payment of the actual costs of movement of it to the impoundment area and any storage fee charged by any private or government service used for storage, plus an impoundment fee of Three Dollars (\$3.00) for each day or fraction thereof said vehicle is impounded. However, if it is determined that an impounded vehicle has been stolen, the impoundment fee shall not be charged but only the actual costs of moving the vehicle to the impoundment area and of storing it there.

Section 5-110. An impounded vehicle shall become the property of the Colorado River Indian Tribes, to be retained or disposed of at the direction of the Tribal Police Department or other agency designated by the Tribal Council under either of the following circumstances:

(a) If it is not claimed on or before the thirtieth (30th) day following notification of any party determined to have an interest in the vehicle; or

(b) If it is not claimed on or before the sixtieth (60) day following impoundment, if, after reasonable effort, it cannot be determined who has an interest in the vehicle, or no party determined to have such an interest can be notified.

Section 5-111. Any question of entitlement of a party to claim an impounded vehicle shall be referred to the Tribal Court and the impounded vehicle shall not be disposed of until the matter is resolved by final court order.

Section 5-112. An impoundment of a vehicle commences when a member of the Tribal Police Department orders it, and it is completed upon the placing of the vehicle within the impoundment area. All impoundments once commenced under this Ordinance shall be completed and all fees and charges fully paid before the vehicle is released to any party with an interest therein.

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Section 5-113. Nothing herein shall affect or apply to the seizure and forfeiture of a vehicle pursuant to Section 354, Chapter F, Article III, of the Law and Order Code.

Section 5-114. The driver, operator or attendant of a vehicle impounded under Section 5-103(b) hereof shall have the right and opportunity to remove the contents of the vehicle upon commencement of the impoundment. The contents of a vehicle impounded under Section 5-102 or Section 5-103(a) or Section 5-104 hereof shall be impounded and disposed of in the same manner as the vehicle, except as otherwise may be required or authorized for prosecution of violation of law. A notification of impoundment or intent to impound a vehicle shall be deemed to be a notification of impoundment or intent to impound the contents of the vehicle as well.

Section 5-115. The Colorado River Indian Tribes and its agencies and representatives shall not be responsible or liable for any loss of or any damages resulting from the actual or intended impoundment of a vehicle and its contents.

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