

BAD RIVER BAND OF LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS

CHIEF BLACKBIRD CENTER

P.O.Box 39 • Odanah, Wisconsin 54861

Resolution No. 3-3-10-173

Adopting a Motor Vehicle Code

WHEREAS, the Bad River Band of the Lake Superior Tribe of Chippewa Indians is a federally recognized Indian tribe with a Constitution enacted pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. Section 476; and

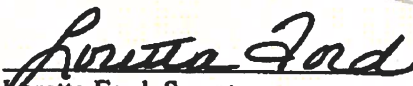
WHEREAS, Article VI, Section 1(q) of the Bad River Constitution authorizes the Tribal Council to promulgate and enforce ordinances governing the conduct of members of the Bad River Tribe, and of non-members of the Reservation providing for the maintenance of law and order; and

WHEREAS, the Tribal Council has reviewed and discussed the Motor Vehicle Code attached hereto as Exhibit "A", and has determined that adoption of the Code is in the best interests of all persons residing within the Bad River Reservation.

NOW, THEREFORE, BE IT RESOLVED that the Bad River Tribal Council hereby adopts the Motor Vehicle Code as attached to this Resolution, effective 4-9-10.

Certification

I, the undersigned, as Secretary of the Bad River Band of Lake Superior Tribe of Chippewa Indians, an Indian Tribe organized under Section 16 of the Indian Reorganization Act, hereby certify that the Tribal Council is composed of seven members, of whom 7 members, constituting a quorum, were present at a meeting hereof duly called, noticed, convened, and held on the 3 day of March, 2010; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of 6 members; 0 against; and 0 abstaining, and that the said resolution has not been rescinded or amended.


Loretta Ford, Secretary
Bad River Tribal Council

Bad River Tribal Court Code
Chapter 1450 - Motor Vehicle Code

Scope and Purpose.

- (1) This code is applicable to all persons within the exterior boundaries of the Bad River Band of Lake Superior Chippewa Reservation.
- (2) The purpose of this code is to govern the activities of all persons within the exterior boundaries of the Bad River Band of Lake Superior Chippewa Reservation with respect to motor vehicles owned or operated on the reservation by incorporating and applying state law to such activities.

Definitions.

- (1) The definitions contained in Chapter 340 of the Wisconsin Statutes are hereby incorporated by reference as if fully set forth herein.
- (2) As used in this ordinance:
 - (a) "Member" means a person enrolled or eligible for enrollment in the Bad River Band of Lake Superior Indians.
 - (b) "Non-criminal" means punishable by forfeiture or loss of privileges and not by fine or imprisonment.
 - (c) "Reservation" means the area within the exterior boundaries of the Bad River Band of Lake Superior Indians.
 - (d) "Tribe" means the Bad River Band of Lake Superior Indians.
 - (e) "Tribal Court" means the Bad River Tribal Court.

Rules of the Road.

- (1) No person may operate a motor vehicle on the reservation in violation of the rules of the road contained in Chapter 346 of the Wisconsin Statutes.

Adopted pursuant to Bad River Resolution #03-03-10-173
EFFECTIVE 04-09-2010

- (2) No person may operate a vehicle on the reservation in violation of a traffic regulation adopted by a local authority pursuant to the powers conferred upon such local authority by Chapter 349 of the Wisconsin Statutes. The Program Manager of the Tribal Roads Department is hereby authorized to set and post speed limits on all tribally maintained roads. No person may operate a motor vehicle on such tribally maintained roads in excess of any speed limit posted.

Equipment of Vehicles.

No person may operate a motor vehicle on the reservation in violation of the vehicle equipment provisions in Chapter 347 of the Wisconsin Statutes.

Size, Weight, and Load.

- (1) No member may operate a motor vehicle on the reservation in violation of the vehicle size, weight, and load provisions contained in Chapter 348 of the Wisconsin Statutes.
- (2) The Program Manager of the Tribal Roads Department is hereby authorized to set and post size, weight, and load limits on all tribally maintained roads. No person may operate a motor vehicle on such tribally maintained roads in violation of any limits so posted.

Jurisdiction and Procedure.

- (1) Jurisdiction is hereby conferred upon the Tribal Court over prosecutions for violations of this Code.
- (2) Proceedings for violation of this Code shall be governed by Section 2 of the Tribal Court Code, Tribal Code Chapters 101-123, provided, that proceedings may be instituted by issuance of a Wisconsin uniform traffic citation pursuant to Wisconsin Statutes Sec. 345.11 citing a violation of the state law provision incorporated into this Code by reference.

Enforcement and Penalties.

- (1) The provisions of this Code shall be enforced by all Tribal law enforcement officers. In addition, every officer empowered by the laws of the State of Wisconsin to issue uniform citations for violation of Wisconsin traffic regulations is hereby authorized to enforce this Code and issue citations to Tribal Court.
- (2) Violations of the provisions of this Code shall be punishable by a civil remedial money penalty of no more than the lesser of \$500.00 or the maximum forfeiture authorized by state law for the offense.
- (3) In addition to a civil remedial money penalty, the Tribal Court shall suspend or revoke driving privileges on the reservation in accordance with Wisconsin Statutes Sec. 343.25 through 343.40, provided, that no demerit points resulted from the action of a state court for an incident which occurred on the reservation.
- (4) Notice of any conviction under this Code shall be sent by the Clerk of Court to the Wisconsin Department of Transportation.
- (5) In addition to a civil remedial money penalty, the court upon conviction shall order payment of court costs in the amount of \$25.00 and justice system surcharge/court support system surcharge (25% of civil remedial money penalty).

HISTORY NOTE:

A resolution to create a motor vehicle code of the Tribal Court Code; relating to: the activities of persons within the boundaries of the reservation with respect to motor vehicles.

Cases: County of Vilas v. Chapman, 122 Wis. 2d 211, 361 N.W. 2d-699 (1985) (state has non-criminal traffic jurisdiction over members of the Lac du Flambeau Band of Lake Superior Chippewa on reservation until the Tribe is enforcing its own code).

By this Code, the Tribe asserts its exclusive jurisdiction over the non-criminal activities of its members with respect to motor vehicles owned or operated by its members on the reservation and all persons on tribally maintained roads.

The Tribe asserts its concurrent jurisdiction over the non-criminal activities of non-members with respect to motor vehicles owned or operated by non-members on the reservation.

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The Tribal Council expressly determines that the activities of non-members with respect to motor vehicles, many of whom are residents of the Reservation or employees of the Tribe, directly effects the health and welfare of the Tribe's members, and the ability of the tribal government to carry on its operations in an orderly manner.

This Code incorporates and applies state law in effect at the time of adoption. Any changes in state law shall automatically be incorporated and applied in this Code. It is contemplated that the governing body of the Tribe shall periodically review any changes in state law and reject any changes that do not further the purposes of this Code.

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EFFECTIVE 04-09-2010

Bad River Police Commission

P.O. box 39
Odanah, WI 54806



MEMO

Tribal Citation adoption

To Whom It May Concern:

The Bad River Police Commission is in support of the Police Department efforts brought fourth by Police Chief Szwerek regarding the Tribal Council's adoption of the "State of Wisconsin Traffic codes", in part or in whole. This matter had been discussed in past commission meetings and had met with approval. This adoption would represent a first step towards greater tribal autonomy.

Thank you,

Bad River Police Commission:

Chair person: Linda Mayotte 3-03-10
Secretary: Pauline Gendron 3/3/10
Member: Herbert D. Rypus 3/3/10
Member: James L. Str 3/3/10
Member: Eric B. Blawie 3-3-10

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Distribution of Traffic Citation deposits and fines**
- 2. Bond book sample showing rates and divisions of citations, not current**
- 3. 2009 Citation reports for the Bad River Police Department, including \$
amounts**
- 4. 2008 Citation reports for the Bad River Police Department, including \$
amounts**