

MEMBERTOU BAND
CODE NO. 1997-1
BEING A CODE RESPECTING THE REGULATION OF TRAFFIC

[Effective February 22, 1997]

WHEREAS paragraphs 81(l)(b), (c), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5 empower the council of a band to make laws for the regulation of traffic, the observance of law and order, any matter ancillary thereto, and the imposition of a penalty for the violation thereof;

AND WHEREAS the Council of Membertou Band has determined that it is desirable and necessary for the protection of the people and the better administration of law and order on Membertou Band lands to establish a law to regulate traffic on those lands;

NOW THEREFORE, the Council of Membertou Band at a duly convened meeting of a quorum of the Council, without prejudice to but in express affirmation of its right of self-government hereby enacts the following by-law:

TITLE

1. This by-law may be called the *Membertou Band Traffic Code*.

DEFINITIONS

2. In this Code:

“Access Roads” means those roads on the reserve, other than reserve roads, ordinarily used for the passage of vehicles to and from a private residence which is located on lands occupied by a resident;

“Administrator” means the person appointed by the Council to act as Administrator of the *Membertou Band Traffic Code*;

“Certificate of Registration” means a certificate of registration or permit for a motor vehicle or trailer issued or accepted as valid under the laws of the Province of Nova Scotia;

“Council” means the Chief and Council of the Membertou Band;

“Driver” or “Operator” means a person who drives or is in actual physical control of a vehicle on a reserve road or access road whether the vehicle is in motion or not;

“Driver’s Licence” means a licence issued or accepted as valid under the laws of the Province of Nova Scotia to drive a motor vehicle on a highway;

“Liquor” includes

- (a) any alcohol, spirituous, vinous, fermented, malt or other intoxicating liquid or combination of liquids,
- (b) any mixed liquid that is partly spirituous, vinous or fermented and that is intoxicating,
- (c) all drinks or drinkable liquids that are intended for human consumption and are intoxicating, and
- (d) beer, cider and wine;

“Membertou Law Enforcement Officer” means a member of the Unamaki Tribal Police or a member of the Royal Canadian Mounted Police;

“Membertou Band” means the Membertou Band of Indians;

“Motor Vehicle” means a vehicle propelled by any power other than muscular power but does not include a bicycle, a tractor, or vehicles designed and adapted primarily for agricultural purposes;

“Parking” means the standing of a vehicle weather occupied or not, upon a reserve road, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to traffic regulations or traffic signs or signals;

“Reserve Roads” means those roads on the reserve which are ordinarily used for the passage or parking of vehicles but does not include access roads;

“Subsisting” means, when used in relation to a driver’s license, certificate of registration, or permit, one which had not, at the relevant time, expired or been suspended or cancelled or revoked by a competent authority;

“Traffic Control Device” means any sign, marker, mechanical or electrical device which is placed on a road for the purpose of regulating traffic;

“Vehicle” means a device in, on, or by which a person or thing is or may be transported or drawn on a reserve road.

APPLICATION

3. This code applies to the Membertou Band Indian Reserves numbered 29, 28A and 28B.

LICENSES

4. No person shall operate or drive a motor vehicle on a reserve road unless:

- (a) he holds a subsisting driver’s licence of a class appropriate to the category of the motor vehicle being driven or operated,

(b) a subsisting certificate of registration has been issued for the motor vehicle, and

(c) there is in force in respect of the motor vehicle or in respect of the driver of the motor vehicle, a motor vehicle liability insurance policy valid in the Province of Nova Scotia.

5. Every person shall have in his possession at all times while driving or operating a motor vehicle on a reserve road:

(a) his driver's licence;

(b) the certificate of registration for the vehicle;

(c) proof of a valid motor vehicle liability insurance policy for the motor vehicle or the driver.

6. No person shall operate a motor vehicle on the reserve at a time when his right to drive on the reserve has been suspended under section 56 of this Code.

7. No person holding a driver's license of a learner's category shall operate a motor vehicle other than as permitted by the category of the license.

SPEED LIMITS

8. No person shall operate a vehicle on a reserve road or an access road at a rate of speed in excess of 30 kilometres per hour.

9. The speed limitations set out in section 8 shall not apply to vehicles when operated with due regard to safety under the direction of a Membertou Law Enforcement Officer in the case or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire departments or fire patrol vehicles when travelling in response to a fire alarm, nor to public or private ambulances when travelling in emergencies and the drivers thereof sound an audible signal by bell, siren, or exhaust whistle.

TRAFFIC CONTROL DEVICES

10. Every driver shall obey traffic control devices erected on reserve roads, except where otherwise directed by a Membertou Law Enforcement Officer or a peace officer or a person authorized by the Administrator to direct traffic.

11. The Administrator may approve locations for the placing, erecting or marking of traffic control devices including the posting of speed limits and traffic zones at any location considered necessary for controlling and regulating traffic on the reserve.

YIELDING AND STOPPING

12. A driver about to enter or cross a reserve road at all uncontrolled intersection shall yield to traffic approaching from the right.

13. A driver intending to turn left across the path of any vehicle approaching from the opposite direction shall not make or attempt to make the left turn unless the turn can be completed in safety.

14. Before stopping a vehicle the driver

(a) shall signal his intention to do so, and

(b) shall give the signal in sufficient time to provide a reasonable warning to other persons of the intention of the driver.

15. A driver about to enter on any reserve road from a reserve road that is marked by a "Stop" sign or "Naqa'si" sign shall bring the vehicle to a stop before entering on the intersecting road and at a point no further than 3 metres from the intersecting road.

16. A driver about to enter a reserve road from an access road shall bring the vehicle to a stop before entering on the intersecting road and at a point no further than 3 metres from the intersecting road.

17. A driver who is required to stop pursuant to section 15 or 16, shall not proceed until the condition of the traffic on the road being entered on is such that it can be entered on in safety and the driver shall yield the right of way to all traffic approaching on the road.

18. A driver about to enter on any reserve road from a reserve road that is marked by a "Yield" sign shall yield the right of way to all traffic on the reserve road being entered on.

19. Sections 12, 15 and 16 shall not apply in the case of police and fire department vehicles nor to public or private ambulances when they are operating in emergencies and the drivers sound an audible signal by bell, siren, compression or exhaust whistle, but this section shall not operate to relieve the driver of a police or fire department vehicle from the duty to drive with due regard for the safety of all persons using the reserve road.

BACKING

20. No person shall back up a vehicle unless the movement can be made in safety and without interfering with other traffic on the reserve road.

PARKING

21. The Administrator may designate areas of reserve roads for the parking of vehicles or for the prohibition of parking of vehicles and may approve the placing, erecting and marking of parking traffic control devices.

22. The Administrator may issue permits for temporary parking on reserve roads.

23. No person shall park a vehicle on a reserve road unless there is room to pass and there is a clear view of the parked vehicle for a distance of 60 metres in either direction along the road.

24. No person shall park a vehicle in a location where parking is prohibited by a parking traffic control device.

25. No person shall park or leave standing a vehicle whether attended or unattended, upon a reserve road or any part thereof in such manner that it might interfere with or obstruct snow removal or winter maintenance operations on the reserve road.

WEIGHT RESTRICTIONS

26. The Administrator may establish weight restrictions for the vehicles using reserve roads and approve the posting of weight restriction traffic control devices.

27. The Administrator may issue permits for vehicles exceeding weight restrictions to use reserve roads.

28. No person shall operate a vehicle that exceeds a weight restriction established and posted on the reserve road being travelled on.

RULES OF THE ROAD

29.(1) When a Membertou Law Enforcement Officer considers it necessary

- (a) to ensure orderly movement of traffic,
- (b) to prevent injury or damage to persons or property, or
- (c) to permit proper action in an emergency,

he may direct traffic according to his discretion, notwithstanding anything in this Code.

(2) If a Membertou Law Enforcement Officer is not present at the scene of a fire or emergency, any member of a fire brigade present may exercise the powers of a peace officer under subsection (1).

30. No person shall drive a vehicle on a reserve road:

- (a) without due care and attention,
- (b) without reasonable care and consideration for other persons on the reserve road; or,
- (c) at a speed that is unreasonable relative to road, traffic, visibility or weather conditions notwithstanding any speed limit prescribed by or pursuant to this or any other law.

31. No person shall drive a vehicle to the left of the centre line of a reserve road except:

- (a) when overtaking and passing a stationary vehicle proceeding in the same direction;
- (b) when the right hand half of the roadway is closed to traffic or is obstructed by a parked vehicle or other object while under construction or repair;
- (c) where necessary because of the operation of road grading or snow removal equipment;

or

- (d) when a traffic control device otherwise requires or permits.

32. No driver shall pass or attempt to pass another moving vehicle travelling in the same direction on a reserve road or an access road.

33. No person shall drive to the left of the centre line of a reserve road in overtaking and passing a stationary vehicle or an obstruction unless

- (a) the left side is clearly visible, and
- (b) is free of oncoming and overtaking traffic,

for a sufficient distance to permit overtaking and passing to be completely made without interfering with the safe operation of another vehicle.

34.(1) Subject to section 33, a driver overtaking another vehicle

- (a) shall pass to the left of the other vehicle at a safe distance, and
- (b) shall not return to the right side of the road until safely clear of the overtaken vehicle whereupon he shall return to the right side of the road.

(2) A driver being overtaken by another vehicle

- (a) shall give way to the right in favour of the overtaking vehicle, and
- (b) shall not increase his speed until completely passed by the overtaking vehicle.

35. No driver shall overtake and pass on the right of another vehicle on a reserve road.

36. No driver shall follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles, the amount and nature of the traffic on the reserve road and the condition of the reserve road.

37. Before turning a vehicle to the left or right, the driver shall signal his intention to do so by giving a signal in sufficient time to provide reasonable warning to other persons of the intention of the driver.

38.(1) A driver intending to turn right from a reserve road onto another reserve road shall make the turn

- (a) by driving as closely as practicable to the right curb or edge of the reserve road while approaching the intersection and turning, and
- (b) on leaving the intersection by driving as closely as practicable to the right curb or edge of the reserve road then entered,

unless a traffic control device otherwise permits or directs.

(2) A driver approaching an intersection and intending to turn right shall, wherever practicable, drive his vehicle into the position required by this section at least 15 metres before reaching that intersection.

39.(1) A driver intending to turn left from a reserve road on to another reserve road shall make the turn

- (a) by driving to the right of and as closely as practicable to the centre line of the reserve road while approaching the intersection and turning, and
- (b) on leaving the intersection by driving to the right of and as closely as practicable to the centre line of the reserve road then entered,

unless a traffic control device otherwise directs or permits.

(2) A driver approaching an intersection and intending to turn left shall, wherever practicable, drive the vehicle into the position required by this section at least 15 metres before reaching that intersection.

40.(1) A driver shall not turn the vehicle so as to proceed in the opposite direction unless it can be done in safety and without interfering with other traffic.

(2) A driver shall not turn the vehicle so as to proceed in the opposite direction

- (a) on a curve, or
- (b) on the approach to or near the crest of a grade

where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within 150 metres.

41. When a flag man is stationed or a barricade or sign is erected on a reserve road to direct traffic in connection with any construction or other work on the road or adjacent to the road, every driver shall obey the directions given by the flagman or, if none, by the barricades or signs.

42. No driver shall convey or permit any passenger in the vehicle to convey liquor unless that liquor is in his luggage with his clothing and other necessities of

travel or in a place that is not within easy access of the driver and the liquor must be contained in a package that is capped, corked or otherwise closed.

DUTIES OF A DRIVER

43. A driver shall, immediately on being signalled or requested to stop by a Membertou Law Enforcement Officer, bring the vehicle to a complete stop and furnish any information respecting the driver or the vehicle that the officer requires and shall not start the vehicle until permitted to do so by the officer.

44. Every driver must produce or exhibit a driver's licence, registration and proof of motor vehicle liability insurance upon being requested by a Membertou Law Enforcement Officer to do so.

45.(1) When an accident occurs on a reserve road or access road, the driver or other person in charge of a vehicle that was directly or indirectly involved in the accident

- (a) shall remain at or immediately return to the scene of the incident;
- (b) shall render all reasonable assistance; and
- (c) shall produce in writing to any other driver involved in the accident or to anyone sustaining loss or injury and on request, to a Membertou Law Enforcement Officer, to a witness:
 - (i) the driver's name and address,
 - (ii) his driver's license number,
 - (iii) the name and address of the registered owner of the vehicle;
 - (iv) the registration number of the vehicle; and
 - (v) particulars of the motor vehicle liability insurance for the vehicle or the driver,

or any of that information that is requested.

(2) The driver of a vehicle that collides with an unattended vehicle on a reserve road or an access road shall stop and

- (a) shall locate and notify the person in charge of or the owner of the unattended vehicle of the name and address of the driver, the number of his driver's license, the name and address of the registered owner, the registration number of the vehicle and the particulars of the motor vehicle liability insurance for the vehicle or the driver; or
- (b) shall leave in a conspicuous place in or on the unattended vehicle a written notice giving the name and address of the driver, the number of his driver's license, the name and address of the registered owner of the vehicle,

the registration number of the vehicle striking the unattended vehicle and the particulars of the motor vehicle liability insurance for the vehicle or the driver.

(3) The driver of a vehicle involved in an accident resulting in damage to property on or adjacent to a reserve road, other than a vehicle under subsection (2), shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact and of the name and address of the driver, the number of his driver's license and the registration number of the vehicle.

(4) If the driver is incapable of providing the information required by subsection (1), (2), or (3) and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(5) If no information has been provided under subsection (1), (2), (3) or (4) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident provide the information.

(6) When the driver is alone, is the owner and is incapable of providing the information required by subsection (1), (2) or (3), he shall provide the information forthwith after becoming capable to do so.

(7) When a motor vehicle which has been involved in an accident is damaged to the extent that it cannot be moved under its own power, the registered owner or the operator of the motor vehicle, after having complied with subsections (1), (2) or (3), shall forthwith make arrangements for the motor vehicle to be removed from the reserve road or access road.

(8) If the registered owner or the operator of the motor vehicle fails to make or is incapable of making arrangements to move the vehicle as provided in subsection (7), a Membertou Law Enforcement Officer may make the arrangements on his behalf and the registered owner shall be notified of the disposition of the motor vehicle by the peace officer.

(9) When arrangements have been made by a Membertou Law Enforcement Officer pursuant to subsection (8), the motor vehicle shall be deemed to be an abandoned motor vehicle and is then subject to section 55.

46. When the driver of a vehicle or any other person damages or knocks down a traffic control device or a traffic sign of any kind, he shall forthwith report the damage to the nearest Membertou Law Enforcement Officer.

47.(1) Subject to subsection (2), when an accident on a reserve road or an access road results in injury or death to a person or in property damage apparently exceeding \$1,000.00, the driver shall forthwith report the accident to a Membertou Law Enforcement Officer and provide the report in writing if requested.

(2) If the driver is incapable of making the report required by subsection (1) and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(3) If no report has been made under subsection (1) or (2) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident make the report.

(4) When the driver is alone, is the owner and is incapable of making the report required by subsection (1), he shall make the report forthwith after becoming capable of making it.

SCHOOL BUS

48.(1) In this section, “school bus” means a vehicle on which are displayed the words “school bus”.

(2) When a school bus is displaying alternately flashing amber lights, the driver of a vehicle approaching the school bus shall, when approaching the school bus from the front or rear, reduce the speed of the vehicle so that if the vehicle passes the school bus, it does so in a cautious manner.

(3) When a school bus is displaying alternately flashing red lights, the driver of a vehicle approaching the school bus shall, when approaching the school bus from the front or rear, stop the vehicle before it reaches the school bus.

(4) When an approaching vehicle referred to in subsection (3) stops before reaching a school bus, the driver shall not pass the school bus until

(a) the operator of the school bus indicates by signal that the vehicle may proceed, or

(b) the alternately flashing red lights stop flashing

(5) The operator of a school bus shall

(a) activate the alternately flashing amber lights when he begins to slow down the school bus for the purpose of stopping on a reserve road to load or unload passengers, and

(b) activate the alternately flashing red lights and the stop arm when the school bus is stopped on a reserve road for the purpose of loading or unloading passengers.

EQUIPMENT

49. No person shall operate a motor vehicle or permit another person to operate a motor vehicle owned by him or under his control or in his charge, which is in a dangerous or unsafe condition, on any reserve road.

50. No person shall operate a motor vehicle or permit another person to operate a motor vehicle owned by him or under his control or in his charge on a reserve road without complying with all of the requirements of sections 51 and 52.

51. Every motor vehicle shall be in good mechanical condition and equipped with all equipment required by the Province of Nova Scotia for vehicles operated on a highway in the Province of Nova Scotia including, in particular:

- (a) front right and left head lights,
- (b) rear right and left brake signal lights,
- (c) front and rear right and left running lights,
- (d) front and rear right and left turn signal lights,
- (e) front and rear vehicle hazard warning lamps,
- (f) an adequate service brake and an adequate emergency or parking brake,
- (g) an adequate horn,
- (h) a self-operating windshield wiper system and a self-operating windshield washer system,
- (i) a securely attached rear view mirror and,
- (j) a speedometer.

52. Every trailer connected or attached to a motor vehicle shall have operating tail lamps capable of providing left and right running lights, turn signal lights and brake signal lights mounted on the rear of the trailer.

53. At any time either during the period from a half hour after sunset to a half hour before sunrise or when, due to insufficient light or unfavourable atmospheric conditions, objects are not clearly discernible on a reserve road at a distance of 150 metres ahead,

- (a) no motor vehicle shall be in motion on a reserve road or access road unless both headlamps are alight and are providing sufficient light to make objects on the reserve road or access road visible at a distance of at least 100 metres ahead in the case of the uppermost distribution of light and at least 30 metres in the case of the lowermost distribution of light;
- (b) no motor vehicle shall be in motion on a reserve road or an access road unless the tail lamps, side marker lamps, identification lamps and clearance lamps with which it is required to be equipped are alight.

SEATBELTS

54.(1) In this section,

(a) "child" means a child under the age of 6 years whose weight does not exceed 18 kilograms,

(b) "seat belt assembly" means a device or assembly that

(i) is securely fastened to a motor vehicle,

(ii) is composed of straps, webbing or similar material and includes a pelvic restraint or an upper torso restraint, or both,

(iii) is capable of restraining the movement of a person in order to prevent or mitigate injury to the person, and

(iv) meets the standards prescribed under the *Motor Vehicle Safety Act* (Canada).

(2) No person shall, on a reserve road, operate a motor vehicle in which a child is a passenger unless

(a) the motor vehicle is equipped with the prescribed child seating assembly,

(b) the child seating assembly is properly installed, and

(c) the child is occupying and is properly secured in the child seating assembly.

(3) Where a motor vehicle is operated on a reserve road and it is equipped with a seat belt assembly

(a) in the seating position that is occupied by the driver, the driver shall wear the complete seat belt assembly, and

(b) in a seating position that is occupied by a passenger over the age of 15 years, the passenger shall wear the complete seat belt assembly.

(4) No person shall, on a reserve road, operate a motor vehicle in which a passenger

(a) who has attained the age of 6 years but is under the age of 16 years, or

(b) who is a child weighing more than 18 kilograms

occupies a seating position for which a seat belt assembly is provided unless that passenger is wearing the complete seat belt assembly.

(5) A person who is required under subsection (3) or (4) to wear a seat belt assembly shall wear the seat belt assembly properly adjusted and securely fastened.

(6) No person shall, with respect to a seat belt assembly in a motor vehicle, remove it, render it partly or wholly inoperative or modify it so as to reduce its

effectiveness, if the motor vehicle was equipped with the seat belt assembly at the time it was manufactured as required by the *Motor Vehicle Safety Act* (Canada) and the regulations under that Act.

(7) No person shall, on a reserve road, operate a motor vehicle that was equipped with a seat belt assembly at the time it was manufactured as required by the *Motor Vehicle Safety Act* (Canada) and the regulations under that Act if the seat belt assembly has been removed, rendered partly or wholly inoperative or modified so as to reduce its effectiveness.

(8) This section does not apply to

- (a) a person who is unable to wear a seat belt or child restraint system because of the person's size, build or other physical characteristic, in respect of the use of a seat belt by that person;
- (b) a person who in the opinion of a legally qualified medical practitioners is unable to wear a seat belt or child restraint system for medical reasons, in respect of the use of a seat belt by that person;
- (c) a peace officer engaged in the lawful performance of his duty;
- (d) a fireman while in or on a fire department vehicle;
- (e) a driver operating a taxicab for hire, in respect of the use of a seat belt by the driver or a passenger;
- (f) a medical attendant in an ambulance transporting a patient;
- (g) a person while engaged in work which requires the person to leave and enter his seating position in the vehicle at frequent intervals.

IMPOUNDING OF VEHICLES

55.(1) When a vehicle is standing or parked on a reserve road, whether attended or unattended:

- a) in a position that causes it to interfere with the normal flow of traffic on the road,
- b) in a position that causes it to interfere with removal of snow on the road,
- c) in a position that causes it to interfere with fire fighting or emergency vehicles,
- d) having been abandoned on the reserve road for a period of 72 hours or is, in the opinion of a Membertou Band Law Enforcement Officer, likely to be vandalized, or
- e) is parked contrary to prohibition by a traffic control device,

a Membertou Law Enforcement Officer may:

- a) move the vehicle, or require the driver or person in charge of the vehicle to move it, to a position determined by the Membertou Law Enforcement Officer, or
- b) take the vehicle into custody and cause it to be taken to and stored in a suitable place.

(2) All costs and charges for the removal and care or storage of the vehicle removed under this Code shall be paid by the owner of the vehicle, and shall be a lien on it in favour of the keeper of any repair shop, garage or storage place where that vehicle is stored.

SUSPENSION

56.(1) When a Membertou Law Enforcement Officer reasonably suspects that the driver of a motor vehicle has consumed alcohol or otherwise introduced into his body any alcohol, drug or other substance in such a quantity as to affect the driver's physical or mental ability, the officer may require the driver to surrender his operator's license to him.

(2) The request of a Membertou Law Enforcement Officer under subsection (1) suspends any operator's license belonging to the driver to whom the request is made and the driver shall forthwith surrender any such license to the officer, but the refusal or other failure of the driver to do so does not affect the suspension.

(3) If a driver who has been required under subsection (1) to surrender his operator's license is not the holder of an operator's license, the request disqualifies the driver from holding an operator's license.

(4) A suspension or disqualification arising pursuant to this section terminates on the expiration of 24 hours from the time the suspension or disqualification arose.

(5) Notwithstanding subsection (4), when the suspension or disqualification involves alcohol and

- (a) the driver voluntarily undergoes a test using an instrument approved for such purposes by the *Criminal Code* (Canada) at a place designated by the Membertou Law Enforcement Officer and the test indicates that the proportion of alcohol in the driver's blood does not exceed 80 milligrams in 100 millilitres of blood, or
- (b) the driver produces to the Membertou Law Enforcement Officer a certificate signed by a physician stating that the driver's blood, as tested by the physician after the commencement of the suspension or disqualification, did not contain more than 80 milligrams of alcohol in 100 millilitres of blood,

the Membertou Nation Law Enforcement Officer shall thereupon return the driver's license, if any, to the driver and the suspension or disqualification thereupon terminates.

(6) This section does not apply to a case arising out of the circumstances described in subsection (1) when a Membertou Law Enforcement Officer decides to lay an information against the driver alleging that the driver has, in contravention of the *Criminal Code* (Canada), committed any offence involving the actual driving of or care and control of a motor vehicle by the driver and

- (a) the condition of the driver or the amount of alcohol in his blood, as the case may be, resulting from the consumption of alcohol, or
- (b) the condition of the driver resulting from the introduction by him into his body of any drug or other substance.

OTHER PROHIBITIONS

57. No person shall remove, attempt to remove, deface, destroy or interfere with any traffic control device placed in accordance with this code.

58. No person shall drive a motor vehicle on a reserve road or an access road if the view through the windshield or windows is so obscured by mud, frost, steam or any other thing as to make the driving of the vehicle hazardous or dangerous.

59.(1) No driver shall permit any person to occupy the front seat of the vehicle in such a manner as to impede the driver in the free and uninterrupted access to and use of the steering wheel, brakes and other equipment required to be used for the safe operation of the vehicle on a reserve road, nor shall any driver permit any person in the vehicle to cause any obstruction to his clear vision in any direction.

(2) No person shall ride in a position in a motor vehicle that interferes with the driver's control over the driving mechanism of the vehicle or that obstructs his clear vision in any direction.

(3) When a motor vehicle is in motion, the driver shall not exchange places with any other person and no person shall exchange places with the driver.

60.(1) No person shall occupy or permit any other person to occupy a house trailer while it is being moved on a reserve road.

(2) In this section "house trailer" means a vehicle capable of being attached to and drawn by a motor vehicle and designed, constructed or equipped as a dwelling place, living abode or sleeping place.

61. No person shall ride or permit any other person to ride on the outside of a motor vehicle.

62. No person shall cling to or attach himself or his bicycle, motorcycle, coaster, sled, roller skates, skis or any toy vehicle to any moving vehicle upon a

reserve road nor shall the driver of any such moving vehicle allow or permit any such person to cling to or attach himself or his vehicle to the moving vehicle.

63.(1) A person who removes a wrecked or damaged vehicle from a reserve road shall remove glass or any other injurious substance or thing dropped on the reserve road from the vehicle.

(2) A person who removes a wrecked or damaged vehicle from a reserve road without removing glass or any other injurious substance or thing dropped on the reserve road from the vehicle is guilty of an offence.

64.(1) No person shall open the door of a motor vehicle unless it is reasonably safe to do so.

(2) No person shall leave a door open on a motor vehicle where it may constitute a hazard to moving traffic.

65. No person other than a Membertou Law Enforcement Officer shall use, interfere or tamper with any motor vehicle or any of its accessories or any thing placed in or on it, without the consent of the owner.

66. No person shall throw any object at a motor vehicle or at a person in a motor vehicle on a reserve road which may cause damage to such vehicle or injury to any person therein.

67. No person shall throw or otherwise deposit on a reserve road any litter, refuse, garbage, rubbish or other matter.

68. No person shall start, drive, turn or stop any motor vehicle, or accelerate the vehicle engine while the vehicle is stationary, in a manner which causes any loud and unnecessary noise in or from the engine, exhaust system, braking system or from the contact of the tires with the roadway.

69. No person shall operate a motor vehicle on a reserve road in a manner that unduly disturbs the residents of the reserve.

BICYCLES, MOTOR CYCLES, SNOWMOBILES, OFF-ROAD VEHICLES

70. No person shall operate a snowmobile or off-road vehicle on a reserve road or on any residential property on the reserve other than the property where his residence is located.

71. Unless the context otherwise requires, a person operating a bicycle or a motorcycle on a reserve road has all the rights and is subject to all of the duties of a driver under this code.

72.(1) No person shall operate a bicycle, motor cycle, snowmobile or off-road vehicle anywhere on the reserve unless he is wearing an approved safety helmet securely attached on his head.

(2) No person shall ride as a passenger on a motor cycle, snowmobile or off-road vehicle anywhere on the reserve unless he is wearing an approved safety helmet securely attached on his head.

(3) No person shall operate a motor cycle, snowmobile or off-road vehicle anywhere on the reserve on which a passenger is riding unless the passenger is wearing an approved safety helmet securely attached to his head.

73.(1) A motor cycle, bicycle, snowmobile or off-road vehicle operated anywhere on the reserve during the period from a half hour after sunset to a half hour before sunrise shall be equipped with

- (a) at least one lighted headlamp but not more than 2 headlamps,
- (b) at least one lighted red tail lamp, and
- (c) at least one red reflector mounted on the rear.

(2) No motorcycle or bicycle shall be operated on a reserve road unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

PENALTIES

74. Any person who violates any of the provisions of this Code , other than those offences for which specific penalties have been provided, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand dollars (\$1000.00), imprisonment for a term not exceeding 30 days, or both fine and imprisonment.

75. In addition to any penalties imposed under section 74, a person convicted of an offence under sections 57 or 66 may be liable to an order of restitution imposed at the discretion of the court for the amount of the damages caused by the commission of the offence.

76. Any person who violates any of the provisions of this Code listed in Appendix I to this Code shall be guilty of an offence and shall be liable on conviction to a fine according to the specified penalties set out in Appendix I and in default of payment to a term of imprisonment not exceeding 15 days.

EVIDENCE

77. A court of law may take notice of this Code if it is certified in writing by the Chief, a Councillor or the chief administrative officer of the Membertou Band to be a validly enacted Code of the Membertou Band.

78. In a prosecution for a contravention of section 4, the onus of proof is on the driver to prove that he has a subsisting driver's licence and that there was in

force at the time of the alleged offence, a valid motor vehicle registration certificate and a motor vehicle liability insurance policy.

79.(1) The owner of a motor vehicle which is involved in any contravention of this Code is guilty of an offence unless he proves to the satisfaction of the judge that at the time of the offence the motor vehicle was not being driven or was not parked or left by him or by any other person with his consent, express or implied.

(2) Notwithstanding subsection (1), if the owner was not at the time of the offence driving the motor vehicle he is not in any event liable to imprisonment.

80.(1) In any prosecution under this Code, a certificate

(a) stating the result of a test of

(i) the speedometer of a motor vehicle identified in the certificate,

(ii) a tuning fork identified in the certificate and used for determining the accuracy of a radar set, or

(iii) any other device identified in the certificate and used for or in connection with establishing the speed of vehicles,

(b) bearing a date on it not more than,

(i) in the case of a tuning fork, one year before or after the date of the offence charged, or

(ii) in the case of a speedometer or other device used for or in connection with establishing the speed of vehicles, 30 days before or after the date of the offence charged, and

(c) purporting to be signed by a tester appointed under the laws of the Province of Nova Scotia to test devices of the type stated to have been tested,

shall be admitted in evidence as prima facie proof of the facts stated in the certificate without proof of the signature or appointment as a tester of the person signing the certificate.

(2) In any prosecution under this Code, a certificate purporting to be signed by a meteorologist and stating the time of sunrise or the time of sunset in any area on any day shall be admitted in evidence as prima facie proof of the facts stated in the certificate, without proof of the signature or qualifications of the person signing the certificate.

81. In any prosecution under this Code, the existence of a traffic control device is prima facie proof that the device was properly designated and erected by the proper authority without other or further proof thereof.

82. A report of any area, zone or road designation, speed posting or provision of this Code shall be accepted as evidence in a court of law if it is certified in writing to be true by the Administrator.

ENFORCEMENT

83. A Membertou Law Enforcement Officer who finds any person committing, or has reasonable and probable grounds to believe has recently committed an offence against any of the following provisions may arrest that person without a warrant.

- a) relating to the speed of the motor vehicle;
- b) relating to the requirement that the driver stop on the direction of a Membertou Law Enforcement Officer;
- c) relating to the driver of a motor vehicle operating his vehicle without due care and attention on a reserve road; and
- d) relating to the driver of a motor vehicle operating his vehicle without reasonable consideration for persons on a reserve road.

84. A Membertou Law Enforcement Officer who observes the commission of an offence of the kind enumerated in section 83, or who has reasonable and probable grounds to believe that an offence of the kind enumerated in section 83 has recently been committed, may seize and detain a motor vehicle in respect of which the offence has been committed and the vehicle shall be held in accordance with section 55.

PROSECUTIONS

85. In addition to the summary conviction procedures set out in the *Criminal Code* (Canada), proceedings under this Code may also be conducted according to the provisions of the *Proceedings Act*, Revised Statutes of Nova Scotia, 1989, Chapter 450, any Regulations enacted pursuant to that Act and any amendments to that Act or Regulations.

APPENDIX I

SECTION	OFFENCE	OUT OF COURT SETTLEMENT
4. (a)	Operating a motor vehicle without a valid driver's licence	\$ 78.75
(b)	Operating an unregistered motor vehicle	\$ 107.50
(c)	Operating a motor vehicle without a valid public liability insurance policy	\$ 337.50
6.	Operating a motor vehicle on reserve when this right has been suspended under section 52	\$ 337.50
7.	Operating a motor vehicle contrary to the conditions or learner's class driver's licence	\$ 107.50
8.	Driving in excess of posted speed limit	\$ 107.50
10.	Failing to obey traffic control device	\$ 78.75
12.	Failing to yield at all uncontrolled intersection	\$ 78.75
13.	Failing to make left turn in safety	\$ 78.75
14.(a)	Failing to signal intention to stop	\$ 78.75
14.(b)	Failing to signal stop in sufficient time	\$ 78.75
15.	Failing to stop at stop sign	\$ 78.75
16.	Failing to stop before entering on a reserve road	\$ 78.75
17.	Entering road not in safety	\$ 78.75
18.	Failing to obey yield sign	\$ 78.75
20.	Unsafe backing	\$ 78.75
23.	Unsafe parking	\$ 78.75
24.	Parking in prohibited area	\$ 78.75
25.	Parking obstructing snow removal	\$ 78.75
28.	Operating a vehicle exceeding posted weight restriction	\$ 107.50
30.(a)	Driving without due care and attention	Court
(b)	Driving without reasonable care and consideration	Court
(c)	Driving at unreasonable speed	Court
31.	Unlawful driving to the left of the centre line	\$ 78.75
32.	Unlawful passing	\$ 107.50
33.	Unsafe driving to the left of the centre line when overtaking and passing a vehicle	\$ 78.75
34.(1), (2)	Unsafe passing(specify)	\$ 78.75

35.	Unlawful overtaking or passing vehicle on the right	\$ 78.75
36.	Following too closely	\$ 78.75
37.	Failing to signal turn in sufficient time	\$ 78.75
38.	Improper right turn	\$ 78.75
39.	Improper left turn	\$ 78.75
40.(1)	Turning to proceed in opposite direction not in safety	\$ 78.75
(2)	Turning to proceed in opposite direction with less than 150 metres visibility	\$ 78.75
41.	Failing to obey flagman or barricades during construction	\$ 78.75
42.	Unlawful conveyance of liquor	\$ 107.50
43.	Failing to obey peace officer (specify directions disobeyed)	\$ 78.75
44.	Failing to produce a driver's licence, registration or insurance (specify)	\$ 78.75
45.(1)(a)	Failing to remain at or immediately return to scene of accident	Court
(b)	Failing to provide reasonable assistance	Court
(c)	Failing to provide information (specify)	Court
(2)	Failing to stop and leave a notice after collision with unattended vehicle	Court
(3)	Failing to notify owner of property damage	Court
(4)	Occupant failing to provide information	Court
(5)	Owner failing to provide information	Court
(6)	Driver failing to provide information after becoming capable	Court
46.	Failing to report damage to traffic control device (specify)	Court
47.(1)	Failing to report an accident	Court
(2)	Occupant failing to report accident	Court
(3)	Owner failing to report accident	Court
(4)	Driver failing to report accident after becoming capable	Court
48.(2)	Failing to proceed with caution when passing a school bus displaying flashing amber lights	\$ 107.50
(3)	Failing to stop for school bus displaying flashing red lights	\$ 337.50

(4)(a)	Passing a school bus before the operator of the bus has signalled the motorist to do so	\$ 337.50
(b)	Passing a school bus before the flashing red lights have stopped flashing	\$ 337.50
(5)(a)	Failing to activate the alternately flashing amber lights when slowing	\$ 107.50
(b)	Failing to activate the flashing red lights and the stop arm when stopped	\$ 337.50
49.	Operating or permitting operation of dangerous or unsafe motor vehicle	\$ 135.00
50.	Failing to comply with any requirements of sections 48 and 49 (specify)	\$ 78.75
53.(a)	Operating vehicle without headlights when required to do so	\$ 107.50
(b)	Operating vehicle without accessory lights when required to do so	\$ 78.75
54.(2)	Operating a motor vehicle in which child passenger not properly secured	\$ 78.75
(3)	Driver or passenger not wearing available seat belt	\$ 78.75
(4)	Operating motor vehicle while passenger under the age of 16 years not wearing available seat belt	\$ 78.75
(5)	Failing to wear seat belt assembly properly adjusted and securely fastened	\$ 78.75
(6)	Removing or modifying seat belt assembly	\$ 107.50
(7)	Operating motor vehicle in which the seat belt assembly, has been removed or modified	\$ 107.50
57.	Interference with traffic control device	\$ 107.50
58.	Driving motor vehicle with view obscured	\$ 78.75
59.(1)	Permitting person to impede driver	\$ 78.75
(2)	Interfering with driver	\$ 78.75
(3)	Exchanging places while vehicle in motion	\$ 78.75
60.(1)	Occupying house trailer in motion	\$ 78.75
61.	Riding on outside of motor vehicle	\$ 78.75
62.	Attaching to moving vehicle	\$ 78.75
63.(2)	Failing to remove injurious substance from road	\$ 135.00
64.(1)	Opening door of motor vehicle when unsafe	\$ 78.75

(2)	Leaving door of motor vehicle open when unsafe	\$ 78.75
65.	Tampering with motor vehicle without consent of owner	\$ 135.00
66.	Throwing object at motor vehicle	\$ 337.50
67.	Throwing litter on reserve road	\$ 135.00
68.	Creating unnecessary noise with motor vehicle	\$ 135.00
69.	Operating motor vehicle in disturbing manner	\$ 135.00
70.	Operating snowmobile/off-road vehicle on reserve road/residential property	\$ 135.00
72.(1)	Operator not wearing helmet	\$ 78.75
(2)	Passenger not wearing helmet	\$ 78.75
(3)	Operating (specify) when passenger not wearing helmet	\$ 78.75
73.(1)	Operating (specify) without prescribed equipment	\$ 107.50
(2)	Operating motor cycle or bicycle without proper brake	\$ 107.50

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Membertou Band this 13th day of January, 1997.

Voting in favour of the by-law are the following members of the Council

Chief Terrance Paul

Julie Christmas

Allister Matthews

Roy Gould

David Marshall

Blair Paul

Anthony Paul

Dan Christmas

Darrell Bernard

being the majority of those members of the Council of the Membertou Band present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting:

I, Terrance Paul, Chief of the Membertou Band, do hereby certify that a true copy of the foregoing by-law was *mailed* to the Minister of Indian Affairs and Northern Development at the Atlantic Regional Office in Amherst, Nova Scotia pursuant to subsection 82(1) of the *Indian Act*, this 13th day of January, 1997.

(Witness)

Chief Terrance Paul

MEMBERTOU BAND TRAFFIC CODE
ENFORCEMENT PROCESS

1. Unamaki Tribal Police will investigate offences.
2. Where circumstances warrant, the police will lay a charge by issuing a Summary Offence Ticket under the authority of the *Membertou Traffic Code* and the *N.S. Summary Proceedings Act* or by serving an information and summons under the summary conviction provisions of the *Criminal Code*.
3. The defendant will have the following options:
 - (a) making a voluntary payment of the fine to the Provincial Court in Sydney,
 - (b) requesting an opportunity to participate in the fine option program to discharge the fine, or
 - (c) appearing in court to answer to the charge.
4. On his appearance in court, the defendant may:
 - (a) plead guilty and pay the fine or make arrangements to participate in the fine option program, or
 - (b) plead not guilty, and set a trial date.
5. A Crown Attorney from the N.S. Public Prosecution Service will be present at the first court appearance to deal with either a guilty plea, a not guilty plea or a request for an adjournment. Once a plea of not guilty has been entered, the Membertou Band will retain a private lawyer to prosecute the offence. For the moment, a local standing agent of the federal Department of Justice has been appointed to provide advice to the police and to represent the Membertou Band at the trial.
6. If the defendant is convicted at the trial, he may pay the fine or make arrangements to participate in the fine option program.