

## **TITLE 23 – TRAFFIC CODE**

### **CHAPTER 3 - SPEEDING**

*Legislative History: 23 T.O.C. Chapter 3, Speeding was enacted by Resolution No. 15-066, which also repealed Ordinance No. 52 – Speed Restrictions, and is effective June 9, 2015 except that Ordinance No. 52 shall remain in effect and govern the construction of and punishment for any offense defined in Ordinance No. 52 that was committed prior to the Effective Date.*

*Related 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.*

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## TITLE 23 – TRAFFIC CODE

### CHAPTER 3 – SPEEDING

#### Section 3101 Civil Offense; Payment by Mail; Bench Trials

- (A) Except as expressly provided otherwise, the offenses in this chapter are civil.
- (B) A person cited for a civil traffic offense may plead responsible and submit a fine payment to the Judicial Court by mail or in person without a hearing in accordance with written court procedures, provided that a person who does not pay the total fine shall appear before the Court. The citation shall be served with an accompanying form specifying the total fine for each offense and the process for making a fine payment or contesting the citation. A person who makes a payment exceeding the total amount of the fine may file a written motion for a refund within 90 days of making the payment.
- (C) A person charged with a civil traffic offense shall not be entitled to trial by jury.

#### Section 3102 Offenses

- (A) Citation format. The offenses appearing in this section may be cited as “T.O.C. 23-” followed by the appropriate offense number and, where applicable, paragraph and subparagraph reference.
- (B) Speeding Offenses

#### **§ 23-701. Reasonable and prudent speed; prima facie evidence; exceptions**

A. A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. A person shall control the speed of a vehicle as necessary to avoid colliding with any object, person, vehicle or other conveyance on, entering or adjacent to the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.

B. Except as provided in subsections C and D of this section or except if a special hazard requires a lesser speed or a lesser speed is posted, any speed in excess of the following speeds is prima facie evidence that the speed is too great and therefore unreasonable:

1. Fifteen miles per hour approaching a school crossing.
2. Twenty-five miles per hour in a business or residential district.
3. Sixty-five miles per hour in other locations.

C. The speed limits prescribed in this section may be altered in accordance with applicable law.

D. The maximum speed provided in this section is reduced to the speed that is reasonable and prudent under the conditions and with regard to the actual and potential hazards then existing, including the following conditions:

1. Approaching and crossing an intersection or railroad crossing.
2. Approaching and going around a curve.
3. Approaching a hillcrest.
4. Traveling on a narrow or winding roadway.
5. A special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

E. A person shall not drive a motor vehicle at a speed that is less than the speed that is reasonable and prudent under existing conditions unless the speed that is reasonable and prudent exceeds the maximum safe operating speed of the lawfully operated farm tractor or other implement of husbandry.

**§ 23-701.02. Excessive speeds; criminal offenses**

A. A person shall not:

1. Exceed thirty-five miles per hour approaching a school crossing.
2. Exceed the posted speed limit in a business or residential district by more than twenty miles per hour, or if no speed limit is posted, exceed forty-five miles per hour.
3. Exceed eighty-five miles per hour in other locations.

B. A person who violates subsection A of this section is guilty of a criminal offense and is subject to a fine in accordance with the Speeding Fine Schedule, incarceration for not more than 30 days, and the additional remedies provided in the Criminal Code of the Tohono O’odham Nation, 7 Tohono O’odham Code Chapter 1, as may be amended.

C. A person charged with a criminal violation of this section may not be issued a civil complaint for a violation of § 23-701 if the civil complaint alleges a violation arising out of the same circumstances.

**§ 23-704. Minimum speed limits; requirement to turn off roadway**

A. A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when either of the following applies:

1. Reduced speed is necessary for safe operation or in compliance with law.
2. The reasonable flow of traffic exceeds the maximum safe operating speed of the lawfully operated farm tractor or other implement of husbandry.

B. If a person is driving a vehicle at a speed less than the normal flow of traffic at the particular time and place on a two-lane highway where passing is unsafe, and if five or more vehicles are formed in a line behind the vehicle, the person shall turn the vehicle off the roadway at the nearest place designated as a turnout, or wherever sufficient area for a safe turnout exists, in order to permit the vehicles following to proceed.

**§ 23-797. School crossings; civil penalty; definition**

A. The school district governing board may mark or cause to be marked crosswalks in front of each school building or school grounds abutting the locations where children are required to cross the highway or street.

B. The Tohono O’odham Department of Public Safety (“TODPS”) director may approve additional crossings across highways within the Nation’s jurisdiction that are not abutting on school grounds on application of school authorities and with written satisfactory assurance given to the TODPS director that guards will be maintained by the school district at the crossings to enforce the proper use of the crossing by school children.

C. School crossings and crosswalks, markings, and signs shall be consistent with the manual prescribed in Arizona Revised Statutes § 28-641.

D. When the school crossings are established, school authorities shall place within the highway the portable signs indicating that school is in session. This placement shall be not more than three hundred feet from each side of the school crossing. In addition, portable signs indicating that the driver shall stop when children are in the crosswalk shall be placed at school crossings. School authorities shall maintain these signs when school is in session and shall cause them to be removed within one hour after the end of a school session.

E. Notwithstanding any other law:

1. The TODPS director may approve a school crossing on an unpaved highway or street adjacent to a school when the director determines the need for the school crossing on the basis of a traffic study. School crossings on unpaved highways and

streets shall be marked by the use of signs as prescribed in the manual prescribed in Arizona Revised Statutes § 28-641.

2. The TODPS director may approve a school crossing at an intersection containing a traffic control signal if the director determines the need for a school crossing on the basis of a traffic study.

F. A vehicle shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating that there shall be no passing, that school is in session and that the driver shall stop when children are in the crosswalk.

G. When a school authority places and maintains the required portable signs indicating that there shall be no passing, that school is in session and that the driver shall stop when children are in the crosswalk, all vehicles shall come to a complete stop at the school crossing when the crosswalk is occupied by a person.

H. A vehicle approaching the crosswalk shall not proceed at a speed of more than fifteen miles per hour between the portable signs placed on the highway indicating that there shall be no passing, that school is in session, that the driver shall stop when children are in the crosswalk and that the civil penalty will double.

I. When a school authority places and maintains the required portable signs indicating that there shall be no passing, that school is in session, that the driver shall stop when children are in the crosswalk and that the civil penalty will double, all vehicles shall come to a complete stop at the school crossing when a person is in the crosswalk.

J. If a person is found responsible for a violation of subsection F or G of this section, the person is subject to a civil penalty.

K. If a person is found responsible for a violation of subsection H or I of this section, the person is subject to a civil penalty double the amount assessed for a violation of subsection F or G of this section in accordance with the amount specified in Section 3105.

L. For the purposes of this section, “school is in session”, when used either in reference to the period of time or to signs, means during school hours or while children are going to or leaving school during opening or closing hours.

### **Section 3103 Construction of Terms**

The terms appearing within the offenses in subsection 3102(B) may be interpreted in accordance with the definitions of Arizona Revised Statutes § 28-101, provided that the provisions of this chapter shall govern in the event of any conflict. Nothing in this chapter shall be construed as extending the jurisdiction of the State of Arizona over the Tohono O’odham Nation or any land within the exterior boundaries of the Nation as defined by the Constitution of the Tohono O’odham Nation Article II, Section 1.

**Section 3104 Effective Date; Savings Clause**

(A) The provisions of this chapter shall govern the construction of and penalty for offenses defined by this chapter that are committed on or after the “Effective Date,” which shall be 90 days after the date the resolution enacting this chapter becomes effective in accordance with the Nation’s Constitution.

(B) The provisions of this chapter do not apply to or govern the prosecution or construction of and punishment for any offense committed before the Effective Date, or the construction and application of any defense to such an offense.

(C) Ordinance No. 52 - Speed Restrictions is repealed on the Effective Date, except that Ordinance No. 52 shall remain in effect and govern the construction of and punishment for any offense defined in Ordinance No. 52 that is committed prior to the Effective Date. Such an offense shall be prosecuted, construed, and punished according to Ordinance No. 52 at the time of the commission of the offense, regardless of the actual date of prosecution and sentencing, and in the same manner as if this Chapter 3 - Speeding had not been enacted.

**Section 3105 Speeding Fine Schedule**

(A) A person committing an offense defined by this chapter shall be fined in accordance with the following Speeding Fine Schedule, as amended in accordance with this section:

<b>VIOLATION</b>	<b>OFFENSE</b>	<b>FINE</b>
23-701A	Speed Greater Than Reasonable And Prudent	\$100
23-701A (civil)	Speed Greater Than Reasonable And Prudent (1-10 MPH over posted speed limit)	\$100
23.701A (civil)	Speed Greater Than Reasonable and Prudent (11-20 MPH over posted speed limit)	\$150
23-701B1	15 MPH Approaching A School Crossing	\$200
23-701E	Speed Less Than Reasonable And Prudent	\$50
23-701.02. (criminal)	Speed Greater Than Reasonable And Prudent (21-30 MPH over posted speed limit)	\$250 (in addition to other criminal penalties)
23-701.02. (criminal)	Speed Greater Than Reasonable And Prudent (31-40 MPH over posted speed limit)	\$350 (in addition to other criminal penalties)
23-701.02. (criminal)	More than 40 MPH over posted speed limit	\$450 (in addition to other criminal penalties)

		penalties)
23-704A	Speed Not To Impede Traffic	\$50
23-797F and 23-797G	School Zone and Crosswalk Violations	\$125
23-797H and 23-797I	School Zone and Crosswalk Violations	\$250
Each civil offense		\$250 maximum

(B) The maximum civil penalty imposed pursuant to this chapter for a civil offense committed during the three years following the Effective Date shall not exceed \$250. All dollar amounts designated in the Speeding Fine Schedule shall be increased by 10% and rounded to the next highest dollar amount every three years with the first adjustment effective on the third anniversary of the Effective Date. The amended Speeding Fine Schedule shall be republished in the Tohono O’odham Code.

(C) The Judicial Court may in its discretion convert a traffic fine to community service in accordance with procedures adopted by the chief judge.



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.

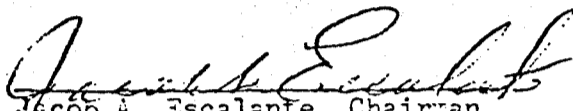
#### SPEED RESTRICTIONS

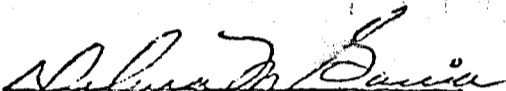
- A. No person shall drive a vehicle on a highway within the boundaries of the Papago, San Xavier, or Gila Bend Reservation at a speed that is greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every case to avoid colliding with 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.

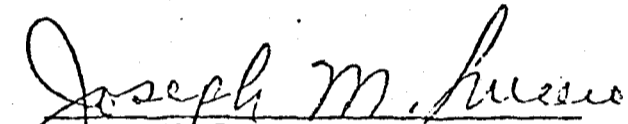
The foregoing Ordinance was duly enacted by the Papago Council on the 3 day, of January, 1975 at a meeting at which a quorum was present, with a vote of 1 for, 0 against, 2 not voting, and 2 absent, pursuant to the authority vested in the Council by Article V, Section 2 (h) of the Constitution and By-laws 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, Chairman

  
Delma H. Garcia, Secretary

  
Joseph M. Lucero, Superintendent

APPROVED:

Jan. 9, 1975



RECEIVED JAN 9 1975