



GILA RIVER INDIAN COMMUNITY

SACATON, AZ 85147

ORDINANCE GR-006-18

THE GILA RIVER INDIAN COMMUNITY COUNCIL HEREBY AMENDS TITLE 6, CHAPTER 6, OF THE TRAFFIC CODE OF THE GILA RIVER INDIAN COMMUNITY CODE

- WHEREAS**, the Gila River Indian Community Council (the “Community Council”) is the governing body of the Gila River Indian Community (the “Community”), a federally recognized and sovereign Indian tribe; and
- WHEREAS**, the Community Council is authorized by Article XV, Section 1(a)(9) of the Constitution and Bylaws of the Community (March 17, 1960) (the “Constitution”) to promote and protect the health, peace, morals, education, and general welfare of the Community and its members; and
- WHEREAS**, the Community Council is authorized by Article XV, Section 1(a)(19) of the Constitution to pass ordinances necessary or incidental to the exercise of any of their powers authorized by Article XV, Section 1(a) of the Constitution; and
- WHEREAS**, the power to enact laws and ordinances is an inherent function of self-government which the Community has exercised over the years; and
- WHEREAS**, the safety of the Community and protection of Community members from drivers who are under the influence of intoxicating substances is important to the Community; and
- WHEREAS**, on July 6, 2011, the Community Council directed the implementation of enhanced sentences (up to three years per criminal offense and up to nine years per criminal proceeding) under the Tribal Law and Order Act of 2010 (“TLOA”); and
- WHEREAS**, during 2011 and 2012, the Community’s TLOA workgroup met to revise the Criminal Code, which included amendments to Title 6, Traffic Code, Chapter 6, Driving Under Influence of Intoxicating Substances and Reckless Driving; and
- WHEREAS**, on May 15, 2013, the Community Council approved Ordinance GR-06-13, which amended the 2009 GRIC Code by amending Title 6, Chapter 6, to include mandatory minimum sentences of incarceration and add a new offense for the possession of an alcoholic beverage in a motor vehicle; and
- WHEREAS**, the Legislative Standing Committee recommends amending Title 6, Chapter 6, and waives the requirements of Title 8, Chapter 7, of the GRIC Code (the Notification Ordinance) as being in the best interest of the Community.

NOW, THEREFORE, BE IT ENACTED, the Community Council hereby amends Title 6, Traffic Code, Chapter 6, Driving Under Influence of Intoxicating Substances and Reckless Driving, as attached.

BE IT FURTHER ENACTED, that Title 6, Traffic Code shall be made publicly available at all District Service Centers and the Ira Hayes Library, made available at the Department of Rehabilitation and Supervision, and made available on-line by December 31, 2018; and any future appellate court decisions concerning the Traffic Code shall be made available in the same manner within two weeks of the release and publication of the appellate decision.

BE IT FURTHER ENACTED, that the amendments to Title 6, Traffic Code, Chapter 6, Driving Under Influence of Intoxicating Substances and Reckless Driving, shall become effective on January 1, 2019. The amendments affecting sentencing shall be retroactively effective for any citation or criminal complaint alleging an act constituting a violation of Title 6, Traffic Code, Chapter 6, Driving Under Influence of Intoxicating Substances and Reckless Driving, for which a sentence has not yet been imposed by the Community Court.

BE IT FINALLY ENACTED, that the Governor, or in the Governor's absence the Lieutenant Governor, is hereby authorized to take all steps necessary to carry out the intent of this enactment.

CERTIFICATION

Pursuant to authority contained in Article XV, Section 1 (a) (7), (9), (17), (18), (19), (b) (8), (10) and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1960 and approved by the Secretary of the Interior on March 17, 1960, the foregoing Ordinance was adopted on the 19th day of December, 2018, at a Regular Community Council Meeting held in District 3, Sacaton, AZ, at which a quorum of 13 members were present by a vote of: 12 FOR; 1 OPPOSE; 0 ABSTAIN; 4 ABSENT; 0 VACANCY.

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GOVERNOR

ATTEST:


COMMUNITY COUNCIL SECRETARY



TITLE 6

TRAFFIC CODE

Chapter 1. General Provisions

- 6.101. Scope and Purpose; Legislative Intent.
- 6.102. Preservation of Sovereign Immunity.
- 6.103. Severability Clause.

Chapter 2. Definitions

- 6.201. Definitions.

Chapter 3. Obedience to and Effect of Traffic Laws

- 6.301. Provisions of Title Refer to Vehicles Upon the Highways; Exceptions.
- 6.302. Obedience to Police Officers.
- 6.303. Public Officers and Employees to Obey Chapters; Exceptions.
- 6.304. Authorized Emergency Vehicles.
- 6.305. Traffic Laws Apply to Persons Riding Animals or Driving Animal-Drawn Vehicles.
- 6.306. Driver's License.
- 6.307. Registration of Motor Vehicle.
- 6.308. Violation of License Provisions.

Chapter 4. Traffic Signs, Signals, and Markings

- 6.401. Obedience to and Required Traffic Control Devices.
- 6.402. Traffic Control Signal Legend.
- 6.403. Pedestrian Walk and Wait Signals.
- 6.404. Flashing Signals.
- 6.405. Interference with Official Traffic Control Devices or Railroad Signs or Signals.

Chapter 5. Accidents

- 6.501. Accidents Involving Death or Personal Injuries.
- 6.502. Accidents Involving Damage to Vehicle.
- 6.503. Duty to Give Information and Render Aid.
- 6.504. Duty Upon Striking Unattended Vehicle.
- 6.505. Duty Upon Striking Fixtures upon Highway.
- 6.506. Immediate Reports of Accidents.
- 6.507. Written Reports of Accidents.
- 6.508. When Driver is Unable to Report.
- 6.509. Accident Report Forms.
- 6.510. Penalty for Failure to Report.

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- 6.511. Coroners to Report.
- 6.512. Garages to Report.
- 6.513. Accident Reports Confidential.
- 6.514. Community Court Shall Tabulate and Analyze Accident Reports.

Chapter 6. Driving Under Influence of Intoxicating Substances and Reckless Driving

- 6.601. Driving or Actual Physical Control While Under the Influence.
- 6.602. Extreme Driving Under Influence or Actual Physical Control.
- 6.603. Aggravated Driving or Actual Physical Control While Under the Influence.
- 6.604. Permitted Use and Proof of Prior Offenses.
- 6.605. Revocation of License.
- 6.606. Implied Consent.
- 6.607. Possession of Alcoholic Beverage in a Motor Vehicle.
- 6.608. Reckless Driving.

Chapter 7. Speed Restrictions

- 6.701. Special Restrictions.
- 6.702. Establishment of Reservation Speed Zones.
- 6.703. Minimum Speed Regulations.
- 6.704. Special Speed Limitations.
- 6.705. Charge Violations and Rule in Civil Actions.

Chapter 8. Driving on Right Side of Roadway; Overtaking and Passing

- 6.801. Driving on Right Side of Roadway; Exceptions.
- 6.802. Passing Vehicles Proceeding in Opposite Directions.
- 6.803. Overtaking a Vehicle on Left.
- 6.804. When Overtaking on Right is Permitted.
- 6.805. Limitations on Overtaking on Left.
- 6.806. Further Limitations on Driving to Left of Center of Roadway.
- 6.807. Driving on Roadways Laned for Traffic.
- 6.808. Following too Closely.
- 6.809. Driving on Divided Highways.

Chapter 9. Turning, Starting and Signals on Stopping and Turning

- 6.901. Required Position and Method of Turning at Intersection.
- 6.902. Turning on Curve or Crest of Grade Prohibited.
- 6.903. Starting Parked Vehicles.
- 6.904. Turning Movement and Required Signals.
- 6.905. Signals by Hand and Arm or Signal Device.
- 6.906. Method of Giving Hand and Arm Signals.

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Chapter 10. Right-of-Way

- 6.1001. Vehicle Approaching or Entering Intersection.
- 6.1002. Vehicle Turning Left at Intersection.
- 6.1003. Vehicle Entering through Highway or Stop Intersection.
- 6.1004. Vehicle Entering Highway from Private Road or Roadway.
- 6.1005. Operation of Vehicles on Approach of Authorized Emergency Vehicles.

Chapter 11. Pedestrian's Right and Duties

- 6.1101. Pedestrians Subject to Traffic Regulations.
- 6.1102. Pedestrian Right-of-Way in Crosswalks.
- 6.1103. Cross at Other Than Crosswalks.
- 6.1104. Drivers to Exercise Due Care.
- 6.1105. Pedestrians to Use Right Half of Crosswalk.
- 6.1106. Pedestrians on Roadways.
- 6.1107. Use of White Cane.

Chapter 12. Operation of Bicycles and Play Vehicles

- 6.1201. Application of Provisions.
- 6.1202. Traffic Laws Apply to Persons Riding Bicycles.
- 6.1203. Riding on Bicycles.
- 6.1204. Clinging to Vehicles.
- 6.1205. Riding on Roadways and Bicycle Paths.
- 6.1206. Carrying Articles.
- 6.1207. Lamps and Other Equipment and Bicycles.

Chapter 13. Safety Zones

- 6.1301. Driving through Safety Zone Prohibited.

Chapter 14. Special Stops Required

- 6.1401. Certain Vehicles Must Stop at All Railroad Grade Crossings.
- 6.1402. Moving Heavy Equipment at Railroad Grade Crossings.
- 6.1403. Vehicles Must Stop at through Highways.
- 6.1404. Stop Before Emerging from Alley or Private Driveway.
- 6.1405. Overtaking and Passing School Bus.

Chapter 15. Stopping, Standing or Parking

- 6.1501. Stopping, Standing, or Parking Outside of Business or Residence District.
- 6.1502. Officers Authorized to Remove Illegally Stopped Vehicles.
- 6.1503. Stopping, Standing, or Parking Prohibited in Specified Places.
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Chapter 16. Miscellaneous Rules

- 6.1601. Limitations on Backing.
- 6.1602. Riding on Motorcycles.
- 6.1603. Obstruction to Driver's View or Driver Mechanism.
- 6.1604. Coasting Prohibited.
- 6.1605. Driving at Speed which Causes Trailer to Sway.
- 6.1606. Crossing Fire Hose.
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- 6.1608. Allowing Barbed Wire to Lie Loose Along Highway; Penalty; Liability in Damages.

Chapter 17. Equipment

- 6.1701. Scope and Effect of Regulations.
- 6.1702. When Lighted Lamps are Required.
- 6.1703. Visibility Distance and Mounted Height of Lamps.
- 6.1704. Head Lamps on Motor Vehicles.
- 6.1705. Tail Lamps.
- 6.1706. New Motor Vehicles to be Equipped with Reflectors.
- 6.1707. Stop Lamps Required on New Motor Vehicles.
- 6.1708. Application of Succeeding Sections.
- 6.1709. Additional Equipment Required on Certain Vehicles.
- 6.1710. Color of Clearance Lamps, Side Marker Lamps, and Reflectors.
- 6.1711. Mounting of Reflectors, Clearance Lamps, and Side Marker Lamps.
- 6.1712. Visibility of Reflectors, Clearance Lamps, and Marker Lamps.
- 6.1713. Obstructed Lights Not Required.
- 6.1714. Lamp or Flag on Projecting Load.
- 6.1715. Lamp on Parked Vehicles.
- 6.1716. Lamps on Other Vehicles and Equipment.
- 6.1717. Spot Lamps and Auxiliary Lamps.
- 6.1718. Signal Lamps and Signal Devices.
- 6.1719. Additional Lighting Equipment.
- 6.1720. Multiple-Beam Road Lighting Equipment.
- 6.1721. Use of Multiple-Beam Road Lighting Equipment.
- 6.1722. Single-Beam Road Lighting Equipment.
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- 6.1725. Number of Driving Lamps Required or Permitted.
- 6.1726. Special Restrictions on Lamps.
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- 6.1731. Windshields Must be Unobstructed and Equipped with Wipers.

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- 6.1732. Restrictions as to Tire Equipment.
- 6.1733. Certain Vehicles to Carry Flares or Other Warning Devices.
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Chapter 18. Inspection of Vehicles

- 6.1801. Vehicles Without Required Equipment or in Unsafe Condition.
- 6.1802. Inspection by Federal and Tribal Officers.
- 6.1803. Owners and Drivers to Comply with Inspection Laws.

Chapter 19. Size, Weight and Load

- 6.1901. Scope and Effect of Laws.
- 6.1902. Width of Vehicles.
- 6.1903. Projecting Loads and Passenger Vehicles.
- 6.1904. Height and Length of Vehicles and Loads.
- 6.1905. Special Load Limits.
- 6.1906. Loads of Vehicles.
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- 6.1910. Tribal Officers May Weigh and Require Removal of Excess Loads.
- 6.1911. Permits for Excess Size and Weight.
- 6.1912. When the Gila River Community Council May Restrict Right to Use Highways.
- 6.1913. Liability for Damage to Highway or Structures.

Chapter 20. Penalties

- 6.2001. Penalties for Offense; Disposition of Penalties.
- 6.2002. Injuring or Preventing Operation of Vehicle.

Chapter 21. Parties, Procedures Upon Arrest and Reports in Criminal Cases

- 6.2101. Parties to an Offense.
- 6.2102. Offenses by Person Owning or Controlling Vehicles.
- 6.2103. When Person Arrested Must be Taken Immediately Before the Community Court.
- 6.2104. When a Person Arrested for an Offense is to be Given Five Days' Notice to Appear in Court.
- 6.2105. Violation of Promise to Appear.
- 6.2106. Procedure Prescribed in this Chapter Not Exclusive.
- 6.2107. Form for Traffic Citations.

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Chapter 22. Safety Restraint System; Provisions for Indigents; Definition; Violation

- 6.2201. Child Passenger Restraint System; Civil Penalty; Exemptions; Notice.
- 6.2202. Vehicle Restraints Required; Exceptions; Civil Penalty.

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CHAPTER 6. DRIVING UNDER INFLUENCE OF INTOXICATING SUBSTANCES AND RECKLESS DRIVING

6.601. Driving or Actual Physical Control While Under the Influence.

A. Definition. It is unlawful for any person to drive or be in actual physical control of any vehicle within the Gila River Indian Reservation if the person:

1. Is under the influence of intoxicating liquor, any controlled substance, marijuana, a vapor releasing substance containing a toxic substance, or any combination thereof, if the person is impaired to the slightest degree, or
2. Has a blood or breath alcohol concentration of or exceeding 0.08 (80 mg/dL) percent within two hours of driving or being in actual physical control of a vehicle, and that alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.
3. The fact that a person charged with a violation of this Subsection is entitled to lawfully use such intoxicating liquor, controlled substance, or vapor-releasing substance containing a toxic substance is not a defense against any charge of violating Section 6.601.A.1 or 6.601.A.2.

B. Presumptions. In any criminal prosecution for a violation of Section 6.601.A.1, relating to driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumption:

1. If there was at that time 0.05 (50 mg/dL) or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.
2. If there was at that time in excess of 0.05 (50 mg/dL) but less than 0.08 (80 mg/dL) by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.
3. If there was at that time 0.08 (80 mg/dL) or more by weight of alcohol the presumption shall arise that the defendant was under the influence of intoxicating liquor.
4. Sections 6.601.B.1., 2., and 3. shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

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C. Sanction. A person convicted of violating this Section shall be punished by detention for not more than 90 days or a fine not to exceed \$500.00, or both.

D. Second or Subsequent DUI Offense within 60 Months. If within a period of 60 months a person is convicted of a second or subsequent violation of this Section, or is convicted of a violation under this Section and has previously been convicted of a violation of Section 6.602 or Section 6.603, the person:

1. Shall be sentenced to no less than 30 days and no more than 180 days in jail; and
2. May be fined no less than \$500.00 and no more than \$800.00.
3. The defendant may be sentenced to perform community service and court-ordered alcohol or drug screening and education program and be placed on probation for a period not to exceed 180 days; and
4. The sentencing judge may include time spent by the defendant in an in-patient residential treatment facility in any sentence imposed.

6.602. Extreme Driving Under Influence or Actual Physical Control.

A. Definition. It is unlawful for a person to drive or be in actual physical control of a vehicle within the Gila River Indian Reservation if the driver has an alcohol concentration of 0.15 (150 mg/dL) or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while being in actual physical control of the vehicle.

B. Sanction. Any person who is convicted of violating this Section shall be sentenced to at least 90 days and not more than 365 days in jail and fined \$750.00, except that the sentencing judge may include time spent by the defendant in an in-patient residential treatment facility. The defendant may also be ordered to perform community service, and complete alcohol and drug abuse screening. The Court may also impose an additional term of supervised probation, so long as the total jail and probation sentence does not exceed 365 days.

C. Second or Subsequent Violation within 60 Months. If within a period of 60 months, a person is convicted of a second or subsequent violation of this Section, or has been convicted of a violation of this Section and has previously been convicted of a violation of Section 6.601 or Section 6.603, the person shall be:

1. Sentenced to no less than 120 and no more than 365 days detention;
2. Fined no less than \$750.00 and no more than \$1,000.00;
3. Ordered to perform community service, submit to alcohol or drug abuse screening or other substance abuse treatment programs.

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4. The sentencing judge may include time spent by the defendant in an in-patient residential treatment facility in any sentence imposed.
5. The Court may impose an additional term of supervised probation, so long as the total jail and probation sentence does not exceed 365 days.

6.603. Aggravated Driving or Actual Physical Control While Under the Influence.

A. Definition. A person is guilty of aggravated driving or actual physical control while under the influence if the person does any of the following:

1. Commits a violation of this Section, Section 6.601 or Section 6.602 while their driver's license or privilege to drive is suspended, canceled, revoked, or refused, or while a restriction is placed on the person's driver license or privilege to drive as a result of violating this Section, Section 6.601 or Section 6.602.
2. Within a period of 60 months is convicted of a third or subsequent violation of this Section, Section 6.601 or Section 6.602 of this Section and has previously been convicted of any combination of convictions of this Section, Sections 6.601 or Section 6.602, without regard as to the order in which the violations occurred.
3. Commits a violation of Section 6.601 or Section 6.602 while a person (or persons) under 16 years of age is in the vehicle.

B. Sanction. A person convicted of violating:

1. Section 6.603.A.1 shall be sentenced to no less than 90 days and no more than 365 days in jail, fined \$500.00, undergo substance abuse screening, education, and treatment.
2. Section 6.603.A.2 shall be sentenced to no less than 120 and no more than 365 days in jail, fined \$1,000.00, undergo substance abuse screening, education, and treatment. A person convicted of a violation of Section 6.603.A.2, who has also been convicted of any combination of two or more prior violations of Section 6.602 or Section 6.603 within a 60-month period, shall be sentenced to no less than 180 days but no more than 365 days in jail, fined \$1,000.00.
3. Section 6.603.A.3 shall be sentenced to no less than 60 days and no more than 365 days in jail and fined \$500.00, and may be ordered to perform community service, complete alcohol and drug abuse screening, and may be placed on supervised probation, so long as the jail and probation sentences combined do not exceed 365 days.

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6.604. Permitted Use and Proof of Prior Offenses.

A. A prior offense, as contemplated in Sections 6.601.D, 6.603.C or 6.603 may be based upon any prior conviction for any offense similar to Sections 6.601, 6.602 or 6.603, in any jurisdiction, for driving while intoxicated (DWI), driving while under the influence (DUI), or other similar offense.

1. While the charging document must provide notice that a defendant is being charged with a second or subsequent offense, the prior offense is not an element of the crime.
2. Proof of a prior offense may be made through a certified copy of a judgment and sentence or a citation containing a sufficient notation of conviction for the offense. The Community shall provide the defendant copies of any prior convictions it intends to use at a pretrial hearing, trial, or sentencing hearing.

B. In any prosecution for a violation of this Section, the Community shall allege, for the purpose of classification and sentencing pursuant to this Section, all prior convictions of violating Section 6.601, 6.602 or 6.603 occurring within the past 36 months, unless there is an insufficient legal or factual basis to do so.

6.605. Revocation of License.

The Community Court may revoke the right to drive on the Reservation of any person who has been convicted a second time in any 12-month period under any combination of Sections 6.601, 6.602 or 6.603, and in such event, shall notify the agency licensing such driver of the action taken by the Community Court. In addition, the Community Court may transmit any investigative documentation to the driver's licensing agency.

6.606. Implied Consent.

A person who operates a motor vehicle or motorcycle within the exterior boundaries of the Gila River Indian Reservation gives consent to a test or tests of the person's blood, breath, urine, or other bodily substance for the purpose of determining alcohol concentration or drug content if the person is arrested for any offense arising out of acts alleged to have been committed in violation of this chapter.

6.607. Possession of Alcoholic Beverage in a Motor Vehicle.

A. A person commits possession of alcoholic beverage in a motor vehicle that is located on a roadway within the Community if he possesses an open container of any alcoholic beverage in a passenger area of a motor vehicle.

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B. This Section does not apply to:

1. A passenger in any bus, limousine or taxi; and
2. A passenger in the living quarters of a motor home.

C. For purposes of this Section:

1. Open container means any bottle, can, jar or other receptacle that contains any amount of alcoholic beverage that has been opened, has had its seal broken or the contents of which have been partially removed.
2. Passenger Compartment means the area of a motor vehicle designed for the seating of the driver and passengers of the vehicle, including an unlocked glove compartment.

D. Sanction. The penalty for misdemeanor possession of alcoholic beverage in a motor vehicle shall be a fine not to exceed \$500.00.

6.608. Reckless Driving.

A. A person who drives a vehicle in reckless disregard for the safety of persons or property is guilty of reckless driving.

B. The Community Court may revoke the right to drive on the Reservation of any person who has been convicted a second time in any 12-month period under this Section and shall notify the agency licensing such driver of the action taken by the Community Court.

C. Sanction.

1. A conviction under this Section shall result in imprisonment for not more than 90 days, a fine not to exceed \$300.00, or both.
2. A second or multiple convictions under this Section that occurs within 12 months of the preceding conviction shall result in imprisonment not to exceed 180 days, a fine not to exceed \$500.00, or both.

D. The dates of the commission of the offense are the determining factor in applying Section 6.608.C. A second or subsequent violation for which a conviction occurs as provided in this Section does not include a conviction for an offense arising out of the same series of acts.

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TITLE 6 LEGISLATIVE HISTORY

Ordinances and resolutions appearing in boldface are, in whole or part, currently effective.

Previously Title 3, 1983 Compilation

Ordinance GR-04-83 added Chapter 21, Child Restraints (adopted November 2, 1983)

Ordinance GR-03-08 enacted current Traffic Code of 2008 (effective May 5, 2008)

Ordinance GR-15-09 enacted the codification of the 2009 GRIC Code and in part, moved the Traffic Code from Title 3 to Title 6 (adopted October 7, 2009)

Ordinance GR-06-13 amends Chapter 6 of the Traffic Code (adopted May 15, 2013)