

Chapter 11. Traffic Court Procedure

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Sec. 1101. Purpose.

The Traffic Court is a division of the Tribal Court of the Fort Peck Tribes. The procedure in this part is intended to provide for the just determination of traffic cases through a simple and uniform process and the elimination of unnecessary expense and delay.

Sec. 1102. Traffic Court Proceedings.

All proceedings in Traffic Court shall be held before a judge of the Tribal Court designated to hear such cases. Traffic Court trials shall be tape recorded and the tape shall be maintained for a period of 20 days after entry of judgment, but the tape will not be archived unless a timely appeal is filed in the manner provided by this Code.

Sec. 1103. Presumption of Innocence and Burden of Proof.

Traffic Court defendants shall be presumed innocent until proven guilty or until a plea of guilty or no contest is entered. A plea of not guilty requires the Tribes to prove beyond a reasonable doubt that the defendant committed the cited traffic offense.

Sec. 1104. Defendant's Rights in Traffic Court.

All defendants in Traffic Court shall have the following rights:

(a) The right to be informed of the charge(s) against the defendant and the maximum penalty allowed under Tribal law for each charge;

(b) The right to have assistance from or be represented by an attorney/lay advocate (at the defendant's own expense);

(c) The right to plead either guilty, not guilty, or no contest, and if the defendants pleads guilty or no contest, to have the judge immediately sentence the defendant or if the defendant pleads not guilty, to have the judge immediately schedule a trial of the charge(s);

(d) The right to a prompt, open and public trial before the judge and at that hearing to cross-examine the Tribes witnesses and to call witnesses and present relevant evidence on the defendant's behalf;

(e) The right to remain silent and, if the defendant chooses to remain silent, the right to have no inference drawn from the defendant's silence;

(f) The right to be advised that any statement made by the defendant may be used in evidence against the defendant;

(g) The right to request that the Court issue subpoenas for witnesses;

(h) The right to appeal the judge's final judgment to the Fort Peck Court of Appeals within 15 working days of the date of final judgment.

Sec. 1105. Initial appearance in Traffic Court.

(a) A defendant shall make an initial appearance in Traffic Court on the date and time specified on the traffic citation or upon legal notice by the Court.

(b) At the initial appearance, the judge shall advise the defendant of his or her rights and the Traffic Court procedures.

(c) After informing the defendant of the charge(s) and possible penalties, the judge shall ask the defendant how he or she pleads.

(d) If the defendant pleads guilty or no contest, the judge shall then proceed to sentencing. After the judge informs the defendant of the sentence, the defendant may request to make arrangements for the payment of any fines imposed. A judgment form shall be completed and signed by the judge and a copy shall be provided to the defendant. The judgment shall state the judgment rendered, sentence imposed, and the fine payment deadline.

(e) If the defendant pleads not guilty, the judge shall schedule a date and time for a Traffic Court bench trial. Jury trials are not provided in Traffic Court.

(f) If the defendant pleads not guilty, the judge shall order the prosecutor to provide the defendant with a written report describing the circumstances of the offense. The report shall be provided at least 10 working days before the pretrial conference.

Sec. 1106. Forfeiture of Bond in Lieu of Appearance.

A defendant may pay and forfeit the scheduled bond for the cited offense and thereby be relieved of the obligation to appear. Forfeiture of the bond shall constitute a conviction on the cited offense.

Sec. 1107. Traffic Court Bench Trials.

(a) The Traffic Court bench trial shall be held in the Tribal courtroom on the date and time set in the Scheduling Order. Either the defendant or the prosecutor may request a continuance of the bench trial which shall be granted for good cause by the Court.

(b) The prosecutor and the defendant each bear the responsibility of notifying the witnesses they wish to call to testify at the bench trial. Upon request by either party, the Court shall issue subpoenas for any witness whose testimony is necessary for a just adjudication of the case at trial.

(c) Traffic Court bench trials shall be recorded as provided in Sec. 1102 of this Chapter and all witnesses shall be sworn before being allowed to testify.

(d) The prosecutor shall present the Tribes case first. The defendant may cross-examine any witnesses called by the prosecutor.

(e) After the prosecutor has presented the Tribes case, the defendant may then present his or her case to the Court. The defendant may elect to testify, but may not be required to testify. The defendant may call witnesses to testify on his or her behalf and may present other evidence regarding the charge(s). The prosecutor may cross-examine the defendant's witnesses.

(f) After the defendant has concluded his or her case, the parties may make concluding arguments before the Court.

(g) On the record, after considering the testimony and evidence presented at trial, the judge shall find the defendant either guilty or not guilty on the charge(s). If the defendant is found guilty, the judge shall announce the sentence for each offense and the deadline for payment of fines or the completion of other penalties. The defendant request to may enter into a payment schedule agreement with the Court.

Sec. 1108. Failure to Appear.

If a defendant fails to appear in Traffic Court on the date and time scheduled for initial appearance or on the date and time scheduled for trial, the judge may issue a warrant for the defendant's arrest pursuant to 17 CCOJ 125(c).

Sec. 1109. Sentencing in Traffic Court.

Traffic Court may only hear cases involving violations punishable by a fine or other penalty which does not include jail time. No one appearing in Traffic Court may be sentenced to serve time in jail unless he or she is found in contempt. Violations cited into Traffic Court which carry a possible jail sentence shall be transferred to the Criminal Court Division.

Sec. 1110. Appeal.

Decisions rendered in Traffic Court may be appealed according to the Rules of Appellate Procedure. Pursuant to 17 CCOJ 128, there is no right of appeal when the sentence is a monetary fine.

Sec. 1111. Record of Convictions.

The clerk of court shall not submit a record of the conviction to the Montana Department of Motor Vehicles for Traffic Court convictions.

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