

CRIMINAL OFFENSES

CHAPTER FIVE

CRIMES AGAINST PUBLIC HEALTH, SAFETY, AND WELFARE

Section 501. Rioting

(a) It shall be unlawful to simultaneously, with two or more other persons, engage in tumultuous or violent conduct in a public place which endangers person or property, and thereby knowingly or recklessly create a substantial risk of causing public alarm; or to assemble with two or more persons with the purpose of engaging soon thereafter in the above described conduct.

(b) Rioting shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21,.1985.]

Section 502. Failure To Disperse

(a) It shall be unlawful to refuse or knowingly fail to obey an order to disperse or leave the immediate vicinity given by a law enforcement officer or other public servant performing an enforcement function, at the scene of a riot, fire, or other public disorder or given in the course of the investigation of the commission of an accident, fire, offense or suspected offense.

(b) Failure to disperse shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00) or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 503. Disorderly Conduct

(a) It shall be unlawful to purposely cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof, by:

(1) Engaging in fighting, or threatening to engage in violent or tumultuous behavior; or

(2) Making unreasonable noise or offensively coarse utterances, gestures, or displays, or addressing abusive language to any person present; or

(3) Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor; or

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(4) Appearing in public places in an intoxicated condition and doing any of the following:

(i) passing out or falling or sleeping in a public place or on the property of another without permission; or

(ii) bothering, disrupting or otherwise intruding upon another person or group of persons; or

(iii) wandering about without being able to give a reasonable account of a destination to a law enforcement officer; or

(iv) appearing or being found in an area set aside for religious or ceremonial activities which have traditionally, or by order of the Tribal or conducting authorities, been set aside for use, free from alcoholic beverage consumption or the presence of intoxicated persons, during the period of such a religious or ceremonial or public activity.

(b) "Public" means affecting or likely to affect persons in a place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospitals, apartment houses, and office buildings, transport facilities, businesses open to the public, and places of entertainment or amusement.

(c) Disorderly conduct shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00) or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

Upon a second or subsequent conviction under this section, a punishment of a fine not to exceed Five Thousand Dollars (\$5000.00), or a term of imprisonment in the Tribal jail not to exceed three months, or both may be imposed.

Upon a second or subsequent conviction under paragraph (a) (4) (iv) of this section, an additional sentence of banishment for a period not to exceed two years may be imposed.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Section 504. Harassment

(a) It shall be unlawful, with the purpose to annoy or alarm another, to insult, taunt, or challenge another in a manner likely to provoke a violent or disorderly response; or to make repeated communications anonymously or at extremely inconvenient hours, or in offensively coarse language.

(b) Harassment shall be punishable by a fine not to exceed Two Hundred Fifty Dollars

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(\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 505. Public Nuisance

(a) It shall be unlawful to do any act, or fail to perform any duty, without lawful authority to do so, which act or omission either:

(1) Unreasonably and substantially annoys and injures or endangers the comfort, repose, health, or safety of three or more persons; or

(2) Offends public decency; or

(3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for use or passage any lake, stream, or campground, pow-wow ground, public park, square, street, highway or road; or

(4) In any way unreasonably renders three or more persons insecure in life or the use of the property.

(b) Public nuisance shall be punishable by a fine not to exceed Two Hundred Fifty Dollars, or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 506. Disrupting A Public Or Religious Assembly

(a) It shall be unlawful to intentionally prevent or disrupt a lawful meeting or religious assembly, by doing any act tending to obstruct or interfere with it physically; or by making any utterance, gesture or display designed to outrage the sensibilities of the group or prevent the assembly from conducting its business.

(b) Disrupting a public or religious assembly shall be punishable by a fine not to exceed Three Hundred Fifty Dollars, or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 507. Weapons offense

(a) It shall be unlawful to:

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(1) Have a dangerous weapon in one's actual possession while being addicted to any narcotic drug; or after having been declared mentally incompetent; or while being intoxicated or otherwise under the influence of alcoholic beverages or other intoxicating substance, drug, or medicine; or while possessing the intent to unlawfully assault another; or while under the age of sixteen years old, and without the consent of his parent or guardian

(2) Carry a loaded firearm in a vehicle on a public road without lawful authority to do so; or to discharge any kind of firearm from a motor vehicle without lawful authority to do so; or to discharge a firearm from, upon or across any public highway without lawful authority to do so.

(b) Definitions:

(1) "Dangerous weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury. In determining whether an item, object or thing not commonly known as a dangerous weapon is a dangerous weapon, the character of the instrument, object or thing the character of the wound produced, if any, and the manner in which the instrument, item or thing was used shall be determinative.

(2) "Firearms" mean pistols, revolvers, rifles, shotguns, and any device that is capable of being used as a weapon because it expels a projectile by some means of force.

(3) A firearm or other weapon shall be deemed loaded when there is an unexpended cartridge, shell or projectile in the firing position except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell or projectile is in such position as next to be fired.

(c) Weapons offense shall be punishable by a fine not to exceed Two Hundred Fifty Dollars, or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 508. Aggravated Weapons offense

(a) It shall be unlawful to carry a dangerous weapon concealed on the person or to threaten to use or exhibit a dangerous weapon in a dangerous and threatening manner, or use a dangerous weapons in a fight or quarrel; or to possess a shotgun or rifle having a barrel or barrels of less than sixteen inches in a length or an altered or modified shotgun or rifle less than twenty-four inches overall length.

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(b) Aggravated weapons offense shall be punishable by a fine not to exceed Five Hundred Dollars, or by a term of imprisonment in the Tribal jail not to exceed one year, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Section 509. Dangerous Devices

(a) It shall be unlawful to:

(1) Deliver or cause to be delivered to any express, railway company or common carrier, or place in the mail or deliver to any person, or throw or place on or about the premises or property of another or in any place where another may be injured thereby, a dangerous device, knowing it to be such, unless the threatened person is informed of the nature thereof and its placement is for some lawful purpose; or

(2) Knowingly construct or contrive any dangerous device, or with the intent to injure another in his person or property, have a dangerous device in one's possession.

(b) For purposes of this section, a "dangerous device" is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive or acid or poisonous or inflammable substance, chemical, or compound, or knife, loaded firearm or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved handled, or opened or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

(c) Dangerous devices shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00), or by a term of imprisonment in the Tribal jail not to exceed one year, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Sections 510-515. Reserved

Section 516. Desecration

(a) It shall be unlawful to purposely desecrate any public monument or structure; or to purposely desecrate a place of worship or burial, or other sacred place.

(b) Desecrate means to deface, damage, pollute, destroy, take or otherwise physically mistreat in a way that the actor knows, or believes will outrage, the sensibilities of persons likely to

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observe or discover his action.

(c) Desecration shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 517. Littering

(a) It shall be unlawful to throw, dump, place or deposit upon the lands of another or any Tribal or public property, or highway, street, road, or other area not his own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse or other substances of any nature whatsoever which could mar the appearance or detract from the cleanliness of the area; or to store, keep, or allow to accumulate an unreasonable number of any wrecked, junked, or unserviceable vehicles, appliances, or implements, unless one has a permit from the Tribe to maintain a junk yard.

(b) Littering shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Sections 518-525. Reserved

Section 526. Abusing A Corpse

(a) It shall be unlawful to purposely and unlawfully remove, conceal, dissect, or destroy a corpse or any part of a corpse; or to disinter a corpse that has been buried or otherwise interred.

(b) Abusing a corpse shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00), or by a term of imprisonment in the Tribal jail not to exceed one year, or banishment for a term of not less than one year nor more than five years or any combination of the above punishments.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Section 527. Prostitution

(a) It shall be unlawful to:

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- (1) Be an inmate or resident of a house of prostitution or otherwise engage in sexual activity as a business or for hire; or
- (2) Loiter in or within view of a public place for the purpose of being hired to engage in sexual activity; or
- (3) Engage in or offer or agree to engage in any sexual activity with another person for a fee; or
- (4) Pay or offer or agree to pay another person a fee for the purpose of engaging in an act of sexual activity; or
- (5) Enter or remain in a house of prostitution for the purpose of engaging in sexual activity; or
- (6) Own, control, manage, supervise, or otherwise keep, alone or in association with another, a house of prostitution or a prostitution business; or
- (7) Solicit a person to patronize a prostitute; or
- (8) Procure or attempt to procure a prostitute for another; or
- (9) Lease or otherwise permit a place controlled by the actor, alone or in association with others, to be used for prostitution or the promotion of prostitution; or
- (10) Procure an inmate for a house of prostitution; or
- (11) Encourage, induce, or otherwise purposely cause another to become or remain a prostitute; or
- (12) Transport a person with a purpose to promote that person's engaging in prostitution or procuring or paying for transportation with that purpose; or
- (13) Share in the proceeds of a prostitute pursuant to an understanding that one is to share therein, unless one is the child or legal dependent of a prostitute; or
- (14) Own, operate, manage or control a house of prostitution; or
- (15) Solicit, receive, or agree to receive any benefit for doing any of the acts prohibited by this subsection.

(b) Definitions:

- (1) "Sexual activity" means intercourse or any sexual act involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant.

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(2) "House of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another.

(3) "Inmate" means a person who engages in prostitution in or through the agency of a house of prostitution.

(4) "Public place,, means any place to which the public or a substantial group thereof has access.

(c) On the issue of whether a place is a house of prostitution, the following shall be admissible in evidence: Its general reputation; the reputation of the persons who reside in or frequent the place; the frequency, timing and duration of visits by non-residents. Testimony of a person against his spouse shall be admissible to prove offense under this section.

(d) Prostitution shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00), or by a term of imprisonment in the Tribal jail not to exceed one year, or both. upon a second or subsequent conviction for prostitution, banishment may also be imposed for a term not to exceed two years.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Section 528. Spreading Venereal Disease

(a) It shall be unlawful to infect another person with venereal disease, if one knows or has reason to believe she/he is infected with a venereal disease.

(b) The court shall, upon conviction, have the power to order the medical examination and treatment of the convicted offender and may also order an investigation to determine to what extent others have or may have been infected by the convicted offender.

(c) Spreading venereal disease shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 529. Obscenity

(a) It shall be unlawful to:

(1) Sell, deliver or provide, or offer or agree to sell, deliver or provide, any obscene writing, picture, record or other representation or embodiment that is obscene; or

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(2) Present or direct an obscene play, dance, or performance, or participate in that portion thereof which makes it obscene; or

(3) Publish, exhibit or otherwise make available any obscene material; or

(4) Possess any obscene material for purposes of sale or other commercial dissemination; or

(5) Sell, advertise or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene.

(b) Material is obscene if, considered as a whole:

(1) It lacks serious literary, artistic, political, or scientific value; and

(2) It depicts or describes nudity, sex or excretion in a patently offensive manner that goes substantially beyond customary limits of candor in describing or representing such matters; and

(3) If the average person, applying contemporary community standards, would find that the material, taken as a whole, appeals predominantly to a morbid or unnatural interest in nudity, sex, or excretion.

(c) A person who disseminates or possesses obscene material in the course of his business is presumed to do so knowingly or recklessly.

(d) Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or some other specially susceptible audience.

(e) Undeveloped photographs molds, printing plates and the like, shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

(f) It shall be a defense to a prosecution under this section that the dissemination of the obscene material was restricted to institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material.

(g) Obscenity shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00) and all obscene material shall be confiscated and destroyed.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59 May 28, 1987.]

Sections 530-535. Reserved

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Section 536. Intoxication

(a) It shall be unlawful to be under the influence of an intoxicating beverage, drugs, or other controlled substance, or a substance having the property of releasing vapors, to any degree, in a public place or in a private place where one unreasonably disturbs another person, under circumstances not amounting to disorderly conduct.

(b) Intoxication shall be punishable by a fine not to exceed One Hundred Fifty Dollars (\$150.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both. However, a judge or the arresting law enforcement officer may order the release from custody and the dropping of a charge under this section if he believes further imprisonment is unnecessary for the protection of the individual or another and the individual is in a sober condition at the time of release. The Judge may also commit the person convicted to a facility for treatment if it appears that the person is dependent upon the intoxicating beverage, drugs, controlled substance, or vapor producing substance, for a period not to exceed one year.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 537. Possession Of An Alcoholic Beverage

(a) It shall be unlawful to buy, sell, serve, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or any other beverage or product containing alcohol for ingestion by human beings; or to appear or be found in a place where alcoholic beverages are sold and/or consumed, without written authority of the Tribal Legislative Body.

(b) Possession of an alcoholic beverage shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

(c) Any such alcoholic beverage handled in violation of this section is hereby declared to be contraband and civil proceedings may be had against such alcoholic beverages for forfeiture as provided by law.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 538. Tobacco offense

(a) It shall be unlawful to:

(1) Purchase, obtain, possess, smoke, chew, inhale or ingest any product made from or with tobacco if under the age of eighteen years; or

(2) Sell to, or otherwise obtain for or arrange for the obtaining of tobacco or a

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tobacco product for a person under the age of eighteen, or to knowingly permit such a person to operate a machine dispensing tobacco products in his place of business or in an area of a place of business over which he is charged with the management or operation.

(b) Tobacco offenses shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985; as amended by Resolution SF-95-52, February 23, 1996.]

Section 539. Abuse Of Psychotoxic Chemical Solvents

(a) It shall be unlawful to purposely smell or inhale the fumes of any psychotoxic chemical solvent, or to possess, purchase, or attempt to possess or purchase any psychotoxic chemical solvent, with the intention of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system; or to sell, give away, dispense, or distribute, or offer to sell, give away, dispense, or distribute any psychotoxic chemical solvent knowing or believing that the purchaser or another intends to use the solvent in violation of this Section.

(b) This section shall not apply to the inhalation of anesthesia for medical or dental purposes.

(c) As used in this section, "psychotoxic chemical solvent" includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, benzene, butyl-alcohol, methyl ethyl, petone, pentachlorophenol, petroleum ether, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance. The statement of listing of the contents of a substance packaged in a container by the manufacturer or producer thereof shall be proof of the contents of such substances without further expert testimony if it reasonably appears that the substance in such container is the same substance placed therein by the manufacturer or producer.

(d) Abuse of psychotoxic Chemical Solvents shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both, and the Court may order any person using psychotoxic chemical solvents for inhalation to be committed to some facility for treatment for a term not exceeding one year.

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(e) Such psychotoxic chemical solvents kept or used in violation of this Section are hereby declared to be contraband and civil proceedings may be had against such psychotoxic chemical solvents as provided by law.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59
May 28, 1987.]

Section 540. Dangerous Drug Offense

(a) It shall be unlawful, except as authorized and controlled by Federal law, to manufacture, distribute, possess with intent to distribute, dispense, create, possess, or cultivate a controlled or a counterfeit substance; or to obtain or acquire possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge; or to knowingly or intentionally use any communication facility in committing any of the above prohibited acts.

(b) Controlled or counterfeit substances shall consist of the substances listed in 21 U.S.C. 0812 (1972), and any other chemical substance, natural or artificial, defined as a controlled or dangerous substance the possession, sale, distribution, or use of which is prohibited by federal law, except peyote.

(c) A dangerous drug offense shall be punishable by a fine not to exceed Five Thousand Dollars (\$5000.00), or by a term of imprisonment in the Tribal jail not to exceed one year, or both. Upon conviction under this section for sales distribution, possession with intent to distribute, manufacture with intent to sell, or cultivation with intent to distribute, banishment may also be imposed for a term not to exceed ten years.

(d) Any substance handled in violation of this section is hereby declared to be contraband and civil forfeiture proceedings may be had against such substance as provided by law.

(e) Any personal property used to transport, conceal manufacture, cultivate, or distribute the controlled dangerous substance in violation of this section shall be subject to forfeiture as contraband by civil proceeding as provided by law.

[History: PUBLIC LAW #SF-85-62, June 21, 1985, as amended by SF-87-59
May 28, 1987.]

Sections 541-550. Reserved

Section 551. Cruelty To Animals

(a) It shall be unlawful to purposely or knowingly:

(1) Torture or seriously overwork an animal; or

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- (2) Fail to provide necessary food, care, or shelter for an animal in one's custody; or
- (3) Abandon an animal in one's custody, or
- (4) Transport or confine an animal in a cruel manner; or
- (5) Kill, injure, or administer poison to an animal without legal privilege to do so; or
- (6) Cause one mammal to fight with another.

(b) Cruelty to animals shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both. It is a defense to prosecution under this section that the conduct of the actor toward the animal was an accepted veterinary practice or directly related to a bonafide experimentation for scientific research provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 552. Livestock offense

- (a) It shall be unlawful to:
 - (1) Knowingly or recklessly refuse or fail to mark or brand his livestock when such is required in the interest of livestock identification or directed by Tribal or government officials; or
 - (2) Alter, obliterate, or remove a brand or mark, or misbrand or mismark livestock with a purpose to deceive another for any reason; or
 - (3) Knowingly permit livestock to graze or trespass on the property of another or of the Tribe without permission to do so in excess of permitted time or amount; or
 - (4) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other livestock; or
 - (5) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other animals; or
 - (6) Fail to dip, inoculate or otherwise treat livestock in the manner which the designated representative of the Tribe shall direct; or

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(7) Make a false report of livestock owned.

(b) Except in cases in which the owner or person having custody of livestock believed to be in violation of this section cannot be found, for subsections 1, 3, 4, 5, or 6 set forth above no conviction may be sustained unless the owner or person having custody of the livestock involved is given forty-eight hours written notice of his alleged violation.

(c) Livestock found to be in violation of this section may be impounded without prior notice to the owner if a court so orders upon receipt of evidence that such animals seriously threaten the property of the Tribe or another or the health of other livestock and that immediate action is necessary to protect such interests from serious harm. A reasonable fee for the care of such animals maybe collected prior to their release.

(d) A livestock offense shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

(e) Livestock handled or kept in violation of this section are hereby declared to be contraband and civil proceedings may be had against such animals for forfeiture as provided by law.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Sections 553-560. Reserved

Section 561. False Reports

(a) It shall be unlawful to initiate or circulate a report or warning of a fire, bombing, or other crime or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of any building, place or assembly, or facility of public transport, or to cause public inconvenience or alarm or action of any sort by an official or volunteer agency organized to deal with emergencies.

(b) False reports shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 562. Emergency Telephone Abuse

(a) It shall be unlawful to knowingly refuse to yield or surrender the use of a party line or public pay telephone to another person upon being informed that said telephone is needed to

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report a fire, or summon police, medical or other aid in case of an emergency, unless the actor is already using said telephone to report an emergency; or to ask for or request the use of a party line or public pay phone on the pretext that an emergency exists, knowing that no emergency exists.

(b) "Emergency" means a situation in which property or human life or safety is in jeopardy and the prompt summoning of aid is or reasonable appears to be essential to preservation of human, life, safety, or property.

(c) Emergency telephone abuse shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 563. Violation Of Privacy

(a) It shall be unlawful, except as authorized by law, to:

(1) Trespass on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or

(2) Install in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in such place, or use any such unauthorized installation; or

(3) Install or use outside of any private place any device for hearing, recording, amplifying, or broadcasting sounds originating in such place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there; or

(4) Divulge without the consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged in transmitting it.

(b) Definitions:

(1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of an oral or written communication of others without the consent of at least one party thereto by means of any electrical, mechanical or other device.

(2) "Private place" means a place where one can reasonably expect to be safe from casual or hostile intrusion or surveillance.

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(c) Violation of privacy shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 564. Criminal Defamation

(a) It shall be unlawful to knowingly and with malicious intent communicate to any person orally or in writing any information which one knows or should know to be false and knowingly that the information tends to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, or who has not been declared missing or dead for a period exceeding twenty years, and thereby expose him to public hatred, contempt or ridicule. An injurious publication is presumed to have been malicious if no justifiable motive for making it is shown by way of defense.

(b) Criminal defamation shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both. However, it shall be a defense to criminal defamation that the person making the publication was at the time engaged in the formal broadcast or publication of news by some public news media of communication and in good faith believed he was reporting a newsworthy event concerning a public figure with a basis in truth.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 565. Gambling

(a) It shall be unlawful to:

(1) Participate in gambling; or

(2) Knowingly permit any gambling to be played, conducted, or dealt upon in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(3) Win or acquire to himself or another any gambling proceeds when one knows he has a lesser risk of losing or a greater chance of winning, than one or more of the other participants, and the risk is not known to all participants; or

(4) Derive or intend to derive an economic benefit, other than personal winnings, from gambling and either:

(i) induce or aid another to engage in gambling; or

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(ii) knowingly invest in, finance, own, control, supervise, manage, or participate in any gambling operation; or

(5) Knowingly possess a gambling device with intent to use it in gambling.

(b) Definitions:

(1) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, or a lottery, but does not include any lawful business transaction or playing amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(2) "Gambling device" means anything specifically designed for use in gambling or used primarily for gambling.

(3) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining the property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by lot or chance, regardless of whatever name such scheme may be known by.

(c) The Tribe may issue a permit authorizing a lottery pursuant to a Tribal Statute on lotteries, provided all benefit therefrom, except prizes, go to a charitable or religious organization and provided further that such permit or the Statute pursuant to which it is issued specify the details of the lottery.

(d) It shall not be an offense under this Section for a person to engage in bingo licensed pursuant to Tribal law, in any of its forms, conducted under the rules set out by a Tribal Bingo Ordinance, nor shall it be an offense under this section for a person to engage in any traditional Indian games designated by Tribal law as exempt from the provisions of this Section, nor shall traditional raffles and similar activities conducted at pow-wows and similar functions be considered gambling under this Section.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 566. Waters offense

(a) It shall be unlawful to:

(1) Interfere with or alter the flow of water in any stream, river, or ditch, without lawful authority to do so, or a permit from the Tribe, and in violation of the right of any other person; or

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(2) Knowingly break, injure, alter or destroy any bridge, dam, levee, embankment, reservoir, water tank, water line, or other structure intended to create hydraulic power or pressure or direct the flow of water, without lawful authority to do so; or

(3) Pollute or befoul any water in any of the following ways:

(i) construct or maintain a corral, sheep pen, goat pen, stable, pig pen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well, spring, or source of water used for domestic purposes; or

(ii) deposit, pile, unload or leave any manure heap, rubbish, or the carcass of any dead animal where the waste or drainage therefrom will flow directly into the waters of any stream, well, spring or source of water used for domestic purposes; or

(iii) construct, establish, or maintain any corral, yard, vat, pond, camp, or bedding place for the shearing, dipping, washing, storing, herding, holding or keeping of livestock in such proximity to a stream, or other source of water used for domestic purposes or which flows through a city or town, so that the waste, refuse or filth therefrom find their way into said source of water; or

(iv) knowingly cause or allow any substance harmful or potentially harmful to human life to enter into a source of water used for domestic purposes.

(b) A water offense shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 567. Contributing To The Delinquency Of A Minor

(a) It shall be unlawful for a person eighteen years of age to older to:

(1) Knowingly or recklessly sell or give to or otherwise make beer, liquor, wine or other alcoholic beverages available to a person under the age of eighteen years; or

(2) Knowingly or recklessly, by act or omission, encourage, cause or contribute to the delinquency or unlawful conduct of a minor under eighteen years of age.

(b) Contributing to the delinquency of a minor shall be punishable by a fine of not more than Two Hundred Fifty Dollars (\$250.00), or by a term or imprisonment in the Tribal jail

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not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 568. Trafficking In Children

(a) It shall be unlawful to:

(1) Accept any compensation, in money, property or other thing of value, at any time, from the person or persons adopting a child, for services of any kind performed or rendered, or purported to be performed or rendered, in connection with such adoption; or

(2) Accept any compensation, in money, property or other thing of value, from any other person, in return for placing, assisting to place, or attempting to place a child for adoption or for permanent care in a foster home; or

(3) Offer to place, or advertise to place, a child for-adoption or for care in a foster home, as an inducement to any woman to enter an institution or home or other place for maternity care or for the delivery of a child.

(b) "Child" means an unmarried or unemancipated person under the age of eighteen years.

(c) This section does not apply to attorneys or advocates licensed by the Tribal Courts receiving reasonable fees for legal services actually rendered in the course of lawful adoption proceedings, nor shall subparagraphs (a) (1) or (a) (2) apply to any bonafide social worker or government employee receiving their normal salary and making such placements as a part of their official duties.

(d) Trafficking in children shall be punishable by a fine not to exceed Two Hundred fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 569. Curfew Violation

(a) It shall be unlawful for a parent, guardian or other person having physical charge of a minor to allow said minor under the age of eighteen to be away from his place of residence in a public place, or a private place other than the place where he intends to spend the night with the permission of the owner of such place, or in a vehicle driving about, after the hour of eleven o'clock p.m. local time, unless accompanied by a parent, guardian, or other person having physical charge of said minor or in attendance at or returning directly home from an organized school,

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church or Tribal or public function.

(b) A curfew violation shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]

Section 570. Fireworks offense

(a) It shall be unlawful to possess, buy, sell, distribute, transport, activate, ignite, or detonate or to allow any minor under one's physical or actual care, custody, or control to possess, buy, sell distribute, transport, activate, ignite, or detonate any firecracker or other firework type device which is capable of or intended to explode, ignite, become self-propelled, give off any projectile, spark or other ignited or fused object or manifestation, or in any way give off sound or light by virtue of its burning or exploding.

(b) It shall not be an offense under this section:

(1) To use or ignite hand held sparkler type devices in such a manner that they burn openly and singly or to use toy caps and cap guns singly and in the intended fashion; or

(2) To use or ignite fireworks at a patriotic, religious, or tribal ceremony, gathering, or celebration in a safe manner provided that a permit to do so has been obtained from the Tribe or a lawfully authorized Tribal agency prior to the importation and use of such fireworks.

(3) To buy, possess, use, or ignite fireworks between June 25 and July 10 inclusive of each year, provided that such devices are handled safely with regard to the safety of others and their property, and provided further, that minors under the age of twelve buying, possessing, using, or igniting fireworks must be under the actual direct physical supervision of some responsible adult over twenty-one years of age for this exception to apply.

(4) To possess or sell fireworks between June 25 and July 10 inclusive of each year provided that a permit to do so has been obtained from the Tribe or a lawfully authorized Tribal agency prior to such possession and sale, provided further, that upon proof of a secure and safe facility, such permit may state a particular location for year round storage of fireworks by a business engaged in retail or wholesale of fireworks.

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(c) A fireworks offense shall be punishable by a fine not to exceed Two Hundred Fifty Dollars (\$250.00), or by a term of imprisonment in the Tribal jail not to exceed three months, or both.

[History: PUBLIC LAW #SF-85-62, June 21, 1985.]