

**LAW AND ORDER - CRIMINAL OFFENSES - ORDINANCE**  
Ordinance # 11-400-03

**Article I. Purpose; Findings**

1.01. *Purpose.*

- a. The general purposes of the provisions governing the definition of offenses are:
  1. to forbid and deter conduct which unjustifiably and inexcusably inflicts or threatens substantial harm to individual or tribal interests; and
  2. to give fair warning of the nature of conduct declared to constitute criminal offenses; and
  3. to promote peace and security within the community.
- b. The general purposes of the provisions governing the sentencing and treatment of offenders are:
  1. to punish the offender for crimes against the Tribe;
  2. to remove offenders from the tribal community area when required in the interests of public protection;
  3. to promote the correction and rehabilitation of offenders;
  4. to deter the commission of offenses;
  5. to pay restitution to the injured party.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

- a. the Constitution of the Little River Band of Ottawa Indians delegates to the Tribal Council the responsibility to "...exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:
  1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;
  2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members[.]” *Article IV, Section 7(a).*
  3. The regulation, control and prohibition of certain activities and conduct on the Tribe’s reservation is necessary to protect the health, security and general welfare of the Tribe, its member, the general public and property on the Tribe’s reservation.

## **Article II. Adoption; Amendment; Repeal; Severability**

2.01. *Adoption.* This Ordinance is adopted by resolution # 03-0910-285.

a. Amended by Resolution # 06-0719-504.

b. Repealed and replaced by Ordinance #11-400-03 by Resolution #11-0817-301.

c. Amended by Resolution #14-0723-215, to correct scrivener's errors and by inserting correct reference to Michigan Motor Vehicle Code and penalties for crime of contributing to the delinquency of a minor.

2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.04. *Effective Date.* This Ordinance shall take immediate effect. The provisions of this Ordinance shall apply to any offense committed on or after the date of enactment.

2.05. *Gender; Use of.* As used on this ordinance, the term 'he' includes both male and female, unless specifically stated otherwise.

## **Article III. Definitions.**

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number, and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely advisory.

3.02. "*Aggravated Injury*" means a physical injury that requires immediate medical treatment or that causes disfigurement, impairment of health or impairment of a part of the body.

3.03. "*Broadcast*" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

3.04. "*Capture*" with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

3.05. "*Coercion*" means:

a. threats of serious harm to or physical restraint against any person;

b. any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

c. the abuse or threatened abuse of law or the legal process.

3.06. "*Commercial sex*" means any sex act, on account of which anything of value is given to or received by any person;

3.07. "*Consent*" means that at the time of the act of sexual intercourse or sexual contact there are

actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

3.08. "*Family Member*" means a spouse, a parent, a child or a person related by consanguinity to another person.

3.09. "*Foreign Government*" means the United States, a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States;

3.10. "*Female breast*" means any portion of the female breast.

3.11. "*Firearm*" means any gun, revolver, pistol, shotgun, or other weapon which discharges a projectile by explosive force.

3.12. "*Forcible compulsion*" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, *or in fear that she or he or another person will be kidnapped*;

3.13. "*Household Member*" means a person currently or formerly residing in a place of abode with another person.

3.14. "*Knife*" means any dagger, dirk, knife, sword, spear, or stiletto with a blade over three and one-half (3 ½) inches in length, or any other instrument capable of inflicting cutting, stabbing or tearing wounds.

3.15. *Indian* means any person who is:

- a. a member of the Little River Band of Ottawa Indians; or
- b. a member of any federally-recognized Indian tribe, band, or group.

3.16. *Litter* means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substance of every kind and description.

3.17. "*Married*" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage;

3.18. "*Membership-Based Jurisdiction*" means the inherent jurisdiction of the Little River Band of Ottawa Indians shall exercise over its members with regard to any matter (regardless of the location of the actions giving rise to that matter) implicating or affecting internal Tribal relations, or the Tribe's powers of self-government, or the health, safety, morals or welfare of the Tribe or its members. This membership-based jurisdiction shall be exercised to the fullest extent consistent with the Constitution, the sovereign powers of the Tribe, and federal law.

3.19. "*Mental incapacity*" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse or sexual contact whether that condition is produced by illness, defect, the influence of a substance or from some other cause;

3.20. *Mental State: "Purposely or Intentionally"* means a person acting purposely or intentionally with respect to a material element of an offense, when:

- a. if the element involves the nature of the person's conduct, or a result thereof, it is the person's conscious object to engage in the conduct of that nature or to cause such a result;

and

b. if the element involves the attendant circumstances, the person is aware of the existence of such circumstances or the person believes or hopes that they exist.

3.21. *Mental State: "Knowingly"* means a person acting knowingly with respect to a material element of an offense, when:

a. if the element involves the nature of the person's conduct or the attendant circumstances, the person is aware that the conduct is of that nature or that such circumstances exist; and

b. if the element involves a result of the conduct, the person is aware that it is practically certain that the conduct will cause such a result.

3.22. *Mental State: "Recklessly"* means a person acting recklessly with respect to a material element of an offense, when the person consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the person's conduct and the circumstances known to the person, its disregard involves a gross deviation of the standard of conduct that a law-abiding person would observe in the actor's situation.

3.23. *Mental State: "Negligently"* means a person acting negligently with respect to a material element of an offense, when the person should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the person's failure to perceive it, considering the nature and purpose of the person's conduct and the circumstances known to the person, involves a gross deviation from the standard of care that a reasonably prudent person would observe in the actor's situation.

3.24. "*Overt Act*" means an open, manifest act from which criminality may be implied.

3.25. "*Riot*" means a public disturbance involving an assemblage of three or more persons which by tumultuous and violent conduct creates substantial danger of damage or injury to property or persons or substantially obstructs the performance of any lawful governmental function.

3.26. "*Physically helpless*" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

3.27. "*Recklessly*" means with respect to a result or to a circumstance described by a statute defining an offense that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

3.28. "*Serious bodily injury*" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty; 3.13. "*Sex*" means acts of masturbation, sexual intercourse, or physical contact with a person's genitals, or

the condition of human male or female genitals when in a state of sexual stimulation or arousal;

3.29. "*Sexual Act*" means:

- a. Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
- b. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
- c. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- d. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- e. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

3.30. "*Sexual contact*" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

3.31. "*Significant Relationship*" means a situation in which the perpetrator is:

1. A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or
2. A person who in the course of his or her employment supervises minors.

3.32. "*Substantial Step*" means any conduct, whether act, omission or possession which is corroborative of the actor's intent to commit the other offense.

3.33. "*Territorial Jurisdiction.*" The territorial jurisdiction of the Little River Band of Ottawa Indians shall encompass all lands which are now or hereinafter owned by or reserved for the Tribe or for Tribal members, including but not limited to the Manistee Reservation in Manistee County (Michigan), and Custer and Eden Townships in Mason County (Michigan), or are held in trust for the Tribe or any member of the Tribe by the United States of America. The Tribe's territorial jurisdiction shall be exercised to the fullest extent consistent with the Constitution, the sovereign powers of the Tribe, and federal law.

3.34. "*Tribal Court*" means the Little River Band of Ottawa Indians Tribal Court

3.35. "*Tribe*" means the Little River Band of Ottawa Indians.

3.36. "*Weapon*" includes but is not limited to meaning a firearm, knife, or any of the following: any dart, blow-gun, air or pellet gun, non-safety razor, blackjack, billy club, sand club, sand bag, any hand operated striking weapon consisting at the striking end of an encased heavy substance or at the handle end a strap or springy shaft which increases the force of the impact, any device designed for propelling by release of gas or a spring pressure, any device designed to discharge chemicals as an offensive or defensive weapon, a bomb or any other explosive or incendiary device or Molotov cocktail, brass knuckles or other device intended to be worn on the hand or

other part of the body for infliction of injury to another person, stun gun, shocking device or any other device used to inflict bodily injury.

3.37. “*Reasonable expectation of privacy*” means:

- a. circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or
- b. circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

#### **Article IV. Jurisdiction**

4.01. *Generally.* The offenses specified in this Ordinance, or those provided for in other Ordinances of the Tribal Code, constitute forbidden criminal conduct against the Tribe. Persons committing such offenses may be tried and punished by the Tribal Court as provided for by the Constitution, this Ordinance, the Tribal Courts Ordinance, the Criminal Procedures Ordinance, or any other relevant Tribal law; provided, however, that the existence of criminal jurisdiction of the Tribe shall not affect the power or authority of any other courts, including those of the United States, or the State of Michigan, which may have concurrent jurisdiction.

4.02. *The Tribe's Criminal Jurisdiction.*

- a. The Tribe’s criminal jurisdiction shall extend to all matters arising within its territorial jurisdiction, as that term is defined in this Ordinance.
- b. The Tribe’s criminal jurisdiction shall further extend to all matters arising within its membership-based jurisdiction, as that term is defined in this Ordinance.
- c. The Tribe’s criminal jurisdiction shall further extend to the following offenses wherever or by whomever committed:
  1. Embezzlement and theft from a tribal organization, section 9.08;
  2. Abuse of office, section 12.01, if the office involved is a tribal office;
  3. Improper influence of a tribal official, section 12.02;
  4. Election fraud, section 12.03, if the election involved is a tribal election;
  5. Malicious criminal prosecution, section 12.04, if the prosecution involves the Tribal Court;
  6. Obstruction of justice, section 12.05, if the investigation involves a violation of tribal law or the case involved is in Tribal Court;
  7. Public bribery, section 11.06, if the public servant involved is an official, appointee, judge or employee of the Tribe;
  8. Refusing, omitting and delaying to arrest, section 12.07; and
  9. Filing fictitious report, section 12.09.
  10. Fraud, section 11.02 if the act alleged involves funds or other property derived from a tribally administered or authorized program.

11. Contempt, section 6.01, disobedience of a court order, section 6.02, or perjury, section 6.03.

4.03 *Juvenile Transfer to the Adult Division of Tribal Court.* If a juvenile defendant is at least sixteen (16) years of age at the time of the offense, the Prosecutor shall have the option of filing the action as a juvenile offender proceeding or as an adult criminal matter. If the juvenile is between the ages of fourteen (14) and sixteen (16) and is alleged to have committed an offense, the Prosecutor may file a petition requesting the Court to transfer the juvenile to the Adult Division. No juvenile under the age of fourteen (14) years of age shall be charged as an adult for violations under this Ordinance.

## **Article V. General Provisions**

### **5.01. Affirmative Defenses.**

a. Unless the prosecution's evidence raises an issue of affirmative defense to an alleged offense, the defendant, to raise the issue, must present some credible evidence on that issue and the defendant shall have the burden of proving the defense. If the issue involved in an affirmative defense is raised, the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense.

b. Affirmative defenses include but are not necessarily limited to the following:

1. *Alibi.* The evidence must indicate that the defendant's whereabouts at the time of the crime make it impossible or impracticable to place the defendant at the scene of the crime.

2. *Claim of right.* The evidence must indicate that the person thought the property to be legally his, and that he was operating under an honest conviction that he was acting under claim of right.

3. *Duress.* The evidence must indicate that the person engaged in the conduct charged because he was coerced against his will by the use, or the threatened use of, unlawful force against his person or the person of another. The coercion must be such that a reasonable person would be unable to resist.

4. *Protection of self, property or other person.* The use of reasonable force towards another person is justified when:

A. the force is directed toward one who is using unlawful force; and

B. the person using such force reasonably believes that use of force is necessary for the person's protection or that of a third person.

The use of reasonable force toward another person is justified if used to prevent the unlawful entry into the dwelling of the person asserting the defense or to prevent the unlawful carrying away of personal property.

5. Those affirmative defenses specified elsewhere in this Ordinance or another Tribal Ordinance.

6. The affirmative defense of alibi cannot be asserted unless defendant follows the

notice provisions set forth in the Court Rules.

5.02. *Double Jeopardy*. If a criminal prosecution is for a violation of the same provision of law and is based upon the same facts as a former prosecution in Tribal Court, it is barred by the former prosecution, when:

- a. the former prosecution resulted in an acquittal; or
- b. the former prosecution proceeded on the basis of a plea of guilty or no contest; or
- c. the former prosecution resulted in a conviction which has not been reversed or vacated.

5.03. *Intoxication*. Intoxication of the defendant is not a defense to the charge of a criminal offense, but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negate the existence of a specific intent, if such intent is an element of the crime charged.

5.04. *Multiple Counts*.

a. When the conduct of a defendant establishes the commission of more than one offense, the defendant may be prosecuted for each such offense, unless:

1. inconsistent findings of facts are required to establish the commission of the offense; or
2. the offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or
3. the offense is defined as a continuing course of conduct and the defendant's course was uninterrupted unless the law provides that specific periods or instances of such conduct constitute separate offenses.

b. If the same conduct is defined as an offense in different Ordinances or in different Articles of this Ordinance, the offender may be prosecuted under any one or all of such sections subject to the limitations provided by this section. It shall be immaterial to such prosecution that one of the enactments or sections provides a lesser penalty than another, or was enacted at a later date than another unless the later section or enactment specifically repeals the earlier.

5.05. *Presumption of Innocence*.

a. Every person is presumed innocent of any offense with which he is charged until proven guilty.

b. No person shall be convicted of any offense unless his guilt, as to each material element, is proven beyond a reasonable doubt.

5.06. *Victim's Past Behavior*.

In order to convict a person of any offense defined in this Statute it shall not be necessary that the testimony of the alleged victim be corroborated. Evidence of the victim's past sexual behavior including but not limited to: the victim's marital history, divorce history, or general reputation for promiscuity, non-chastity, or sexual mores or orientation is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as follows:



- a. The perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.
- b. The Tribal Court shall hold a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.
- c. Nothing in this Article shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the Prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing concerning such evidence.

5.07. *Defenses to Prosecution.* In any prosecution in which lack of consent is based solely upon the victim's mental incapacity or upon the victim being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless.

5.08. In any prosecution in which the offense or degree of the offense depends on the victim's age, it is not a defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be; provided, that it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be the age identified based upon declarations as to age by the alleged victim.

5.09. *Limitation on Filing of Complaints.* No person shall be prosecuted, tried or punished for any offense enumerated and set forth in Article XIX ("Sex Crimes") of this Ordinance unless the prosecution is initiated within the set time periods with the following conditions having been met:

1. discovery that an offense has been committed, and
2. discovery of the identity of the person who allegedly committed the offense.

5.10. *Set time periods:*

1. Tier I: Five years
2. Tier III: No statutory limitation.
3. The set time period begins when the victim, if a child, turns eighteen years of age.
4. Time spent outside of the Tribal jurisdiction shall not be counted toward the statute of limitations to begin prosecution.

## **Article VI. Contempt of Court**

6.01. *Contempt.*

- a. *Offense.* A person commits the offense of contempt of court, if:
  1. he intentionally fails to maintain the respect due the Tribal Court; or

2. he intentionally engages in any offensive conduct in the Tribal Court courtroom.

b. *Penalty.* A person deemed guilty of contempt of court shall be subject to immediate sentencing by the Tribal Court judge and may be sentenced to a jail term not to exceed ninety days, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

6.02. *Disobedience of a Court Order.*

a. *Offense.* A person commits the offense of disobedience of a court order, if he intentionally disobeys any outstanding order, subpoena, warrant or command duly issued by the Tribal Court or by any Tribal Court judge.

b. *Penalty.* A person convicted of disobedience of a court order may be sentenced to a jail term not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

6.03. *Perjury.*

a. *Offense.* A person commits the offense of perjury, if he makes any sworn statement, either in writing or orally, or a sworn affidavit, before the Tribal Court, knowing or having reasonable cause to know the same to be false, or if he induces another person to do so.

b. *Penalty.*

1. Except as provided in sub.(2), a person convicted of perjury may be sentenced to imprisonment for a period not to exceed three months, or a fine of not to exceed one thousand dollars (\$1,000.00), or both.

2. If any other person is unjustly deprived of liberty or property, or the use or benefit thereof, as a result of such perjury, the sentence may be imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

6.04. *Tampering with records.*

a. *Offense.* A person commits the offense of tampering with records if, knowing that he or she has no privilege to do so, he or she falsifies, destroys, removes or conceals any writing or record, with purpose to deceive or injure anyone or to conceal any wrongdoing.

b. *Penalty.* A person convicted of tampering with records may be sentenced to a jail term not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

6.05. *Escape.*

a. *Offense.* A person is guilty of the offense of escape, a misdemeanor, if he or she unlawfully removes himself or herself from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period.

b. *Penalty.* A person convicted of the offense of escape may be sentenced to a jail term not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or

both.

6.06. *Bail jumping.*

a. *Offense.* A person set at liberty by court order, with or without bail, upon condition that he or she will subsequently appear at a specified time or place, commits the offense of bail jumping if, without lawful excuse, he or she fails to appear at that time and place.

b. *Penalty.* A person convicted of the offense of bail jumping may be sentenced to a jail term not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

6.07. *Flight to avoid prosecution or judicial process.*

a. *Offense.* A person who shall absent himself or herself from the Tribe's jurisdiction or territory for the purpose of avoiding arrest, prosecution or other judicial process shall be guilty of a misdemeanor.

b. *Penalty.* A person convicted of flight to avoid prosecution or judicial process may be sentenced to a jail term not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

## **Article VII. Scheming and Planning Offenses**

7.01. *Aiding and Abetting.*

a. *Offense.* A person commits the offense of aiding and abetting, if, with the intent to promote or facilitate the act or conduct constituting the commission of the offense, he aids, abets or advises such other person in planning or committing the offense.

b. *Penalty.* A person convicted of the offense of aiding and abetting shall be subject to the same sentence as provided for the underlying crime.

7.02. *Attempt to Commit Crime.*

a. *Offense.* A person commits the offense of Attempt to commit crime if he attempts to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such an offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same.

b. *Sentence.* A person convicted of Attempt to commit crime may be sentenced by a fine in an amount; or imprisonment for a period not to exceed one half (1/2) of the maximum punishment which might have been inflicted if the offense had been completed, or both

7.03. *Conspiracy.*

a. *Offense.* A person commits the offense of criminal conspiracy, if with the intent to promote or facilitate the commission of another offense,

1. he agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes such other offense or an attempt to commit such other offense; or

2. he agrees to aid such other person or persons in planning and commission or such other offense or of an attempt to commit such other offense.

b. *Penalty.* A person convicted of criminal conspiracy shall be subject to the same punishment as that specified for the offense which was the subject of the conspiracy. However, the penalty shall not exceed the maximum specified for the offense which was the subject of the conspiracy, whether or not such other offense was committed.

c. *Comment.*

1. Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt, if the other offense would have been committed had the attendant circumstances been as the actor believed them to be.

2. A person who engages in conduct intending to aid another to commit any offense commits criminal attempt if the conduct would establish his complicity under section 7.01 were the offense to be committed by the other person, even if the other person is not guilty of committing or attempting the offense.

#### 7.04. *Solicitation.*

a. *Offense.* Except for authorized acts of persons authorized by law to investigate the commission of offenses by others, a person commits the offense of criminal solicitation, if he commands, induces, entreats or otherwise attempts to persuade another person to commit an offense, whether as principal or accomplice, with the intent to promote or facilitate the commission of that crime.

b. *Penalty.* A person convicted of criminal solicitation shall be subject to the same punishment as that for the completed offense. However, the penalty for solicitation shall not exceed the maximum specified for the offense which was the subject of the solicitation whether or not the offense was committed.

c. *Comment.* It is no defense to a prosecution under this section that the person solicited could not commit or could not be guilty of the offense because of lack of responsibility, culpability or other incapacity.

### **Article VIII. Offenses Against the Person**

#### 8.01. *Assault.*

a. *Offense.* A person commits the offense of assault, if:

1. he attempts to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery; and

2. he intended either to injure the person or intended to put the person in reasonable fear or apprehension of an immediate battery.

b. *Penalty.* A person convicted of assault may be sentenced to imprisonment for a period not to exceed four months or a fine not to exceed two thousand dollars (\$2,000.00) or both.

#### 8.02. *Battery.*

a. *Offense.* A person commits the offense of battery, if:

1. he forcefully or violently strikes or touches another person or something

closely connected with the person; and

2. he intended either to injure the person or intended to make the person reasonably fear immediate injury.

b. *Penalty.* A person convicted of battery may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed three thousand dollars (\$3,000.00), or both.

8.03. *Assault with a Weapon.*

a. *Offense.* A person commits the offense of assault with a weapon if:

1. he committed an assault as defined in section 8.01(a); and

2. he had the ability to commit a battery, or appeared to have the ability, or thought he had the ability; and

3. he committed the assault with a weapon.

b. *Penalty.* A person convicted of assault with a weapon may be sentenced to imprisonment for a period not to exceed nine months, or a fine not to exceed four thousand dollars (\$4,000.00), or both.

8.04. *Aggravated Battery.*

a. *Offense.* A person commits the offense of aggravated battery, if:

1. he tried to physically injure another person; and

2. he intended to injure or intended to cause another person to reasonably fear an immediate battery; and

3. the assault caused an aggravated injury.

b. *Penalty.* A person convicted of aggravated battery may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

8.05. *Battery on a Law Enforcement Officer.*

a. *Offense.* A person commits the offense of battery on a law enforcement officer, if:

1. he uses force to intentionally injure a law enforcement officer; and

2. the injury required medical care; and

3. he injured the law enforcement officer, while the officer was making a lawful arrest; and

4. he knew the officer was a law enforcement officer.

b. *Penalty.* A person convicted of battery on a law enforcement officer may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

8.06. *Harassment.*

a. *Offense.* A person commits the offense of harassment, if:

1. he knowingly pursues a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and which serves no lawful purpose; and

2. the conduct is such that it would cause a reasonable person to suffer substantial

emotional distress.

b. *Penalty.* A person convicted of harassment may be sentenced to imprisonment for a period not to exceed two months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

#### 8.07. *Stalking.*

a. *Offense.* A person commits the offense of stalking, if he knowingly pursues a person in a pattern of conduct that poses a credible threat to another person and the conduct is intended to place that person in reasonable apprehension of death, bodily harm, unlawful sexual contact, confinement or restraint, provided that, in furtherance of the threat, the stalker must commit one or more of the following acts on more than one occasion:

1. follow a person, other than in the residence of the stalker; or
2. placing a person under surveillance by remaining present outside that person's residence, work-place, or vehicle or any other place frequented by the person other than in the residence of the stalker; or
3. harassing a person, as defined in section 8.06(a).

b. *Penalty.* A person convicted of stalking may be sentenced to imprisonment for a period of up to six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

#### 8.08. *Homicide.*

a. *Offense.* A person commits the offense of criminal homicide, if:

1. he intentionally causes the death of another person; or
2. with the intent to cause bodily injury to a person, or to assault, threaten, menace, intimidate or endanger any person, he causes the death of that person or any other person; or
3. acting alone or with one or more persons, he voluntarily commits or participates in the commission or attempt to commit arson, theft, burglary, kidnapping, assault or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or in the immediate flight therefrom by anyone, the death of a person is caused; or
4. he recklessly or by gross negligence causes the death of another person; or
5. under circumstances manifesting indifference to the value of human life, he intentionally engages in conduct which creates significant risk of injury or death to a person, and thereby causes the death of another person; or
6. he operates a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drugs or other intoxicant, and such conduct causes the death of another person.

b. *Penalty.* A person convicted of criminal homicide may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

#### 8.09. *Kidnapping.*

- a. *Offense.* A person commits the offense of kidnapping, if:
1. he forcibly or otherwise seizes and carries any person from one place to another without his consent and without legal justification or lawful authority; or
  2. he entices, takes or decoys away any child under the age of eighteen years not his own, with the intent to keep or conceal the child from the child's parent, guardian or lawful custodian; or
  3. he intentionally confines, restrains or detains another without the other's consent; or
  4. he is a natural, adoptive or foster parent of a child under the age of eighteen years, but knowing or having reasonable cause to know that he has no privilege to do so, he takes or entices such child from the custody of another parent, guardian or lawful custodian.
- b. *Penalty.* A person convicted of kidnapping may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

## **Article IX. Property Related Offenses**

### **9.01. Arson.**

a. *Offense.* A person commits the offense of arson, if without legal justification or lawful authority to do so, he intentionally sets fire to, burns, causes to be burned, or by the use of any explosive damages or destroys, or causes to be damaged or destroyed, any property of another, including public property or any unit of government, or in which another has any legally recognized interest.

b. *Penalty.* A person convicted of arson may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

### **9.02. Burglary.**

a. *Offense.* A person commits the offense of burglary, if:

1. he knowingly enters, breaks into or remains unlawfully in a building, other structure or motor vehicle belonging to another with the intent to commit therein a crime against person or property, other than criminal trespass as defined in section 10.02; or

2. he enters or breaks into any vault, safe, cash register, coin vending machine, product dispenser, money depository, safety deposit box, telephone coin box, vehicle, or other apparatus or equipment whether or not coin operated with the intent to take, use, or steal such object or facility or anything therein.

b. *Penalty.* A person convicted of burglary may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

### **9.03. Receiving and Concealing Stolen Property.**

a. *Offense.* A person commits the offense of receiving and concealing stolen property, if he buys, receives, conceals, or arranges the sale, transfer, disposal or receipt of any property that he knows or has reasonable cause to know was obtained by robbery, theft, fraud or deceit, or other unlawful means.

b. *Penalty.* A person convicted of illegally receiving property may be sentenced to imprisonment for a period of up to six months, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

### **9.04. Joyriding.**

a. *Offense.* A person commits the offense of joyriding, if he drives or takes away any motor vehicle without the consent of the owner or lawful possessor, or participates with any other person in such conduct, with the intent of temporarily depriving the owner or rightful possessor of the use of the same, or of temporarily making use of the motor vehicle.

b. *Penalty.*

1. Except as provided in sub. (2), a person convicted of joyriding may be sentenced to imprisonment for a period not to exceed three months, or a fine not



to exceed one thousand dollars(\$1,000.00), or both.

2. If the vehicle is damaged while the owner or lawful possessor is deprived of its use, the offender may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

c. *Comment.* For the purpose of this section, "temporarily depriving" and "temporarily making use" shall refer to a period of time of not more than twenty four hours. If the offender intends to use or deprive the owner or rightful possessor of the use of the motor vehicle, and in fact the owner or rightful possessor is deprived of the use of the vehicle, for a period in excess of twenty four hours, it shall be conclusively presumed that the person driving or taking away the motor vehicle without the consent of the owner or lawful possessor intended to permanently deprive the owner or lawful possessor of its use and benefit.

#### 9.05. *Robbery.*

a. *Offense.* A person commits the offense of robbery, if he takes anything of value from the person or presence of another by the use of force, threats, coercion or intimidation.

b. *Penalty.*

1. A person convicted of robbery may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

2. The Tribal Court may require the offender to compensate the victim for the value or the stole property in addition to, or in lieu of, the sentence provided in sub. (1).

#### 9.06. *Theft.*

a. *Offense.* A person commits the offense of theft, if he knowingly obtains or exercises control over anything of value of another without authorization, or by threat or deception, or knowing said thing of value to have been stolen; and he

1. intends to deprive such other person permanently of the use or benefit of the thing of value; or

2. knowingly uses, conceals or abandons the thing of value in such a manner as to deprive such other person permanently of its use or benefit; or

3. uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive such other person permanently of its use and benefit; or

4. demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to such other person; or

5. having lawfully obtained possession for temporary use of the personal property of another, deliberately fails to reveal the whereabouts of or to return said property to the owner or his representative or the person from whom he has received it, with the intent to permanently deprive such other person of its use and

benefit.

b. *Penalty.*

1. A person convicted of theft may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

2. The Tribal Court may require the offender to compensate the victim for the value of the stolen in addition to, or in lieu of, the sentence provided in sub. (1).

9.07. *Theft of Services.*

a. *Offense.* A person commits theft of services, if without lawful authority, that person obtains services which are available only for compensation with the intent of avoiding payment for such services.

b. *Penalty.*

1. A person convicted of theft of services may be sentenced to imprisonment for a period not to exceed six months or a fine not to exceed five thousand dollars (\$5,000.00), or both.

2. The Tribal Court may require the offender to compensate the victim for the services wrongfully obtained in addition to, or in lieu of, the sentence provided in sub. (1).

9.08. *Embezzlement and Theft from a Tribal Organization.*

a. *Offense.* A person commits the offense of embezzlement and theft from a tribal organization, if:

1. he embezzles, steals, knowingly converts to his use or to the use of another, willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, goods, assets, or other property belonging to any tribal organization or entrusted to the custody or care of any officer, employee, or agent of a tribal organization; or

2. knowing any such money, funds, credits, goods, assets, or other property to have been so embezzled, stolen, converted, misapplied or permitted to be misapplied, receives, conceals, or retains the same with intent to convert it to his use or the use of another.

b. *Penalty.* A person convicted of embezzlement and theft from a tribal organization may be sentenced to imprisonment not to exceed more than one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both; but if the value of such property does not exceed the sum of one hundred dollars (\$100.00), he may not be sentenced to imprisonment in excess of six months, or a fine in excess of one thousand dollars (\$1,000.00) or both.

c. *Comment.* For the purposes of this section, "tribal organization" means the Tribe, or any entity created or owned by the Tribe for economic or governmental purposes, or any entity which is controlled by the Tribe's government.

9.09. *Unauthorized use of financial transaction devices.*

a. *Offense.* A person commits the offense of unauthorized use of financial transaction devices if he uses a financial transaction device for the purpose of obtaining property or services with knowledge that:

1. The financial transaction device is stolen or forged; or
2. The financial transaction device has been revoked or cancelled; or
3. For any other reason his or her use of the financial transaction devices is unauthorized by the issuer.

b. *Definition.* Financial Transaction Device means a writing or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

c. *Penalty.* A person convicted of unauthorized use of financial transaction devices may be sentenced to imprisonment not to exceed more than one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both; but if the value of such property does not exceed the sum of one hundred dollars (\$100.00), he may not be sentenced to imprisonment in excess of six months, or a fine in excess of one thousand dollars (\$1,000.00) or both.

## **Article X. Damage to Property**

### **10.01. *Malicious Destruction of Property.***

a. *Offense.* A person commits the offense of malicious destruction of property, if he intentionally, knowingly or recklessly uses or damages any property not exclusively his own.

b. *Penalty.*

1. A person convicted of abusing property may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.
2. The Tribal Court may require the offender to compensate the victim for the repair or replacement costs of the damaged property in addition to, or in lieu of, the sentence provided in sub. (1).

### **10.02. *Trespass.***

a. *Offense.* A person commits the offense of trespass if knowingly or having reasonable cause to know that he is not licensed or privileged to do so, he willfully enters or remains upon or within any building, structure, or land, or portion thereof after being ordered or notified not to enter or remain there. Such notice or order may be given by:

1. written or verbal communication actually given to the intruder; or
2. written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
3. by fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

b. *Penalty.* A person convicted of criminal trespass may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

10.03. *Desecration.*

a. *Offense.* A person commits the offense of desecration if he intentionally defaces, damages, pollutes, or otherwise physically mistreats or destroys in any way any public monument, public structure or facility, or place of worship or burial, or desecrates in a public place any other object of veneration or respect by the public or a significant segment of the public.

b. *Penalty.* A person convicted of desecration may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

10.04. *Littering.*

a. *Offense.* A person commits the offense of littering, if he deposits, throws, dumps, discards, abandons, or leaves any litter on any public or private property or waters commits the offense of littering, unless:

1. such property is an area designated by law for the disposal of such litter and such person is authorized by the proper public authority to so use such property; or
2. the litter is placed in a receptacle or container installed on such property for such use by the public or such person placing litter in it; or
3. such person is the owner or tenant in lawful possession of such property, or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant.

b. *Penalty.* A person convicted of littering may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

## **Article XI. Forgery and Related Offenses**

11.01. *Forgery.*

a. *Offense.* A person commits the offense of forgery, if with intent to defraud he falsely makes, completes, alters, issues, utters, delivers, files, or submits a written instrument or any portion thereof, for the purpose of obtaining money or other consideration or thing of value, for himself or any other person.

b. *Penalty.* A person convicted of forgery may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

11.02. *Fraud.*

a. *Offense.* A person commits the offense of fraud, if he obtains money, property, gain, advantage, credit, interest or assets from another by intentional misrepresentation or

deceit.

b. *Penalty.* A person convicted of fraud may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

11.03. *Passing Bad Checks.*

a. *Offense.* A person commits the offense of passing bad checks, if he makes, utters, issues, delivers or passes a written order to pay a sum of money, drawn on a bank, payable on demand or at a time certain, and signed by the drawer, when the person so acting knows or has reasonable cause to know at that time the order will not be paid or honored by the drawee because of insufficient funds or lack of an account of the drawer deposited or on account with the drawee.

b. *Penalty.* A person convicted of passing bad checks may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

11.04. *Private Bribery.*

a. *Offense.* A person commits the offense of private bribery, if:

1. he offers, confers, bestows, or agrees to confer or bestow any personal or pecuniary benefit, gain privilege or advantage upon any other person, or upon any third person designated or agreed to by that other person, as consideration for that other person violating or agreeing to violate a duty to which he is subject as:

A. agent or employee; or

B. trustee, guardian or other fiduciary; or

C. lawyer, physician, accountant, appraiser or other professional advisor; or

D. officer, director, partner, manager, or other participant in the affairs of an incorporated or unincorporated firm, enterprise, company or association; or

E. duly elected or appointed representative or trustee of a labor organization or trust fund; or

F. arbitrator or other purportedly disinterested adjudicator or referee.

2. he is a person owing a duty in a capacity set forth in sub. (1) and while in that status he solicits, accepts, or agrees to accept any personal or pecuniary benefit, gain, privilege or advantage directed to himself or another person designated or agreed to by him, upon an agreement or understanding that he will violate or agree to violate his said duty.

b. *Penalty.* A person convicted of private bribery may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

11.05. *Public Bribery.*

a. *Offense.* A person commits the offense of public bribery, if:

1. he offers, confers, bestows or agrees to confer or bestow any personal or pecuniary benefit, gain, privilege or advantage upon a public servant, or another person designated or agreed to be the public servant, with the intent to improperly influence the public servant's vote, opinion, judgment, exercise of discretion, or other action or inaction in his official capacity; or
2. while serving as a public servant, he solicits, accepts, or agrees to accept any personal or pecuniary benefit, gain, privilege or advantage directed at himself or another person designated or agreed to by the public servant, upon an agreement or understanding that the vote, opinion, judgment, exercise of discretion, or other action or inaction by him as a public servant will be influenced thereby.

b. *Penalty.* A person convicted of public bribery may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

11.06. *Impersonating a public servant.*

a. *Offense.* A person commits the offense of impersonating a public servant if he falsely pretends to hold a position in the public service with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his or her prejudice.

b. *Penalty.* A person convicted of impersonating a public servant may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

## **Article XII. Obstruction of Tribal Administration and Related Offenses**

12.01. *Abuse of Office.*

a. *Offense.* A person commits the offense of abuse of office, if he intentionally acts or purports to act in an official capacity, including willful failure to act, so as to obtain any personal or pecuniary benefit, gain, advantage, or privilege to which he is not entitled in or by the performance of his official duties.

b. *Penalty.* A person convicted of abuse of office may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.02. *Improper Influence of a Tribal Official.*

a. *Offense.* A person commits the offense of improper influence of a tribal official, if he threatens harm to any tribal official with the intent of influencing such person's official actions.

b. *Penalty.* A person convicted of improper influence of a tribal official may be sentenced to imprisonment not to exceed three months, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

c. *Comment.* As used in this section, "tribal official" means an elected official of the

Tribe or a tribal judge, appointee or employee.

12.03. *Election Fraud.*

a. *Offense.* A person commits the offense of election fraud, if the person:

1. gives or offers to give anything of value to another person to induce that person to vote, or to refrain from voting, for any candidate, signing a nominating petition, or registering to vote; or
2. acts to compromise the integrity of the election, or attempts to do so by falsifying any document, including documents filed with the Election Board; or
3. compromises the security of the ballots and other election documents; or
4. discharges or threatens to discharge a tribal employee for the purpose of influencing the employee's vote or signature on a nominating petition; or
5. votes, or attempts to vote, more than once in the same election; or
6. opens, marks, alters, or destroys any ballot sent to another person; or
7. interferes with the mailing of election materials; or
8. he alters, defaces or destroys any election documents, including candidate signs or literature; or
9. files a false report required by Tribal Code.

b. *Penalty.* A person convicted of election fraud may be sentenced to imprisonment not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.04. *Malicious Criminal Prosecution.*

a. *Offense.* A person commits the offense of malicious criminal prosecution, if he maliciously causes or attempts to cause a criminal charge to be prosecuted against an innocent person, knowing such person to be innocent.

b. *Penalty.* A person convicted of malicious criminal prosecution may be sentenced to imprisonment not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

12.05. *Obstruction of Justice.*

a. *Offense.* A person commits the offense of obstruction of justice, if he knowingly uses intimidation or physical force, threatens, corruptly persuades or attempts to do so, or engages in misleading conduct toward another person, with intent to:

1. influence the testimony of any person in an official proceeding; or
2. cause or induce any person to:
  - A. withhold testimony, or withhold a record, document or other object, from an official proceeding; or
  - B. alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding; or
  - C. evade legal process summoning that person to appear as a witness, or to produce a record, document or other object, in an official proceeding; or
  - D. be absent from an official proceeding to which such person has been

summoned by legal process; or

3. hinder, delay or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of a tribal or federal offense or a violation of conditions of probation, parole or release pending judicial proceedings.

b. *Offense - Law Enforcement Officer.* A tribal law enforcement officer commits the offense of obstruction of justice if he:

1. commits any of the acts set forth in sub. (a) above; or
2. without official reason for doing so, obstructs, impedes, hinders, or interferes with any investigation or other official activity of the tribal public safety department, or of another law enforcement agency acting lawfully with respect to a matter arising within the Tribe's jurisdiction.

c. *Penalty.* A person convicted of obstruction of justice may be sentenced to imprisonment for a period of up to one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.06. *Obstructing Performance of Police Duties.*

a. *Offense.* A person commits the offense of obstructing the performance of police duties, if he willfully prevents or attempts to prevent a police officer or other duly authorized law enforcement officer from affecting an arrest or otherwise discharging the duties of his office by any of the following:

1. creating or appearing to create a risk of bodily harm to the officer or any other person; or
2. employing means or threatening to employ means which would justify or require force on the part of the officer to overcome them; or
3. escaping, attempting to escape, or assisting or attempting to assist another to escape from custody of the officer.

b. *Penalty.* A person convicted of obstructing police duties may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.07. *Refusing, Omitting and Delaying to Arrest.*

a. *Offense.* Tribal law enforcement officers commit the offense of refusing, omitting and delaying to arrest, if any officer authorized to serve process, who shall willfully refuse to execute any lawful process to him directed, and requiring him to apprehend or confine any person convicted or charged with an offense, or who shall willfully omit or delay to execute such process, whereby such person shall escape and go at large.

b. *Penalty.* A person convicted of refusing, omitting and delaying to arrest may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.08. *Concealing or Harboring One Who has Escaped.*



a. *Offense.* A person commits the offense of concealing or harboring one who has escaped, if he knowingly or willfully conceals or harbors for purpose of concealment, any person mentioned in this Chapter, who has escaped or is escaping from lawful custody.

b. *Penalty.* A person convicted of concealing or harboring one who has escaped may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

12.09. *Filing Fictitious Reports.*

a. *Offense.* A person commits the offense of filing fictitious report, if he willfully and knowingly makes to any tribal law enforcement officer a fictitious report of the commission of any crime knowing the same to be false

b. *Penalty.* A person convicted of filing fictitious report may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

**Article XIII. Riot and Related Offenses**

13.01. *Causing or Maintaining a Public Nuisance.*

a. *Offense.* A person commits the offense of causing or maintaining a public nuisance, if he uses, permits to be used or allows to be in such condition any real or personal property under his control so as to damage, injure or endanger the health, safety or property of another person or the public.

b. *Penalty.*

1. A person convicted of causing or maintaining a public nuisance may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

2. In addition to, or in lieu of, the sentence provided in sub. (1), the court may order the person to abate or eliminate the nuisance. Such an order to abate or eliminate the nuisance shall include the identification of the nuisance and the period of time in which it must be abated or eliminated.

13.02. *Disorderly Conduct.*

a. *Offense.* A person commits the offense of disorderly conduct, if the person intentionally, knowingly or recklessly:

1. uses abusive, indecent, profane, or vulgar language in a public or private place which by its very utterance tends to incite violence, unlawful conduct, or a breach of the peace by others; or

2. makes an offensive gesture or display in a public or private place which by its very nature tends to incite violence, unlawful conduct, or a breach of the peace by others; or

3. abuses or threatens a person in a public or private place in a manner calculated

- to place the threatened person in fear of bodily harm; or
- 4. makes unreasonable noise in a public place, or on or near private property that he has no right to occupy; or
- 5. fights with another in a public or private place; or
- 6. displays a deadly weapon in a public or private place in a manner calculated to alarm; or
- 7. discharges a firearm in a public or private place; or
- 8. disrupts any lawful public or religious meeting or assembly; or
- 9. lies or sleeps on any public street, alley or private property that he has no right to occupy.

b. *Penalty.* A person convicted of disorderly conduct may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

#### 13.03. *Riot.*

a. *Offense.* A person commits the offense of rioting, if he engages in a riot.

b. *Penalty.* A person convicted of riot may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

#### 13.04. *Inciting a Riot.*

a. *Offense.* A person commits the offense of inciting a riot, if the person:

- 1. incites or urges a person to participate or engage in a current or potential riot; or
- 2. gives commands, instructions, or signals to other persons in furtherance of a riot; or
- 3. knowingly supplies a weapon or destructive device for use in a riot; or
- 4. teaches another to prepare or use a weapon or destructive device with intent that it be used in a riot.

b. *Penalty.* A person convicted of inciting a riot may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

13.05. *Disobedience of Public Safety Orders Under Riot Conditions.*

a. *Offense.* A person commits the offense of disobedience of a public safety order under riot conditions, if during a riot, or when one is impending, he intentionally disobeys a reasonable public safety order to move, disperse, or refrain from specified activities in the immediate vicinity of the riot.

b. *Penalty.* A person convicted of disobedience of a public safety order during riot conditions may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

13.06. *Obstructing Highway or Other Passageway.*

a. *Offense.* A person commits the offense of obstructing a highway or other passageway, if he intentionally, knowingly or recklessly:

1. obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access; or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

2. disobeys a reasonable request or order to move issued by a police officer, fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway, or to maintain public safety by disturbing those gathered in dangerous proximity to a fire, riot or other hazard.

b. *Penalty.* A person convicted of obstructing a highway or other passageway may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

13.07. *Transmitting False Alarms.*

a. *Offense.* A person commits the offense of transmitting false alarms, if he knowingly transmits or causes to be transmitted a false message, report or signal of fire or other emergency to or within any organization dealing with emergencies involving danger to life or property.

b. *Penalty.*

1. Except as provided in sub. (2), a person convicted of transmitting a false alarm may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

2. If the false alarm results directly or indirectly in injury to person or property, the person guilty of the offense may be sentenced to imprisonment for a person not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

13.08. *Trespass or Interference in Public Buildings.*

a. *Offense.*

1. A person commits the offense of trespass or interference in public buildings, if

he so conducts himself at or in any public building or facility owned or controlled by the Tribe or any other governmental entity, so as to willfully deny to any public official, public employee, or member of the public the lawful rights of such person to enter, to use the facilities of, or to leave any such public building or facility.

2. It shall also be an offense under this section for any person:

A. at or in any such public building or facility to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, intimidation, or by force and violence or threat thereof; or

B. to willfully refuse or fail to leave any such public building or facility upon being requested to do so by the chief administrative officer, or his designee, charged with maintaining order in such public building or facility, if such person has committed, is committing, threatens to commit, or incites others to commit any act which does, or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such building or facility; or

C. at any meeting or session conducted by any judicial, legislative, or administrative body or official at, or in, any public building or facility, to willfully impede, disrupt, or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or to commit any act designated to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

b. *Penalty.* A person convicted of trespass or interference in public buildings may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

### 13.09. *Terroristic threats.*

a. *Offense.* A person commits the crime of terroristic threats if he threatens to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation, or otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.

b. *Penalty.*

1. Except as provided in sub. (2), a person convicted of terroristic threats may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

2. If the terroristic threat results directly or indirectly in injury to person or

property, the person guilty of the offense may be sentenced to imprisonment for a person not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

13.10. *Soliciting Without Permission.*

a. *Offense.* A person commits the offense of soliciting without permission, if he begs or solicits gifts or donations of money or property door to door or by telephone, or on the streets, sidewalks or other public places, without a license or other written permission issued by the Tribal government.

b. *Penalty.* A person convicted of soliciting without permission may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

**Article XIV. Weapons and Related Offenses**

14.01. *Carrying a Concealed Weapon.*

a. *Offense.* A person commits the offense of carrying a concealed weapon, if he knowingly carries concealed on or about his person a dangerous weapon unless he is lawfully authorized to carry by the Tribe such weapon.

b. *Penalty.* A person convicted of carrying a concealed weapon may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

c. *Comment.* It shall be an affirmative defense that the accused was in his own dwelling, or place of business, owned or operated by him, or on property owned or under his control at the time of the act of carrying.

14.02. *Unlawful Use of a Weapon.*

a. *Offense.* A person commits the offense of unlawful use of a weapon, if:

1. he discharges a firearm within 400 yards of an occupied dwelling or in the proximity of any other building or vehicle so as to knowingly or recklessly endanger a person or property; or
2. he carries a firearm while intoxicated; or
3. he handles or uses a firearm or other weapon so as to knowingly or recklessly endanger the safety or another; or
4. he carries a firearm or other weapon with unlawful intent; or
5. he carries or uses a firearm or other weapon where prohibited by any other law.

b. *Penalty.* A person convicted of unlawful use of a weapon may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

14.03. *Dangerous Use of Explosives.*

a. *Offense.* A person commits the offense of dangerous use of explosives, if with the intent to injure, intimidate or terrify another, or to damage another's property, he

maliciously explodes, attempts to explode or places any explosive anywhere within the territorial jurisdiction of the Tribe.

b. *Penalty.*

1. A person convicted of dangerous use of explosives may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

2. In addition to, or in lieu of, the punishment provided in sub. (1), the Tribal Court may order the offender to pay to the injured party the costs of any property damaged by his actions.

14.04. *Negligent Use of Explosives.*

a. *Offense.* A person commits the offense of negligent use of explosives, if he negligently explodes, attempts to explode or places any explosive in such a manner as to result in injury to another or to the property of another, or by such action that increases the probability to such injury.

b. *Penalty.*

1. A person convicted of negligent use of explosives may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

2. In addition to, in lieu of, the punishment provided in sub. (1), the Court may order the offender to pay to the injured party the costs of any property damaged by his actions.

## Article XV. Offenses Against the Family

### 15.01. *Bigamy.*

a. *Offense.* A person commits the offense of bigamy, if knowing or having reasonable cause to know that he is then married, he marries another person, or he marries another person knowing or having reasonable cause to know that such person is then married to a third person.

b. *Penalty.* A person convicted of bigamy may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

### 15.02. *Child Abuse.*

a. *Offense.* A person commits the offense of child abuse, if he knowingly, intentionally, or negligently, and without justification, causes or permits a person under the age of eighteen years to be:

1. placed in a situation that may endanger its life or health; or
2. exposed to the inclemency of the weather; or
3. abandoned, tortured, cruelly confined or cruelly punished; or
4. deprived of necessary food, clothing or shelter.

b. *Penalty.* A person convicted of child abuse may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

15.03. *Contributing to the Delinquency of a Minor.* A person commits the offense of contributing to the delinquency of a minor if he knowingly causes, encourages or assists a person under the age of eighteen years to be a child offender, as defined in Juvenile Code.

a. *Penalty.* A person convicted of contributing to the delinquency of a minor may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

### 15.04. *Elder Abuse*

a. *Offense.* A caregiver or other person with authority over the elder commits the offense of elder abuse, if he recklessly or intentionally causes physical or mental harm to an elder, however:

1. This section does not prohibit a caregiver or other person with authority over an elder from taking reasonable action to prevent an elder from being harmed or from harming others.
2. This section does not apply to an act or failure to act that is carried out by a patient advocate under a patient advocate designation.

b. *Sentence.* A person convicted of elder abuse may be sentenced to imprisonment not to exceed one (1) year or a fine not to exceed five thousand dollars (\$5,000) or both. A person convicted of Elder abuse shall not be eligible to reside on Tribal land in any

residence or facility that is also the residence of a person aged 55 or older.

**15.05 Failure to Report Elder Abuse**

a. *Offense.* Any person who is required by the Elder Protection Code to report suspected elder abuse and fails to do so commits the offense of failure to report elder abuse.

b. *Sentence.* A person convicted of failure to report elder abuse may be sentenced to a period of incarceration not to exceed ninety (90) days or a fine not to exceed one thousand dollars (\$1,000) or both.

**15.06 False Report of Elder Abuse**

a. *Offense.* A person commits the offense of false report of elder abuse if he makes a report of suspected elder abuse knowing it to be false.

b. *Sentence.* A person convicted of false report of elder abuse may be sentenced to incarceration not to exceed ninety (90) days or a fine not to exceed one thousand dollars (\$1,000) or both.

**Article XVI. Alcohol Related Offenses**

**16.01. Delivery of Liquor to a Minor.**

a. *Offense.* A person commits the offense of delivery of liquor to a minor, if he sells, furnishes, procures for, or knowingly assists in the furnishing of any beer, wine, or intoxicating liquor to any person under the age of 21 years.

b. *Penalty.* A person convicted of delivery of liquor to a minor may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

c. For the purposes of this section, the terms "beer," and "wine," and "intoxicating liquor" shall have the meaning as defined in the Liquor Control Ordinance.

**16.02. Illegal Consumption of Liquor.**

a. *Offense.* A person commits the offense of illegal consumption of liquor if he consumes any beer, wine or intoxicating liquor in any public place except on premises upon which there is lawful authority to sell such liquor by the drink for consumption on the premises.

b. *Penalty.* A person convicted of illegal consumption of liquor may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

c. *Comment.*

1. Possession of a container of beer, wine or intoxicating liquor on which the United States excise tax seal has been broken or removed from which the cap, cork or seal placed upon it by the manufacturer shall constitute a rebuttable presumption of consumption.

2. For the purposes of this section, the terms "beer," and "wine," and "intoxicating liquor" shall have the meaning as defined in the Liquor Control Ordinance.

**16.03. Public Intoxication.**



a. *Offense.* A person commits the offense of public intoxication, if he appears in any public place manifestly under the influence of alcohol, controlled substances or other drugs to the degree that he may endanger himself or another person or property.

b. *Penalty.* A person convicted of public intoxication may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

16.04. *Under Age Possession by a Minor.*

a. *Offense.* A person under the age of 21 years commits the offense of underage possession of liquor, if he buys, receives, possesses or consumes, or attempts to buy, receive or possess any beer, wine or intoxicating liquor.

b. *Penalty.* A person convicted of underage possession of liquor, in addition to any other court order or disposition under the provisions of the Children's Code, may be confined in an appropriate facility for a period not to exceed one month, or to pay a fine in an amount not to exceed two hundred fifty dollars (\$250.00), or both.

c. For the purposes of this section, the terms "beer," and "wine," and "intoxicating liquor" shall have the meaning as defined in the Liquor Control Ordinance.

16.05. *Possession of Alcohol on Gathering Grounds.*

a. *Offense.* A person commits the offense of possession of alcohol on Gathering Grounds, if he is present on Gathering grounds and possesses, holds, maintains, or otherwise has control of alcohol, regardless of whether that individual is the actual owner or is consuming the alcohol.

b. *Penalty.* A person convicted of possession of alcohol on Gathering Grounds may be sentenced to imprisonment for a period not to exceed one month, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

## **Article XVII. Controlled Substance and Related Offenses**

### **17.01. *Furnishing of Marijuana.***

a. *Offense.* A person commits the offense of furnishing of marijuana, if he knowingly furnishes, sells, or trades in any way marijuana or any portion of the plant cannabis sativa L. or any substance containing it, or hashish.

b. *Penalty.* A person convicted of the offense of furnishing marijuana may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

### **17.02. *Possession or Furnishing of Controlled Substances.***

a. *Offense.* A person commits the offense of possession or furnishing of controlled substances, if he knowingly possesses, manufactures, transports, sells, consumes, uses, cultivates or trades in any drug or other substances other than marijuana, identified or defined as a "controlled substance" under the provisions of P.A. 1978, No. 368, of the State of Michigan, as amended to the date of the offense, except marijuana.

b. *Penalty.* A person convicted of the offense of possession or furnishing of controlled substances may be sentenced to imprisonment for a period not to exceed one year, or a fine not to exceed five thousand dollars (\$5,000.00), or both.

### **17.03. *Possession of Marijuana.***

a. *Offense.* A person commits the offense of possession of marijuana, if he knowingly possesses, manufactures, transports, consumes, uses, or cultivates marijuana or any portion of the plant cannabis sativa L. or any substance containing it; or hashish.

b. *Penalty.* A person convicted of the offense of possession of marijuana may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

### **17.04. *Inhaling Toxic Vapors.***

a. *Offense.* A person commits the offense of inhaling toxic vapors, if he, for the purpose of becoming intoxicated or subjecting himself to the influence of them, willfully inhales the vapors or fumes of paint, gasoline, glue or any other substance producing intoxicating fumes or vapors.

b. *Penalty.* A person convicted of inhaling toxic vapors may be sentenced to imprisonment for a period not to exceed six months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

## **Article XVIII. Animal Control**

### **18.01. Cruelty to Animals.**

a. *Offense.* A person commits the offense of cruelty to animals, if except as otherwise authorized by law, he intentionally or recklessly:

1. subjects any animal to mistreatment; or
2. subjects any animal in his custody to neglect; or
3. abandons any animal; or
4. kills or injures any animal belonging to another.

c. *Penalty.* A person convicted of cruelty to animals may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed one thousand dollars (\$1,000.00), or both.

### **18.02. Offense Concerning Dogs.**

a. *Offense.* A person commits an offense concerning dogs, if that person:

1. fails to restrain his dog at all times within a fenced area on a leash not less than twenty feet in length; or
2. maintains a dog which is known to be dangerous or has bitten or attacked a person.

b. *Penalty.*

1. A person convicted of an offense concerning dogs may be sentenced to imprisonment for a period not to exceed three months, or a fine not to exceed two thousand dollars (\$2,000.00), or both.

2. In addition to the other penalties provided, the Tribal Court may order any dog involved in a violation hereof to be impounded, destroyed, subjected to testing or otherwise disposed of. In addition, tribal officers or other representatives are authorized to seize any dog involved in any violation of this section and to hold the dog pending hearing or release to its owner upon reasonable conditions.

## **Article XIX. Sex Crimes**

### **19.01. Rape Tier III:**

1. A person is guilty of the offense of Rape Tier III when the person engages in sexual intercourse with another person:

- a. By forcible compulsion; or coercion;
- b. Where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or
- c. Where there is threat of substantial unlawful harm to property rights of the victim.

2. *Penalty.* For the offense of Rape Tier III, the Tribal Court may impose a penalty of less than one (1) year and a fine of less than \$5,000 and the performance of community service.

19.02. *Aggravated Rape Tier III:*

1. A person is guilty of the offense of Aggravated Rape Tier III when such person engages in a sexual act with another person by forcible compulsion where the perpetrator or an accessory:

- a. Uses coercion or threatens to use a deadly weapon or what appears to be a deadly weapon; or
- b. When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
- c. Kidnaps the victim;
- d. Inflicts serious physical injury; or
- e. Unlawfully enters into the building or vehicle where the victim is situated.

2. Penalty. For the offense of Aggravated Rape Tier III, the Tribal Court shall impose a penalty of one (1) year jail time and \$5,000 fine.

19.03. *Rape of a Child Tier III*

1. A person is guilty of the offense of Rape of a Child Tier III when the person engages in a sexual act with another who:

- a. is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim;
- b. is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

2. Penalty. For the offense of Rape of a Child Tier I, the Tribal Court may impose a penalty of less than one (1) year and a fine less than \$5,000 fine and the performance of community service.

19.04. *Aggravated Rape of a Child Tier III*

1. A person is guilty of the offense of Aggravated Rape of a Child Tier III when the person engages in a sexual act with a person who is less than twelve years old and the perpetrator is at least twenty-four months older than the victim.

2. Penalty. For the offense of Rape of a Child Tier III, the Tribal Court shall impose a minimum penalty of one (1) year jail time and \$5,000 fine.

19.05. *Child Molestation Tier III*

1. A person is guilty of the offense of Child Molestation Tier III when the person has, or knowingly causes:

a. another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and the perpetrator is at least thirty-six months older than the victim.

b. causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older

than the victim.

2. Penalty. For the offense of Child Molestation Tier I, the Tribal Court may impose a penalty of less than one (1) year and a fine of less than \$5,000 and the performance of community service.

19.06. *Aggravated Child Molestation Tier III*

1. A person is guilty of the offense of Aggravated Child Molestation Tier III when the person has, or knowingly causes another person under the age of eighteen to have sexual contact with another who is less than twelve years old and the perpetrator is at least thirty-six months older than the victim.

2. Penalty. For the offense of Child Molestation Tier III, the Tribal Court may impose a penalty of one (1) year and \$5,000 fine.

19.07. *Sexual Misconduct with a Child Tier III*

1. A person is guilty of the offense of Sexual Misconduct with a Child Tier III when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim.

2. Penalty. For the offense of Sexual Misconduct with a Child Tier III, the Tribal Court may impose a penalty of less than one (1) year and a fine of less than \$5,000 and the performance of community service.

19.08. *Aggravated Sexual Misconduct with a Child Tier III*

1. A person is guilty of the offense of Aggravated Sexual Misconduct with a Child Tier III when the person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim.

2. Penalty. For the offense of Sexual Misconduct with a Child Tier III, the Tribal Court may impose a penalty of one (1) year and a fine of \$5,000.

19.09. *Indecent Exposure Tier I*

1. A person is guilty of the offense of Indecent Exposure Tier I if he or she knowingly or recklessly exposes his or her genitals or anus or she exposes her breast or breasts and another person is present or is reckless about whether such other person may be present and would be offended or alarmed by the act. Unless it is under circumstances in which that individual has a reasonable expectation of privacy.

2. The provisions of this Article shall apply regardless of whether the person violates the

Article in person or via the Internet or other electronic means.

3. Penalty. For the offense of Indecent Exposure Tier I, the Tribal Court may impose a penalty of less than one (1) year and a fine of less than \$5,000 and the performance of community service.

19.10. *Public Sexual Indecency to a Child Tier III*

1. A person commits the offense of Public Sexual Indecency by intentionally or knowingly engaging in any of the following acts, if another person is present is under the age of fifteen (15), and the defendant is reckless about whether such other person, as a reasonable person, would be offended or alarmed by the act:

- a. An act of sexual contact.
- b. An act of oral sexual contact.
- c. An act of sexual intercourse.
- d. An act involving contact between the person's mouth, vulva or genitals and the anus or genitals of an animal.

2. The provisions of this Article shall apply regardless of whether the person violates the Article in person or via the Internet or other electronic means.

3. Penalty. For the offense of Sexual Indecency to a Child Tier III, the Tribal Court may impose a penalty of one (1) year and a fine of \$5,000.

19.11. *Prostitution*

1. A person is guilty of the offense of Prostitution when the person offers or agrees to engage in commercial sex, sexual intercourse or sexual contact with another person for money or other consideration, or procures another person to offer or agree to engage in sexual intercourse or sexual contact with another person for money or other consideration.

2. Penalty. For the offense of Prostitution Tier I, the Tribal Court may impose a penalty of less than one (1) year and a fine of less than \$5,000 and the performance of community service

19.12. *Child Prostitution Tier III*

1. A person is guilty of the offense of Child Prostitution Tier III when the person shall offer or agree to engage in commercial sex, sexual intercourse or sexual contact with another person who is less than 18 years of age for money or other consideration.

2. A person is guilty of the offense of Child Prostitution Tier III when the person acts as an intermediary for a person who is less than 18 years of age to engage in commercial sex, sexual intercourse or sexual contact.

3. Penalty. For the offense of Child Prostitution Tier III, the Tribal Court may impose a penalty of one (1) year and a fine of \$5,000.

19.13. *Sexual Exposure of a Child Tier III*

1. A person is guilty of the offense of Sexual Exposure of a Child Tier III when a person knowingly:

- a. exposes his or her genitals to a child less than fifteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;
  - b. Knowingly exposes his or her genitals to a child less than fifteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or
  - c. Knowingly coerces or induces a child less than fifteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.
2. The provisions of this Article shall apply regardless of whether the person violates the Article in person or via the Internet or other electronic means.
  3. Penalty. For the offense of Sexual Exposure of a Child Tier III, the Tribal Court may impose a penalty of one (1) year and a \$5,000 fine.

19.14. *Sexual Abuse of a Child Tier III*

1. A person is guilty of the offense of Sexual Abuse of a Child Tier III when a person:
  - a. knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;
  - b. knowingly capture by photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated;
  - c. knowingly, by any means of communication, including electronic communication, persuades, entices, counsels, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated;
  - d. knowingly processes, develops, prints, publishes, transports, distributes, broadcasts, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;
  - e. knowingly possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated;
  - f. possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated; or
  - g. finances any of the activities, knowing that the activity is of the nature described as Sexual Abuse of a Child.
2. Penalty. For the offense of Sexual Abuse of a Child Tier III, the Tribal Court may impose a penalty of one (1) year and a \$5,000 fine.

19.15. *Visual Representation of a Sexual Act involving a Child Tier III*

1. A person commits the offense of Visual Representation of a Sexual Act involving a Child Tier III when a person attempts, conspires or knowingly possesses, produces, reproduces, distributes, broadcast, receives, or has the intent to distribute or broadcast, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that:
  - a. depicts a minor engaging in sexually explicit conduct and is obscene, or
  - b. depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary, artistic, political, or scientific value.
2. Penalty. For the offense of Visual Representation of a Sexual Act involving a Child Tier III, the Tribal Court may impose a penalty of one (1) year and a \$5,000 fine.

#### 19.16. *Incest Tier III*

1. A person commits the offense of Incest Tier III when a person knowingly engages in a sexual act or has sexual contact with a person who is biologically related as follows:
  - a. Parent and child;
  - b. Grandparent and grandchild;
  - c. Brother and sister, or half-brother and half-sister;
  - d. Uncle and niece, or aunt and nephew; or
  - e. Cousins in the first degree.
2. Penalty. For the offense of Incest Tier III, the Tribal Court may impose a penalty of one (1) year and a \$5,000 fine.

19.17. *Exclusion from the Tribe's Territory.* Conviction of any crime in this Article XIX shall be sufficient legal reason for the Ogema to exclude the offender from the territory of the Tribe, or from attending Tribal events where children are present. Copies of all convictions under this article shall be provided immediately upon issue by the Court to the Ogema, and the Ogema shall issue an order in accordance with this Section.

### **Article XX. Failure Comply with the Sex Offender Registration Act**

#### 20.01 *Failure to comply by sex offender.*

- a. *Offense:* A person commits the crime of failure to comply with the Sex Offender Registration Act (the "Act") by violating any provision of the act, including, but not limited to, absconding, failing to register, failing to renew registration and failing to notify the Tribe of the offender's presence on Tribal land.
- b. *Penalty:* A person convicted of Failure to Comply with the Sex Offender Registration Act may be sentenced to imprisonment for a period not to exceed one (1) year or a fine not to exceed \$5,000.00 or both.

#### 20.02 *Harboring or aiding and abetting a noncompliant sex offender*

- a. *Offense.* A person commits the crime of harboring or aiding and abetting a noncompliant sex



offender if they

1. knowingly harbor or attempt to harbor or knowingly assists another person who is in violation of the Sex Offender Registration Act;

2. knowingly assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for noncompliance with the requirements of the Sex Offender Registration Act; or

3. provides information to any law enforcement agency regarding a sex offender which the person knows to be false.

b. *Penalty.* A person convicted of harboring or aiding and abetting a noncompliant sex offender may be sentenced to a period of imprisonment for a period not to exceed nine (9) months or a fine not to exceed \$2,500.00 or both.

### **Article XXI. Traffic**

21.01. *Driving violations.* In the absence of an applicable tribal traffic code, the provisions of state traffic laws Michigan Motor Vehicle Code, P.A 1949, N0. 300, MCLA 257.1 to end (including the requirement to abstract or report the conviction to the appropriate authorities), as amended from time to time, shall apply to the operation of motor vehicles within the Tribe's jurisdiction with the exception that any person found guilty of violating such laws shall, in lieu of the penalties provided under state law, as set forth in the Michigan Compiled Laws fine schedules, provided that, no fine shall exceed that authorized under the Indian Civil Rights Act, 25 U.S.C. 1301 et seq.

**CERTIFICATION**

I, Sandy Mezeske, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Law and Order – Criminal Offense Code, Ordinance #11-400-03, adopted by Resolution # 14-0723-215 on July 23, 2014.

  
\_\_\_\_\_  
Sandy Mezeske, Tribal Council Recorder

SEAL: