

POTAWATOMI LAW AND ORDER CODE

**TITLE 15
CRIMINAL OFFENSES**

**CHAPTER 15-1
PRELIMINARY PROVISIONS**

Section 15-1-1. Preliminary Provisions

(A) **Short Title.** This Title may be cited as The Tribal Criminal Code.

(B) **Application.**

(1) This Title shall apply to all Indian persons violating its provisions within the territorial jurisdiction of the Nation. The provisions of Chapter Four of this Title shall apply to all members of the Nation and all Indian residents of the jurisdiction of the Nation wherever such violation may occur if such violation has any actual or intended effect upon the political integrity or political or economic security of the Nation.

(2) The Nation and the tribal court will have full jurisdiction and authority to enforce this Title for all Indian and non-Indian persons to the fullest extent legally possible. Regardless of its inclusion in this Title, to the extent any tribal law is civil in nature, such law shall apply to any person who is not subject to the Nation's criminal jurisdiction. The tribal court will have the authority to enforce civil fines for any person who violates this Title in the amount enumerated for activity for which criminal punishment is provided. The tribal court is authorized to issue civil court orders or contempt of court orders against any person who fails to comply with tribal law or an order of the court. Civil contempt orders may include incarceration and fines. Violations of any civil or criminal provision of this Title will be determined by the tribal court to be an unlawful public nuisance, which may be enjoined by the tribal court.

(3) This Title shall apply to non-Indians to the extent not inconsistent with federal law and to the extent that any person found to have violated any provision of this Title may be banished from the jurisdiction of the Nation for a period of not more than ten years, or for such longer term as may be imposed by the Section violated, in a civil proceeding brought by the Nation. The non-Indian, in such cases, shall have all the procedural rights of a criminal defendant, and such cases shall be tried by the rules of criminal procedure.

CRIMES AGAINST PROPERTY

Section 15-1-2. Arson in the First Degree.

(A) It shall be unlawful to knowingly and willfully start a fire or cause an explosion with the purpose of:

- (1) Destroying or damaging any building, dwelling, occupied structure or other property of another exceeding \$1,000 in value or
- (2) Destroying or damaging any property, by whomever owned, to collect insurance for such loss.

(B) Arson in the First degree shall be punishable by a fine of not less than \$5,000 or by imprisonment in the tribal jail for a term of not less than three months nor more than one year; or by banishment for a period of not more than ten years; or any combination of the above sentences.

(C) Should the commission of the offense result in the death of or serious bodily injury to any person, a sentence of banishment may be imposed for any period not exceeding life in addition to the punishment authorized above.

Section 15-1-3. Arson in the Second Degree.

(A) It shall be unlawful to knowingly or recklessly, carelessly, or negligently, without regard to the consequences start a fire or cause an explosion which:

- (1) Endangers human life, or
- (2) Damages or destroys the property of another.

(B) Arson in the Second Degree shall be punished by a fine of not more than \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

Section 15-1-4. Arson in the Third Degree.

(A) It shall be unlawful after having started any fire, even though started safely for a lawful purpose, to fail to either:

- (1) Take reasonable measures to put out or control the fire, or
- (2) To give prompt alarm, if the fire is spreading in such manner that it may endanger the life or property of another.

(B) Arson in the third degree shall be punishable by a fine of not more than \$2,500 or by imprisonment in the tribal jail for a period not exceeding six months, or both.

Section 15-1-5. Criminal Mischief.

(A) It shall be unlawful to willfully and knowingly:

- (1) Damage or destroy any property with the intent to defraud an insurer,
- (2) Tamper with the property of another so as to recklessly endanger the safety of another, or recklessly cause any damage to any property or utility service,
- (3) Damage, destroy, maim, or deface any domestic animal property of another, or
- (4) Purposely or recklessly shoot or propel a missile or other object upon or against a motor vehicle, airplane, boat, locomotive or train.

(B) Criminal mischief shall be punishable by a fine of not more than \$5,000 or by imprisonment in the tribal jail for not more than six months, or both.

Section 15-1-6. to 15-1-9. Reserved.

Section 15-1-10. Burglary.

(A) It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, building, office, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle, trailer, or semitrailer, mobile home, or any similar enclosed structure of another without consent and with the intent to steal or commit any offense punishable by imprisonment.

(B) Burglary shall be punishable by a fine of not more than \$5,000 or, by imprisonment in the tribal jail for not more than six months; or, by banishment for a period of not more than five years; or by any combination of the above sentences.

(C) Should the commission of the offense result in the death of or serious bodily injury to any person, a sentence of banishment may be imposed for any period not exceeding life in addition to the punishment authorized above.

Section 15-1-11. Breaking and Entering.

(A) It shall be unlawful to break into by any force whatsoever and enter in any manner any dwelling, building, office, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle trailer or semitrailer, mobile home, trunk, drawer, box, coin operated machine, or similar structure, object, device of another without consent and with the intent to:

- (1) Cause annoyance or injury to any person therein,
- (2) Cause damage to any property therein,
- (3) Commit any offense therein,

- (4) Steal or
- (5) Cause, or does actually cause, whether intentionally or recklessly, fear for the safety of another.

(B) Breaking and Entering shall be punishable by a fine of not more than \$2,500 or by imprisonment in the tribal jail for a period not exceeding six months, or both.

Section 15-1-12. Criminal Trespass.

(A) It shall be unlawful to enter onto, or remain upon the property of another if notice against entry or notice to leave the property had been given by:

- (1) Personal communication by the owner or someone having authority to act for the owner,
- (2) Fencing, other than barbed wire or similar field fences except as hereafter provided, or other enclosure obviously designed to exclude an intruder, or
- (3) Posting of signs prohibiting entry and reasonably designed to come to the attention of intruders.

(B) Criminal Trespass shall be punishable by a fine not exceeding \$1,000 or by imprisonment in the tribal jail for a term not exceeding three months, or both.

(C) It is a complete affirmative defense to the offense of criminal trespass that:

- (1) The property was open to the public upon entry and upon being ordered to leave the person did so without undue delay, or
- (2) Even though not open to the public, the person did not substantially interfere with the use of the property or damage of any property, and upon being ordered to leave the person did so without undue delay.

(D) On rural lands fenced with barbed wire or other types of fencing normally meant to enclose or exclude domestic animals, signs prohibiting entry, using a size of at least six inches by eight inches placed upon or in plain sight next to such fence and not more than one hundred fifty feet apart, shall create a rebuttable presumption that reasonable notice against entry or entry for certain purposes had been given.

Section 15-1-13. to 15-1-19. Reserved.

Section 15-1-20. Larceny.

(A) It shall be unlawful to take or carry away any tangible or intangible personal property by fraud or stealth with the intent to permanently deprive the owners thereof.

(B) Larceny shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property taken exceeds \$1,000, a sentence of banishment for a period of not exceeding five years may be imprisoned in addition to the punishment authorized above.

Section 15-1-21. Extortion.

(A) It shall be unlawful to take, receive, or control the use or disposition of property of another with the intent to deprive the person of the possession or use thereof by threatening to:

- (1) Cause bodily harm to any person,
- (2) Commit any offense, or
- (3) Unlawfully injure or destroy any property.

(B) Extortion shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property extorted exceeds \$1,000, a sentence of banishment for a period not exceeding ten years may be imposed in addition to the punishment authorized above.

Section 15-1-22. False Pretenses.

(A) It shall be unlawful to obtain, take, or receive any property of another by means of a trick or deception, or false or fraudulent representation, statement, or pretense with the intent to permanently deprive the owner thereof.

(B) False Pretenses shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property gained by False Pretenses exceeds \$1,000, a sentence of banishment for a period not exceeding five years may be imposed in addition to the punishment authorized above.

Section 15-1-23. Embezzlement.

(A) It shall be unlawful to wrongfully or fraudulently appropriate for a person's own use or the use of another any property of another with which the person has been entrusted.

(B) Embezzlement shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property embezzled exceeds \$1,000, a sentence of banishment for a period not exceeding five years may be imposed in addition to the punishment authorized above.

Section 15-1-24. Receiving Stolen Property.

(A) It shall be unlawful to possess, receive, buy or conceal any personal property that has been stolen or otherwise obtained from its true owner in violation of this Title with the intent to deprive permanently the true owner thereof.

(B) Receiving stolen property shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property exceeds \$1,000, a sentence of banishment for a period not exceeding five years may be imposed in addition to the punishment authorized above.

Section 15-1-25. Theft of Property Lost, Mislaid, or Delivered by Mistake.

(A) It shall be unlawful to fail to take reasonable measures to restore property to a person entitled thereto with the intent to permanently deprive the owner thereof, when it is known or should be reasonably suspected that the property has been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient.

(B) Theft of property lost, mislaid, or delivered by mistake shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the property exceeds \$1,000, a sentence of banishment for a period not exceeding five years may be imposed in addition to the punishment authorized above.

Section 15-1-26. Theft of Services.

(A) It shall be unlawful to obtain services known to be available only for compensation by deception, threat, force or any other means with the intent to avoid due payment therefore.

(B) Theft of services shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

(C) If the value of the service rendered exceeds \$1,000, a sentence of banishment for a period not exceeding five years may be imposed in addition to the punishment authorized above.

Section 15-1-27. Unauthorized Use of a Vehicle.

(A) It shall be unlawful to take, drive, or operate another's motor vehicle, motorcycle, bicycle, or wheeled conveyance without the consent of the owner, with the intent to temporarily deprive the owner of its use or possession.

(B) Unauthorized use of a vehicle shall be punishable by a fine not exceeding \$2,500, or by imprisonment in the tribal jail for a term not exceeding six months, or both.

(C) If the vehicle sustains damages while in the custody, possession, or under the control of the person violating this section, the violator shall be required to make double restitution of the amount of the actual damage to the vehicle.

Sections 15-1-28. to 15-1-35. Reserved

Section 15-1-36. Forgery.

(A) It shall be unlawful to alter any writing of another without authorization from that person, or to make, complete, execute, authenticate, issue or transfer any writing so that it purports to be the act of another who did not authorize that act, with the intent to defraud or injure anyone.

(B) "Writing" includes printing or any other method of recording any information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, money, or other symbols of value, right, privilege, or identification.

(C) Forgery shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or by a sentence of banishment for a period not more than five years, or any combination of the above punishments. Upon a second or subsequent conviction for forgery, a sentence of banishment for a period not more than ten years may be imposed in addition to the punishment authorized above.

Section 15-1-37. Criminal Simulation.

(A) It shall be unlawful to make, alter or utter or attempt to circulate or sell as genuine any object so that it appears to have value because of antiquity, rarity, source, or authorship which it does not possess, with intent to defraud anyone.

(B) Criminal simulation shall be punishable by a fine not exceeding \$2,500, or by imprisonment in the tribal jail for a term not exceeding six months, or both.

Section 15-1-38. Fraudulent Handling of Recordable Instruments.

(A) It shall be unlawful to destroy, remove or conceal any will, deed, mortgage, security instrument, tribal resolution, any tribal record, which a law provides public recording, or to knowingly record a false or forged instrument, with the intent to deceive or injure anyone, or to conceal wrong doing.

(B) Fraudulent handling of recordable instruments shall be punishable by a fine not exceeding \$5,000, or by imprisonment in the tribal jail for a term not exceeding one year or by sentence of banishment for a period not more than five years, or any combination of the above punishments. Upon a second conviction for fraudulent handling of recordable instruments, a sentence of banishment for a period not more than ten years may be imposed in addition to the punishment authorized above.

Section 15-1-39. Tampering With Records.

(A) It shall be unlawful to falsify, destroy, remove, or conceal any writing or record, with the intent to deceive or injure anyone or to conceal any wrongdoing.

(B) Tampering with records shall be punishable by a fine not exceeding \$2,500 or by imprisonment in the tribal jail for a term not exceeding six months, or by both fine and imprisonment, or by a sentence of banishment for a period not more than five years, or any combination of the above punishments. Upon a second conviction for tampering with records, a sentence of banishment for a period not more than ten years may be imposed in addition to the punishment authorized above.

Section 15-1-40. Giving a worthless check.

(A) It shall be unlawful to give a worthless check. Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(B) Giving a worthless check shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year or both. Restitution shall be required.

(C) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee: (1) Unless the maker or drawer pays the holder thereof the amount

due thereon and a service charge not exceeding \$30 for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, 'notice' includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order; or (2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(D) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

Section 15-1-41. Fraudulent Use of a Credit Card.

(A) It shall be unlawful to use a credit card for the purpose of obtaining property or services with knowledge that:

(1) The card was stolen,

(2) The card has been revoked or canceled, or

(3) For any other reason the use of the credit card is unauthorized by either the issuer or the person to whom the card has been issued.

(B) Fraudulent use of a credit card shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both. Restitution shall be required.

Sections 15-1-42. to 15-1-46. Reserved.

Section 15-1-47. Deceptive Business Practices.

(A) It shall be unlawful, in the course of business, to intentionally:

(1) Use or possess for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity,

(2) Sell, offer, or expose for sale, or deliver less than the represented quality or quantity of any commodity or service,

- (3) Take or attempt to take more than the represented quantity of any commodity or service when a person, as the buyer, furnishes the weight or measure,
- (4) Sell, offer or expose for sale adulterated or mislabeled commodities where
 - (a) “adulterated” means varying from the standard of composition or quality prescribed by law or commercial usage and
 - (b) “mislabeled” means varying from the standard of truth or disclosure in labeling prescribed by law or commercial usage, or
- (5) Make a substantially false or misleading statement in any advertisement addressed to the public or a substantial segment thereof for the purpose of promoting the purchase or sale of property or services,
- (6) Make a false or misleading written statement for the purpose of obtaining property or credit or
- (7) Make a false or misleading written statement for the purpose of promoting the sales of securities, or omit information required by law to be disclosed in written documents relating to securities.

Deceptive business practice shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding six months, or both. It is an affirmative defense to deceptive business practice that the defendant’s conduct was not knowingly or recklessly deceptive. Upon a second or subsequent offense, banishment for a period of not more than ten years may be imposed in addition to the punishment authorized above.

Section 15-1-48. Defrauding Creditors.

(A) It shall be unlawful to:

- (1) Destroy, remove, conceal, encumber, transfer, or otherwise deal with property subject to a security interest with the intent to hinder enforcement of that interest or
- (2) Deal with property with the intent to defeat or obstruct the operation of any law relating to administration of property for the benefit of creditors; or knowingly falsify any writing or record relating to the property; or knowingly misrepresent or refuse to disclose to a person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor could be legally required to furnish in relation to such administration.

Defrauding creditors shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding six months, or both.

Section 15-1-49. Securing Execution of Documents by Deception.

(A) It shall be unlawful to intentionally and by deception cause another to execute any instrument affecting or likely to affect the pecuniary interest of any person.

Securing execution of documents by deception shall be punishable by a fine not exceeding \$5,000, or by imprisonment in the tribal jail for a term not exceeding one year, or both.

Section 15-1-50. Criminal Usury.

(A) It shall be unlawful to intentionally provide financing or make loans at a rate of interest higher than the following:

(1) If the amount to which the interest applies is less than \$100 or the period of the loan or financing is less than one year, or both, the rate of the interest shall not exceed a 24% per annum simple interest rate.

(2) If the amount to which the interest applies is greater than \$100 or the period of the loan or financing is greater than one year, or both, the rate of interest shall not exceed an 18% per annum simple interest rate.

Criminal usury shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding three months, or both. The victim shall be entitled to restitution for double the actual amount of interest, which was actually paid, and cancellation of all interest owing for the term of the financing.

Section 15-1-51. Unlawful Dealing with Property by a Fiduciary.

(A) It shall be unlawful to knowingly deal with property that has been entrusted to one in a fiduciary capacity, or property of the tribal government or of a financial institution, in a manner which is known to be a violation of a fiduciary duty, or which involves a substantial risk or loss to the owner or to a person for whose benefit the property was entrusted.

As used in this section, "fiduciary" includes a trustee, guardian, executor, administrator, receiver or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

Unlawful dealing with property by a fiduciary shall be punishable by a fine not exceeding \$5,000 or by imprisonment in the tribal jail for a term not exceeding one year, or both.

Section 15-1-52. Making a False Credit Report.

(A) It shall be unlawful to knowingly make a materially false or misleading statement to obtain property or credit for oneself or another or to keep some other person from obtaining credit.

(B) Making a false credit report shall be punishable by a fine not exceeding \$1,000 or by imprisonment in the tribal jail for a term not exceeding three months, or both.

**CHAPTER 15-2
CRIMES AGAINST PERSONS**

Section 15-2-1. Assault in the First Degree.

(A) It shall be unlawful to wrongfully, purposely, knowingly, or recklessly under circumstances manifesting indifference to the value of human life, to:

- (1) Attempt to cause or cause serious bodily injury to another or
- (2) To use a deadly weapon with the intent to cause serious bodily injury, or with the intent to put a person in fear of imminent serious bodily injury with the apparent ability to do so.

(B) Assault in the first degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or banishment for not more than ten years or any combination of the above punishments.

Section 15-2-2. Assault In the Second Degree.

(A) It shall be unlawful to wrongfully, purposely, knowingly, or recklessly:

- (1) Attempt to cause or cause bodily injury to another,
- (2) Negligently cause bodily injury to another with a weapon,
- (3) Attempt by a show of force or violence to put another in fear of imminent bodily injury with the apparent ability to do so or
- (4) Recklessly endanger another by an act or omission to act which threatens to cause serious bodily injury to another, whether or not such harm actually occurs.

(B) Assault in the second degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-2-3. Mayhem.

(A) It shall be unlawful to wrongfully, purposely, or knowingly deprive a human being of a member of the body or render it useless, or to cut out or disable the tongue, put out an eye or eyes, or slit the nose, ear or lip of another.

(B) Mayhem shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or banishment for a term not more than life or any combination of the above punishments.

Section 15-2-4. Verbal or Written Assault.

(A) It shall be unlawful to threaten verbally or in writing to commit any offense involving violence with apparent ability to do so:

(1) With intent to terrorize another or place such other in fear of imminent serious bodily injury or

(2) To cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience.

(B) Verbal or written assault shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-2-5. Threats against Tribal Councilpersons, Tribal Gaming Commissioners and Tribal Judges

Whoever knowingly and willfully deposits for conveyance in the mail or for delivery from any post office or tribal office or by any letter carrier or by electronic form any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon a Tribal Councilperson and/or Tribal Gaming Commissioner and/or Tribal Judge or otherwise knowingly and willfully makes any such written or oral threat against a Tribal Councilperson or Tribal Gaming Commissioner or Tribal Judge shall be fined up to \$1,000 under this title, or imprisoned not more than one year, or banished from the Reservation, or any combination thereof.

The "willfulness" requirement of this section requires only that defendant intentionally make a written or oral statement under such circumstances that a reasonable person would foresee that the statement would be interpreted as a serious expression of intention, and not mere hyperbole or jest, to take the life of or injure the Tribal Councilperson or Gaming Commissioner or Tribal Judge and this section does not require that defendant actually intend to carry out the threat. A threat is "knowingly" made if the maker comprehends the meaning of the words used, and "willfully" made if, in addition to comprehending their meaning, he/she voluntarily and intentionally utters them as the declaration of an apparent determination to carry them into execution.

Section 15-2-6. to 15-2-10. Reserved.

Section 15-2-11. Homicide in the First Degree.

(A) It shall be unlawful to:

- (1) Purposely, knowingly and wrongfully with malice aforethought cause the death of another human being or
- (2) Cause the death of another human being due to the commission or attempted commission of a felony or offense punishable by banishment.

Homicide in the first degree shall be punishable by a fine of \$5,000, or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for a period not more than life; or any combination of the above.

Section 15-2-12. Homicide in the Second Degree.

(A) It shall be unlawful to:

- (1) Recklessly or negligently with disregard of the possible consequence of ones conduct to cause the death of another human being.
- (2) Cause the death of another human being by operating a motor vehicle in a reckless, negligent, or careless manner, or while under the influence of an alcoholic beverage, intoxicating liquor, a controlled substance, or any drug, to a degree which renders the person incapable of safely driving a vehicle.
 - (a) A blood alcohol content in excess of .08 shall create a rebuttable presumption that the person was under the influence of an alcoholic beverage.
 - (b) For purposes of this section, a motor vehicle is any self-propelled vehicle and includes, but is not limited to, any automobile, truck, van, motorcycle, train, engine, watercraft, aircraft or snowmobile.
- (3) Cause the death of a human being due to the commission of any criminal offense.

(B) Homicide in the second degree shall be punishable by a fine of \$5,000 or by term of imprisonment in the tribal jail not to exceed one year, or by banishment for a period not more than twenty years; or any combination of the above.

Section 15-2-13. Causing a Suicide.

(A) It shall be unlawful to intentionally cause a suicide by force, duress, or deception.

(B) Causing a suicide shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for a period of not more than ten years or any combination of the above.

Section 15-2-14. Aiding or Soliciting a Suicide.

(A) It shall be unlawful to intentionally aid or solicit another to attempt or commit suicide.

(B) Punishment:

(1) Aiding or soliciting a suicide shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both, if the defendant's conduct has actually caused or contributed substantially to a suicide, or attempted suicide.

(2) Otherwise, aiding or soliciting a suicide is punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-2-15. Threats against Tribal Councilpersons, Tribal Gaming Commissioners and Tribal Judges

Whoever knowingly and willfully deposits for conveyance in the mail or for delivery from any post office or tribal office or by any letter carrier or by electronic form any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon a Tribal Councilperson and/or Tribal Gaming Commissioner and/or Tribal Judge or otherwise knowingly and willfully makes any such written or oral threat against a Tribal Councilperson or Tribal Gaming Commissioner or Tribal Judge shall be fined up to \$1,000 under this title, or imprisoned not more than one year, or banished from the Reservation, or any combination thereof.

The "willfulness" requirement of this section requires only that defendant intentionally make a written or oral statement under such circumstances that a reasonable person would foresee that the statement would be interpreted as a serious expression of intention, and not mere hyperbole or jest, to take the life of or injure the Tribal Councilperson or Gaming Commissioner or Tribal Judge and this section does not require that defendant actually intend to carry out the threat. A threat is "knowingly" made if the maker comprehends the meaning of the words used, and "willfully" made if, in addition to comprehending their meaning, he/she voluntarily and intentionally utters them as the declaration of an apparent determination to carry them into execution.

Section 15-2-16 to 15-2-20. Reserved.

Section 15-2-21. Kidnapping.

(A) It shall be unlawful to intentionally and wrongfully remove another from a place of residence, business, or from the vicinity where the person is found, or to unlawfully confine or conceal another for a substantial period, with any of the following purposes:

- (1) To hold for ransom or reward, or as a shield or hostage,
- (2) To facilitate the commission of any offense or flight thereafter,
- (3) To inflict bodily injury on or to terrorize the victim or another or
- (4) To interfere with the performance of any tribal governmental or political function.

(B) A removal, restraint, or confinement is wrongful within the meaning of this Code if it is accomplished by force, threat or deception, or, in the case of a person under the age of fourteen or incompetent, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of the minor's or incompetent's welfare.

(C) Kidnapping shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for a period not more than ten years if the kidnapping resulted in bodily injury; or by banishment for a period not more than life in the case of a second or subsequent conviction for kidnapping or if death resulted; or any combination of the above.

Section 15-2-22. False Imprisonment.

(A) It shall be unlawful to knowingly and wrongfully restrain or imprison another so as to interfere with the person's liberty.

(B) False imprisonment shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both, unless the detention occurs under circumstances which expose the victim to a risk of serious bodily injury, in which case the offense shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-2-23. Custodial Interference.

(A) It shall be unlawful to wrongfully:

- (1) Take, entice, conceal, or detain a child under the age of sixteen from a parent, guardian or other lawful custodian, knowing that there is no legal right to do so, and
 - (a) with the intent to hold the child for period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction or

- (b) with the intent to deprive another person of their lawful visitation or custody rights; or
 - (2) Intentionally take, entice or detain an incompetent or other person who has been committed by authority of law to the custody of another person or institution from the other person or institution, without good cause and with knowledge that there is no legal right to do so.
- (B) Custodial interference shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months or both.

Section 15-2-24. Criminal Coercion.

- (A) It shall be unlawful to intentionally and wrongfully detrimentally restrict another's freedom of action by threatening to:
- (1) Commit any criminal offense,
 - (2) Accuse anyone wrongfully of a criminal offense,
 - (3) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair the person's credit or business reputation, or
 - (4) Unlawfully take or withhold action as an official, or cause an official to take or withhold action.
- (B) It is an affirmative defense to prosecution based on this section, except for subsection (1) above, that the actor believed the accusation or secret to be true or the proposed official action justified and that the actor's purpose was limited to compelling the other in a lawful manner to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure, or proposed official action; for example, as by refraining from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.
- (C) Criminal coercion shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Sections 15-2-25. to 15-2-30. Reserved.

Section 15-2-31. Rape in the First Degree.

- (A) It shall be unlawful to intentionally:
- (1) Compel another to submit to sexual intercourse by force or by the threat of imminent death, serious bodily injury, extreme pain, or kidnapping to be inflicted on that person or anyone else or
 - (2) Engage in sexual intercourse with a person under the age of fourteen, regardless of consent.

(B) Rape in the first degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for a period not more than life; or any combination of the above.

Section 15-2-32. Rape in the Second Degree.

(A) It shall be unlawful to intentionally:

(1) Compel another to submit to sexual intercourse by any threat that would prevent resistance by a person of ordinary resolution,

(2) Engage in sexual intercourse with another whose power to appraise or control their conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without their knowledge, and for the purpose of preventing resistance,

(3) Engage in sexual intercourse with a person with the knowledge that the person suffers from a mental disease or defect which renders that person incapable of appraising the nature of their conduct,

(4) Engage in sexual intercourse with a person who is unconscious or with a person who is unaware, or with a person who submits because they falsely suppose that the person is their spouse or

(5) Engage in sexual intercourse with a person under the age of sixteen but over the age of fourteen, regardless of consent, the perpetrator being at least four years older than the victim.

(B) Rape in the second degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for period not more than five years; or any combination of the above.

Section 15-2-33. Deviate Sexual Intercourse.

(A) It shall be unlawful to engage in deviate sexual intercourse, defined as anal sexual intercourse between human beings or any form of sexual intercourse with an animal, and it shall be unlawful to cause another to engage in deviate sexual intercourse if:

(1) That person is compelled to participate by any threat that would prevent resistance by a person of ordinary resolution,

(2) That person is compelled to participate by force or by threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone,

(3) The other person's power to appraise or control his or her conduct has been substantially impaired by the administration or employment of drugs or other intoxicants, without such other person's knowledge, and for the purpose of preventing resistance or

(4) The offender has knowledge that the other person suffers from a mental disease or defect which renders the person incapable of appraising the

nature of this conduct or the offender has knowledge that the other person is unconscious or submits because the other person is unaware that a sexual act is being committed.

(B) Deviate sexual intercourse shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-2-34. Sexual Assault.

(A) It shall be unlawful to intentionally, wrongfully, and without consent subject another, not his or her spouse, to any sexual contact,

(1) With knowledge that the conduct is offensive to the other person,

(2) With knowledge that the other person suffers from a mental disease or defect which renders the other person incapable of appraising the nature of his or her conduct,

(3) With knowledge that the other person is unaware that a sexual act is being committed,

(4) After having substantially impaired the other person's power to appraise or control conduct by administering or employing without the other's knowledge drugs, intoxicants, or other means for the purpose of preventing resistance,

(5) If that person is less than fourteen years old regardless of consent,

(6) If that person is less than sixteen years old and the actor is at least four years older than the person regardless of consent,

(7) If that person is less than twenty-one years old and the actor is the person's parent, guardian or otherwise responsible for general supervision of the person's welfare regardless of consent or

(8) If that person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the person regardless of consent.

(B) Sexual contact is any touching of the sexual or other intimate parts of the person of another or otherwise taking indecent liberties with another for the purpose of arousing and gratifying sexual desire of either party.

(C) Sexual assault shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Sections 15-2-35. Domestic Violence.

(A) It shall be unlawful to intentionally or recklessly cause or attempt to cause the following to a family or household member:

(1) physical harm,

(2) reasonable fear of imminent physical harm,

- (3) substantial emotional distress or
- (4) non-consensual sexual contact by use of force, threats or duress.

(B) Definitions

- (1) Family or household member means persons 18 years or older who are spouses or former spouses, persons who presently live together, and persons who have or are expecting a child together.
- (2) Substantial emotional distress includes but is not limited to fear of serious harm arising from intimidation, threats to damage property, or treats to harm any household or family member.
- (3) Sexual contact is any touching of the sexual or other intimate parts of the person of another or otherwise taking indecent liberties with another for the purpose of arousing and gratifying sexual desire of either party.
- (4) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:
 - (a) "Conviction" includes being convicted of a violation of this section and any diversion for charges of violation of this section;
 - (b) "Conviction" includes being convicted of a violation of a law of another state or Indian nation, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits.

(C) Criminal Penalties

- (1) A person who is convicted of a first offence of a violation of domestic violence shall be sentenced to not less than 10 days but not to exceed one year's imprisonment and fined not less than \$200 nor more than \$5,000, as well as payment of restitution where appropriate and completion of a Court approved Batterer Intervention program.
 - (a) In a first conviction of a violation of domestic violence, the Court may suspend imposition of fines and imprisonment and place the defendant on probation for not less than 90 days nor more than one year with an order that the defendant pay restitution where appropriate and complete a Court-approved Batterer Intervention program.
- (2) If within five years immediately preceding commission of the crime, a conviction of a violation of domestic violence occurs a second time, a person shall be sentenced to not less than 60 days nor more than one year with mandatory five days imprisonment and fined not less than \$500 nor more than \$5,000, as well as successful completion of a Court-approved Batterer Intervention program and payment of restitution where appropriate. The five day imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours

imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

(3) If within five years immediately preceding commission of the crime, a conviction of a violation of domestic violence occurs a third time, a person shall be sentenced to not less than 90 days nor more than one year with mandatory five days imprisonment and fined no less than \$1000 but not to exceed \$5,000, and by a term of imprisonment not less than 90 days but not to exceed one year, as well as completion of a Court-approved Batterer Intervention program and payment of restitution where appropriate. The five days imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in work release program.

(Amended by PBP TC No. 2007-179, October 9, 2007)

Section 15-2-36. Stalking.

- (A) It shall be unlawful to intentionally, maliciously and repeatedly follow or harass another person and make a credible threat by work or action that places such person in reasonable fear for the person's safety.
- (B) Stalking shall be punishable by a fine of not more than \$5,000 or a term of imprisonment in the tribal jail not to exceed one year, or both.

(Amended by PBP TC No. 2007-179, October 9, 2007)

Section 15-2-37. Possession and/or Use of Alcoholic Beverage.

- (A) It shall be unlawful to possess, use, sell or distribute any alcoholic beverage while a the Prairie People's Park, the ball parks near Housing Cluster 3 and the old one on 150th Road, the Youth Center at 15424 K Rd, the Government Center, the Bingo Hall, the Nation Station or at or on the grounds of any tribal government building or land that is owned legally or beneficially in its entirety by tribal government, or land that is leased or possessed by the Tribal Government. Nothing in this section shall prohibit consumption at a private residence or on the trust land where the casino facility is located.

(Amended by PBP TC No. 2006-108, June 2, 2007)

Section 15-2-38.to 15-2-40. Reserved.

Section 15-2-41. Robbery.

(A) It shall be unlawful to take anything of value from the person of another or from the immediate control of another by use of force or violence, with the intent to permanently deprive the owner thereof.

(B) Robbery shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or, when any person is seriously injured as a result of a violation of this section, banishment for a period not more than five years may be imposed.

**CHAPTER 15-3
INCHOATE CRIMES**

Section 15-3-1. Attempt.

(A) It shall be unlawful to engage in conduct

(1) Within the tribal jurisdiction constituting a substantial step toward commission of any offense under Tribal, Federal, or State laws applicable to the jurisdiction in which any part of the offense was to be completed with the kind of culpability otherwise required for the commission of the offense or

(2) Anywhere constituting a substantial step toward the commission of any Tribal or Federal offenses within the tribal jurisdiction while acting with the kind of culpability otherwise required for the commission of the offense.

(B) Attempts shall be punishable by the same penalties as the completed crime.

Section 15-3-2. Criminal Conspiracy.

(A) It shall be unlawful to agree

(1) Within the tribal jurisdiction with one or more persons to engage in or cause the performance of conduct with the intent to commit any offense punishable by Tribal, Federal, or State laws applicable to the jurisdiction in which the conduct is agreed to be performed, and any one person commits an overt act in pursuance of the conspiracy or

(2) Anywhere with one or more persons to engage or cause the performance of conduct with the intent to commit any Tribal or Federal offense within the tribal jurisdiction and anyone person commits an overt act in pursuance of the conspiracy.

(B) Conspiracy to commit an offense carries the same possible punishment as the completed offense.

Section 15-3-3. Solicitation.

(A) It shall be unlawful

(1) Within the tribal jurisdiction to entice, advise, incite, order, or otherwise encourage another to commit any offense, with the intent that such other person commit an offense punishable under the laws of the jurisdiction where the conduct was to be performed.

(2) In any place, to entice, advise, incite, order, or otherwise encourage another to commit any offense, with the intent that such other person commit an offense punishable by Tribal, Federal, or State laws within the tribal jurisdiction.

(B) Solicitation shall be punishable by a fine not to exceed \$5,000 or by term of imprisonment in the tribal jail not to exceed one year months, or both.

**CHAPTER 15-4
CRIMES AGAINST PUBLIC JUSTICE**

Section 15-4-1. Bribery.

(A) It shall be unlawful to ask for, give, or accept any money, goods, right in action, property, thing of value or advantage, present or prospective, or any promise or undertaking, given with a wrongful or corrupt intent to influence unlawfully the person to whom it is given.

(B) Bribery shall be punishable by a fine not to exceed \$5,000; or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for not more than five years; or any combination of the above-authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than ten years.

Section 15-4-2. Improper Influence in Official Matters.

(A) It shall be unlawful to:

(1) Threaten unlawful harm to any person with intent to influence another's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official, or voter,

(2) Threaten harm to any public servant or relative of a public servant with the intent to influence a decision, opinion, recommendation, vote or other exercise of discretion in a judicial, legislative, or administrative, or administrative proceeding,

(3) Threaten harm to any public servant or official or relative of either with the intent to influence them to violate a duty,

(4) Privately address any public servant that has or will have an official discretion in a judicial or administrative proceeding and making thereby any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations clearly unauthorized by law.

(B) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the person had not yet assumed office, or lacked jurisdiction, or for any other reason.

(C) Improper influence in official matters shall be punishable by a fine not to exceed \$1,000 or by a term of imprisonment in the tribal jail not to exceed six months; or by banishment for not more than five years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than ten years.

Section 15-4-3. Retaliation for Past Official Action.

(A) It shall be unlawful; to harm any person by any unlawful act in retaliation for anything lawfully done by another person in a capacity as a public servant.

(B) Retaliation for past official action shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than four years.

Section 15-4-4. Improper Gifts to Public Servants.

(A) It shall be unlawful to knowingly confer or offer or agree to confer any benefit to a public servant with the intent to induce an exercise of their discretion in an unlawful manner, or to undermine official impartiality.

(B) This section shall not apply to:

(1) Fees prescribed by law to be received by public servants, or any benefit for which the recipient gives lawful consideration or to which the recipient is otherwise entitled,

(2) Gifts or other benefits conferred on account of kinship, traditional ceremonies, or other personal, professional or business relationship independent of the official status of the receiver or

(3) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk or undermining official impartiality.

(C) Improper gifts to public servants shall be punishable by a fine not to exceed \$1,000 or by a term of imprisonment in the tribal jail not to exceed six months; or by

banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-5. Unofficial Misconduct.

(A) It shall be unlawful to exercise or attempt to exercise any of the functions of a public office when one has not been elected or appointed to office.

(B) Unofficial misconduct shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months; or by banishment for not more than one year; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than two years.

Section 15-4-6. Oppression in Office.

(A) It shall be unlawful when acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, with knowledge that such conduct is illegal, to:

(1) Subject another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement or personal or property rights or

(2) Deny or impede another in the exercise or enjoyment of any right, power, or immunity.

(B) Oppression in office shall be punishable by a fine not to exceed \$500 by a term of imprisonment in the tribal jail not to exceed six months; or by banishment for not more than one year; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than two years.

Section 15-4-7. Misusing Public Money.

(A) It shall be unlawful for a person charged with the receipt, safekeeping, transfer or disbursement of public monies to:

(1) Without lawful authority appropriate the money or any portion of it to the person's own use or the use of another,

(2) Loan the money or any portion thereof without lawful authority,

(3) Fail to keep the money in possession until lawfully disbursed or paid out according to law,

(4) Deposit the money in an unauthorized bank or with a person not lawfully authorized to receive such,

- (5) Knowingly keep any false account, or make a false entry or erasure in any account of or relating to the money,
- (6) Fraudulently alter, falsify, conceal, destroy, or obliterate any such account,
- (7) Knowingly refuse or omit to pay over on lawful demand by competent authority any public monies in the person's hands,
- (8) Knowingly omit to transfer money when transfer is required by proper authority,
- (9) Make a profit for oneself or another when not lawfully entitled to such, or in an unlawful manner, out of public monies,
- (10) Fail to pay over to the proper account or authority any fines, forfeitures, or fees received by the person,
- (11) Otherwise handle public money in a manner not authorized by law for the person's own benefit or the benefit of another or
- (12) Handle public money in a reckless manner as a result of which a risk of loss of such money is significant.

(B) "Public money" includes all money, bonds, and evidences of indebtedness or their equivalent, belonging to, or received or held by the Nation or any other government, or any account or money held by the Nation or government for any individual or group.

(C) Misusing public money shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-8. Perjury in the First Degree.

(A) It shall be unlawful, in any official proceeding, to make a false statement under oath or equivalent affirmation, or swear or affirm the truth of a statement previously made, when the statement is material and the person does not believe it to be true.

(B) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law to be decided by the court.

(C) It is no defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(D) No person shall be guilty of an offense under this section if the person retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(E) No person shall be convicted of an offense under this section where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant.

(F) Perjury in the first degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-9. Perjury in the Second Degree.

(A) It shall be unlawful to, with a purpose to mislead a public servant in performing an official function:

- (1) Make any written false statement which the person does not believe to be true,
- (2) Purposely create a false impression in a written application for any benefit by omitting information necessary to prevent statements therein from being misleading,
- (3) Submit or invite reliance on any writing which the person knows to be forged, altered or otherwise lacking in authenticity or
- (4) Submit or invite reliance on any sample, specimen, map, boundary mark, or other object with the person knows to be false.

(B) A person is guilty of perjury in the second degree if the person makes a written false statement which the person does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

(C) It is no defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made on oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(D) No person shall be guilty of an offense under this section if the person retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(E) No person shall be convicted of an offense under this section where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant.

(F) Perjury in the second degree shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-10. Tampering With Witnesses.

(A) It shall be unlawful:

(1) While believing that an official proceeding or investigation is pending or about to be instituted, to attempt to induce or otherwise cause a person to:

(a) testify or inform falsely,

(b) withhold any testimony, information, document or thing,

(c) elude legal process summoning the person to testify or supply evidence or

(d) be absent from any proceeding or investigation to which the person has been legally summoned,

(2) To harm another by an unlawful act in retaliation for anything done by another in their capacity as a witness or informant or

(3) To solicit, accept or agree to accept any benefit in consideration for doing any of the things specified in this section.

(B) Tampering with witnesses shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year or both.

Section 15-4-11. Tampering with Evidence.

(A) It shall be unlawful, while believing that an official proceeding or investigation is pending or about to be instituted, to:

(1) Alter, destroy, conceal or remove any record, document, or thing with the intent to impair its verity or availability in such proceeding or investigation or

(2) Make, present, or use any record, document, or thing knowing it to be false and with a purpose to mislead a public servant who is or may be engaged in such proceeding or investigation.

(B) Tampering with evidence shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for not more than two years; or any combination of the above authorized

punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-12. Tampering with Public Records.

(A) It shall be unlawful to:

(1) Knowingly make a false entry in, or false alteration of any record, document or thing belonging to or received or kept by, the Nation or government for information or record, or required by law to be kept by others for information of the Nation or government,

(2) Make, present or use any record, document, or thing knowing it to be false, and with the purpose that it be taken as a genuine part of information or records referred to in subsection (1) above or

(3) Purposely and unlawfully destroy, conceal, remove or otherwise impair the truth or availability of any such record, document or thing.

(B) Tampering with Public Records shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or by banishment for not more than two years; or both combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not less more than five years.

Section 15-4-13. Impersonating a Public Servant.

(A) It shall be unlawful to falsely pretend to hold a position in the public service with the purpose to induce another to submit to such pretended official authority or otherwise to act in prejudicial reliance upon that pretense.

(B) Impersonating a public servant shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-4-14. Obstructing Governmental Function.

(A) It shall be unlawful to:

(1) Use force, violence, intimidation, or engage in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function or

(2) Purposely obstruct, impair, or prevent the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act, except that this section does not apply to the flight by a person charged with crime, refusal to submit to arrest, failure to perform a duty other than an official duty, or any other means of avoiding compliance with law without affirmative interference with governmental functions.

(B) Obstructing governmental function shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Sections 15-4-15. to 15-4-25. Reserved.

Section 15-4-26. False Arrest.

(A) It shall be unlawful for any public officer or person pretending to be a public officer to, under the pretense or color of any process or other legal authority, arrest or detain any person against the person's will, except where such person reasonably believes there is authorization by law to do so.

(B) False arrest shall be punishable by a fine not to exceed \$2,500, or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-27. Refusing to Aid an Officer.

(A) It shall be unlawful to knowingly or recklessly refuse to aid a law enforcement officer or fireman in the performance of their official duties when called upon by the officer to do so.

(B) Refusing to aid an officer shall be punished by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-4-28. Obstructing Justice.

(A) It shall be unlawful with the purpose to hinder the apprehension, prosecution, conviction or punishment of any person for the commission of an offense to:

- (1) Harbor or conceal another person,
- (2) Provide or aid in providing a weapon, transportation, disguise or any other means of avoiding apprehension or promoting escape,
- (3) Conceal or destroy evidence of an offense, or tamper with a witness, informant, document or other source of information, regardless of its admissibility in evidence,
- (4) Warn another person of impending discovery or apprehension, except if such warning is given in an attempt to get the other person to comply with the law,
- (5) Provide false information to a law enforcement officer for the purpose of preventing the apprehension of oneself or another, or
- (6) Obstruct by force, threat, bribery or deception anyone from performing any act that might aid in the discovery, apprehension, prosecution or conviction of oneself or another.

(B) Obstructing justice shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both, unless the offender or the recipient of any of the above aid has been previously sentenced to banishment, in which case a conviction under this section may result in both parties being banished for a term equal to one half of the original sentence of banishment, plus a fine up to \$500.00.

Section 15-4-29. Providing Contraband.

(A) It shall be unlawful to provide any person in official detention with alcoholic beverages, drugs, weapons, implements of escape, or any other thing or substance which the actor knows is improper or unlawful for the detainee to possess.

(B) Providing contraband shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-30. Resisting Lawful Arrest.

(A) It shall be unlawful to create a substantial risk of bodily harm to anyone or employ means of resistance justifying or requiring force to overcome the resistance for the purpose of preventing a law enforcement officer from making an arrest or detention of the person or of any other person.

(B) Resisting lawful arrest shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-31. Escape.

(A) It shall be unlawful to:

- (1) Remove oneself from official detention or fail to return to official detention following temporary leave granted for a specified purpose or period,
- (2) Knowingly procure, make, or possess anything which may facilitate escape while being held in official detention,
- (3) Aid another person to escape official detention,
- (4) Knowingly provide a person in official detention with anything which may facilitate an escape.

(B) “Official detention” means arrest, detention in any facility for custody of a person under charge or conviction of a crime; or any other detention for law enforcement purposes; but “official detention” does not include supervision of probation or parole, or constraint incident to release on bail.

(C) Escape shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-32. Bail Jumping.

(A) It shall be unlawful to fail without just cause to appear in person after having been released on bail or on recognizance by court order or other lawful authority upon condition that the person subsequently appear on a charge of an offense.

(B) Bail jumping shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-33. Failure to Obey a Lawful Order of the Court.

(A) It shall be unlawful to purposefully or knowingly fail to obey an order, subpoena, warrant or command duly issued, or given by a court of the Nation or any officer thereof or otherwise issued according to law without just cause.

(B) Any domestic violence protection order issued that is consistent with subsection (a) of this section by a State or Indian tribe shall be accorded full faith and credit by the Prairie Band Potawatomi Nation and enforced as if it were the order of the Prairie Band Potawatomi Nation.

(1) A domestic violence protection order issued by a State or Tribal Court is consistent with this subsection if:

(a) such Court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

(b) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex-parte orders, notice and opportunity to be heard must be provided within the time required by State or Tribal law, and in any event within a reasonable time after the order is issued.

(2) Mutual protection orders are not entitled to full faith and credit under this section. Mutual protection orders are:

(a) Mutual protection orders in which a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

(b) Mutual protection orders in which the original defendant did not file a cross or counter petition, complaint or other written pleading seeking such a protection order; or

(C) This section shall not apply to a failure to appear as a party in a civil action where Default or a similar remedy is available to the other party.

(D) Failure to obey a lawful order of the court shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

(Amended by PBP TC No. 2008-166, July 17, 2008)

Section 15-4-33. Failure to Obey a Lawful Order of the Court.

(A) It shall be unlawful to purposely or knowingly fail to obey an order, subpoena, warrant or command duly made, issued, or given by a court of the Nation or any officer thereof or otherwise issued according to law without just cause.

(B) This section shall not apply to a failure to appear as a party in a civil action where default or a similar remedy is available to the other party.

(C) Failure to obey a lawful order of the court shall be punishable by a fine not to exceed \$5,000 by a term or imprisonment in the tribal jail not to exceed six months, or both.

Section 15-4-34. Unlawful Return of Banished Persons.

(A) It shall be unlawful for any person under sentence of banishment during the term of such banishment, to:

- (1) Physically return to the territorial jurisdiction of the Nation except while actually traveling upon a public highway, or as allowed by law, or
- (2) To apply for or attempt to claim any right, privilege or immunity by virtue of membership in the Nation be except as provided by law.

(B) Unlawful return of Banished personal shall be punishable by a fine of \$5,000 and by imprisonment in the tribal jail for a term not exceeding six months, and by banishment for a term equal to the original term of banishment which was violated.

(C) In addition, any personal property of every kind and description which the banished person brought with him or her or used to return to the tribal jurisdiction shall be contraband and forfeited to the Nation, by civil forfeiture provided, that if any of said property belongs to another, that person, if known, shall be served with civil process, as in forfeiture proceedings and may defend by showing that the banished person did not have permission to use or possess the property or to enter the tribal jurisdiction with that property.

Section 15-4-35. Aiding Return of Banished Persons.

(A) It shall be unlawful for any person to aid, abet, or assist a person under sentence of banishment to:

(1) Physically return to the territorial jurisdiction of the Nation except while actually traveling upon a public highway, or as allowed by law or

(2) Apply for or attempt to claim any right, privilege, or immunity by virtue of membership in the Nation except as allowed by law.

(B) Aiding return of banished persons shall be punishable by a fine of \$2,500 and by imprisonment in the tribal jail for a term not exceeding six months, and by banishment for a term equal to the original term of banishment which was violated.

(C) In addition, any personal property of every kind and description which the banished person brought with him or her or used to return to the tribal jurisdiction shall be contraband and forfeited to the Nation, by civil forfeiture provided, that if any of said property belongs to another, that person, if known, shall be served with civil process, as in forfeiture proceedings and may defend by showing that the banished person did not have permission to use or possess the property or to enter the tribal jurisdiction with that property.

Sections 15-4-36. to 15-4-39. Reserved.

Section 15-4-40. False Alarms.

(A) It shall be unlawful to knowingly:

(1) Cause a false alarm or alarm of other emergency to be transmitted to or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property,

(2) Give false information to any law enforcement officer with the purpose to implicate another in an offense,

(3) Report to law enforcement authorities an offense or other incident with their concern and knowing or believing that it did not occur,

(4) Pretend to furnish law enforcement authorities with information relating to an offense or incident when the person knows no information relating to such offense or incident or

(5) Give a false name or address to a law enforcement officer in the lawful discharge of the officer's official duties.

(B) False alarms shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-4-41. Doing Business without a License.

(A) It shall be unlawful to commence or carry on any business, trade, profession, or calling the transaction or carrying on of which is required by law to be licensed, without having an appropriate license.

(B) Doing business without a license shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-4-42. Tampering with Public Property.

(A) It shall be unlawful to:

(1) Steal, deface, mutilate, alter, falsify, or remove all or part of any record, map, book, document or thing, or any court documents or records, placed or filed in any public office, or with any public officer, or to permit another to do so,

(2) Knowingly injure, deface or remove any signal, monument or other federal marker placed or erected as part of an official survey of the Nation or federal government without authority to do so or

(3) Intentionally deface, obliterate, tear down, or destroy any copy or transcript or extract from any law or any proclamation, advertisement, or notice set up or displayed by any public officer or court, without authority to do so and before the expiration of the time for which the same was to remain set up.

(B) Tampering with public property shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-4-43. Injuring Public Property.

(A) It shall be unlawful to:

(1) Intentionally break down, pull down or otherwise injure or destroy any jail or other place of confinement,

(2) Intentionally and without authority dig up, remove, displace or otherwise injure and destroy any public roadway highway or bridge or private road or bridge or other public building or structure,

(3) Remove or injure any milepost, guidepost or road or highway sign or marker or any inscription on them while such is erected along a road or highway or

(4) Knowingly and without authority to do so, remove, injure, deface, or destroy any public building or structure, or any personal property belonging to the Nation or to any other government or government agency.

(B) Injuring public property shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Sections 15-4-44. to 15-4-50. Reserved.

Section 15-4-51. Compensation for Past Official Behavior.

(A) It shall be unlawful to solicit accept or agree to accept any financial benefit as compensation for having, as a public servant, given a decision, opinion, recommendation or vote favorable to another, or for having otherwise exercised a discretion in another's favor, or for having violated a duty; or offer, confer or agree to confer compensation acceptance of which is prohibited by this section.

(B) Compensation for past official behavior shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-52. Official Unlawful Action.

(A) It shall be unlawful, being a public servant, and with the intent to materially benefit the servant or another or to harm another, to:

(1) Knowingly commit an unauthorized act which purports to be an act of office, or knowingly refrain from performing a non-discretionary duty imposed by law or

(2) Knowing that official action is contemplated or in reliance on information which was acquired by virtue of the office or from another public servant, which information has not been made public, the servant:

(a) acquires or divests of a valuable interest in any property, transaction, or enterprise which may be affected by such action or information or

(b) speculates or wagers on the basis of such action or information, or knowingly aids another to do any of the foregoing.

(B) Official unlawful action shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second conviction under this section, banishment may be imposed for not more than five years.

Section 15-4-53. Special Influence.

(A) It shall be unlawful to solicit, receive, or agree to receive any financial benefit as consideration for exerting special unlawful influence upon a public servant, in order to influence that public servant to violate the law or to exercise discretion in a particular fashion or procuring another to do so; or to offer, confer or agree to confer any financial benefit receipt of which is prohibited by this section.

(B) Special influence shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year; or by banishment for not more than two years; or any combination of the above authorized punishments. For a second or subsequent conviction under this section, banishment may be imposed for not more than five years.

**CHAPTER 15-5
CRIMES AGAINST PUBLIC HEALTH, SAFETY, AND WELFARE**

Section 15-5-1. Rioting.

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

(B) Rioting shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-2. Failure to Disperse.

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

(B) Failure to disperse shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-3. Disorderly Conduct.

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

- (1) Engaging in fighting, or threatening to engage in violent or tumultuous behavior,
- (2) Making unreasonable noise for offensively coarse utterances, gestures, or displays, or addressing abusive language to any person present,
- (3) Creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor,
- (4) Appearing in public places in an intoxicated condition and doing any of the following:
 - (a) passing out or falling or sleeping in a public place or on the property of another without permission,
 - (b) bothering, disrupting, or otherwise intruding upon another person or group of persons,
 - (c) wandering about without being able to give a reasonable account of a destination to a law enforcement officer or
 - (d) appearing or being found in an area set aside for religious or ceremonial activities which have traditionally, or by order of the tribal Council or conducting authorities, been set aside for use, free from alcoholic beverage consumption or the presence of intoxicated persons, during the period of such a religious or ceremonial or public activity.

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

(C) Disorderly conduct shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both. Upon a second or subsequent conviction under this section, a punishment of a fine not to exceed \$500, or a term of imprisonment in the tribal jail not to exceed three months, or both may be imposed. Upon a second or subsequent conviction under paragraph (A) (4) (d) of this section an additional sentence of banishment for a period not more than two years may be imposed.

Section 15-5-4. Harassment.

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

(B) Harassment shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-5. Public Nuisance.

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

- (1) Unreasonably and substantially annoys and injures or endangers the comfort, repose, health, or safety of three or more persons,
- (2) Offends public decency,
- (3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for use or passage any lake, stream, or campground, pow-wow ground, public park, square, street, highway or road or
- (4) In any way unreasonably renders three or more persons insecure in life or the use of the property.

(B) Public nuisance shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-6. Disrupting A Public or Religious Assembly.

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

(B) Disrupting a public or religious assembly shall be punishable by a fine not to exceed \$350 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-7. Weapons Offense.

(A) It shall be unlawful to:

- (1) Have a dangerous weapon in one's actual possession (a) while being addicted to any narcotic drug, (b) after having been declared mentally incompetent, (c) while being intoxicated or otherwise under the influence of alcoholic beverages or other intoxicating substance, drug, or medicine, (d) while possessing the intent to unlawfully assault another, (e) or while under the age of sixteen years old and without the consent of the minor's parent or guardian.
- (2) Carry a loaded firearm in a vehicle on a public road without lawful authority to do so; or to discharge any kind of firearm from a motor vehicle without lawful authority to do so; or to discharge a firearm from, upon or across any public highway without lawful authority to do so.

(B) Definitions:

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

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

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

(C) Weapons offense shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-8. Aggravated Weapons Offense.

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

(B) Aggravated weapons offenses shall be punishable by a fine not to exceed \$500 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Section 15-5-9. Dangerous Devices.

(A) It shall be unlawful to:

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

(2) Knowingly construct or contrive any dangerous device, or with the intent to injure another person or property, possess a dangerous device.

(B) For purposes of this section, a “dangerous device” is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive, acid,

poisonous or inflammable substance, chemical, or compound, or knife, loaded firearm or other dangerous or harmful weapon or thing, constructed, contrived, or arranged so as to explode, ignite, or throw forth its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened or after the lapse of time or under conditions or in a manner calculated to endanger health, life, limb, or property.

(C) Dangerous devices offenses shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both.

Sections 15-5-10. to 15-5-15. Reserved.

Section 15-5-16. Desecration.

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

(B) Desecrate means to deface, damage, pollute, destroy, take or otherwise physically mistreat in any way that the actor knows, should know or believes will outrage, the sensibilities of persons likely to observe or discover such action.

(C) Desecration shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed one year, or both.

Section 15-5-17. Littering.

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

(B) Littering shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-18. to 15-5-25. Reserved.

Section 15-5-26. Abusing a Corpse.

(A) It shall be unlawful to purposely and unlawfully remove, conceal, dissect, or destroy a corpse or any part of a corpse; or to disinter a corpse that has been buried or otherwise interred. A corpse or any part thereof shall not be disinterred for purposes of providing DNA information under the Nation's enrollment ordinance.

(B) Abusing a corpse shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or banishment for a term of not more than five years or any combination of the above punishments.

(Amended by PBP TC No. 2007-030, February 5, 2007)

Section 15-5-27. Prostitution.

(A) It shall be unlawful to:

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

(B) Definitions:

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

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

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

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

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

(D) Prostitution shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed six months, or both. Upon a second or subsequent conviction for prostitution, banishment may also be imposed for a term not more than two years.

Section 15-5-28. Spreading Venereal Disease.

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

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

(C) Spreading venereal disease shall be punishable by a fine not to exceed \$500 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-29. Obscenity.

(A) It shall be unlawful to:

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

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

- (3) Publish, exhibit or otherwise make available any obscene material,
 - (4) Possess any obscene material for purposes of sale or other commercial dissemination or
 - (5) Sell, advertise or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene.
- (B) Material is obscene if, considered as a whole:
- (1) It lacks serious literary, artistic, political, or scientific value,
 - (2) It depicts or describes nudity, sex or excretion in a patently offensive manner that goes substantially beyond customary limits of candor in describing or representing such matters and
 - (3) If the average person, applying contemporary community standards, would find that the material, taken as a whole, appeals predominantly to a morbid or unnatural interest in nudity, sex, or excretion.
- (C) A person who disseminates or possesses obscene material in the course of business is presumed to do so knowingly or recklessly.
- (D) Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or some other specially susceptible audience.
- (E) Undeveloped photographs molds, printing plates and the like, shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.
- (F) It shall be a defense to a prosecution under this section that the dissemination of the obscene material was restricted to institutions or persons having scientific, educational, governmental or other similar justification for possessing obscene material.
- (G) Obscenity shall be punishable by fine not to exceed \$5,000 and all obscene material shall be confiscated and destroyed.

Sections 15-5-30. to 15-5-35. Reserved.

Section 15-5-36. Intoxication.

- (A) It shall be unlawful to be under the influence of an intoxicating beverage, drugs, or other controlled substance, or a substance having the property of releasing vapors, to any degree, in a public place or in a private place where one unreasonably disturbs another person, under circumstances not amounting to disorderly conduct.
- (B) Intoxication shall be punishable by a fine not to exceed \$150 or by a term of imprisonment in the tribal jail not to exceed three months, or both. However, a judge

or the arresting law enforcement officer may order the release from custody and the dropping of a charge under this section if further imprisonment is unnecessary for the protection of the individual or another and the individual is in a sober condition at the time of release. The Judge may also commit the person convicted to a facility for treatment if it appears that the person is dependent upon the intoxicating beverage, drugs, controlled substance, or vapor producing substance, for a period not to exceed six months.

Section 15-5-37 Possession and/or Use of an Alcoholic Beverage

(A) It shall be unlawful to possess, use, sell or distribute any alcoholic beverage while at the Prairie People's Park, the ball parks near Housing Cluster 3 and the old one on 150th Road, the Youth Center at 15424 K Rd, the Government Center, the Bingo Hall, the Nation Station or at or on the grounds of any tribal government building or land that is owned legally or beneficially in its entirety by tribal government, or land that is leased or possessed by the Tribal Government. Nothing in this section shall prohibit consumption at a private residence or on the trust land where the casino facility is located.

(B) All such beverages shall be seized by any law enforcement officer on sight and disposed of in accordance with evidence handling procedures.

(C) Any person violating this section shall be placed under arrest.

(D) Any offense of this section shall be punishable by a fine not to exceed \$500 or by a term of imprisonment not to exceed 90 days or both.

(Deleted by PBP TC No. 99-68, May 12, 1999, Title 15-5-37; amended by PBP TC No. 2002-073, May 23, 2002; amended by PBP TC No. 2006-108, June 2, 2006)

Section 15-5-38. Tobacco Offense; Exceptions; Exceptions.

(A) Except as provided in paragraph (B) of this act, it shall be unlawful to:

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

(2) Sell to, or otherwise obtain for or arrange for the obtaining of tobacco or a tobacco product for a person under the age of eighteen, or to knowingly permit such a person to operate a machine dispensing tobacco products in a place of business or in an area of a place of business over which the salesman is charged with the management or operation.

(B) This section shall not apply to tobacco possessed or used for ceremonial and spiritual purposes consistent with religious practices such as, but not limited to, prayer, protection, offerings, respect, and healings.

(C) Tobacco offenses shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

(Amended by PBP TC No. 2006-050, March 20, 2006)

Section 15-5-39. Abuse of Psychotoxic Chemical Solvents.

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

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

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

(D) Abuse of psychotoxic Chemical Solvents shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both, and the court may order any person using psychotoxic solvents for inhalation to be committed to some facility for treatment for a term not exceeding six months.

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

Section 15-5-40. Dangerous Drug Offense.

(A) It shall be unlawful, except as authorized and controlled by Federal law, to manufacture, distribute, possess with intent to distribute, dispense, create, possess, or cultivate a controlled or a counterfeit substance; or to obtain or acquire possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

or to knowingly or intentionally use any communication facility in committing any of the above prohibited acts.

(B) Controlled or counterfeit substances shall consist of the substances listed in 21 U.S.C 812, and any other chemical substance, natural, or artificial, defined as a controlled or dangerous substance the possession, sale, distribution, or use of which is prohibited by federal law, except peyote.

(C) A dangerous drug offense shall be punishable by a fine not to exceed \$500 or by a term of imprisonment in the tribal jail not to exceed six months, or both. Upon conviction under this section for sales distribution, possession with intent to distribute, manufacture with intent to sell, or cultivation with intent to distribute, banishment may also be imposed for a term not more than ten years.

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

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

Sections 15-5-41. to 15-5-50. Reserved.

Section 15-5-51. Cruelty to Animals.

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

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

(B) Cruelty to animals shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both. It is a defense to prosecution under this section that the conduct of the actor toward the animal was an accepted veterinary practice or directly related to a bonafide experimentation for scientific research provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

Section 15-5-52. Livestock Offense.

(A) It shall be unlawful to:

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

(B) Except in cases in which the owner or person having custody of livestock believed to be in violation of this section cannot be found, for subsections 1, 2, 3, 4, 5, or 6 set forth above, no conviction may be sustained unless the owner or person having custody of the livestock involved is given forty-eight hours written notice of the alleged violation.

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

(D) A livestock offense shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

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

Sections 15-5-53. to 15-5-60. Reserved.

Section 15-5-61. False Reports.

(A) It shall be unlawful to initiate or circulate a report or warning of a fire, bombing, or other crime or catastrophe, knowing that the report of warning is false or

baseless and that it is likely to cause evacuation of any building, place or assembly, or facility of public transport, or to cause public inconvenience or alarm or action of any sort by an official or volunteer agency organized to deal with emergencies.

(B) False reports shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-62. Emergency Telephone Abuse.

(A) It shall be unlawful to knowingly refuse to yield or surrender the use of a party line or public pay telephone to another person upon being informed that said telephone is needed to report a fire, or summon police, medical or other aid in case of an emergency, unless the actor is already using said telephone to report an emergency; or to ask for or request the use of a party line or public pay phone on the pretext that an emergency exists, knowing that no emergency exists.

(B) “Emergency” means a situation in which property or human life or safety is in jeopardy and the prompt summoning of aids is or reasonably appears to be essential to preservation of human, life, safety, or property.

(C) Emergency telephone abuse shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-63. Violation of Privacy.

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

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

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

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

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

(B) Definitions:

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

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

(C) Violation of privacy shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-64. Criminal Defamation.

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

(B) Criminal defamation shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both. However, it shall be a defense to criminal defamation that the person making the publication was at the time engaged in the formal broadcast or publication of news by some public news media, in good faith believed that the report was a newsworthy event concerning a public figure and had an absence of malice.

Section 15-5-65. Gambling.

(A) It shall be unlawful to:

(1) Participate in gambling,

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

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

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

(a) induce or aid another to engage in gambling or

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

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

(B) Definitions:

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

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

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

(C) The Nation may issue a permit authorizing a lottery pursuant to tribal statute.

(D) It shall not be an offense under this section for a person to engage in bingo, gambling or a lottery otherwise licensed pursuant to tribal law, nor shall it be an offense under this section for a person to engage in any traditional Indian games designated by tribal law as exempt from the provisions of this section, nor shall traditional raffles and similar activities conducted at Pow-wows and similar functions be considered gambling under this section.

Section 15-5-66. Waters Offense.

(A) It shall be unlawful to:

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

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

- (3) Pollute or defoul any water in any of the following ways:
- (a) construct or maintain a corral, sheep pen, goat pen, stable, pig pen, chicken coop, or other offensive yard or outhouse where the waste or drainage therefrom shall flow directly into the waters of any stream, well, spring, or source of water used for domestic purposes,
 - (b) deposit, pile, unload or leave any manure heap, rubbish, or the carcass of any dead animal where the waste of drainage therefrom will flow directly into the waters of any stream, well, spring or source of water used for domestic purposes,
 - (c) construct, establish, or maintain any corral, yard, vat, pond, camp, or bedding place for the shearing, dipping, washing, storing, herding, holding or keeping of livestock in such proximity to a stream, or other source of water used for domestic purposes or which flows through a city or town, so that the waste, refuse or filth therefrom find their way into said source of water or
 - (d) knowingly cause or allow any substance harmful or potentially harmful to human life to enter into a source of water used for domestic purposes.

(B) A water offense shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-67. Contributing To the Delinquency of a Minor.

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

- (1) Knowingly or recklessly sell or give to or otherwise make beer, liquor, wine or other alcoholic beverages available to a person under the age of eighteen years or
- (2) Knowingly or recklessly, by act or omission, encourage, cause or contribute to the delinquency or unlawful conduct of a minor under eighteen years of age.

(B) Contributing to the delinquency of a minor shall be punishable by a fine of not more than \$500 or by a term or imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-68. Trafficking In Children.

(A) It shall be unlawful to:

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

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

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

(B) “Child” means an unmarried or unemancipated person under the age of eighteen years.

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

(D) Trafficking in children shall be punishable by a fine not to exceed \$5,000 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-69. Curfew Violation.

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

(B) A curfew violation shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

Section 15-5-70. Fireworks Offense.

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

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

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

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

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

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

(C) A fireworks offense shall be punishable by a fine not to exceed \$250 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

(D) Notwithstanding any other provisions in this code,

(1) it shall be unlawful to sell, offer to sell, or to possess with intent to sell or offer for sale a bottle rocket; and

(2) effective July 11, 2001, it shall be unlawful to ignite, fire, set-off or otherwise use a bottle rocket.

(3) "Bottle rocket" means any pyrotechnic device which;

(a) is classified as a class C explosive by the United States department of transportation under 49 C.F.R. 173.100 (1977);

(b) is mounted on a stick or wire; and

(c) projects into the air when ignited, with or without reports, and includes any device with the same configuration, with or without reports, which may be classified as a pipe or trough rocket. "Bottle rocket" does not include helicopter-type rockets.

(4) The Tribal Police shall seize and destroy or otherwise dispose of all bottle rockets at a premises where bottle rockets are being sold, offered, possessed or used in violation of this code.

(Amended by PBP TC No. 2001-080, July 3, 2001; Title 15, Criminal Offenses, PBP TC No. 98-85; amended by PBP TC No. 99-68, May 12, 1999; amended by PBP TC No. 2001-080, July 3, 2001; amended by PBP TC No. 2002-037)

CHAPTER 15-6 PUBLIC NUISANCES

Section 15-6-1. Public Nuisance Defined; Maintaining a Public Nuisance.

A public nuisance is a condition which involves a significant interference with or injury or endangerment to, the public health, public safety, public welfare, public peace or the public comfort. Any person who causes or permits such a condition to exist shall be maintaining a public nuisance. Public nuisance shall include, but not be limited to:

(A) An automobile race track. Any person who owns or operates an automobile race track, or permits property under the person's ownership or control through lease or otherwise to be used for the operation of an automobile race track, shall be maintaining a public nuisance. For purposes of this subsection the term "automobile" means a vehicle including a self-propelled bicycle, tricycle or the like, capable of carrying one or more passengers, carrying its own power-generating or propelling mechanism capable of travel on a road, track, course or other similar surface.

(B) Prostitution. Any person who promotes prostitution shall be maintaining a public nuisance.

(C) The sale or consumption of illegal narcotics. Any person who allows any building which the person owns or operates, or permits property under the person's ownership or control through lease or otherwise, to be used for the sale or consumption of illegal narcotics shall be maintaining a public nuisance.

Any person determined to have maintained or be maintaining a public nuisance may be sentenced to labor or incarceration for a period not to exceed six months or to a fine not to exceed \$5,000, or to any combination thereof and costs. The fines shall apply for each separate day the nuisance is maintained. In addition, the tribal Council is authorized to file a civil action in the district court of the Nation to abate or to enjoin the maintenance of a public nuisance.

Section 15-6-2. Attempt; Conspiracy.

Any person who attempts or conspires to maintain a public nuisance may be sentenced to labor or incarceration for a period not to exceed six months or to a fine not to exceed \$5,000, or to any combination thereof and costs. In addition, the tribal Council is authorized to file a civil action in the district court of the Nation to abate or to enjoin such attempt or conspiracy:

(Chapter 15-6, enacted by PBP TC No 94-1; amended by PBP TC No. 98-85; amended by PBP TC No. 99-68, May 12, 1999; Title 15 enacted by PBP TC No. 97-30; amended by PBP TC No. 98-55, July 21, 1998; 15-5-37; Amended by PBP TC No. 2001-080, July 3, 2001; amended by PBP TC No. 2002-073; amended by PBP TC No 2004-126, July 30, 2004; amended by PBP TC No. 2006-106, June 2, 2006; amended by PBP TC No. 2006-050, March 20, 2006; amended by PBP TC No. 2007-179, October 9, 2007;

