

UNITED KEETOOWAH BAND OF  
CHEROKEE INDIANS  
IN OKLAHOMA

CRIMES AND PUNISHMENT  
ACT of 2022

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## INTRODUCTION

### GERNERAL PROVSIONS

#### **Jurisdiction**

The United Keetoowah Band asserts its jurisdiction over all of its Indian Country, both within, including, and outside of the Cherokee Reservation. “Cherokee Reservation” or “Reservation” shall mean all land within the exterior boundaries of an area that was set aside by treaties with the federal government for the Cherokee people, including the predecessors of those Cherokees who Congress would later recognize as a separate tribe called the “Keetoowah Indians of the Cherokee Nation of Oklahoma,” and which would organize as the United Keetoowah Band of Cherokee Indians in Oklahoma, which includes all, or a portion, of fourteen counties in today’s eastern Oklahoma, but excluding all lands held by the United States in trust for the Cherokee Nation of Oklahoma, or owned in fee by the Cherokee Nation of Oklahoma.

#### **Domestic Violence**

##### Legislative Findings

It is the intent of the United Keetoowah Band of Cherokee Indians Council and the Tribal community that the official response to domestic violence and family violence shall be that the Tribes will not tolerate or excuse violent behavior under any circumstances. All people, whether they are elders, female, female, male, or children of our Tribes, or of the entire community residing on the United Keetoowah Band Reservation, are to be cherished and treated with respect.

Domestic violence and family violence are not acceptable and are contrary to traditional United Keetoowah Band culture and values of honoring the family, and are contrary to the interest of our community and sense of well-being and growth. Domestic violence and family violence will not be tolerated.

The Tribe finds that domestic violence and family violence imperil the very subsistence of the Tribal community and the residents of the Reservation. The Tribe recognizes the Department of Justice findings that one in three Native women is sexually assaulted in her lifetime and that seventy percent of reported assaults are committed by non-Native men against Native women. A community response to domestic and family violence is necessary because domestic and family violence crimes because the community cares about the individual victim, and incidents impact the community as a whole. These crimes redirect Tribal resources – whether personnel, financial, public safety or other resources – elsewhere and require an immediate response. As a result of this impact on Tribal resources, the Tribe deems it necessary to address domestic violence and family violence to the fullest extent permitted by laws existing now or as may be adopted or amended in the future.

## Definitions

When possible, the Tribe will exercise Special Domestic Violence Jurisdiction under the Tribal Law and Order Act and the Violence Against Women Act. It is important to the United Keetoowah Band for both victims and perpetrators of domestic violence to have the benefit of a clear and concise statement of law, and to ensure a fair trial should a criminal matter be tried in Tribal Court. Thus, the crime of domestic violence shall be defined as it is in the Violence Against Women Act 25 U.S.C. § 1304 (2022), as amended from time to time.

(a) The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(b) The term “domestic violence” means violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the victim under the domestic- or family- violence laws of an Indian tribe that has jurisdiction over the Indian country where the violence occurs.

Therefore, in order to have the label of domestic violence attached to a charge, the victim must:

- (1) be a spouse or former spouse of the alleged perpetrator;
- (2) have a child jointly with the alleged perpetrator, biologically, adopted, step, or legal guardianship;
- (3) currently resides with or has resided with the alleged perpetrator;
- (4) is related by blood or marriage to the alleged perpetrator;
- (5) or is currently having or has had an intimate or dating relationship with the alleged perpetrator during the past ten (10) years.

The Tribe further implements the jurisdiction over non-Native perpetrators of sexual assault, child abuse, stalking, sex trafficking, and assaults on tribal law enforcement officers in its Jurisdiction.

## Domestic Violence Sentencing

Pursuant to the United Keetoowah Band’s commitment to ending domestic violence in the community, crimes of domestic violence shall be eligible for enhanced punishment and mandatory treatment.

(a) Domestic violence is a Class II Felony. A conviction for a second or subsequent offense shall be a Class I Felony.

(b) A prosecutor may bring evidence to support a designation of domestic violence at any time during the proceedings.

(c) Once the Court has made a finding that an intimate family relationship existed between the perpetrator and the victim, the defendant shall be given notice such a designation has been made and any further necessary advisements shall be given. The case caption shall include a designation of domestic violence when the finding is made; for example, “assault—domestic violence.”

(d) When a defendant admits to, pleads guilty to, or has been found guilty of two or more crimes involving domestic violence within five years, any penalty provided in the Code may be increased to the fullest extent of allowable fines, jail time, or banishment, no matter what the charge; that is, if convicted of two or more crimes involving domestic violence within five years, each of those crimes within the five years may be punished by the maximum penalty and/or designation under this Act.

(e) Pursuant to any domestic violence conviction, the court shall order participation in and completion of approved program of professional counseling at the defendant’s expense. Failure to do so may result in a charge of criminal contempt.

(f) Any public officer charged with a crime of domestic violence may be suspended from office without pay during the pendency of the case. A conviction may bar the official from holding future public office, unless a counseling program is completed and substantial evidence of rehabilitation is provided to the Court.

(g) Upon a charge of any crime of domestic violence, law enforcement authorities shall have the authority to remove all firearms and dangerous weapons from the home. Upon a conviction of any crime of domestic violence any firearms and dangerous weapons may be removed from the home for at least one year. Firearms or other weapons that were removed pursuant to this Act may be returned to the defendant upon a showing of necessity for hunting or other legitimate uses and a safety contract agreed to by the alleged victim.

(h) In keeping with traditional United Keetoowah Band values, the Court may require a person convicted of an offense who has injured a person(s), property of a person(s), or another entity, to make restitution or to compensate for the injury through surrender of property, payment of money damages, or the performance of any other act for the benefit of the victim, or any combination of the above. Any restitution or compensation is wholly separate from any fine that may also be imposed.

(i) The Court, in its discretion, may choose to provide alternative sentencing options for defendant(s) who are sentenced for misdemeanor or felony convictions in Tribal Court. These options include, but are not limited to:

- (1) A Tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration;
- (2) The nearest available and appropriate federal facility, at the expense of the United States;

- (3) A state or local government-approved detention or correctional center, pursuant to an agreement between the United Keetoowah Band and the state or local government;
- (4) An alternative rehabilitation center of a tribe; or
- (5) An alternative form of punishment, as determined by the Tribal Court, taking into consideration Tribal law and customs.

Finally, valid protective orders from other jurisdictions will be enforced and adopted by the United Keetoowah Band Court.

### **Juvenile Delinquency**

#### Legislative Findings/Adoption by Council

The United Keetoowah Band recognizes children as valued members of the community, even if they commit delinquent acts. The UKB also recognizes juveniles are less culpable than adults due to brain development and likelihood of rehabilitation. It is also important to ensure juveniles who commit delinquent acts are prevented from further offending and harm they caused, either to themselves or another, is addressed and rectified.

#### Definitions

A “delinquent act” is any act that would be a criminal act if committed by an adult.

A “child” is a person who is either (1) under the age of eighteen (18) years old or (2) is eighteen (18) years old and is alleged, or found by the court to have committed a delinquent act, and therefore comes or remains within the court under the provisions of this title shall be considered children for the purposes of juvenile adjudications.

No one under the age of fourteen (14) will be held criminally liable for any act. Any child between the ages of fourteen and seventeen (17) may be held criminally liable under this act, but will be considered juveniles in all matters. Sentencing for juveniles shall emphasize rehabilitation and reintegration into the community and use incarceration as a last resort.

No juvenile shall be prosecuted for crimes of a sexual nature if both parties consented to the behavior or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim, except as provided for in the Sex Offender Registration Code or evidence is presented that prosecuting an actor is in the best interest of justice.

#### Juvenile Sentencing

Every effort will be made to prevent juveniles from being committed. Connection with community members and community supervision will be utilized. If commitment is required, children will not be sent more than one hundred 100 miles from the territorial jurisdiction of the United Keetoowah

Band unless good cause is shown, such as a program best suited to the child's needs or it is closer to family that is able to visit the child more often.

Juveniles shall not be required to register as sex offenders except as prescribed in the Keetoowah Cherokee Tribal Sex Offenses and Sex Offender Registration Code.

## CHAPTER ONE

### CRIMES AGAINST PROPERTY

#### Section 101. Arson in the First Degree

(a) It is unlawful to intentionally or knowingly start a fire or cause an explosion with the purpose of:

- (1) Endangering a human life; or
- (2) Destroying or damaging any building, dwelling, occupied structure or other property of another worth more than One Thousand Dollars (\$1,000.00) in value; or
- (2) Destroying or damaging any property, by whoever owned, to collect insurance for the loss.

(b) Arson in the First Degree is a Class I Felony.

(c) If the commission of the offense results in the death or serious bodily injury to any person, a sentence of banishment may be imposed for a period up to life in addition to the above punishments.

#### Section 102. Arson in the Second Degree

(a) It is unlawful to recklessly or negligently start a fire or cause an explosion which:

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

(b) Arson in the Second Degree is a Class II Felony.

#### Section 103. Arson in the Third Degree

(a) It is unlawful after having started a 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 is a Misdemeanor.

## Section 104. Criminal Mischief

(a) It is unlawful to intentionally or knowingly:

- (1) Write, paint, draws, carve, or inscribe any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property; or
- (2) Damage or destroy any property of another; or
- (3) Tamper with the property of another and recklessly endanger the safety of another, or recklessly cause any damage to any property or utility service; or
- (4) Damage, destroy, maim, or deface any domestic animal property of another; or
- (5) 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 is a Misdemeanor.

## Section 105. Burglary

(a) It is unlawful to use force to break into and enter in any manner any dwelling, building, office, tenement, shop, warehouse, store, mill, barn, stable, garage, tent, vessel, railroad car, airplane, motor vehicle, trailer, 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 is a Class I Felony.

(c) If the commission of the offense results in death or serious bodily injury to any person, a sentence of banishment may be imposed for any period up to life in addition to the above punishments.

## Section 106. Breaking and Entering

(a) It is unlawful to use force to break into 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, semitrailer, mobile home, trunk, drawer, box, coin operated machine, or similar structure, object, or device of another without consent and with the intent to:

- (1) Cause annoyance or injury to any person inside; or
- (2) Cause damage to any property inside; or
- (3) Commit any offense inside; or
- (4) Steal; or
- (5) Cause, whether intentionally or recklessly, fear in any person inside.

(b) Breaking and Entering is a Misdemeanor.

#### Section 112. Criminal Trespass

(a) It is unlawful to enter onto, or remain on, the property of another when notice to leave the property had been given by:

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

(b) It is a complete affirmative defense to criminal trespass when:

- (1) The property was open to the public upon entry and if 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 any property, and upon being ordered to leave the person did so without undue delay.

(c) On rural lands fenced with barbed wire or other types of fencing normally meant to enclose or exclude domestic animals, signs prohibiting entry or use must be

- (1) at least six inches by eight inches; and
- (2) placed upon or in plain sight next to such fence; and
- (3) not more than one hundred fifty feet apart.

This shall create a rebuttable presumption that reasonable notice against entry or entry for certain purposes had been given.

Criminal Trespass is a Misdemeanor.

#### Section 120. Larceny

(a) It is unlawful to take or carry away any tangible or intangible personal property by fraud or stealth with the intent to deprive the owner of that property.

(b) Larceny is a Misdemeanor unless the value of the property taken is more than One Thousand Dollars, (\$1,000.00) then it is a Class II Felony.

#### Section 121. Extortion

(a) It is unlawful to take, receive, or control the use or disposition of property of another with the intent to deprive him of the possession or use of the property by threatening to:

- (1) Cause bodily harm to any person; or
- (2) Commit any offense; or
- (3) Unlawfully injure or destroy any property; or
- (4) Expose any personal information or secret which could cause hatred, contempt, or ridicule to any person, or to impair a person's business or reputation, except if the information is part of legal proceedings or reports to credit agencies to recover debt or property.
- (5) Unlawfully take or withhold official action.

(b) Extortion is a Misdemeanor unless the value of the property extorted is or more than One Thousand Dollars (\$1,000.00), then it is a Class II Felony.

#### Section 122. False Pretenses

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

(b) False Pretenses is a Misdemeanor unless the value of the property gained by False Pretenses is more than One Thousand Dollars (more than \$1,000.00), then it is a Class II Felony.

#### Section 123. Embezzlement

(a) It is unlawful to use someone else's property, which a person has been entrusted, in a wrongful or fraudulent way.

(b) Embezzlement is a Misdemeanor unless the value of the property embezzled is more than One Thousand Dollars (more than \$1,000.00), then it is a Class II Felony.

#### Section 124. Receiving Stolen Property

(a) It is unlawful to possess, receive, buy, or conceal any personal property that has been stolen or otherwise obtained from its true owner with the intent to deprive the true owner of that property.

(b) Receiving stolen property is a Misdemeanor unless value of the property is more than One Thousand Dollars (more than \$1,000.00), then it is a Class II Felony.

#### Section 125. Theft of Property Lost, Mislaid, or Delivered by Mistake

(a) It is unlawful to fail to take reasonable measures to restore property to the rightful owner, with the intent to deprive the owner of the property, when it is known or reasonably suspected that the property has been lost, mislaid, or the wrong thing or amount has been delivered, or it has been delivered to the wrong person.

(b) Theft of Property Lost, Mislaid, or Delivered by Mistake is a Misdemeanor unless the value of the property is equal to or more than One Thousand Dollars (\$1,000.00), then it is a Class II Felony.

#### Section 126. Theft of Service

(a) It is unlawful to use deception, threat, force, or any other means with the intent to avoid payment for services when it is due.

(b) Theft of Services is a Misdemeanor unless the value of the service is more than One Thousand Dollars (more than \$1,000.00), then it is a Class II Felony.

#### Section 127. Unauthorized Use of a Vehicle

(a) It is unlawful to take, drive, or operate a motor vehicle, motorcycle, bicycle, or wheeled conveyance without the consent of the owner.

(b) Unauthorized Use of a Vehicle is a Misdemeanor.

(c) If the vehicle sustains damages while in the custody, possession, or control of the person violating this Section, the violator is required to make double restitution of the amount of the actual damage to the vehicle.

#### Section 128. Forgery

(a) It is unlawful to alter any person's writing without permission, or to intend to defraud or injure anyone by making, completing, executing, authenticating, issuing, or transferring any writing so that it falsely appears to be written by someone else.

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

(c) Forgery is a Misdemeanor.

#### Section 129. Criminal Simulation

(a) It is unlawful to intend to defraud anyone by making, altering, circulating, or selling as genuine any object so it falsely appears to have value because of antiquity, rarity, source, or authorship.

(b) Criminal Simulation is a Misdemeanor.

#### Section 130. Fraudulent Handling of Recordable Instruments

(a) It is unlawful to intend to deceive or injure anyone, or conceal wrong doing, by destroying, removing, or concealing any judgment, deed, mortgage, security instrument, Tribal resolution, Tribal record for which the law provides public recording, or to knowingly record a false or forged instrument.

(b) Fraudulent Handling of Recordable Instruments is a Misdemeanor.

#### Section 131. Tampering With Records

(a) It is unlawful to intend to deceive or injure anyone or conceal wrong-doing by falsifying, destroying, removing, or concealing any writing or record.

(b) Tampering With Records is a Misdemeanor.

#### Section 131. Bad Checks

(a) It is unlawful to issue a check or similar electronic debit for the payment of money, for any purpose, knowing or believing that it will not be honored by the drawee.

(b) Bad Checks is a Misdemeanor.

#### Section 132. Fraudulent Use of a Credit Card

(a) It is 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 is a Misdemeanor.

#### Section 133. Deceptive Business Practices

(a) It is unlawful in the course of business to intentionally, knowingly, or recklessly:

- (1) Use or possess a false weight or measure, or any other device for falsely determining or recording any quality or quantity;
- (2) Sell, offer, 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 the buyer furnishes the weight or measure;
- (4) Sell, offer, expose for sale, or deliver adulterated or mislabeled commodities.
  - (i) “adulterated” means varying from the standard of composition or quality prescribed by law or commercial usage.
  - (ii) “mislabeled” means varying from the standard of truth or disclosure in labeling prescribed by law or commercial usage
- (5) Make a substantially false or misleading statement in any advertisement addressed to the public for the purpose of promoting the purchase or sale of property or services;
- (6) Make a substantially false or misleading written statement for the purpose of obtaining property or credit; or
- (7) Make a substantially 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.

(c) Deceptive Business Practices is a Misdemeanor.

(d) It is an affirmative defense to Deceptive Business Practices that the defendant’s conduct was not knowingly or recklessly deceptive.

#### Section 134. Defrauding Creditors

(a) It is unlawful to intentionally, knowingly, or recklessly:

- (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) Defeat or obstruct 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 defendant could be legally required to furnish in relation to such administration.

(b) Defrauding Creditors is a Misdemeanor.

#### Section 134. Securing Execution of Documents by Deception

(a) It is unlawful to intentionally and by deception, create or have created an instrument that affects or is likely to affect the financial interest of any person.

(b) Securing Execution of Documents by Deception is a Misdemeanor.

#### Section 135. Unlawful Dealing with Property by a Fiduciary

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

(b) As used in this Section, “fiduciary” includes a trustee, guardian, executor, receiver, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(c) Unlawful Dealing with Property by a Fiduciary is a Misdemeanor.

#### Section 136. Making a False Credit Report

(a) It is 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 is a Misdemeanor.

## CHAPTER TWO

### CRIMES AGAINST PERSONS

#### Section 201. Homicide in the First Degree

- (a) It is unlawful to:
  - (1) Purposely or knowingly, 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 an offense punishable by banishment.

(b) Homicide in the First Degree is a Class I Felony.

#### Section 202. Homicide in the Second Degree

- (a) It is unlawful to:
  - (1) Recklessly or negligently with disregard of the possible consequence of one's conduct to cause the death of another human being; or
  - (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.
    - (i) a blood alcohol content equal to or in excess of .08 shall create a presumption that the person was under the influence of an alcoholic beverage.
    - (ii) 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 is a Class II Felony.

#### Section 203. Manslaughter

- (a) It is unlawful to kill a human being, when, without malice, the actor performs a lawful act in an unlawful manner, or without due caution and circumspection, which might produce death.

(b) Manslaughter is a Misdemeanor.

Section 204. Battery in the First Degree

(a) It is unlawful to touch or apply force to another person with intent to injure that person or another, and that touching inflicts or is likely to inflict an injury or death, or is done with a deadly weapon.

(b) Battery in the First Degree is a Class I Felony.

Section 205. Battery in the Second Degree

(a) It is unlawful to intentionally touch or apply force to another person when done in a rude, insolent, or angry manner.

(b) Battery in the Second Degree is a Misdemeanor.

Section 206. Assault in the First Degree

(a) It is unlawful to knowingly, purposely, or recklessly with indifference to the value of human life, to:

- (1) Attempt to cause 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 in fear of imminent serious bodily injury with the apparent ability to do so.

(b) Assault in the First Degree is a Class I Felony.

Section 207. Assault in the Second Degree

(a) It is unlawful to

- (1) Attempt to commit battery upon another person,
- (2) Negligently cause bodily injury to another with a weapon,
- (3) Put another in fear of imminent bodily injury with the apparent ability to do so, or
- (4) Knowingly 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 is a Misdemeanor.

### Section 208. Verbal or Written Assault in the First Degree

- (a) It is unlawful to verbally or in writing, including over an electronic device, threaten to commit any offense involving violence,
- (1) With intent to terrorize another or place another in fear of imminent 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 in the First Degree is a Class II Felony.

### Section 209. Verbal or Written Assault in the Second Degree

- (a) It is unlawful to contact another person, verbally or in writing, including over an electronic device,
- (1) Without consent, and use any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act, or send unsolicited lewd, lascivious, profane, indecent, or obscene pictures, or
  - (2) Cause the telephone of another to ring repeatedly or make repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

(b) Verbal or Written Assault in the Second Degree is a Misdemeanor.

### Section 210. Aiding or Soliciting a Suicide

- (a) It is unlawful to aid or solicit a suicide by purposely aiding or assisting another in taking their own life.
- (b) The fact suicide was not successfully carried out is not a defense, but may be used as mitigation at sentencing.
- (c) Aiding or Soliciting a Suicide is a Misdemeanor.

### Section 211. Kidnapping

- (a) It is unlawful to intentionally and remove another from any vicinity, 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;

- (3) To inflict injury 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, if the victim is under the age of eighteen, incompetent, or a disabled adult, if it is accomplished without the consent of a parent, guardian, or other person responsible for general supervision of the victim's welfare.

(c) Kidnapping is a Class I Felony.

#### Section 212. False Imprisonment

- (a) It is unlawful to knowingly and restrain or imprison another to interfere with their liberty.
- (b) False Imprisonment is a Misdemeanor.

#### Section 213. Custodial Interference

- (a) It is unlawful to:
  - (1) Take, entice, conceal, or detain a child under the age of eighteen from their parent, guardian, or other lawful custodian, with knowledge it is illegal to do so, and
    - (i) with the intent to hold the child for a period substantially longer than any visitation or custody period previously awarded by a court of competent jurisdiction, without agreement by the custodial parties; or
    - (ii) 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 lawfully committed to the custody of another person or institution, without permission and with knowledge that it is illegal to do so.

(b) Custodial Interference is a Misdemeanor.

#### Section 214. Criminal Coercion

- (a) It is unlawful to persuade someone to act to their detriment, by threatening to:
  - (1) Commit any criminal offense,

- (2) Falsely accuse anyone of a criminal offense,
  - (3) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair their 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 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 is a Misdemeanor.

#### Section 215. Rape in the First Degree

(a) It is unlawful to:

- (1) Compel another to submit to sexual penetration, by force or by the threat of imminent death, serious bodily injury, extreme pain, or kidnapping to be inflicted on that person or any other person;
- (2) Engage in sexual penetration with a person who has been impaired or rendered unconscious by drugs or intoxicants by another with the purpose of preventing resistance to the sexual penetration;
- (1) Engage in sexual penetration with a person under eighteen, regardless of consent, when the perpetrator is at least four years older than the victim.

(b) Criminal sexual penetration is the unconsented to and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

(c) Criminal Sexual Penetration in the First Degree is a Class I Felony and must register as a sex offender, pursuant to the provisions of the Sex Offender Registration Code.

#### Section 216. Criminal Sexual Penetration in the Second Degree

(b) It shall be unlawful to:

- (1) Compel another to submit to sexual penetration by any threat that would prevent resistance by a person of ordinary resolution;
- (2) Engage in sexual penetration with a person with the knowledge that the person suffers from a mental or physical disease or defect which renders that person incapable of appraising the nature of their conduct;
- (3) Engage in sexual penetration with another whose power to consent to or control their conduct has been substantially impaired by alcohol, drugs, or other intoxicants, not administered for the purpose of rendering the victim resistant to sexual penetration;
- (4) Engage in sexual penetration with a person while in a position of authority over that person, or while that person is in a treatment or correctional facility, regardless of consent.

(c) Criminal Sexual Penetration in the second degree is a Class II Felony.

#### Section 217. Criminal Sexual Contact

(a) It is unlawful to intentionally, and without consent, subject another 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 or physical defect or disease that renders them incapable of consenting,
- (3) With knowledge that the other person is unaware that a sexual act is being committed,

With knowledge the other person's power to consent to or control their conduct has been substantially impaired by alcohol, drugs, or other intoxicants,
- (4) If that person is under eighteen years old and the actor is at least four years older than the person regardless of consent,
- (5) If the actor is in a position of authority, supervision, or discipline, over that person, or while that person is in detention, or a treatment or correctional facility, 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 or gratifying sexual desire of either party.

(c) Criminal Sexual Contact is a Class II Felony A subsequent conviction, or if the victim is a minor and the perpetrator is at least 18 years of age and more than four years older than the minor, will require registration as a sex offender pursuant to the provisions of the Sex Offender Registration Code.

#### Section 218. Elder Abuse

(a) It is unlawful to knowingly or purposely physically or mentally abuse or exploit an older person.

(b) "Exploiting" means the unjust use of an individual's money or property for another's advantage by means of duress, menace, fraud, or undue influence.

(c) "Older person" means a Tribal member or other person residing on the Reservation who is:

- (1) Sixty-two years of age or older; or
- (2) Recognized by the Tribal Court to be an elder; or
- (3) At least Fifty five (55) years of age and unable to protect himself from abuse, neglect, or exploitation because of a mental disorder or physical impairment, or frailties or dependencies brought about by age, disease, alcoholism or drug use.

(d) Elder Abuse not resulting in serious bodily harm or death is a Misdemeanor if the victim suffered serious bodily injury or if it a subsequent conviction then it is a Class I Felony.

#### Section 219. Abandonment or Abuse of a Child

(a) It is unlawful to abandon a child when the parent, guardian or custodian of a child intentionally leave or abandons the child under circumstances in which the child may or does suffer neglect.

(b) It is unlawful to abuse of a child which consists of a person knowingly, intentionally, or negligently, and without justifiable cause, causing or permitting a child to be:

- (1) placed in a situation that may endanger the child's life or health, including deprivation of food or water,
- (2) tortured, cruelly confined or cruelly punished,
- (3) recklessly or without justifiable reason deprived the child of medical or dental care or necessary medication, or
- (4) exposed to the inclemency of the weather.

(c) It is an affirmative defense to prosecution under this Section that a defendant could not prevent the abuse because they were in a domestic violence situation which rendered them unable to adequately protect the child.

(d) As used in this Section:

- (1) "Child" means a person who is less than eighteen (18) years of age;
- (2) "Neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian, or custodian or their neglect or refusal, when able to do so, to provide them; and
- (3) "Negligently" refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

(e) A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the Safe Haven for Infants Act shall not be prosecuted for abandonment of a child OR A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

(f) Evidence that demonstrates that a child has been knowingly, intentionally, or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

(g) Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

(h) Abandonment or Abuse of a Child is a Class I Felony.

#### Section 220. Harassment

(a) It is unlawful to knowingly pursue a pattern of conduct by any means that is intended to annoy, seriously alarm, or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

(b) Harassment is a Misdemeanor.

#### Section 221. Stalking

- (a) It is unlawful to
  - (1) Intentionally and repeatedly harass or repeatedly follow another person; and
  - (2) The person being harassed or followed is placed in fear that the actor intends to injure the person, another person, or property of the person or of another person. The fear must be one that a reasonable person would experience under the same circumstances; and
  - (3) The actor either:
    - (i) Intends to frighten, intimidate, or harass the person; or
    - (ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the actor did not intend to place the person in fear or intimidate or harass the person.
- (b) It is not a defense to the crime of Stalking:
  - (1) Under Subsection (a)(3)(i) of this Section, that the actor was not given actual notice that the person did not want the stalker to contact or follow the person; or
  - (2) Under Subsection (a)(3)(ii) of this Section, that the actor did not intend to frighten, intimidate, or harass the person.
- (c) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitute *prima facie* evidence that the stalker intends to intimidate or harass the person.
- (d) Stalking is a Misdemeanor.

#### Section 222. Violation of a Protective Order

- (a) It is unlawful for a person who knows or should have known of a temporary or permanent valid protection order against them issued by any Court of competent jurisdiction to knowingly violate that protection order.
- (b) Protective orders issued by a court of competent jurisdiction outside this
- (c) Mutual violation by both parties may constitute a defense to Violation of a Protection Order.
- (d) Arguments may be taken regarding what constitutes a single violation.

(e) Violation of a Protective Order is a Misdemeanor. A second, or subsequent offense of Violation of a Protective Order is a Class I Felony.

#### Section 223. Interference with Communications

(a) It is unlawful to knowingly and without lawful authority, and with the intent to prevent the use of the means of communication, or conceal a crime or emergency:

- (1) displace, remove, injure or destroy any computer, phone, radio station, television tower, antenna or cable, telegraph or telephone line, wire, cable, pole, battery, or conduit belonging to another, or the material or property attached to,
- (2) cut, break, tap, or make any connection with any telegraph, telephone line, electronic signal, wire, cable or instrument belonging to or in the lawful possession or control of another, without the consent of such person owning, possessing or controlling such property,
- (3) read, interrupt, take or copy any message, communication, or report intended for another by telegraph, telephone, or computer without the consent of a sender or intended recipient of the message, unless the person has been authorized by a Court and is investigating a crime or acting under the color of law;
- (4) prevent, obstruct, or delay the sending, transmittal, conveyance, or delivery of any message, communication, or report by or through a computer, telephone, or in person; or
- (5) using any apparatus to do or cause to be done any of the acts enumerated or to aid, agree with, comply, or conspire with any person to do or permit or cause to be done any of the acts enumerated.

(b) Interference with Communications is a Misdemeanor.

#### Section 224. Unlawful Distribution of an Intimate Image

(a) It is unlawful to knowingly distribute a private, visual depiction of a person who is engaging in sexually explicit conduct, or of a person's intimate parts, without the person's consent, when the person is identifiable from the visual depiction itself or information provided or conveyed in connection with the visual depiction.

- (1) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual or individuals, with or without consent.

- (2) “Intimate parts” means the naked or undergarment-clad genitals, pubic area, or buttocks of a post-pubescent person, or any portion of a post-pubescent female breast below the top of the areola with less than an opaque covering.
- (3) “Visual depiction” means any photograph, digital image, computer image, computer-generated image, film, video, or recording, whether produced by electronic, mechanical, or other means, and includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.
- (4) “Private, visual depiction” means a visual depiction of another person who is engaging in sexually explicit conduct, or of another person’s intimate parts, for which the distributor does not have affirmative consent to distribute. Provided, however, that a “private, visual depiction” does not include:
  - (i) Law enforcement and other legal proceedings, including:
    - (A) Reporting unlawful activity;
    - (B) A law enforcement, correctional, or prosecution agency function;
    - (C) Court or other judicial proceedings.
  - (ii) Voluntary public or commercial exposure. This Section does not apply to a visual depiction of a voluntary exposure of person’s intimate parts or an individual’s voluntary engagement in sexually explicit conduct if such occurs in public or in a lawful commercial setting.
  - (ii) Lawful and generally accepted medical practices and procedures.
- (5) “Sexually explicit conduct” means actual or simulated:
  - (i) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast or pubic area of any person is exhibited;
  - (ii) Bestiality;
  - (iii) Masturbation;

- (iv) Sadistic or masochistic abuse;
- (v) Exhibition of the genitals or pubic area of any person;
- (vi) Fondling or touching of the genitals, pubic region, buttocks, or female breast;
- (vii) Explicit representation of the defecation or urination functions;
- (viii) “Simulated sexually explicit conduct” means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of a reasonable person, the appearance of an actual act of sexually explicit conduct.

(b) Unlawful Distribution of an Intimate Image is a Misdemeanor. A subsequent conviction, or if the victim is a minor and the perpetrator is at least 18 years of age and more than four years older than the minor, shall be a Class I Felony and will require registration as a sex offender pursuant to the provisions of the Sex Offender Registration Code.

#### Section 225. Communication with a Minor for Immoral Purposes

(a) It is unlawful to communicate with a minor for immoral purposes when a person communicates about sexually explicit conduct with a minor or with someone a person knows or has reason to know the other person to be a minor, and the actor is more than four years older than the minor. Communication covered by this Section does not include communication for educational or medical purposes by a parent, guardian, medical professional, educator, or other person authorized by the parent.

(b) Communicating with a Minor for Immoral Purposes is a Misdemeanor. A subsequent conviction, or if the victim is a minor and the perpetrator is at least 18 years of age and more than four years older than the minor, shall be a Class II Felony and will require registration as a sex offender pursuant to the provisions of the Sex Offender Registration Code.

#### Section 226. Luring with Sexual Motivation

(a) It is unlawful to order, lure, or attempt to lure a minor, a person with a developmental disability, or a person who has been adjudicated a vulnerable adult into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle with a sexual motivation.

(b) Luring with Sexual Motivation is a Misdemeanor. Conviction will require registration as a sex offender Pursuant to the Sex Offender Registration Code.

#### Section 227. Indecent Exposure

a. It is unlawful to perform, while in or in view of a public place:

- (1) An act of sexual intercourse; or
  - (2) A sexual act; or
  - (3) An act exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.
- b. Indecent Exposure is a Misdemeanor. A subsequent conviction, or if the victim is a minor and the perpetrator is at least 18 years of age and more than four years older than the minor, is a Class II Felony and will require registration as a sex offender pursuant to the provisions of the Sex Offender Registration Code.

#### Section 228. Voyeurism

- (a) It is unlawful to, for the purpose of arousing or gratifying the sexual desire of any person, knowingly photograph, film, or watch:
  - (1) Another person without that person's knowledge or consent while that person has a reasonable expectation of privacy; or
  - (2) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.
- (b) If a person is convicted of a violation of this Section, the Court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this Section.
- (c) As used in this Section:
  - (1) "Intimate areas" means any portion of a person's body or undergarments that is typically covered by clothing and intended to be protected from public view;
  - (2) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person
  - (3) "Place where he or she would have a reasonable expectation of privacy" means:
    - (i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that their undressing was being photographed or filmed by another; or

- (ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;
- (d) “Surveillance” means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;
- (e) “Views” means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.
- (f) Voyeurism is a Misdemeanor. A subsequent conviction, or if the victim is a minor and the perpetrator is at least 18 years of age and more than four years older than the minor, will be a Class I Felony and will require registration as a sex offender pursuant to the provisions of the Sex Offender Registration Code.

Section 229. Sexual Exploitation of a Minor, Developmentally Delayed Adult, or Vulnerable Adult

- (a) It is unlawful to
  - (1) Compel a person covered by this Section by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed, filmed, or viewed by others in any format; or
  - (2) Aid, invite, employ, authorize, or cause a person covered by this Section to engage in sexually explicit conduct, knowing that such conduct will be photographed, filmed, or viewed by others in any format; or
  - (3) As a parent, legal guardian, or person having custody or control of a person covered by this Section, permit the person to engage in sexually explicit conduct, knowing that such conduct will be photographed, filmed, or viewed in any way.
- (b) Persons covered in this Section include:
  - (1) Persons under the age of eighteen (18),
  - (2) Developmentally delayed adults,
  - (3) Persons who have been adjudicated vulnerable adults, or
  - (4) If the actor is in a position of authority over that person, or while that person is in a treatment or correctional facility, regardless of consent.

(c) Sexual Exploitation of a Minor, Developmentally Delayed Adult, or Vulnerable Adult is a Class I Felony and will require registration as a sex offender pursuant to the Sex Offender Registration Code.

Section 230. Possessing, Sending, Bringing, Receiving, or Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct

(a) It is unlawful to knowingly possess, create, develop, duplicate, publish, print, download, disseminate, exchange, finances, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct.

(b) Possessing, Sending, Brining, Receiving, or Viewing Depictions of a Minor Engaged in Sexually Explicit Conduct is a Class I Felony and will require registration as a sex offender.

Section 231. Incest

(a) It is unlawful to have sexual contact or sexual intercourse with

- (1) A lineal or collateral ancestor or descendant or the fourth degree in whole or half blood;
  - (i) For the purposes of determining the degree of a relationship, it shall be determined by counting “up” from one of the persons in the sexual relationship, and then “down” to the other participant, counting one degree for each generation in the ascending as well as descending line.
- (2) A brother or sister of whole or half blood; or
- (3) Any Stepson or Stepdaughter, Step-grandson or Step-granddaughter; or
- (4) Adopted son or daughter.

(b) Consent is a defense under this Section to incest upon a stepchild, adopted child, or a child that has a legal guardian, but consent is ineffective if the victim is less than 18 years old.

(c) Incest is a Misdemeanor.

Section 232. Failure to Register as a Sex Offender

(a) It is unlawful to fail to comply with the registration requirements of the United Keetoowah Band Sex Offender Registration Act if a conviction in this or any other jurisdiction requires registration.

(b) Each violation of a provision of the United Keetoowah Band Sex Offender Registration Act is an individual violation that could result in separate charges.

(c) Failure to Register as a Sex Offender is a Misdemeanor.

Section 233. Hindrance of a Sex Offender Registration

(a) It is unlawful to hinder a sex offender from registering according to the requirements of the United Keetoowah Band Sex Offender Registration Act by:

- (1) Knowingly harboring or knowingly attempting to harbor, or knowingly assisting another person in harboring or attempting to harbor a sex offender who is in violation of the United Keetoowah Band Sex Offender Registration Act; or
- (2) Knowingly assisting a sex offender to elude a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the United Keetoowah Band Sex Offender Registration Act; or
- (3) Provide information to a law enforcement agency regarding a sex offender which the actor knows to be false.

(b) Hindrance of a Sex Offender Registration is a Misdemeanor.

Section 234. Robbery

(a) It is unlawful to take anything of value from another person or from the immediate control of another person by use of force or violence, or threat of force or violence, with the intent to deprive the owner of that item.

(b) Robbery is a Misdemeanor.

## CHAPTER THREE

### INCHOATE CRIMES

#### Section 301. Attempt

- (a) It is unlawful to have the purpose to commit a specific offense, and take any substantial step towards the commission of the offense.
- (b) It is not a defense to Attempt that the commission of the attempted crime was stopped, and therefore impossible to complete.
- (c) A person is not liable under this section if they voluntarily and completely give up the criminal purpose and avoid the commission of the attempted offense.
- (d) Attempt is punishable by the maximum allowed for the conspired offense.

#### Section 302. Criminal Conspiracy

- (a) It is unlawful to agree with one or more persons to engage in or cause activity with the intent to commit any offense.
- (b) Any one person who commits an overt act in pursuance of the conspiracy is guilty of the offense.
- (c) It is not a defense that the actual offense took place outside of Tribal jurisdiction.
- (d) No person may be convicted of Criminal Conspiracy unless an act in furtherance of the agreement has been committed by a person or co-conspirator.
  - (1) “Act in furtherance” is any conduct which makes it more probable than not that an act towards the commission of an offense will occur.
  - (2) Proof that an “act in furtherance” occurred may be drawn from the circumstances surrounding the involved parties’ actions and does not require direct proof of an agreement.
- (e) Criminal Conspiracy is punishable by the maximum allowed for the conspired offense.

#### Section 303. Solicitation

- (a) It is unlawful to have the purpose of committing an offense and commanding, encouraging, or facilitating the commission of that offense.
- (b) It is not a defense that the actual offense took place outside of Tribal jurisdiction.

(c) Solicitation is a Misdemeanor.

## CHAPTER FOUR

### CRIMES AGAINST PUBLIC JUSTICE

#### Section 401. Improper Influence in Official Matters

- (a) It is unlawful to
  - (1) knowingly or purposely offer, give, ask for, or accept any money, goods, legal advantage, property, thing of value or advantage, present or prospective, or any promise or undertaking, given with a wrongful intent to influence the person to whom it is given in any:
    - (i) Decision, opinion, recommendation, vote, or other exercise of discretion as a Tribal public servant or vote; or
    - (ii) Decision, vote, recommendation, or other exercise of official discretion in a Tribal judicial or administrative proceeding; or
    - (iii) A violation of a known duty as a Tribal public servant.
  - (2) Threaten harm to any person with intent to influence a decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter; or
  - (3) Threaten harm to any person with the intent to influence a decision, opinion, recommendation, vote or other exercise of discretion in a judicial, legislative, or administrative proceeding; or
  - (4) Threaten harm to any public servant or official or relative of either with the intent to compel a violation of duty; or
  - (5) Privately address any public servant who has or will have official discretion in a judicial or administrative proceeding by any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations other than those above by law.
- (b) It is not a defense that the official was not qualified to act in the desired way.
- (c) Both parties are culpable under this Section.
- (d) This Section shall not apply to:
  - (1) Fees prescribed by law to be received by public servant, or any benefit for which the recipient gives lawful consideration or to which they are otherwise entitled; or

(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 incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality.

(e) Improper Influence in Official Matters is a Misdemeanor.

(f) A public servant who has been charged under this Section may be suspended from their office without pay pending final judgment.

#### Section 402. Compensation for Past Official Behavior

(a) Having been a public servant, or currently as a public servant who was previously in a different position, it is unlawful to solicit, accept, or agree to accept any financial benefit as compensation for:

- (1) A decision, opinion, recommendation or vote favorable to another, or
- (2) Exercising a discretion in another's favor, or
- (3) Violated a duty, or
- (4) Offering, conferring, or agreeing to confer compensation where none is authorized by law.

(b) Compensation for Past Official Behavior is a Misdemeanor.

(c) A public servant who has been charged under this Section may be suspended from their office without pay pending final judgment.

#### Section 403. Retaliation for Official Action

(a) It is unlawful to retaliate against any person for a lawful action done by a public servant.

(b) Retaliation for Past Official Action is a Misdemeanor.

(c) A public servant who has been charged under this Section may be suspended from their office without pay pending final judgment.

#### Section 404. Impersonating a Public Servant

(a) It is unlawful to falsely pretend to hold a position in the public service or hold powers beyond those ascribed to an office actually held with the purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that belief.

(b) Impersonating a Public Servant is a Misdemeanor.

(c) A public servant who has been charged as provided in this Section may be suspended from their office without pay pending final judgment.

#### Section 405. Abuse of Office

(a) It is unlawful for a Tribal public servant in an official capacity to commit any of the following acts with the purpose to obtain advantage for them or another, or harm another:

- (1) Purposely or negligently fail to perform any mandatory duty as required by law or by a court of competent jurisdiction,
- (2) Knowingly performs an act in their official capacity which they knows is forbidden by law,
- (3) Performs an act in excess of their lawful authority,
- (4) Solicits or knowingly accepts for the performance of any act a fee or reward which they knows is not authorized by law,
- (5) Subject another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement or personal or property rights,
- (6) Deny or impede another in the exercise or enjoyment of any right, power, or immunity,
- (7) With information acquired because of the office or from another public servant, which has not been made public, the actor:
  - (i) acquires or divests himself of a valuable interest in any property, transaction, or enterprise which may be affected by such action or information; or
  - (ii) speculates or wagers on the information, or knowingly aids another to do any of the above.

(b) Abuse of Office is a Misdemeanor.

(c) A public servant who has been charged as provided in this Section may be suspended from their office without pay pending final judgment.

#### Section 406. Misusing Public Money or Goods

(a) It is unlawful for a person charged with the receipt, safekeeping, transfer, or disbursement of public monies or goods to, with the intent to defraud or deprive the Tribe:

- (1) Without lawful authority appropriate the money or goods or any portion of it to their own use or the use of another,
- (2) Loan any portion without lawful authority,
- (3) Fail to keep the money or goods in their 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 it,
- (5) Knowingly keep any false account, or make a false entry or erasure in any account of or relating to the money or goods,
- (6) Fraudulently alter, falsify, conceal, destroy, or obliterate any such account or recordings of any such account,
- (7) Knowingly refuse or omit to pay on lawful demand by competent authority any public monies in their hands,
- (8) Knowingly refuse or omit to transfer money when transfer is required by proper authority,
- (9) Knowingly refuse or omit to distribute the goods when required to do so by proper authority,
- (10) Make a profit for himself or another when not lawfully entitled to do so, or in an unlawful manner, out of public monies or goods,
- (11) Fail to pay over to the proper account or authority any fines, forfeitures, or fees received by the holder,
- (12) Handle public money or goods in a reckless or wasteful manner which significantly risks loss of any amount of the money or goods, or
- (13) Otherwise handle public money in a manner not authorized by law for their own benefit.

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

(c) "Public Goods" means any item in control of the Tribal government intended for use and benefit by the citizens of the Tribe, including but not limited to food, medical supplies, vehicles, building materials, or other tangible items.

(d) Misusing Public Money or Goods is a Misdemeanor. Restitution shall be required.

(e) A public servant who has been charged as provided in this Section may be suspended from their office without pay pending final judgment.

#### Section 407. Perjury

(a) It is unlawful, in any official proceeding, to make a false statement under oath or affirmation, or swear or affirm the truth of a previous statement, when the statement is material and the speaker knows or has reason to know it is not true.

(b) It is no defense that the speaker believed the falsification to be immaterial. Whether a falsification is material is a question of law to be decided by the court.

(c) It is no defense 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 claiming to be legitimately sworn or affirmed will be considered so when presented.

(d) No person is guilty of an offense under this Section if they retract the false statement during the proceeding in which it was made, and before the falsification was or would be exposed, and before the falsification substantially affected the proceeding.

(e) No person will be convicted of an offense under this Section when proof of the false statement rests solely upon contradiction by testimony of a single other person.

(f) Perjury in the First Degree is a Class II Felony.

#### Section 408. Perjury in the Second Degree

(a) It is unlawful to:

- (1) Make any written false statement which the declarant does not believe to be true; or
- (2) Purposely create a false impression in a written application for any benefit by omitting information necessary to prevent statements therein from being misleading; or
- (3) Invite reliance on any writing which he knows to be forged, altered, or otherwise lacking in authenticity; or

(b) Submit or invite reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false; with a purpose to mislead a public servant in performing an official function.

(c) It is no defense 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 claiming to be legitimately sworn or affirmed will be considered so when presented.

(d) No person is guilty of an offense under this Section if they retract the false writing during the proceeding in which it was made, and before the falsification was or would be exposed, and before the falsification substantially affected the proceeding.

(e) No person will be convicted of an offense under this Section when proof of the false statement rests solely upon contradiction by testimony of a single other person.

(f) Perjury in the Second Degree is a Misdemeanor.

#### Section 409. Tampering with Witnesses or Evidence

(a) It is unlawful to:

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

(i) testify or inform falsely,

(ii) withhold any testimony, information, document, or thing, relevant to the proceeding,

(iii) elude legal process summoning him to testify or supply evidence,

(iv) absent himself from any proceeding or investigation to which they has been legally summoned; or

(v) Alter, destroy, conceal, or remove any record, document, or physical object to impair its availability or reliability in such proceeding or investigation.

Or,

(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 for doing any of the things specified in this Section.

(b) Tampering with Witnesses or Evidence is a Misdemeanor.

(c) If any witness or evidence for a crime of domestic violence is tampered with, a person convicted under this Section will be considered a domestic violence offender regardless of the outcome of the underlying case for purposes of designation and sentencing.

#### Section 410. Tampering with Public Records

(a) It is unlawful to:

- (1) Knowingly make a false entry in, or false alteration of, any record, document or thing belonging to, received, or kept by the Tribe or government for information or recording, or kept by others for information or recording of the Tribe 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) of this Section,
- (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 is a Misdemeanor.

(c) A public servant who has been charged as provided in this Section may be suspended from their office without pay pending final judgment.

#### Section 411. Obstructing Government Function

(a) It is unlawful to:

- (1) Use force, violence, intimidation, or engage in any unlawful act to purposely interfere with a public servant performing 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 not addressed in another section.

(b) Obstructing Government Function is a Misdemeanor.

#### Section 412. False Arrest

(a) It is unlawful for any public officer or person pretending to be a public officer to, under the false pretense of any process or other legal authority, arrest or detain any person.

(b) False Arrest is a Misdemeanor.

### Section 413. Resisting Arrest

(a) It is unlawful to create a substantial risk of bodily harm to anyone to overcome the resistance for the purpose of preventing a law enforcement officer from affecting an arrest or detention of any person.

(b) Resisting Lawful Arrest is a Misdemeanor.

### Section 414. Refusing to Aid an Officer

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

(b) Refusing to Aid an Officer is a Misdemeanor.

### Section 415. Obstructing Justice

(a) It is unlawful, with the purpose to hinder the apprehension, prosecution, conviction, or punishment of another, to:

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

(b) Obstructing Justice is a Misdemeanor.

### Section 416. Providing Contraband

(a) It is 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 is a Misdemeanor.

#### Section 417. Escape from Official Detention

(a) It is unlawful for a person who is lawfully committed to any official detention, to escape or attempt to escape from official detention.

(b) “Official detention” means arrest or detention in any facility for custody of person under charge or convicted 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) Provide a person in official detention with anything with the intention to facilitate such a person’s escape.

(d) Escape from Official Detention is a Misdemeanor.

#### Section 418. Escape from a Community Custody Release Program

(a) It is unlawful for a person in a community custody release program, excluding a person on probation or parole, who has been lawfully committed to a judicially release program, including a day reporting program, an electronic monitoring program, a day detention program or a community tracking program, to escape or attempting to escape from the program.

(b) Escape from a Community Custody Release Program is a Misdemeanor.

#### Section 419. Escape from a Peace Officer

(a) It is unlawful for anyone placed under lawful arrest for the commission or alleged commission of any crime, or escape to attempt to escape from the custody or control of any peace officer.

(b) Escape from a Peace Officer is a Misdemeanor.

#### Section 420. Assisting Escape

(a) It is unlawful to

(1) intentionally aid any person confined or held in lawful custody or confinement to escape; or

- (2) intentionally give to any person in lawful custody or confinement any deadly weapon or explosive substance, without the express consent of the officer in charge of such place of confinement; or
- (3) intentionally give to any person in lawful custody or confinement any disguise, instrument, tool or other thing useful to aid any prisoner to affect an escape, with intent to assist a prisoner to escape from custody.

(b) Assisting Escape is a Misdemeanor.

(c) It is not a defense to prosecution under this Section that escape was not attempted or completed.

#### Section 421. Bail Jumping

(a) It is unlawful to fail to appear in person or by another authorized method to a court date when given proper notice that appearance is required, and without just cause for the failure to appear.

(b) Bail jumping is a Misdemeanor.

#### Section 422. Failure to Obey a Lawful Order of the Court

(a) It is unlawful to knowingly or purposely fail to obey an order, subpoena, warrant, or command that is made, issued, or given by a Tribal Court or officer or otherwise issued according to law.

(b) This Section does 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 an Order of the Court is a Misdemeanor.

#### Section 423. Unlawful Return of Banished Persons

(a) It is unlawful for any person under sentence of banishment to:

- (1) Physically return to the territorial jurisdiction of the Tribe except while actually traveling on 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 Tribe except as provided by law.

(b) Unlawful Return of Banished Persons is a Misdemeanor.

(c) Any personal property which the banished person brought or used to return to the tribal jurisdiction is contraband and forfeited to the Tribe, by forfeiture. If any of the property belongs to another, that person, if known, will be served with forfeiture process, which can be found in the

Courts Act. The property's owner may object to the forfeiture by showing the Defendant did not have permission to use or possess the property or to enter the Tribal jurisdiction with that property.

#### Section 424. Aiding Return of Banished Persons

(a) It is 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 Tribe except while actually traveling on a public highway, or as allowed by law; or
- (2) Apply for or attempt to claim any right, privilege, or immunity to which the banished person is entitled by virtue of membership in the Tribe except as allowed by law.

(b) Aiding Return of Banished Persons is a Misdemeanor.

(c) Any personal property used by the person aiding the return to the tribal jurisdiction is contraband and forfeited to the Tribe, by civil forfeiture. If any of the property belongs to another, that person, if known, shall be served with civil forfeiture process, which can be found in Section 10 of the Courts Act. The property's owner may object to the forfeiture by showing the Defendant did not have permission to use or possess the property in the commission of this crime.

#### Section 425. Mistreatment of Prisoners or Detained Persons

(a) It is unlawful to be responsible for the care or custody of a detainee or prisoner, and purposely or knowingly:

- (1) Assault or otherwise injure a prisoner; or
- (3) Intimidate, threaten, endanger, or withhold reasonable necessities from a prisoner; or
- (3) Violate any civil right of a prisoner.

(b) Mistreatment of Prisoners is a Misdemeanor. A subsequent conviction will make a defendant ineligible for employment by the United Keetoowah Band Tribal Police Force, or other Public Office.

#### Section 426. False Alarms

(a) It is unlawful to knowingly:

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

- (2) Give false information to any law enforcement officer with purpose to implicate another in an offense;
- (3) Initiate or circulate a report of a crime or catastrophe, or threat of danger, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of any building, place, 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, or
- (4) Repeatedly call, or call in a way that utilizes emergency phone lines or resources with knowledge no emergency exists.

(b) False Alarms is a Misdemeanor.

#### Section 427. Doing Business Without a License

(a) It is unlawful to engage in any business, trade, or profession, which is required by law to be licensed, without having an appropriate license.

(b) Doing Business Without a License is a Misdemeanor.

#### Section 428. Tampering with Public Property

(a) It is unlawful to, without proper authority:

- (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; or
- (2) Knowingly injure, deface, or remove any signal, monument, or other marker placed or erected as part of an official survey of the Tribe or federal government; or
- (3) Purposely deface, obliterate, tear down, or destroy a copy, transcript, or extract from any law, proclamation, advertisement, or notice displayed by a public officer or court before it was to be removed.

(b) Tampering with Public Property is a Misdemeanor.

#### Section 429. Damaging Public Property

(a) Without authority to do so, it is unlawful to:

- (1) Intentionally break down, pull down, or otherwise damage or destroy any jail or other place of confinement; or
- (2) Dig up, remove, displace, or otherwise damage or destroy any public roadway, highway, bridge, building, or structure, or private road or bridge; or
- (3) Remove or damage 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) Remove, damage, deface, or destroy any public building or structure, or any personal property belonging to the Tribe or to any other government.

(b) Damaging Public Property is a Misdemeanor.

#### Section 430. Desecration

- (a) It is unlawful to purposely desecrate any public monument or structure, or to purposely desecrate a place of worship or burial, or other sacred place.
- (b) Desecrate means to deface, damage, pollute, destroy, take, or otherwise physically mistreat in a way that the actor knows or believes will outrage the sensibilities of persons likely to observe or discover their action.
- (c) Desecration is a Misdemeanor.

## CHAPTER FIVE

### CRIMES AGAINST PUBLIC HEALTH, SAFETY, AND WELFARE

#### Section 501. Rioting

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

(b) Rioting is a Misdemeanor.

#### Section 502. Failure to Disperse

(a) It is 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 is a Misdemeanor.

#### Section 503. Disorderly Conduct

(a) It is unlawful to purposely cause or recklessly create a risk of public inconvenience, annoyance, or harm, by:

- (1) Engaging in fighting, or threatening to engage in violent or tumultuous behavior;
- (2) Making unreasonable noise or 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:
  - (i) passing out or falling or sleeping in a public place or on the property of another without permission;
  - (ii) bothering, disrupting, or otherwise intruding upon another person or group of persons; or

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

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

(c) Disorderly Conduct is a Misdemeanor.

#### Section 504. Public Nuisance

(a) It is 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 renders dangerous for use or passage any lake, stream, campground, pow-wow ground, public park, square, street, highway or road; or
- (4) In any unreasonable way renders three or more persons insecure in life or the use of the property.

(b) Public Nuisance is a Misdemeanor.

#### Section 505. Disrupting a Public or Religious Assembly

(a) It is unlawful to intentionally prevent or disrupt a lawful meeting or religious assembly, by doing any act that obstructs or interferes 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 is a Misdemeanor.

#### Section 506. Negligent Use of a Deadly Weapon

(a) It is unlawful to:

- (1) Have a dangerous weapon in one's actual possession while under the influence of an intoxicant or narcotic;
- (2) 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;
- (3) Discharge a firearm into any building or vehicle and knowingly endanger a person or property;
- (4) During hunting seasons, discharge a firearm within one hundred and fifty (150) yards of a dwelling or building, not including abandoned or vacated buildings on public, without the permission of the owner or lessee of the structure.

(b) Definitions:

- (1) "Dangerous weapon" means
  - (i) any item that in the manner of its use or intended use is capable of causing death or serious bodily injury.
  - (ii) If an instrument, object, or thing not commonly known as a dangerous weapon is a dangerous weapon, is subject to this Section, the character of the instrument, object, or thing, the character of a wound produced, if any, and the manner in which the instrument, object, 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 will be deemed loaded when there is an unexpended cartridge, shell, or projectile in the firing position except in the case of pistols and revolvers, in which case they shall be deemed loaded when the unexpended cartridge, shell, or projectile is in such position as next to be fired.

(c) Negligent Use of a Deadly Weapon is a Misdemeanor. Pursuant to a conviction under this Section, any firearm or dangerous weapon may be removed for a period of at least one year. Firearms may be returned upon a showing of necessity for hunting or other legitimate uses and a safety contract agreed to by the victim.

Section 507. Aggravated Use of a Deadly Weapon

- (a) It is unlawful to:

- (1) To threaten to use or exhibit a dangerous weapon in a dangerous or threatening manner;
- (2) Use a weapon while possessing the intent to assault another;
- (3) Use a dangerous weapon in a fight or quarrel;
- (5) Possess a shotgun or rifle having a barrel or barrels of less than sixteen inches in length or an altered or modified shotgun or rifle less than twenty-four inches overall length; or
- (6) Use or threaten to use a firearm or dangerous weapon during the commission of an act of domestic violence.

(b) Aggravated Use of a Deadly Weapon is a Class II Felony. Pursuant to a conviction under this Section, any firearm shall be removed for a period of at least one year. Firearms may be returned upon a showing of necessity for hunting or other legitimate uses and a safety contract agreed to by the victim.

#### Section 508. Unsafe Storage of a Firearm

(a) It is unlawful for a person responsible for a firearm to fail to adequately secure, lock, or hide a firearm, whether loaded or not, and the corresponding bullets in two separate locations and allow or fail to prevent a person unauthorized to use the firearm from accessing the firearm.

(b) Unsafe Storage of a Firearm is a Misdemeanor. Pursuant to a conviction under this Section, any firearm may be removed for a period of at least one year.

#### Section 509. Use of Dangerous Devices

(a) It is 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, a known dangerous device or substance, unless the threatened person is informed of the nature of the object and its placement is for some lawful purpose; or
- (2) Knowingly construct or contrive any dangerous device, or with the intent to injure another in their person or property, have a dangerous device in one's possession.

(b) For purposes of this Section, a “dangerous device” is any box, package, contrivance, bomb, or apparatus containing or arranged with an explosive, acid or, poisonous, or flammable 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 expel its contents, or to strike with any of its parts, unexpectedly when moved, handled, or opened or a timed release, or under conditions or in a manner calculated to endanger health, life, limb, or property.

(c) Use of Dangerous Devices is a Misdemeanor.

#### Section 510. Use of Facsimile or Hoax Dangerous Device

(a) It is unlawful to 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, a facsimile or hoax dangerous device with the intent to cause fear in another person.

(b) Use of Facsimile or Hoax Dangerous Device is a Misdemeanor.

#### Section 511. Littering

(a) It is unlawful to:

- (1) Throw, dump, place, or deposit on the lands of another or any Tribal or public property, or highway, street, road, or other area not their own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse or other substances which could harm the appearance or detract from the cleanliness of the area; or
- (2) To store, keep, or allow to accumulate an unreasonable number of any wrecked, junked, or unserviceable vehicles, appliances, or implements, unless one has a permit from the Tribe to maintain a junk yard.

(b) Littering is Misdemeanor.

#### Section 512. Water Offenses

(a) It is unlawful to:

- (1) Interfere with or alter the flow of water in any stream, river, or ditch, without lawful authority to do so, or a permit from the Tribe, and in violation of the right of any other person; or
- (2) Knowingly break, damage, alter, or destroy any bridge, dam, levee, embankment, reservoir, water tank, water line, or other structure intended to create hydraulic power or prevent the flow of water, without lawful authority to do so; or

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

- (i) construct or maintain a corral, sheep pen, goat pen, stable, pig pen, chicken coop, or other offensive yard or outhouse where the waste or drainage flows directly into the waters of any stream, well, spring, or source of water used for domestic purposes; or
- (ii) deposit, pile, unload, or leave any manure heap, rubbish, or the carcass of any dead animal where the waste or drainage will flow directly into the waters of any stream, well, spring or source of water used for domestic purposes; or
- (iii) construct, establish, or maintain any corral, yard, vat, pond, camp, or bedding place for the shearing, dipping, washing, storing, herding, holding or keeping of livestock in such proximity to a stream, or other source of water used for domestic purposes or which flows through a city whose filth find its way into a source of water; or
- (iii) knowingly or recklessly cause or allow any substance harmful or potentially harmful to human, animal, or environmental life to enter into a source of water.

(b) A water offense is a Misdemeanor.

#### Section 513. Abusing a Corpse

(a) It is unlawful to purposely 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, for any purpose not authorized by law.

(b) Abusing a corpse is a Misdemeanor.

#### Section 514. Patronizing a Prostitute

(a) It is unlawful to:

- (1) Pay, or offer or agree to pay, a fee to engage in sexual conduct or sexual acts with another person;
- (2) Enter or remain in a house of prostitution for the purpose of engaging in sexual activity;
- (3) Own, control, manage, supervise, or otherwise keep, alone or in association with another, a house of prostitution or a prostitution business;

- (4) Solicit a person to patronize a prostitute;
- (5) Procure or attempt to procure a prostitute for another;
- (6) 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;
- (7) Encourage, induce, or otherwise purposely cause another to become or remain a prostitute;
- (8) Transport a person with a purpose to promote that engagement in prostitution or procuring or paying for transportation with that purpose;
- (8) Share in the proceeds of a prostitute;
  - i. This Section does not apply to a child or legal dependent of a prostitute.
- (9) Own, operate, manage, or control a house of prostitution; or
- (11) 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) “Public place” means any place to which the public or a substantial group of people has access.

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

(d) Patronizing a Prostitute is a Misdemeanor.

(e) If the other person is under 18 years of age, the Convicted is required to register as a sex offender.

#### Section 515. Prostitution

(a) It is unlawful for a person to agree to perform sexual activity in exchange for anything of value.

(b) "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.

(c) No person may be arrested under this statute.

(d) No one under the age of 18 may be convicted under this statute.

(e) Prostitution is a Misdemeanor.

#### Section 516. Spreading Venereal Disease

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

(b) If convicted, the Court shall have the power to order a 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 is a Misdemeanor.

#### Section 517. Involuntary Servitude

It is unlawful to subject another person to involuntary servitude if the person knowingly and without lawful authority forces or attempts to force the other person to engage in labor or services, whether legal or illegal, by:

(a)

- (1) Causing or threatening to cause the death of or physical injury or pain to any person; or
- (2) Physically restraining or threatening to physically restrain any person; or
- (3) Abusing or threatening to abuse the law or legal process; or
- (4) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification document of any person; or

- (5) Threatening to report any person to a government agency for the purpose of arrest or deportation; or
- (6) Threatening to collect an unlawful debt; or
- (7) Instilling in the other person a fear that the actor will withhold from any person the necessities of life, including but not limited to lodging, food, and clothing.

(b) “Abusing or threatening to abuse the law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(c) Involuntary Servitude is a Misdemeanor.

#### Section 518. Human Trafficking

(a) It is unlawful to recruit, harbor, transport, provide, sell, or obtain by any means any person with knowledge or intent that such person will be used for labor or services in against their will.

(b) Human Trafficking is a Class I Felony.

#### Section 519. Public Intoxication

(a) It shall be unlawful to unreasonably distract the public in a public or private place while under the influence of an intoxicating beverage, drugs, or other controlled substance, or a substance having the property of releasing vapors, to any degree.

(b) Public Intoxication is a Misdemeanor.

(c) Any such alcoholic beverage handled in violation of this Section is hereby declared to be contraband and may be confiscated for destruction.

#### Section 520. Tobacco Offense

(a) It is unlawful to:

- (1) 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 a person is charged with management or operation, or to access them in the home.

- (2) Smoke or use in any way noticeable to other people any tobacco product in a place with posted notice that tobacco use is not allowed.
- (b) Tobacco offenses is a Misdemeanor.

Section 521. Abuse of Psychotoxic Chemical Solvents

(a) It shall be unlawful to purposely smell or inhale the fume 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 compounds: acetone and acetate, benzene, butyl-alcohol, methyl ethyl, petone, per, 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 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 is a Misdemeanor and the Court may order any person using psychotoxic chemical solvents for inhalation to be committed to some facility for treatment for a period not exceed one year.

(e) Such psychotoxic chemical solvents kept or used in violation of this Section are hereby declared to be contraband and civil proceedings may be confiscated for destruction.

Section 522. Dangerous Drug Offense

(a) It is unlawful, except as above 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 (1972), and any other chemical substance, natural or artificial, defined as a controlled or

dangerous substance the possession, sale, distribution, or use of which is prohibited by federal law, except peyote and marijuana.

(c) A dangerous drug offense is a Misdemeanor, or for sales distribution, possession manufacture with intent to sell, or cultivation with intent to distribute, a Class I Felony.

(d) Any substance handled in violation of this Section is hereby declared to be contraband and may be confiscated for destruction.

(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.

(f) A person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose shall not be arrested, charged, prosecuted, or otherwise penalized, nor shall the property of the person be subject to civil forfeiture.

(g) A person who experiences an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture.

(h) Seeking help for another may be a defense if the actor violated a Protective Order or terms of Probation or Parole.

(i) The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this Section.

(j) For the purposes of this Section, “seeking medical assistance” means:

(1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center, or a health care provider; or

(2) assisting an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-related overdose or other medical emergency while awaiting the arrival of a health care provider.

### Section 523. Drug Paraphernalia

(a) Except as authorized by this chapter, it is unlawful for any person to possess any drug paraphernalia.

(b) "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing and concealing controlled substances;
- (11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, or hashish oil into the human body, such as:

- (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (ii) Water pipes;
- (iii) Carburetion tubes and devices;
- (iv) Smoking and carburetion masks;
- (v) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (vi) Miniature cocaine spoons, and cocaine vials;
- (vii) Chamber pipes;
- (viii) Carburetor pipes;
- (ix) Electric pipes;
- (x) Air-driven pipes;
- (xi) Chillums;
- (xii) Bongs; and
- (xiii) Ice pipes, or chillers.

(c) In determining whether an object is drug paraphernalia under this Section, a Court or other authority should consider, in addition to all other logically relevant facts, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any State, Federal or Tribal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;

- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;
  - (7) Instructions, oral or written, provided with the object concerning its use;
  - (8) Descriptive materials accompanying the object which explain or depict its use;
  - (9) National and local advertising concerning its use;
  - (10) The manner in which the object is displayed for sale;
  - (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
  - (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
  - (13) The existence and scope of legitimate uses for the object in the community; and
  - (14) Expert testimony concerning its use.
- (d) Possession of Drug Paraphernalia is a Misdemeanor.

#### Section 524. Authorized Possession of Controlled Substances and Paraphernalia

Any person authorized to possess, distribute, manufacture or deliver a controlled substance pursuant to State or Federal law shall be similarly authorized within the boundaries of the Reservation. A person authorized to possess, distribute, manufacture or deliver a controlled substance may lawfully possess drug paraphernalia used or intended for lawful use.

#### Section 525. Contributing to the Delinquency of a Minor

(a) It is unlawful for a person eighteen (18) years of age or older or has graduated high school, whichever comes first, to:

- (1) Knowingly or recklessly sell or give to or otherwise make an alcoholic beverage or tobacco product or narcotic or dangerous drug available to anyone under the age of eighteen (18) years; or

- (2) Knowingly, by act or omission, encourage, cause, or contribute to the delinquency or unlawful conduct of a minor under eighteen (18) years of age.

(b) Contributing to the delinquency of a minor is a Misdemeanor.

Section 525. Cruelty to Animals

(a) It is unlawful to purposely, knowingly, recklessly, or negligently:

- (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 any animal to fight with another.

(b) Domestic Violence Provision

- (1) It is unlawful to
  - (i) Act in any way that would constitute abuse under this Section towards any animal, and
  - (ii) The animal belongs in part or in whole to someone whom the actor shares a Domestic Relationship,
  - (iii) With the intent or purpose to threaten, control, or harass the animal's owner.

(c) Right to Intervene. An animal control authority, other law enforcement agency, or above animal protective service shall have the power to intervene to prevent the perpetration of any above act of cruelty upon any animal and may seize the animal for its safety until conditions are again safe for the animal.

(d) 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 legitimate 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.

- (e) Cruelty to animals is a Misdemeanor.

#### Section 529. Livestock Offense

- (a) It is unlawful to:

- (1) Knowingly or recklessly refuse or fail to mark or brand livestock when it 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 or of the Tribe without permission to do so in excess of permitted time or amount,
- (4) Knowingly fail to treat or dispose of a sick animal where there is a substantial danger of infecting other livestock,
- (5) Fail to dip, inoculate, or otherwise treat livestock in the manner which the designated representative of the Tribe shall direct, or
- (6) Make a false report of livestock owned.

- (b) Except in cases in which the owner or person having custody of livestock believed to be in violation of this Section cannot be found, for Subsections 1, 3, 4, 5, or 6 no conviction may be sustained unless the owner or person having custody of the livestock involved is given forty eight (48) hours written notice of their alleged violation.

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

- (d) A Livestock Offense is a Misdemeanor.

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

#### Section 530. Violation of Privacy

- (a) It is unlawful, except as authorized by law, to:
- (1) Trespass on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or
  - (2) Install in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in such place, or use any such authorized installation; or
  - (3) Install or use outside of any private place any device for recording, amplifying, or broadcasting sound originating in the private place which would not ordinarily be audible or comprehensible outside; or
  - (4) Divulge without the consent of the sender or receiver the existence or contents of any such message if the actor knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged in transmitting it.

(b) Definitions:

- (1) “Eavesdrop” means to overhear, record, amplify, or transmit any part of an oral or written communication of others without the consent of at least one party 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 is a Misdemeanor.

### Section 531. Criminal Defamation

(a) It is 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 could 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 of at least twenty years, and thereby expose him to public hatred, contempt, or ridicule. Any defamatory publication is presumed to be malicious if no justifiable motive for making it is shown by way of defense.

(b) Criminal Defamation is a Misdemeanor. However, it shall be a defense to criminal defamation that the person making the publication was at the time engaged in the formal broadcast or publication of news by some public news media of communication and in good faith believed he was reporting a newsworthy event concerning a public figure with basis in truth.

## Section 532. Fireworks Offense

- (a) It is 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 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 exploding sound or light.
- (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 or to use toy caps and cap guns 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 Tribe or a lawfully authorized Tribal agency prior to the importation and use of such fireworks.
  - (3) To buy, possess, use, or ignite fireworks between June 25 and July 10 of each year, provided that such devices are handled safely with regard to the safety of others and their property, and that minors under the age of twelve buying, possession, using, or igniting fireworks must be under the actual direct physical supervision of some responsible adult over twenty-one years of age for this exception to apply.
  - (4) To possess or sell fireworks between June 25 and July 10 of each year provided that a permit to do so has been obtained from the Tribe or a lawfully authorized Tribal agency prior to such possession and sale, and, 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 person may be prosecuted under this Section even with proper permits if they are found to be intoxicated or negligent in their use of fireworks
- (d) A Fireworks Offense is a Misdemeanor. If a person is convicted for a subsequent offense, he may be denied a permit.

## CHAPTER SIX

### TRAFFIC OFFENSES

#### Section 601. Definitions:

- (a) A “motor vehicle” is every device which can transport any person or property on a public road and which is self-propelled.
- (b) A “public road” is the entire width between the boundary lines of every right of way within the exterior boundaries of the Tribal jurisdiction which is maintained by any governmental agency, and, when open to the use of the public, is for the purpose of travel by motor vehicles.
- (c) A “private road” is the entire width between the boundary lines of every right of way within the exterior boundaries of the Tribal jurisdiction which is privately maintained or maintained by both public and private entities, but which is used by members of the public for the purpose of travel by motor vehicle.

#### Section 602. Driver’s License not in Possession

- (a) It is unlawful to operate a motor vehicle upon any private or public road within the Tribal jurisdiction without possession of a valid Federal, Tribal, or State driver’s license, chauffeur’s license, or permit, which must be exhibited upon demand by an authorized person.
- (b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00), or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 603. Driving While License Is Suspended or Revoked

- (a) It is unlawful to drive a motor vehicle upon a public road when a driver’s license or permit or other driving privilege has been denied, suspended, canceled, or revoked by any State or Tribe, or when one’s driving privilege has been suspended by the Tribal Court.
- (b) Any resident or nonresident whose license has been suspended or revoked in this jurisdiction may not use a valid license from another jurisdiction to operate a motor vehicle.
- (c) Violation of this Section is punishable by a fine up to Five Hundred Dollars (\$500.00), or by a period of imprisonment in the Tribal jail up to six months, or by suspension or revocation of one’s driver’s license for an additional year, or any combination of the above punishments.

#### Section 604. Careless Driving

- (a) It is unlawful to operate a motor vehicle on a public road without full attention, or in a careless or manner, without due regard for the width, grade, curves, corners, traffic, or existing weather conditions, and all other attendant circumstances.

(b) Violation of this Section is punishable by a fine up to Five Hundred Dollars (\$500.00), or by a period of imprisonment in the Tribal jail up to six months, or both.

#### Section 605. Reckless Driving

(d) It is unlawful to operate a motor vehicle on any public road with a wanton or willful disregard for the safety of persons or property.

(b) Violation of this Section is punishable by a fine up to Five Hundred Dollars (\$500.00), or by a period of imprisonment in the Tribal jail up to six months, or by suspension of driving privileges for a period not to exceed one year or any combination of the above punishments.

#### Section 606. Driving while Intoxicated

(a) It is unlawful to drive or be in actual physical control of any working motor vehicle upon any private or public road within the Tribal jurisdiction while under the influence of intoxicating liquor, or controlled dangerous substances, or any other drugs which impair the ability to control or operate a vehicle, and the alcohol or drugs were consumed before or during driving.

(b) A person is presumed to be under the influence of intoxicating alcohol if there is .08% or more of alcohol in the blood by weight, and will be considered a per se violation. A person is presumed not to be under the influence if there is 0.05% or less of alcohol in their blood, by weight. Between such percentages, results of tests showing such fact may be received in evidence, with other tests or observations, for consideration by the court or jury. A breath or blood test must be administered with the consent of the subject, by a qualified operator using a properly maintained apparatus in order to be admissible, provided, that if any person refuses to take such test when requested to do so by an Officer having a reasonable suspicion that such person may be intoxicated, the person's driving privileges within the Tribal jurisdiction shall be suspended by the Court for a period of one year whether or not such person is convicted of any offense. Such suspension is mandatory.

(c) Violation of this Section is punishable by a fine up to Five Thousand Dollars (\$5,000.00) or by a period of imprisonment in the Tribal jail up to one year, and by suspension of driving privileges for a period not to exceed two years or any combination of the above punishments. However, a person may have driving privileges reinstated within the two year period if they install and provide proof of an ignition interlock and interlock license, and enrollment in a Court-approved alcohol and drug treatment program, and pay any restitution that may be required. For a subsequent conviction under this Section, or a violation resulting in serious injury, or a period of banishment may be imposed for a period between one (1) year and five (5) years, in addition to the above punishments.

Additional consequences, if available:

- (1) not less than a twenty eight (28) day inpatient, residential or in-custody substance abuse treatment program approved by the Court;

- (2) not less than a ninety (90) day outpatient treatment program approved by the Court;
- (3) a drug court program approved by the Court; or
- (4) any other substance abuse treatment program approved by the court.
- (5) the requirement imposed pursuant to this Subsection shall not be suspended, deferred, or taken under advisement.

#### Section 607. Duties of Drivers Involved in Accidents Involving Deaths or Personal Injuries

(a) It is unlawful for the driver of any motor vehicle directly involved in an accident resulting in injury or death of any person or damage to any other moving or occupied vehicle to:

- (1) fail to immediately stop their vehicle at the scene of the accident or as close as possible,
- (2) fail to return to and remain at the scene of the accident and assist as possible in the circumstances,
- (3) fail to give his name, address and the registration number of his motor vehicle and his operator's or chauffeur's license number and insurance verification information to all other drivers involved in the accident,
- (4) fail to render to any injured person such assistance as may be necessary in the circumstances,
- (5) to fail to notify, or have another notify the Tribal Police of the accident and its location as soon as possible.

(b) Violation of this Section is punishable by a fine up to Five Thousand Dollars (\$5,000.00) or by a period of imprisonment in the Tribal jail up to one year, or by suspension of driving privileges for a period not to exceed one year.

#### Section 608. Duty Upon Striking Unattended Vehicle or Animal

(a) It is unlawful for the driver of any motor vehicle which strikes an unattended vehicle or animal to:

- (1) fail to immediately stop and attempt to locate and notify the operator or owner of the struck vehicle or animal of the name and address of the driver and owner of the vehicle,
- (2) fail to leave securely attached in a place where it will be easily seen on the struck vehicle or nearby a written notice giving the name and address of the driver, or

- (3) fail to inform the Tribal Police of the accident and its location as soon as possible.

(b) Violation of this Section is punishable by a fine up to exceed Five Hundred Dollars (\$500.00), or by a period of imprisonment in the Tribal jail up to six months, or by suspension of driving privileges for a period up to one year.

#### Section 609. Duty Upon Striking Road or Highway Fixtures

(a) It is unlawful for the driver of any motor vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a road or highway to

- (1) fail to take reasonable steps to locate and notify the owner or person in charge of such property of the damage, their name and address, and of the registered number of the vehicle they are driving;
- (2) or to fail to report such accident to the Tribal Police as soon as possible.

(b) Violation of this Section is punishable by a fine up to Five Hundred Dollars (\$500.00), or by a period of imprisonment in the Tribal jail up to six months, or both.

#### Section 610. Passenger Must Report

(a) It is unlawful for another occupant in the vehicle at the time of an accident who is capable of making the report to fail to do so when the driver of the motor vehicle is physically unable to make a required accident report to the Tribal Police.

(b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or imprisonment in the Tribal jail up to twenty days.

#### Section 611. Permitting an Unauthorized Person to Drive

(a) It is unlawful to knowingly cause or permit any authorized person to operate a motor vehicle upon any public road, except in the case of emergency in which the life or safety of another is in immediate threat.

(b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or imprisonment in the Tribal jail for a period up to twenty days.

#### Section 612. Traffic Control and Signal Devices

(a) It is unlawful to turn a vehicle from a direct course on a public road until such movement can be made safely, and then only after giving an appropriate signal, either by hand or arm or by a directional signal device.

(b) Failure to properly signal is punishable by a fine up to One Hundred Dollars (\$100.00).

- (c) It is unlawful to disobey the lawful command or instruction of any law enforcement officer.
- (d) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail up to twenty days.

#### Section 613. Following too Closely

- (a) It is unlawful to follow another vehicle more closely than is reasonable and prudent, and without having due regard for the speed of traffic and the attending conditions.
- (b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 614. Stopping for School Bus

- (a) It is unlawful, when meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging passengers, to fail to stop immediately and not proceed again until all passengers are received or discharged and the bus is again in motion.
- (b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 615. Entering Public Road from Private Road

- (a) It is unlawful for the driver of a motor vehicle about to enter or pass a public road from a private road or driveway to fail to yield the right of way to all vehicles approaching on said public road.
- (b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail up to 20 days.

#### Section 616. Right of Way at Intersection

- (a) It is unlawful for the driver of a motor vehicle approaching an intersection to fail to yield the right of way to any vehicle approaching from the right, unless otherwise directed by sign, traffic light, or a proper official directing traffic.
- (b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or for a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 617. Failure to Stop at Stop Sign and Yielding Right of Way

- (a) It is unlawful for the driver of a motor vehicle to fail to come to a complete stop at all intersections marked by a stop sign before entering an intersection, unless otherwise directed by an officer directing traffic.

(b) It is unlawful for the driver of a motor vehicle approaching an intersection marked by a sign requiring him to yield the right of way to fail to decrease the speed of such vehicle and yield the right of way to any traffic proceeding on the road given the right of way by such sign.

(c) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 618. Driving on Right Side

(a) It is unlawful to fail to drive on the right half of the roadway, except when overtaking and passing another vehicle proceeding in the same direction.

(b) Violation of this Section is punishable by a fine not to exceed One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 619. Passing Oncoming Vehicles

(a) It is unlawful for drivers proceeding in opposite directions to fail to pass each other to the right and to give to the other at least half of the main traveled portion of the roadway.

(b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00), or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 620. Passing and Turning on Curve or Crest

(a) It is unlawful to pass a vehicle going in the same direction unless the driver can see the road for a sufficient distance ahead to pass safely and such passing can be accomplished safely without colliding with oncoming traffic.

(b) It is unlawful for a vehicle to be driven so as to pass or turn in any direction on a curve or crest or on any approach to a crest or bridge or any approach to a bridge unless such vehicle can pass or be turned safely and seen by traffic approaching in either direction.

(c) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail for up to twenty days.

#### Section 621. Unsafe Vehicles

(a) It is unlawful for any person to drive or cause or knowingly permit to be driven on any private or public road any motor vehicle which is in such unsafe condition so as to endanger any person or is not at all times equipped with the following:

(1) HEADLIGHTS: Lights must be on each side of the vehicles and must be multibeam so the driver can adjust lights from bright to dim, and such lights must be in proper working order at all times so they can be seen by

oncoming traffic for a reasonable distance during hours of darkness or other times when light conditions require the use of headlights.

- (2) REAR LAMPS: One working red light on each side of the back of the motor vehicle that is plainly visible for a reasonable distance behind the vehicle.
- (3) BRAKE LIGHTS: One working brake light on each side of the back of the vehicle that is plainly visible whenever the driver applies the brake pedal.
- (4) BRAKES: Every motor vehicle must be equipped with brakes adequate to control the movement of and to stop and hold such vehicle.
- (5) HANDBRAKE: Every molar vehicle must be equipped with a handbrake.
- (6) HORN: Every motor vehicle must be equipped with a working horn.
- (7) WINDOWS UNOBSTRUCTED, USE OF WIPERS: No person shall drive with non-transparent material upon the windshield, side wings, side or rear windows of a vehicle that would obstruct the driver's view, other than a paper or certificate required to be displayed by law. The windshield on every motor vehicle must be equipped with a device for cleaning rain, snow, or other obstructions from the windshield and must be in proper working order at all times.
- (8) LICENSE TAG LIGHT: All motor vehicles must be equipped with a working rear tag light.
- (9) PROOF OF VEHICLE INSPECTION TO BE DISPLAYED: All motor vehicles shall display a valid state motor vehicle inspection decal.
- (10) SEATBELTS: All cars must be equipped with working seat belts.
- (11) CHILD RESTRAINT: All cars must have a car seat of appropriate size and correctly installed for any child for whom one is required.

(b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00), or a period of imprisonment in the Tribal jail up to twenty days.

## Section 622. Speed Limits

(a) It is unlawful to exceed the limits posted by authority of the Chief of the Tribal Police, or a speed which is reasonable and proper under the conditions prevailing upon the roadway.

(b) Speed limits on any public road shall be set by the Tribal Police Chief. Speed limits may be posted at such places and at such maximum allowable speeds as deemed necessary by the Chief of the Tribal Police.

(c) In any area of the Tribal jurisdiction where the speed limit is not posted and where no special hazard exists, the following speeds shall be lawful, but any speed in excess of said limits shall be *prima facie* evidence that the speed is not reasonable or prudent and that it is unlawful.

(d) The fact that the speed of a motor vehicle is lower than the *prima facie* limits does not relieve the driver from the duty to use due care.

(e) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail up to twenty days.

#### Section 623. When Lights Are Required to be On

(a) It is unlawful for a vehicle to be on a public roadway at any time from a half hour after sunset to a half hour before sunrise or at any other time when objects on the road cannot be seen clearly at a distance of five hundred (500) feet because of light conditions without displaying lighted lamps on the vehicle.

(b) Every vehicle stopped or parked on the side of any road or highway during the hours set forth above, shall burn lamps, flares, or otherwise alert other drivers of the potential danger, unless the vehicle is positioned at least thirty inches from the main traveled portion of the roadway in such fashion that no part of the main traveled portion of the roadway, nor the thirty (30) inch safety zone is impeded

(c) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail up to twenty days.

#### Section 624. Pedestrians

(a) It is unlawful for a pedestrian crossing a roadway at any point other than a marked crosswalk or within an unmarked crosswalk at an intersection to fail to yield the right of way to all motor vehicles on the roadway.

(b) Notwithstanding the provisions of Subsection (a), every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian on any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon seeing any person on a public road.

(c) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00), or a period of imprisonment in the Tribal jail for up to twenty days.

## Section 625. Throwing Trash on Roads and Roadways

(a) It is unlawful to discard trash or refuse of any type on a road or public highway within Tribal jurisdiction.

(b) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00) or a period of imprisonment in the Tribal jail up to twenty days.

## Section 626. Illegal Parking

(a) It is unlawful to stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled part of a public roadway when it is practical to stop, park, or leave such vehicle off such part of said roadway, but in every event a clear and unobstructed width of at least twenty feet of such part of the roadway opposite such standing vehicle shall be left for the free passage of other vehicles, a clear view of such stopped vehicle shall be available from distance of two hundred feet in each direction upon said roadway and the vehicle must be positioned at least thirty inches outside the main traveled portion of the roadway.

(b) This Section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position, provided that reasonable provision is made by the driver for the warning and safety of other vehicles traveling on the roadway until the vehicle can be removed.

(c) It is unlawful to stop, park, or leave standing a vehicle except when necessary to avoid collision with other traffic or in compliance with the directions of a police officer or traffic control sign, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within twenty five feet of a fire hydrant;
- (5) On a crosswalk.

(d) Violation of this Section is punishable by a fine up to One Hundred Dollars (\$100.00), or a period of imprisonment in the Tribal jail up to twenty days.

## Section 627 Traffic Offenses of the State of Oklahoma Adopted to Extent not Inconsistent with United Keetoowah Band Law

To the extent not inconsistent with the laws of the United Keetoowah Band, and to the extent not prohibited by federal law, whoever within the jurisdiction of the United Keetoowah Band is guilty of any act or omission which, although not made punishable by any enactment of

the Tribe, would be punishable if committed or omitted within the jurisdiction of the State of Oklahoma, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment within the United Keetoowah Band. Nothing in this Section confers jurisdiction in the State of Oklahoma and does not waive sovereign immunity to suit.

## CHAPTER SEVEN

### SENTENCING

#### Section 701 Maximum fines and sentences of imprisonment

- a. Unless otherwise specifically provided otherwise, in United Keetoowah Band codes of law, a person convicted under an offense under this code may be sentenced as follows:
  1. If the offense is a Class I Felony, to a term of imprisonment not exceeding three years or to a fine not to exceed \$15,000, or both Banishment/Exclusion, or any of the above imprisonment, fines, banishment/ exclusion.
  2. If the offense is a Class II Felony, to a term of imprisonment not exceeding two years or to a fine not to exceed \$10,000, or both.
  3. If federal law prohibits imposition of a felony sentence for the charged crime, the crime shall be punishable as a misdemeanor.
  4. If the offense is a misdemeanor, to a term of imprisonment not to exceed one year or to a fine not to exceed \$5,000.00, or both.
  5. Traffic Violations shall be deemed a violation, subject to the fines and/or imprisonment as delineated in the enumerated section.
  6. Any act that would otherwise be a crime under this Act but is committed by a non-Indian where the United Keetoowah Band does not have criminal jurisdiction over the non-Indian, shall be a civil infraction punishable by a fine not more than the maximum fine for the criminal act classification.
- b. Any crime not specified as a felony or misdemeanor, shall be a misdemeanor.
- c. The Prosecutor, in its discretion, may charge a felony as a misdemeanor, and such designation shall be reflected in the charging document.
- d. The fines listed above may be imposed in addition to any amounts ordered paid as restitution, court costs, costs of incarceration or costs for any court-ordered activities including, but not limited to, drug and alcohol assessments, drug and alcohol testing and drug and alcohol counseling.
- e. Maximum Sentence. A person may be charged and convicted for multiple violations of the same law and may receive the maximum sentence for each violation but the total maximum sentence shall not total more than 9 (nine) years.

#### Section 702 Banishment

Banishment shall refer to a legal status in which a member, over the age of 18, shall lose all rights, privileges, and benefits of membership in the United Keetoowah Band.

#### Section 703 Exclusion

Exclusion shall refer to a legal status in which an individual is barred from entering the territorial jurisdiction of the United Keetoowah Band, including its business enterprises.

#### Section 704 Effect of Banishment or Exclusion

- a. Banishment or Exclusion shall be a punishment of last resort and may be imposed in addition to all other fines and penalties that may be imposed for an offense classified as a Class I Felony.
- b. Unless the Order of Banishment or Exclusion state otherwise, a person who is subject to such Order shall:
  - (1) Be expelled from the jurisdiction of the Tribe and not be allowed to return for any reason during the period of Banishment/Exclusion except for under the following circumstances:
    - (i.) When required to attend court;
    - (ii.) When ordered to appear before the Tribal Council;
    - (iii.) For any ceremonial activities recognized by the Tribe; or
    - (iv.) Any reason articulated in the Order.

#### Section 705 Criminal Offenses of the State of Oklahoma Adopted to Extent not Inconsistent with United Keetoowah Band Law

To the extent not inconsistent with the laws of the United Keetoowah Band, and to the extent not prohibited by federal law, whoever within the jurisdiction of the United Keetoowah Band is guilty of any act or omission which, although not made punishable by any enactment of the Tribe, would be punishable if committed or omitted within the jurisdiction of the State of Oklahoma, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment within the United Keetoowah Band. Nothing in this Section confers jurisdiction in the State of Oklahoma and does not waive sovereign immunity to suit.