

LAW AND ORDER CODE
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GENERAL PROVISIONS

LAW AND ORDER CODE

ARTICLE I

GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. JURISDICTION

Section 101. Personal Jurisdiction.

Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or By-Laws of the Tribes, or by ordinances of the Tribes, or by express provisions elsewhere in this Code, the courts of the Tribes shall have civil and criminal jurisdiction over the following persons:

a. Any person residing, located or present within the Reservation for:

(1) any civil cause of action; or

(2) any charge of criminal offense prohibited by this Code or ordinances of the Tribes when the offense alleged to have occurred within the Reservation.

b. Any person who transacts, conducts or performs any business or activity within the Reservation, either in person or by an agent or representative, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such business or activity.

c. Any person who owns, uses or possesses any property within the Reservation, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such ownership, use or possession.

d. Any person who commits a tortious act or engages in tortious conduct within the reservation, either in person or by an agent or representative, for any civil cause or action arising from such act or conduct.

e. Any person who commits a criminal offense prohibited by this Code or ordinances of the Tribes, by his own conduct or the conduct of another for which he is legally accountable, if:

(1) The conduct occurs either wholly or partly within the Reservation; or

(2) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit an offense within the Reservation, and an act in furtherance of the attempt or conspiracy occurs within the Reservation; or

(3) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code or ordinances of the Tribes and such other jurisdiction.

None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon anyone or more of them as applicable.

Subject to the provisions of Section 102, nothing contained within this Code shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes to suit, which immunity is hereby reaffirmed.

Section 102. Subject Matter Jurisdiction.

A. Notwithstanding any other provision of law, for purpose of this section, the term "Person" shall mean any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, a state of the United States, any county, city, municipality, district, or other political subdivision of a state, or any other group or combination acting as a unit but does not include the Colorado River Indian Tribes, any of its enterprises or subdivisions or any of its officers, agents or employees while acting in their official capacity.

B. Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or Bylaws of the Tribes, or by the ordinances or codes of the Tribes, or by express provision elsewhere in this Code, the courts of the Tribes shall have jurisdiction over all civil causes of action and over all controversies between any persons. Subject to the same limitations, restrictions or exceptions, the courts of the Tribes shall have criminal jurisdiction over all offenses prohibited by ordinances or codes of the Tribes.

C. The courts of the Tribes shall have jurisdiction to determine any claim of violation of Section 202 of Title II, P.L. 90-284 (82 Stat. 77) enacted by the Congress of the United States on April 11, 1968, the Constitution or Bylaws of the Tribes, or of any ordinances or codes of the Tribes and to grant appropriate relief for injustice or deprivation resulting directly and exclusively from such violation only upon an express and effective waiver of the Tribe's sovereign immunity from unconsented suit.

D. No action brought against the Tribes under this section shall be brought in the name of an enterprise, subdivision, agent or elected official of the Tribe but shall be brought in the name of the Colorado River Indian Tribes.

E. Service of process in any action brought against the Tribes shall be individually made both on the Chairman of the Colorado River Indian Tribes and the Tribal Attorney of the Colorado River Indian Tribes. Notwithstanding any other provision of law, service made in any other manner on the Tribe will be invalid and ineffective.

F. Nothing contained in subsection (C) shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes for any purpose.
[As Amended December 13, 1985, Ord. No. 85-6.]

Section 103. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity which jurisdiction does not otherwise exist in law.

CHAPTER B. ADMINISTRATIVE PROVISIONS

Section 104. Definitions and Construction.

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a. In this Code, except where otherwise specifically provided or unless the context otherwise requires, the following terms and expressions shall have the meanings defined below wherever they are utilized in this Code.

(1) "Code" means this Law and Order Code of the Colorado River Indian Tribes, consisting of Article I (General Provisions), Article II (Courts and Procedures), Article III (Criminal Offenses), Article V (Removal of Non-Members) and Article VI (Traffic Control and Operations of Vehicles), together with all the amendments, additions or modifications which may be enacted from time-to-time by the Tribal Council.

(2) "Colorado River Indian Tribes" means the membership and the organization of the Colorado River Indian Tribes of the Colorado River Indian Reservation, under and pursuant to its Constitution and By-Laws, as amended, ratified July 17, 1937 and approved August 13, 1937, in accordance with the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(3) "Tribal Council" means the Tribal Council of the Colorado River Indian Tribes existing and functioning pursuant to the Constitution and By-Laws of the Colorado River Indian Tribes.

(4) "Reservation" means the Colorado River Indian Reservation as established, existing and geographically defined under the Laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed or ascertained, including fee patented lands, allotted lands, townsites, roads, waters, bridges, and lands and rights of way owned, used and claimed by any person.

(5) "Tribe" means the Colorado River Indian Tribes, and "tribal" means belonging or pertaining to the Tribes.

(6) "Tribal Court" means the court created, existing and operating under the provisions of Chapter A of Article II of this Code, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(7) "Appeals Court" means the court created, existing and operating under the provisions of Chapter B of Article II of this Code, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(8) "Juvenile Court" means that division of the Tribal Court created, existing and operating under the provisions of Article IV [now Article 1 of the Domestic Relations Code] and Section 201.e. of Chapter A of Article II of this Code, and the judges of that court, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(9) "Courts of the Tribes" means the Tribal Court, including the Juvenile Court, and the Appeals Court.

(10) "Court" means that one of the courts of the Tribes to which the reference is intended to apply as determined by the particular section of this Code in which the reference is made, and all and each of the judges of that court acting collectively and individually in that office and capacity.

(11) "Judge" means a judge of the court which is the subject of the particular section of this Code in which the reference is made.

(12) "Criminal" means a reference to these offenses under this Code and any other ordinance of the Tribes for which upon conviction a person may be subject to a fine or be imprisoned, or both and to the cases involving such offenses or alleged offenses, and to the procedures for trial or other disposition of them.

(13) "Civil" means a reference to all non-criminal issues, matters, subjects, cases and controversies between or among any persons.

(14) "Person" means any natural individual or person, of any age, and also any corporation, partnership, association, company, agency, (public, private, or governmental), institution or other identifiable entity whether or not it had legally recognizable status.

(15) "Party" means any person who is a participant, or involved in or the subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by the action of another person, in or to any case, trial, hearing, controversy, matter, relationship or proceeding which is encompassed within any procedure under this Code.

(16) "Property" means realty and personalty, of whatever nature, including fixtures, money, claims, and intangible rights and interests in property.

b. In construing the provisions of this Code, unless the context otherwise requires, the following shall apply:

(1) This Code shall be liberally construed to to effect its purpose and to promote justice.

(2) Words in the present tense include the future and the past tenses.

(3) Words in the singular number include the plural, and words in the plural number include the singular.

(4) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

(5) The prosecution of all criminal offenses and the conduct of all procedures pertaining to their trial or other disposition shall be in the name and for the benefit of the Tribes.

(6) Each appointment to be made by the Tribal Council under the provisions of this Code shall be by resolution requiring the affirmative vote of at least six (6) members of the Tribal Council, except for the temporary appointment of judges pursuant to Section 201 b., which appointments shall require only a majority vote of a quorum at a special or regular meeting of the Tribal Council.

[As Amended July 30, 1980, Ord. No. 26H, § 1; November 13, 1982, Ord. No. 82-1.]

Section 105. Judicial Clerk.

a. A person shall be appointed by the Tribal Council, with the approval of the Chief Judges of the Tribal Court and the Appeals Court, to serve all of courts of the Tribes as clerk, and such person shall be designated as Judicial Clerk. Upon the recommendation of the Chief Judges of the Tribal Court and the Appeals Court, the Tribal council may appoint assistants for the Judicial Clerk. The Tribal Council shall

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prescribe the salaries of the Judicial Clerk and any assistants, which shall be paid by the Tribe. The salary of a person appointed and serving as Judicial Clerk or as an assistant Judicial Clerk shall not be reduced while he is so serving without the approval of the Chief Judges of the Tribal Court and the Appeals Court. Any person serving as Judicial Clerk or as an assistant Judicial Clerk may be discharged from that position only by the joint decision of the Chief Judges of the Tribal Court and the Appeals Court.

b. The Judicial Clerk shall be responsible to the courts of the Tribes for the administrative functioning of those courts, and for such other administrative and ministerial duties as may be prescribed by this Code or assigned to him by the Chief Judge of either the Tribal Court or the Appeals Court. The duties of the Judicial Clerk shall include but shall not be limited to, the following:

(1) Maintaining records of all court proceedings, to include identification of the title and nature of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the dates of hearings and trials, names and addresses of all parties and witnesses appearing at all hearings or trials, all court and jury rulings, findings, orders and judgements, and other facts or circumstances designated by the judges of the courts and deemed of importance by the Judicial Clerk;

(2) Maintaining all pleadings, documents, and other materials filed with the courts;

(3) Maintaining all evidentiary materials, transcripts, and records of testimony filed with the courts;

(4) Collecting and accounting for fines and other moneys and properties taken into custody of the courts;

(5) Preparing and serving notices, summons, subpoenas, warrants, rulings, findings, opinions and orders as prescribed by this Code and as may be designated by the judges of the courts;

(6) Assisting other persons in the drafting and the execution of complaints, petitions, answers, motions and other pleadings and documents for court proceedings; provided, however, the Judicial Clerk and his assistants shall not give advice on questions of law, nor shall they appear or act on behalf of any other person in any court proceeding;

(7) Administering oaths and witnessing execution of documents;

(8) Maintaining a supply of blank forms to be prescribed by the courts for use by all persons having business before the courts;

(9) Providing copies of documents in court files to other persons upon request, and upon receipt of a charge therefor to be prescribed by the Judicial Clerk to cover the cost of such service; provided, however, there shall be no charge for such service to the judges of the courts and, provided further, no copies of documents or material shall be provided from files which are to be kept confidential or unavailable for public inspection pursuant to any provisions of this Code or other ordinance of the Tribes, or if prohibited by any court order;

(10) Providing security for all files, documents and materials filed with or in the custody of the courts, and insuring that they are not removed from the offices of

the Judicial Clerk and the courts except upon the specific instructions of a judge of the courts;

(11) Maintaining a library of laws, regulations, orders, opinions, and decisions of the United States and its administrative agencies and courts, the Tribal Council and the courts of the Tribes, and of the various states, insofar as they may be pertinent to the administration of justice for the Tribes and within the Reservation. The acquisition of such materials shall be subject to appropriations of funds therefor by the Tribal Council. Materials in the library shall be available for use in the office of the Judicial Clerk during normal working hours by any person subject to the jurisdiction of the courts of the Tribes, and his authorized representatives.

Section 106. Counsel.

A. Any person or entity who is a party in a civil or criminal matter before any of the courts of the Tribes may be represented by:

- (1) himself or in the case of an entity, a duly appointed agent;
- (2) any member of the Tribes, except the Judicial Clerk, an assistant Judicial Clerk, a judge of any of the courts of the Tribes, a member of the Tribal Council, or any Tribal law enforcement official;
- (3) an advocate or professional attorney who is not a member of the Tribes but who is employed by the Tribes to represent persons or entities before the courts of the Tribes.
- (4) a professional attorney who is not a member of the Tribes but who is licensed hereunder to practice law before the courts of the Tribes. Any party desiring the services of a professional attorney shall arrange for and bear the expenses of such representation.

B. The Tribes may be represented by a person, advocate or professional attorney employed, retained, under contract or otherwise duly authorized to represent the Tribes.

(1) No such person, advocate or professional attorney shall be appointed to represent any person or entity in any civil or criminal matter, in any of the courts of the Tribes.

(2) Notwithstanding any other provision of law, no such person, advocate or professional attorney shall be prohibited or prevented from representing the Tribes in any civil or criminal matter before any of the courts of the Tribes except by express action of the Tribal Council.

C. No person or entity shall be entitled to representation provided at the expense of the Tribes in any civil or criminal matter before any of the courts of the Tribes.

D. No person, advocate or professional attorney shall be appointed to represent any person or entity before the courts of the Tribes except as specifically authorized by ordinance of the Tribes.

E. All criminal trials will be prosecuted before the Tribal Court by a member of the Tribal Police Department, who shall be designated by the Chief of that Department, unless either:

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(1) The complaining witness or person claiming to be injured by the alleged offense gives a written notice to the Chief of the Tribal Police Department, at least three days prior to trial, that he elects to serve as prosecutor, in which event, unless the Tribal Council appoints a prosecutor, he shall be entitled to so act, personally but not by counsel, in addition to appearing as a witness; or

(2) The Tribal Council appoints a prosecutor for that trial, or for trials during a prescribed period of time to be designated by the Tribal Council and which includes that trial. If such a prosecutor is appointed, he shall conduct the prosecution of the trial to the exclusion of all other persons except for their appearance as witnesses. Such a prosecutor must be appointed by the Tribal Council for any trial in which any member of the Tribal Police Department is a defendant or for which more than one complaining witness or allegedly injured person seeks to serve as prosecutor.

F. The Tribal Council shall appoint a person to represent the prosecution in appeals of criminal trials and matters from the Tribal Court to the Appeals Court. This appointment may be either for individual cases or matters, or it may be a continuing appointment for such cases and matters which may be subject from time to time for such appeals. The appointment in individual cases may be of the complaining witness or person claiming to be injured by the alleged offense, but he shall serve personally and not by a counsel.

G. Professional attorneys who are not members of the Tribes may appear on behalf of any party (except for a complaining witness in a criminal case or for a person claiming to be injured by the alleged criminal offense), in any trial or proceeding before the courts of the Tribes, provided that they have a license in force to practice law before the Courts of the Tribes, issued by the Judicial Clerk and approved by the Chief Judges of the Tribal Court and the Appeals Court. Such a license shall be issued and approved upon the applicant complying with all of the following requirements:

(1) Filing with the Judicial Clerk an affidavit that the applicant is licensed to practice law before a United States District Court and the Supreme Court of a state of the United States.

(2) Filing with the Judicial Clerk an affidavit that the applicant has studied and is familiar with the Constitution and By-Laws of the Tribes, this Code, all other ordinances of the Tribes, Title 25 of the United States Code, and Title 25 of Code of Federal Regulations.

(3) Paying an annual license fee as prescribed by the Tribal Council.

(4) Taking the following oath before the Judicial Clerk:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and By-Laws of the Colorado River Indian Tribes;

"I will maintain the respect due to the Courts of the Colorado River Indian Tribes and their judicial officers;

"I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law;

"I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never seek to mislead any judge or jury by any artifice, or by false statement or misrepresentation of fact or law;

"I will employ in the conduct of my duties the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth and justice;

"In the conduct of my duties as an attorney I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor of reputation of any person unless required by the justice of the cause with which I am charged."

H. A license issued pursuant hereto may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion by that court or upon sworn complaint by any member of the Tribes filed with it. Revocation or suspension shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before that court. Following such a hearing that court may revoke or suspend the license upon a finding that the licensee been disbarred or suspended from the practice of law by any court of the United States or any state, or has filed a false affidavit with the Judicial Clerk to obtain his license, or has violated his oath made before the Judicial Clerk, or has been guilty of misconduct or unethical conduct in the performance of his duties as an attorney, or has been guilty of contemptuous conduct toward one of the courts of the Tribes.

[As Amended May 7, 1976, Ord. No. 26D; June 12, 1982, Ord. No. 26P; August 2, 1984, Ord. No. 84-9.]

Section 107. Contempt of Court.

a. Willful and unjustifiable misbehavior by any person which disrupts, obstructs or otherwise interferes with the conduct of any proceeding by any of the courts of the Tribes, or which obstructs or interferes with the administration of justice by any of the courts of the Tribes, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of any of the courts of the Tribes shall constitute contempt of the court.

b. When contempt of court is committed in the presence of such court it may be punished summarily by that court. In such case an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefor.

c. When it appears to the court that a contempt may have been committed out of the presence of the court, the court may issue a summons to the person so charged directing him to appear at a time and place designated for a hearing on the matter. If such a person served with a summons fails to appear at a time and place so designated, the court may order his arrest and the delivery of him forthwith before the court for hearing. The court shall conduct a hearing, and if it finds him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefor.

d. Any person found in contempt of court as specified in this Section or elsewhere in this Code or any ordinances of the Tribes may be sentenced by the court by imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both.

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Section 108. Notices and Service.

a. Any notice or process to any person or party which is required or may be given or served under any provision of this Code shall be served in accordance with one of the following provisions as applicable.

(1) If to a natural person, by delivering it to him personally, or by leaving it at his usual place of residence with a member of his family of the age of eighteen (18) years or older.

(2) If to any other than a natural person, by delivering it personally to any owner, proprietor, officer, director, partner, member, associate, principal stockholder, manager, foreman, or supervisor of such person, or by leaving it at any of its offices or places of business with its principal employee, agent or representative at that place.

(3) In any trial, case or proceeding pending before any of the courts of the Tribes, if a person has made any appearance in that trial, case or proceeding, as a party or otherwise, by personal appearance, by counsel, or by filing a complaint, answer, motion or other pleading, then any subsequent notice in that same trial, case or proceeding may be served upon him by United States mail. Such a notice shall be addressed to him at the address indicated by or at his appearance, or his last known address, or the address of his counsel if his appearance was made by counsel.

b. Except as otherwise provided by this Code, any notice, order, summons, subpoena, judgment or command of, from or by one of the courts of the Tribes, and any such process or communication on behalf of the prosecution in any criminal case, shall be served or executed by the Judicial Clerk, an assistant Judicial Clerk, a member of the Tribal Police Department, or some other person designated for that purpose by that court. Any notice, complaint, pleading, instrument, or process of or by any party to any civil trial, case or proceeding before any of the courts of the Tribes may be served by any person of the age of eighteen (18) years or older who is not a party thereto. Upon the request of any party in such civil matter, such service will be made for him within the Reservation by the Judicial Clerk, or an assistant Judicial Clerk, and the expense thereof will be charged to that party. Any service or execution hereunder shall be verified by a certificate of the person making the service of execution, stating upon whom, when, how and where it was made. That certificate shall be filed with the court.

c. Alternative methods of service.

(1) Registered Mail. If any person or party has not made an appearance in a trial, case or proceeding pending before the courts of the Tribes, so that the provisions of Section 108a. (3) are not applicable, and that person or party cannot be located within the Reservation but the whereabouts of that person or party outside the Reservation are known, service may be obtained by depositing a copy of the notice or process in the U.S. mails, addressed to the person or party to be served, by registered or certified mail with request for a return receipt signed by the addressee only. Upon return through the United States mails of the receipt, signed by the addressee, the person so serving the notice or process shall file the return receipt with the court, together with an affidavit alleging, (i) the circumstances warranting the utilization of the procedure authorized under this Section 108c (1), (ii) that a copy of the notice or process was mailed to the person or party being served, (iii) that it was in fact received by said person or party as evidenced by the attached receipt, and (iv) the date of the return of the receipt to the serving person. The affidavit shall be prima facie evidence

of personal service. Such service shall be with the same force and effect as if made pursuant to Section 108a. (1) or (2).

(2) Publication. Service by publication shall be allowed only in or for a trial, case or proceeding affecting specific property or status or other proceedings in rem. Service by publication may be had upon unknown persons, a corporation which cannot be served because no person can be found upon whom such service can be made, a non-resident of the Reservation, a person who has departed from the Reservation without intention of returning, a person who conceals himself to avoid service of process, or a person whose whereabouts are unknown or who cannot be served by personal service.

a. The person or party desiring service of notice or process by publication shall file a motion verified by the oath of such party or of someone in his behalf for an order of publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service, and shall give the address, or last known address, of each such person or party to be served or shall state that his address and last known address are unknown. The court shall hear the motion ex parte and, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, it shall order publication of the notice or process in a newspaper published or publically distributed within the exterior boundaries of the Reservation, at least once a week for four successive weeks, and the service shall be complete on the day of the last publication. Within fifteen (15) days after the order, the person making the service shall mail a copy of the notice or process to each person whose address or last known address has been stated in the motion. Proof of service by publication shall be by affidavit of publication by the publisher, or his designee, of the newspaper in which it appeared, together with an affidavit of the person making the service as to the mailing of a copy of the notice of process.

D. At any time in its discretion and upon such terms as it deems, just, the court may allow any notice, process or proof of service thereof to be amended, unless it clearly appears the material prejudice would result to the substantial rights of the person or party against whom the notice or process issued.

E. Subject to the exceptions expressly set forth below and elsewhere in this Code, no trial or hearing in any matter, case or proceeding shall be conducted by any of the courts of the Tribes unless all parties to it have been given at least five (5) days advance written notice, which notice shall include identification of the subject of the trial or hearing, and the time and place at which it will be conducted. Exceptions to that requirement are as follows:

(1) No trial or hearing shall be conducted in any matter, case or proceeding less than twenty (20) days after both filing of the original complaint, application, or petition by which it was commenced and service of a copy of it upon all other parties, unless the other parties consent to an earlier trial or hearing; provided, however, that if original service in a trial, case or proceeding upon a person or party is obtained pursuant to the provisions of Section 108.C.(1) or (2), the time specified in this Section 108.E.(1) shall be thirty (30) days.

(2) If any notice of any trial or hearing is given by mail pursuant to the provisions of Section 108.A.(3), an additional five (5) days shall be allowed prior to the trial or hearing.

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Section 109. Assistance to the Courts.

A. In any trial, case or proceeding pending before one of the courts of the Tribes, the court on its own motion may request the advice and assistance of employees of the United States Bureau of Indian Affairs upon any issue or matter to be considered or decided by him. Any testimony on issues of fact by such an employee shall be given under oath in open court, and the employee shall be subject to cross-examination by any party, in the same manner and on the same basis as any other witness. Any advice or recommendations by such an employee to the court shall also be in open court, subject to rebuttal by any party. No testimony of such an employee shall be taken, nor shall his advice or recommendations be given, except at a scheduled trial or hearing preceded by notice to all parties.

B. The court of the Tribes may request and obtain advice, recommendations and opinions on questions of law from attorneys of the Office of the Solicitor of the United States Department of the Interior, and the United States Department of Justice, and from the general attorney retained by the Tribes. Any such advice, recommendation or opinion obtained specifically to aid in the disposition of a pending trial, case, or proceeding thereto shall be written, and copies shall be made available to all parties thereto prior to any decision on the subject by the court.

Section 110. Law Applicable in Civil Actions.

A. In all civil cases the Tribal Court shall apply any ordinances or customs of the Tribes. Where any doubt arises as to the customs and usages of the Tribes, the Court may request the advice of tribal members familiar with the customs and usages.

B. In the event that a case or controversy arises which is not covered by the traditional customs and usages of the Tribes, or ordinances of the Tribal Council, the Court may be guided by appropriate Federal law and regulations or by the laws of the State of Arizona or California.

Section 111. Appropriations.

A. The Tribal Council shall appropriate and authorize the expenditure of tribal funds for the operation of the courts of the Tribes. The amounts to be so appropriated shall be as determined by the Tribal Council, consistent with the needs of the courts for proper administration of justice within the Reservation and for the Tribes.

B. To assist the Tribal Council in making such appropriations, the Chief Judges of the Tribal Court and the Appeals Court shall submit proposed budgets and reports of expenses and expenditures to the Tribal Council, at such intervals and in such form as may be prescribed by the Tribal Council. Such budgets and reports shall include the operation of the office of the Judicial Clerk.

C. The Tribal Council may prescribe a system of accounting for funds received from any source by the courts of the Tribes and the Judicial Clerk.

Section 112. Effective Date, Repeals and Amendments.

A. This Code shall become effective on June 22, 1974.

B. Upon the effective date of this Code, the following are repealed:

LAW AND ORDER

(1) Chapters I, II, III, (Sections 1 through 19), IV, V, VI and VIII of the Law and Order Code of the Colorado River Indian Tribes, each separately adopted by the Tribal Council on January 6, 1940.

(2) Ordinance No. 4 of the Tribal Council adopted January 6, 1945, as amended April 19, 1969.

(3) Ordinance No. 13 of the Tribal Council adopted November 3, 1956.

(4) Ordinance No. 16 of the Tribal Council adopted November 13, 1965, as amended January 22, 1969.

[As Amended, Feb. 15, 1975 by Ord. No. 26C]

CHAPTER C. TRIBAL POLICE.

Section 113. General Provisions.

There shall be a Tribal police department, to be known as the Colorado River Indian Tribes Police Department (CRIT P.D.), consisting of a Chief of Police, to be hired by the Tribal Council, and however many officers and supporting personnel as from time-to-time shall be hired by the Chief of Police.

Section 114. Chief of Police.

The duties of the Chief of Police shall be to supervise and direct the operations of the Police Department and its personnel and to act as a liaison to any other law enforcement agency.

Section 115. Officers.

The duties of Officers of the CRIT P.D. shall be to enforce the laws of the Colorado River Indian Tribes, and the laws of the United States where applicable, and to protect the property, safety and welfare of the community.

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Section 116. Cross Deputization.

Officers of other police departments or lawenforcement agencies may be deputized into the CRIT P.D.

Section 117. Commissioning of the Chief of Police and Officers.

The Chief of Police and Officers shall swear (or affirm) the following oath before the Chief Judge of the Tribal Court of the Colorado River Indian Tribes:

"I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Colorado River Indian Tribes against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Colorado River Indian Tribes in accordance with the Constitution and Bylaws of the Colorado River Indian Tribes."

The Chief of Police and each Officer shall be issued identification cards to certify their commission. The commission card of the Chief of Police shall be signed by the Chairman and the Secretary of the Tribal Council. The commission card of Officers shall be signed by the Chairman of the Tribal Council and the Chief of Police.

Section 118. Direction of Chief of Police and Officers.

The Chief of Police and, in his absence, the next in command, shall be under the direction of the Chairman of the Tribal Council, or his designee, who shall carry out the policies and mandates of the Tribal Council. All such actions of the Tribal Chairman, or his designee, shall be subject to subsequent action by the Tribal Council.

Section 119. Rules and Regulations.

The Tribal Council, by appropriate resolution, may provide rules and regulations governing the operation of CRIT P.D. and its personnel.

[As Amended, July 17, 1981 by Ord. No. 26I]

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LAW AND ORDER CODE
ARTICLE II
COURTS AND PROCEDURES

[NOTE: Except as otherwise noted, the provisions of Article II of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. TRIBAL COURT

Section 201. General Provisions.

a. There shall be a Tribal Court consisting of a Chief Judge and at least two Associate Judges. By ordinance the Tribal Council may increase the number of Associate Judges and, subject to the requirement that there always be at least two Associate Judges, it may by similar action decrease the number of Associate Judges; provided, however, there shall be no reduction in the number of Associate Judges if it would have the consequence of removing any incumbent Associate Judge prior to the expiration of his term of office, or prior to his removal by death, resignation or for cause.

b. Each Judge of the Tribal Court shall hold office for a term of two (2) years and shall be eligible for reappointment to successive terms of two (2) years each. A person appointed to fill an existing vacancy created by the death, resignation or removal for cause of a judge shall be appointed initially only for the unexpired portion of the term for which the appointment is made, subject to eligibility for reappointment for the next full term. The first term of the initial judges of the Tribal Court shall commence on the date on which the Code becomes effective, and those terms shall expire two (2) years thereafter. All subsequent terms of judges of the Tribal Court shall expire on the first day of the same month biannually thereafter. If the number of Associate Judges is increased pursuant to an ordinance, to be effective on some date other than the commencement of judicial terms as prescribed by this Code, the additional offices shall be filled by initial appointments as though they were vacancies, for the period of time prior to the commencement of the next full judicial term. Notwithstanding the foregoing, the Tribal Council may temporarily appoint any individual, otherwise eligible to serve as a judge under this Code, as a Chief Judge or Associate Judge of the Tribal Court, for a period of time not to exceed one hundred and eighty (180) days where any emergency situation exists necessitating the appointment of a Tribal Court judge for an interim period to maintain and conduct Tribal Court operations.

[As Amended, December 5, 1974, Ord. No. 26B; July 30, 1980, Ord. No. 26H.]

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c. All judges of the Tribal Court shall be appointed by the Tribal Council, with the Chief Judge specifically appointed by it to that office. By enactment of this Code, the individuals serving immediately prior to its effective date as Chief Judge and Associate Judges of the Tribal Court, as constituted prior to the effective date of this Code, are appointed as Chief Judge and Associate Judges, respectively, of the Tribal Court under this Code.

[As Amended, December 5, 1974, Ord. No. 26B.]

d. A Tribal member, a member of another federally recognized tribe, or other person twenty-five (25) years of age or older shall be eligible to serve as a judge of the Tribal Court, provided that such person should possess substantial legal education or experience; except the following:

(1) Members of the Appeals Court, subject to Subsection (C) of Section 210; persons otherwise employed by the Courts of the Tribes; members of the Tribal Council; law enforcement officials of the Tribes; or persons who have other similar conflicting interests.

(2) Those who have been convicted of a felony, or of a misdemeanor or other criminal offense involving dishonesty or moral turpitude within the last five years, in any Federal, Tribal or State Court.

[As Amended, June 23, 1982, Ord. No. 26N.]

e. The Associate Judges in addition to their general judicial duties, may serve as Juvenile Court Judges. The designation of a Juvenile Court Judge from among the Associate Judges shall be made by the Chief Judge. An incumbent Associate Judge serving as Juvenile Court Judge shall not be relieved of the duties of the latter during his term as Associate Judge, except upon his request to the Chief Judge or upon his removal for cause from the Tribal Court. The Juvenile Court shall be a division of the Tribal Court but it shall conduct its functions and proceedings separately from all other functions and proceedings of the Tribal Court.

f. The Chief Judge and the Associate Judges shall be paid a salary to be determined by the Tribal Council. The salary of any Chief Judge or Associate Judge shall not be reduced during his term of office.

g. No judge shall officiate in any proceeding in which he has any personal interest, or in which any party, witness or counsel is related to him by blood or marriage within the third degree, or in which any party, witness or

counsel stands in the relationship to the judge of ward, attorney, client, employer, employee, landlord, tenant, business associate, creditor or debtor. For these purposes, service as a judge for the Tribes shall not constitute disqualification by virtue of such employment by the Tribes.

h. The Tribal Council by resolution, with the approval of the Chief Judge of the Tribal Court, may appoint additional persons as Deputy Judges of the Tribal Court, except that a member of a recognized Indian Tribe may be appointed to serve as a Deputy Judge. Each appointment shall be personal and it shall not create an office which survives the death, resignation or removal of the appointee. After appointment Deputy Judges shall be responsible to the Chief Judge for the performance of such duties as may be assigned to them by him, and they shall serve during his pleasure, subject to termination of appointment by him in his discretion. A Deputy Judge may be removed from office by the Tribal Council over the objection of the Chief Judge only pursuant to the provisions of this Code for removal of a judge of the Tribal Court for cause.

(1) A Deputy Judge shall perform the duties and functions of a judge of the Tribal Court as may be delegated to him by the Chief Judge, subject to any restrictions or limitations prescribed by the Chief Judge; provided, however, no matter shall be submitted to a Deputy Judge for trial, hearing or other disposition over the prior objection of any party to that matter. The findings, rulings, opinions, and orders of a Deputy Judge in matters properly submitted to him shall have the same force and effect as if made or entered by the Chief Judge or an Associate Judge.

(2) Subject to any restrictions or limitations imposed by the Chief Judge, a Deputy Judge shall have all of the prerogatives and authority of office of an Associate Judge.

(3) The Tribal Council shall prescribe the compensation for each Deputy Judge when he is appointed, which may be by salary, by per diem allowance while he is performing judicial duties, or by other appropriate formula. The rate of compensation for an individual Deputy Judge shall not be reduced during his tenure in that office without the approval of the Chief Judge.

(4) The eligibility of a person to serve as Deputy Judge shall be the same as that prescribed by this Code for any other judge of the Tribal Court, except that a member of a recognized Indian Tribe may be appointed to serve as Deputy Judge, and the provisions of g. of this Section shall be applicable to Deputy Judges.

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i. Each person prior to assuming the office of judge of the Tribal Court shall take the following oath before the Chairman of the Tribal Council:

"I swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution and By-Laws of the Colorado River Indian Tribes, and that I will faithfully diligently perform the duties of [Chief Judge, Associate Judge, Deputy Judge, as applicable] of the Tribal Court of the Colorado River Indian Tribes, to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be fully served."

j. The Tribal Council may remove any judge of the Tribal Court for cause based upon any of the following grounds:

(1) Misconduct or incompetence in the performance of his duties as a judge.

(2) Personal conduct, including that which is not in the performance of his duties as a judge, which involves moral turpitude or which brings the prestige of his office or that of the Tribes into public disrepute.

(3) Habitual neglect of his duties as a judge.

(4) Persistent illness or other disability which renders him incapable or otherwise unable to regularly perform his duties as a judge.

Such removal shall be by an affirmative vote of two-thirds (2/3) of the number of members of the Tribal Council present at a valid meeting called for the purpose of considering such removal, provided that the subject judge shall be given a full and fair opportunity to present testimony and evidence in his behalf, and to cross-examine and rebut all witnesses and evidence considered by the Tribal Council in support of removal. The subject judge shall be given not less than five (5) days written notice in advance of the hearing, which notice shall include an itemization of the charges or grounds for removal which are to be considered. Such notice shall be served by registered or certified mail, or delivered personally to him by a party duly authorized by the Tribal Council.

[As Amended, December 5, 1974, Ord. No. 26B.]

Section 202. Procedure.

a. The Tribal Court shall have exclusive jurisdiction for the trial or other original determination of all civil and criminal cases, matters and proceedings, submitted to the courts of the Tribes.

b. Subject to the provisions of this Code for jurisdiction of the Juvenile Court, the Chief Judge shall be responsible for assignment of cases and other matters for determination or disposition to the respective judges of the Tribal Court.

c. The Chief Judge and Associate Judges of the Tribal Court may establish and promulgate rules of procedure for the conduct of its proceedings which are not inconsistent with this Code or other governing and applicable law.

d. All civil and criminal cases shall be commenced by the filing of a written complaint, petition or application with the Judicial Clerk, who shall promptly advise the Chief Judge of its filing. That instrument shall be signed by the party making it, and it shall contain a certificate by that person that the statements and allegations in it are true to the best of his knowledge and belief. Service of process shall be accomplished and jurisdiction of the court over the subject and the other parties named in the instrument shall attach when notice has been served upon each of them, signed by the Judicial Clerk or an Assistant Judicial Clerk, stating when the instrument was filed, accompanied by a copy of the instrument. Written answers, replies or other responses to any such instrument may be filed with the Tribal Court, and served upon the complainant, petitioner, or applicant, but such filing and service shall not be required unless ordered by the Court.

e. The Tribal Court shall hold regular sessions of court at least one (1) day of each week, commencing at 10:00 a.m. Such regular sessions shall be held at the designated courtroom of the Tribes. Special sessions of the Tribal Court may be called by the Chief Judge at any time or, in his absence, by any Associate Judge. Individual judges may conduct trials or other proceedings for individual cases assigned to them at such times as they may designate, and such trials or proceedings may be recessed and reconvened from time-to-time by the judges until they are completed.

f. Except as may be inconsistent with other provisions of this Code, or are otherwise locally inapplicable because they refer to special federal procedures having no counterpart in the Courts of the Tribes, the Federal Rules of Civil Procedure are hereby adopted as, and shall be known as, the "Tribal

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Rules of Civil Procedure," and shall govern the procedure in the Tribal Court in all suits of a civil nature whether cognizable as cases at law or in equity. Said rules shall be construed to secure the just and speedy determination of every action.

[As Amended May 8, 1982, Ord. No. 26 O.]

Section 203. Juries.

a. All members of the Tribes of the age of eighteen (18) years or older shall be eligible to serve as jurors in all trials before the Tribal Court, except the following:

(1) Judges of the courts of the Tribes, the Judicial Clerk, Assistant Judicial Clerks, members of the Tribal Council, members of the Tribal Police Department, and tribal game wardens.

(2) Those who have been convicted by a court of the United States or of any state of the United States for a felony as a felony is defined by the laws of that jurisdiction.

(3) Those who have been convicted by the Tribal Court for an offense under this Code or any other ordinance of the Tribes for which the penalty could have been imprisonment for sixty (60) days or more, whether or not the sentence included such imprisonment, and whether or not the sentence was suspended.

Upon application of an individual subject to the disqualifications set forth in (2) and (3) above of this Section, the Tribal Council by resolution may permanently waive such disqualification as to the conviction or convictions which were subject to the application and consideration by the Tribal Council. Thereafter the individual shall not be disqualified for service as a juror as a result of those convictions only.

b. The Judicial Clerk shall maintain a current roster of all persons eligible to serve as jurors before the Tribal Court. When requested by any judge of the Tribal Court in preparation for a trial or trials, the Judicial Clerk shall prepare a list of not less than twelve (12) persons from the jury roster to constitute a jury panel. If the number of persons selected to serve on a jury or juries is less than the number required pursuant to Subsection h. of this Section, whether pursuant to Subsections f. and g. of this Section or otherwise, upon being so notified by the Court, the Judicial Clerk shall designate additional persons to the

jury panel. If the number of additional jurors required pursuant to Subsection h. of this Section is one (1), the number of additional persons designated by the Clerk shall be six (6). One additional person more shall be so designated for each additional juror in excess of one (1) that is required pursuant to Subsection h. of this Section. Those designated for the jury panel shall be drawn by random lot or chance by a means designed to insure that no person or group of persons included on the jury roster is either deliberately or consciously excluded from or included on the jury panel. The process of designation of a jury panel shall be conducted by the Judicial Clerk and witnessed by at least two (2) other persons who are eighteen (18) years of age or older.

[As Amended, December 28, 1981, Ord. No. 26K.]

c. Upon a showing satisfactory to the Judicial Clerk, the following persons upon their request may be excluded from the jury roster and jury panels:

(1) Persons who reside outside of the Reservation and more than fifty (50) miles from the nearest exterior boundary of the Reservation.

(2) Employees of the Tribes and the United States.

(3) Persons of such advanced age, or such permanent infirmity or illness, that would cause jury service to be an undue hardship upon them.

(4) Persons burdened by such other circumstances or subject to such other demands that jury service would cause extraordinary hardship for them. Such hardship shall be substantially greater than would be experienced ordinarily by other persons serving as jurors.

d. Each member of a designated jury panel shall be served with a summons, signed by a judge of the Tribal Court, indicating the place and time that he is first to appear for jury service. The notice shall be served by the Judicial Clerk, an assistant Judicial Clerk, a member of the Tribal Police Department, or any other person who may be designated in writing by the Tribal Court. The notice shall be served not less than seventy-two (72) hours prior to the designated time for initial appearance. After such initial appearance, the times and places for attendance by those persons included on the designated jury panel shall be as prescribed by the court.

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e. A person summoned to serve as a juror who has not been excused pursuant to any provision of this Code, or by order of court, who fails to appear where and when summoned, or who having so appeared absents himself therefrom without the permission of the Tribal Court, or who renders himself unfit to commence or continue his duties as a juror, shall be in contempt of court. In addition to the penalties for contempt of court prescribed by this Code, he may be charged by the Tribal Court with any costs incurred by the court and any other persons which resulted from his failure to be present or his misconduct.

f. Each party to a trial which is scheduled shall have the right to obtain a copy of the designated jury panel from which the jury for that trial will be selected not less than five (5) days prior to the commencement of the trial. Any juror may be challenged by any party to a case to be tried on any of the grounds set forth below, and if the challenge is sustained by the Tribal Court, that juror shall be excused from that trial. Each party may question the prospective jurors under oath at the commencement of the trial, subject to such reasonable restrictions as may be imposed by the court in the interests of justice and the expeditious trial of the case. In addition to challenges by parties to a trial, the judge before whom the trial is conducted, on his own motion, may excuse any juror or prospective juror. The grounds for challenge are that a juror:

(1) Is ineligible or disqualified from service as a juror under the provisions of this Code; or

(2) Is of unsound mind, or has such a defect in the abilities of the mind or body as to render him incapable of performing the duties of a juror; or

(3) Is related by blood or marriage within the third degree to any party to the trial, or to any person likely to be called as a witness for any party, or to the counsel for any party; or

(4) Stands in the relationship of guardian, ward, attorney, client, employer, employee, landlord, tenant, creditor, debtor, or business associate of any party in the trial or the counsel for any party; or

(5) Is or has been a party, witness or juror in any other civil or criminal judicial proceeding in which any party or likely witness in the present trial is or has been a party, witness, or juror; or

(6) Has served as a juror or participated as a witness or party in any other trial in which any other person has been subject to trial for the offense or complaint which is the subject of the present trial, or any related offense or complaint; or

(7) Has been a member of a jury formerly sworn to try the same case and whose verdict was set aside or reversed, or which was discharged without a verdict, after the case was submitted to it; or

(8) Is a surety or guarantor of any bond or undertaking of any party or likely witness, or engaged in business with any party or likely witness, or with the person alleged to be injured by the offense charged or on whose complaint the trial was instituted, or with the counsel for any party; or

(9) Is a witness on behalf of any party, or has any personal knowledge of the subject of the trial beyond that which is held generally by the members of the Tribes which may influence his decisions as a juror.

(10) Has a state of mind, knowledge or belief in reference to the subject matter of the trial, or to any party, or to the counsel for any party, or to any person alleged to have been injured by the offense charged or on whose complaint the trial was instituted, which will prevent him from acting with objectivity, impartiality and without prejudice to the substantial rights of any party.

g. In addition to challenges for cause in f. of this Section, at the completion of the qualification of a jury for a trial, prior to any opening statements or presentation of testimony or evidence, each party may preemptively excuse not more than three jurors. The persons replacing them as prospective jurors shall be subject to challenge for cause, and questioning with regard thereto, in the same manner as those originally participating as prospective jurors.

h. All trials of criminal matters shall be by a jury unless a jury has been waived in writing prior to commencement of the trial by the defendant, or by all defendants at a common trial. All trials of civil or non-criminal matters shall be without a jury unless any party to the trial requests a jury not less than five (5) days prior to the scheduled commencement of the trial. Not less than six (6) days prior to the scheduled commencement of any civil or noncriminal trial the Tribal Court shall advise each party to that trial who has not requested a jury and who is not represented by a professional attorney as counsel of his right to request a jury. A jury for any trial shall consist of three persons, and

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at least one designated alternate juror who shall participate in any findings or decisions of the jury only in the event a regular juror is excused by the Tribal Court after commencement of the trial; provided, however, upon written demand of any party to a jury trial filed with the Court not less than five (5) days prior to trial, that trial shall be conducted with six (6) jurors in lieu of three (3), with one (1) designated alternate juror.

i. No person may be convicted of a criminal offense other than by the unanimous decision of all jurors hearing the trial. In each trial of a civil case all findings and decisions of the jury shall be with the concurrence of at least one (1) more than half of the jury if it is composed of six (6) jurors, and of at least two (2) if it is composed of three (3) jurors.

[As Amended December 5, 1974, Ord. No. 26B.]

Section 204. Arrest, Search and Seizure, and Pre-Sentence Confinement.

a. No member of the Tribal Police Department or other law enforcement officer of the Tribes shall arrest or apprehend any person for an alleged criminal offense except under the following circumstances:

(1) When such offense shall occur in the presence of the arresting officer; or

(2) When the arresting officer shall have probable cause to believe that the person to be arrested has committed such offense; or

(3) When the arresting officer acts pursuant to warrant executed by the Tribal Court commanding him to arrest such person.

b. The Tribal Court shall have the authority to issue Warrants for Arrest. Such warrants may be issued ex parte, without a hearing, but only upon satisfaction of the issuing judge that there is probable, lawful cause for the arrest. Such a warrant may be issued only upon a written complaint filed with the court, bearing the signature of the complainant or complaining witness, based upon reliable information or belief, which charges the commission of a criminal offense. Service of Warrants for Arrest shall be made only by a member of the Tribal Police Department or other duly authorized law enforcement office of the Tribes.

c. No member of the Tribal Police Department nor any other law enforcement officer of the Tribes shall search the person or property of any

person, without the consent of that person, unless the search is incident to a lawful arrest or pursuant to a Warrant for Search and Seizure issued by the Tribal Court. If the search is incident to a lawful arrest the arresting officer may search the person so arrested, and his property then under his direct, immediate control, to locate and prevent the use of weapons and to prevent the destruction of evidence of the commission of a criminal offense.

d. The Tribal Court shall have the authority to issue Warrants for Search and Seizure applicable to the physical person and the premises and property within the Reservation of any person. Such a warrant may be issued ex parte, without a hearing, but only upon satisfaction of the issuing judge that there is probable, lawful cause for the search and seizure. Such a warrant may be issued only upon a written complaint filed with the court, bearing the signature of the complainant or complaining witness, based upon reliable information or belief, which charges the commission of a criminal offense. No warrant for Search and Seizure shall be valid unless it bears the name and description of the person, premises or property to be searched, and describes the articles or property to be seized.

e. Service of Warrants for Search and Seizure, and the conduct of the search and seizure pursuant thereto, shall be only by a member of the Tribal Police Department or other duly authorized law enforcement officer of the Tribes.

f. No person shall be detained, confined, jailed or imprisoned for more than thirty-six (36) hours under the authority of the Tribes and this Code unless pursuant to an order of commitment issued by the Tribal Court. However, if any person is arrested for the alleged commission of a criminal offense and the arrest is made on a Friday, Saturday, Sunday, day before a legal holiday, or legal holiday, he may be held in custody pending commitment until noon of the next regular business day. The Tribal Court shall prescribe forms for temporary commitment for persons held for trial or pending appeal, and for final commitment pursuant to sentence of imprisonment.

Section 205. Bail.

a. Any person charged with a criminal offense may be admitted to bail by the Tribal Court at any time prior to final judgment on the charge, or pending appeal on the final judgment to the Appeals Court, in accordance with the provisions of this Section.

b. A person may be admitted to bail by:

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(1) Posting a cash or surety bond in an amount not to exceed One Thousand Dollars (\$1,000.00) which, in the opinion of the Tribal Court, will insure his appearance at all times and places lawfully required; or

(2) In the discretion of the Tribal Court promising in writing to appear before that court or the Appeals Court, as applicable, at all times and places lawfully required; provided, however, the Tribal Court shall not admit a person to bail upon such promise if the court is not reasonably satisfied that the person seeking bail will appear when and where so required.

c. In admitting any person to bail, the Tribal Court may set such terms and conditions therefor as the court, in its discretion, may deem necessary or appropriate.

d. A person shall not be admitted to bail when he is in an intoxicated condition.

e. Violation by any person of any of the terms and conditions of his bail, or his failure to appear when and where lawfully required by them, shall be contempt of court which shall be punished by the court in the manner prescribed by this Code. In addition, the court may order the bond to be forfeited and may issue a warrant for the arrest of the violator.

f. Any cash or surety bond which has not been ordered to be forfeited shall be returned upon final judgment on the charge, including completion of any appeal by the Appeals Court.

Section 206. Judgment and Sentencing in Criminal Cases.

a. Upon a verdict of not guilty of all charges upon which a defendant has been tried in a criminal case, the court shall forthwith order him released from custody, and the return of any cash or surety bond for his bail which has not been forfeited. Upon any verdict of guilt on any offense so tried, the court shall pronounce judgment and sentence within a reasonable time thereafter.

b. Prior to adjudging a sentence for conviction of a criminal offense, the court shall afford a reasonable opportunity to the convicted person to present information or matters of extenuation and mitigation which may not have been disclosed at the trial, including statements by any other persons. The court may also request and receive pertinent reports, advice and recommendations from any other person or agency which may assist it in adjudging an appropriate sentence; provided, however, prior to sentencing the convicted

person shall be advised of the content, identity, and source of any such report, advice or recommendation and he shall be afforded a reasonable opportunity to comment upon or rebut it.

c. Upon a judgment sentencing a convicted person to imprisonment, he shall be given signed copies of the judgment and of the order of commitment. The person taking custody of the convicted person shall receive similar copies, and he shall sign a receipt acknowledging custody which shall be filed in the records of the Tribal Court.

d. Upon judgment sentencing a convicted person to a fine, he shall be given a signed copy of the judgment, which shall direct him to make payment to the Judicial Clerk in accordance with the terms of payment to be prescribed by the court. The court may order the fine to be paid in installments of a schedule to be specified by the court. Willful or negligent failure to pay a fine in accordance with the terms of the sentence shall be contempt of the Tribal Court which shall be punished by the court in the manner prescribed by this Code. In support of enforcement and satisfaction of its judgments of fines, the Tribal Court shall have the authority to order any other persons within its jurisdiction to deliver or surrender to the Judicial Clerk or the Tribal Police Department any money, goods or other property in their possession or under their control owned by or subject to the claim of a defaulting party to any judgment; provided, however, that such orders shall be issued only following notice to the defaulting party and a hearing at which he is determined to have been in default. The provisions of this Section shall be subject to any restrictions which may exist under the laws of the United States.

e. In addition to any sentence, the court may order a convicted person to pay the reasonable costs incurred by the Tribal Court, Judicial Clerk, Tribal Police Department, and any other tribal agency, which is directly attributable to the case in which he was convicted, but not to include any part of the general expense of operation of such offices or agencies.

f. At the time of adjudging a sentence, or at any time thereafter prior to the completion of satisfaction of a sentence, whether of a fine, imprisonment or both, the Tribal Court may suspend all or any unsatisfied portion of that sentence. Such suspension shall be upon such reasonable terms and conditions as seem necessary or appropriate to the court.

(1) The period of suspension of all or any portion of a sentence shall not be longer than six (6) years from and after the date of original sentence, and if at that time the convicted person has complied fully with all of

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the terms and provisions of the suspension, the sentence shall be considered satisfied and discharged. The Tribal Court shall then issue a Certificate of Discharge to that effect.

(2) Appropriate considerations for suspension of a sentence include, but are not limited to, the prior record of a convicted person, his background and character, his financial condition, his family and employment obligations, facts of extenuation or mitigation of the offense for which he was convicted, the severity of the offense and the degree to which any other person was injured or damaged by it, the apparent permanence of his residency within the Reservation, his sense of pertinence, and other relevant circumstances. As conditions of suspension of a sentence, the court may require, among other things, that the convicted person conduct himself in any one or more of the following ways, as appropriate:

- (a) Satisfactorily meet his responsibilities for the care and support of his family;
- (b) Perform labor or services for the benefit of the Tribes;
- (c) Undergo available medical or psychiatric treatment;
- (d) Satisfactorily participate in a rehabilitation program; such as driver education or Alcoholics Anonymous;
- (e) Not have in his possession any firearm or other dangerous weapon;
- (f) Make restitution or reparation for any damage, loss or injury caused by his offense;
- (g) Not associate with individuals or groups of individuals designated by the court;
- (h) Place himself under the supervision and report to such other person as may be designated by the court;
- (i) Restrict himself to or from such areas or places as may be designated by the court;

(j) Not commit any offense under this Code or the ordinances of the Tribes, nor under the criminal or traffic laws of the United States, any state, or any subdivision thereof;

(k) Not operate a motor vehicle;

(l) Maintain a daily schedule as specified by the court.

g. Any convicted person whose sentence has been suspended, while that suspension remains in effect, who is accused of violating any of the terms or conditions of the suspension shall, upon notice, be given a hearing before the Tribal Court. If the court finds that the terms and conditions of the suspension have been violated, it may revoke the suspension and order the sentence immediately reinstated with payment of the fine or imprisonment as applicable. No sentence may be increased in severity nor may its nature or character be changed as the result of the revocation of its suspension.

h. All decisions of the Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in any other cases.

[As amended on December 14, 1999, by Ordinance 99-3.]

Section 207. Judgments in Civil Cases.

a. Upon a finding of liability by a jury or the Tribal Court a judgment based upon the law and facts established at the trial may include an award of money damages, an order to surrender property, an order to make restitution, an order to perform acts or to refrain from designated conduct, or an order granting such other remedies or relief which may be appropriate and legally permissible.

b. The Tribal Court may assess reasonable court costs of civil litigation against any one or more of the parties to a case as seems appropriate in the discretion of the court. Such an assessment shall be limited to those costs representing the actual expenses incurred by the court, Judicial Clerk, or other tribal agency directly attributable to that case, and the direct, reasonable expenses of the parties incurred for the litigation.

c. Failure of a party to comply with a civil judgment directed against him shall entitle the party intended to be benefited by the judgment to an order of the Tribal Court, upon notice and hearing, directing the Judicial Clerk of the

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Tribal Police Department to take into custody any money, goods, or other property of the defaulting party and, in accordance with court order, to deliver the same to the party entitled to the benefit of the judgment, but not to exceed in value any amount owed under the judgment. The willful or negligent failure of a party to comply with the terms of a judgment directed against him, with which he is able to comply, shall be contempt of the Tribal Court which shall be punished by the court in the manner prescribed by this Code. In support of enforcement and satisfaction of its judgments, the Tribal Court shall have the authority to order any other person within its jurisdiction to deliver or surrender to the Judicial Clerk or the Tribal Police Department any money, goods or other property in their possession or under their control owned by or subject to the claim of a defaulting party to any judgment; provided, however, that such orders shall be issued only following notice to the defaulting party and a hearing at which he is determined to have been in default. The provisions of this Section shall be subject to any restrictions which may exist under the laws of the United States.

d. All decisions of the Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in other cases.

[As amended on December 14, 1999, by Ordinance 99-3.]

Section 208. Property.

a. All money or other property received by the Tribal Court or the Judicial Clerk for payment of their costs or for payment of fines shall be the property of the Tribes and shall be the subject of such accounting procedure and disposition as may be designated by the Tribal Council.

b. The disposition of all other money, goods or property of any person taken into the custody of the Tribal Court, Judicial Clerk or Tribal Police Department pursuant to this Code or any other ordinance of the Tribes shall be determined by the Tribal Court, with hearing and notice to parties who may have any interest therein if appropriate.

(1) Upon satisfactory proof of ownership entitlement thereto, the court shall order such property to be delivered to the owner or persons entitled thereto except in the following circumstances:

(a) If such property is required as evidence in any case pending before the Tribal Court or the Appeals Court, such property shall be

retained by the Judicial Clerk or Tribal Court, or by the Tribal Police Department subject to the direction of the court, until final judgment and determination of the case, including appeal.

(b) If possession of such property is unlawful, it shall be declared by the court to be tribal property and transferred to the Tribal Council for disposition.

(2) Any property the possession of which, or the manner of its possession, constitutes a criminal offense under any provision of this Code or any other ordinance of the Tribes, upon conviction of any person of such an offense and a determination that the property is owned by him, shall become the property of the Tribes. Upon a final determination of such case the property shall be transferred to the Tribal Council for disposition.

c. Any property to which the owner or other person is lawfully entitled to possess, which is in the possession of the Tribal Police Department, the Judicial Clerk, or the Tribal Court but which is not claimed by the owner or such person within six (6) months after it has been determined that he is entitled to it, and he has been given notice thereof, shall become the property of the Tribes. Such property shall be transferred to the Tribal Council for disposition.

d. The Judicial Clerk shall keep records of all property taken into the custody of the Tribal Court and the Judicial Clerk, including receipts for transfer relinquishment of it.

Section 209. Extradition.

a. Any person residing, located or present within the Reservation for whose arrest a warrant has been issued by any court of any state of the United States or by the duly constituted tribal court of any other organized Indian tribe or reservation, for the alleged commission of an offense beyond the jurisdiction of the courts of the Tribes, may be extradited to the jurisdiction of that other court as provided herein.

b. A verified copy of the warrant for arrest, under the signature and seal of the authorities of such other court, may be presented to the Judicial Clerk, and upon the information stated in the warrant a request for extradition shall be prepared, with the assistance of the Judicial Clerk, and signed by an authorized representative of the jurisdiction seeking extradition. The Judicial Clerk shall present the request to the Tribal Court.

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c. The Tribal Court shall promptly examine the warrant and request, and shall consider such other relevant information as may be presented to the court by any person. The Tribal Court shall make a preliminary determination of the apparent validity of the warrant.

d. Upon preliminary determination by the Tribal Court of the apparent validity of the warrant, the Tribal Court shall issue a Warrant for Arrest of the alleged offender. Upon arrest of that person pursuant to the Warrant for Arrest issued by the Tribal Court, that person shall be brought before the Tribal Court for a hearing not less than five (5) days after the arrest. Bail may be allowed pending hearing. The court shall conduct a hearing to determine the validity of the warrant issued by the jurisdiction seeking extradition and whether the person who has been arrested is the same person charged in that warrant, and to consider such other relevant circumstances as may be presented to the court. Upon a determination that the warrant from the jurisdiction seeking extradition is valid and that the person in custody before the Tribal Court is the person charged in that warrant, and after considering all other matters presented to the Tribal Court, the court may execute an order, authorizing and directing the removal of the alleged offender by the appropriate officials of the jurisdiction seeking extradition. If the Tribal Court executes such an order, the Judicial Clerk shall then notify the jurisdiction seeking extradition that the alleged offender is in custody, and that he may be removed within five (5) days. If an appropriate official of the jurisdiction seeking extradition does not appear within the allotted time the person in custody shall be released, and he shall not be taken into custody again for the same charge except upon the issuance of a new warrant by the jurisdiction which originally sought extradition.

e. In no case shall a warrant for arrest from the court of another jurisdiction be honored if that jurisdiction, by its laws, rules, or practices, prohibits or refuses to provide reciprocal extradition of persons who may be subject to Warrants for Arrest issued by the Tribal Court.

f. If an order of the Tribal Court authorizing extradition is entered, and, upon appeal to the Appeals Court that order is approved or confirmed, the Tribal Council in its discretion shall have the authority upon the vote of not less than two-thirds (2/3) of its total membership, to direct that the order for extradition be stayed indefinitely, or for such time as may be prescribed by the Tribal Council. Bail may be allowed during such stay, in such amount and on such terms as may be prescribed by the Tribal Court.

CHAPTER B. APPEALS COURT

Section 210. General Provisions.

a. There shall be an Appeals Court consisting of a Chief Judge and two Associate Judges.

b. The Chief Judge of the Appeals Court shall be appointed by the Tribal Council. He shall hold office for a term of two (2) years and shall be eligible for reappointment to successive terms of two (2) years each. The term of office shall commence on the first day of June of even numbered years, and shall end at the last day of May of even numbered years. A person appointed to fill an existing vacancy created by the death, resignation or removal for cause of a Chief Judge shall be appointed initially only for unexpired portion of the term for which the appointment is made, subject to eligibility for reappointment for the next full term. Whenever the office of Chief Judge shall be vacant, or the Chief Judge shall be disqualified to sit on a particular case, the Tribal Council may appoint an acting Chief Judge to sit until the vacancy is filled, or some other lesser term, and shall appoint an acting Chief Judge to sit on the case with respect to which the Chief Judge is disqualified.

c. Associate Judges shall be designated by the Chief Judge of the Appeals Court for each case presented to the Appeals Court as follows:

(1) Judges of the Tribal Court shall be designated if they did not preside over or participate in the case under appeal, and have no prior knowledge of the case.

(2) If the number of Judges designated pursuant to subsection c. (1) is insufficient, Deputy Judges of the Tribal Court shall be designated if they did not preside over or participate in the case under appeal, and have no prior knowledge of the case.

(3) If the number of Judges designated pursuant to subsections c. (1) and c. (2) of this section is insufficient, the Tribal Council shall appoint as Auxiliary Judges that number more judges as are required to be designated. Such Auxiliary Judges shall thereupon be so designated by the Chief Judge of the Appeals Court. Such appointment as an Auxiliary Judge shall be only for the case under appeal, unless the Council shall state a longer time, not to exceed two years.

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d. The eligibility and qualification of a person to serve as a member of the Appeals Court shall be the same as those prescribed for judges of the Tribal Court, except for the exclusion of members of the Appeals Court itself, and except further that such judges may be required to have graduated from an accredited law school.

(1) Prior to the existence of a vacancy, through disqualification or otherwise, the Tribal Council may designate those persons who shall be appointed as acting Chief Judge or as Auxiliary Judges pursuant to subsection b., and c. (3) of this section. Upon the creation of a vacancy, such persons shall automatically be deemed to have been appointed pursuant to subsections b., or c. (3), as the case may be. If a person has been so designated to sit as acting Chief Judge, the Chief Judge of the Appeals Court shall notify such person each time he is required to sit.

(2) The eligibility and qualification of a person to serve as a member of the Appeals Court shall be the same as those prescribed for judges of the Tribal Court, except for the exclusion of members of the Appeals Court itself, and except further that such judges shall be required to have graduated from an accredited law school.

e. The judges of the Appeals Court shall be paid a salary or otherwise compensated in such amounts and in such manner as may be determined by the Tribal Council. Compensation may be by salary, by per diem allowance while they are performing judicial duties, or by other appropriate formula. The rate and method of compensation of the judges of the Appeals Court shall not be reduced during their term of office.

f. The Tribal Council may remove any judge of the Appeals Court for cause on any of the grounds and in accordance with the procedure prescribed in this Code for removal of a judge of the Tribal Court.

g. No judge of the Appeals Court shall participate in any proceeding if he has any interest therein, or any relationship with any person, of the nature which would constitute disqualification of a judge of the Tribal Court from officiating in any proceeding before him, as specified in this Code.

[As Amended October 7, 1981, Ord. No. 26], §§ 1-5; May 8, 1982, Ord. No. 26N, §§ 1-2; June 23, 1982, Ord. No. 26N, § 2(d)(2).]

Section 211. Procedure.

a. The Appeals Court shall have only appellate jurisdiction over criminal and civil matters. Any party to any final order or final judgment of the Tribal Court shall have the right to petition for appeal of that order or judgment to the Appeals Court.

(1) A party wishing to appeal shall file a petition for appeal with the Judicial Clerk within twenty (20) days after entry by the Tribal Court of the final order or final judgment from which he seeks appeal. The petition shall be accompanied by a filing fee as may be designated unless there is submitted an affidavit by the appealing party that he is without funds to pay the filing fee. In that event the filing fee shall be waived pending appeal. The Appeals Court, if it finds that the appellant is without funds to pay the filing fee, shall order that it be permanently waived.

(2) The petition for appeal shall state the reasons for the appeal which shall be limited to the following:

(a) Lack of jurisdiction of the Tribal Court.

(b) Irregularities or improprieties in the proceedings, or by the Tribal Court, the jury, any witness, or any party substantially prejudicial to the rights of petitioner.

(c) Any ruling, order, decision of abuse of discretion which prevented a fair hearing or trial.

(d) Newly discovered material evidence which could not, with reasonable care, have been produced at the trial or hearing.

(e) Insufficient evidence to support the verdict, decision, order or judgment of the jury or Tribal Court.

(f) An error of law substantially prejudicial to the rights of the appellant.

(3) Upon receipt of a petition for appeal, the Judicial Clerk shall promptly notify the Appeals Court, which shall convene en banc to review the petition. If it appears to the Appeals Court, acting unanimously, that the petition for appeal on its face, under a liberal review in favor of the petitioner, has no merit or fails to state any cause for a hearing, the petition shall be

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denied. The Appeals Court shall state in writing its order of denial and the reasons therefore, which order shall direct that the order or final judgment of the Tribal Court be executed. Copies of the order of the Appeals Court shall be served by the Judicial Clerk upon all parties to the proceeding in the Tribal Court. If it appears to one or more members of the Appeals Court that the petition may have merit, it shall grant the petition and set the matter for hearing, on a date no sooner than will permit all parties to the proceeding in the Tribal Court to have at least twenty (20) days notice of the hearing and no later than forty-five (45) days after the petition is granted:

(a) Upon petition for appeal being granted and set for hearing, the Judicial Clerk shall give notice of that hearing to all persons who were parties to the proceeding in the Tribal Court, such notice to be given not less than twenty (20) days prior to the hearing. The notice to each party other than the appellant will include a copy of the petition for appeal;

(b) Any party to an appeal shall be permitted, but not required, to file a written brief with the Appeals Court prior to the hearing, pertaining to any matter or issue included within the petition for appeal. However, if any such brief is filed, copies of it shall be served upon all other parties to the appeal not less than two (2) days prior to the hearing. It shall be served upon such parties in the same manner as prescribed in this Code for the giving of notices.

b. At any hearing of an appeal, the Judicial Clerk will make available to the Appeals Court all records and materials in the file of the Tribal Court in the case from which the appeal is taken, and the Appeals Court shall consider them. In addition, each party to the appeal shall be granted an opportunity to present an argument on all issues raised by the petition for appeal, and to discuss and comment upon all evidence presented to or considered by the Tribal Court and all orders and findings of the Tribal Court, insofar as they pertain to those issues. The Appeals Court shall not conduct a new trial; witnesses shall not appear before it to give testimony; no new evidence shall be presented to it; and the appeal shall be limited to those issues raised by the petition for appeal.

c. In deciding any appeal, the Appeals Court shall prepare a written opinion and decision, setting forth its conclusions and orders, and the reasons therefor. Its decisions shall be in the form of an order of one of the following:

(1) That the order or judgment of the Tribal Court be affirmed.

(2) That the decision of the Tribal Court be reversed, as a matter of law, and the case dismissed.

(3) That the sentence in a criminal case be reduced, for the reason that it exceeds the legally permissible sentence or is so excessive as to constitute an abuse of discretion.

(4) That the form or amount of damages or relief awarded in a civil case by the Tribal Court be reduced, increased, or modified for the reason that the award constitutes an error of law.

(5) That the order or judgment of the Tribal Court be reversed and the case remanded to the Tribal Court for the correction of errors, deficiencies, irregularities, improprieties, or abuse of discretion, or for a new trial on each issue which was the subject of such a defect.

d. All decisions of the Appeals Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in any other cases.

e. The Chief Judge and the Associate Judges of the Appeals Court may establish and promulgate rules of procedure for the conduct of its proceedings, which are not inconsistent with this Code or other governing and applicable law.

f. The Appeals Court shall hear, consider and rule upon all appeals en blanc, except for those judges who are disqualified. Except for the granting of a petition for appeal as provided in this Code, all orders, opinions and decisions of the Appeals Court shall be made upon the concurrence of a majority of the judges of that court hearing the appeal. If by reason of vacancies or disqualification the Appeals Court hearing an appeal consists of an even number, or if by ordinance of the Tribal Council the number of judges of the Appeals Court is increased and consists of an even number, an even division of opinion shall be affirmative of the order or judgment of the Tribal court.

g. Except as may be inconsistent with other provisions of this Code, or are otherwise locally inapplicable because they refer to special federal procedures having no counterpart in the Courts of the Tribes, the Federal Rules of Appellate Procedure are hereby adopted as, and shall be known as the "Tribal Rules of Appellate Procedure," and shall govern the procedure in the Appeals Court. Said rules shall be construed to secure the just and speedy determination of every appellate proceeding.

[As amended on December 14, 1999, by Ordinance 99-3.]

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ARTICLE III

CRIMINAL OFFENSES

[NOTE: Except as otherwise stated, the provisions of Article III of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. GENERAL PROVISIONS

Section 301. General.

The offenses specified in this Article III, and those provided for in other Ordinances of the Tribal Council, constitute forbidden criminal conduct against the Colorado River Indian Tribes. Persons committing such offenses may be tried and punished by the Courts of the Tribes as provided for by this Code; provided, however, such jurisdiction, whether or not exercised, shall not affect the power or authority of any other courts, including those of the United States, which may have jurisdiction.

Section 302. Penalties.

Except for offenses under Article VI of this Code to which this sentence shall not apply, any offense under any Ordinance of the Tribal Council for which no penalty is otherwise specifically provided may be punished by imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. Upon conviction of, or plea of guilty or no contest to, any offense specified by this Code or other Ordinance enacted by the Tribal Council for which imprisonment may be imposed, unless imprisonment is mandatory, the court in its discretion, with the concurrence of the offender, may:

a. Order the offender to perform labor for the Tribes without compensation for a number of days not to exceed the maximum period of imprisonment which could be imposed; or

b. Order the offender imprisoned and upon release from imprisonment to perform such labor, provided that the total number of days of imprisonment and performance of labor together shall not exceed the maximum period of imprisonment which could be imposed.

If performance of labor is ordered it shall be upon the condition that it be diligently and satisfactorily performed upon penalty for noncompliance of imposition of imprisonment. If such condition of performance of labor is not met, the time when such labor was to have been performed shall not be counted in determining the length of maximum duration of imprisonment.

Section 303. Statute of Limitation.

Subject to other express limitations elsewhere specified in this Code, no person shall be prosecuted, tried, or punished for any criminal offense unless

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a complaint thereof, designating that person as the alleged offender, is filed within one (1) year after discovery that the offense was committed by someone. When an offense is based upon a series of acts performed at different times the period of limitation prescribed by this Section commences at the time when the last discovered act is committed.

Section 304. Pleas.

Every person charged with a criminal offense shall enter a plea of guilty or not guilty, or, with the consent of the court a plea of no contest. If a person charged with an offense refuses or fails to enter a plea, including such failure or refusal after a tender of a no contest plea is rejected by the court, the court shall enter a plea of not guilty on behalf of that person.

a. No plea of guilty shall be accepted by the court until the court shall have advised the defendant of the maximum and minimum penalties that the court may impose, that the defendant shall be deemed to have waived his right to trial on all issues, and that the defendant shall be deemed to be admitting his commission of the offense. The court shall not accept a plea of guilty, but shall enter a plea of not guilty on behalf of the defendant, if the court has cause to believe that the defendant does not understand the significance of his tendered plea of guilty.

b. The acceptance or rejection by the court of a tendered plea of no contest shall be within the discretion of the court. Prior to the acceptance by the court of a plea of no contest, the court shall advise the defendant as to the maximum and minimum penalties that the court may impose and his right to trial on all issues. Any person whose plea of no contest is accepted by the court shall be subject to the imposition of all penalties and consequences provided by this Code applicable to a person who has been convicted or pled guilty to such an offense.

Section 305. Double Jeopardy.

If a criminal prosecution is for a violation of the same provision of law and is based upon the same facts as a former prosecution by the Courts of the Tribes, it is barred by the former prosecution if the former prosecution resulted in an acquittal, or if the former prosecution proceeded on the basis of a plea of guilty or no contest, or if the former prosecution resulted in a conviction which has not been reversed or vacated.

Section 306. Presumption of Innocence.

Every person is presumed innocent of any offense with which he is charged until proven guilty. No person shall be convicted of any offense unless his guilt thereof, as to each material element thereof, is proved beyond a reasonable doubt.

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Section 307. Speedy Trial.

a. Except as provided below in this Section, if a defendant is to brought to trial on the issues raised by a complaint of a criminal offense within one (1) year from the date of filing of said complaint, the pending charge shall be dismissed, and the defendant shall not again be the subject of a complaint for the same alleged offense, or for another alleged offense based upon the same act or series of acts arising out of the same criminal conduct or episode.

(1) The time limitation imposed by the foregoing provision of this subsection a. of this section shall be tolled while the alleged offender is absent from the Reservation or is not amenable to the process or jurisdiction of the Courts of the Tribes and the duration of such absence or nonamenability shall be excluded from the computation of the time within which the trial must be commenced.

(2) The period within which a trial must be commenced under the provisions of this subsection a., of this section, does not include any period in which a prosecution in any court of any jurisdiction is pending against the defendant for the same conduct, regardless of the disposition of such pending prosecution.

b. Except as otherwise provided below in this section, if a defendant is not brought to trial on the issues raised by a complaint of a criminal offense within six (6) months from the date of the entry of a plea of not guilty, he shall be discharged from custody if he has not been admitted to bail, and, whether in custody or on bail, the pending charge shall be dismissed, and the defendant shall not again be the subject of a complaint for the same alleged offense, or for another alleged offense based upon the same act or series of acts arising out of the same criminal conduct or episode.

c. The respective requirements for a speedy trial, and the respective periods of time for commencement of trial under either of subsections a. or b. of this Section shall be subject to or modified by, including extension or exclusion of periods of time, by the following further provisions:

(1) If trial results in conviction which is reversed on appeal, any new trial must be commenced within six (6) months from the date of the final decision on appeal.

(2) If a trial date has been fixed by the court, and thereafter the defendant requests and is granted a continuance for trial, the period within which the trial shall be commenced is extended by the number of days intervening between the granting of such continuance and the date to which trial is continued.

(3) If a trial date has been fixed by the court, and thereafter the person charged with responsibility under this Code for the prosecution of the trial requests and is granted a continuance, the time is not thereby extended within which the trial shall be commenced unless the defendant expressly

agrees to the continuance. The time for commencement of trial, in the event of such agreement, is extended by the number of days intervening between the granting of such continuance and the date to which trial is continued.

(4) The requirement under this Section for a trial within a specified period of time shall be deemed to be satisfied if the trial commences within the specified period, even though its conduct may extend beyond the specified period for commencement, provided that its conduct thereafter is with reasonable diligence by the prosecution.

(5) To be entitled to a dismissal under this Section, a defendant must move for dismissal prior to the commencement of the trial. Failure so to move is a waiver of the defendant's rights under this Section.

(6) In computing the time within which a defendant shall be brought to trial as provided in this Section, the following periods of time shall be excluded:

(a) Any period during which the defendant is incompetent to stand trial, or is unable to appear by reason of illness or physical disability;

(b) The period of delay caused by an interlocutory appeal whether commenced by the defendant or by the prosecution;

(c) A reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial has not expired and there is good cause for not granting a severance;

(d) The period of delay resulting from the voluntary absence or unavailability of the defendant; however, a defendant shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained, or he resists being returned to the Reservation for trial;

(e) The period of delay caused by and mistrial, not to exceed three (3) months for each mistrial;

(f) The period of any delay caused at the instance of the defendant;

(g) The period of delay not exceeding six (6) months resulting from a continuance granted at the request of the person or party prosecuting the case, without the consent of the defendant, if the continuance is granted because of the unavailability of evidence material to the prosecutor's case, when the prosecutor has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date.

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Section 308. Affirmative Defense.

Unless the prosecution evidence raises an issue of affirmative defense to an alleged offense, the defendant, to raise the issue, must present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense. Affirmative defenses include but are not necessarily limited to legal justification; lawful authority; justifiable and reasonable defense of self, a third person or property; and those specified elsewhere in this Article III.

Section 309. Multiple Counts.

When the conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not be convicted of more than one offense if:

- a. One offense consists only of an attempt to commit the other, or
- b. Inconsistent findings of fact are required to establish the commission of the offenses; or
- c. The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or
- d. The offense is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless the law provides that specific periods or instances of such conduct constitute separate offenses.

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

Section 310. Intoxication.

Intoxication of the defendant is not a defense to the charge of a criminal offense, but in any prosecution for an offense evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negative the existence of a specific intent if such intent is an element of the crime charged. "Intoxication" as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of a substance into the body including, but not limited to, alcohol or drugs.

Section 311. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the act or conduct constituting commission of the offense, he aids, abets, or advises such other person in planning or committing the offense.

Section 312. Federal Standards.

Insofar as they are not inconsistent with (a) this Code or other Ordinances of the Tribal Council, (b) the lawful tradition and policies of the Tribes and the Courts of the Tribes, or (c) other governing or applicable law, the standards of, (i) statutory interpretation, (ii) admissibility of evidence, and (iii) criminal judicial procedure, including determination of the elements of an offense, of the federal courts of the United States may be referred to by the Courts of the Tribes to aid in the interpretation and application of this Article III, and in the conduct of criminal procedures under this Code. Nothing contained in this Section shall be deemed to deprive the Courts of the Tribes or the Tribal Council from establishing, by decision or enactment, such other or differing standards as they may deem appropriate, subject always to any limitations, restrictions or exceptions imposed by and under the authority of the Constitution or By-Laws of the Tribes, or the Constitution or laws of the United States.

CHAPTER B. INCHOATE OFFENSES

Section 313. Criminal Attempt.

A person commits the separate offense of criminal attempt if he intentionally engages in conduct constituting a substantial step toward commission of another specified offense. A substantial step is any conduct, whether act, omission, or possession which is corroborative of the actor's intent to commit the other offense. Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt if the other offense would have been committed had the attendant circumstances been as the actor believed them to be. A person who engages in conduct intending to aid another to commit any offense commits criminal attempt if the conduct would establish his complicity under Section 311, Chapter A, of this Article III were the offense to be committed by the other person, even if the other person is not guilty of committing or attempting the offense. A person guilty of criminal attempt may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the other offense, whether or not committed, of which the attempt was made.

[As Amended January 11, 1992, Ord. No. 92-1, § 2.]

Section 314. Conspiracy.

A person commits the offense of criminal conspiracy if, with the intent to promote or facilitate the commission of another specified offense, he agrees

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

a. No person may be convicted of a conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

b. If a person knows that one with whom he conspires to commit an offense has conspired with another person or persons to commit the same offense, he is guilty of criminal conspiracy to commit such other offense with such other person or persons, whether or not he knows their identity.

A person guilty of criminal conspiracy may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the offense which was the subject of the conspiracy, whether or not such other offense was committed.

[As Amended January 11, 1991, Ord. No. 92-1, § 2.]

Section 315. Solicitation.

Except as to authorized acts of persons authorized by law to investigate and detect the commission of offense by others, a person is guilty of criminal solicitation if he commands, induces, entreats, or otherwise attempts to persuade another person to commit an offense, whether as principal or accomplice, with intent to promote or facilitate the commission of that crime. It is no defense to a prosecution under this Section that the person solicited could not commit or could not be guilty of the offense because of lack of responsibility or culpability, or other incapacity. A person guilty of criminal solicitation may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the offense which was the subject of the solicitation whether or not it was committed.

[As Amended January 11, 1991, Ord. No. 92-1, § 2.]

CHAPTER C. OFFENSES AGAINST PERSONS

Section 316. Criminal Homicide.

A person commits the offense of criminal homicide if:

a. He intentionally causes the death of another person without legal justification; or

b. With intent to cause bodily injury to a person without legal justification, or to assault, threaten, menace, intimidate, or endanger any person he causes the death of that person or any other person; or

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c. Acting either alone or with one or more persons, he voluntarily commits or participates in the commission or attempt to commit arson, robbery, burglary, kidnapping, assault, or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or of immediate flight therefrom by anyone, the death of a person is caused; or

d. He recklessly or by gross negligence causes the death of another person; or

e. Under circumstances manifesting indifference to the value of human life, he intentionally engages in conduct which creates significant risk of injury or death to a person, and thereby causes the death of another person; or

f. He operates a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drug or other intoxicant, and such conduct causes the death of another person.

A person guilty of criminal homicide may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

Section 317. Assault.

A person commits the offense of assault if:

a. He intentionally causes bodily injury to another person without legal justification; or

b. With intent to assault, threaten, menace, intimidate, or endanger any person he causes bodily injury to another person; or

c. Acting either alone or with one or more persons, he voluntarily commits or participates in the commission or attempt to commit criminal homicide, arson, robbery, burglary, kidnapping, or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or of immediate flight therefrom by anyone, bodily injury to another person is caused; or

d. If he recklessly or by gross negligence causes bodily injury to another person; or

e. Under circumstances manifesting indifference to the value of human life, he intentionally engages in conduct which creates significant risk of injury to a person, and thereby causes bodily injury to another person; or

f. He operates a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drug or other intoxicant, and such conduct causes bodily injury to another person.

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A person guilty of assault not involving the use of a deadly weapon or a dangerous instrument, and where serious physical injury does not occur, may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of assault involving the use of a deadly weapon or a dangerous instrument, or where serious physical injury occurs, may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 3.]

Section 318. Threats or Endangerment.

A person commits an offense if he:

- a. By any threat or physical action, intentionally places or attempts to place another person in fear of bodily injury; or
- b. Without lawful authority or legal justification threatens to confine, restrain, or to cause bodily harm to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an act or refrain from doing a lawful act; or
- c. Recklessly engages in conduct which creates a significant risk of bodily injury to another person.

A person guilty of an offense under this Section may be sentenced to imprisonment for a period of not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 319. Kidnapping.

A person commits the offense of kidnapping if:

- a. He forcibly or otherwise seizes and carries any person from one place to another without his consent and without legal justification or lawful authority; or
- b. He entices, takes, or decoys away any child under the age of eighteen (18) years not his own, with intent to keep or conceal the child from its parent, guardian or lawful custodian; or
- c. He intentionally confines, restrains or detains another without the other's consent and without legal justification or lawful authority; or
- d. He is a natural, adoptive or foster parent of a child under the age of eighteen (18) years, but knowing or having reasonable cause to know that he has no privilege to do so, he takes or entices such child from the custody of another parent, guardian or lawful custodian.

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A person guilty of kidnapping may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 320. Unlawful Sexual Behavior.

a. Rape. Any male who has sexual intercourse with a female person not his wife commits the offense of rape if:

(1) He compels her to submit by force, or by threat of death, bodily harm, physical pain, or kidnapping, to be inflicted upon her or anyone else; or

(2) He has substantially impaired her power to appraise or control his or her conduct by administering or employing without her consent or knowledge, any drug, intoxicant, or other means for the purpose of preventing awareness or resistance; or

(3) The female is unconscious; or

(4) He knows or reasonably should know that the female is of such a state of consciousness or of mind, or that she suffers from a mental disease or defect, which renders her incapable of recognizing the nature of his or her conduct; or

(5) The female is less than eighteen (18) years of age.

Penetration however slight constitutes sexual intercourse for the purpose of this subsection a.

A person guilty of rape may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

b. Deviate Sexual Contact. Any person commits the offense of deviate sexual contact with another person if:

(1) He compels another person to participate by force, or by threat of death, bodily harm, physical pain, or kidnapping, threatened to be inflicted upon the victim or anyone else; or

(2) He has substantially impaired the victim's power to appraise or control either person's conduct by administering or employing without the victim's consent or knowledge, any drug, intoxicant, or other means for the purpose of preventing awareness or resistance; or

(3) The victim is unconscious; or

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(4) He knows or reasonably should know that the victim is of such a state of consciousness or of mind, or that the victim suffers from a mental disease or defect, which renders the victim incapable of recognizing the nature of either person's conduct; or

(5) The victim is less than eighteen (18) years of age.

The term "deviate sexual contact" as used in this subsection b. means any act of sexual gratification between human beings who are not husband and wife, involving contact of the genital organs of one and any other orifice of the body of another. A person guilty of deviate sexual contact may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

c. Sexual Assault. Any person who subject another person not his spouse to any sexual contact commits the offense of sexual assault if:

(1) He knows or reasonably should know that the sexual contact is offensive to the other person; or

(2) He has substantially impaired the power of the other person to appraise or control either person's conduct by administering or employing without consent or knowledge of the other person any drug, intoxicant or other means for the purpose of preventing awareness or resistance; or

(3) He knows or reasonably should know that the other person is of such a state of consciousness or of mind, or that the other person suffers from a mental disease or defect, which renders that person incapable of recognizing the nature of either person's conduct; or

(4) The other person is less than eighteen (18) years of age.

The term "sexual contact" as used in this subsection c. is any intentional touching of the genital organs of a male or female person, or the breasts of a female person, or any portion of the body of a female person between the knees and a line around the circumference of the abdomen at the point of the navel, whether the touching is on the bare skin or on intervening clothing. Any person guilty of sexual assault may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

d. Special Limitation. No prosecution may be instituted or maintained for rape, deviate sexual contact, or sexual assault unless the alleged offense was brought to the notice of the Tribal Police Department or other law enforcement official within thirty (30) days after its occurrence, except when the alleged victim is less than sixteen (16) years of age or otherwise incompetent to make complaint at the expiration of said thirty (30) day period. In such case, notice to the Tribal Police Department or other law enforcement official is sufficient if given within thirty (30) days after a parent, guardian, or other competent person specially interested in the victim learns of the offense, or

within thirty (30) days after the victim attains the age of sixteen (16) years or the other incompetency is removed, whichever is the shortest period.
[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

CHAPTER D. OFFENSES AGAINST PROPERTY.

Section 321. Arson.

A person who, without legal justification or lawful authority to do so, intentionally sets fire to, burns, causes to be burned, or by the use of any explosive damages or destroys, or causes to be damaged or destroyed, any property of another, including public property or that of any unit of government, or in which another has any legally recognizable interest, commits the offense of arson. A person guilty of arson may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 322. Burglary.

A person commits the offense of burglary if:

a. He knowingly enters, breaks into or remains unlawfully in a building or other structure with intent to commit therein a crime against a person or property, other than criminal trespass as defined in Section 327; or

b. Without legal justification or lawful authority he enters or breaks into any vault, safe, cash register, coin vending machine, product dispenser, money depository, safety deposit box, telephone coin box, vehicle, or other apparatus or equipment whether or not coin operated with intent to take, use, or steal such object or facility or anything therein.

A person guilty of burglary may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 323. Robbery.

A person who, without legal justification or lawful authority, takes anything of value from the person or presence of another by the use of force, threats, coercion, or intimidation commits the offense of robbery. A person guilty of robbery may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

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Section 324. Theft.

A person commits the offense of theft when he knowingly obtains or exercises control over any thing of value of another without authorization, or by threat or deception, or knowing said thing of value to have been stolen; and

a. Intends to deprive such other person permanently of the use or benefit of the thing of value; or

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

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

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

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

A person guilty of theft wherein the value of the thing of value stolen does not exceed Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of theft wherein the value of the thing of value stolen exceeds Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00) or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 4.]

Section 325. Illegally Receiving Property.

A person guilty of illegally receiving property wherein the value of the property illegally received does not exceed Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of illegally receiving property wherein the value of the property illegally received exceeds Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 5.]

Section 326. Abusing Property.

A person commits the offense of abusing property if, without legal justification or lawful authority, he knowingly uses or damages any property not exclusively his own. A person guilty of abusing property may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 327. Criminal Trespass.

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

- a. Written or verbal communication actually given to the intruder;
- or
- b. Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
 - c. Fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

A person guilty of criminal trespass may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 328. Joyriding.

A person who drives or takes away any motor vehicle without the consent of the owner or lawful possessor thereof, or participates with any other person in such conduct, with the intent of temporarily depriving the owner or rightful possessor of the use of the same, or of temporarily making use thereof, commits the offense of joyriding. For the purpose of this Section, "temporarily depriving" and "temporarily making use" shall refer to a period of time of not more than twenty-four (24) hours. If the offender intends to use or deprive the owner or rightful possessor of the use of the motor vehicle and in fact the owner or rightful possessor is deprived of the use of the motor vehicle, for a period in excess of twenty-four (24) hours, it shall be conclusively presumed that the person driving or taking away the motor vehicle without the consent of the owner or lawful possessor thereof intended to permanently deprive the owner or lawful possessor of its use and benefit. A person guilty of joyriding may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both; provided, however, that if the vehicle is damaged while the owner or lawful possessor thereof is deprived of its use, the offender may be sentenced to imprisonment for a period not to exceed three (3) months or a fine not to exceed Five Hundred Dollars (\$500.00); or both.

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Section 329. Littering.

Any person who deposits, throws, dumps, discards, abandons, or leaves any litter on any public or private property or waters commits the offense of littering, unless:

(1) Such property is an area designated by law for the disposal of such litter and such person is authorized by the proper public authority to so use such property; or

(2) The litter is placed in a receptacle or container installed on such property for such use by the public or such person placing litter in it; or

(3) Such person is the owner or tenant in lawful possession of such property, or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant.

The term "litter" as used in this Section means all rubbish, waste material refuse, garbage, trash, debris, or other foreign substances, solid or liquid, of every form, size, kind and description. A person guilty of the offense of littering may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

CHAPTER E. OFFENSES INVOLVING FRAUD OR DECEIT

Section 330. Forgery.

A person commits the offense of forgery if with intent to defraud he falsely makes, completes, alters, offers, issues, utters, delivers, files, or submits a written instrument or any portion thereof, for the purpose of obtaining money or other consideration or thing of value, for himself or any other person. A person guilty of forgery may be punished by imprisonment not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 331. Fraud.

A person commits the offense of fraud if he obtains money, property, gain, advantage, credit, interest or asset from another by intentional misrepresentation or deceit. A person guilty of fraud may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 332. Passing Bad Checks.

A person commits the offense of passing a bad check when he makes, utters, issues, delivers or passes a written order to pay a sum of money, drawn on a bank, payable on demand or at a time certain, and signed by the drawer, when the person so acting knows or has reasonable cause to know at that time the order will not be paid or honored by the drawee because of insufficient funds or the lack of an account of the drawer deposited or on account with the drawee. A person guilty of passing a bad check may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

CHAPTER F. OFFENSES INVOLVING PUBLIC PEACE, WELFARE, ORDER AND GOVERNMENT OPERATIONS.

Section 333. Bribery.

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

(1) He offers, confers, bestows or agrees to confer or bestow any personal or pecuniary benefit, gain, privilege or advantage upon a public servant, or other person designated or agreed to by the public servant, with the intent to improperly influence the public servant's vote, opinion, judgment exercise of discretion, or other action or inaction in his official capacity; or

(2) While serving as a public servant, he solicits, accepts, or agrees to accept any personal or pecuniary benefit, gain privilege or advantage directed to himself or another person designated or agreed to by the public servant, upon an agreement or understanding that the vote, opinion, judgment, exercise of discretion, or other action or inaction by him as a public servant will be influenced thereby.

The term "public servant" as used in this Section means any officer, agent, representative, or employee of an entity or jurisdiction of government, including that of the Colorado River Indian Tribes, the United States, or any state or division thereof, whether elected or appointed, and any person participating as an advisor or consultant of government, or otherwise performing a governmental function or a service to a government.

b. A person commits the offense of private bribery, if:

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

(a) Agent or employee; or

(b) Trustee, guardian, or other fiduciary; or

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(c) Lawyer, physician, accountant, appraiser, or other professional advisor; or

(d) Officer, director, partner, manager, or other participant in the affairs of an incorporated or unincorporated firm, enterprise, company or association; or

(e) Duly elected or appointed representative or trustee of a labor organization or a trust fund; or

(f) Arbitrator or other purportedly disinterested adjudicator or referee; or

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

a. A person commits the offense of bribery in sports, if:

(1) He offers, confers, bestows, or agrees to confer or bestow any benefit upon threatens any detriment to a participant or official in a sports contest or event, directed either to that person or such other person as may be designated or agreed to by that person, with the intent to influence that person not to give his best efforts as a participant or with intent to influence him to perform his duties as an official improperly; or

(2) Being a sports participant or official in a sports contest he accepts, agrees to accept, or solicits any benefit, directed to himself or such other person as may be designated or agreed to by him, from another person upon an understanding that he will thereby be influenced not to give his best and honest efforts as a participant or official in a sports contest.

b. A person guilty of public bribery, private bribery, or bribery in sports may be sentenced to imprisonment for a period not to exceed one (1) months, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 334. Abuse of Office.

A person commits the offense of abuse of office if with corrupt intent he acts or purports to act in an official capacity, including willful failure to act, so as to obtain any personal or pecuniary benefit, gain, advantage or privilege to which he is not entitled in or by the performance of his official duties. A person guilty of abuse of office may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 335. Riot.

As used in this Section the term "riot" means a public disturbance involving an assemblage of three (3) or more persons which by tumultuous and violent conduct creates substantial danger of damage or injury to property or persons or substantially obstructs the performance of any lawful governmental function. A person commits the offense of rioting if he engages in a riot. A person commits the offense of inciting a riot if he:

- a. Incites or urges a person to participate or engage in a current or potential riot; or
- b. Gives commands, instructions, or signals to other persons in furtherance of a riot; or
- c. Knowingly supplies a weapon or destructive device for use in a riot; or
- d. Teaches another to prepare or use a weapon or destructive device with intent that it be used in a riot.

A person guilty of rioting or of inciting to riot may be sentenced to imprisonment for a period not exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 336. Disobedience of Public Safety Orders Under Riot Conditions.

A person commits the offense of disobedience of a public safety order under riot conditions if during a riot, or when one is impending, he intentionally disobeys a reasonable public safety order to move, disburse, or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the safety of persons or property, issued by an authorized member of the police, fire, military, or other governmental force concerned with the riot. A person guilty of disobedience of a public safety order during riot conditions may be sentenced to imprisonment for a period not to exceed five (5) days or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 337. Obstructing Highway or Other Passageway.

A person commits the offense of obstructing a highway or other passageway if without legal privilege he intentionally, knowingly or recklessly:

- a. Obstructs a highway, street, sidewalk, railway, water way, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access; or any other place used for the

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passage of persons, vehicles, or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

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

A person guilty of obstructing a highway or other passageway may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 338. Trespass or Interference in Public Buildings.

A person commits the offense of trespass or interference in public buildings if he so conducts himself at or in any public building or facility owned or controlled by the Tribes or any other governmental entity, so as to willfully deny to any public official, public employee, or member of the public the lawful rights of such person to enter, to use the facilities of, or to leave any such public building or facility. It shall also be an offense under this Section for any person:

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

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

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

A person guilty of trespass or interference in public buildings may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 339. Obstructing Performance of Police Duties.

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

- a. Creating or appearing to create a risk of bodily harm to the officer or any other person; or
- b. Employing means or threatening to employ means which would justify or require force on the part of the officer to overcome them; or
- c. Escaping, attempting to escape, or assisting or attempting to assist another to escape from custody of the officer.

A person guilty of obstructing performance of police duties may be imprisoned for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 340. Desecration.

A person commits the offense of desecration if he intentionally defaces, damages, pollutes, or otherwise physically mistreats or destroys in any way any public monument, public structure or facility, or place of worship or burial, or desecrates in a public place any other object of veneration or respect by the public or a significant segment thereof. A person guilty of desecration may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 341. Disobedience of a Court Order.

A person commits the offense of disobedience of a court order if he willfully disobeys any outstanding order, subpoena, warrant or command duly issued by the Courts of the Tribes or of any judge thereof. A person guilty of disobedience of a court order may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 342. Perjury.

A person commits the offense of perjury if he makes any sworn statement, either in writing or orally, or a sworn affidavit, knowing or having reasonable cause to know the same to be false, or if he induces another person to do so. A person guilty of perjury may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Three Hundred Dollars (\$300.00), or both; provided, however, that if any other person is unjustly deprived of liberty or property, or the use or benefit thereof, as a

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result of such perjury, the sentence therefor may be imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 343. Disorderly Conduct.

A person commits the offense of disorderly conduct if he intentionally, knowingly, or recklessly:

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

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

c. Abuses or threatens a person in a public or private place in a manner calculated to place the threatened person in fear of bodily harm; or

d. Makes unreasonable noise in a public place, or on or near private property that he has no right to occupy; or

e. Fights with another in a public or private place; or

f. Not being lawfully authorized or privileged to do so discharges a firearm in a public or private place; or

g. Not being legally authorized to do so, displays a deadly weapon in a public or private place in a manner calculated to alarm; or

h. Not being legally justified to do so disrupts any lawful public or religious meeting or assembly; or

i. Lies or sleeps on any public street, alley or sidewalk, or in any other public place, or upon private property that he has no right to occupy.

Any person guilty of disorderly conduct may be sentenced to imprisonment for a period not to exceed fifteen (15) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both.

[As Amended December 10, 1976, Ord. No. 26F.]

Section 344. Causing or Maintaining a Public Nuisance.

A person commits the offense of causing or maintaining a public nuisance if he:

- uses; or
- permits to be used; or
- allows to be in such condition,

any real or personal property under his control so as to damage, injure or endanger the health, safety or property of another person or the public. A person guilty of causing or maintaining a public nuisance may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both, and may be ordered by the court to abate or eliminate the nuisance. Such an order to abate or eliminate the nuisance shall include the identification of the nuisance and the period of time in which it must be abated or eliminated.

Section 345. Carrying a Concealed Weapon.

A person commits the offense of carrying a concealed weapon if, without legal justification, or lawful authority as hereinafter provided, he knowingly carries concealed on or about his person a knife, firearm, or other dangerous weapon as hereinafter defined.

a. It shall be an affirmative defense that the accused was:

(1) Lawfully authorized to carry such knife, firearm or other dangerous weapon concealed on or about his person, which lawful authority shall be by permit issued by the Tribal Council or such other authority designated by it, or by written permit or other authority of the United States;

(2) A police or other law enforcement officer of the Tribes or the United States acting in the performance of his official duties; or

(3) Was in his own dwelling, or place of business, or on property owned or under his control at the time of the act of carrying; or

(4) Was in a private automobile or other means of conveyance and was carrying the weapon therein for lawful protection of his or another person's person or property while traveling.

b. The following definitions apply to this Section:

(1) "Knife" means any dagger, dirk, knife, sword, spear, or stiletto with a blade over three and one-half (3½) inches in length, or any other instrument capable of inflicting cutting, stabbing, or tearing wounds, but it does not include a hunting or fishing knife carried for sports or other lawful use.

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(2) "Firearm" means any gun, revolver, pistol, rifle, shotgun, or other weapon which discharges a projectile by explosive force.

(3) "Dangerous weapon," in addition to a firearm or knife, includes any dart, blow-gun, air or pellet gun, non-safety razor, blackjack, billy club, sand club, sand bag, any hand-operated striking weapon consisting at the striking end of an encased heavy substance or at the handle end a strap or springy shaft which increases the force of impact, any device designed for propelling by release of gas or spring pressure, any device designed to discharge chemicals as an offensive or defensive weapon, a bomb or any other explosive or incendiary device or Molotov cocktail, brass knuckles or other device intended to be worn on the hand or other part of the body for infliction of injury to another person.

A person guilty of carrying a concealed weapon may be sentenced to imprisonment for a period not exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 346. Adultery.

A person commits the offense of adultery by having voluntary sexual intercourse with another person if either of such persons is married to a third person; provided, however, it shall be an affirmative defense of a person charged with adultery that such person had no knowledge or reasonable cause to have knowledge that either participant was married to a third person. A person guilty of adultery may be sentenced to imprisonment for a period not to exceed fifteen (15) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both. No prosecution may be instituted or maintained for adultery except upon the complaint of a spouse of either of the offenders, nor unless criminal proceedings are commenced by such person by the filing of a written complaint within thirty (30) days after discovery by the complainant of the alleged adultery.

Section 347. Unlawful Cohabitation.

A person commits the offense of unlawful cohabitation if that person customarily or regularly lives or cohabits with another person as husband and wife, not being married to such other person. A person guilty of unlawful cohabitation may be sentenced to imprisonment for a period not to exceed five (5) days, or a fine not to exceed Fifty Dollars (\$50.00), or both.

Section 348. Bigamy.

A person is guilty of the offense of bigamy if knowing or having reasonable cause to know that he is then married, he marries another person, or he marries another person knowing or having reasonable cause to know that such other person is then married to a third person. A person guilty of bigamy may be sentenced to imprisonment for a period not to exceed three (3)

months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 349. Incest.

A person commits the offense of incest who knowingly marries or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood. A person guilty of incest may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not exceed two Hundred and Fifty Dollars (\$250.00), or both.

Section 350. Indecent Exposure.

A person commits the offense of indecent exposure by deliberately exposing the genital organs of a person to the view of another person or persons or by exposing them under such circumstances that the exposing person has reasonable cause to know that such exposure may be viewed by another person or persons, if in either event the exposing person knows or has reasonable cause to know the conduct may offend some person or persons viewing the same. A person guilty of indecent exposure may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 351. Prostitution and Related Offenses.

a. A person who performs, offers, or agrees to perform any act of sexual intercourse, or any act of deviate sexual contact with any person not the spouse of the offender in exchange for money or any other thing or consideration of value commits the offense of prostitution. A person guilty of prostitution may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

b. A person commits the offense of solicitation for prostitution if that person:

- (1) Solicits another for the purpose of prostitution; or
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Knowingly grants or permits the use of a place of which the person has or exercises control for the purpose of prostitution; or
- (4) Knowingly lives on or is supported or maintained in whole or in part by money or other consideration or thing of value earned, received, procured, or realized by any person through prostitution; or

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(5) By word, gesture, or action endeavors to further the practice of prostitution in any public place or within public view; or

(6) Who furnishes or makes available to another person any facility, knowing that the same is to be used for or in aid of prostitution, or who shall advertise in any manner that he furnishes or is willing to furnish or make available any such facility for such purpose.

A person guilty of soliciting for prostitution may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

c. A person who engages in any act of sexual intercourse or of deviate sexual contact with a prostitute commits the offense of patronizing a prostitute. A person guilty of patronizing a prostitute may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 352. Offenses Concerning Liquor.

a. **Illegal Consumption of Liquor.** A person commits the offense of illegal consumption of liquor if he consumes any malt, vinous or spirituous liquor in any public place except on premises upon which there is lawful authority to sell such liquor by the drink for consumption thereon. Possession of a container of malt, vinous or spirituous liquor on which the United States excise tax seal has been broken or removed, or from which the cap, cork, or seal placed thereon by the manufacturer has been removed shall constitute a rebuttable presumption of consumption. A person guilty of illegal consumption of liquor may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

b. **Delivery of Liquor to a Person Under the Age of Twenty-One.** A person commits the offense of delivering liquor to a person under the age of twenty-one (21) if he sells, furnishes, procures for, or knowingly assists in the furnishing of any malt, vinous or spirituous liquor to any person under the age of twenty-one (21) years. A person guilty of delivery of liquor to a person under the age of twenty-one (21) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

c. **Under Age Possession of Liquor.** A person under the age of twenty-one (21) years commits the offense of under age possession of liquor if he buys, receives, possesses, or consumes, or attempts to buy, receive or possess any malt, vinous or spirituous liquor. Violations of this subsection committed by persons under the age of eighteen (18) years shall be handled in accordance with Article 1. of the Domestic Relations Code of the Colorado River Indian Tribes. A person under the age of twenty-one (21) years who is guilty of underage possession of liquor may be confined in an appropriate facility for a period not to exceed thirty (30) days, or required to pay a fine in an amount not to exceed Fifty Dollars (\$50.00), or both.

d. For the purposes of this Section, malt, vinous or spirituous liquor includes beer and any other beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination thereof in water; wine and fortified wines and any other alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural product containing sugar; and any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, including brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is manufactured primarily for beverage purposes.

[As Amended, October 11, 1986, nunc pro tunc August 9, 1986, Ord. No. 86-3.]

Section 353. Public Intoxication.

A person commits the offense of public intoxication if he appears in any public place manifestly under the influence of alcohol, narcotics, or other drugs to the degree that he may endanger himself or other person or property. A person guilty of public intoxication may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 354. Possession or Furnishing of Narcotics.

a. A person commits the offense of possession or furnishing of narcotics if he knowingly possesses, manufactures, transports, sells, consumes, uses, cultivates, or trades in any of the following:

(1) Marijuana or any portion of the plant *cannabis sativa* L. or any substance containing it; or

(2) Opium, morphine, codeine, hashish, or heroin; or

(3) Any drug or other substance identified or defined as a "controlled substance" under the provisions of Chapter 13, Title 21, United States Code, as amended to the date of the offense.

This Section shall not apply to the possession, furnishing or use of any substance for medical purposes under the prescription or supervision of a person licensed by the United States or one of the states thereof to administer, prescribe, control or dispense such substance. A person guilty of the offense of possession of narcotics may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both; provided, however that if any person over the age of eighteen (18) years is guilty of an offense under this Section by providing or furnishing such substance to a person under the age of eighteen (18) years, the maximum sentence specified hereunder shall be imposed in its entirety by the court.

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b. Seizure of Vehicles used in Narcotics Violations:

(1) The interest of legal owner or owners of record of any vehicle used to transport unlawfully a narcotic drug, or in which a narcotic drug is unlawfully kept, deposited or concealed, or in which a narcotic is unlawfully possessed by an occupant, shall be forfeited to the Tribes.

Any peace officer making or attempting to make an arrest for a violation of this Section shall seize the vehicle used to transport unlawfully a narcotic drug, or in which a narcotic drug is unlawfully possessed by an occupant, and shall immediately deliver the vehicle to the Tribal Chief of Police.

(2) A peace officer who seizes a vehicle under the provisions of this Section shall file a notice of the seizure and intention to institute forfeiture proceedings with the Judicial Clerk of the Tribal Court, and the Judicial Clerk shall serve notice thereof on all owners or claimants of the vehicle, by one of the following methods:

a. Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles where the vehicle is registered and licensed, by mailing a copy of the notice by registered mail to the address on the records of the appropriate motor vehicle division.

b. Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his last known address.

c. Upon an owner or claimant whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation on the Reservation.

(3) Within twenty (20) days after the mailing or publication of a notice of seizure, as provided, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice of seizure and of the intended forfeiture proceedings. No extension of time shall be granted for the purpose of filing the answer.

(4) If a verified answer to the notice given as prescribed by this Section is not filed within twenty (20) days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, and upon motion shall order the vehicle forfeited to the Tribes.

(5) A claimant of any right, title or interest in the vehicle may prove his lien, mortgage or conditional sales contract to be bona fide, and his right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without knowledge that the vehicle was being, or was to be used for the purpose charged, but no person who has a lien dependent upon possession for the compensation to which he is legally entitled for making repairs or performing labor upon and furnishing supplies or materials, for, and for the storage, repair

or safekeeping of any vehicle and no person doing business under any law of a state or the United States relating to banks, trust companies, building and loan associations, and loan companies, credit unions, or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or of purchasing conditional sales contracts on vehicles shall be required to prove that his right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

(6) If proper proof is presented at the hearing, the court shall order the vehicle released to the bona fide owner, lien holder, mortgagee or vendor if the amount due him is equal to, or in excess of, the value of the vehicle as of the date of seizure, it being the purpose of this Section to forfeit only the right, title or interest of the purchaser.

(7) If the amount due the claimant is less than the value of the vehicle, the vehicle shall be sold at public auction by the Tribal Chief of Police.

(8) When a vehicle is seized, forfeited and sold under the provision of this Section, the net proceeds of the sale shall be distributed as follows and in the order indicated:

(a) To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the vehicle, if any, up to the amount of his interest in the vehicles, when the court declaring the forfeiture orders a distribution to such person.

(b) The remainder, if any, to the Tribal Treasurer, for deposit in the General Fund.

(9) If the court finds that the vehicle was not used to transport narcotic drugs, it shall order it released to the owner as his right, title or interest appears of record as the date of the seizure.

(10) Exemption. The provisions of this Section relating to forfeiture of vehicles shall not apply to a common carrier or to a peace officer acting within the scope of his employment.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 355. Inhaling Toxic Vapors.

A person commits the offense of inhaling toxic vapors if he, for the purpose of becoming intoxicated or subjecting himself to the influence of them, willfully inhales the vapors or fumes of paint, gasoline, glue or any other substance producing intoxicating fumes or vapors. A person guilty of inhaling toxic vapors may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

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Section 356. Child Abuse.

A person commits the offense of child abuse if he knowingly, intentionally, or negligently, and without legal justification, causes or permits a person under the age of eighteen (18) years to be:

- a. Placed in a situation that may endanger its life or health; or
- b. Exposed to the inclemency of the weather; or
- c. Abandoned, tortured, cruelly confined, or cruelly punished; or
- d. Deprived of necessary food, clothing or shelter.

A person guilty of child abuse may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 357. Contributing to the Delinquency of a Minor.

A person commits the offense of contributing to the delinquency of a minor if he knowingly causes, encourages or assists a person under the age of eighteen (18) years to be delinquent. For purposes of this Section 357, delinquent shall mean (1) a child who has violated a law of the Tribes or of a federal or state government, or any political subdivision thereof; (2) a child who, by reason of being incorrigible or habitually disobedient, is uncontrolled by his parents, guardian or custodian; (3) a child who is habitually truant from school or home; (4) a child who knowingly and habitually acts so as to injure or endanger the morals or health of himself or others. A person guilty of contributing to the delinquency of a minor may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

[As Amended March 10, 1990, Ord. No. 90-2, § IIa.]

Section 358. Cruelty to Animals.

A person commits an offense of cruelty to animals if, except as otherwise authorized by law or with legal justification, he intentionally or recklessly:

- a. Subjects any animal to mistreatment; or
- b. Subjects an animal in his custody to neglect; or
- c. Abandons any animal; or
- d. Kills or injures any animal belonging to another,

A person guilty of cruelty to animals may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Fifty Dollars (\$50.00), or both.

Section 359. Soliciting Without a License.

A person commits the offense of soliciting without a license if he begs or solicits gifts or donations of money or property door to door, or by telephone, or on the streets, sidewalks or other public places, without a license issued by the Tribal Council or its duly authorized agency or representative. A person guilty of soliciting without a license may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred Dollars (\$200.00), or both.

Section 360. Transmitting False Alarms.

A person commits the offense of transmitting false alarms if he knowingly transmits or causes to be transmitted a false message, report or signal of fire or other emergency to or within any organization dealing with emergencies involving danger to life or property. A person guilty of transmitting a false alarm may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both; provided, however, if the false alarm results directly or indirectly in injury to person or property the person guilty of the offense may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 361. Curfew.

A person commits the offense of violation of curfew if:

a. He is a child under the age of sixteen (16) years and is found in any public place within the Reservation between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M. unaccompanied by a parent, custodian, guardian, or other person having legal responsibility for such child; or

b. He is the parent, custodian, guardian or other person having legal responsibility for a child under the age of sixteen (16) years and permits said child to be in any public place within the Reservation between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M. unaccompanied by a parent, custodian or guardian having such responsibility, or who fails to exercise reasonable supervision and control of such child to prevent such child from being in violation of curfew.

It shall not be an offense under this Section, if a child under the age of sixteen (16) years is traveling directly between his home and an event supervised or under the direct control of a person over the age of eighteen (18) years, nor if the said child is responding to an emergency situation. A person over the age of eighteen (18) years who is guilty of violation of curfew may be sentenced to a fine not to exceed One Hundred Dollars (\$100.00).

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A child under the age of sixteen (16) years who is guilty of violation of curfew, in addition to any other court order or disposition under the provisions of the Domestic Relations Code, may be restricted or confined to appropriate living or other facilities for a period not to exceed thirty (30) days.

[As Amended March 10, 1990, Ord. No. 90-2, § IIb.]

Section 362. Sewage Disposal.

A person commits the offense of improper disposal of sewage if he empties, discharges, permits to accumulate, or deposits upon any land or waters within the Reservation any form or amount of sewage or sewage affluent, except that which has been properly and completely treated in an authorized treatment plant, or which is disposed of in or by a facility and in accordance with procedures approved by the Tribal Council or other agency designated by it. A person guilty of improper disposal of sewage may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 363. Unlawful Repossession.

A person commits the offense of unlawful repossession if he repossesses or attempts to repossess upon the Reservation any personal property for the satisfaction or discharge, in whole or in part, of any claim or debt, or upon the claimed default of any agreement or the terms of any indebtedness unless first he:

a. Executes and delivers to the owner, purchaser, or other person in possession a waiver of claim for any remaining debt or other obligation (including finance and other charges) of the property to be repossessed, and obtains written consent from the debtor not more than five (5) days prior to the time of repossession; or

b. Obtains an order, decree or judgment from the Tribal Court, made and entered after due notice to the debtor and the conduct of a hearing. A duly authorized tribal police officer must accompany any person who has obtained such order, decree or judgment when such person attempts to satisfy or enforce this order, decree or judgment.

A person guilty of unlawful repossession may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred Dollars (\$200.00), or both. In addition, a person guilty of unlawful repossession shall be liable for damages in a civil action brought for that purpose.

Section 364. Contempt Upon The CRIT Flag.

A person commits the offense of contempt upon the CRIT Flag if he knowingly and publicly mutilates, defaces, defiles, burns or tramples upon the CRIT Flag. A person guilty of contempt upon the CRIT Flag may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both. A person not subject to the criminal jurisdiction of the Colorado River Indian Tribes who commits any act or engages in any conduct or activity which constitutes the offense of contempt upon the CRIT Flag shall be expelled from the Reservation.

[As Amended June 11, 1979, Ord. No. 26G, § 1.]

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[Article IV of the Law and Order Code of the Colorado River Indian Tribes, enacted by Ordinance No. 26 on June 22, 1974, including all amendments thereto, was repealed on November 13, 1982 by Ordinance No. 82-1.]

LAW AND ORDER CODE
ARTICLE V
EXPULSION OF NON-MEMBERS

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LAW AND ORDER CODE

ARTICLE V

EXPULSION OF NON-MEMBERS

[NOTE: Except as otherwise stated, the provisions of Article V of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. GENERAL PROVISIONS

Section 501. Who May be Expelled.

a. The following persons are subject to expulsion from the Reservation:

(1) Any natural person who is not a member of the Tribes.

(2) Any corporation, partnership, association, agency or other organization or entity, which is not organized or created under the laws or ordinances of the Tribes, together with its officers, directors, partners, participants, associates, employees, agents and representatives who are not members of the Tribes, and its business, operations and activities.

b. A person who is subject to expulsion from the Reservation may be expelled for any of the following reasons:

(1) Commission of any act or engaging in any conduct or activity which constitutes a criminal offense under this Code or any other ordinance of the Tribes.

(2) Commission of any act or engaging in any conduct or activity within the United States which constitutes a felony, misdemeanor or other criminal offense under the laws of the United States or those of the state, or its political subdivision, in which it occurs.

(3) Commission of any act or acts, or engaging in conduct or activity, demonstrating habitual or substantial disregard for or breach of the Constitution, By-Laws, ordinances and policies of the Tribes, or conducting himself in a manner contrary to the health, safety or general welfare of the Tribes.

Section 502. Limitations.

a. This Article V shall not be applied either:

(1) To deny the free exercise of religion, or to abridge the freedom of speech, or of the press, or the right of people peaceably to assemble and to petition a redress of grievances; or

(2) To take any private property for a public use without just compensation; or

(3) To deny to any person the equal protection of the laws of the Tribes or to deprive any person of liberty or property without due process of law.

b. Any expulsion from the Reservation of any person shall be subject to the terms and provisions of any applicable license, lease, or permit which that person may have or possess, under which that person is entitled to be upon or to conduct activities within the Reservation.

c. Any expulsion from the Reservation of any person shall be subject to all applicable and governing laws of the United States and the Tribes.

Section 503. Violation of Expulsion.

Any person who violates an order of expulsion shall be guilty of an offense under this Code, in addition to any other offenses that person may commit, and that person shall be punished therefor by a fine not to exceed Five Hundred Dollars (\$500.00), or imprisonment not to exceed six (6) months, or both, in addition to any other relief or remedies available to the Tribes.

CHAPTER B. PROCEDURE

Section 504. Complaint and Hearing.

a. Any member of the Tribes may file a complaint with the Tribal Court requesting expulsion of a non-member of the Tribes under this Article. All of the judges of the Tribal Court then holding office shall jointly review the complaint. If there is unanimous agreement of those judges that the complaint, on its face, is totally without merit, it shall be summarily denied by the Tribal Court, and it shall direct the Judicial Clerk to so notify the complainant. If one or more of the judges of the Tribal Court is of the opinion that the complaint may have merit, the Tribal Court shall set the complaint for hearing in the manner of a civil trial.

b. If a complaint is set for hearing, the Judicial Clerk shall give notice of the filing of the complaint and the setting of it for hearing to all persons who may have an interest in it, including the person who is charged by it. The hearing shall not be scheduled or conducted on a date sooner than will permit twenty (20) days advance written notice to the person charged by the complaint. The Judicial Clerk shall insure that service of notice of the complaint and the setting for hearing, together with a copy of the complaint, is made upon the Chairman of the Tribal Council.

c. The hearing will be conducted in the manner of a civil trial. Upon a finding upon the complaint of cause for expulsion, the Tribal Court shall either enter an order of expulsion or, in the discretion of the court and in appropriate circumstances, order that the charged party remedy or eliminate the cause for expulsion within a time and subject to the terms and conditions prescribed by

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the court. An order of expulsion may be suspended by the Tribal Court, upon such reasonable terms and conditions as may be prescribed by the court.

c. Upon a finding by the Tribal Court that upon due consideration there is no cause for expulsion of the non-member, the complaint shall be dismissed.

Section 505. Physical Removal.

Any person ordered expelled from the Reservation who fails or refuses to remove himself and his property within a reasonable time as may be prescribed by the order of expulsion shall be removed, together with his property, by the Tribal Police Department or officers or representatives of the United States.

Section 506. Appeals.

a. Any party to a proceeding commenced for an expulsion may petition the Appeals Court for an appeal of an order of the Tribal Court entered pursuant to this Article V.

b. If an order of expulsion by the Tribal Court is entered, and upon appeal to the Appeals Court that order is approved, the Tribal Council in its discretion shall have the authority, upon the vote of not less than two-thirds (2/3) of its total membership, to stay that expulsion order indefinitely, or for such time as may be prescribed by the Tribal Council. The Tribal Council may prescribe reasonable terms and conditions of such stay which are directed to the remedy or elimination of the cause of expulsion.

Section 507. Emergencies.

Nothing in this Article V shall be deemed to prevent a member of the Tribal Police Department, or officer or representative of the United States, from arresting or taking into custody a non-member whose act or conduct constitutes a criminal offense and poses immediate danger to the health or safety of himself or residents of the Reservation, or damages to property within the Reservation. The Tribal Court shall be notified promptly if such a non-member is arrested or taken into custody by the Tribal Police Department, and it shall proceed expeditiously with the disposition of the matter in accordance with applicable provisions of law.

Section 508. Authority of the United States.

Nothing in this Article V shall be deemed to prevent the apprehension or taking into custody of any non-member under the authority of the United States, or the removal and disposition of such person by the officials or courts of the United States.

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Section 509. Summary Expulsion.

Notwithstanding any other provision of this Chapter, any officer of the Colorado River Indian Tribes Police Department or other authorized law enforcement official of the Tribes may take into custody and transport to the Reservation boundaries, and thereby expel, any person subject to expulsion pursuant to Section 501 of this Article who refuses to sign any citation issued to him by a Tribal law enforcement official, which citation by its terms requires that the person to whom it is issued shall sign and thereby promised to appear before the Tribal Court of the Tribes.

[As Amended February 13, 1982, Ordinance No. 26.)

ORDINANCE NO. 04-02

An Ordinance to amend Article VI, Colorado River Indian Tribes Law and Order Code, for the purpose of more fully providing for the civil enforcement of routine traffic violations and to better protect the health and safety of those utilizing the Colorado River Indian Reservation's highways.

Pursuant to the authority of the Colorado River Indian Tribes (hereinafter CRIT or Tribes), and its authority to enact ordinances on matters of general and permanent interests to the Tribes, the Tribal Council hereby repeals the current Article VI and replaces it with the new Title 16, Law and Order Code, Article VI, Traffic Control and Operations of Vehicles.

Therefore, Ordinance No. 04-02 is hereby enacted, to be effective as of January 27, 2003, as follows:

TITLE 16
LAW AND ORDER CODE
ARTICLE VI
TRAFFIC CONTROL AND OPERATIONS OF VEHICLES

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TITLE 16
LAW AND ORDER CODE
ARTICLE VI
TRAFFIC CONTROL AND OPERATIONS OF VEHICLES

CHAPTER 1. GENERAL PROVISIONS

Section 16-6101. Definitions.

In this Article, unless the context otherwise requires:

(a) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

(b) "Alcohol concentration" if expressed as a percentage means either:

- (1) The number of grams of alcohol per one hundred (100) milliliters of blood.
- (2) The number of grams of alcohol per two hundred ten (210) liters of breath.

(c) "Authorized emergency vehicle" means any of the following:

- (1) A fire department vehicle.
- (2) A police vehicle.
- (3) An ambulance or emergency vehicle of a tribal or municipal department or public service corporation that is designated or authorized by a public authority.
- (4) Any other ambulance, fire truck or rescue vehicle that is authorized by a public authority and that meets liability insurance requirements prescribed by the public authority.

(d) "Bicycle" means a device that is propelled by human power and on which a person may ride and that has either:

- (1) Two (2) tandem wheels, either of which is more than sixteen (16) inches in diameter.
- (2) Three (3) wheels in contact with the ground, any of which is more than sixteen (16) inches in diameter.

(e) "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or

industrial purposes within any six hundred (600) feet along the highway that occupy at least three hundred (300) feet of frontage on one (1) side or three hundred (300) feet collectively on both sides of the highway.

(f) "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows, but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.

(g) "Controlled-access highway" means a highway with respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from except at designated access points.

(h) "Court" means the Colorado River Indian Tribes' Tribal Court, as empowered and established by Title 1, Article XII of the Constitution of the Colorado River Indian Tribes.

(i) "Crosswalk" means:

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs; or, in the absence of curbs, from the edges of the traversable roadway.
- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(j) "Drive" means to operate or to be in actual physical control of a motor vehicle.

(k) "Driver" means a person who drives or is in actual physical control of a vehicle.

(l) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(m) "Flammable liquid" means any liquid which has a flash point of seventy (70) degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(n) "Gross weight" means the weight of a vehicle without the load plus the weight of any load thereon.

(o) "Highway" means any highway, road, street, lane, roadway, trail or path which members of the public are entitled to use, regardless of the nature of its surface or the agency responsible for its maintenance.

(p) "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations.

(q) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines; or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty (30) or more feet apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event the intersecting highway also includes two roadways thirty (30) or more feet apart, then every crossing of two roadways of the highways shall be regarded as a separate intersection.

(r) "Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(s) "Law enforcement officer" means any police officer or deputized member of the Tribes' Department of Fish and Game.

(t) "License" means any license, temporary instruction permit or temporary license issued under the laws of any state which pertains to the licensing of persons to operate motor vehicles.

(u) "Licensee" means a person qualified to drive a motor vehicle and to whom a driver license has been issued.

(v) "Metal tire" means a tire the surface of which in contact with the highway is wholly or partly of metal or other hard, non-resilient material.

(w) "Motor-driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five (5) horsepower.

(x) "Motor vehicle" means a vehicle propelled by the use of motor vehicle fuel.

(y) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or moped.

(z) "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(aa) "Owner" means:

- (1) A person who holds the legal title to a vehicle.
- (2) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.
- (3) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

(bb) "Park" means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of, and while actually engaged in, loading or unloading.

(cc) "Pedestrian" means any person afoot. A person who is not ambulatory and is in a wheelchair or motorized wheelchair is considered a pedestrian.

(dd) "Police officer" means an officer of the Police Department of the Colorado River Indian Tribes duly authorized to direct or regulate traffic, or make arrests or issue civil traffic complaints for violations of traffic regulations within the Reservation.

(ee) "Private road or driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(ff) "Public authority" means the Colorado River Indian Tribes or any agency thereof, the United States government or any agency thereof and any state government or political subdivision thereof.

(gg) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(hh) "Railroad sign or signal" means a sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(ii) "Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(jj) "Recreational vehicle" means a vehicular-type unit which is a portable camping trailer, a motor home, a park trailer, a travel trailer or a portable truck camper.

(kk) "Residential district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

(ll) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or three separate roadways, the word "roadway" as used in this Article shall refer to any such roadway separately, but not to all such roadways collectively.

(mm) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(nn) "Stop," when required, means complete cessation from movement.

(oo) "Stop, stopping or standing," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with directions of a law enforcement officer or traffic-control sign or signal.

(pp) "Through highway" means a highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing when stop signs are erected.

(qq) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

(rr) "Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(ss) "Traffic-control device" means any sign, signal, marking or device placed or erected by or under the authority of a public authority for the purpose of controlling, directing, regulating, warning or guiding traffic. The terms "sign," "signal," "marking" and "device" may be used, in this Article, interchangeably with traffic-control device and with each other.

(tt) "Tribes" means the Colorado River Indian Tribes.

(uu) "Tribal Council" means the Colorado River Indian Tribes Tribal Council, as empowered and established by Title 1, Article IV, Section 1 of the Constitution of the Colorado River Indian Tribes.

(vv) "Tribal Court" means the Colorado River Indian Tribes Tribal Court, as empowered and established by Title 1, Article XII of the Constitution of the Colorado River Indian Tribes.

(ww) "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.

Section 16-6102. Operators to Comply with Uniform Motor Vehicle Safety Responsibility Act.

Any person who operates a motor vehicle upon a highway within the Reservation shall comply with the current requirements of the Uniform Motor Vehicle Safety Responsibility Act of the state within which the vehicle is operated. Failure to comply with such provisions shall result in a suspension of all driving privileges and a report being forwarded to the appropriate state agency.

CHAPTER 2. DRIVER LICENSE AND PRIVILEGE

Section 16-6201. Valid Driver or Chauffeur License Required.

No person shall operate any motor vehicle upon a highway within the Reservation unless he has a valid driver or chauffeur license, or is exempted from the requirement for such license, issued by one of the states of the United States or by the United States government.

Section 16-6202. Possession and Display of Driver License; Defense.

(a) A licensee shall have a legible driver license in the licensee's immediate possession at all times when operating a motor vehicle. Or

demand of a law enforcement officer, a licensee shall display the license.

(b) A person who is served a complaint for violating this Section is not responsible if the person produces in court or the office of the law enforcement officer a legible driver license or an authorized duplicate of the license issued to the person that was valid at the time of the alleged violation of this Section.

Section 16-6203. Permitting Unauthorized Person to Drive.

(a) No person shall cause or permit the person's child, ward or a minor to drive a motor vehicle on a highway if the child, ward or minor does not possess a driver license.

(b) A person shall not authorize or knowingly permit a person who does not possess a current, valid driver license to drive a motor vehicle that the person owns or that is under the person's control.

Chapter 3. CRIMINAL VIOLATIONS; LICENSING AND REGISTRATION

Section 16-6301. Registration; Violation.

No person shall:

(a) Intentionally remove a manufacturer's serial or identification number from or deface, alter or destroy a manufacturer's serial or identification number on a motor vehicle.

(b) Display or possess a registration card or license plate knowing it to be fictitious or to have been stolen, canceled, revoked, suspended or altered.

(c) Lend to a person or knowingly permit the use of the person's registration card or license plate by a person not entitled to the card or plate.

Section 16-6302. Driving Violations.

(a) No person shall drive a motor vehicle on a highway when the person's license to drive a motor vehicle is suspended or revoked or when the person is otherwise disqualified from driving.

(b) No person shall drive a motor vehicle on a highway when that person's privilege of driving a motor vehicle on the Reservation has been suspended or revoked pursuant to the provisions of this Article VI.

Section 16-6303. Criminal Penalties.

(a) Any person who violates the provisions of this Chapter 3 of this Article shall be subject to the following criminal penalties:

- (1) Imprisonment for not less than thirty (30) days nor more than six (6) months; or
- (2) A fine not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00); or
- (3) Both.

(b) A judge shall not dismiss an action brought under Section 16-6302 merely because the respondent has paid the underlying penalty which resulted in the suspension.

CHAPTER 4. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

Section 16-6401. Where Provisions Effective.

(a) The provisions of this Article shall apply to all vehicles operated within the exterior boundaries of the Colorado River Indian Reservation.

(b) Any and all prior traffic ordinances, rules, regulations or other directives in conflict with this Article shall be and are hereby declared null and void within the exterior boundaries of the Colorado River Indian Reservation.

Section 16-6402. Vehicles Upon the Highways; Exceptions.

The provisions of this Article relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, except:

(a) Where a different place is specifically referred to in a given Section;

(b) The provisions concerning vehicle accidents, reckless driving, speed restrictions, racing and driving while intoxicated shall apply upon highways and elsewhere, including private property, throughout the Reservation.

Section 16-6403. Obedience to Law Enforcement Officers.

No person shall willfully fail or refuse to comply with any lawful order or direction of any law enforcement officer invested by law and authority to direct, control or regulate traffic.

Section 16-6404. Drivers Subject to Provisions of Article VI.

(a) The provisions of this Article applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles including those owned and operated by the United States or any agency thereof, any state or political subdivision thereof, and the Tribes or any agency thereof, except as provided in this Section, and subject to such specific exceptions as are set forth in this Article with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this Article shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon the surface of a highway, or to railroad employees working on a railroad track or tracks crossing the highway, but shall apply to such persons and vehicles when traveling to or from such work.

Section 16-6405. Authorized Emergency Vehicles.

(a) If an authorized emergency vehicle is driven in response to an emergency call, in pursuit of an actual or suspected violator of law, or in response to but not on return from a fire alarm, the driver may exercise the privileges provided in this Section subject to the conditions stated in this Section.

(b) Notwithstanding the provisions of this Article, the driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this Article.
- (2) Proceed past a red light or stop signal or stop sign, but only after slowing down as necessary for safe operation.
- (3) Exceed the maximum speed limits provided that such exceeding of speed limits does not unreasonably endanger life or property and is necessary for the protection of life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions granted by this Section to an authorized emergency vehicle shall apply only when the driver of the vehicle while in

motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of the vehicle, except that an authorized emergency vehicle operating as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(d) The provisions of this Section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.

Section 16-6406. Persons Riding Animals or Driving Animal-Drawn Vehicles.

Every person riding an animal or driving any animal-drawn vehicle upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a motor vehicle by this Article, except those provisions which by their very nature can have no application.

Section 16-6407. Provisions Uniform Throughout Reservation.

The provisions of this Article shall be uniform throughout the Reservation, and no public authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of this Article.

Section 16-6408. Rights of Owners of Real Property.

Nothing in this Article shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting that use, or from requiring other or additional conditions than those specified in this Article, or otherwise regulating such use as may seem best to such owner.

CHAPTER 5. TRAFFIC-CONTROL DEVICES, SIGNS, SIGNALS AND MARKINGS

Section 16-6501. Obedience to and Required Traffic-Control Devices.

(a) The driver of any vehicle shall obey the instructions of all traffic-control devices unless otherwise directed by a traffic or law enforcement officer, subject to the exemptions granted to the driver of an authorized emergency vehicle in Section 16-6405 of this Article.

(b) No provisions of this Article requiring compliance with traffic-control devices shall be enforced against an alleged violator if, at the time and place of the alleged violation, a traffic-control device is not in proper position and sufficiently visible and legible to be seen by an ordinarily observant person, or if it is an inoperative mechanical device.

Section 16-6502. Traffic-Control Signal Legend.

(a) When traffic is controlled by a traffic-control device exhibiting different colored lights or colored lighted arrows successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

- (A) Vehicular traffic facing a green signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.
- (B) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- (C) Unless otherwise directed by a pedestrian control signal as provided in Section 16-6503 of this Article, pedestrians facing any green signal, except if the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

- (A) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

- (B) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in Section 16-6503 of this Article, are thereby warned that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.
- (3) Red indication:
- (A) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain stopped until an indication to proceed is shown, except as provided in subdivisions (B) and (C) of this subsection (3).
- (B) The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if there is no crosswalk, then at the entrance to the intersection, in obedience to a red signal, may make a right turn, but shall yield the right-of-way to pedestrians and to other traffic proceeding as directed by the signal. Right turns are prohibited against a red signal at any intersection where a sign is erected at the intersection prohibiting such turn.
- (C) The driver of a vehicle on a one-way street which intersects another one-way street on which traffic moves to the left shall stop in obedience to a red signal but may then make a left turn into such one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that any such left turn as above described is prohibited when a sign is erected at the intersection prohibiting such turn.
- (D) Unless otherwise directed by a pedestrian control signal as provided in Section 16-6503 of this Article, pedestrians facing a steady red signal alone shall not enter the roadway.
- (E) If an official traffic control device is erected and maintained at a place other than at an intersection, the provisions of this Section shall be applicable, except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign

or marking on the pavement indicating where the stop shall be made; but in the absence of a sign or marking, the stop shall be made at the signal.

Section 16-6503. Pedestrian Control Signals; Loitering Prohibited.

(a) When special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" are in place, the signals shall indicate as follows:

- (1) Walk. Pedestrians facing the signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by drivers of vehicles.
- (2) Don't Walk. No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his crossing on the Walk signal shall proceed to a sidewalk or safety island while the Don't Walk signal is showing.

(b) A pedestrian shall not loiter or unduly delay crossing the roadway after traffic has stopped to give him the right-of-way.

Section 16-6504. Flashing Signals.

When an illuminated flashing red or yellow signal is used in a traffic sign or signal, drivers shall obey such flashing signal as follows:

(a) Flashing red stop signal. When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked; or if none, then before entering the intersection. The right of said drivers to proceed shall be subject to the rules applicable after making a stop at a stop sign set forth in Section 16-61404 of this Article.

(b) Flashing yellow caution signal. When a yellow lens is illuminated with intermittent rapid flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

Section 16-6505. Display of Unauthorized Signs, Signals, Markings or Devices.

(a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device that:

- (1) Purports to be or is an imitation of or resembles an official traffic sign, signal or control device or railroad sign or signal.
- (2) Attempts to control or direct the movement of traffic.
- (3) Hides from view or interferes with the effectiveness of any official traffic-control device, sign or signal, or any railroad sign or signal.

(b) No person shall place or maintain any commercial advertising on any official traffic-control device or sign.

(c) This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(d) A sign, signal, or marking prohibited by this Section is a public nuisance, and the Tribes may remove it or cause it to be removed without notice.

Section 16-6506. Interference with Traffic-Control Devices.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

Section 16-6507. Warning Devices at Construction Sites.

A person, contractor, or public authority performing work on roads, streets or highways shall post and maintain warning signs, signals, markers and barricades at the work site until the work is completed or until such time as a public authority authorizes removal to warn those using the street, road or highway.

CHAPTER 6. ACCIDENTS

Section 16-6601. Accidents Involving Death or Personal Injuries.

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible and shall then forthwith return to and in every case shall remain at the scene of the accident until he has fulfilled the requirements of Section 16-6603 of this Article. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with the requirements of this Section shall be subject to the following criminal penalties:

- (1) Imprisonment for not less than thirty (30) days nor more than six (6) months; or
- (2) A fine not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00); or
- (3) Both.

(c) The Tribal Court shall revoke any and all driving privileges on the Reservation of a person so convicted and may forward notice of such action to any appropriate state or other governmental agency.

Section 16-6602. Accidents Involving Damage to Vehicle.

(a) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop his vehicle at the scene of the accident or as close thereto as possible and shall forthwith return to and in every case shall remain at the scene of the accident until he has fulfilled the requirements of Section 16-6603 of this Article. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with the requirements of this Section shall be subject to the following criminal penalties:

- (1) Imprisonment for not less than one (1) day nor more than one (1) month; or
- (2) A fine not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00); or
- (3) Both.

Section 16-6603. Duty to Give Information and Render Aid.

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and the registration number of the vehicle he is driving; and shall upon request exhibit his driver or chauffeur license to the person struck or the driver or occupants of or person attending any vehicle or person collided with or struck; and shall render to any person injured in the accident reasonable assistance, including the making of arrangements for the transporting of the person to a physician, surgeon or hospital for medical or surgical treatment if it is

apparent that treatment is necessary or if the transporting is requested by the injured person.

Section 16-6604. Duty Upon Striking Unattended Vehicle.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop his vehicle at the scene of the accident or as close thereto as possible and shall forthwith return to and shall then and there either locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or he shall leave in a conspicuous place in or upon the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking. Further, he shall make report of the accident when and as required in Section 16-6607 of this Article.

Section 16-6605. Duty Upon Striking Fixtures Upon a Highway.

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact and of his name and address, and shall upon request exhibit his driver or chauffeur license and shall make report of the accident when and as required in Section 16-6607 of this Article.

Section 16-6606. Immediate Report of Accidents.

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of the accident to the Tribal Police Department.

Section 16-6607. Written Report of Accidents.

(a) The driver of each vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of One Hundred Dollars (\$100.00) or more shall, within five (5) days after the accident, forward a written report of the accident to the Tribal Police Department.

(b) Every law enforcement officer who investigates an accident by virtue of which a report must be filed under this Section shall submit a report within twenty-four (24) hours of the completion of the investigation. The report shall contain information gained at the time and scene of the accident, or information gathered thereafter by interviewing witnesses and participants.

Section 16-6608. When Driver Unable to Report.

(a) When the driver is physically unable to make the report required in Section 16-6606 and there is another occupant in the vehicle at the time of the accident capable of making such an immediate report, that occupant shall make the report required of the driver.

(b) If the driver is physically incapable of making the report required in Section 16-6607 and the driver is not the owner of the vehicle, then the owner shall make the report within five (5) days of learning of the accident.

Section 16-6609. Accident Report Forms.

The Tribal Police Department shall obtain and upon request supply such forms required under this Chapter 6 as are appropriate. Forms required of law enforcement officers, investigating officers, or persons involved in an accident shall call for sufficiently detailed information in order to establish the cause, conditions then existing, and persons and vehicles involved in the accident.

Section 16-6610. Offense for Failure to Report.

The court shall impose a civil fine of not less than One Hundred Dollars (\$100) upon any person who fails to make a report as required by this Chapter.

Section 16-6611. Accident Reports Confidential.

No accident report shall be used as evidence in a civil or criminal trial except to prove the presence at the accident, or identity if not otherwise known, of the person filing the accident report.

CHAPTER 7. CRIMINAL VIOLATIONS: DRIVING UNDER THE INFLUENCE; RECKLESS DRIVING; RACING

Section 16-6701. Implied Consent to Blood, Breath, or Urine Test.

(a) Any person who operates a motor vehicle upon the highways of the Reservation shall be deemed to have given consent, subject to the provisions of Section 16-6704 of this Article, to a chemical test or tests of his blood, breath, or urine for the purpose of determining the alcohol concentration or drug content of blood if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been

driving or in actual physical control of a motor vehicle upon the highways of the Reservation while under the influence of intoxicating liquor or drugs.

(b) Following the arrest by a law enforcement officer, such officer shall allow a period of fifteen (15) minutes to elapse from the time the violator is stopped before administering any test prescribed by subsection (a) of this Section. During this period the officer will inform the violator that his operating privileges shall be revoked for six (6) months by the Tribal Court if he refuses to submit to the test. A failure to expressly agree to the test or successfully complete the test will be deemed a refusal.

(c) Any person who is dead, unconscious or otherwise incapable of refusal to such tests shall be deemed not to have withdrawn consent, and such tests may be administered in accordance with Section 16-6704 of this Article.

(d) If a person under arrest refuses to submit to a chemical test designated under provision of subsection (a) of this Section, none shall be given. Upon receipt of a sworn statement by the law enforcement officer, stating that he had reasonable grounds to believe the arrested person had been driving or in actual physical control of a vehicle upon the highways of the Reservation while under the influence of intoxicating liquor or drugs, and that the person had refused to submit to the test, the Tribal Court shall suspend the privilege of driving within the Reservation of the arrested person for a period of six (6) months.

(e) Upon taking such action, the court shall immediately cause such person to be notified of the court action, and upon his request shall afford him a court hearing. The scope of such hearing for the purposes of this Section shall cover the issues of whether the law enforcement officer had reasonable grounds to believe the person had been operating or was in actual control of a motor vehicle upon the highways while under the influence of intoxicating liquor or drugs, whether the person was placed under arrest, and whether he had refused to submit to the test. The judge shall then order the suspension rescinded or sustained.

(f) If the said suspension is sustained, the person whose privilege of driving within the Reservation has been suspended may appeal the order of the Tribal Court in the manner prescribed in Article II of this Code.

(g) When it has been finally determined under this Code that a person's operating privileges have been suspended, the Tribal Court

may give information in writing of such action to appropriate authorities of any state or of the United States.

(h) For the purposes of this Section, "drugs" includes any narcotic drug prescribed in Section 354 of Article III of this Code.

Section 16-6702. Preliminary Breath Tests.

(a) A law enforcement officer who has reasonable suspicion to believe that a person has committed a violation of Section 16-6704 of this Article may request that the person submit to a preliminary breath test before an arrest.

(b) In addition to a breath test or tests, the officer may require that the person submit to further testing pursuant to Section 16-6701 of this Article.

Section 16-6703. Admissibility of Breath Test or Other Records.

(a) The results of a breath test administered for the purpose of determining alcohol concentration are admissible as evidence in any trial, action or proceeding on establishing the following foundational requirements:

- (1) The test was performed using a quantitative breath testing device.
- (2) The person who conducted the test possessed a valid permit issued by a public authority to operate the device used to conduct the test.
- (3) Duplicate tests were administered and the test results were within 0.02 alcohol concentration of each other or a test conductor observed the person charged with the violation for twenty (20) minutes immediately preceding the administration of the test.
- (4) The person who conducted the test followed an operational checklist for the operation of the device used to conduct the test. The testimony of the test conductor is sufficient to establish this requirement.
- (5) The device used to conduct the test was in proper operating condition. Records of periodic maintenance that show that the device was in proper operating condition within thirty (30) days before and thirty (30) days after the test are admissible in any proceeding as prima facie evidence that the device was in proper

operating condition at the time of the test. The records are public records.

(b) Compliance with subsection (a) of this Section is the only requirement for the admission in evidence of a breath test result.

Section 16-6704 Persons Under the Influence of Intoxicating Liquor or of Drugs.

(a) It is an offense for any person who is under the influence of intoxicating liquor or drugs to drive or be in physical control of any vehicle within the Reservation.

(b) In the trial of any action or proceeding for a violation of subsection (a) of this Section relating to driving or being in physical control of a vehicle while under the influence of intoxicating liquor or drugs, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance shall give rise to the following presumptions:

- (1) If there was at that time 0.05 percent but less than 0.10 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.
- (2) If there was at that time 0.10 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(c) Subsection paragraphs (b)(1) and (b)(2) of this Section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor.

(d) A person arrested or charged with an offense under this Section, at his own expense, may have a qualified physician or other person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by such a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(e) Upon the request of the person who shall have submitted to a chemical test or tests, full information concerning the test or tests and their results shall be made available to him or to another person designated by him.

(f) If a person under arrest refuses to submit to a chemical test under the provisions of Section 16-6701 of this Article, evidence of refusal shall be admissible in any action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle upon the public highways of the Reservation while under the influence of intoxicating liquor or drugs.

(g) It is an offense for any person who is under the influence of any narcotic drug, or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle, to drive a vehicle within the Reservation. The fact that any person charged with a violation of this subsection (g) is or has been lawfully entitled to use such drug shall not constitute a defense to any charge of violating this subsection (g).

(h) A person who is guilty of an offense under this Section shall be sentenced upon a first conviction to imprisonment for not less than one (1) day nor more than six (6) months or a fine of not more than One Thousand Dollars (\$1,000.00), or both. The court may also suspend the privilege of driving within the Reservation of the offender for a period not to exceed six (6) months.

(i) A person who is guilty of a second or subsequent offense under this Section committed within a period of twenty-four (24) months shall be sentenced to imprisonment for not less than thirty (30) days nor more than one (1) year, or a fine of not more than Five Thousand Dollars (\$5,000.00), or both. In addition, the court shall suspend the privilege of driving within the Reservation of such person for a period not to exceed two (2) years.

(j) Upon conviction or pleas of guilty or no contest to an offense under this Section, the court may forward to any appropriate state or federal agency notice of such disposition.

(k) For the purpose of this Section, "drugs" includes any narcotic drug prescribed in Section 354 of Article III of this Code.

Section 16-6705. Reckless Driving.

(a) A person who drives a vehicle in reckless disregard for the safety of persons or property is guilty of reckless driving.

(b) A person guilty of reckless driving shall be sentenced upon a first conviction to imprisonment for not less than one (1) day nor more than six (6) months, and in the discretion of the court he may be sentenced also to a fine of not more than Three Hundred Dollars (\$300.00).

(c) A person who is convicted of a second or subsequent violation of this Section committed within a period of twenty-four (24) months shall be sentenced to imprisonment for not less than ten (10) days nor more than six (6) months, and in the discretion of the court he may be sentenced to a fine of not more than Three Hundred Dollars (\$300.00).

(d) Upon a first conviction, the court may suspend the privilege of driving within the Reservation of the person convicted for a period not to exceed six (6) months. Upon the conviction for a second or subsequent offense committed within twenty-four (24) months the court shall suspend the privilege of driving within the Reservation of such person for a period not to exceed two (2) years.

(e) The dates of the commission of the offense are the determining factor in applying subsection (c) of this Section. A second or subsequent violation for which conviction occurs as provided in this Section does not include a conviction for an offense arising out of the same series of acts.

(f) On pronouncement of a jail sentence under this Section, the court may provide in the sentence that if the defendant is employed and can continue employment the defendant may continue the employment for not more than twelve (12) hours per day nor more than six (6) days per week and shall spend the remaining day, days or parts of days in jail until the sentence is served. The defendant shall be allowed out of jail only long enough to complete the defendant's actual hours of employment. The defendant shall not drive any vehicle for the duration of the sentence.

(g) Upon conviction or plea of guilty or no contest to reckless driving, the court may forward to any appropriate state or federal agency notice of such disposition.

Section 16-6706. Racing on Highways.

(a) No person shall drive any vehicle or participate in any manner in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record on a street or highway.

(b) For the purposes of this Section:

- (1) "Drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common course, from the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.
- (2) A "race" means the use of one or more vehicles in an attempt to out-gain, out-distance, or prevent another vehicle from passing.

(c) A person who violates this Section may be sentenced upon a first conviction to imprisonment for a period not to exceed ninety (90) days, or by a fine of not more than Three Hundred Dollars (\$300.00), or both.

(d) A person who is guilty of a second or subsequent violation of this Section committed within a period of twenty-four (24) months shall be sentenced to imprisonment for a period of not less than ten (10) days nor more than six (6) months, and in the discretion of the court he may also be sentenced to a fine of not more than Three Hundred Dollars (\$300.00).

(e) The court may suspend the privilege of driving within the Reservation of a person guilty of a first violation of this Section for a period not to exceed ninety (90) days. Upon a second or subsequent violation of this Section committed within twenty-four (24) months, the court shall suspend the privilege of driving within the Reservation of such person for a period not to exceed two (2) years.

(f) Upon conviction or plea of guilty or no contest to an offense under this Section, the court may forward to any appropriate state or federal agency notice of such disposition.

(g) The dates of the commission of the offense are the determining factor in applying subsection (d) of this Section. A second or subsequent violation for which conviction occurs as provided in this Section does not include a conviction for an offense arising out of the same series of acts.

(h) The Tribal Council may give authorization in writing for any organized and properly controlled event otherwise prohibited by this Section to utilize a highway or part of a highway. The authorization shall specify the time of the event, the location and any other conditions imposed by the Tribal Council.

Section 16-6801. Reasonable and Prudent Speed.

(a) A person shall not drive a vehicle on a highway or private residential road at a speed greater than is reasonable and prudent under the circumstances, conditions, and actual and potential hazards then existing. A person shall control the speed of a vehicle as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.

(b) Except as provided in subsection (c) of this Section, or where a special hazard requires a lesser speed, it shall be a violation of this Section for a driver of a vehicle to exceed the posted speed limit, or if no limit is posted to exceed the following speeds:

- (1) Fifteen (15) miles per hour in known or posted school crossings or school zones.
- (2) Twenty-five (25) miles per hour in any business or residential district.
- (3) Fifty-five (55) miles per hour in other locations.

(c) The maximum lawful speed as provided in this Section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, such as when:

- (1) Approaching and crossing an intersection or railroad crossing;
- (2) Approaching and going around a curve;
- (3) Approaching a hill crest;
- (4) Traveling upon any narrow or winding roadway;
- (5) Special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
- (6) A person shall not drive a motor vehicle at a speed that is more than the speed that is reasonable and prudent under existing conditions.

(d) A person who violates the provisions of this Section shall be issued a civil traffic complaint for violation of this Section.

Section 16-6802. Excessive Speeds; Classification.

(a) A person shall not:

- (1) Exceed thirty-five (35) miles per hour approaching a school crossing.
- (2) Exceed the posted speed limit in a business or residential district by more than twenty (20) miles per hour, or if no speed limit is posted, exceed forty-five (45) miles per hour in a business or residential district.
- (3) Exceed eighty-five (85) miles per hour in other locations.

(b) A person who violates subsection (a) of this Section 16-6802 shall be issued a civil traffic complaint for a violation of this Section in addition to Section 16-6801 of this Article.

Section 16-6803. Minimum Speed Regulation.

No person shall operate a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

Section 16-6804. Special Speed Limitation on Motor-Driven Cycles.

No person shall operate any motor-driven cycle at any time from a half hour after sunset to a half hour before sunrise at a speed greater than thirty-five (35) miles per hour unless such motor-driven cycle is equipped with a headlamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred (300) feet ahead.

Section 16-6805. Towing Trailer.

A person shall not drive a vehicle towing a trailer or semitrailer at a rate of speed that causes the trailer or semitrailer to sway laterally from the line of traffic.

Section 16-6806. Violations and Rule in Civil Actions.

(a) In every charge of a violation of any speed regulation in this Chapter, the civil traffic complaint shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable at the location of the violation.

(b) The provisions of this Chapter 8 declaring maximum speed limitations do not relieve the plaintiff in any civil action, other than a civil action to impose a civil penalty, from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

CHAPTER 9. DRIVING ON RIGHT SIDE OF ROADWAY; OVERTAKING AND PASSING

Section 16-6901. Driving on Right Side of Roadway; Exceptions.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.
- (2) When the right half of the roadway is closed to traffic while under construction or repair.
- (3) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon.
- (4) Upon a roadway designated and posted for one-way traffic.

(b) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

Section 16-6902. Passing Vehicles Proceeding in Opposite Directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

Section 16-6903. Passing Vehicles Proceeding in the Same Direction.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules otherwise set forth in this Chapter:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal, or blinking of headlamps at nighttime, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Section 16-6904. Overtaking a Vehicle on the Right.

(a) The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or is about to make a left turn.
- (2) Upon a highway with unobstructed roadway not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction.
- (3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and is of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle on the right only under conditions permitting the movement in safety. In no event shall the movement be made by driving off the pavement or off the main-traveled portion of the roadway.

Section 16-6905. Limitation on Overtaking on the Left.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming vehicles for a sufficient distance ahead to permit the overtaking and passing to be made completely without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

Section 16-6906. Further Limitations on Passing to the Left of Center of Roadway.

(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might be approaching from the opposite direction.
- (2) When approaching within one hundred (100) feet of or traversing any bridge, viaduct, tunnel, intersection or railroad grade crossing, or where appropriate signs or markings have been installed to define a no passing zone.

(b) The limitations set forth in subsection (a) of this Section shall not apply upon a one-way roadway which is at least two lanes in width.

Section 16-6907. No Passing Zones.

No driver shall overtake or pass another vehicle within a designated no passing zone.

Section 16-6908. One-Way Roadways and Traffic Islands.

(a) Upon a highway designated and posted for one-way traffic, a vehicle shall be driven only in the direction designated.

(b) A vehicle passing around a traffic island shall be driven only to the right of the island.

Section 16-6909. Driving on Roadways Laned for Traffic.

When any roadway has been divided into two or more marked lanes for traffic, the following rules in addition to all others consistent with this Section shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety.

(b) On a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where the center lane is at the time

allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted to give notice of the allocation.

Section 16-6910. Following Too Closely.

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon the condition of the highway.

Section 16-6911. Driving on Divided Highways.

When any highway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across or within the dividing space, barrier or section, except at an officially designated crossover or intersection or through an opening in the physical barrier or dividing section.

Section 16-6912. Restricted Access.

No person shall drive a vehicle onto or from any controlled-access highway except at officially designated entrances and exits.

Section 16-6913. Restrictions on Use of Controlled-Access Highway.

No person shall disobey official posted signs prohibiting the use of any part of a controlled-access highway by pedestrians, bicycles or persons operating motor-driven cycles.

CHAPTER 10. TURNING, STARTING AND SIGNALS ON STOPPING AND TURNING.

Section 16-61001. Required Position and Method of Turning.

The driver of a vehicle intending to turn shall do so as follows:

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of one (1) vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane

lawfully available to traffic moving in that direction upon the roadway being entered.

(c) Two-way left turn lanes. If a special lane for making left turns by drivers proceeding in opposite directions has been indicated by traffic control devices:

- (1) A driver shall not make a left turn from any other lane.
- (2) A driver shall not drive a vehicle in the lane except if preparing for or making a left turn from or into the roadway or if preparing for or making a u-turn if otherwise permitted by law.

Section 16-61002. Limitations on Turning Around.

No vehicle shall be turned to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

Section 16-61003. Moving Stopped Vehicle.

No person shall commence the movement of a vehicle which is stopped, standing or parked unless and until the movement can be made safely.

Section 16-61004. Turning Movements and Required Signals.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in the proper position upon the roadway as required by Section 16-61001 of this Article, or turn a vehicle to enter a private road or driveway or otherwise turn unless and until the movement can be made safely. No person shall so turn any vehicle without giving an appropriate signal in the manner provided by this Chapter in the event any other traffic may be affected by the movement.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided by this Chapter to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.

Section 16-61005. Signals by Hand and Arm or Signal Device.

Any stop or turn signal when required by this Chapter shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device. When a vehicle is so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of the vehicle then the signals must be given by a lamp or lamps or signal device.

Section 16-61006. Method of Giving Turn or Stop Signals.

(a) All signals required by this Chapter to be given by hand and arm shall be given from the left side of the vehicle and in the following manner and the signals shall indicate as follows:

- (1) Left turn. Hand and arm extended horizontally.
- (2) Right turn. Hand and arm extended upward.
- (3) Stop or decrease. Hand and arm extended downward.

(b) All turn signals required or permitted by this Chapter to be given by lamp or lamps shall be by blinking amber lights as installed by the manufacturer of the vehicle; such lights to be visible from the front and rear of the vehicle and shall indicate the direction of turn by the side of the vehicle on which they are blinking.

Section 16-61007. Vehicle Approaching or Entering Intersection; Right-of-Way Exception; Entering Highway.

(a) When two (2) vehicles enter or approach an uncontrolled intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. This subsection (a) does not apply to vehicles approaching or entering an uncontrolled "T" intersection when the vehicle on the left is on a continuing street or highway and the vehicle on the right is on the terminating street or highway. The vehicle on the terminating street or highway shall yield to the vehicle on the continuing street or highway.

(b) Converging road crossings between the main roadway of a highway and merging acceleration lanes or ramps are not intersections within the definition stated in Section 16-6101 of this Article and the provisions of subsection (a) of this Section do not control questions of right-of-way at such mergers. A vehicle entering a highway from an acceleration lane or ramp shall yield the right-of-way to a vehicle on the main roadway of the highway entering such merging area at the same time.

Section 16-61008. Vehicle Turning Left at Intersection.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute a hazard.

Section 16-61009. Vehicle Entering Highway From Private Road or Driveway.

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all approaching vehicles on the highway, and such driver shall not proceed onto or across the highway until he can do so without endangering or impeding vehicles on the highway.

Section 16-61010. Operation of Vehicles on Approach of Authorized Emergency Vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle, and when the driver of the emergency vehicle is giving audible signal by siren, exhaust whistle or bell:

- (1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as practicable to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, unless otherwise directed by a law enforcement officer or the attending circumstances make such movement impossible or manifestly impractical, in which case the other vehicle shall stop in place.
- (2) The driver of any vehicle other than one on official business of the Tribes or other public authority officially concerned with the emergency shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(b) This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

CHAPTER 11. PEDESTRIANS RIGHTS AND DUTIES.

Section 16-61101. Pedestrians Subject to Traffic Regulations.

Pedestrians shall be subject to traffic-control signals at intersections as provided in Chapter 5 of this Article.

Section 16-61102. Pedestrians Right-of-Way in Crosswalks.

(a) When traffic-control devices are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to so yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) When any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

Section 16-61103. Crossing at Other Than Crosswalks.

(a) Any pedestrian crossing a highway at any point other than within a marked crosswalk or within an unmarked crosswalk at any intersection shall yield the right-of-way to all vehicles upon the highway.

(b) Between intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

Section 16-61104. Drivers to Exercise Due Care.

Notwithstanding the provisions of this Chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any highway and shall give warning by sounding the horn when necessary, and shall exercise particular precaution upon observing any child or confused or incapacitated person upon or near a highway.

Section 16-61105. Pedestrians on Highways.

(a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along or upon an adjacent highway.

(b) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic.

(c) No person shall stand immediately adjacent to or on a highway for the purpose of soliciting a ride from the driver of any vehicle.

Section 16-61106. School Crossings and Zones.

No vehicle shall enter or cross a school crossing when it is occupied by pedestrians, or pedestrians are waiting or preparing to enter it, unless otherwise directed by an attending law enforcement officer or other adult charged with the duty of directing traffic.

Section 16-61107. Provisions for Blind Pedestrians.

(a) Any person who is blind shall, when walking on a street or other highway, unless guided by a guide dog or assisted by a person with sight, carry a white cane which shall have a red end eight (8) inches in length.

(b) For the purposes of this Section, a person is blind who has central visual acuity of 20/200 or less in the better eye or central visual acuity of more than 20/200 in the better eye if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty (20) degrees.

(c) It shall be a violation of this Section for a person who is not blind to carry on the streets or highways a white cane with a red end.

(d) Any person operating a vehicle, other than an emergency vehicle the siren of which is being sounded, shall bring the vehicle to a stop and yield the right-of-way at a street, avenue, alley or other highway intersection to a blind person carrying a white cane with a red end, or who is being guided by a guide dog, when the blind person enters the intersection. Notwithstanding the foregoing, upon seeing a blind person with such a cane in a roadway or preparing to cross a roadway at any point, any person operating a vehicle which may jeopardize such blind person shall stop or yield the right-of-way to the blind person.

(e) This Section shall not be construed to deprive a blind person not carrying a white cane with a red end or not being guided by a dog or sighted person of the rights and privileges conferred by law upon pedestrians, nor shall the failure of a blind person to carry a white cane with a red end or be guided by a guide dog or sighted person be held to constitute prima facie evidence of contributory negligence.

CHAPTER 12. OPERATION OF BICYCLES AND PLAY VEHICLES.

Section 16-61201. Application of Provisions.

(a) The parent of a child and the guardian of a ward shall not authorize or knowingly permit the child or ward to violate any of the provisions of this Chapter.

(b) Except as otherwise provided in this Chapter 12, the provisions of this Chapter shall apply to a bicycle when it is operated anywhere within the Reservation, and are not restricted to the operation of a bicycle upon any highway or path set aside for the exclusive use of bicycles as specified in Section 16-6101 of this Article.

Section 16-61202. Traffic Laws Apply to Persons Riding Bicycles.

Every person riding a bicycle upon a highway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by this Article, except as to special provisions in this Chapter, and except as to those provisions of this Article which by their nature can have no application.

Section 16-61203. Operation Restrictions.

It is a violation of this Chapter for a person to ride a bicycle:

- (1) With a willful and wanton disregard for the safety of other persons or property.
- (2) In such a manner as to injure, disfigure, deface or destroy any object of archaeological or historical interest or value.

Section 16-61204. Clinging to Vehicles.

No person riding upon any bicycle, coaster, roller skates, skateboard, sled or toy vehicle shall attach the same or himself to any vehicle upon a highway.

Section 16-61205. Riding in Highways and Bicycle Paths.

(a) Every person operating a bicycle upon a highway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a highway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Wherever a usable path for bicycles has been provided adjacent to a highway, bicycle riders shall use the path and shall not use the highway.

Section 16-61206. Lamps and other Equipment on Bicycles.

(a) When in use at nighttime, every bicycle shall be equipped with a lamp on the front emitting a white light visible from a distance of at least five hundred (500) feet and with a red reflector on the rear which shall be visible to three hundred (300) feet from the rear when directly in front of lawful upper beams of head lamps on motor vehicles. A lamp emitting a red light to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle equipped with a siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Section 16-61207. Civil Penalty;. Bicycle Safety Course.

Any person who violates the provisions of this Chapter or other provisions of this Article applicable to bicycle operators may, in addition to or in lieu of the fines prescribed by this Article, be ordered to complete an approved bicycle safety course.

CHAPTER 13. OFF-HIGHWAY VEHICLES

Section 16-61301. Definitions

(a) "Off-Highway recreation facility" includes off-highway vehicle use areas and trails specifically developed and designated for use by off-highway vehicles.

(b) "Off-highway vehicle":

(1) means a motorized vehicle when operated off of highways on land, water, snow, ice or other natural terrain or on a combination of land, water, snow, ice or other natural terrain.

(2) Includes a two-wheel, three-wheel or four-wheel vehicle, motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground effects or air cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind.

(3) Does not include a vehicle that is either:

(A) Designated primarily for travel on, over or in the water

(B) Used in installation, inspection, maintenance, repair or related activities involving facilities for the provision of utility or railroad service.

(c) "Off-highway vehicle trail" means a multiple use corridor that is all of the following:

- (1) Open to recreational travel by an off-highway vehicle.
- (2) Not normally suitable for travel by conventional two-wheel drive vehicles.
- (3) Opened by the managing authority of the property that the trail traverses for the specific designated purpose of recreational off-highway vehicle use.

(d) "Off-highway vehicle use area" means the entire area of a parcel of land, except for camping and approved buffer areas, that is managed specifically for off-highway vehicle use through the development or designation of off-highway vehicle trails.

Section 16-61302. Applicability; Private Lands.

This Chapter applies to all lands within the Reservation.

Section 16-61303. Operation Restrictions, Violation, Classification.

(a) It is a violation of this Chapter for a person to drive an off-highway vehicle:

- (1) With a wilful and wanton disregard for the safety of other persons or property.
- (2) In such a manner as to injure, disfigure, deface or destroy any object of archaeological or historical interest or value.

CHAPTER 14. SPECIAL STOPS REQUIRED

Section 16-61401. Obedience to Signal Indicating Approach of Train.

(a) When any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of the vehicle shall stop within fifty (50) feet but not less than (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

- (1) A visible electric or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train.
- (3) A railroad train approaching within approximately fifteen hundred (1500) feet of the highway crossing emits a signal audible from such distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when the gate or barrier is closed or is being opened or closed.

Section 16-61402. All Vehicles Must Stop at Certain Railroad Grade Crossings.

Where a stop sign has been placed at a railroad grade crossing, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad and shall proceed only upon exercising due care.

Section 16-61403. Certain Vehicles Must Stop at All Railroad Grade Crossings.

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying or returning after delivery of explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided in this Chapter, and shall not proceed until he can do so safely. After stopping as required by this Section, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a law enforcement officer or a traffic-control signal directs traffic to proceed.

Section 16-61404. Moving Heavy Equipment at Railroad Grade Crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half ($\frac{1}{2}$) inch per foot of the distance between any two (2) adjacent axles, or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without complying with this Section.

(b) Advance notice of any such intended crossing shall be given to the supervisor of the railroad.

(c) Before making any such crossing the person operating or moving the vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal, crossing gates, a flagman or otherwise of the approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

(e) This Section shall not apply to the normal movement of implements of husbandry in the regular course of farm operation.

Section 16-61405. Stop Signs and Yield Signs.

(a) Every stop sign shall have an octagonal shape, bearing the word "Stop" in white letters not less than six (6) inches in height on a red background. Every yield sign shall be triangular in shape bearing the word "Yield" in black letters not less than six (6) inches in height on a yellow background. The sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(b) Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as close as practicable to the nearest line of the intersecting roadway.

(c) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection. In the event there is no crosswalk, shall stop at a clearly marked stop line; but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a law enforcement officer or traffic control signal. Upon stopping in compliance with the direction of a stop sign, if not directed to proceed by a law enforcement officer, the driver shall not enter or cross the intersection until he can do so without endangering or impeding any other vehicle or pedestrian in or approaching the intersection.

(d) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right of way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. If such driver is involved in a collision with a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be prima facie evidence of his failure to yield right-of-way.

Section 16-61406. Stop Before Emerging From Alley or Driveway Onto Sidewalk.

The driver of a vehicle emerging from an alley, driveway or building shall:

- (a) Stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway; and
- (b) Sound his horn and yield the right-of-way to any pedestrian as may be necessary to avoid collision; and
- (c) Upon entering a highway shall yield the right-of-way to all closely approaching vehicles on the highway.

Section 16-61407. Overtaking and Passing School Bus.

(a) On meeting or overtaking from either direction a school bus that has stopped on the highway, the driver of a vehicle on any highway shall:

- (1) Stop the vehicle before reaching the school bus.
- (2) Not proceed until the school bus resumes motion, or until signaled by the driver of the bus to proceed.

(b) The driver of a vehicle on a highway with separate roadways need not stop on meeting or passing a school bus that is:

- (1) On a different roadway.
- (2) On a controlled access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

Section 16-61408. Overtaking and Passing School Bus; Report by School Bus Driver.

(a) The driver of a school bus who observes a violation of Section 16-61407 of this Article may prepare a signed written report indicating that a violation occurred. The report shall include:

- (1) The date, time and approximate location of the violation.
- (2) The number and state of issuance of the license plate on the vehicle involved in the violation.
- (3) Identification of the vehicle as an automobile, a station wagon, a truck, a bus, a motorcycle or any other type of vehicle.
- (4) The color of the vehicle involved in the violation.

(b) Within two (2) days after the violation occurs, excluding weekends and holidays, the school bus driver shall send a copy of the report to the Chief of Police. On receiving the report, the Chief of Police shall promptly mail a notification letter to the last known registered owner of the vehicle. The letter shall include:

- (1) A notification containing the information included in the bus driver's report and stating that a vehicle registered in the vehicle owner's name was observed passing a school bus loading and unloading children.
- (2) A complete explanation of the provisions of Section 16-61407 of this Article.
- (3) An explanation that the notification letter is not a traffic citation but is an effort to call attention to the seriousness of the incident.

Section 16-61409. Duty When Approaching Horses and Livestock.

Every person operating a motor vehicle upon any highway and approaching any horse-drawn vehicle, or any horse upon which a person is riding, or livestock being driven upon the highway, shall exercise reasonable precaution to prevent frightening and to safeguard such animals, and to ensure the safety of any person riding or driving the animals. If such animals appear frightened the person in control of such vehicle shall reduce its speed, and if requested by signal or otherwise shall not proceed further toward such animals unless necessary to avoid accident or injury, until such animals appear to be under control.

CHAPTER 16. STOPPING, STANDING OR PARKING.

Section 16-61501. Stopping, Standing, or Parking Prohibited in Specified Places.

(a) Except when necessary to avoid conflict with other traffic or if in compliance with law or the directions of a law enforcement officer or traffic control device, a person shall not stop, stand or park a vehicle 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 fifteen (15) feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty (20) feet of a crosswalk at an intersection;
- (7) Within thirty (30) feet upon the approach to any traffic-control device located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (9) Within fifty (50) feet of the nearest rail of a railroad or within nine (9) feet of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars;

- (10) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance when posted;
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where signs prohibit stopping.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

Section 16-61502. Stopping, Standing or Parking Outside of a Business or Residential District.

(a) Upon any highway outside of a business or residential district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave the vehicle off that part of the highway.

(b) If a person stops, parks or leaves standing a vehicle, the person shall leave an unobstructed width of the highway opposite a standing vehicle for the free passage of other vehicles. A clear view of the stopped vehicles shall be available from a distance of two hundred (200) feet in each direction upon the highway.

(c) This Section shall not apply to:

- (1) The driver of any vehicle that is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.
- (2) A vehicle or the driver of a vehicle engaged in the official delivery of the United States mail that stops on the right-hand side of the highway for the purpose of picking up or delivering mail if the following conditions are met:

- (A) A clear view of the vehicle is available from a distance of three hundred (300) feet in each direction of the highway or a flashing amber light with the word "Stop" printed on the light is attached to the rear of the vehicle.
- (B) The vehicle has a sign with the words "U.S. mail" printed on the sign attached to the rear of the vehicle.

Section 16-61503. Officers Authorized to Remove Improperly Stopped Vehicles.

(a) When any law enforcement officer finds a vehicle standing upon a highway in violation of the provisions of Sections 16-61501 and 16-61502 of this Chapter, the law enforcement officer is authorized to move the vehicle, or to require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of the highway..

(b) Any law enforcement officer is authorized to remove or cause to be removed to a place of safety an unattended vehicle left standing upon any highway or bridge causeway, or in any tunnel, in such position or under such circumstances as to obstruct the normal movement of traffic or to create a hazard.

(c) Any law enforcement officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway in any of the following circumstances, provided that the officer has made a reasonable effort to contact the owner or custodian of the vehicle and given him a reasonable opportunity to remove the vehicle:

- (1) When a report has been made that such vehicle has been stolen;
- (2) When the person or persons in charge of such vehicle are unable or unwilling to provide for its custody or removal;
- (3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the arrested person before a judge without unnecessary delay;
- (4) When any vehicle is left unattended for more than four (4) hours upon the right-of-way of any public highway outside of business or residential areas;

(5) When any vehicle is left unattended for more than five (5) days upon the right-of-way of any public highway.

(d) Except as provided in subsection (e) of this Section:

(1) The Colorado River Indian Tribes and its affiliated agencies and departments are not liable for the cost of towing or storing the vehicle if the officer acts under color of the officer's lawful authority.

(2) Before release of the vehicle by the towing service, the owner, or the owner's agent, of a vehicle that is removed or caused to be removed under this Chapter shall pay or make satisfactory arrangements to pay for any reasonable towing and storage costs incurred in towing or storing the vehicle.

(e) If a tow truck operator is required in writing by the Colorado River Indian Tribes or its affiliated agencies and departments to tow or store a vehicle that is required as evidence in a criminal action or for future criminal investigation, the Tribal agency or department requiring the removal is liable for the towing and storage costs of the vehicle.

(f) Any movement of a vehicle authorized by a law enforcement officer shall not excuse or waive any violation of this Chapter, nor shall it serve as a defense of such violation.

Section 16-61504. Additional Parking Regulations.

(a) Except as otherwise provided in this Section, every vehicle stopped or parked upon a highway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of the vehicle parallel to and within eighteen (18) inches of the right-hand curb.

(b) No person shall disobey posted signs prohibiting the stopping, standing, or parking of vehicles.

CHAPTER 16. PARKING FOR PHYSICALLY DISABLED PERSONS

Section 16-61601 Parking Restrictions; Applicability.

This Article does not apply to zones where stopping, standing or parking is prohibited to all vehicles as provided in Sections 16-61501 and 16-61502 of this Article.

Section 16-61602. Parking Spaces for Physically Disabled Persons.

(a) Specially designated and marked motor vehicle parking spaces shall be provided for the exclusive use of physically disabled persons.

(b) Each parking space prescribed in this Section shall be prominently outlined with paint and posted with a permanent sign that is located at least three (3) feet but not more than six (6) feet above the space that bears the internationally accepted symbol of access.

Section 16-61603. Parking Spaces for Physically Disabled Persons; Prohibition.

(a) Except as provided in subsection (b), a person shall not stop, stand or park a motor vehicle within any specially designated and marked parking space provided pursuant to Section 16-61602 of this Article unless the motor vehicle is transporting a person who has been issued a valid placard or international symbol of access special plates and either:

- (1) The motor vehicle displays the valid permanently disabled or temporarily disabled removable windshield placard.
- (2) The motor vehicle displays international symbol of access special plates that are currently registered to the vehicle.

(b) A person who is chauffeuring a physically disabled person without a placard or international symbol of access special plates may park momentarily in a parking space provided pursuant to this Chapter for the purpose of loading or unloading the disabled person, and a complaint shall not be issued to the driver for the momentary parking.

Section 16-61604. Civil Fines.

If a law enforcement officer finds a motor vehicle in violation of this Chapter, the officer shall issue a civil traffic complaint to the operator or other person in charge of the motor vehicle or, if an operator or person in charge is not present, to the registered owner of the vehicle for a traffic violation. The court shall impose on the operator, person in charge or owner of a vehicle parked in violation of this Chapter a minimum civil fine of fifty dollars (\$50).

CHAPTER 17. RESTRAINT SYSTEMS

Section 16-61701. Child Passenger Restraint System; Violation; Classification; Exemptions; Definition.

(a) Except as provided in subsection (f) of this Section, a person shall not operate a motor vehicle on a highway when transporting a child four (4) years of age or younger or forty (40) or fewer pounds in weight unless that child is properly secured in a child passenger restraint system.

(b) A person who violates this Section is subject to a civil fine of fifty dollars (\$50), except that a civil fine shall not be imposed if the defendant makes a sufficient showing that the motor vehicle has been subsequently equipped with a child passenger restraint system. A sufficient showing may include a receipt mailed to the appropriate court officer that evidences purchase or acquisition of a child passenger restraint system.

(c) If a law enforcement officer stops a vehicle for an apparent violation of this Section, the officer shall determine from the driver whether the unrestrained child or children in the vehicle are four (4) years of age or younger or forty (40) or fewer pounds in weight.

(d) If the information given to the officer indicates that a violation of this Section has not been committed, the officer shall not detain the vehicle any further unless some additional violation is involved. The stopping of a vehicle for an apparent or actual violation of this Section is not probable cause for the search or seizure of the vehicle unless there is probable cause for a violation of law.

(e) The requirements of this Section or evidence of a violation of this Section are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of this Section.

(f) This Section does not apply to any of the following:

- (1) A person who operates a motor vehicle that is also a recreational vehicle as defined in Section 16-6101 of this Article.
- (2) A person who must transport a child in an emergency to obtain necessary medical care.
- (3) A person who transports more than one (1) child four (4) years of age or younger or forty (40) or fewer pounds in weight in a motor vehicle that because of the restricted size of the passenger area does not provide sufficient area for the required number of child passenger restraint devices, if both of the following conditions are met:

- (A) At least one (1) child is restrained as required by this Section.
- (B) The person has secured as many of the other children in child passenger restraint devices pursuant to this Section as is reasonable given the restricted size of the passenger area and the number of passengers being transported in the motor vehicle.

Section 16-61702. Vehicle Restraints Required; Exceptions; Civil Fine.

(a) Each front seat occupant of a motor vehicle that is designed for carrying ten (10) or fewer passengers, that is manufactured for the model year 1972 and thereafter and that is required to be equipped with an integrated lap and shoulder belt or a lap belt pursuant to the federal motor vehicle safety standards prescribed in 49 Code of Federal Regulations Section 571.208 shall either:

- (1) Have the lap and shoulder belt properly adjusted and fastened while the vehicle is in motion.
- (2) If only a lap belt is installed where the occupant is sitting, have the lap belt properly adjusted and fastened while the vehicle is in motion.

(b) The driver of a motor vehicle that is subject to the requirements of this Section shall require each front seat passenger under sixteen (16) years of age to comply with this Section.

(c) A law enforcement officer shall not stop or issue a citation to a person operating a motor vehicle on a highway for a violation of this Section unless the officer has reasonable cause to believe there is another alleged violation of a motor vehicle law.

(d) This Section does not apply to:

- (1) A child subject to the requirements of Section 16-61701 of this Article.
- (2) A person possessing a written statement from a physician that the person is unable for medical or psychological reasons to wear a lap and shoulder belt or a lap belt.
- (3) A letter carrier of the United States postal service while the letter carrier is performing the letter carrier's duties.

(e) If a person is found responsible for a violation of this Section, the person is subject to a maximum civil fine of twenty dollars (\$20) for each violation.

(f) The driver of a motor vehicle found responsible for a traffic violation under this Section relating to passengers under the age of sixteen (16) years is subject to a maximum civil fine of twenty dollars (\$20) for each violation.

CHAPTER 18. MISCELLANEOUS RULES

Section 16-61801. Limitations on Backing.

The driver of a vehicle shall not back the same unless the movement can be made safely and without interfering with other traffic.

Section 16-61802. Riding on Motorcycles.

(a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(b) An operator or passenger of a motorcycle or motor-driven cycle, under the age of eighteen (18), shall wear at all times a protective helmet while operating or riding on the motorcycle or motor-driven cycle. An operator of a motorcycle or motor-driven cycle, under the age of eighteen (18), shall wear at all times protective glasses, goggles or a transparent face shield unless the motorcycle or motor-driven cycle is equipped with a protective windshield. This subsection (b) does not apply to electrically powered three-wheeled vehicles or three-wheeled vehicles on which the operator and passenger ride within an enclosed cab.

Section 16-61803. Obstruction of Driver's View or Driving Mechanism.

(a) A person shall not drive a vehicle when the vehicle's load or passengers obstruct the driver's view to the front or sides of the vehicle or interfere with the driver's control over the vehicle's driving mechanism.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the side or as to interfere with his control over the driving mechanism of the vehicle.

Section 16-61804. Crossing Fire Hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any highway or private driveway, to be used at any fire drill, fire or alarm of fire, without the consent of the fire department official in command.

Section 16-61805. Maximum Number in School Bus; Exceptions, Receiving or Discharging School Children at School.

(a) No school bus shall be operated on a highway while carrying more people than can be properly seated, nor while any person is standing therein, except for the purpose of conducting drills under school regulations and in the emergency evacuation and dispersal of pupils and school personnel.

(b) No person who is a driver of any vehicle carrying children to and from school shall, in receiving or discharging children at the school, fail to stop the vehicle on the side of the highway upon which the school is located.

Section 16-61806. Driving on Sidewalk.

(a) A person shall not drive a vehicle on a sidewalk area except on a permanent or duly authorized temporary driveway.

(b) This Section does not apply to a motorized wheelchair, authorized emergency vehicle, security vehicle or small service vehicle owned by a public authority or public service corporation.

CHAPTER 19. EQUIPMENT

Section 16-61901. Scope and Effect of Regulations.

(a) It is a violation of this Chapter for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which is not equipped with the parts and equipment required in this Chapter.

(b) Nothing contained in this Chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this Chapter.

(c) Except where specifically made applicable, the provisions of this Chapter do not apply to implements of husbandry, road machinery or farm tractors.

(d) Farm tractors shall display lighted lamps when driven at the times mentioned in Section 16-61902 of this Article.

Section 16-61902. When Lighted Lamps are Required.

(a) Every vehicle upon a highway within the Reservation at any time from a half hour after sunset to a half hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead, shall display lighted lamps and illuminating devices.

(b) The provisions of this Section do not apply to parked vehicles.

Section 16-61903. Equipment Required.

All vehicles or combinations of vehicles driven or moved on the highways of the Reservation shall meet the current equipment standards of the state within which the vehicle or combination of vehicles is moved or driven.

Section 16-61904. Equipment Required on School Buses.

(a) Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "School Bus" in letters not less than eight (8) inches in height.

(b) Every bus used for the transportation of school children shall be equipped in one of the following ways:

- (1) Equipped with a signal with the word "Stop" printed on both sides in black letters not less than five (5) inches high on a yellow background, which signal shall be not less than twenty (20) inches long and shall be manually operated by the operator of the school bus in such manner as to be clearly visible from both front and rear when extended from the left of the body of the bus.
- (2) Equipped with two (2) illuminated red lamps on the front of the bus and an equal number of the same type of lamps on the rear of the bus, such lamps to be not less than the diameter of the headlight lamps of the bus, each set of said red lamps to function by alternating blinking.

(c) The stop signal specified in subsection (b) (1) of this Section shall be displayed, and the blinking lights specified in subsection

(b) (2) of this Section shall be operated only when passengers are being received or discharged from the bus.

CHAPTER 20. INSPECTION OF VEHICLES; SIZE, WEIGHT AND LOAD RESTRICTIONS

Section 16-62001. Definition.

For the purposes of this Chapter 20, the term "designated officer" shall mean any member of the Tribal Police Department and such other Tribal officials authorized by the Tribal Council to perform the functions set forth in this Chapter.

Section 16-62002. Inspection by Designated Officers.

(a) Any designated officer, at any time and upon reasonable cause to believe that a vehicle is unsafe or not equipped as required, or that its equipment is not in proper adjustment or repair, may require the driver of the vehicle to stop and submit the vehicle to an inspection and such test with reference thereto as may be appropriate.

(b) In the event the vehicle is found to be in an unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the designated officer shall give a written notice to the driver. The notice shall require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto, and requiring that the vehicle be presented to the Tribal Police Department for inspection and approval within five (5) days.

(c) Any person failing to meet the requirements of subsection (b) of this Section, and subsequently operating said vehicle on any highway within the Reservation shall be in violation of this Chapter 20.

Section 16-62003. Size, Weight and Load Restrictions; Scope and Effect of Requirements; Limitations.

(a) It is a violation for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway within the Reservation any vehicle or vehicles or combination of vehicles of a size or weight exceeding the limitations of the state in which the vehicle is driven or moved.

(b) The provisions of this Chapter governing size shall not apply to fire apparatus, road machinery, implements of husbandry or farm tractors temporarily moved upon a highway or to a vehicle operated under the terms of a special permit issued pursuant to this Chapter or under appropriate state law.

Section 16-62004. Designated Officers May Weigh Vehicles and Require Removal of Excess Loads.

(a) Any designated officer, having reasonable cause to believe that the weight of a vehicle and load is unlawful, is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that the vehicle be driven to the nearest public scales in the event such scales are within ten (10) miles.

(b) When a designated officer upon weighing a vehicle and load, as provided in subsection (a) of this Section, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit as permitted under this Chapter. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses when directed by a designated officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this Section, is in violation of this Chapter and shall be subject to a Five Hundred Dollar (\$500) fine.

Section 16-62005. Permits for Excess Size and Weight.

(a) The Tribes may in their discretion upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum standards specified in this Chapter or otherwise not in conformity with the provisions of this Chapter upon any highway under the jurisdiction of the Tribes.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which permit to operate is requested, and whether the permit is requested for a single trip or for continuous operation.

(c) Such permit may limit the number of trips, establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated, or otherwise limit or prescribe conditions of operation of the vehicle or vehicles when necessary to ensure against undue damage to road foundations, surfaces or structures, and may require such undertaking or other security as may

be deemed necessary to compensate for any injury to any roadway or structures.

(d) The Tribes may charge a fee for each permit issued pursuant to the provisions of this Section.

(e) A permit may be issued, subject to the provision of this Section, for moving a mobile home on its own chassis, axles and wheels provided that such mobile home does not exceed fourteen (14) feet in width, fourteen (14) feet in height and seventy (70) feet in length and in combination with truck tractor or other towing vehicle does not exceed eighty-five (85) feet in length.

(f) In addition to all other remedies available at law, the Tribes may suspend or cancel, without prior hearing but with a right to appeal to the Tribal Council within ten (10) days, any permit issued pursuant to this Section whenever it is determined that the holder of the permit has violated or failed to comply with any qualification, condition, restriction or limitation contained within the permit, or has made false or misleading statements in order to secure such permit.

(g) Such a permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any designated officer and no person shall violate any of the terms or conditions of the special permit.

Section 16-62006. Liability for Damage to Highways or Structure.

(a) Any person driving any vehicle, object or contrivance upon any highway or highway structure shall be liable for all damage which the highway or structure may sustain as a result of any illegal operation, driving or moving of the vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight in this Chapter but authorized under the provisions of Section 16-62005 of this Article.

(b) When the driver is not the owner of the vehicle, object or contrivance, but is so operating, driving or moving the same with the express or implied permission of the owner, the owner and driver shall be jointly and severally liable for any damage.

(c) Such damage may be recovered in a civil action brought by or on behalf of the Tribes.

CHAPTER 21. ENFORCEMENT

Section 16-62101. Civil Traffic Violations.

Any failure to comply with the provisions of this Article VI, except for the provisions set forth in Sections 16-6301, 16-6302 and 16-6303 of Chapter 3, Sections 16-6601 and 16-6602 of Chapter 6, Sections 16-6704, 16-6705 and 16-06706 of Chapter 7, and Section 16-62202 of Chapter 22 shall be classified as a civil traffic violation. The fines or other civil penalties applicable to such traffic violations shall be as set forth in the particular Sections violated, or as otherwise set forth in Section 16-62102 of this Article.

Section 16-62102. Penalties Applicable to Civil Traffic Violations.

(a) Unless otherwise provided for by the provisions of this Article, any person adjudged to have committed a civil traffic violation shall be subject to the following civil fines:

- (1) For a first violation, such person shall be fined not less than Fifty Dollars (\$50), but not more than Two Hundred Dollars (\$200).
- (2) For subsequent violations committed within one (1) year after a previous violation committed under this Article, such person shall be fined not less than One Hundred Dollars (\$100), but not more than Five Hundred Dollars (\$500).

(b) Notwithstanding the provisions of subsection (a), a person adjudged to have violated the provisions of Chapter 8 of this Article shall be fined in accordance with a fine schedule approved by the Administrative Committee of the Tribes. Upon approval by the Administrative Committee, such fine schedule shall be filed with and available for public examination at the Court of the Tribes.

(c) In addition to any other penalty provided in this Article, the court shall levy a fifteen (15) percent penalty surcharge. Said surcharge shall be used to offset the administrative costs of enforcing this Article.

Section 16-62103. Commencement of Action.

(a) A civil traffic violation case is commenced by issuance of a civil traffic complaint as provided in this Chapter.

(b) A civil traffic violation case shall be commenced either:

- (1) Within thirty (30) days of the alleged violation.

- (2) Within ninety (90) days if the alleged violation is under investigation in conjunction with a traffic accident.

Section 16-62104. Service of Traffic Complaint.

(a) A civil traffic complaint may be served by delivering a copy of the citation to the person charged with the violation or by any means authorized by the rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested, delivered to addressee only to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court.

(b) The original civil traffic complaint shall be filed in court within ten (10) court days of the time the complaint was issued. A law enforcement officer may issue the civil traffic complaint.

(c) Upon a deposit of the civil traffic complaint with the Tribal Court, the charge may be disposed of only by trial in the Tribal Court or other official action by the Court, including payment of a fine to the Court.

(d) It is official misconduct for any Tribal officer or public employee to dispose of a civil traffic complaint, or of the record of the issuance of the same, in a manner other than as required by this Chapter.

(e) The Clerk of the Tribal Court shall maintain or cause to be maintained, in connection with every civil traffic complaint issued by a law enforcement officer, a record of the disposition of the complaint by the court.

Section 16-62105. Subsequent Disposition.

The Tribal Court may forward to any appropriate state or federal agency a report stating the disposition of any case concerning a violation of the provisions of this Article.

Section 16-62106. Service of Parking or Standing Complaint.

(a) This Chapter does not require that either the initial notification or a subsequent summons and complaint for a parking or standing violation be issued or served as required by this Chapter.

(b) If it is necessary to issue a summons and complaint because there is not a satisfactory response to the initial notice of a parking or

standing violation, the summons and complaint may be sent by regular mail. Service of the summons and complaint is complete on mailing.

Section 16-62107. Authority to Detain Persons.

A law enforcement officer may stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of this Article and to serve a copy of the traffic complaint for an alleged civil or criminal violation of this Article.

Section 16-62108. Traffic Complaint; Proceedings.

(a) A person served with a civil traffic complaint shall:

- (1) Appear at the time and place stated in the complaint.
- (2) Admit or deny the allegations of the complaint.

(b) Allegations not denied at the time of appearance are deemed admitted. A fee shall not be charged for the appearance.

(c) If the allegations are admitted, the court shall enter judgment for the Tribes and shall impose a civil fine. The person may admit the allegations with an explanation, and then the court shall enter judgment for the Tribes and impose a civil fine. In determining the civil fine, the court shall consider the explanation submitted.

(d) If the person denies the allegations of the complaint the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the Tribes are required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten (10) days before the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribes, the court shall enter judgment for the Tribes and shall impose a civil fine.

(e) If a person served with a civil traffic complaint alleging a violation of the Article fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the complaint are deemed admitted, and the court shall enter judgment for the Tribes and impose a civil fine.

Section 16-62109. Witnesses.

The Tribes and the person charged with a civil traffic violation may subpoena witnesses. Witnesses are not entitled to fees for appearing in connection with a civil proceeding.

Section 16-62110. Appeal.

A party may appeal the judgment of the court. The appeal may be made as provided by the rules prescribed in Article II of this Code.

Section 16-62111. Failure to pay Civil Fine.

(a) A person shall pay all civil fines within thirty (30) days from entry of judgment, except that if payment within thirty (30) days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments.

(b) If the civil fine is not paid or an installment payment is not made when due, the court may declare the entire civil fine due and, if so, the court shall notify any appropriate state or federal agency of such failure to pay.

CHAPTER 22. PROCEDURE UPON ARREST; REPORTS IN TRAFFIC CASES.

Section 16-62201. When Person Arrested Must Be Taken Immediately Before Court.

If a person is arrested for any criminal offenses as set forth in this Article, the arrested person shall be immediately taken before the Tribal Court in any of the following cases:

(a) When the person arrested demands an immediate appearance before the court.

(b) When the person is arrested upon a charge of an offense which resulted in the death or injury of any person.

(c) When the person is arrested upon a charge of driving while under the influence of intoxicating liquor or drugs.

(d) When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injury or damage to property.

(e) When it reasonably appears to the law enforcement officer making the arrest that the person arrested is about to leave the jurisdiction of the Tribes.

If a judge of the Tribal Court is not immediately available, a person arrested under the circumstances described in subsections (a) through (e), inclusive, of this Section shall be held for not more than thirty-six (36) hours pending availability of a judge, and for such longer period under the circumstances and for the time prescribed in Section 204(f) of Article II of this Code.

Section 16-62202. When Person Arrested to be Given Five (5) Days Notice to Appear in Court.

(a) When a person is arrested for any criminal offense as set forth in this Article, and the person is not immediately taken before the court as required in Section 16-62201 of this Article, the arresting officer shall prepare a written notice to appear in court. The notice to appear shall contain the name and address of the person, the license number of his vehicle, if any, the offense charged and the time and place when and where the person shall appear in court.

(b) The time specified in the notice to appear shall be at least five (5) days after the arrest unless the person arrested demands an earlier hearing.

(c) The arrested person, in order to secure release as provided in this Section, shall give his written promise to appear in court by signing at least one (1) copy of the written notice prepared by the arresting officer. The law enforcement officer shall deliver a copy of the notice to the person promising to appear. Thereupon, the law enforcement officer shall forthwith release from custody the person arrested.

Section 16-62203. Violation of Promise to Appear.

(a) Any person willfully violating his written promise to appear in court, given as provided in this Chapter, is guilty of a criminal offense regardless of the disposition of the charge for which he was originally arrested.

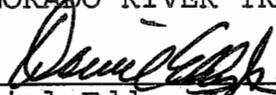
(b) A written promise to appear may be complied with by an appearance by counsel for the purposes only of entering a plea or motions, and of obtaining a trial setting, but not for conduct of a trial or the imposing of sentence.

CERTIFICATION

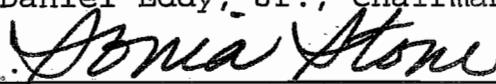
The foregoing Ordinance was enacted on December 16, 2002, duly approved by a vote of 6 for, 0 against, and 0 abstained, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Article VI of the Constitution of the Tribes, ratified by the Tribes on March 01, 1975, pursuant to Section 16 of the Act of June 18, 1934 (25 U.S.C. § 476). This Ordinance is effective as of the date of its enactment.

COLORADO RIVER INDIAN TRIBES

COLORADO RIVER TRIBAL COUNCIL



Daniel Eddy, Jr., Chairman



Sonia Stone, Secretary

COLORADO RIVER INDIAN TRIBES
LAW AND ORDER CODE
ARTICLE IX CIVIL PROCEEDINGS

Chapter 1. GENERAL PROVISIONS

Section 9-101 Jurisdiction.

Subject matter and personal jurisdiction are established pursuant to the Tribal Law and Order Code, Article I, Chapter A, §§ 101 and 102.

Section 9-102 Purpose.

Article IX is adopted by the Tribal Council of the Colorado River Indian Tribes pursuant to Article VI, §1(v) of the Constitution of the Colorado River Indian Tribes. The purpose of Article IX is to promote and preserve the peace, harmony, safety, health and general welfare of the people of the Colorado River Indian Reservation and those permitted to enter upon or reside within the territory of the Reservation.

Section 9-103 Definitions.

In this Article, except where otherwise specifically provided or unless the context otherwise requires, the following terms and expressions shall have the meanings defined below wherever they are utilized in this Article:

A. "Colorado River Indian Reservation" or "Reservation" means all lands and waters located within the exterior boundaries of the Colorado River Indian Reservation as established, existing and geographically defined under the laws of the United States, encompassing all territory within its exterior boundaries as now or hereinafter prescribed or ascertained, including fee patented lands, allotted lands, townsites, roads, bridges, and lands and rights-of-way, owned, used or claimed by any person.

B. "Colorado River Indian Tribes" or "Tribes" means the citizenship and organization of the Colorado River Indian Tribes of the Colorado River Indian Reservation, under and pursuant to its Constitution and By-Laws, as amended, ratified July 17, 1937 and approved August 13, 1934 (48 Stat. 984), as amended.

C. "Reasonable Force" means the force reasonably necessary to terminate the civil trespass.

D. "Trespasser" means any person using, possessing, or occupying, any tribal lands without a lease, permit, or other written approval or authorization of the Tribal Council. For purposes of this Article, a Trespasser shall also mean any person who moors, anchors, or connects a boat in any way to tribal lands without a lease, permit, or other written authorization of the Tribal Council, regardless of whether the boat itself rests on tribal lands.

E. "Tribal Council" or "Council" means the Tribal Council of the Colorado River Indian Tribes.

F. "Tribal Court" or "Court" means the Colorado River Indian Tribes' Tribal Court.

G. "Tribal Lands" means all lands either owned in fee by the Colorado River Indian Tribes or held in trust by the United States for the Colorado River Indian Tribes.

Chapter 2. TRESPASS

Section 9-201 Purpose.

The purpose of this section is to set forth law governing occupation of premises and lands within the Colorado River Indian Reservation, to deter and prevent trespass on the Reservation and to remove trespassers in an orderly and expeditious manner.

Section 9-202 Applicability.

Except as otherwise expressly provided, this Chapter applies to the unlawful occupation or use of premises and lands within the Reservation.

Section 9-203 Tribal Court Jurisdiction to hear Trespass Actions.

A. This Chapter applies to all persons and property, personal and real, subject to the jurisdiction of the Tribes as established by the Constitution of the Tribes, the inherent sovereignty of the Tribes, by the Tribal Law and Order Code as set forth in Section 9-101, Chapter 1 of this Article, and by other applicable laws, regulations, and ordinances.

B. The Colorado River Indian Tribes Tribal Court is hereby granted the jurisdiction and authority to determine whether a person or entity has committed a trespass or is presently trespassing, including issuing orders requiring the person or entity having been found by the Court to be a trespasser to vacate the subject tribal lands and requiring a tribal Realty Agent, Law Enforcement Officer, and/or Fish and Game Warden to physically remove the person or entity and their personal property from the subject tribal lands.

Section 9-204 Removal of Trespassers.

Prior to making any attempt to remove a trespasser from tribal lands, the Tribe's duly authorized Realty Agent, Law Enforcement Officer, and/or Fish and Game Warden shall: (1) advise the trespasser that he/she is trespassing on tribal lands; and, (2) advise the trespasser to vacate the tribal lands immediately. In the event that the trespasser does not immediately vacate the lands the procedures set forth herein shall be followed.

Section 9-205 Complaint in Trespass.

If the trespasser fails to vacate the subject trust lands when advised to do so as set out in Section 9-204 of this Chapter, the Tribe may file a Trespass complaint with the Tribal Court. The complaint shall be verified and shall set forth the following: (1) if known, the names of the trespassers; (2) if the names of the trespassers are unknown, the trespassers

may be designated by the fictitious name "Doe" and the complaint shall include an approximate number of trespassers and a legal description of the tribal lands they use, possess or occupy; (3) legal description of the subject tribal lands; (4) a signed and authenticated affidavit from a duly authorized Realty Agent, Law Enforcement Officer, and/or Fish and Game Warden stating; (a) that the trespassers are on tribal lands without the permission of the tribes, and (b) that the trespassers have been asked to vacate tribal lands pursuant to Section 9-204 of this Chapter; and, (5) a request for a removal order.

Section 9-206 Tribal Court Action.

Within twenty-four hours of the receipt of the Tribes' Trespass Complaint, the Tribal Court shall issue either a removal order or a written explanation of any defect(s) in the Tribes' Trespass Complaint. If the Tribe's Trespass Complaint contains defects the Tribes shall be given leave to amend its complaint.

Section 9-207 Removal Order.

The Tribal Court shall issue a removal order if the Tribes' Trespass Complaint satisfies the requirements of Section 9-205 of this Chapter. The removal order shall be issued on the basis of the ex-parte complaint of the Tribes. The removal order shall direct the Tribes' duly authorized Realty Agents, Law Enforcement Officers, and/or Fish and Game Wardens to use all reasonable force necessary to remove any and all trespassers and their personal property from the subject tribal lands. There is no right to appeal a removal order.

Section 9-208 Authority to Remove.

The Tribes' duly authorized Realty Agents, Law Enforcement Officers, and/or Fish and Game Wardens shall have the authority to do all things reasonably necessary, including exercising reasonable force, to remove trespassers from tribal lands. No Realty Agent, Law Enforcement Officer, or Fish and Game Warden acting pursuant to this Article shall be civilly or criminally liable for any injury or damage incurred by any party during the removal process.

Section 9-209 Severability.

If any section, subsection, paragraph, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this Article.

Section 9-210 Effective Date.

This Article shall take effect immediately upon its passage.