

CHIPPEWA CREE TRIBAL
LAW AND ORDER CODES

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TITLE 1

GENERAL PROVISIONS

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GENERAL PROVISIONS

Chapter 1 ESTABLISHING AUTHORITY AND COURTS

1.1 Constitutional Authority

The code of the Rocky Boy's Reservation is adopted pursuant to the authority vested in the Business Committee under Article VI, section (1) of the Constitution of the Chippewa-Cree Indians of the Rocky Boy's Reservation.

1.2 Prior Inconsistent Ordinances and Resolutions

Any and all Code provisions or ordinances inconsistent with, or in conflict with, or contrary to the spirit and purpose of this Code are hereby repealed and have no effect.

1.3 Amendments, Modifications, Additions to the Code

The code may be amended by ordinances. The adoptions of Tribal Ordinances which effect modifications, additions, or deletions to this Code shall be codified and incorporated in a manner consistent with the numbering and organization of this Code.

1.4 Availability of Code

Copies of this Code and any amendments shall be kept available for public inspection during regular business hours at the office of the Clerk of the Court. Copies will be made available at cost to anyone who requests the Code.

1.5 Authority to Make and Enforce Administrative Rules

The Business Committee may appoint sub-committees to establish rules in areas such as court and resources administration. Rules made by each sub-committee will not be in effect until: (1) they have been posted in a public place and made available upon request for at least thirty (30) days; and (2) any comment made on the proposed rules are considered by the sub-committee.

Copies of all rules, whether proposed or in effect, shall be available for public inspection during regular business hours at the office at the Clerk of the Court, and the offices of the Business Committee

1.6 Creation and Establishment of the Courts

The Rocky Boy's Tribal Court is established pursuant to Article XII and Article VI, section 1 (p) of the Constitution of the Chippewa-Cree Indians of the Rocky Boy's Reservation.

1.7 Composition of the Chippewa-Cree Courts of Appeal

Upon the enactment of this Title, the Rocky Boy's Tribal Court shall provide, by court rule, an appellate court for the review of the decisions of the Rocky Boy's Tribal Court.

1.8 Powers of the Court

The Tribal Court shall be a court of general civil and criminal jurisdiction and shall hear appeals from administrative bodies as provided by the Code or Ordinances of the Chippewa-Cree Tribe.

1.9 Choice of Law

The Tribal Court and appellate court, in all actions, shall apply the laws, ordinances, customs, and traditions of the Chippewa-Cree Tribe. In the absence of Tribal Law in civil matters the court may apply laws and regulations of the United States or the State of Montana. Where doubt arises as to customs and traditions of the Tribe, the Tribal Court may request the advice of recognized Tribal elders.

CHAPTER 2 JURISDICTION

2.1 Criminal Subject Matter Jurisdiction

Jurisdiction of the Judicial Branch shall extend to any and all offenses which affect or concern the Tribe or its members when occurring within the exterior boundaries of the reservation or on any other land or property owned or controlled by the Tribe or adjacent, dependent Indian communities.

2.2 Civil Subject Matter Jurisdiction

Jurisdiction of the Court shall extend to all civil actions arising in whole or part within the exterior boundaries of the reservation or on any other land or property owned or controlled by the Tribe or adjacent, dependent Indian Communities.

2.3 Personal Jurisdiction:

(1) The Court's criminal jurisdiction shall extend to any Indian, including Canadian Indians, who commits an offense enumerated within the Code of Offenses within the exterior boundaries of the Rocky Boy's Reservation.

(2) The Court's civil jurisdiction shall extend to any person within the exterior boundaries of the Rocky Boy's Reservation, and to persons who are parties in causes arising out of contacts with the reservation in matters in which the Court has subject matter Jurisdiction.

Chapter 3 SOVEREIGNTY

3.1 Adoption by Reference Not a Waiver

The adoption by the Business Committee of any law by reference into this Code shall not constitute a waiver or cession of any sovereign power or jurisdiction of the Tribe or in any way diminish such sovereign power or jurisdiction. The effect of adoption by reference shall be the addition of the adoption law to the law of the Chippewa-Cree Tribe.

3.2 Application of the Law of Other Jurisdictions

Application of the law of other jurisdictions by the Tribal Court under the choice of law section of this Code shall not constitute a waiver or cession of any sovereign power or jurisdiction of the Tribe or in any way diminish such sovereign power.

3.3 Sovereign Immunity

The Tribe shall be immune from suit in any civil action, and its officers and employees immune from suit for any liability arising from the performance of their official duties, except as required by federal law or the Chippewa-Cree Constitution and By-Laws, or as specifically waived by a resolution or Ordinance of the Business Committee.

Chapter 4 LIMITATIONS ON ACTIONS

4.1 Civil Actions.

Unless otherwise specifically provided in the Code, the following limitations on the bringing of civil actions will apply:

(1) Any authorized action against the Tribe or its officers or employees arising from the performance of their official duties must be commenced within one (1) year of the date the cause of action arose; and

(2) Any other action must be commenced within three (3) years of the date the cause of action arose; except that any cause of action based on fraud or mistake must be commenced within three (3) years of the date the aggrieved party discovered or reasonably should have discovered the facts constituting the fraud or mistake.

4.2 Criminal Actions.

(1) A prosecution for any offense must be commenced within two (2) years of the occurrence of the offense.

(2) The period of limitations does not run during any period in which the offender is not physically located on the reservation or when a prosecution had been initiated in another jurisdiction against the offender for the same conduct.

Chapter 5 PRINCIPLES OF CONSTRUCTION

5.1 When Applied:

The following principles of construction apply to all of the Code unless a different construction is obviously intended:

(1) Masculine words shall include the feminine, feminine words shall include the masculine, singular words shall include the plural and plural words shall include the singular.

(2) Words shall be given their plain meaning and technical words shall be given their usually understood meaning where no other meaning is specified.

(3) Wherever a term is defined for a specific part of this Code, that definition shall apply to all parts of this Code unless a contrary meaning is clearly indicated.

(4) This Code shall be construed as a whole to give effect to all its parts in a logical, consistent manner.

(5) If any provisions of this Code or the application of any provisions to any person or circumstances is held invalid, the remainder of this Code shall not be affected. The provisions of this Code are declared to be severable.

(6) Any typographical errors or omissions shall be ignored whenever the intended meaning of the provisions containing the error or omission is otherwise reasonably certain to the Court.

(7) In the resolution of any other issues of construction due regard shall be given to the underlying principles and purpose of this Code.

Chapter 6 CONTEMPT OF COURT

6.1 Power to Impose Penalty

The Tribal Court and Court of Appeals have the power to penalize or punish anyone for contempt of the Court's judgment, orders or decrees and for conduct in or near the Court which shows disrespect for the Court.

6.2 Indirect Contempt

Indirect contempt is the knowing failure to comply with an order of Court to do, or not do, something for the benefit of a party, or is an interference with the process of the Court. Indirect contempt includes but is not limited to:

(1) Disobedience of a subpoena, judgment or other order of the Court;

(2) Falsely presenting oneself as an officer, attorney or council of the Court;

- (3) Detaining a witness, party to an action, or officer of the Court while the witness, party or officer is going to, remaining at or returning from a judicial proceeding;
- (4) Any other interference with the process or proceeding of the Court; and
- (5) Neglect or violation of duty by a person appointed or elected to perform a judicial service.

6.3 Direct Contempt

Direct contempt is a disrespectful act done in the presence of the Court or near to the court, which offends the dignity of the Court. Direct Contempt includes but is not limited to the following:

- (1) Disorderly, contemptuous or insulting behavior directed toward the Court during the course of a judicial proceeding;
- (2) Conduct or speech which tends to interrupt the course of a trial or other judicial proceeding;
- (3) Conduct which deceives the Court; and
- (4) Disobedience of the Court during the course of a judicial proceeding.

6.4 Procedure.

(1) Contempt committed in the presence of the Court may be penalized by the court without a hearing to determine the facts which constitutes the contempt.

(2) Contempt allegedly committed outside the presence of the Court may be penalized only after a hearing which establishes the facts constituting the contempt.

6.5 Fine for Contempt of Court

Contempt of Court may be penalized by a civil fine not to exceed \$500 for each instance of contempt.

Chapter 7 DEFINITIONS

7.1 Signature, Written Instrument

As used in this Code, “signature” shall mean any written signature, or any mark or thumbprint witnessed by the written signature of at least one (1) witness to the act. Wherever this Code shall refer to a “Written Instrument” that shall be construed to mean an instrument typed, printed, or written out in hand, and signed by the person who makes it.

7.2 Oath

As used in this Code, “Oath” shall mean “Oath or affirmation,” and “sworn” shall mean “Sworn by oath or affirmation.”

7.3 Court Date

As used in this Code, “Court Day” shall mean any and every day of the week, except Saturday, Sunday, and legal holidays, provided, that whenever a legal holiday shall fall on a Monday, the Saturday preceding that Monday shall also be a court day.

7.4 Enrolled Member

As used in this Code, “enrolled member” shall mean any person validly and currently listed on the official membership roll of the Chippewa-Cree Tribe of Indians of the Rocky Boy’s Reservation.

7.5 Jail, Juvenile Detention Facility, Detoxification Facilities, Overnight Facilities

As used in this Code, “Jail”, “Juvenile Detention Facility”, “Detoxification Facility”, and “Overnight Facility” shall mean whatever building or facilities are designated for those purposes by the Business Committee.

7.6 Person

As used in this Code, a “person” may be a citizen of this or any recognized tribe, or any state or territory and includes, but is not limited to, natural persons, corporations, partnerships, trusts, unincorporated organizations, business associations and any other organizations or entities involved in private or commercial activity.

7.7 Status or Treaty Indians

As used in this Code, “Status Indians” or “Treaty Indians” shall mean enrolled members of recognized Tribes.

7.8 Non-Status Indians

As used in this Code, “non-status Indians” means Indians who are not enrolled members of a recognized Tribe.