

CHIPPEWA CREE TRIBAL
LAW AND ORDER CODES

(Feb. 4, 1987)

TITLE I– General Provisions

Legislative History:

Resolution #21-24: Approved March 5th, 2024 “TO APPROVE A LEGISLATIVE PROCESS ORDINANCE FOR THE CHIPPEWA CREE TRIBE FOR TITLE 1 CHAPTER 1.3 AMENDMENTS, MODIFICATIONS, ADDITIONS TO THE CODE”

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or ordinances inconsistent with, or in conflict with, or contrary to the spirit and purpose of this Code are hereby repealed and have no effect.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

LEGISLATIVE PROCESS ORDINANCE

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GENERAL PROVISIONS

I. PURPOSE

The purpose of this Code shall be to delineate procedures that will streamline and provide for a uniform procedure to develop, modify or rescind identified sections of the Law and Order Code of the Chippewa Cree Tribe.

II. SCOPE AND AUTHORITY

- A.** This Section shall govern the amendment, organization, and codification of the Law and Order Code of the Chippewa Cree Tribe. The rules relating to

the passing of new laws or amendments to the Law and Order Code are internal CCBC procedural rules.

- B. Any violation of the procedures specified in these rules shall, in and of itself, have no legal effect on any Code amendment adopted by the CCBC and shall not be construed by the CCT Court or otherwise to influence in any way the force and effect of any of the provisions of or amendments to the Code of the Chippewa Cree Tribe.

III. **DEFINITIONS** – the following definitions shall apply to this Code.

- A. **“Amendment”** means any additions, deletions or other changes to the Code, including the passage of entirely new laws, which add new titles, chapters or sections.
- B. **“CCBC”** means the Chippewa Cree Business Committee.
- C. **“CCT”** means the Chippewa Cree Tribe of the Rocky Boy’s Indian Reservation.
- D. **“Code”** or **“CCTC”** means the Law and Order Code of the Chippewa Cree Tribe.
- E. **“Committee”** means the Committee of the CCBC or its successor which has been delegated by resolution the authority by the CCBC to act and/or which typically acts on the Code amendment in question.
- F. **“Committee Recording Secretary”** means the Secretary of the specific Standing Committee that is proposing changes to the CCT Law and Order Code.
- G. **“OAG”** means the Office of the Attorney General for the Chippewa Cree Tribe.
- H. **“RECORDING SECRETARY”** means the secretary of the Chippewa Cree Business Council who is responsible for recording and filing the minutes and actions of the CCTBC.

IV. **FORMAT**

- A. Standard format for codification of the Code shall use the following format:

TITLE ____
Chapter _____

Section 1.

Section 1.1

Section 1.2

Section 1.3

(a)

(b)

History

B. Expansion of Code

Any new Chapters added to certain Titles or creation of new Titles by the CCBC shall be designated identifying numbers that follow sequentially from the Chapters already identified in the Title.

C. Amendment Formatting

1. All proposed amendments to the Code shall be in proper Code format using a 12-font size and using the Times New Roman font and shall be formatted as provided above. Amendments which create new code sections or chapters shall be identified as such.
2. Proposed amendment of existing Code sections shall be indicated by underlining language, which is to be added to the section and striking through language, which is to be deleted. Once voted on, the corrections shall be accepted in the document and a clean copy presented to the appropriate parties.

V. AMENDMENT PROCESS

Updates to the CCBC Code, including amendments, new sections or recissions of the Code shall be initiated by the affected department, unless the CCBC directs the department or the OAG to do so.

- A. First Reading. The initiating department shall prepare the first draft with the consultation of the standing Sub-Committee and other affected departments to make revisions, and present to the Standing Committee for approval.
- B. Second Reading.
 1. Once the standing Sub-Committee has reviewed and final changes have been incorporated, the Amendment shall be presented to the CCBC for final approval. Public comment shall be sought if appropriate; comments shall be referred to CCBC Recording Secretary who will send to the initiating Department.
 2. The OAG shall review the amendments for Constitutional and federal compliance and CCT Code conformity and make recommended changes.
- C. Third Reading - Once the public posting time has ended and the community recommendations have been reviewed and incorporated the amendment shall be brought back to the CCBC for final action.
- D. If required, the Amendment shall be posted to the community public for twenty (20) days.

VI. POSTING OF NOTICE/COMMENT

- A. All Committee meetings where the Committee is acting upon an amendment to the Code shall be open to the public.

- B.** Modifications or development of the Code shall be posted to the public for thirty (30) days. The Committee may receive or solicit public comment as it deems fit.

VII. FINAL REVIEW/APPROVAL

- A.** Once the public comment period has ended, and the Committee has incorporated the comments, the OAG shall review the modification and send back to the Committee for further clarification/revision.
- B.** The OAG, along with the Committee representative, shall then forward the amendments to the CCBC shall review and approve, deny or send proposed code back to the Standing Committee for additional development and may recommend an additional comment period.
- C.** If approved, the OAG shall recommend the appropriate place for modification. The Chippewa Cree Business Council shall have the authority to provide final review and approval of the document.

VIII. NON-SUBSTANTIVE CORRECTIONS

If the OAG determines that the proposed amendment or a technical error with no new requirements, obligations, prohibitions, or other material changes in the existing Code, it may immediately act on the amendment and forward it to the CCBC for final action.

IX. REFERENCES AND CITATIONS

- A.** Any references to the Code in any regulation, policy, resolution, court opinion or other material adopted or produced by any department or entity of the CCT following any duly adopted re-codification, reorganization, or other changes to the extent necessary and practical.
- B.** When referencing or citing a provision of the Code, such as a provision may be referenced or cited as follows: The letters “CCTC” followed by the appropriate Title, Chapter, and Section numbers, and where applicable, the letters and numbers of the referenced subsection in parentheses.

IX. RECORDING SECRETARY’S RESPONSIBILITIES

- A.** The Recording Secretary shall be responsible for filing any Resolutions passed by the CCBC or its Committees, including amendments, modifications or recissions of Chippewa Cree law.
- B.** The Recording Secretary shall ensure that all appropriate or affected departments are provided final copies of the amendments to the Chippewa Cree Tribal Code, as well as to posting on the appropriate locations and website.

- C. The Recording Secretary shall be responsible for assisting the Office of the Attorney General in ensuring the amendments or any additions to any Chippewa Cree Law shall be codified in the existing Code of Laws.

X. COURT ADMINISTRATOR'S RESPONSIBILITIES

While the Recording Secretary is responsible for filing and maintaining a record system of the resolutions, ordinances and laws, and other duties listed in Section IX.above, the Court Administrator shall be responsible for:

- A. Developing and maintaining a law library which contains laws, resolutions, ordinances and amendment of the Chippewa Cree Tribe Law and Order Code, including judicial decisions rendered by the Chippewa Cree Tribal or any Court of Appeals, for use by the public, attorneys, clerks and judges as allowed (access to juvenile and sealed files shall be restricted unless duly approved by a judge).
- B. Ensuring that all laws and ordinances passed by the Chippewa Cree Business Council are brought to the attention of the Chippewa Cree Judiciary so they can be interpreted and implemented by the Chippewa Cree Tribal Court System as applicable.
- C. Assist the OAG and CCBC Recording Secretary in ensuring that any amendments or modifications to the Chippewa Cree Law & Order ordinances are incorporated into existing laws and ordinances.

XI. CODIFICATION OF AMENDMENTS

- A. Once the CCBC has approved the amendments through Resolution, the OAG, with the assistance of the CCBC Recording Secretary shall codify the amendment and ensure that the amendment is inserted into the electronic version of the Law-and-Order Code.
- B. The CCBC Recording Secretary shall ensure that a copy of the Resolution and the amendment is disseminated to all CCT departments and enterprises.
- C. The Court Administrator shall be responsible for maintaining a current copy of all code amendments as well.

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.

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.

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.

TITLE II
CHIPPEWA CREE TRIBAL
CIVIL PROCEDURE

TITLE II – Civil Procedure

Legislative History:

Resolution #116-21: Approved August 5th, 2021. “HEREBY ADOPTING THIS SUPPLEMENTAL POLICY ON ISSUING ORDERS FOR THE CHIPPEWA CREE TRIBAL COURT AND CODIFIED WITHIN THE CHIPPEWA CREE TRIBAL LAW AND ORDER CODE, TITLE II CML PROCEDURE LAW, CHAPTER 4.”

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TITLE II

CIVIL PROCEDURE

Chapter 1 **GENERAL PROVISIONS**

1.1 Scope and Construction.

Except when different rules specifically apply, these rules shall govern the procedures of the Chippewa-Cree Tribal Courts, in all civil proceedings and shall be constructed to secure a just, speedy, and inexpensive determination of every action.

Chapter 2 **COMMENCEMENT OF ACTION AND PRELIMINARY MATTERS**

2.1 Commencement of Action – Service of Process.

Any action shall be commenced in the Tribal Court by the filing of a complaint with the Clerk, stating the names of the parties and the facts constituting a grievance for which relief is requested and signed by the Complaint and/or complaining witness.

2.2 Service of Process.

Upon the filing of the complaint, the Clerk shall issue a summons; Service of process shall consist of delivering to the other party a copy of the complaint along with a summons.

(1) The summons shall be signed by a Judge or the Clerk, be under the seal of the Tribal Court, contain the names of the parties, be directed to the defendant, and state the name and addresses of the plaintiff or his attorney or representative in the action, and that the defendant is required to answer the complaint within 20 days or a default judgment will be taken against him.

(2) Service may be made by any law enforcement officer or other person, not a party, 18 years of age or older.

(3) Services may be made on a party by delivering the summons and compliant to the party himself or to a person over 14 years old at the party's home or principle place of business, or officer, managing agent, or employee, or partner of a person.

(4) If the party cannot be found within the exterior boundaries of the Rocky Boy's Reservation, service may be had by certified mail with delivery restricted to the party to be served.

(5) Where the Tribal Court has Jurisdiction of the cause of action, service may be made anywhere in the United States.

(6) All papers filed with the Clerk of Court by a party shall be filed by the Clerk with the opposing party, or the opposing party's designated attorney or lay council. Service of all papers except the complaint may be made by first class mail, return receipt requested.

(7) Persons other than natural persons involved in private or commercial activity within the exterior boundaries of the reservation shall designate an agent resident within the boundaries of the reservation for service of process. Service of process upon the designated agent constitutes service upon the person.

(8) Service upon a state shall be upon the Secretary of state.

(9) Service upon any branch or agency of the federal government shall be upon the Secretary of State or head of the agency.

2.3 Proof of Service.

The returned postal receipt or an affidavit of service by the person making the service, returned to the Clerk, shall constitute proof of service.

2.4 Time.

(1) Computation. In the computing any period of time, the day on which the period is to begin shall not be counted and the last day of the period shall be counted; provided, however, that any time period under seven (7) days will not include Saturdays, Sundays, or legal holidays in the period and any period which would otherwise end on a Saturday, Sunday, or legal holiday will end on the next day which is not a Saturday, Sunday, or legal holiday.

(2) Service by Mail. Whenever service is accomplished by mail, any period of time will begin on the date of the postmark and three (3) days shall be added to the prescribed period of time, but such addition shall not cause Saturdays, Sundays, or legal holidays to be counted in the time period of they would not otherwise have been counted.

(3) Extension. The court for good cause shown may extend the period of time within which an act may be done.

(4) Notice of Motion. Written motions and required notice of hearing on motions shall be served at least five (5) days prior to the time specified for hearing.

2.5 Pleadings.

There shall be a complaint and an answer. Responsive pleadings shall be allowed whenever there is a cross-claim or counterclaim.

(1) Complaint. A complaint set forth a claim for relief and shall contain;

(a) A short, plain statement of the grounds upon which the Tribal Court's Jurisdiction depends.

(b) A short, plain statement of the facts which show that the complaint is entitled to relief. A party may state more than one (1) statement of facts constituting a claim regardless of consistency:

(c) A demand for judgment for the relief to which the complaint feels entitled. A demand for relief can be in the alternative or for several types of relief.

- (2) Answer. An answer to the complaint shall contain;
- (a) A statement of which facts in the complaint the answering party denies and which the facts the answering party admits. If the answering party does not know whether a fact in the complaint is true or false, the answering party shall state he has no knowledge of the truth or falsity of the claim. A statement of no knowledge of a fact shall be treated as a denial and leaves the fact in controversy.
- (b) Defense. Defenses which are based on a different allegation of facts from that contained in the complaint should be affirmatively stated. Affirmative defenses include but are not limited to: assumption of the risk; contributory negligence; discharge in bankruptcy; fraud; illegality; payment of debt; and completion of contract.
- (c) Counterclaim. The answering party may include in the answer any claim he may have against the original complaint.
- (3) Crossclaim. A party may assert a claim against a co-party in a cross-claim. The cross-claim is a complaint filed against a co-party.
- (4) Third Party Claim. A party may file a claim against a third person whom the party believes is or may be liable for a claim filed against the party.

2.6 Forming of Pleading.

- (1) Caption. Every pleading shall contain a hearing: the name of the court, the title of the action, the Court file number (if known) and a designation as to the kind of pleading it is. All pleadings shall contain names of the parties. The name of the first party on each side may be used on all pleadings except the complaint.
- (2) Paragraphs. All claims or defenses shall be set forth in separate numbered paragraphs each of which shall be limited, as nearly as possible, to a single circumstance. Claims or defenses found upon separate transactions or occurrences should be set forth in separate paragraphs.

2.7 Time Period for Responsive Pleadings.

- (1) An answer to a complaint shall be filed within twenty (20) days from the date of service of the complaint.
- (2) Counterclaim. Any counter-claim the answering party has against the complaint at the filing of the answer must be included in the answer. If a counter-claim arises later; the Tribal Court may allow it to be filed if justice would be served.
- (3) Cross-claims and third party claims must be filed within twenty (20) days of filing of the complaint.
- (4) Responsive pleadings must be filed within twenty (20) days of the filing of the proceeding pleads.

2.8 Construction and Amendments to Pleadings.

(1) The Tribal Court shall construe all pleadings so as to do justice. Mistakenly designating a defense as a counter-claim or any other technical mistake shall not defeat the defense or claim.

(2) The Tribal Court shall freely allow amendments to the pleadings.

2.9 Motions to Dismiss or to Make More Definite.

Any motion to make a complaint more specific or to dismiss a claim must be made within five (5) days after receiving the complaint and prior to answering the complaint. The answer to the complaint shall not be due until twenty (20) days after the Court has ruled on the motion.

2.10 Real Property in Interest.

Every action must be pursued in the name of the person who has the complaint, except a personal representative or other person in a fiduciary relationship with the real party in interest, may sue in his own name without joining the party for whose benefit the action is maintained.

2.11 Representative.

When an infant or incompetent person is a party to an action, if that person does not have a general guardian, the Court shall appoint a representative for such person in the action.

2.12 Joiner of Parties.

Whenever possible, all persons interested in an action may be joined as parties in the action. Failure to join a party over whom the Court has no jurisdiction will not require the Court to dismiss the action unless it would be impossible to reach a just result without that party. Where a just result can be reached without joining such parties, the Court shall take the party's absence into account to assure justice is done.

2.13 Interveners.

A person may intervene in an action and become a party by filing a complaint in any action where that person has an interest in property which may be affected by the action or where a question of law of fact common to another claim of his may be litigated.

2.14 Substitution of Parties.

If a party dies or becomes incompetent or transfers his interest or separates from some official capacity, a substitute party may be joined or substituted as justice requires.

2.15 Discovery by Interrogatories.

A party may submit written interrogatories to any other party who shall answer then in writing, under oath, within twenty-five (25) days of when they are received.

2.16 Discovery of Deposition.

A party may take the oral deposition of an adverse party or non-party witness under oath after providing not less than ten (10) days notice, specifying the time and place where the deposition will occur.

The party requesting the deposition must hire an impartial person to record the questions and answers. The party answering the questions must read the record made and sign a statement attached to the record acknowledging that the record is completely accurate.

2.17 Discovery by Production, Entry, or Inspection.

A party may request another party to produce any documents or things in his custody or possession for inspection or copying or requested permission to enter and inspect property reasonably related to the case, and the opposing party shall within twenty-five (25) days reply as to whether or not such will be allowed and, if not, why not. If the request is refused, the requesting party may move the court to compel production, inspection, or entry.

2.18 Scope of Discovery.

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the pending action, whether or not it would be admissible at trial, if it appears reasonably calculated to lead to the discovery of admissible evidence., except that discovery may not be had of the work product of a party's counselor or attorney.

2.19 Protective Order.

A party against whom discovery is sought may move the Court for a protective order to prevent undue annoyance, harassment, embarrassment, oppression or undue burden or expense, and the Court may order that the discovery cease or proceed only upon specified conditions.

2.20 Failure to Make Discovery.

If a party fails to respond or appear for discovery as provided in this rule, the opposing party may move for and order to compel the defaulting party to perform and the Court may award costs to the non-defaulting party. If a party fails to perform after being ordered to do so by the Court, the Court way, upon motion, order that a certain fact, claim, or defense be deemed proved, or strike part of a claim or defense, or dismiss or render a judgment by default against the non-complying party.

2.21 Use of Discover.

Answer to interrogatories and depositions or facts discovered by production of documents, entry, or inspection may be used in a motion, hearing, or at trial to impeach or contradict the testimony of the person discovered, or by an adverse party for any purpose.

2.22 Deposition used at Trial.

If a witness is unavailable to testify because of incompetence, absence from the jurisdiction by a distance of incompetence, absence from the jurisdiction by a distance greater than one hundred (100) miles (unless appears that such absence was procured by the person offering the deposition), illness, death, or imprisonment, a sworn deposition may be offered instead of testimony of the witness who gave the deposition.

2.23 Transfer of Indian Child Welfare Proceedings from the State Court.

(1) The Tribal Court, upon receipt of notice of hearing pending in State district court involving a child who is an enrolled or enrolled member of the Tribe, shall cause an investigation to be made and shall determine whether transfer to the Tribal Court is appropriate. If a determination is made that a transfer is appropriate, the Tribal Court shall file a petition for transfer to Tribal Court with the state district court within three (3) working days of the Tribal Court determination.

(2) Once jurisdiction is transferred from state court, the Children's Court Counselor shall file a petition for emergency placement of the child and proceed to an adjudicatory placement of the child in accordance with Title VI, Chapter 6 of this Code.

Chapter 3 TRIAL

3.1 Assigning Cases for Trial.

The court shall establish rules for designating the time and judge before whom each action shall be heard.

3.2 Dismissal of Actions.

(1) Prior to a responsive pleading, the party making the claim may file notice of dismissal and the Court shall dismiss his claim without prejudice. After a response pleading has been filed; a party may move the court to dismiss his own claim and the court shall do so either with or without prejudice as is just and proper given the stage of the proceedings. However, if a cross-claim or counter-claim has been filed against the moving party; the judge shall dismiss the claim only with the consent of the adverse party or only if it appears that the other party can pursue his claim independently without undue additional hardship. The Court may order a party moving to dismiss his own claim to pay the costs of the

adverse party if the proceedings has progressed beyond the pleading stage, and may order payment of costs in other circumstances where such is deemed appropriate.

(2) A party against whom a claim has been made may move the Court to dismiss the claim of the adverse party upon any of the following ground;

(a) Failure of the adverse party to pursue prosecution of his claim; or

(b) Failure of the adverse party to comply substantially with these rules; or

(c) Failure of the adverse party to comply with an order of the court that affects the moving party's case; or

(d) Failure of the adverse party to establish a right to relief bases on the facts and law presented. This motion is made at the close of the presentation of the adverse party's evidence and does not prejudice the moving party's own right to present evidence. Whenever dismissal appears proper based upon a failure to prove claim, such dismissal shall be deemed an adjudication of the merits of the issue dismissed.

3.3 Subpoenas.

(1) Upon the request of a party, the Court may issue subpoenas for attendance of witness or production of documents or things.

(2) A person who has been properly served with a subpoena and fails to appear or produce may be held in contempt of Court.

(3) A person present in Court, or before a Judicial Officer, may be required to testify in the same manner as if he were in attendance upon a subpoena.

3.4 Rules of Evidence.

The court shall establish Rules of Evidence, which shall apply in all proceedings.

3.5 Jury Trials.

(1) A party may request a trial by jury in all civil actions involving a claim or claims exceeding five hundred (\$500) dollars except domestic relation cases, cases involving adoptions, probate, minors, incompetence, hearings in court orders, contempt, or cases in the appellate court. The request for jury trial shall be filed, along with a fee to be set by court rule, no less than twenty-five (25) days prior to the scheduled date of trial. Once a jury trial has been requested the request may not be withdrawn without the consent of all the parties.

(2) A judge may, upon his own motion, order the trial by a jury of any or al of the factual issues of a case regardless of whether or not the parties have requested it.

(3) A judge may, upon motion of any party or upon his own motion, find that some or all of the issues designated for jury trial are not properly triable to a jury, and order that no jury trial be held on those issues.

(4) A judge may hear and decide an issue or issues without a jury if either party to an issue fails to appear at trial, regardless of any request made for a jury trial on such issues.

3.6 Selection and Number of Jurors; Alternate.

There shall be six (6) jurors chosen to hear a case by the method determined by Court in its rules, plus the Court may allow one (1) additional juror to be chosen as an alternate juror. In the event that an alternate juror is chosen, he shall be treated as a regular juror in all respects unless dismissed by direction of the Court prior to the jury's deliberations.

3.7 Examination of the Jury.

The Court shall permit the parties or the attorneys to conduct the examination of prospective jurors and may itself examine the jurors, according to such rules as the Court establishes.

3.8 Separation of the Jury.

Any time prior to their verdict when the jurors are allowed to leave the courtroom, the judge shall admonish them not to converse with or listen to any other person on the subject of the trial and further admonish them not to form or express an opinion on the case until the case is submitted to the jury for their decision.

3.9 Improper Influence.

If improper influence is used to pressure a juror to reach an opinion during the course of the action, either party may move to discharge the jury and retry the action.

3.10 Instruction to the Jury.

At the close of the evidence or at such earlier time as the Court may direct, any party may file written requested instructions for the Court to give to the jury. The Court shall inform the parties or their counsel of the instructions it intends to give and hear objections and rule on them out of hearing of the jury.

3.11 Arguments in a Jury Trial.

Final arguments for the parties shall be made after the jury has been instructed.

3.12 Special Verdicts and Interrogatories.

The court may require the jury to return their verdict in the form of specific findings on specified issues or may require the jury to return a general verdict accompanied by answers to questions related to the issues under consideration.

3.13 Deliberation for the Jury.

(1) Once the case is submitted to it, the jury shall retire to deliberation on private under the charge of an officer of the Court who will refrain from communicating with the jury except to inquire whether they have reached a verdict, and who shall prevent others from improperly communicating with the jury.

(2) The jury may take with them when deliberating any of the following;

- (a) The Court's instructions;
- (b) Papers or things received in evidence as exhibits;
- (c) Notes taken by the jurors themselves, but not notes

taken by non juror.

(3) If after the jury retires there is some question on an instruction or other point of law or disagreement regarding the testimony, the jury may request additional instructions from the Court, which shall be given on the record after notice to the parties or their counsel.

3.14 Declaration of the Juror's Verdict.

When four (4) of the six (6) members of the jury agree on a verdict, they shall inform the officer who shall notify the Court. The Court shall reconvene and the jury foreman shall give the jury's written verdict to the Clerk of Court. The Clerk shall then read the verdict to the Court. The Court shall ask the jury foreman if that is the verdict.

Either party may request the Court to poll the jury members individually to determine if the verdict given is, in fact, the jury's verdict. The Court shall poll the jurors without the presence of the parties or their counselors. If less than four (4) jurors agree to the verdict, the court shall send the jury to deliberate again until a majority of four (4) is reached.

3.15 Non Jury Trials.

In cases tried without a jury, the Court shall make findings of fact and conclusions of law in support of its final judgment. These findings serve as a jury's verdict does in a jury trial.

3.16 Motion for a New Trial.

(1) Any party may petition for a new trial on any or all of the issues presented by serving a motion not later than ten (10) days after the entry of judgment, for any of the following grounds;

(a) Error or irregularity which prevented any party from receiving a fair trial; or

(b) Misconduct of the jury or jury members; or

(c) Accident or surprise, or newly discovered evidence which ordinary prudence could not have guarded against or produced at the trial; or

(d) Damages so excessive or inadequate that they appear to have been given under influence of passion or prejudice; or

(e) Insufficiency of the evidence to justify the verdict or other decisions, or that is contrary to the law; or

(f) Error in law.

(2) A new trial shall not be granted on the basis of error or irregularity which was harmless in that it did not affect substantial justice.

(3) Parties may include memoranda or affidavits in support of their motions to which reply memoranda and affidavits shall be allowed.

3.17 Court Initiative.

The Court may, on its own initiative, not later than ten (10) days after entry of judgment, order a new trial on any grounds asserted by a party to the action, and shall specify the reasons for so ordering.

Chapter 4 JUDGMENTS

CHIPPEWA CREE TRIBAL RULES OF COURT ISSUING ORDERS POLICY

SECTION 1. PURPOSE.

1.1 The intention of this policy is to help establish general rules of practice in regards to the Chippewa Cree Tribal Courts issuing judicial orders. This policy shall establish procedures and guidelines for Chippewa Cree Tribal Judges and clerks who issue judicial decrees and orders. The publication of this policy shall supersede and rescind all prior policies related to this subject matter and all other unwritten practices and rules. This policy is not meant to be comprehensive and will operate as local rules until such time as other procedural rules are implemented. New updates and modification may be issued by the Courts from time to time.

SECTION 2. SCOPE.

2.2 The rules outlined in this policy shall govern in all
Chippewa Cree Tribal Law & Order Code

civil actions and proceedings in the Chippewa Cree Tribal Court. The rules should be construed, administered, and employed by the

court and parties to secure the just, speedy, and inexpensive determination of every action and proceeding in light of Chippewa Cree laws, traditions, customs, and culture.

SECTION 3. POLICY STATEMENT.

3.1 This policy is effective immediately. This policy hereby supersedes and rescinds any and all other conflicted procedures and rules. The rules identified in this section shall apply to Chippewa Cree Rules of Court, provided a specific section does not set its own rule or procedure.

3.2 The Courts of the Chippewa Cree Tribe shall apply the following rules of court in the following sequence:

- a) Rules enacted within the laws of the Chippewa Cree Tribe;
- b) Rules of the Chippewa Cree Judicial Branch, and specifically, Title II Chippewa Cree Tribal Civil Procedure;
- c) The Montana Rules of Court, specifically the Rules of Civil Procedures and Rules of Court. Where applicable, the Montana rules will be followed to the extent they do not directly conflict with a written Chippewa Cree Tribal law or rule and are applicable to the facts and circumstances of a case.

Dated and entered on _ _ _ _ _

SECTION 4. PREPARATION AND SERVICE OF CHIPPEWA CREE TRIBAL COURT ORDERS

4.1 Judgment. Judgment and decision defined. "Judgment" as used in this policy include a decree and any order from which an appeal lies. A judgement should not include recitals of pleadings or a record of earlier proceedings. For this policy, a "decision" is a written order, ruling, or minute entry that adjudicates at least one claim or defense. The court may prepare orders after a hearing and serve copies on the parties or their lay advocates or attorneys.

4.2 Entering Judgment and Decision. All judgments must be in writing and signed by a judge. A judgment is not effective before entry, but the court may direct the entry of a judgment nunc pro tunc in such circumstances and on such notice as justice requires, stating the reasons on the record. A judgment, including judgment in a minute entry, is entered when the clerk files it. After the order is signed by the judge, the court clerk must file the order.

4.3 Notice of Entry of Judgment or Order. Within fifteen (15) business days, excluding federal and tribal holidays, after a judgment or an order has been made by the court, the judge shall give the court clerk, a copy of such judgment or order together with a general description of the nature and amount of relief and damages thereby granted, to the court clerk so that entry may be made and notice be served to the parties.

SECTION 5. SOVEREIGN IMMUNITY.

5.1 Nothing in this policy waives the sovereign immunity of the Chippewa Cree Tribe and its' entities, departments, directors, officers, employees, agents, and attorneys.

SECTION 6. EFFECTIVE DATE.

6.1 This policy was approved by the Chippewa Cree Business Committee during a meeting held on the 5th of August 2021 by Resolution No. 116-21. This policy will remain in effect until rescinded by resolution.

SECTION 7. LEGISLATIVE HISTORY.

7.1 This policy was adopted on August 5th 2021, by Resolution No. 116-21. and was codified within the Chippewa Cree Tribal Law and Order Code, Title II Civil Procedure Law and Order Codes, Chapter 4.

4.1 Default.

(1) When a party against whom a complaint asking for money damages has been filed has been served with process and fails to appear to defend against the claim, the court may enter a default judgment against the party.

(2) The court may enter a default judgment only for money damages and only for the amount asked for in the complaint.

(3) The court may for good cause shown, set aside a default judgment.

4.2 Summary Judgment.

Any time at least twenty (20) days after commencement of an action, any party may move the court for summary judgment as to any or all of the issues presented in the case. Summary judgment shall be granted by the Court if it appears that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Such motions, which shall be served not less than ten (10) days prior to the hearing in the motion, may be supported by affidavits, discovery, or memoranda, all of which must be made available to opposing parties at least two (2) days prior to the hearing.

4.3 Judgments after Full Trial.

(1) The court shall enter judgment on all claims before it in an action. Each judgment shall order relief, either as the party requested or as the Court deems appropriate and shall consist of an order of the court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefits of the injured party.

(2) The Court may include the court costs of the prevailing party in the damages award.

4.4 Entry of Judgment.

The judge in the action shall sign the judgment and file it with the Clerk of Court. A judgment is complete when it is so signed and filed.

4.5 Clerical Mistakes.

Clerical mistakes in judgments, orders or other parts of the recode and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party and after such notice as the Court may direct; mistakes may be corrected before an appeal is docketed in the appellate court, and thereafter while the appeal is pending with leave of the appellate court.

4.6 Death of a Party.

If a party dies after a verdict or decision has been reached upon any issue of fact before judgment, a judgment may nevertheless be entered thereon.

4.7 Proceedings to Enforce a Judgment.

Proceedings to enforce a judgment shall issue immediately upon the entry of the judgment, unless the court stays the proceedings.

4.8 Satisfaction of Judgment.

A judgment is satisfied, in whole or in part, as to any or all of the judgment debtors when the owner thereof or his attorney execute under oath and files an acknowledgment of satisfaction specifying the amount paid and

whether such payment is a full or partial satisfaction. A judge may order the entry of satisfaction upon proof of payment and failure of the judgment creditor to file a satisfaction. The clerk shall file all satisfactions of judgment and note the amount thereof in the register of actions and the judgment docket. A judgment satisfied in whole has no continuing effect.

4.9 Time Limitation on Order of Judgment.

A partially satisfied judgment or unsatisfied judgment shall continue in effect for eight (8) years. An action to renew the judgment remaining unsatisfied may be maintained any time prior to the expiration of eight (8) years and will extend the period of limitations for one (1) additional eight (8) year period.

4.10 Stays of Proceedings to Enforce Judgment.

(1) The court may stay proceedings to enforce a judgment where;

- (a) There has been filed a motion for a new trial; or
- (b) There has been filed an appeal of the judgment.

(2) The party filing the motion for a new trial or the party filing an appeal shall pay any bond required by the court to stay the proceedings to enforce the judgment, except that the Tribe, or an officer or agency of the Tribe, shall not be required to give a bond.

(3) Where the stayed judgment grants or denies injunctive relief, the court may suspend, modify, restore, or grant a temporary injunction during the stay.

(4) The appellate court itself may, upon appeal of a judgment, order a stay of proceedings to enforce a judgment, and suspend, modify, restore, or grant a temporary injunction during the stay.

4.11 Execution of Judgment.

A judgment creditor shall petition the Courts for a Writ of Execution to enforce his judgment within five (5) years of the entry of a judgment against a party or of final resolution of an appeal for which a stay of judgment had been ordered.

4.12 Property Subject to Writ of Execution.

All wages, money, goods, chattels, or other property, both real and personal belongings to the judgment debtor are subject to a writ of execution. All property not exempt under Section 4.13 of this chapter and all property seized and held under attachment in an action are subject to execution.

4.13 Exemptions.

The following property is exempt from execution:

(1) The first three hundred fifty dollars (\$350) of the judgment debtor's wages if he is the head of the family, or the first two hundred dollars (\$200) of the judgment debtor's wage if he is not the head of a family, when it appears by the debtor's affidavits or otherwise that the income is necessary for his use or for the use of his family;

(2) Books, pictures, and musical instruments belonging to the

judgment debtor not to exceed three hundred dollars (\$300) in value;

(3) Necessary wearing apparel belonging to the judgment debtor for the use of himself or his family; watches or jewelry not to exceed two hundred dollars (\$200) in value;

(4) The tools, implements, apparatus, motor vehicles, books, office furniture, business files, animals, laboratory, and other articles necessary to enable a person to carry on the trade, occupation, or profession by which that person habitually earns his living to the value of two thousand five hundred dollars (\$2,500), including sufficient quantity of food to support the animals, if any, for six (6) months;

(5) The following property belonging to the judgment debtor and in actual use or kept for use by and for his family: animals, household goods, furniture, and utensils to the value of one thousand two hundred dollars (\$1,200), including food sufficient to support the animals, if any, for six (6) months, and provisions actually provided for family use and necessary for the support of that person and family for six (6) months;

(6) All property of a public or municipal corporation;

(7) No article of property mentioned in this Section is exempt from execution issued on a judgment recovered for its price, and, in the event the articles of property has been sold or exchanged for other property, the proceeds of the sale or the article for which it was exchanged is not exempt from execution.

4.14 Procedure for Identification.

After petitioning the court for a Writ of Execution, the judgment creditor shall, if possible, identify property of the judgment debtor of value to satisfy the judgment. Such identification shall be made in a sworn affidavit, and shall not include exempt property.

The Court shall then order the judgment debtor to appear and identify under oath all of his exempt and non-exempt property or at least property subject to the action. If a judgment debtor claims certain property is exempt, he must provide information to support his claim. Failure of the judgment debtor to appear and provide information shall be a Contempt of Court, and unless other interested parties (e.g., spouse, children, and parents) come forward with information, no property or the judgment debtor will be held as exempt from execution. The judgment debtor must appear before the Court within five (5) working days of the order to appear, unless the Court is given good reasons for his failure to appear.

The Court may issue a Writ of Execution solely upon the affidavit of the judgment creditor, if some evidence is present to show that the property in fact belongs to the judgment debtor.

4.15 Substance of Writ.

Writ of execution may be against the property of the judgment debtor, another against his person, and a third for the delivery of the possession of real or personal property, including damages for withholding the property. Upon determination of what property is available for

execution, the Court shall issue the necessary Writ and Order to the Rocky Boy Police Department to carry out the orders in the Writ; specifically, to seize as much non-exempt property belonging to the judgment debtor as reasonably appears necessary to pay the judgment amount. All Writs shall direct the Police Department to proceed in the manner prescribed in the Court Rules.

4.16 Redemption from Sale.

At any time within six (6) months after the sale under this rule, the judgment debtor may redeem his property, personal or real, from the purchaser thereof or from any subsequent successors in interest, by paying the amount such purchaser or successor paid for the property plus eight (8) percent interest, plus any expense actually incurred by the purchaser, such as taxes and insurance, to maintain the property.

4.17 Judgment Debtor's Property Owned with Another.

(1) If an individual judgment debtor owns property jointly with another, a judgment creditor may obtain a Writ of Execution and force a sale of the debtor's interest, provided the property is not exempt under Section 4.13. An individual who jointly owns property with the judgment debtor shall have the right to meet the highest bid at an auction sale, and thereby obtain the judgment debtor's interest.

(2) A partner's right in specific partnership property is exempt on a claim against the partnership. If partnership property is attached for a partnership debt the partners or any of them or the representatives of a deceased partner may not claim an exemption for that property under this rule.

Chapter 5 EXTRAORDINARY PROCEEDINGS OR REMEDIES

5.1 Expulsion and Exclusion of Non-Members from Tribal Lands.

(1) Who may be Excluded. Any person who is not a member of the Chippewa-Cree Tribe may be excluded from the Rocky Boy's Indian Reservation.

(2) Grounds for Exclusion. Non-members of the Chippewa-Cree Tribe may be excluded on one (1) or more of the following grounds;

(a) Unauthorized prospecting, mining, timber cutting or other activity causing physical loss or damage to property on the Rocky Boy's Indian Reservation;

(b) Commission of a crime as defined by this Code, State or Federal Laws;

(c) Unauthorized trading;

(d) Entering an area of Rocky Boy's Reservation in violation of an order of the Tribal Business Committee and Agency

Superintendent designating such area as closed because of fire hazard or any other reason;

(e) Absent a Tribal Court order granting custody, removing or attempting to remove any Chippewa-Cree minor from the Rocky Boy's Reservation without prior approval of the present custodian, legal guardian, or Tribal Business Committee;

(f) Posing a danger to life, death, health, moral or property of the Chippewa-Cree Tribe or any of its members.

(3) Exclusion after a Hearing. A non-member of the Chippewa-Cree Tribe may be excluded from the Rocky Boy's Indian Reservation, if it is determined at a hearing that he has committed any of the acts listed in Subsection (2) of this Section.

(a) Initiation of an Exclusion Hearing. Upon request of the Chairman or the Vice-Chairman of the Tribal Business Committee or upon its own motion, the Tribal Court shall set a time and date within (10) to twenty (20) days for a hearing in which a person who is to be excluded may Present his defense to the grounds named for exclusion.

(b) Notice of an Exclusion Hearing. Notice shall be served personally or by registered mail to the person to be excluded when the Tribal Court sets the hearing date. The notice shall state the reason for the proposed exclusion, the proposed duration of the exclusion, the person's right to present evidence in his defense, and the time, date and place of the hearing

(c) Hearing: Order of Exclusion. After the hearing, or after the time set for the hearing if the person proposed for exclusion does not appear, the Tribal Court may order such person excluded from all or any part of the Rocky Boy's Indian Reservation for such time and on such condition as the Tribal Court sees fit to impose. All orders of exclusion shall state the period for which the order shall apply.

(4) Exclusion Prior to a Hearing. Prior to having received a hearing, a non-member of the Chippewa-Cree Tribe may be ordered preliminary excluded from the Rocky Boy's Indian Reservation by the Tribal Court for reasons as stated in subsection (2)(f) of this Section. The Tribal Court shall order a Tribal law enforcement officer to remove the person and any property of such person from the Rocky Boy's Indian Reservation. The law enforcement officer shall use only such force as is reasonable necessary to effect the removal.

(5) Initiation of a Preliminary Exclusion Order. Upon request of the Chairman or the Vice-Chairman of the Tribal Business Committee, or upon its own motion, the Tribal Court may issue a Preliminary Exclusion Order. Concurrent with issuing the order the Tribal Court shall set a time and a date within three (3) to ten (10) days for a hearing in which the excluded person may appear in Tribal Court to present his defense to the grounds named for exclusion. The preliminary exclusion order shall state the reasons for the exclusion, the duration of the Preliminary Exclusion, the duration of any other proposed exclusion, the

excluded person's right to present evidence in his defense, and the time, date and place the hearing is to be held.

(6) Limitation on Preliminary Exclusion Orders. A Preliminary Exclusion Order is effective only until the day after the scheduled hearing.

(7) Notice. A copy of the Preliminary Exclusion Order shall be personally served on the excluded person by a law enforcement officer at the time that such officer enforces the order. The service of the order shall satisfy the notice requirement of subsection 3(b) of this section.

(8) Attendance at the Hearing. In all cases where a Preliminary Exclusion Order has been issued, the Chairman shall notify the excluded person of a place on the reservation boundary where he may re-enter in the company of a law enforcement officer for the purpose of attending the hearing before the Tribal Court. The Chairman shall order a Tribal Law Enforcement Officer to accompany the excluded person while he is on the reservation coming to and leaving his hearing.

(9) Enforcement of Exclusion Orders. If any person, excluded from the Rocky Boy's Indian Reservation by the Tribal Courts does not promptly obey the order, the Tribal Court shall refer the case to the appropriate Tribal Officer for action (for example to write a letter, or the Tribal Court may refer the matter to the United States Attorney). The Business Committee may petition the Court to order forcible removal of an excluded person or property. Forcible removal shall be executed by a Tribal Law enforcement officer, and the officer shall use only such force as is reasonably necessary to effect the removal.

5.2 Temporary Restraining Orders.

(1) A party may present to the Court an affidavit setting out specific facts indicating immediate and irreparable damage will result if the court does not immediately restrain another party or other person from acting.

(2) The court may grant the restraining order with or without notice to the person restrained.

(a) If the Court gives notice, the person to be restrained may present an affidavit also. The court will then determine whether to grant the order

(b) In any event, a hearing to determine whether the restraining order should continue must be set within fifteen (15) days of the issuance of the restraining order, otherwise the order expires after the fifteenth day.

(c) At the hearing, the parties may present testimony, cross examine witnesses, and present documentary evidence to the Court.

(d) Every order granting an injunction and every restraining order shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or

acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concern or participation with them who receive actual notice of the order by personal service or otherwise.

5.3 Injunction.

An injunction may be granted:

- (1) When it appears by the pleadings on file that a party is entitled to the relief demanded, and such relief, or any part thereof, consists in enjoining the commission or continuance of some act complained of, either for a limited period or perpetually;
- (2) When it appears from the pleadings or by affidavits that the commission or continuance of some act during the litigation would produce greater or irreparable injury to the party seeking injunctive relief;
- (3) When it appears during the litigation that either party is doing, or threatens, or is procuring or suffering to be done, some act in the violations of the rights of another party respecting the subject matter of the action, and tending to render the judgment ineffectual;
- (4) In all other cases where an injunction would be proper in equity.

5.4 Extraordinary Writs.

Where no plain, speedy, and adequate remedy exists, relief may be obtained by obtaining an extraordinary writ which granted for any one (1) of the following grounds:

- (1) Where any person usurps, intrudes into, or unlawfully holds or exercises a public office or does or permits to be done any act which by law works a forfeiture of his office; or
- (2) Where an inferior tribunal, board or officer exercising judicial functions has exceeded its jurisdiction or abused its discretion; or
- (3) Where the relief sought is to compel any inferior tribunal, board or person to perform an act which the law specifically requires as a duty resulting from an office, trust or station to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully excluded by such inferior tribunal, board or person; or
- (4) Where the relief sought is to arrest the proceedings of any tribunal, board or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, board or person.

5.5 Habeas Corpus:

- (1) Relief by habeas corpus proceedings shall be granted whenever it appears to the court that any person is unjustly imprisoned or otherwise restrained of his liberty. Upon the filing of the complaint the court shall, unless it appears from such complaint or the showing of the plaintiff that he is not entitled to any relief, issue of a Writ directed to the

defendant commanding him to bring the person alleged to be restrained before the court at a specific time and place, at which time the court shall proceed to hear the matter and render judgment accordingly. If the writ is not issued, the court shall state its reason therefore in writing and file the same with the complaint, and shall deliver a copy thereof to the plaintiff.

(2) The defendant shall appear at the proper time and place with the person designated or show good cause for not doing so and must answer the complaint within the time allowed. The answer must state plainly whether he then has, or at any time has had the person designated under his control and restraint, and if so, the cause thereof. If such person has been transferred, the defendant must state the fact, and to whom, and when, the transfer was made, and the reason or authority therefore.

(3) The person restrained may waive his right to be present at the hearing, in which case the writ shall be modified accordingly. Pending a determination of the matter the Court may place such person in the custody of such individual or individuals as may be deemed proper.

(4) In each case, the court, upon determining the case, shall enter specific findings of fact and conclusions of law and judgment, in writing, and the same shall be made a part of the record in the case. If the court finds in favor of the complaint, it shall enter an appropriate order with respect to judgment or sentence in the former proceedings and such further orders with respect to re-arraignment, retrial, custody, bail, or discharge as the Court may deem just and proper in the case.

Chapter 6. PROCEDURES FOR APPEALS

6.1 Who can Request Judiciary Review:

Any party adversely affected by a decision of the trial court in a civil case may appeal that decision to the Chippewa-Cree appellate court. An appeal of the Trial Court's decision in a criminal case shall proceed pursuant to the provisions contained in the Criminal Procedure Title of this Tribal Code.

~~6.2 Commencement of a Civil Appeal:~~

~~A party must commence an appeal within five (5) days of the date of the Trial Court's decision by filing with the Clerk of the Chippewa-Cree Court, an original and one (1) copy of a Request for appeal. The appealing party shall pay a filing fee to be set by court rule at the time the Request of Appeal is filed. Within twenty (20) days of requesting an appeal, the party must file two (2) copies of his brief in support of the appeal. The clerk will notify the appellate court judges and the opposing parties within three (3) days of receiving the request for appeal. Upon receiving the copies of the brief in support of the appeal, the clerk will distribute one (1) copy to the appellate court and the other copy to the opposing party. Chippewa-Cree Tribal Law & Order Code 19~~

~~6.3 What may be Appealed:~~

~~Any final decision of the Trial Court may be appealed. However, the~~

~~appellate court may refuse to hear a civil appeal if it determines that the appeal is without merit. The appellate court shall notify the parties that the appeal is refused no later than ten (10) days after the request for appeal is filed.—~~

6.4 — Opposing Party's Response.—

~~The opposing party will have twenty (20) days from the date that the appealing party's brief is received to submit an opposing brief and to make any requests.—~~

6.5 — Consequences of Missing Filing dates.—

~~If a party does not file his request for appeal within the stated time limit, he loses his opportunity to appeal. If a party does not submit his brief within the stated time limits, the case will be decided without the brief. However, for good cause, the appellate court may extend any time limit set in this chapter.—~~

6.6 — Availability of the Trial Transcript.—

~~The Clerk shall keep the original trial transcript tape on file. A copy of the tape shall be provided to the appellate court, and upon the Court's request a transcribed copy of the trial transcript shall be provided. The parties to the appeal may listen to the trial transcript tape at the offices of the Court. Upon the request of the party, the Clerk will furnish that party at cost, with either a recorded copy or a transcribed copy of the transcript.—~~

6.7 — Court Cost and fee Waivers.—

~~If the appellate court requests a transcribed copy of the trial court transcript, the cost of transcribing the copy will be paid by the appealing party. The appellate court may waive or reduce the transcribing fee and the filing fee, or both, as justice requires.—~~

6.8 — When Oral Arguments Heard.—

~~In a civil case, the appellate court may request oral arguments. Oral arguments will be scheduled within ten (10) days of such a request.—~~

6.9 — Procedures on appeal.—

~~Relying upon this Code, and custom and tradition, the appellate court may affirm, modify or reverse the Trial Court's determinations of issues of law. The appellate court shall remand a case to the Trial Court for further findings of fact and a new judgment if on review of the Trial Court's findings of fact, the appellate court determines that the Trial Court's findings of facts are not sufficient to support the Trial Court's judgment and are not sufficient to support any other judgment on appeal. Chippewa Cree Tribal Law & Order Code 20—~~

6.10 — Unanimous Decision.—

~~Judgment of the appellate court shall be by unanimous decision. The lower court's decision shall stand, where there is no unanimous judgment by the appellate court.—~~

6.11 Written Decision.

~~The appellate court's decision must be in writing and contain the Trial Court's finding of facts and the appellate court's determinations of the issues of law. The addressing the issues of law, the decision shall state the Code sections, and customs or traditions upon which the appellate court based its determinations.~~

6.12 Time Limits:

~~The written decision in a civil case shall be issued within fifteen (15) days of when the last brief is submitted or of the completion of the oral arguments, whenever date is later.~~

TITLE III
CHIPPEWA CREE TRIBAL
CRIMINAL PROCEDURE

TITLE 3 – CHIPPEWA CREE TRIBAL CRIMINAL PROCEDURE

Legislative History:

Resolution #105-20: HEREBY AMENDING THE CHIPPEWA CREE TRIBAL LAW AND ORDER CODE, SPECIFICALLY, CRIMINAL PROCEDURE CODE TITLE III, CHAPTER THREE (3), TO INCLUDE PROBABLE CAUSE STATEMENT SUBSECTION (G) REQUIREMENT IN CHAPTER 3.1, SECTION (2), TITLED NOTICE OF CRIME.

Resolution #119-21: HEREBY ADOPTING SUPPLEMENT AL POLICY ON BAIL AND BONDS FOR THE CHIPPEWA CREE TRIBAL COURT AND CODIFIED WITHIN THE CHIPPEWA CREE TRIBAL LAW AND ORDER CODE, TITLE III CRIMINAL PROCEDURES, CHAPTER 6.

Resolution #15-21: HEREBY CONFIRMING THE CHIPPEWA CREE TRIBAL COURT BOND SCHEDULE

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TITLE III CRIMINAL PROCEDURE

Chapter 1 SHORT TITLE

1.1 Title:

 This Title shall be known as the Code of Criminal Procedure of the Chippewa-Cree Tribe of the Rocky Boy's Reservation,

Chapter 2 SCOPE AND CONSTRUCTION

2.1 Scope and Construction:

 (1) These rules shall govern the procedure in all criminal actions by the Chippewa-Cree Tribe of the Rocky Boy's Reservation.

 (2) The common law of the Chippewa and Cree peoples, as expressed in their customs and traditions, shall apply unless inconsistent with the Code or an ordinance of the Chippewa-Cree Tribe.

Chapter 3 INSTITUTION OF THE CRIMINAL PROCESS

3.1 Notice of Crime:

 (1) The notice to appear and complaint notifies the defendant as well as the court that a criminal charge is being filed by the prosecutor against the defendant, the facts upon which the charge is based, and the witnesses who will testify to those facts.

 (2) The notice to appear and complain must be in writing and include;

 (a) The name of the Court which has authority to hear the case;

 (b) The name of the defendant;

 (c) The crime committed, including the Code Section;

 (d) The time, place and facts constituting the crime;

 (e) The witnesses, who will testify to those facts. No additional witnesses may be added except for good cause and with permission of the court.

 (f) The signature of the prosecutor or an official of the Court designated by the prosecutor.

 (3) The complaint may charge more than one (1) offense and more than one (1) Defendant, provided the offenses were connected in time and location or were part of a continuing criminal activity, and providing the defendants were involved together in one (1) or more of the crimes. Offenses and defendants may be joined or separated for good cause shown and by order of the Court.

(4) The complaint shall be filed by the prosecutor with the Court. A copy of the complaint shall be served on the defendant at the first opportunity.

Chapter 4 OBTAINING THE PRESENCE OF THE DEFENDENT

4.1 Arrest:

(1) An arrest is taking a person into physical custody. Only reasonable or necessary force may be used.

(2) All arrests must be based on probable cause to believe the defendant has committed an offense.

(a) An arrest may be without a warrant of arrest, if the arrest is made during or immediately after the commission of the offense and existing circumstances require the immediate arrest of the defendant.

(b) An arrest may be based upon a warrant of arrest, signed by the judge.

(3) The police officer must inform the person arrested if the authority for the arrest and the reason for the arrest. The officer must provide the arrested person with a copy of the warrant of arrest, if one has been issued, and a copy of the complaint, if one has been filed.

Chapter 5 OBTAINING EVIDENCE OF THE CRIME

5.1 Interrogation:

Before the defendant may be asked any questions, the arresting officer, prosecutor or judgment must inform the defendant of his right to remain silent; to have counsel, at defendant's own expense, or lay counsel, or someone else present during questioning; and that anything the defendant may say could be used against him at trial.

5.2 Search and Seizure.

(1) All searches must be based on probable cause to believe evidence of a crime may be found at the location to be searched.

(a) Police officers may search the person the person and the area immediately around the arrested person incident to a lawful arrest for the purpose of protecting the police officer or preventing the destruction of evidence.

(b) All other searches and seizures must be based on a search warrant which specifically describes evidence to be seized and the location to be searched. All search warrants must be signed and issued by a judge.

5.3 Discovery:

- (1) Either the defendant or the prosecutor may make discovery of non-parties by subpoena or deposition.
- (2) The defendant may, upon request, inspect and make copies of any physical evidence in the hands of the police or the prosecutor.
- (3) The defendant shall also receive timely notice of any witnesses for the prosecution not named on the charging document.

CHAPTER SIX PROCEEDINGS BEFORE TRIAL

Policy on Bail and Bonds for the Chippewa Cree Tribal Court

SECTION 1. PURPOSE

1.1 This Policy sets forth the laws, rules, procedures and the Chippewa Cree Tribal Court policy related to the posting of bond by individuals providing secured appearance bonds on behalf of defendants or respondents in the Chippewa Cree Tribal Courts in Rocky Boy, Montana. The following procedures shall govern the release of person on bail.

SECTION 2. DEFINITIONS

2.1 Definitions.

- A. Arraignment: The initial step in a criminal prosecution whereby the defendant is brought before the Court to hear the charges and to enter a plea.
- B. Bail: The temporary release of a prisoner in exchange for security given for the prisoner's appearance at a later hearing.
- C. Bail hearing: A judge or magistrate will decide whether an arrested person may be released while his or her criminal case is pending.
- D. Bail schedule: A written listing of amounts of money to be used in bail setting based on the offense charged, regardless of the characteristics of any individual defendant.
- E. Bond: A portion of the bail amount paid by the defendant which is used to ensure the defendant's appearance before the Court or magistrate.
- F. Bond forfeiture: When a defendant released on cash bail fails to appear in Court, or otherwise violates a condition of their bail, the Court can declare the bail bond forfeited.
- G. Failure to appear: The phrase typically used when a defendant or witness under subpoena does not show up for a scheduled Court appearance.
- H. Pretrial services agency/program: Any organization created ideally to perform the three primary pretrial agency or program functions of: (1) collecting and analyzing defendant information for use by the Court in assessing risk; (2) making recommendations to the Court concerning bail bond conditions of release to address risk; and (3) monitoring and supervising defendants who are released from secure custody during the pretrial phase of their cases in order to manage their risk.

- I. Release on own recognizance: The pretrial release of an arrested person who promises, usually in writing but without supplying a surety or posting bond, to appear for trial at a later date.

SECTION 3. BAIL

3.1 Purpose of bail. The purpose of setting bail has been to secure the presence of the charged person while recognizing there is a presumption of innocence. The purpose of bail, in recognition of the presumption of innocence, is to relieve the defendant from imprisonment prior to trial and secure his or her presence before Court at a designated time. Bail cannot be used to deprive accused of his constitutional right to speedy trial. State ex rel. Wallen v. Judges Noe, Towne, Johnson, 78 Wn.2d 484, 475 P.2d 787 (1970).

3.2 Right to bail. A person charged shall be admitted to bail either before conviction or after conviction and pending appeal in accordance with the Constitution and laws of the Chippewa Cree Tribe and federal law. If there is unnecessary delay in bringing a person charged to trial, the Court may modify the terms for release on bail. Judge shall set a bail amount at a defendant's first Court appearance after an arrest, which may be either a bail hearing or an arraignment. Judges can set bail or waive bail altogether and grant release on the defendant's "own recognizance."

3.3 Terms. If the person charged is admitted to bail, the terms thereof shall be such as in the judgment of the Court will insure the presence of the person charged, having regard to the nature and circumstances of the offense charged, the weight of the evidence, the financial ability of the person charged to give bail, the character of the person charged and the policy against unnecessary detention of persons charged pending trial.

SECTION 4. AMOUNT OF BAIL

4.1 Determining amount of bail. The bail amount is initially set when the defendant is booked into jail.

- A. The judge shall use its current bond schedule, which shall be updated annually to determine amount of bail. After the bail amount is set, the defendant has two options. First, the defendant can pay the full bail amount, which is refundable after trial, to the Court. Second, if the defendant is unable to afford the first option, the defendant will remain in custody pretrial at the tribal jail.
- B. Bail may be specifically set by a judge for any offense not listed on the posted bail schedule or may increase the amount of bail at the arraignment. In all cases in which bail is determined to be necessary, bail must be reasonable and shall not exceed \$5,000.00. A reasonable bail shall reflect an amount which is:
 1. sufficient to ensure the presence of the defendant in any pending criminal proceeding;
 2. sufficient to assure compliance with the conditions set forth in a bail or release order; and
 3. not oppressive.

4.2 Bond Schedule.

Chippewa Cree Tribal Court				
31 Agency Square, Box Elder, MT 59521				
406-395-4808/5184 fax				
Chippewa Cree Tribal Law & Order Code-Title IV & VIII Bonds				
TITLE & CHAPTER	OFFENSE	CLASS	BOND	Sentence Guidelines
Title IV, Chapter 4				
Title IV, 4.1	Deliberate Homicide	AA	\$5,000.00	Maximum, 1 year &/or \$5,000.00
Title IV, 4.2	Negligent Homicide	AA	\$5,000.00	Maximum, 1 year &/or \$5,000.00
Title IV, 4.3	Kidnapping	A	\$5,000.00	Maximum, 6 months &/or \$500.00
Title IV, 4.4	Rape (1)	A	\$5,000.00	Maximum, 6 months &/or \$500.00
Title IV, 4.5	Rape(2)Under 16yea of age	AA	\$5,000.00	Maximum, 1 year &/or \$5,000.00
Title IV, 4.6	Incest	A	\$1,500.00	Maximum, 6 months &/or \$500.00
Title IV, 4.7	Assault	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 4.8	Assault & Battery	A	\$250.00	Maximum, 6 months &/or \$500.00
Title IV, 4.9	Negligent Endangering another Person	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 4.10	Causing or Aiding Suicide	A	\$5,000.00	Maximum, 6 months &/or \$500.00
Title IV, 4.11	Stalking	A	\$250.00	Maximum, 6 months &/or \$500.00
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title IV, Chapter 5				
Title IV, 5.1	Child Molestation	A	\$5,000.00	Maximum, 6 months &/or \$500.00
Title IV, 5.2	Child Abuse	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 5.3	Contributing to Delinquency of Minor	A	\$250.00	Maximum, 6 months &/or \$500.00
Title IV, 5.4	Possession of Intoxicating Substance-Minor	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 5.5	Desertion and Non Support of dependents	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 5.6	Failure to send children to school	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 5.7	Violation of Curfew	C	\$150.00	Maximum, 30 days/fine \$300.00
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title IV, Chapter 6				
Title IV, 6.1	Escape	A	\$1,000.00	Maximum, 6 months &/or \$500.00
Title IV, 6.2	Obstructing Justice	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 6.3	False Arrest	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 6.4	Refusing to Aid an Officer	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, Chapter 7				
Title IV, 7.1	Theft (1) Over \$50.00	A	EQUAL TO LOSS	Maximum, 6 months &/or \$500.00
Title IV, 7.1	Theft (2) Less than \$50.00	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 7.2	Breaking and Entering	A	\$500.00	Maximum, 6 months &/or \$500.00

Title IV, 7.3	Embezzlement	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 7.4	Extortion	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 7.5	Fraud	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 7.6	Forgery and Counterfeiting	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 7.7	Issuing a Bad Check	C	\$150.00	Maximum, 30 days/\$300.00
Title IV, 7.8	Unauthorized use of property	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 7.9	Malicious Mischief	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 7.10	Injuring Public Property	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 7.11	Maintaining a Public Nuisance	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 7.12	Storing Dangerous Discarded Container	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 7.13	Criminal Trespass-Buildings	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 7.14	Cutting Fence of Open Gates	D	\$75.00	Maximum \$100 fine
Title IV, 7.15	Arson	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 7.16	Cruelty to Animals	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 7.17	Permitting Domestic Pets to Roam	D	\$75.00	
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title IV, Chapter 8				
Title IV, 8.1	Disorderly Conduct	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 8.2	Firing a weapon	B	\$2,500.00	Maximum, 3 months &/or \$300.00
Title IV, 8.3	Carrying a concealed weapon	B	\$2,500.00	Maximum, 3 months &/or \$300.00
Title IV, 8.4	Public Drunkenness	C	Sober Up & Release	
Title IV, 8.5	Littering	D	\$75.00	Maximum \$100 fine
Title IV, 8.6	Gang Related Crime & Criminal Activities	A	\$500.00	Maximum, 6 months &/or \$500.00
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title IV, Chapter 9				
Title IV, 9.1	Threat or Intimidation	A	\$250.00	Maximum, 6 months &/or \$500.00
Title IV, 9.2	Bribery	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 9.3	Criminal Contempt of Court	A	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 9.4	Perjury	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 9.5	Destruction of Evidence	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 9.6	Disposing of Property of an estate	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 9.7	Protection of Elected Officials (1)	A	\$500.00	Maximum, 6 months &/or \$500.00
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title IV, Chapter 10				
Title IV, 10.1	Prostitution	C	\$150.00	Maximum, 30 days/fine \$300.00

Title IV, 10.2	Indecent Exposure	C	\$150.00	Maximum, 30 days/fine \$300.00
Title IV, 10.3	Exposing Infectious Disease	B	\$250.00	Maximum, 3 months &/or \$300.00
Title IV, 10.4	Malicious Gossip	C	\$150.00	Maximum, 30 days/fine \$300.00
NEW DRUG CODE	All Drug Offenses which fall under Code	A,B,C	\$500.00	Maximum, 6 months &/or \$500.00
Title IV, 10.6	Adulteration of Food or Drink	B	\$250.00	Maximum, 3 months &/or \$300.00
ELDER CODE	All Offenses which fall under Code	A,B	\$500.00	
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Ordinance 2-97	Domestic Violence	A	\$500.00	Maximum, 6 months &/or \$500.00
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title VIII, Chapter 3				
Title VIII, 3.2	Commercial Towing Service	D	\$75.00	Maximum \$100 fine
Title VIII, 3.3	Excessive Rewinding of Engines	D	\$75.00	Maximum \$100 fine
Title VIII, 3.4	False Report	D	\$75.00	Maximum \$100 fine
Title VIII, 3.5	Mufflers	D	\$75.00	Maximum \$100 fine
Title VIII, 3.6	Obstructing Traffic	D	\$75.00	Maximum \$100 fine
Title VIII, 3.7	Reporting Accidents	D	\$75.00	Maximum \$100 fine
Title VIII, 3.8	Yielding Right of Way	D	\$75.00	Maximum \$100 fine
Title VIII, 3.9	Failure to stop for a school bus	D	\$75.00	Maximum \$100 fine
Title VIII, 3.10	Speed Limits	D	\$75.00	Maximum \$100 fine
Title VIII, 3.11	Careless Driving	D	\$75.00	Maximum \$100 fine

Title VIII, 3.12	Traffic Control and Signs	D	\$75.00	Maximum \$100 fine
Title VIII, 3.13	Motor Operating Standards	D	\$75.00	Maximum \$100 fine
Title VIII, 3.14	Safety Restraints	D	\$75.00	Maximum \$100 fine
TITLE & CHAPTER	OFFENSE	CLASS	BOND	
Title VIII, Chapter 6				
Title VIII, 6.1	Reckless Driving	A	\$250.00	Maximum, 6 months &/or \$500.00
Title VIII, 6.2	Reckless to Elude	A	\$250.00	Maximum, 6 months &/or \$500.00
Title VIII, 6.3	Driving While Suspended or Revoked	A	\$250.00	Maximum, 6 months &/or \$500.00
Title VIII, 6.4	DUI of Liquor or Drugs	A	\$250.00	Maximum, 6 months &/or \$500.00
Title VIII, 6.5	Chemical Blood, Breath or Urine Test	A	\$250.00	Maximum, 6 months &/or \$500.00
Title VIII, 6.6	Admissibility of Evidence	A	\$250.00	Maximum, 6 months &/or \$500.00

SECTION 5. RELEASE AND RETURN OF BAIL

5.1 Release and refund of bond before deposition of a case. The release of a bond before the case concludes will only be granted in response to a motion or filing with the Court. A bond refund or release is not performed as a standard procedure until conclusion of a case. A demand for specific action must be requested by the interested

party. All bonds are only released upon order of the Court. The interested party should motion the tribal Court appropriately. A motion can be made before disposition of a case, but Court fees, fines, and all other expenses may be deducted. Before issuance the return of a bond, the Judge shall make a determination whether or not to issue a return made pursuant to its internal scorecard outlined below.

5.2 Bond request scorecard. Bond return requests made prior to the conclusion of a case will be processed using a legal screening tool that measure a defendant's risk for not appearing to Court proceedings. All determination shall made on a case-by-case basis. In making its determination, the Court may consider: 1) whether the defendant is employed or unemployed; 2) nature and seriousness of offense or offenses against defendant; 3) whether the defendant live on or off the Rocky Boy's Indian Reservation; 4) number of prior contempts; 5) and any other factor deemed relevant given the situation. The judge may order an option to hold partial or total amount of the bond based upon risk score.

SECTION 6. BAIL FORFEITURE

6.1 Declaration. The Court must declare the bail forfeited if a condition of the bond is breached.

6.2 Setting Aside. The Court may set aside in whole or in part a bail forfeiture upon any condition the Court may impose if:

- I. the defendant voluntarily later surrenders into custody; or
- II. it appears that justice does not require bail forfeiture.

6.3 Remission. The Court may remit in whole or in part the judgment under the same conditions.

SECTION 7. EXONERATION

7.1 Exoneration. A bail bond is exonerated when the legal process or trail has finished, whether or not the defendant is found guilty or if the case has been dismissed. At this point, the bail bond is discharged. However, any unpaid fees or other amounts are still owed and may be subtracted from the bond. At the conclusion of a criminal case, the Court must release any bond minus court fees and fines expenses.

SECTION 8. SOVEREIGN IMMUNITY.

8.1 Nothing in this policy waives the sovereign immunity of the Chippewa Cree Tribe and its' entities, departments, directors, officers, employees, agents, and attorneys.

SECTION 9. EFFECTIVE DATE.

9.1 This policy was approved by the Chippewa Cree Business Committee during a meeting held on the 5th of August 2021 by Resolution No. 119- 1-. This policy will remain in effect until rescinded by resolution.

SECTION 10. LEGISLATIVE HISTORY.

10.1 This policy was adopted on August 5, 2021, by Resolution No. 119-21, and was codified within the Chippewa Cree Tribal Law and Order Code, Title III Criminal Procedures, Chapter 6.

I. Initial Appearance and Arraignment:

A. Initial Appearance. The defendant must be taken to the nearest and most accessible judge, at the next court session or before seventy-two (72) hours have passed, whichever is first.

1. The judge shall advise the defendant as follows;

- a. You have a right to be released in your personal recognizance or to bail;
- b. You have the right to remain silent.
- c. You have the right to have an attorney at your own expense, or to have lay counsel or someone else with you.

2. If the defendant has not received a copy of the Notice of Crime, the judge has not been prepared, it shall be prepared, signed, and a copy given to the defendant at this time.

3. If the defendant appeared before the Court upon a determination of probable cause made by a police officer only, the judge must review the determination of probable cause. If the judge rejects the determination, the defendant must be released. If the judge endorses the determination, the defendant must be arraigned as soon as possible at the next court session or before seventy-two (72) hours have passed, whichever is first.

B. Arraignment:

1. At arraignment the judge shall call upon the defendant to plead to the charge. The defendant shall plead guilty or not guilty. If the defendant refuses to plead or remains silent, a plea of not guilty shall be entered into the record.

2. Before a plea may be accepted, the judge must;

- a. Ask the defendant to state his true name;

- b. Determine if the defendant is under any disability;
- c. Advise the defendant of the nature of the offense charged and the possible punishment;
- d. Advise the defendant that he may plead at that time or may wait at least twenty-four (24) hours to plead and/or to obtain counsel or a friend;
- e. Advise the defendant that a plea if guilty waives defendant's Right to:

“A jury trial, if the offense charged carries a penalty of imprisonment”

“Compel witnesses to testify in defendant's behalf”

“Confront and cross-examine witnesses for the prosecution; and”

“Testify or not to testify in the defendant's own behalf.”

- 3. If the judge determines the defendant's guilty plea is involuntary or without full understanding, he must reject the guilty plea and enter a plea of not guilty into the record.
- 4. If the arraignment is separated by more than twenty-four (24) hours, the Court shall reassess bail, if any, and again advise the defendant of his right to bail.

II. Bail:

The judge shall release the defendant on his own recognizance, or into the custody of into the custody of another resident of the reservation, unless it appears to the judge that the defendant will not be present for trial. If it so appears, the judge shall set bail no greater an amount than will tend to assure the appearance of the defendant at trial. Bail may be satisfied by money or other property of equal monetary value. All persons arrested and incarcerated shall be given the opportunity to make bail and be released.

III. Plea Agreement:

Any plea agreement between the defendant and the prosecutor shall be noticed by the judge in open court at the time the plea is made. The judge may accept the plea only in conjunction with the agreement surrounding the plea. If the judge rejects the agreement, then the judge must allow the defendant to withdraw the plea. Any plea so rejected is not admissible in any legal proceeding.

IV. Pretrial Conference and Motion:

- A.** Prior to trial a conference shall be held, attended by the judge, the Defendant, defendant's counsel or friend, the prosecutor and anyone invited by them with the judge's consent. The judge may set the trial date and any deadlines for motions or the completion of discovery.
- B.** The Order and Memorandum of the Pretrial Conference shall contain the agreements reached by the parties and the orders of the judge given at the conference. The Order and Memorandum of the Pretrial Conference shall be the only record of the conference. No statements made by any participant at the conference shall be admissible in any proceeding.
- C.** The defense or prosecution may at any time prior to trial, by written motion, request the judge to take whatever action seems necessary in the interest of fairness. Any motion shall be filed with the judge and a copy served on the opposing party.
 - 1.** The motion shall recite the defense, objection, or request made and state the reason for the motion. It shall state the action requested of the judge.
 - 2.** Motions may request;
 - a.** Substitution of the judge because of bias or other cause;
 - b.** Time to prepare;
 - c.** Continuance;
 - d.** A list of witnesses;
 - e.** Suppression of a confession or of evidence claimed to have been illegally seized;
 - f.** The production of evidence; or
 - g.** Joiner or severance of offenses or defendants; but are not limited to those requests.
- D.** The judge shall rule on all motions as soon as possible, but always before instructing the jury or, in a trial by the judge, before rendering a verdict.

CHAPTER SEVEN TRIAL

I. Trial Procedure:

- A.** If the defendant pleads not guilty, the judge shall set a trial date. The defendant shall be allowed a reasonable time to prepare for trial. The judge must insure there is no unreasonable or unnecessary delay infringing the defendant's right to a speedy trial.
- B.** All trials shall be open to the public and must accord the defendant the right to;
 - 1.** Be present through the trial and to defend himself in person, by friend, or by lay counsel or professional attorney at his own expense.
 - 2.** Meet the witnesses for the prosecution face to face and to cross-examine them.
 - 3.** Compulsory process through the power of the Court to obtain and develop the testimony of witnesses and to obtain physical evidence in his behalf.
 - 4.** Testify or not testify. If the defendant does not testify, the prosecution may not comment upon the lack of testimony by the defendant, nor may it be constructed against the defendant.
- C.** In all trials, the defendant is presumed to be innocent, the burden of proof rests on the prosecution, and the prosecution must provide beyond a reasonable doubt each element the crime charged and that the defendant committed the crime charged. In every trial before a jury, the judge shall charge the jury with the presumption of innocence of the defendant and the prosecution's burden of proof.
- D.** A charge may be dismissed in the discretion of the judge at any time prior to verdict, upon the motion of the court, the defendant or the prosecutor, and upon the order of the judge.
 - 1.** If the order to dismiss is prior to trial, the judge must state whether the dismissal is for cause or not. If dismissed for cause, no new charge based on the same facts may be filed against the defendant. If dismissed without cause, new charges may be filed.
 - 2.** If the order to dismiss is made at any time after the jury is impaneled and sworn, the judge need not determine whether the order to dismiss

is for cause and in no instance shall a new charge based in the same facts be filed against the defendant.

E. Objections and Motions at Trial:

1. Either party may make motions throughout the course of the trial, all of which shall be oral unless otherwise directed by the judge. Both parties shall have the opportunity to state their positions on any motion made.
2. The motion which can be made shall include, but are not limited to the following
 - a. Motion to Exclusion of witnesses;
 - b. Motion to Exclude Evidence;
 - c. Motion to Judicial Notice;
 - d. Motion for mistrial;
 - e. Motion for a New Trial;
 - f. Motion for Directed Verdict.

I. Jury and Non-Jury Trial:

The defendant requests and receive trial either by jury or by the judge.

A. Jury Trial:

1. If defendant requests a jury trial, the jury shall be informed of at least six (6) enrolled members of the Chippewa-Cree Tribe residing on the Rocky Boy's Reservation, selected in the same manner as in civil actions.
2. The judge shall examine the jurors to determine if they are qualified to serve. The judge shall excuse any jurors;
 - a. Who are related to the defendant;
 - b. Who have formed opinion about the case; or
 - c. Who, in the judge's discretion, should be dismissed.
3. The defendant and prosecutor each shall have as many challenges for cause as necessary and two (2) preemptory challenges.
4. The judge shall direct the jury as to the law in accordance with Rule 11 (3), and in accordance with the jury instructions accepted by the judge from the parties.
5. During the course of the trial, the jurors will not be permitted to discuss the trial with anyone but the other jurors. The jury may send

written questions about the law to the judge for his answer in the event the trial cannot be concluded in one day, the juror shall be sequestered in suitable quarters.

- B. Trial by Judge. In the case tried without a jury, the judge shall make a general finding of guilty, or not guilty based upon the same interpretation of the law that would be given the jury, if the trial were a jury trial.

I. Verdict:

The Verdict shall be by a majority in all cases.

- A. If the verdict is not guilty, the defendant shall be discharged, any bail posted shall be returned and any bail bond shall be exonerated. In no instance may the defendant be tried again on the same facts for the same offense.
- B. If the verdict is guilty, the defendant shall be sentenced at that time or within a reasonable time thereafter. The judge may require a pre-sentence investigation report or hearing before sentencing.

CHAPTER EIGHT POST-TRIAL PROCEDURE

I. Sentencing:

- A. Sentence shall be imposed without unreasonable delay. Pending sentence, the judge may commit the defendant to jail or continue or alter bail. Before imposing sentence, the judge shall afford counsel an opportunity to speak on behalf of the defendant and shall ask the defendant if he wishes to speak on his own behalf, to present any information which might lessen his punishment.
- B. A motion to withdraw a plea of guilty shall be made only before the defendant is sentenced. To correct manifest injustice, the judge may on his own motion, set aside the judgment of guilt prior to sentencing and permit the defendant to withdraw his plea.
- C. All persons convicted of any offense may be sentenced to imprisonment, fine, work, restitution or a combination of those punishments. However, no section of this code shall prohibit the judge from imposing any sentence deemed more appropriate than imprisonment, fines, restitution or work, under the circumstances of a particular case. Such sentences may include, but not limited to: commitment to a rehabilitation or alcoholic program, or work for the benefit of the Tribe. Under no circumstances shall fines imposed exceed five hundred dollars (\$500) Or imprisonment exceed six (6) months for a single offense.

II. Deferred Sentences:

- A. Where a sentence has been imposed, the judge may, in his discretion, defer the imposition of the sentence and impose any reasonable restrictions or conditions during the period of deferred imposition.
- B. The judge may, in his discretion, revoke the suspension after giving the offender a hearing prior to the revocation.
- C. Where the Court has deferred the imposition of a sentence and the time period of the deferral has expired, upon motion of the judge, the defendant or the defendant's counsel or friend, the judge may allow the defendant to withdraw his plea of guilty or may strike the guilty verdict from the record and order that the charge be dismissed.

III. Parole:

- A. Any person, who has without misconduct served one-half (1/2) the sentence imposed by the judge, shall be eligible for parole.
- B. Anyone desired parole, may apply to any judge, who will review the circumstances of the potential parolee, and determine whether the person has served one-half (1/2) of the sentence and is not guilty of any misconduct if all requirements are met, the prisoner may be released on parole for the remainder of his sentence subject only to the terms and conditions he has, in writing, agreed to comply with.
- C. Violation of Sentence. Any parolee who violates any provision of his parole shall be apprehended and confined to serve the remainder of the original sentence without diminishment for the time the person was free on parole.

IV. Commutation of Sentence:

If a presiding judge is satisfied that justice will best be served by reducing a sentence, the judge may at any time reduce the amount of time of any sentence imposed upon a person, upon a showing of proof that during the period of the sentence the person served without misconduct and did satisfactory work.

CHAPTER NINE PROCEDURE FOR CRIMINAL APPEALS

I. Who can Request Judicial Review:

Any party adversely affected by a decision of the Tribal Court in a criminal case may appeal that decision to the court of appeals. An appeal of the Tribal Court's decision

in a civil case shall proceed pursuant to the provisions of the civil procedure Title of this Code.

REFER TO COURT OF APPEALS

II. —Commencement of a Criminal Appeal:

~~A party must commence an appeal within twenty (20) days of the date of the Tribal Court's decision by filing with the Clerk of Court an original and one (1) copy of a Request for Appeal. No filing fee shall be required. Within twenty (20) days of requesting an appeal the party must file two (2) copies of his brief in support of the appeal. The Clerk will notify the Court of Appeals and the opposing parties within three (3) days of receiving the Request for Appeal. Upon receiving the copies of the brief in support of the appeal the clerk will distribute one (1) copy to the opposing party.~~

III. —What May Be Appealed:

~~Any final decision of the Tribal Court may be appealed. The Court of Appeals may not refuse to hear an appeal of a decision in a criminal case.~~

IV. —Opposing Party's Response:

~~The opposing party will have twenty (20) days from the date that the appealing party's brief is received to submit an opposing brief and to make any motions.~~

V. —Consequences of Missing Filing Dates:

~~If a party does not file his request for appeal within the stated limit, he loses his opportunity to appeal. If a party does not submit a brief within the stated limits, the case will be decided without the brief. However, for good cause the court of appeals may extend any time limit set in this chapter.~~

VI. —Availability of the Trial Transcript:

~~The clerk shall keep the original trial transcript tape on file. A copy of the tape shall be provided to the Court of Appeals, and upon the Court of Appeal's request a transcribed copy of the trial transcript shall be provided. The parties to the appeal may listen to the trial transcript tape at the court building. Upon the request of a party the clerk will furnish that party at cost, with either a recorded copy or a transcribed copy of the transcript.~~

VII. —Court Cost and Fee Waivers:

~~If the court of appeals requests a transcribed copy of the Tribal Court transcript, the cost of transcribing the copy will be paid by the tribe.~~

VIII. —When Oral Arguments Heard:

~~If a criminal case, the court of appeals or any party may request oral arguments. Oral arguments will be scheduled within ten (10) days of such a request.~~

IX. —Procedures on Appeal:

~~Relying upon this Code, and custom and tradition, the court of appeals may affirm, modify or reverse the Tribal Court's determinations of issues of law. Of on reviews of the Tribal Court's findings of fact the Court of Appeals determines that he Tribal Court's findings of facts are not sufficient to support the Tribal Court's judgment and are not sufficient to support any other judgment on appeal, then the Court of appeals shall remand a case to the Tribal Court for further findings of fact and a new judgment.~~

X. —Unanimous Decision:

~~Judgment of the Court of Appeals shall be by unanimous decision. The lower court's decision shall stand where there is no unanimous judgment by the Court of Appeals.~~

XI. —Written Decision:

~~The court of Appeals decision must be in writing and contain the Tribal Court's findings if facts and the Court f Appeals' determination of the issues of law. In addressing the issues of law, the decision shall state the Code sections, and customs or traditions upon which the court of appeals based its determinations.~~

XII. —Time Limits:

~~The written decision in a criminal case shall be issued within twenty (20) days of the date the last brief is submitted or of the completion of the oral arguments, whichever is later.~~

TITLE IV
CRIMINAL OFFENSES

TITLE 4 – Public Security

Legislative History:

- **Resolution #118-21**: “Hereby Amending Title IV of the Chippewa Cree Tribal Law and Order Code by Rescinding Resolution #50-07 Title ‘Authorizing the Rescission of the Mandatory Sentencing Guidelines Under Title IV of the Chippewa Cree Tribal Law and Order Code’ Thereby Restoring and Reimplementing the Mandatory Sentencing Guidelines in Title IV, Chapter 2 of the Chippewa Cree Tribal Law and Order Code” was approved by the Chippewa Cree Tribal Business Committee on August 5, 2021.
- **Resolution #50-07**: was approved on April 5, 2007 to amended Title IV of the Public Security of the Law and Order Code authorizing the rescission of the mandatory sentencing guidelines under Title IV of the Chippewa Cree Law and Order Code.
- **Resolution #104-20**: Approved 27th of July 2020. “HEREBY REMOVING THE TRAFFIC CODE LANGUAGE IDENTIFIED WITHIN TITLE IV OF THE CHIPPEWA CREE TRIBAL LAW AND ORDER CODE (TLOC), WITH THE UNDERSTANDING THAT TITLE VIII OF THE TLOC WILL CONTINUE TO GOVERN TRAFFIC CODE VIOLATIONS”. Title IV and Title VIII both reference traffic code violations; therefore, the Chippewa Cree Tribal Business Committee wishes to remove the traffic code language identified within Title IV, with the understanding that Title VIII will continue to govern traffic code violations.

TITLE IV

PUBLIC SECURITY

PART ONE: Official Conduct

CHAPTER 1. ORGANIZATION AND PROCEDURES OF TRIBAL POLICE

1.1 Composition.

The Tribal Police shall consist of the Chief of Police and such number of policemen as the Business Committee or Public Safety Commission designates.

1.2. Tribal Police Powers and Duties

- (1) It is the duty of the Chief of Police and all Tribal Policemen to enforce the ordinances of the Tribe and preserve and maintain peace and the law and order of the Tribe.
- (2) Tribal police shall have authority to enforce the Chippewa –Cree Tribal Code at all points within the exterior boundary of the Rocky Boy’s Reservation.

(a) Arrest Power

- (i) Tribal police may arrest and take into custody with or without warrant of process, any person doing any act of violation of the Chippewa-Cree Tribal Code, and shall bring him/her before the Tribal Court judge.
- (ii) Tribal police, in execution of their powers and duties in arresting a person accused or suspected of crime, or in suppression of any riot or unlawful assembly, or in preventing the violation of any provision of the Chippewa Cree Tribal Code, have the power to require and aid any member of the Tribe. A person so called upon who refuses to obey without good reason, is subject to Section 6.4 of the Offenses Code.
- (iii) Tribal police have authority to apprehend, arrest, and hold a person or Public Safety Commission as described in Section 1.12 of this Chapter who is alleged to have committed a state, Tribal or federal crime, whether off or on the reservation, when such person is on the reservation. If a person is a nonmember, the Tribe may enter into a MOU with appropriate State authority to implement this provision.

(b) Tribal police have the authority to:

- (i) Enforce any lawful order or ordinance of the Business committee;
 - (ii) Enforce any lawful decree, order or judgment of the Tribal Court;
 - (iii) Enforce Traffic Code and regulations and issue citations for violations of the Traffic Code and regulations’
 - (iv) Issue warnings for minor infractions of Traffic Code.
 - (v) Serve summons as required by the Tribal Court;
 - (vi) Prevent actual or impending unlawful threats of injury to any person or property.
- (c) Tribal police may act in any legal and reasonable manner to any prevent, reduce, and terminate criminal events or actions.
- (3.) Tribal police must:
 - (a) Administer the Chippewa Cree Tribal Code provisions in a fair and impartial manner;
 - (b) Keep at least one (1) police officer immediately available at all times;
 - (c) Have readily available for Tribal Court and Business Committee inspection, information, or action, annual reports of crime statistics and expenses and budget requests.
 - (d) Comply with Tribal Court orders, decrees, and judgments, and Business Committee orders and ordinances;
 - (e) Maintain Tribal Vehicles and equipment;
 - (f) Successfully complete basic academy training within one (1) year of their employment or at the earliest space available for training;
 - (g) Comply with law enforcement manual adopted by the Business Committee.

1.3 Repealed (9/11/03):

1.4 Police Subject to Penalty for Unlawful Actions:

- (1.) A police officer who at any time willfully or neglectfully commits any of the offenses enumerated in the Chippewa-Cree Tribal Code is subject to the same punishment and penalties as any other person.
- (2.) A police officer who willfully or neglectfully commits any action resulting in personal or property injury to another is subject to the same civil liabilities as any other person on the reservation who commits such wrongful acts.
- (3.) Notwithstanding Subsection (1) above section, a police officer can ignore traffic or other code provisions when necessary to reasonably carried out his duties in the administration of justice.

1.5 Qualifications and Selection of Tribal Police Officers:

Qualification and selection of tribal police officer shall be as described in the policy of the Law Enforcement Department approved by the Business Committee.

1.6 Use of Reasonable Force by Police Officers:

A police officer must not use unnecessary or unreasonable force in carrying out the apprehension, arrest, search, summons, interrogation, traffic supervision, and other procedures the police force is authorized or obligated to perform.

1.7 Search and Seizure by Tribal Police:

Arrests of any person or searches and seizures of any person, house, papers, and effects may not be conducted unless probable cause for such actions exists or unless a proper warrant has been obtained according to the provisions of this Code.

1.8 Police Must Respect an Individual's Rights:

- (1.) Tribal police must at all times while acting in their capacity as police officers, comply with the provisions of this Code and respect the rights of every individual on the reservation.
- (2.) A police officer must not, after having arrested any person, willfully delay taking such person before a Tribal judge for arraignment.

1.9 Tribal Police Officers in Tribal Court:

A police officer may not act at a Tribal Court hearing or trial in any capacity other than a witness or bailiff. A police officer may not act in a capacity as representative or legal counsel in any criminal, traffic, or civil action.

1.10 Mistreating Prisoners:

- (1.) A police officer or other person is responsible for the care or custody of a prisoner must not willfully or knowingly;
 - a. assault or otherwise injure a prisoner; or
 - b. intimidate, threaten, endanger, or withhold reasonable necessities from a prisoner for the purpose of obtaining a confession from him, or for any other purpose; or
 - c. violate any civil rights of a prisoner.
- (2.) A person convicted of the offense of mistreating a prisoner shall be removed from office and shall be subject to a fine not to exceed \$500 or imprisonment or labor not to exceed six months, or both, and shall be subject to punishment for any other Tribal Code of offenses including in such wrongful action. In case of

mistreatment of a prisoner, prisoner himself or his/her relative may file complaint to the Public Safety Commission against a mistreating police officer. The Public Safety Commission shall serve as a Grievance Committee for the purpose of this section.

1.11 Termination of Employment as a Tribal Police Officer:

Chief of police shall be terminated by the Business Committee. Termination of all other police officers other than Chief of Police shall be terminated either with the recommendation of the Chief of police or without a recommendation of the chief of police by the Public Safety Commission. Chief of police shall have authority to suspend any police officer for reason. Suspension and termination or removal policy of the Chief of police and all other police officers shall be described in the Law Enforcement policy of the Tribe.

(1.) Repealed (9/11/03);

(2.) An officer terminated by the Business Committee or Public Safety Commission shall have a right of appeal to the Tribal Court, but no Business Committee decision on termination may be revised except by the majority of all judges sitting as an appellate body following a review on the record of the Business Committee hearing or, if no such record exists, by a new hearing on the facts presented for and against the officer.

1.12 Arrest of Alleged Fugitives:

(1.) Tribal Police have authority to apprehend, arrest, and hold a person who is alleged to have committed a state, tribal, or federal crime off or on the reservation when such person is on the reservation.

(2.) An alleged fugitive may not be turned over to state or federal authorities until after that person has been afforded a hearing in Tribal Court to determine whether probable cause exists as to the allegation of a crime by that person.

1.13 Repealed (9/11/03).

PART TWO – CRIMINAL OFFENSES AND PENALTY

CHAPTER 2. GENERAL PROVISIONS

2.1 General Purposes and Principles of Construction:

(1.) The general purpose of the Offenses Code are;

- (a.) to give fair warning of the nature of the conduct declared to constitute an offense.
 - (b.) to forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens harm to individual or public interests; and
 - (c.) to safeguard conduct that is without fault from condemnation as criminal.
- (2.) All the provisions of the Offenses Code are to be construed to accomplish the Code's purposes and to promote justice.

2.2 Definitions of Mental States:

- (1.) Action: a person acts when he takes affirmative action or omits taking any action.
- (2.) Willfully: a person acts willfully if he acts with the purpose to do the act or achieve the result of his act.
- (3.) Knowingly: a person acts knowingly with respect to:
 - (a.) his conduct when he is aware of his conduct;
 - (b.) a circumstance when he is aware that the circumstance exists;
 - (c.) the result of conduct when he is aware that it is highly probable that such result will be caused by conduct;
 - (d.) a fact when he is aware of the high probability of the fact's existence.
- (4.) Negligently - a person acts negligently when he acts without regard to the reasonably foreseeable consequences of his act, whether or not he actually is aware of the probable consequences of his act.

2.3 Penalties:¹

Offenses are divided into five (5) distinct classes:

- (1.) Class AA offenses, for which the maximum penalty is one (1) year imprisonment or a fine of five thousand dollars (\$5,000), or both;
- (2.) Class A offenses, for which the maximum penalty is six (6) months imprisonment or a fine of five hundred dollars (\$500), or both;

¹ Amendments to Chapter 2.3, 2.4, and 2.5 of the Chippewa Cree Tribal Law and Order Code Title IV (4) passed as a first reading during a regular Business Committee Administrative Meeting held on Monday, April 26, 2021. A second reading passed during a regular monthly Business Committee Meeting on June 3, 2021. A third reading was passed on July 8, 2021 during a regular monthly Business Committee Meeting and was adopted on August 5, 2021 by Resolution #118-21 by the Chippewa Cree Tribal Business Committee.

- (3.) Class B offenses, for which the maximum penalty is three (3) months imprisonment or a fine of three hundred dollars (\$300), or both;
- (4.) Class C offenses, for which the maximum penalty is thirty (30) days or a fine of one hundred dollars (\$100), or both and;
- (5.) Class D offenses, for which the maximum penalty ~~us~~ is one hundred dollars (\$100).

2.4 Sentencing Guidelines (added 9/11/03):

- (1.) Class AA offenses- Production or sale of unlawful drugs; deliberate homicide; negligent homicide; rape; child molestation; sexual assault; and committing as offense using deadly or dangerous weapons against elected officials and Tribal and Federal employees. A person convicted for a Class AA offense is subject to a sentence of one-year (1) imprisonment and a fine of five thousand dollars (\$5,000).

- (2.) Class A offenses - Shall be divided into five categories for-sentences purposes:

2.1 Category A class A offenses- Kidnapping, possession of drugs, offense against elected officials and Tribal and federal employees. ~~Minimum~~ A person convicted for a Class A offense is subject to a sentence of for these offenses is six (6) months imprisonment and a fine of five hundred dollars (\$500).

2.2 Category B class A offense- Assault and Battery, Breaking and Entering, embezzlement, extortion, arson, threat or intimidation, use of drugs, and forgery and counterfeiting. In the case of Breaking and entering, embezzlement, and forgery and counterfeiting, the court shall have order full restitution, when necessary.

- a. First Time Offender - Subject to ten (10) days to six (6) months imprisonment and a fine of one hundred dollars (\$100) based on severity of the case.
- b. Second Time Offender – Subject to thirty (30) days to six (6) months imprisonment and a fine of more than one hundred dollars (\$100) base on severity. Penalty shall not be lowered for the first time penalty.
- c. Third Time and Over – Subject to six (6) months imprisonment and a fine of five hundred dollars (\$500).

2.3 Category C class A Offense - Child abuse and Criminal Contempt of Court.

A. First Time Offender – Subject to five (5) days to thirty (30) days imprisonment and a fine of fifty dollars (\$50) with thirty (30) days probation.

B. Second Time Offender – Subject to ten (10) days to sixty (60) days imprisonment and a fine of one hundred dollars (\$100) with thirty (30) days probation.

C. Third Time Offender – Subject to a minimum of thirty (30) days to six (6) months imprisonment and a fine of five hundred dollars (\$500).

2.4 Category D Class A Offenses – Contributing to the Delinquency of a Minor and Escape.

a. First Time Offender – Subject to a minimum seventy-two (72) hours to six (6) months imprisonment and a fine of one hundred dollars (\$100).

b. Second Time Offender – Subject to a minimum five (5) days to six (6) months and a fine of two hundred dollars (\$200).

c. Third Time and Offender – Subject to a minimum thirty (30) days to six (6) months.

2.5 Category E class A Offense - Driving while Under the Influence of Alcohol or Drugs.

a. First Time Offender- Subject to a minimum of twenty-four (24) hours imprisonment and a fine of two hundred dollars (\$200) and a court order of no driving for thirty (30) days.

b. Second Time Offender- Subject to a minimum forty-eight (48) hours imprisonment and a fine of three hundred dollars (\$300) and a court order of no diving for sixty (60) days.

c. Third Time Offender- Subject to a minimum thirty (30) days to six (6) months imprisonment and a fine of five hundred dollars (\$500) and a court order of no driving for six (6) months. The court shall order necessary treatment or any corrective action offered by the Tribal Chemical Dependency Center who is sentenced under this section.

d. Fourth and Subsequent Offense - The 4th and any subsequent conviction under this subsection shall be a Class AA offense, subject to one (1) year imprisonment and a fine of one thousand dollars (\$1,000).

(3.) Class B Offenses - Assault, negligently endangering another person, obstruction of justice, false arrest, theft, fraud, malicious mischief, injuring public property,

criminal trespass-buildings, disorderly conduct, firing weapons, carrying concealed weapons, bribery, perjury, destruction of evidence, disposing of property of an estate, exposing to infectious disease, and adulteration of food and drink.

a. First Time Offense - Subject to a minimum sentence is of twenty- four (24) hours to three (3) months imprisonment and a fine of fifty dollars (\$50).

b. Second Time Offense - Subject to a minimum seventy-two (72) hours to three (3) months imprisonment and a fine of more than fifty dollars (\$50).

c. Third Time and Over - Subject to a minimum ten (10) days to three (3) months imprisonment and a fine of three hundred dollars (\$300).

(4.) Class C offenses - Desertion and non-support of dependents, failure to send children to school, violation of curfew, refusing to aid an officer, issuing a bad check, unauthorized use of property, maintaining a public nuisance, storing dangerous discarded containers, cruelty to animals, prostitution, indecent exposure, public drunkenness or drug intoxication and malicious gossip.

a. First Time Offense - Subject to a minimum sentence is of twenty- four (24) hours to thirty (30) days imprisonment or a fine of fifty dollars (\$50) or both.

b. Second Time Offender- Subject to a minimum forty-eight (48) hours to thirty (30) days imprisonment or a fine of more than fifty dollars (\$50) or both.

c. Third Time and Over - Subject to a minimum Five (5) days to thirty (30) days imprisonment and a fine of one hundred dollars (\$100).

2.5 Sentencing guidelines for the offenses under the Tribal Law other than this part shall be in the Judge's discretion.

2.6 Discretion of Court - The Tribal Court has the discretion to order bonds, to levy penalties and legal costs, and to order and compel restitution of damages. For offenders who are minors, the court may specify any disposition which is in the best interest of the minor.

2.7 Civil Actions Not Barred - The code of offenses does not bar, suspend, or otherwise affect any right to or liability for damages, penalty, forfeiture, or other remedy authorized by law.

2.8 Defenses:

(1) Reasonable Force - Reasonable force is defense of person or property is an affirmative defense.

- (2) Entrapment - It is a defense to an offense that a person's conduct was induced by a public servant or his agent for the purpose of obtaining evidence for the prosecution of that person.
- (3) Coercion - It is a defense to an offense not involving death or serious bodily injury if a person commits the offense because he reasonably believes that he will suffer death or serious bodily injury unless he commits the offense.
- (4) Intoxication - A person under the influence of alcohol or other drug is not absolved of criminal liability for his actions unless such condition is involuntary produced.
- (5) Ignorance or Mistake - Ignorance of a statute which makes conduct an offense is not a defense.

CHAPTER 3. INCHOATE OFFENSES

3.1 Attempt, Conspiracy, and Solicitation:

- (1) A person who/with the required mental state, does any act toward the commission of an offense but fails to accomplish the offense commits a separate offense of attempt, unless attempt is part of the offense as defined in the particular code section.
- (2) A person who, with the required mental state, agrees with another to commit the offense commits the offense of conspiracy if any party to the agreement commits any act in furtherance of the offense.
- (3) A person who willfully solicits, requests, commands, induces, or aids another to commit an offense, commits the offense of solicitation.
- (4) A person does not commit the offense of attempt, conspiracy, or solicitation if:
 - a. Prior to the commission of the offense, he gives timely warning to law enforcement authorities; or
 - b. He otherwise makes a reasonable effort to prevent the commission of the offense.
- (5) The penalties for attempt, conspiracy, or solicitation must not exceed the maximum penalty provided for the related offense.

3.2 Responsibility:

- A.** A person who knowingly causes another, regardless of their legal capacity or mental state, to commit the conduct of an offense, commits the offense so cause.
- B.** A person who attempts to commit any of the major crimes under exclusive federal court jurisdiction. Title 18, U.S.C. § 1153, or who is an accessory after the fact to such crime shall upon conviction be sentenced by the Tribal Court to a confinement not to exceed one (1) year and/or a fine not to exceed \$5,000.

CHAPTER 4. OFFENSES AGAINST PERSONS

4.1 Deliberate Homicide - A person, who knowingly causes the death of another human being, commits the offense of deliberate homicide, a Class AA offense.

4.2 Negligent Homicide - A person, who negligently causes the death of another human being, commits the offense of negligent homicide, a Class AA offense.

4.3 Kidnapping -

1. Any person who by force, threat or deception;
 - a. Removes another against his/her will from his/her place of residence or business, or a substantial distance from the vicinity from where he/she is located; or
 - b. Confines another for a significant period against his/her will is guilty of kidnapping. Where the victim is fourteen (14) years of age or less, it shall be presumed that the removal or confinement was against the victim's will. (added 9/11/03)
- (2) Any natural or adoptive parent who by force, threat, or deception, or without knowledge or agreement of the child's custodian, removes the parent's child from the physical custody of any person who has custody of the child pursuant to a court order, and keeps the child for a significant for a purpose of this subsection, the court must evaluate the surrounding facts and circumstances, including but not limited to the age of the child and the length of previous authorized visits with the offender. In a particular case, a relatively brief period may be considered significant.(added 9/11/03)

Kidnapping shall be a class A offense.

4.4 Rape:

- (1) A person who willfully or knowingly; (a) forces or attempts to force sexual intercourse; or (b) assist in a forced or attempt at forced sexual intercourse upon another without their consent, commits the offense of Rape, a Class A offense.
- (2) A person who willfully or knowingly has sexual intercourse with one who is not his spouse, who is under the age of sixteen (16), or who is mentally incompetent person of any age notwithstanding consent, commits the offence of rape, a Class AA offense.

4.5 Sexual Assault:

- (1) A person, who knowingly subjects another to any sexual contact without consent, commits the offense of Sexual assault, a Class AA offense.
- (2) Consent is not effective if the victim is less than fourteen (14) years old and the offender is more than three (3) years older than the victim.

4.6 Incest:

- (1) A person who knowingly has sexual intercourse with an ancestor, descendant, or a brother or sister of the whole or half blood commits the offense of incest, a Class A offense.
- (2) The relationships referred to include blood relationships without regard to legitimacy and relationships of parents and child by adoption.

4.7 Assault - A person who knowingly threatens another with bodily injury, verbally or by a threatening gesture of force, which creates a reasonable fear of bodily injury in that person, commits the offense of assault, a Class B offense.

4.8 Assault and Battery:

- (1) A person who willfully strikes or otherwise inflicts bodily injury on another person commits the offense of Assault and Battery, a Class A offense.
- (2) A person who willfully causes another to injure himself bodily commits the offense of Assault and Battery, a Class A offense.

4.9 Negligently Endangering Another Person - A person who negligently engages in conduct, which: (1) Threatens death or serious bodily injury to another; or (2) Causes bodily injury to another, commits the offense of Negligently Endangering Another Person, a Class B offense.

4.10 Cause or Aiding Suicide - A person who willfully aids another to:

- (1) Commit suicide; or
- (2) Attempt to commit suicide commits the offense of causing or aiding suicide, a Class A offense.

4.11 Stalking (added 9/11/06):

- (1) A person commits the offense of stalking if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly;
 - (a) following the stalked person; or
 - (b) harassing, threatening, or intimidating the stalked person, in person or by phone, by mail, or by other action, device or method.

The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office
(406) 395-4282 or 4321 - Business CommittP

31 Agency Square
801 Elder, Montana 59521

A RESOLUTION

NO. 98-17

HEREBY AMENDING TITLE IV THE CHIPPEWA CREE TRIBAL CRIMINAL OFFENSES CODE, CHAPTER 5- OFFENSES AGAINST CHILDREN AND DEPENDENTS TO INCORPORATE ALL PROPOSED CHANGES SUBMITTED BY THE CHIPPEWA CREE TRIBAL OFFICE OF VICTIM SERVICES.

WHEREAS, the Chippewa Cree Business Comminee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation by the authority of the Constittlition and By-Laws of the Chippewa Cree Tribe approved on the 23rd day of November, 1935. and;

WHEREAS, pursuant to their inherent sovereignty and Constitution and By-Laws of the Chippewa Cree Tribe, the Chippewa Cree Tribal Business Committee is charged with the duty to promote and protect the health, security and welfare of the Tribe. and;

WHEREAS, the Chippewa Cree Tribal Office ofVictim Services, provided an executive summary of the suggested changes to Title IV, Chapter 5 of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation. Montana Tribal Codes. and;

WHEREAS, the Chippewa Cree Business Committee understands that the changes aim to create a greater consistency and clarity within Title IV and also provide enhanced procedures for handling Offenses Against Children and Dependents, and;

WHEREAS, the Chippewa Cree Business Committee affirms that all resolutions, or parts of the same, that are inconsistent with the provisions of this resolution, are hereby repealed to the extent of such inconsistency, now:

THEREFORE BE IT RESOLVED, the Chippewa Cree Business Committee hereby amends Title TV the Chippewa Cree Tribal Criminal Offenses Code. Chapter 5- Offenses Against Children and Dependents to incorporate all proposed changes submitted by the Chippewa Cree Tribal Office of Victim Services.

BE IT FINALLY RESOLVED, that the newly revised Title JV the Chippewa Cree Tribal Criminal Offenses Code. Chapter 5- Offenses Against Children and Dependents is hereinafter attached.

CERTIFICATION

I, THE UNDERSIGNED, AS SECRETARYTREASURER OF THE BUSINESS COMMITTEE FOR THE CHIPPEWA CREE TRIBE, HEREBY CERTIFY THAT THE BUSINESS COMMITTEE IS COMPOSED OF NJNE MEMBERS, OF WHOMrll'ni{q}MEMBERS CONSTITUTING A QUORUM WERE PRESENT AT A MEETING, DULY AND REGULARLY CALLED, NOTICED, CONVENED AND HELD ON THE 10TH DAY OF AUGUST, 2017, AND THAT THE FOREGOING RESOLUTION WAS FULLY ADOPTED AT SUCH A MEETING BY THE VOTE OF MEMBERS FOR AND 1/1(o/J) MEMBERS AGAINST AND 'U.:o/o) MEMBERS ABSTAINED, AND T HIS RESOLUTION HAS NOT BEEN RESCINDED OR AMENDED IN ANYWAY.

Secretary/Treasurer

REVIEWED

TITLE IV

CHAPTER 5- OFFENSES AGAINST CHILDREN AND DEPENDENTS

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Title IV

Chapter 5- Offenses Against Children and Dependents

Part 1 - Criminal Offenses

4-5-101. Child Abuse or Neglect.

(1) As used in this section, the following definitions apply:

(a) An Abused Child: One who has suffered or is likely to suffer a physical injury inflicted upon the child by other than accidental means, which causes or creates a substantial risk of death, disfigurement, impairment of bodily functions or serious physical or emotional harm, as determined by appropriate medical or professional personnel. The following are examples of circumstances in which a child could be found to be an abused child, but as such are not intended to be all-inclusive:

(i) a child who has been excessively beaten or suffered other unusual or inappropriate corporal punishment;

(ii) a child who suffers injury to his or her psychological functioning, as determined by an appropriate professional person, as a result of psychological or other abuse;

(iii) a child who has been subjected to obscene or indecent sexual activities, guidance, or approval of the child's parent or guardian;

(iv) a child who has been a passenger in a vehicle driven by an intoxicated person, with the knowledge or approval of the child's parent or guardian; or

(v) a child exposed to the criminal distribution of dangerous drugs as prohibited by CCT-LOC Title IV, Part 2, Chapter 10, Section 10.5.

(b) A Neglected Child: One whose parent or custodian fails to provide such food, clothing, shelter, medical attention, hygiene, education, or supervision as the child needs for development, although the parent or custodian was able to furnish such needs or has refused Tribal or other assistance for furnishing such needs, and such failure is likely to result in serious harm to the child as determined by appropriate medical or professional persons.

4-5-102. Criminal Child Endangerment.

(1) As used in this section, the following definitions apply:

(a) A person commits the offense of criminal child endangerment if the person purposely, knowingly, or negligently causes substantial risk of death or serious bodily injury to a child under 14 years of age by:

(i) failing to seek adequate health care for a child suffering from an apparent life-threatening condition;

(ii) placing a child in the physical custody of another who the person knows has previously purposely or knowingly caused bodily injury to a child;

(iii) placing a child in the physical custody of another who the person knows has previously committed an offense against the child;

(iv) manufacturing or distributing dangerous drugs in a place where a child is present;

(v) operating a motor vehicle under the influence of alcohol or dangerous drugs with a child in the vehicle; or

(vi) failing to attempt to provide proper nutrition for a child, resulting in a medical diagnosis of nonorganic failure to thrive. For purposes of this section, "nonorganic failure to thrive" means inadequate physical growth that is a result of insufficient nutrition and is not secondary to a diagnosed medical condition.

4-5-103. Abandonment.

(1) As used in this section, the following definitions apply:

(a) Any parent, guardian, or any person who has been entrusted with, or who has assumed the care of a child under the age of 18 years, who neglects or intentionally leaves such child without care or abandons him under any circumstances, whereby the child may suffer from neglect, or who shall neglect the child in any manner or who shall cause such child to be exposed to bodily injuries shall be deemed guilty of an offense.

4-5-104. Sexual abuse of children. (1) As used in this section, the following definitions apply:

(a) "Sexual conduct" means actual or simulated:

(i) sexual intercourse, whether between persons of the same or opposite sex;

(ii) penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure;

(iii) bestiality;

(iv) masturbation;

(v) sadomasochistic abuse;

(vi) lewd exhibition of the genitals, breasts, pubic or rectal area of any person; or

(vii) defecation or urination for the purpose of the sexual stimulation of the viewer.

(b) "Simulated" means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct.

(c) "Visual medium" means;

(i) any film, photograph, videotape, negative, slide, or photographic reproduction; or

(ii) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite, transmission, or other method.

(2) A person commits the offense of sexual abuse of children if he or she knowingly:

(a) Employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated;

(b) Photographs, films, videotapes, or records a child engaging in sexual conduct, actual or simulated;

(c) Persuades, entices, counsels, or procures a child to engage in sexual conduct, actual or simulated;

(d) Processes, develops, prints, publishes, transports, distributes, sells, possesses with intent to sell, exhibits, or advertises material consisting of or including a photograph, photographic negative, undeveloped film, videotape, or recording representing a child engaging in sexual conduct, actual or simulated; or

(e) Finances any of the activities described in subsections (2)(a) through (2)(d) knowing that the activity is of the nature described in those subsections.

(4) For purposes of this section, "child" means any person less than 16 years old.

4-5-105. Children and Youth Sex Trafficking.

(1) Protecting Children and Youth at Risk of Sex Trafficking. Under the Federal definition of Human Trafficking; 18 U.S.C. § 1591 makes it illegal to recruit, entice, obtain, provide, move, harbor, solicit, or patronize a person or to benefit from such activities knowing that the person will be caused to engage in commercial sex acts where the person is under the age of 18 or where force, fraud, or coercion exists. This statute does not require that either the defendant or the victim actually travel.

(2) As used in this section, the following definitions apply to Commercial Sex Act: Means any sex act on account of which anything of value is given to or received by any person. This includes; Prostitution, Exotic dancing/stripping, Sex tourism, Pornography/web cam, Erotic/nude messaging, Gang based prostitution, any transactional sex with a minor.

4-5-106. Incest.

(1) A person commits the offense of incest if he or she has sexual contact (means any touching of the sexual or other intimate parts of the person of another for the purpose of arousing or gratifying the sexual desire of either party or for the purpose of satisfying the defendant's aggressive impulses) or sexual intercourse with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter.

(2) Consent is a defense under this section to incest with or upon a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

4-5-107. Aggravated promotion of prostitution.

(1) A person commits the offense of aggravated promotion of prostitution if he or she purposely or knowingly commits any of the following acts:

- (a) Compels another to engage in or promote prostitution;
- (b) Promotes prostitution of a child under the age of 18 years, whether or not he or she is aware of the child's age; or
- (c) Promotes the prostitution of one's child, ward, or any person for whose care, protection, or support he or she is responsible.

4-5-108. Failure to support or care for dependent person.

(1) A person commits the offense of failure to support or care for a dependent person by knowingly:

- (a) Refusing or neglecting to furnish food, shelter, or proper care, which the person is physically and financially able to provide to any person recognized as legally dependent upon the person;
- (b) Endangering the health, welfare or emotional well being of any child under the person's care; or
- (c) Failing to provide financial support, which the person is legally obligated to provide and the person is financially able to provide.

(3) It is not a defense to a charge of failure to support that any other person, organization, or agency furnishes necessary food, clothing, shelter, medical attention, or other essential needs for the support of the spouse, child, or other dependent.

(4) A person commits the offense of aggravated failure to support if:

- (a) The person has left the Reservation to avoid the duty of support; or
- (b) The person has been previously convicted of the offense of failure to support.

4-5-109. Contributing to the delinquency of an underage person.

(1) The term underage person as used here denotes a person who is below the age designated by the particular section of the statute. A person commits the offense of contributing to the delinquency of an underage person by knowingly:

(a) Selling, giving, supplying or encouraging the use of any intoxicating substances by a person under the age of 21;

(b) Selling or giving explosives to a person under the age of 18;

(b) Selling or giving cigars, cigarettes or cigarette papers, smoking or chewing tobacco, to anyone under the age of 18;

(d) Assisting, promoting, or encouraging a person under the age of 16 to:

(i) abandon her or his place of residence without the consent of the minor's parents or legal guardian,

(ii) enter a place of prostitution;

(iii) engage in sexual conduct; or

(iv) commit, participate, or engage in a criminal offense.

4-5-110. Failure to send children to school.

(1) A person commits the offense of failure to send children to school by repeatedly neglecting or refusing, without good cause to send any child of school age under the person's care to school.

4-5-111. Visitation interference.

(1) A person who has legal custody of a minor child commits the offense of visitation interference if he or she knowingly or purposely frustrates the visitation rights of a person entitled to visitation under an existing court order.

4-5-112. Curfew violation.

(1) Every person under the age of 18 years is subject to curfew times as follows:

(a) 11:00 p.m. until 6:00 a.m. the following morning.

(2) Parents or guardians of children under the age of 18 are responsible for curfew compliance. Exceptions are permitted if the child is under the immediate supervision of a parent, guardian, or other adult approved by the parent or guardian. A child may attend authorized school functions without such supervision. A child may attend religious activities without such supervision.

(3) Any parent, guardian or custodian who knowingly, purposely or negligently fails to obey curfew regulations commits the offense of curfew violation.

Part 2- Penalties

4-5-201. Penalties. A criminal offense listed within this Chapter is punishable by imprisonment for a period not to exceed 365 days or a fine not to exceed \$5,000 or both.

Part 3- Sovereign Immunity

4-5-301. Sovereign Immunity. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Chippewa Cree Tribe.

Part 4- Choice of Law

4-5-401. Choice of Law. The Tribal Court and appellate court, in all actions, shall apply laws, ordinances, customs, and traditions of the Chippewa Cree Tribe. In absence of Tribal Law in civil matters the court may apply laws and regulations of the United States or the State of Montana. Chippewa Cree Tribe, Title 1, Chapter 1, Section 1.9 CCT Laws.

Part 5- Legislative History

4-5-501. Legislative History. The Chippewa Cree Business Committee approved amendments to Title IV Criminal Offenses, Chapter 5 Offenses Against Children and Dependents Code by Resolution No. 98-17, during monthly meeting held on August 10, 2017.

- (2) Stalking is a Class A offense. For the second or subsequent offense or for a first offense against a victim who was under the protection of a restraining order directed at the offender shall be a Class A category A offense. A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.
- (3.) Upon presentation of credible evidence of violation of this section an order may be granted restraining a person from engaging in the activity described in subsection 1.
- (4.) For the purpose of determining the number of convictions under this section “conviction” means;
 - (a) Judgment of conviction or sentence entered upon a plea of guilty of an offense rendered by a legally constituted jury, or by a court competent jurisdiction authorized to try the case without a jury.
 - (b) A conviction in another jurisdiction for a violation of a statute similar to this section; or
 - (c) A forfeiture of bail collateral deposited to secure the defendant’s appearance in court in this jurisdiction or another jurisdiction for violation of a statute similar to this section, which forfeiture has not been vacated.
 - (d) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidates the stalked person.

CHAPTER 5. OFFENSES AGAINST CHILDREN AND DEPENDANTS

5.1 Child Molestation:

- (1) A person who willfully engages in any indecent act with a child less than sixteen (16) years of age commits the offense of child molestation, a Class A offense.
- (2) A person who willfully detains a child under the age of sixteen (16) with intent to engage in an indecent act commits the offense of child molestation, a Class A offense.

5.2 Child Abuse –

A person who willfully (1) commits acts of violence against a minor child; or (2) harmfully neglects the care of a minor child commits the offence or child abuse, a Class A offense.

5.3 Contributing to the Delinquency of a Minor - A person including parent who willfully, negligently, or recklessly cause, encourage or contribute to or aids a minor in committing a delinquent act or any offense, shall be guilty of a Class A offense.

5.4 Possession of Intoxicating Substance by a Minor:

A person under the age of eighteen (18) years who knowingly

(1) is under the influence of; or

(2) Possession an intoxication substance; or other intoxicating substance commits the offense of Possession of Intoxicating Substance, a Class C offense. In addition to the penalty prescribed for such offense, all alcoholic substances possessed in violation of this section will be forfeited to the Tribe. And disposed of in accordance with the order of the Court.

5.5 Desertion and Non-Support of Dependents:

(1) A person who, because of gambling or misuse of alcohol or for any other reason, willfully or negligently deserts or refuses support; (a) dependents child; (b) a dependant child born out of wedlock; or (c) any dependants person commits the offense of desertion and non-support of dependants, a Class A offense.

(2) For purpose of this section, the laws and customs of the Tribe determine the status of dependency.

5.6 Failure to Send Child to School –

(1) a person who neglects or knowingly and without a legitimate reason refuses to send a Minor child to school who:

- a. Is under the age of ~~sixteen (16)~~; eighteen (18);
- b. ~~Has not completed the eighth (8th) grade~~; and that a school day curfew is established between the hours of 8:00 a.m. through 4:30 p.m. for public schools and a curfew for alternative schools in the Chippewa Cree Tribal Law & Order Code; and
- c. Is under his charge or care, without a legitimate reason, commits the offense of Failure to sent children to school, a Class C offense.

5.7 Violation of Curfew:

All persons who are parents or legal guardians of any child under the age of eighteen (18) knowingly permits a minor child in his charge to be on the streets, highways, or public premises of the Rocky Boy's Indian Reservation between the hours of 10:00 P.M. and 6:00 A.M. Commencing Sunday evening through Friday Morning, and between the hours of midnight and 6:00 a.m. commencing Friday evening through Sunday morning, without legitimate reason commits the offense of Violation of Curfew, a Class C offense. A child who is 14 to 18 years old and violates the curfew may be detained in the juvenile detention center.

CHAPTER 6. OFFENSES AGAINST LAW ENFORCEMENT

6.1 Escape:

- (1) A person who willfully removes or attempts to remove himself from the lawful custody of a law enforcement officer commits the offense of escape, a Class A offense.
- (2) A person who willfully aids or attempts to aid another person to remove himself from lawful custody commits the offense of escape, a Class A offense.
- (3) A person knowingly fails to return to official detention following leave granted for a specific purpose and a limited time (excluding probation, parole, or release on bail) commits the offense of escape, a Class A offense.

6.2 Obstruction of Justice - A person willfully hinders the apprehension, prosecution, conviction, or punishment of another for a crime commits the offense of Obstruction of Justice, a Class B offense.

6.3 False Arrest - A person who willfully or knowingly causes or makes the unlawful arrest, detention, or confinement of another person commits the offense of False arrest, a Class B offense.

6.4 Refusing to Aid an Officer - A person who knowingly or negligently refuses to aid a law enforcement officer upon his official request for assistance in:

- (1) arresting a person;
- (2) securing an apprehended person; or
- (3) conveying an apprehended person to the nearest place of confinement commits the offense of Refusing to Aid an Officer, a Class C Offense.

CHAPTER 7. OFFENSES AGAINST PROPERTY

SUBCHAPTER A: Theft and Related Offenses:

7.1 Theft:

- (1) A person who knowingly takes or exercises unauthorized control over property not his own with a purpose which will deprive the owner of the property commits the offense of theft, a Class A offense unless the property is worth less than fifty dollars (\$50), in which it is a Class B offense.
- (2) A person who knowingly; (a) receives; (b) conceals; or (c) aids in the reception or concealment of property obtained by illegal means commits the offense of theft.
- (3) A person who; (a) is in possession of a slaughtered beef; and (b) fails to produce the hide or fails to explain satisfactorily a defaced hide is presumed to have committed theft. This presumption is rebuttable.

7.2 Breaking and Entering - A person knowingly; (1) enters or attempts to enter any building, dwelling, or other property without authorization; and (2) intends to commit any crimes therein commits the offense of Breaking and Entering, a Class A offense.

7.3 Embezzlement - A person knowingly; (1) appropriates to his own use property not his but in his lawful custody; and (2) intends to deprive the lawful owner of the property by such appropriation commits the offense of Embezzlement, a Class A offense. Embezzlement includes the misappropriations of a minor's funds in the custody of parents or guardians.

7.4 Extortion - A person who willfully (1) intimidates or threatens another person and (2) intends to obtain any property thereby commits the offense of extortion, a Class A offense.

7.5 Fraud - A person who knowingly misrepresents or deceives another in order to obtain property commits the offense of fraud, a Class B offense.

7.6 Forgery and Counterfeiting - A person, who willfully executes, alters, counterfeits, or falsely signs any written instrument or currency to defraud commits the offense of forgery, a Class A offense.

7.7 Issuing a Bad Check - A person who: (1) knowingly makes or delivers a check, draft, or other written order, or verbally makes an order upon any bank or depository for payment of money; and (2) knows that there are insufficient funds or that the bank depository will not pay or credit the check, draft, or order; commits the offense of issuing a Bad Check, a Class C offense.

SUBCHAPTER B: Conduct Violating Property Protection:

- 7.8 Unauthorized Use of Property** - A person who knowingly uses any property not his own or operates a vehicle not his own without the permission of the owner commits the offense of unauthorized use of property, a Class C offense.
- 7.9 Malicious Mischief** - A person, who willingly disturbs, injures, destroys, or defaces any property not his own commits the offense of malicious mischief, a Class B offense.
- 7.10 Injuring Public Property** - A person who willfully disturbs, injures, destroys, or defaces any public building or other property of the Tribe, state, or the United States Government commits the offense of Injuring Public Property, a Class B offense.
- 7.11 Maintaining a Public Nuisance** – A person who knowingly causes or negligently permits his property to fall into a condition, which could injure or endanger the safety, health, comfort, or property of another commits the offense of Maintaining a Public Nuisance, a Class C offense. The Court may order renewal or correction of the nuisance.
- 7.12 Strong Dangerous Discarded Container** - A person who knowingly possesses an unused chest, icebox, refrigerator, or other container;
- 7.12.1 which has a door with an automatic latch or lock which cannot be readily opened from the inside; and
 - 7.12.2 from which the danger of entrapment has not been eliminated by removal of the door, lock, or latch, or by other means commits the offense of Storing dangerous Discarded Containers, a Class C offense. The person must remedy the situation at his own expense.
- 7.13 Criminal Trespass-Buildings;**
- 7.13.1 a person who knowingly and unlawfully enters or remains in a building commits the offense of Criminal Trespass to Buildings, a Class B offense.
 - 7.13.2 For purpose of this section “unlawfully” means without license, privilege, or other proper authorization.
- 7.14 Cutting fence or Opening Gate** - A person who willfully: (1) leaves open any gate of another; or (2) tears down, carries away, or destroys any part

of a fence of another commits the offense of Cutting Fence or the offense of Opening gates, Class D offenses.

- 7.15 Arson - A person who, by means of fire or explosions, knowingly or negligently (1) damages or destroys an occupied structure which is property of another without consent; or (2) places another person in danger of death commits the offense of arson, a Class A offense.

SUBCHAPTER C: Conduction Violating Animal Property Protection:

- 7.16 Cruelty to Animals - Any person knowingly or negligently mistreats any animal, which is his own or in his custody commits the offense of Cruelty to Animals, a Class C offense.

- 7.17 Permitting Domestic Pets to Roam - A person who knowingly allows a diseased or dangerous dog or other animal which is his own or in his custody, to roam at large or wander through populated areas commits the offense of Permitting Domestic Pets to Roam, a Class D offense.

- 7.18 Live Stock Trespass;

1. Purpose - The purpose of this Section is to regulate the trespassing of domestic and stray animals.

2. Definitions;

- a. Stray or Trespassing Animals: Livestock found on lands other than range units, agriculture leases or designated land assignments within the exterior boundaries of the Rocky Boy Indian Reservation whose owner is unknown or cannot be located;
- b. Livestock: Domestic animals commonly used or raised on a ranch or farm. (Cows, calves, bulls, horses, colts, pigs, sheep, llamas, buffalo).
- c. Rocky Boy Indian Reservation: Any land under the ownership, control, and jurisdiction of the Chippewa Cree Tribe.
- d. Landholder: A lease, permittee, land assignment holder, or owner of fee land within the exterior boundaries of the Rocky boy Indian Reservation.

3. Trespass Violations;

- a.** Any person who allows his livestock to trespass upon or pass over any cultivated or other enclosed lands of another person without his consent shall be deemed a Trespasser, a Class A Offense and shall be fined in an amount not exceed \$500.
 - b.** Any livestock owner who allows his livestock to run at large upon any public roadway and/or right-of-way within the reservation.
 - c.** Any livestock owner who allows his trespass livestock to cause any damages to public or private premises, which include consumed forages.
- 4.** Notice of Stray or Trespass Animals - A landowner finding stray or trespassing animals on lands under his control:
 - a.** May remove livestock to rightful pasture provided that the moving of the livestock does not constitute trespass on another person or pasture and can be done without undue hardship;
 - b.** May confine livestock to decrease damage to crops or grazing lands or injury or damages to livestock. If livestock is confined, the landowner shall report such confinement to the livestock owner or Livestock Inspector. The Livestock Inspector shall have authority to remove confined livestock to the proper area. The livestock owner may be assessed the expense of removal;
 - c.** When notify the Chief of Police of Livestock Inspector; or
 - d.** May elect to bring an action for damages.
- 5.** The Chief of Police, or his designee, shall within twenty-four (24) hours request the Livestock Inspector to inspect the stray or trespassing livestock, obtain the brands, owner's name, and damage appraisal, and return the information to him. The appraisal of damage caused by the trespassing livestock, including all forage consumed, should be signed and made by as an individual of legal age, competent to make appraisals. The appraisal shall state the owner of the livestock, if know, together with an accurate description of the livestock impounded and an appraisal of damage caused by the stray or trespassing livestock. If the owner

disputes the amount of the damages, a hearing may be held before the rocky Boy tribal Court.

The owner must file his complaint objecting to such appraisal with ten (10) days of being notified.

6. When livestock are on any public roadway, the Chief of Police, or his designee, or the Livestock Inspector shall notify the livestock owner to remove trespass livestock within one (1) hour. Livestock not removed from public roadway immediately will be impounded.
7. The Chief of Police, of his designee, or the Livestock Inspector shall notify the livestock owner or his agent allowing him three (3) days to remove his livestock from the confinement area. A confinement fee of twenty-five dollars (\$25) per head per day shall be assessed against the livestock while in confinement. When a three day (3) notice is given to any livestock owner or his agent, such notice is given within that trespass area shall be effective notice for a period of six (6) months from the date of notice.
8. Any Indian livestock owner who makes a practice of allowing his livestock to stray or trespass may be sued for damages in Tribal Court for nuisance. Non-Indian owners will be subject to the provisions of this Title and implementing regulations and civil action.

7.19 Seizure and Impoundment of Stray of Trespass Animals;

1. The Chief of Police, or his designee, shall impound all animals not claimed and removed after three (3) days if the owners are unknown or cannot be found. During impoundment he will see that they are fed and watered.
2. The Chief of Police, or his designee, shall notify the Rocky Boy's Tribal Court and give the Court all information and the appraisal of damages.
3. The Court shall post a Notice of Impoundment in not less than five (5) public conspicuous places on the Rocky Boy's Indian reservation for ten (10) days.
4. During the ten (10) days Notice of Impoundment the livestock owner can redeem his livestock by paying the assessed damages, confinement fee of twenty-five dollars (\$25) per head per day, cost of impoundment at fifty dollars (\$50) per head, cost of posting notices, and showing proof of adequate pasturage.

5. Impounded animals shall be available for the public inspection during daylight hours.
6. If more than one (1) person claims ownership of impounded animal or if satisfactory proof of ownership is not furnished, claimant may seek determination through Tribal Court.
7. Unbranded livestock one (1) year or older that are normally braded shall become the property of the Chippewa Cree Tribe Business Committee, provided proof of ownership has not been established.

7.20 Sale of Unclaimed Impounded Animals;

1. Animals, which have been impounded, with notice posted for ten (10) days, without any contested ownership of any contested damages being heard in Tribal Court, shall be sold at a public sale to the highest bidder and the Judge shall execute or deliver a Bill of Sale to the purchaser.
2. Disposition of sale proceeds shall be applied to the following priorities;
 - a. cost of sale
 - b. cost of impoundment (feed, care, veterinarian services);
 - c. cost of Impoundment notices;
 - d. reasonable value of forages consumed and damages to the land trespassed; and
 - e. payment to the former owners of the animals of any surplus.
3. If the former owner of any animal should, pursuant to this Chapter, fail to refuse to claim any balance due within one (1) year after the date of sale, such balance shall be paid into the treasury of the Chippewa Cree Tribal Business Committee and the former owner's entitlement thereto shall cease to exist.

CHAPTER 8. OFFENSES AGAINST PUBLIC ORDER

8.1 Disorderly Conduct –

- (1) A person who knowingly or negligently; (a) engages in fight or violence;

- (b) makes unreasonable noise; (c) disrupts public or religious assembly;
- (d) uses abusive language in a public place; or (e) creates a hazard, offensive, or disruptive condition in a public place which serves no legitimate purpose commits the offense of Disorderly conduct, a Class B offense.
- (2) An individual convicted of Disorderly Conduct for the first time is subject to a maximum penalty of thirty (30) days imprisonment or a fine of one hundred dollars (\$100), or both.

8.2 Firing Weapon:

- (1) A person who knowingly fires a weapon within a settled community on the Rocky Boy's Indian Reservation at any time commits the offense of Firing a Weapon, a Class B offense.
- (2) A person knowingly fires a weapon in any place within the boundaries of the reservation with careless disregard for human life commits the offense of firing weapon, a Class B offense.

8.3 Carrying a Concealed Weapon - A person who knowingly carries a dangerous weapon concealed upon his person without (1) a permit signed by a Tribal Court; or (2) a license issued by the Tribal Counsel commits the offense of Carrying a Concealed Weapon, a Class B offense.

8.4 Public Drunkenness or Drug Intoxication:

- (1) A person who knowingly or negligently appears in a public place under the influence of alcohol, drugs, or other substances for ceremonial use by the Tribe and is endangering himself, others, or property; or is disturbing others commits the offense of Public Drunkenness or Drug Intoxication, a Class C offense
- (2) The court may order the offender upon conviction to undertake and complete any available alcoholic or drug abuse program in lieu of penalties. The Court may reinstate the penalties of the offender fails to follow the order for treatment.

8.5 Driving While Under the Influence of Alcohol or Drugs:

- (1) A person who while under the influence of alcohol or drugs knowingly or negligently drives or is in actual control of a motor vehicle upon the roads or highways within the boundaries of the reservation commits the offense of Driving While Under the Influence of Alcohol or Drugs, a Class A offense.

- (2) Upon the trial of any civil or criminal action or proceeding arises out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions;
- (a) If there was at the time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.
 - (b) If there was at that time an alcohol concentration in excess of 0.05 but less than 0.10, that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol but such fact may consider with other competent evidence in determining the guilt or innocence of the person.
 - (c) If there was at that time an alcohol concentration of 0.10 or more, it shall be presumed that the person was under the influence of alcohol. Such presumption is rebuttable.

8.6 Littering - A person who knowingly disposes of any garbage or other form of waste except in disposal areas designated by the Tribe commits the offense of littering, a Class D offense.

8.7 Gang Related Crime and Criminal Activities (added 9/11/03):

- (1) If two or more persons commit any kind of offense or involve in any criminal enterprises under the Title IV of the Law and Order code, shall be a gang related crime.
- (2) If a person is convicted of a crime under the Title IV of the Law and Order Code committed for the benefit of, at the direction of or in association with any criminal gang, with the specific intent or promote, further or assist in any criminal conduct by criminal gang members, the penalties for the underlying crime are increased as provided in par.
- (3) Minor from age 14 to 18 may be prosecuted as an adult if her/she involves in gang related criminal activities. Parents or legal guardian of such minor shall be held responsible for their children's activities. Minor under the age 14 who involve in gang related crime or criminal activities shall be treated under the Title VI of the Law and Order Code and parents or legal guardian of such minor shall be held responsible and punished for their children's activities.
- (4) The maximum term of imprisonment for a Class A offense may be increased by not more than 6 months imprisonment. This subdivision does not change the status of the crime from Class A to Class AA offense.

- (5) The maximum term of imprisonment for a Class B offense may be increased by not more than 3 months imprisonment. This subdivision does not change the status of the crime from Class B to Class A offense.
- (6) The maximum term of imprisonment for a Class C offense may be increased by not more than 1 month imprisonment. This subdivision does not change the status of the crime from Class C to Class B offense.

CHAPTER 9. OFFENSES AGAINST PUBLIC ADMINISTRATION

9.1 Threat or Intimidation - A person who willfully threatens harm to another person; and intends thereby to influence a public servant, official, or voter to violate a public duty commits the offense of Treat or Intimidation, a Class A offense.

9.2 Bribery:

- A.** A person knowingly gives, offers, or agrees to give a benefit to another and intends thereby to influence a public official's performance of his duty commits the offense of Bribery, a Class B offense.
- B.** A public official who knowingly accepts, solicits, or agrees to accept a benefit for a premise which influences his performance of his duty commits the offense of Bribery, a Class B offense.

9.3 Criminal Contempt of Court - A person who knowingly:

- A. fails to comply with an order of the Court;
- B. interferes with the process of the Court; or
- C. offends the dignity of the Court by a disrespectful act done in or near the presence of the Court, commits the offense of Criminal Contempt of Court, a Class A offense.

9.4 Perjury - A person who willfully: (1) makes a false statement or affidavit under oath or affirmation before and official proceeding; or (2) causes or procures another to make such a false statement commits the offense of perjury, a Class B offense.

9.5 Destruction of Evidence - A person who willfully: (1) destroys or withholds evidence; or (2) intends to prevent the use of that evidence in an official proceeding commits the offense of Destruction of Evidence, a Class B offense.

9.6 Disposing of Property of an Estate - A person, who sells, exchanges, or otherwise disposes of property in an estate, without proper authority, commits the offense of Disposing of Property of an Estate, a Class B offense.

9.7 Protection of Elected Officials and Tribal and Federal Employees, (added 9/11/03):

- (1) Whoever forcible assaults, resists, opposes, intimidates, or interferes with:
(2) any elected tribal official, or (3) any judge or acting judge of any court created by the tribe, or any officer or employee of the tribe or of the United States, on account of the performance of official duties, or while such member, judge, officer or employee is engaged in official duties, shall be guilty of a Class A offense.
- (2) Whoever, in the commission of an act described in subsection (1), uses a deadly or dangerous weapon shall be guilty of a Class AA offense.

CHAPTER 10. VIOLATION ENDANGERING FAMILY AND PUBLIC DECENCY

10.1 Prostitution:

- (1) a person who knowingly engages in providing or procuring sexual activities as a business commits the offense of Prostitution, a Class C offense.
- (2) a person who knowingly keeps, maintains, rents, or leases property for the business of sexual activities commits the offense of prostitution, a Class C offense.

10.2 Indecent Exposure - A person who willfully exposes his genitalia or other intimate parts in public if this conduct is likely to cause affront or alarm commits the offense of Indecent Exposure, a Class C offense.

10.3 Exposing to Infectious Disease:

- (1) A person inflicted with syphilis, gonorrhea, tuberculosis, or other dangerous communicable disease that knowingly exposes another to infection commits the offense of Exposing to Infectious Disease, a Class B offense.
- (2) The court has the power to order and compel a person to submit to medical examination and necessary treatment if reasonably believes he is afflicted with a dangerous communicable disease.

10.4 Malicious Gossip - A person who willfully defames the character of another with written or spoken statements, which are false and malicious, commits the offense of Malicious Gossip, a Class C offense.

10.5 Unlawful production, sale or possession of drugs:

- (2) Whoever knowingly produces, sells or possesses marijuana or any narcotic drug, including any substance containing opium, coca leaves, any opiate or any substance, compound or derivative thereof, any salt, compound, isomer, derivative, or preparation thereof which chemically equivalent or identical with any of the substances referred to above but not including the isoquinoline alkaloids of opium, or who shall inhale the fumes of any gasoline, airplane glue, or any other similar noxious substance including methamphetamine for the purpose of producing intoxication is guilty of unlawful production, sale, possession or use of drugs.
- (3) Unlawful sale or production of drugs shall be a Class AA offense.
Unlawful use or possession of drugs shall be a Class A offense.

10.6 Adulteration of Food and Drink - A person who knowingly manufacturers, sells, keeps for sale, or offers for sale any food, drug, or drink which contains any harmful substance commits the offense of Adulteration of Food and Drink, a Class B offense.

REFER TO COURT OF APPEALS

11.1 Right of Appeal.

- ~~(1) The Tribal administrative body which determine who has the privilege to drive on the Reservation shall immediately, in writing, notify any person who license or privilege to drive has been suspended under Section 11.30 (3) of this Title. Such person shall have the right to file a petition within thirty (30) days for a hearing in the matter I Tribal Court. The Court shall set the matter for hearing, and the prosecuting attorney for the Chippewa Cree Tribe shall represent the Tribe.~~
- ~~(2) The haring shall be limited to the following issues: person had been driving or was in actual physical control of the vehicle under the influence of alcohol or drugs, whether the person was placed under arrest, and whether the person refused to submit to the test. The Court shall then determine whether the person is subject to suspension of driving privileges.~~

TITLE IV. CRIMINAL OFFENSES

CHAPTER 9. DANGEROUS DRUGS

Part 1. General Provisions

4-9-101. The Tribe will have exclusive jurisdiction over any misdemeanor offense in this Chapter.

4-9-102. Any offense classified as a misdemeanor under subsection (1) above is a Class (C or D) offense over which the Tribe has exclusive jurisdiction

4-9-103. The Tribe and the Federal Government shall have concurrent jurisdiction over any felony offense and which shall be classified as a Class (AA, A, or B) offense.

4-9-104. Affirmative Defense. It is an affirmative defense to prosecution for the possession/distribution/use of any/all drugs or drug compounds that have historical, cultural, sacred or religious significance.

Part 2. Definitions

4-9-201. Definitions. As used in this chapter, the following definitions apply:

(1) "Administer" means the direct application of a dangerous drug, whether by injection, inhalation, ingestion, or other means, to the body of a patient or research subject by:

- (a) a practitioner or by the practitioner's authorized agent; or
- (b) the patient or research subject at the direction and in the presence of the practitioner.

(2)(a) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser;

(b) The term does not include a common or contract carrier, public warehouse operator, or employee of the carrier or warehouse operator.

(3) "Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids that promotes muscle growth. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances is an anabolic steroid, including salts, isomers, and salts of isomers whenever the existence of those salts of isomers is possible within the specific chemical designation.

(4) "Controlled substance" means any substance that is defined in Schedules I through V as set forth in the Federal Schedules of Controlled Substances, found at Title 21 U.S.C. Section 812.

(5) "Dangerous drug" means a drug, substance, or immediate precursor that is defined in Schedules I through V as set forth in the Federal Schedules of Controlled Substances, found at Title 21 U.S.C. Section 812.

(6) "Dangerous drug analogue" means any material, compound, mixture, or preparation that is structurally related to or chemically derived from any dangerous drug that is defined in Schedules I through V as set forth in the Federal Schedules of Controlled Substances, found at Title 21 U.S.C. Section 812, or that is expressly or impliedly represented to produce or does produce a physiological effect similar to or greater than the effect of a dangerous drug in Schedules I through V.

(7) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a dangerous drug, whether or not there is an agency relationship.

(8) "Dispense" means to deliver a dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the drug for that delivery.

(9) "Dispenser" means a practitioner who dispenses.

(10) "Distribute" means to deliver other than by administering or dispensing a dangerous drug.

(11) "Distributor" means a person who distributes.

(12) "Forfeiture" means the legal process by which the Chippewa Cree Tribal Court System shall take control of any property used in the manufacture, or transport, sale of any dangerous drug, and includes property gained or acquired by the perpetrator as a result of the manufacture, transport, or sale of any dangerous drug.

(13) "Hashish", as distinguished from marijuana, means the mechanically processed or extracted plant material that contains tetrahydrocannabinol (THC) and is composed of resin from the Cannabis plant.

(14) "Imitation dangerous drug" means a substance that is not a dangerous drug but that is expressly or impliedly represented to be a dangerous drug or to simulate the effect of a dangerous drug and the appearance of which, including the color, shape, size, and markings,

(15) "Immediate precursor" means a substance that is being used as the principal compound commonly used or produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a dangerous drug, the control of which is

necessary to prevent, curtail, or limit manufacture.

(16)(a) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a dangerous drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes the packaging or repackaging of the drug or labeling or relabeling of its container.

(b) Manufacture does not include the preparation or compounding of a dangerous drug by an individual for personal use or the preparation, compounding, packaging, or labeling of a dangerous drug:

- (i) by a practitioner as an incident to the administering or dispensing of a dangerous drug in the course of a professional practice; or
- (ii) by a practitioner or the practitioner's authorized agent under the practitioner's supervision for the purpose of or as an incident to research, teaching, or chemical analysis and not for sale.

(17) "Marijuana (marihuana)" means all plant material from the genus *Cannabis* containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(18) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) opium and opiate and a salt, compound, derivative, or preparation of opium or opiate;
- (b) a salt, compound, isomer, derivative, or preparation of a salt, compound, isomer, or derivative that is chemically equivalent or identical with any of the drugs referred to in subsection (18)(a), but not including the isoquinoline alkaloids of opium;
- (c) opium poppy and poppy straw; or
- (d) coca leaves and a salt, compound, derivative, or preparation of coca leaves and a salt, compound, isomer, derivative, or preparation of a salt, compound, isomer, or derivative that is chemically equivalent or identical with any of these drugs, but not including de-cocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine.

(19) "Opiate" means a drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(20) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(21) "Person" includes any individual, business association, partnership, or corporation.

(22) "Poppy straw" means all parts, except the seeds, of the opium poppy after mowing.

(23) "Practitioner" means:

(a) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, or conduct research with respect to or to administer a dangerous drug in the course of professional practice or research;

(b) a pharmacy or other institution licensed, registered, or otherwise permitted to distribute, dispense, or conduct research with respect to or to administer a dangerous drug in the course of professional practice or research.

(24) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly to the furnisher, by means of an order signed by the prescriber and bearing the name and address of the prescriber, the prescriber's license classification, the name of the patient, the name and quantity of the drug or drugs prescribed, the directions for use, and the date of its issue. These stipulations apply to written, electronically transmitted, and telephoned prescriptions.

(25) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a substance or drug regulated under the provisions of this chapter.

(26) "Ultimate user" means a person who lawfully possesses a dangerous drug for personal use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

Part 3. Offenses Involving Dangerous Drugs

4-9-301. Criminal distribution/sale of prescription or dangerous drugs.

(1) A person commits the offense of criminal distribution/sale of prescription or dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any prescription or dangerous drug.

(2) The criminal distribution/sale of prescription or dangerous drugs is a Class (AA or A) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$5,000.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection **(1)** by a person less than eighteen (18) years of age.

4-9-302. Criminal possession of prescription or dangerous drugs.

(1) A person commits the offense of criminal possession of prescription or dangerous drugs if he/she possesses any dangerous drug or prescription drug not issued by a licensed practitioner in their name.

(2) Possession of marijuana or its derivatives in an amount the aggregate weight of which does

not exceed 60 grams of marijuana or 1 gram of hashish is a Class (B or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(3) Possession of an anabolic steroid is a Class (**B** or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(4) Possession of an opiate or any dangerous drug is a Class (B or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(5)(a) Possession of more than nine (9) grams of a drug product containing any detectable quantity of ephedrine, pseudoephedrine, their salts or optical isomers, or salts of optical isomers is a Class (B, C, or D) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed three (3) months or be fined an amount not to exceed \$300.00 payable to the CCT Court, or both.

(b) There is a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance.

(6) Possession of a prescription drug not issued in their name is a Class (B or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(7) Youth Court has jurisdiction of any violation of subsections (1-6) by a person less than eighteen (18) years of age.

4-9-303. Criminal possession of prescription or dangerous drugs with intent to distribute/sell.

(1) A person commits the offense of criminal possession with the intent to sell if he/she possess with the intent to distribute/sell any prescription or dangerous drug.

(2) Criminal possession of any prescription or dangerous drug with the intent to sell is a Class (AA, A, or **B**) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$5,000.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-304. Fraudulently obtaining prescription or dangerous drugs.

(1) A person commits the offense of fraudulently obtaining prescription or dangerous drugs if he/she obtains or attempts to obtain a dangerous drug by:

- (a) fraud, deceit, misrepresentation, or subterfuge;
- (b) falsely assuming the title of or representing himself/herself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess dangerous drugs;
- (c) the use of a forged, altered, or fictitious prescriptions;
- (d) the use of a false name or a false address on a prescription; or
- (e) the concealment of a material fact.

(2) Fraudulently obtaining prescription or dangerous drugs is a Class (AA, A or B) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$5,000.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-305. Altering labels on prescription or dangerous drugs.

(1) A person commits the offense of altering labels on prescription or dangerous drugs if he/she affixes a false, forged, or altered label to or otherwise misrepresents a package or receptacle containing a dangerous drug.

(2) Altering labels on prescription or dangerous drugs is a Class (A or B) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-306. Criminal possession of precursors to dangerous drugs.

(1) A person commits the offense of criminal possession of precursors to dangerous drugs if he/she possesses:

- (a) phenyl-2-propanone (phenylacetone) with the intent to manufacture amphetamine or methamphetamine, or both;

(b) both piperidine and cyclohexane at the same time, or a combination product thereof, with the intent to manufacture phencyclidine (PCP).

(c) ephedrine; lead acetate; methylamine; methylformamide; phenylpropanolamine; pseudoephedrine; anhydrous ammonia; hydriodic acid; red phosphorus;

(d) iodine in conjunction with ephedrine, pseudoephedrine, or red phosphorus; or

(e) lithium in conjunction with anhydrous ammonia; or

(f) if the person knowingly possesses anhydrous ammonia for the purpose of manufacturing dangerous drugs.

(2) Criminal possession of precursors to dangerous drugs is a Class (A or B) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or to be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-307. Criminal distribution/sale of prescription or dangerous drugs on or near school property - penalty - affirmative defense.

(1) A person commits the offense of criminal distribution/sale of prescription or dangerous drugs on or near school property if he/she is in, on or within 2,000 feet of the real property comprising a public or private elementary or secondary school.

(2) It is not a defense to prosecution under subsection (1) that the person did not know the distance involved.

(3) It is an affirmative defense to prosecution for a violation of this section that:

(a) the prohibited conduct took place entirely within a private residence; and

(b) no person seventeen (17) years of age or younger was present in the private residence at any time during the commission of the offense.

(4) A conviction under this section is a Class (AA or A) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$5,000.00 payable to the CCT Court, or both.

(5) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-308. Criminal production or manufacture of dangerous drugs.

(1) A person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds or processes a dangerous drug.

(2) Criminal manufacture or production of dangerous drugs is a Class (AA, A or B) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$5,000.00 payable the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-309. Dangerous or Prescription drugs - exemptions

(1) Sections § 4-9-301 through § 4-9-306, § 4-9-308 and § 4-9-309 do not apply to:

- (a) a person authorized to possess with purpose to sell or sell dangerous or prescription drugs;
- (b) law enforcement personnel selling or possessing with the purpose to sell dangerous or prescription drugs while acting within the scope of their employment; and
- (c) practitioners and agents under their supervision acting in the course of a professional practice.

(2) The provisions of § 4-9-306 does not apply to:

- (a) a person employed by or enrolled as a student in a college or university within the exterior boundaries of the Rocky Boy's Indian Reservation who possesses any combination of substances listed in § 4-9-306 for the purpose of teaching or research that is authorized by the college or university.

4-9-310. Criminal distribution/sale of imitation dangerous drug-penalty

(1) A person commits the offense of criminal distribution/sale of an imitation dangerous drug if he/she knowingly or purposely sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any imitation dangerous drug.

(2) Criminal distribution/sale of an imitation dangerous drug is a Class (A, B, or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-311. Criminal possession of imitation dangerous drugs with the purpose to distribute/sell - penalty

- (1) A person commits the offense of criminal possession of an imitation dangerous drug with purpose to distribute/sell if he/she possesses with purpose to sell any imitation dangerous drug.
- (2) Criminal possession of an imitation dangerous drug to distribute is a Class (A, B, or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.
- (3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-312. Criminal advertisement of imitation dangerous drug - penalty

- (1) A person commits the offense of criminal advertisement of an imitation dangerous drug if he/she knowingly or purposely places in any newspaper, magazine, handbill, or other publication or posts or distributes any advertisement or solicitation to promote the manufacture, sale, exchange or distribution of an imitation dangerous drug.
- (2) Criminal advertisement of an imitation dangerous drug is a Class (A, B, or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.
- (3) Youth Court has jurisdiction of any violation of subsection **(1)** by a person less than eighteen (18) years of age.

4-9-313. Criminal manufacture of imitation dangerous drug-penalty

- (1)** A person commits the offense of criminal manufacture of an imitation dangerous drug if he/she knowingly or purposely manufactures, prepares, or cultivates any imitation dangerous drug.
- (2) Criminal manufacture of an imitation dangerous drug is a Class (A, B, or C) offense for which the offender shall be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.
- (3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-314. Imitation dangerous drugs - exemptions - rules

- (1) Sections § 4-9-310 through § 4-9-313 does not apply to:

- (a) a person authorized to possess with purpose to sell or sell imitation dangerous drugs;
- (b) law enforcement personnel selling or possessing with the purpose to sell imitation dangerous drugs while acting within the scope of their employment; and
- (c) a person registered to sell or possess with purpose to sell imitation dangerous drugs for use as a placebo, by that person or any other person so registered, in the course of professional practice or research.

4-9-315. Criminal possession of toxic substance - penalty

- (1) A person commits the offense of criminal possession of a toxic substance if the person inhales or ingests or possesses with the purpose to inhale or ingest, for the purpose of altering the person's mental or physical state, any substance with toxic effects that is not manufactured for human consumption or inhalation, including but not limited to glue, fingernail polish, paint and paint thinners. petroleum products. aerosol propellants. and chemical solvents.
- (2) The provisions of subsection (1) do not apply to institutions of higher education conducting research with human volunteers pursuant to guidelines adopted by the institution or any Federal or Tribal agency.
- (3) Criminal possession of a toxic substance is a Class (B or C) offense for which the offender may be imprisoned in the CCT Jail for a term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.
- (4) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-316. Continuing criminal enterprise-penalty

- (1) A person who engages in a continuing criminal enterprise is guilty of a crime and upon conviction is punishable by a term of imprisonment and a fine not exceeding two (2) times those authorized for the underlying offense. For purpose of this subsection, a person engages in a continuing criminal enterprise if;
 - (a) the person violates any provision of this chapter that is a felony; and
 - (b) the violation is a part of a continuing series of two or more violations of this chapter on separate occasions; that
 - (i) are undertaken by the person in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of managements; and
 - (ii) from which the person obtained substantial income or resources.

(2) A sentence for a conviction under this section runs consecutively with the conviction for the underlying offense.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

Part 4. Procedural Provisions

4-9-401. Alternative sentencing authority

(1) A person convicted of a dangerous drug misdemeanor offense under this chapter may, in lieu of imprisonment, be sentenced according to the alternatives provided in subsection (2).

(2) If the Court determines, either from the face of the record or from a presentence investigation and report, that incarceration of the defendant is not appropriate, the Court may, as a condition of a suspended or deferred sentence, impose one or more of the following alternatives;

(a) commitment to a residential drug treatment facility licensed and approved for rehabilitative treatment for not less than the minimum recommended time determined necessary by the facility and not more than one (1) year.

(b) mandatory service of not more than 2,000 hours in a community-based drug treatment or drug education program with compliance to be monitored by the probation department.

(c) placement in a probation program that requires that the defendant comply with all of the following conditions:

(i) maintain employment, full-time student status, or be involved in job searches or community service work designated by the probation officer;

(ii) remain drug free and submit to drug and alcohol tests administered randomly;

(iii) perform not less than ten (10) hours of community service each month, full-time employees/students are exempt from this requirement;

(iv) enroll or make satisfactory effort to seek enrollment in an approved drug rehabilitation program; and

(v) comply with any other conditions imposed by the Court to meet the needs of the community and the defendant.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-9-402. Use or possession of property subject to criminal forfeiture - property subject to criminal forfeiture.

(l)(a) A person commits the offense of use or possession of property subject to criminal forfeiture if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section.

(b) Use or possession of property subject to criminal forfeiture or property subject to criminal forfeiture is a Class (A or B) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or to be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.

(2) The following property is subject to criminal forfeiture under this section:

(a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting a dangerous drug in violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of § 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or § 4-9-308;

(b) property used or intended for use as a container for property enumerated in subsection (2)(a);

(c) except as provided in subsection (3), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308;

(d) book, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308;

(e)(i) everything of value furnished or intended to be furnished in exchange for a dangerous drug in violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308; and

(ii) all proceeds traceable to such an exchange;

(f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308;

(g) personal property constituting or derived from proceeds obtained directly form a violation of § 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or§ 4-9-308; and

(h) real property, including any right, title, and interest in a lot or tract of land, land assignment, and any appurtenances or improvements, that is directly used or intended to be used in any manner to facilitate a violation of or that is derived from or maintained by proceeds resulting from a violation of § 4-9-301, § 4-9-303 or § 4-9-308 or of § 4-2-3.1(2) when the object of the conspiracy was a violation of § 4-9-301, § 4-9-303 or § 4-9-308. An owner's interest in real property is not subject to criminal forfeiture by reason of act or omission unless it is proved that the act or omission was the owner's or was with the owner's express consent.

(3) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance to violate or knowingly consented to its use for the purpose of violating § 4-9-301, § 4-9-303 or § 4-9-308 or of § 4-2-3.1(2) when the object of the conspiracy was a violation of § 4-9-301, § 4-9-303 or § 4-9-308;

(4) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property in connection with the violation of § 4-9-301, § 4-9-303 or § 4-9-308 or of § 4-2-3.1(2) when the object of the conspiracy was a violation of § 4-9-301, § 4-9-303 or § 4-9-308.

(5) Property subject to criminal forfeiture under this section may be seized under the following circumstances;

(a) A Police Officer who has probable cause to make an arrest for a violation of § 4-9-301, § 4-9-303 or § 4-9-308 or of § 4-2-3.1(2) when the object of the conspiracy was a violation of § 4-9-301, § 4-9-303 or § 4-9-308 may seize a conveyance obtained with the proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the Police Officer's law enforcement agency, to be held as evidence until a criminal forfeiture is declared or release ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a Police Officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant;

(ii) the property was the subject of a prior judgment in favor of the CCT in a criminal proceeding or a criminal forfeiture proceeding;

(iii) a Police Officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a Police Officer has probable cause to believe that the property was used or intended to be

used in violation of§ 4-9-301, § 4-9-303 or§ 4-9-308 or of§ 4-2-3.1(2) when the object of the conspiracy was a violation of§ 4-9-301, § 4-9-303 or § 4-9-308.

(6) A prosecution under subsection (1) must be commenced within 45 days of the seizure of the property involved.

(7) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

TITLE IV. CRIMINAL OFFENSES

CHAPTER 10. DRUG PARAPHERNALIA

Part 1. General Provisions

4-10-101. Definitions

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

(a) kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a dangerous drug or from which a dangerous drug can be derived;

(b) kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing dangerous drugs;

(c) isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a dangerous drug;

(d) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of dangerous drugs;

(e) scales and balances used, intended for use, or designed for use in weighing or measuring dangerous drugs;

(f) dilutants and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting dangerous drugs;

(g) separation gins and sifters used, intended for use, or designed for use in removing twigs and seed from or in otherwise cleaning or refining marijuana;

(h) blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding dangerous drugs;

(i) capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of dangerous drugs;

(j) containers and other objects used, intended for use, or designed for use in storing or concealing dangerous drugs;

(k) objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing methamphetamine, marijuana, cocaine, hashish, hashish oil, prescription drugs, or other dangerous drugs into the human body, such as, but not limited to the following

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens hashish heads, punctured metal bowls, or punctured pop cans;

(ii) water pipes;

(iii) carburation, tubes and devices;

(iv) smoking and carburation masks;

(v) roach clips, meaning objects used to hold burning material, such as marijuana cigarette, that have become too small or too short to be held in the hand;

(vi) miniature cocaine spoons and cocaine vials;

(vii) chamber pipes;

(viii) carburetor pipes;

(ix) electric pipes;

(x) air-driven pipes;

(xi) chillums;

(xii) bongs;

(xiii) ice pipes or chillers.

4-10-102. Determination of what constitutes paraphernalia. In determining whether an object is drug paraphernalia, law enforcement, the Court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) statements by an owner or by anyone in control of the object concerning its use;

(2) prior convictions, if any, of an owner or of anyone in control of the object, under any Tribal

or Federal law relating to any controlled substance or dangerous drug;

(3) the proximity of the object, in time and space, to a direct violation of this part;

(4) the proximity of the object to dangerous drugs;

(5) the existence of any residue of dangerous drugs on the object;

(6) direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of§ 4-10-201 through § 4-10-204. The innocence of an owner or of anyone in control of the object as to a direct violation of§ 4-10-201 through§ 4-10-204 does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;

(7) instructions, oral or written, provided with the object concerning its use;

(8) descriptive materials accompanying the object which explain or depict its use;

(9) national or local advertising concerning its use;

(10) the manner in which the object is displayed for sale;

(11) whether the owner or anyone in control of the object is a legitimate supplies oflike or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(13) the existence and scope oflegitimate uses for the object in the community;

(14) expert testimony concerning its use.

Part 2. Offenses involving drug paraphernalia

4-10-201. Criminal possession of drug paraphernalia

(1) It is unlawful for any person to use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug.

(2) Criminal possession of drug paraphernalia is a Class (B or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-10-202. Manufacture or delivery of drug paraphernalia

(1) It is unlawful for any person to deliver, or possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing or under circumstances where one reasonable should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug.

(2) The manufacture or delivery of drug paraphernalia is a Class (B or C) offense for which the offender may be imprisoned in the CCT jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-10-203. Delivery of drug paraphernalia to minor.

(1) Any person eighteen (18) years of age or over who violates § 4-10-102 by delivering drug paraphernalia to a person under eighteen (18) years of age is guilty of delivering drug paraphernalia to a minor.

(2) Delivery of drug paraphernalia to a minor is a Class (A, B, or C) offense for which the offender may be imprisoned in the CCT Jail for any term not to exceed one (1) year or be fined an amount not to exceed \$1,000.00 payable to the CCT Court, or both.

4-10-204. Advertisement of drug paraphernalia

(1) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement knowing or under circumstances where one reasonably should know that the purpose of the advertisement in whole or part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(2) Advertisements of drug paraphernalia is a Class (B or C) offense for which the offender may be imprisoned in the CCT jail for any term not to exceed six (6) months or be fined an amount not to exceed \$500.00 payable to the CCT Court, or both.

(3) Youth Court has jurisdiction of any violation of subsection (1) by a person less than eighteen (18) years of age.

4-10-205. Exemptions. Practitioners and agents under their supervision acting in the course of a professional practice are exempt from this chapter.

Title IV
Chapter 12
CCT Trespass Code

Section 1. Authority

Pursuant to Article 6, Section 1 of the Constitution and Bylaws of the Chippewa Cree Indians of the Rocky Boy's Reservation Montana, the Chippewa Cree Tribal Business Committee has the authority to establish laws, rules and regulations within the exterior boundaries of the Rocky Boy Reservation.

Section 2. Short Title

This title shall be cited as the "Trespass Code."

Section 3. Definitions

- (A) "Authorized Official" means any person or persons designated and empowered by the Business Committee to enforce the provisions of the Trespass Code.
- (B) "Business Committee" means the Chippewa Cree Tribal Business Committee.
- (C) "Easement" or "License" or "Permit" or "Right of Way" means the right granted by the Tribe to use or enter the reservation for permitted purposes.
- (D) "Person" means a citizen of the Chippewa Cree Tribe 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.
- (E) "Reservation" or "Tribal Land" means the land within the exterior boundaries of the Chippewa Cree Tribe's reservation or any other land or property owned or controlled by the Tribe or adjacent dependent Indian Communities.
- (F) "Tribal Court" means the Chippewa Cree Tribal Court.
- (G) "Tribe" means the Chippewa Cree Tribe of the Rocky Boy's Reservation, a federally recognized Indian tribe, its governmental departments and agencies, and/or its tribally owned businesses.

Section 4. Applicability

Any person who trespasses on or makes unconsented use of Chippewa Cree reservation land shall be subject to the penalties and other enforcement actions set forth in this Code.

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Section 5. Violation

A trespass is committed when:

- (A) A person enters the property of the Tribe or a tribal member without consent or causes an object or third party to do so;
- (B) A person is a non-tribal member and remains on Tribal reservation land; or
- (C) A person fails to remove an object from Tribal reservation land when he/she has a duty to remove; or
- (D) A person commits an unauthorized use under an existing permit, license, easement, or right of way, or fails to remove improvements or materials from the Tribal land at the expiration of a valid permit, license, easement, or right of way.

Section 6. Separate Offense

A separate violation of the Trespass Code is committed with respect to each parcel of land on which a trespass is committed.

Section 7. Citation of Trespass

An Authorized Official, on behalf of the Tribe, shall serve or cause to be served, a written citation of trespass on any person trespassing on the Tribe's Reservation. The citation shall be served in person or by certified mail pursuant to Title 2, Chapter 2 of the Chippewa Cree Tribal Law and Order Code, to the last known address of the trespasser.

The citation shall identify the name and address of the person who is accused of trespassing, the location and date(s) of the trespass, a description and location of the alleged trespass, the action to be taken to cure the trespass, the time period within the action to cure must take place, and any other information as necessary.

Section 8. Jurisdiction and Enforcement

The Tribal Court shall have jurisdiction to hear cases brought pursuant to the Trespass Code by either the Tribe or the person(s) subject to notice of trespass. If the Tribal Court finds that a trespass was committed, it shall have the power to enjoin trespassers on tribal land, enforce penalties, order removal of persons and property from tribal land, and provide any other appropriate relief.

Section 9. Enforcement by the United States

The Business Committee, or its designee, may request the area director of the Bureau of Indian Affairs to enforce applicable federal law or regulations governing trespass on the reservation at any time that it appears appropriate, including any time subsequent to an

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

enforcement action having been taken by the Tribe, Tribal Court or Authorized Official pursuant to Sections 7, 8, and 10 of this Trespass Code.

Section 10. Remedies

At the discretion of an Authorized Official or the Business Committee, the following remedies may be pursued:

- (A). Cease and Desist: A trespasser may be subject to immediate cease and desist of activities from tribal reservation lands at the trespasser's expense.
- (B). Ejectment: A trespasser shall be subject to immediate ejectment at the trespasser's expense. In lieu of ejectment, the Tribe, at its discretion, may order the trespasser to apply for a lease or right of way, as applicable.
- (C). Damages and Penalties: For each act of trespass, the Tribe shall be entitled to the greater of:
 - An amount equal to:
 - Rent, profits, and any avoided costs derived from the trespassed property; and
 - Damages caused to the trespassed property; or
 - A penalty determined by the Tribal Court, which shall be no less than \$100 but no more than \$5,000 for each day that a trespass occurs or occurred, based on the size, scope, and impact of the trespass, and whether the trespasser knew or should have known it was Tribal land.
- (D). Interest on Penalties: Interest on any delinquent payment of penalties shall accrue at the current prime rate plus five (5) % compounded monthly until paid. The interest shall prorated daily from the due date until the date of receipt. The interest monies shall be deposited in the account established by the Business Committee.

Section 11. Emergency Action

If an Authorized Official determines that a trespass has occurred and may present an imminent and substantial threat to the health, safety or welfare of the Tribe or community, the Authorized Official may take emergency action in the form of a request for a temporary restraining order or injunction, provided that a citation for violation under the Trespass Code was served on the accused party(ies) in accordance with Section 6 of the Trespass Code.

Section 12. Criminal Liability

Nothing in this Trespass Code shall prohibit the Tribe from prosecuting and punishing any person that commits criminal trespass under the Tribal Law and Order Title IV, Criminal Offenses.

Section 13. Statute of Limitations

Alternative 1: Any action pursuant to the Trespass Code may be brought within three (3) years from the date the citation of trespass was issued pursuant to Section 5 of this Trespass Code. First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Alternative 2: Notwithstanding Title 1, Chapter 4 of the Chippewa Cree Tribal Law and Order Code, a trespass action under one of the violations set forth in Section 5 of this Trespass Code may be brought at any time during the violation provided it is in regards to property or a facility for the use or future use of a public utility, or generation, transmission or distribution of electricity for light, heat, power or other uses.

Section 14. Rules of Civil Procedure

Unless specifically provided to the contrary in the Trespass Code or unless inconsistent with its provisions, Title 2 of the Chippewa Cree Tribal Law and Code shall govern proceedings pursuant thereto.

Section 15. Severability

If any provision of this Trespass Code or its application to any person, entity or circumstance is held to be invalid by any court of competent jurisdiction, the remainder of the Trespass Code or its application shall not be affected.

Section 16. Sovereign Immunity

Nothing in this Trespass Code shall be construed as a waiver of the Tribe's inherent sovereign immunity, or any other immunity or privilege.

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Title IV
Chapter 13
CCT Eminent Domain Code

Section 1. Authority

Pursuant to Article 6, Section 1 of the Constitution and Bylaws of the Chippewa Cree Indians of the Rocky Boy's Reservation Montana, the Chippewa Cree Tribal Business Committee has the authority to establish laws, rules and regulations within the exterior boundaries of the Rocky Boy Reservation.

Section 2. Short Title

This title shall be cited as the "Eminent Domain Code."

Section 3. Definitions

- (A) "Business Committee" means the Chippewa Cree Tribe Business Committee.
- (B) "Just Compensation" means the fair market value of the property as evidenced by at least one independent appraisal of the Property as of the date of the condemnation and other relevant evidence of the property value as of the date of the condemnation.
- (C) "Property" may include real and personal, tangible and intangible property and is the property in which the title or interest is being condemned.
- (D) "Reservation" or "Tribal Land" means the land within the exterior boundaries of the Chippewa Cree Tribe's reservation or any other land or property owned or controlled by the Tribe or adjacent dependent Indian Communities.
- (E) "Tribal Court" means the Chippewa Cree Tribal Court.
- (F) "Tribe" means the Chippewa Cree Tribe of the Rocky Boy's Reservation, a federally recognized Indian tribe, its governmental departments and agencies, and/or its tribally owned businesses.

Section 4. Applicability and Purpose

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

The Tribe shall have the power to condemn real and personal, tangible and intangible property within the external boundaries of the Chippewa Cree Tribe's reservation, whenever such property is deemed by Resolution of the Business Committee to be necessary for a public use, even if such property is already committed to an existing or prior public use. The Tribe may condemn any utility, facility or service for the use and control of the Tribe or entity of the Tribe, even if such utility, facility or service is already committed to an existing or prior public use. The Tribe may also acquire and condemn the usufructary right possessed by an individual to trust lands location within the reservation.

Any property condemned must be for a public purpose of the Tribe. A public purpose includes:

1. The possession, occupation, or enjoyment of property by the Tribe;
2. The use of property or a facility for the creation or functioning of public utilities;
3. The use of property or a facility for generation, transmission or distribution, sale or furnishing to or for the public of electricity for light, heat or power or other uses;
4. The use of property or a facility for the supplying and furnishing to or for the public of telecommunication services;
5. The use of property for highways, streets, roadways and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;
6. The acquisition of property for the health, safety, or welfare of the Tribe, as determined by the Business Committee; or
7. The public benefit of economic development, including an increase in tax base, general revenues, tourism, recreation, employment or general economic health.
8. Such other public uses as determined by the Business Committee.

Expected

Section 5. Compensation of Property Owner

The Property owner or holder of such interest in the Property shall be justly compensated for such condemnation by the Tribe.

Section 6. Condemnation Procedure

The exercise of eminent domain or condemnation shall be initiated by the Business Committee by adopting a resolution containing the following information:

1. A statement identifying the Property to be condemned and that the Property is within the territorial jurisdiction of the Tribal Court;
2. A detailed description of the Property, or legal description if real property;
3. A statement identifying the public purpose for which the Property will be condemned;

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

4. A listing of all current holders of property interests in the Property, the nature of their interest, and the Just Compensation afforded to each;
5. Any other statements or information necessary.

Such Resolution shall then be filed with the Tribal Court Clerk. The Resolution shall be accompanied by the Just Compensation in the form of checks, written to all owners of the Property right holders, in the amount of fair market value of each owner's interest in the property.

Section 7. Tribal Court Procedures

The Tribal Court procedures for eminent domain or condemnation actions are as follows:

- (A) Within seven (7) calendar days of the filing of the Resolution, the Tribal Court Clerk shall serve upon or designate service upon each owner of interests in the Property of the condemnation action. The notice shall include a copy of the Resolution, a cover letter describing the action and containing the name of a point of contact within the Tribe who shall be responsible for executing the taking on behalf of the Tribe, the evidence used to determine Just Compensation, and the Notice of Due Date for Answer issued by the Clerk of the Tribal Court.
- (B) Within two (2) business days of the filing of a Resolution with the Tribal Court Clerk, the Clerk shall issue a Notice of Due Date for Answer, such date to be approximately twenty (20) days from the date of service.
- (C) The Tribal Court Clerk shall hold all checks for Just Compensation in their custody until the Due Date for Answer.
- (D) Until and on the Due Date for Answer, any owner or holder of interest in the Property served with a Notice of Due Date for Answer, may submit an Answer raising any legal issues regarding the filing or Resolution. The Tribal Court Clerk shall issue the checks of Just Compensation on the Due Date for Answer, unless such Answer raises a legal issue regarding the validity of the condemnation. In the event such Answer raises a legal issue regarding the validity of the condemnation, the checks shall be issued to such parties when such issue is resolved in favor of the Tribe.
- (E) If no Answer is submitted by the Due Date for Answer, the Tribal Court shall close the file for such action.
- (F) Once the payment has been issued to such parties in accordance with the procedures above, the Tribal Court Clerk shall record a copy of the judgment showing payment in the BIA Realty Office, and thereupon, the title or interest in the Property shall vest in the Tribe.

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Section 8. Determination of Compensation

The holder or owner of interests in such Property subject to condemnation, shall be entitled to Just Compensation. Just Compensation shall be determined as of the date of the condemnation proceeding, meaning the date of the Resolution set forth by the Business Committee. Methods of determination for Just Compensation include appraisal evidence submitted by the parties to the action, and other evidence, such as testimony by the parties to the action.

The Tribal Court shall have the power to direct the payment of delinquent taxes, special assessments, and rental or other charges owed out of the amount determined to be Just Compensation and to make orders as the Tribal Court deems necessary with respect to encumbrances, liens, rents, insurance and other just and equitable charges.

Section 9. Compensation for Partial Condemnation

In any condemnation proceeding in which there is a partial taking of property, the measure of compensation and damages resulting from the taking shall be the difference between the fair market value of the entire property immediately before the taking and the fair market value of the property remaining immediately after the taking.

Section 10. Rules of Civil Procedure

Unless specifically provided to the contrary in the Eminent Domain Code or unless inconsistent with its provisions, The Chippewa Cree Tribal Law and Code, Title 2 shall govern proceedings pursuant thereto.

Section 11. Statute of Limitations

An action pursuant to the Eminent Domain Code may be brought within any time period, provided the condemnation is for a public purpose consistent with this Eminent Domain Code.

Section 12. Severability

If any provision of this Eminent Domain Code or its application to any person, entity or circumstance is held to be invalid by any court of competent jurisdiction, the remainder of the Eminent Domain Code or its application shall not be affected.

Section 13. Sovereign Immunity

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Nothing in this Eminent Domain Code shall be construed as a waiver of the Tribe's inherent sovereign immunity, or any other immunity or privilege.

First Reading passed on Monday, July 16, 2018 during Business Committee meeting. Second Reading passed on Monday, July 30, 2018 during Administrative meeting. Third Reading passed on Monday, August 13, 2018 during Administrative meeting.

Title VI
Children's Protection Code
(Passed April 5, 2007)

TITLE VI - Children's Protection Code

Legislative History:

- **Resolution #117-21:** "Hereby Removing and Amending Language Identified within Title VI Children's Protection Code, Section 3.2(B)(1) of the Chippewa Cree Tribal Law and Order Code (TLOC), with the Understanding that the Remaining Language within Section 3.2(B)(1) will Continue to Govern," was approved by the Chippewa Cree Tribal Business Committee on August 5, 20201.

Section 1. GENERAL

1.1 Authority of the Court

The Children's Court is authorized to cooperate fully with all federal, state, tribal and public organizations to participate in any diversion, rehabilitation, or training programs to carry out the purposes of this code. The Court shall utilized any and all services that may be furnished by the previously mentioned entities as it deems necessary.

1.2 Powers and Duties of the Court

No adjudication upon the status of any child in the jurisdiction of the Children's Court shall be deemed criminal or be deemed of a conviction of a crime, unless the Children's Court refers the matter to the Adult Court. Therefore, the disposition of a child or evidence given shall not be admissible as evidence against the child in any proceedings in another court.

1.3 Definitions

- A. "Detention" Holding or temporary placement of a youth in a facility other than the youth's own home for the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody.
- B. "Detention Facility" Means a physically restricting facility designed to prevent a youth from departing at will.
- C. "Parent" Means the natural or adoptive parents but does not include a person whose parental rights have been judicially terminated.
- D. "Probable Cause" Upon examination of initial complaint or affidavits that would lead a reasonable person to believe that an act had or was being committed.
- E. "Youth" A person who is less than 18 years of age
- F. "Delinquent Act" an act which if committed by an adult is designated a crime under the Chippewa Cree Tribe Criminal Code.
- G. "Juvenile Offender" a person who commits a delinquent act prior to his eighteenth (18) birthday.
- H. "Guardian Ad Litem" for the purpose of a court proceeding, the court shall appoint a guardian ad litem for those youth who do not have a natural or adoptive parent, guardian or custodian willing and able to exercise effective guardianship.

Section 2. ARRESTS AND DETAINMENT OF YOUTH OFFENDER

2.1 Arrest with a Warrant

A warrant may be entered directing that a juvenile be taken into custody if the court finds there is probable cause to believe the juvenile committed the delinquent act alleged in the complaint and the court finds one or more of the following:

- 1.) He/She has allegedly committed an act that if committed by an adult would be a criminal offense.
- 2.) He/She has violated a valid court order or Treatment / after care agreement.
- 3.) His / Her detention is required to protect persons or property.
- 4.) There are no adequate assurances that he / she will appear for court when required.
- 5.) The law enforcement officer has probable cause to believe that the person had committed an offense.

2.2 Arrest without a Warrant

A police officer may arrest a juvenile when no warrant has been issued upon the following:

- 1.) The offense was committed in the presence of a tribal law enforcement officer or a sworn officer of the court.

2.3 Rights of Offender

- A. When a youth is taken into custody for questioning upon a matter that could result in a petition alleging that the youth has committed a crime the youth shall be advised of the following rights that apply to him:
 - 1.) Right to remain silent and anything he says may be used against him in a court of law.
 - 2.) Right to counsel at his own expense.
 - 3.) Right to be informed of the charges against him;
- B. When questioning of youth allowed, if the youth is under 18 years of age the youth may only be questioned when his / her parents are present.
- C. Detaining of youth requires a hearing immediately. If the youth is not released a hearing must be held within 24 hours, excluding weekends and holidays to determine if there is probable cause.
- D. Notice, the person responsible for or assigned to give notice shall make diligent efforts to immediately notify the parents, guardians or legal custodian that the youth has been taken into custody.

- E. Detainment of youth permitted. At the probable cause hearing the court may continue to detain the youth or the youth may be released to the custody of his parents, guardian or legal custodian.

Section 3. INFORMAL AND FORMAL PROCEEDINGS

3.1 Informal Proceeding

- A. When the Children's Court Counselor reviews a complaint, he/she may decide it is in the youth's best interest to enter into an informal agreement before a petition is filed. Prior to the case being assigned a case number and placed in docket, the Children's Court Counselor, Presenting Officer, Probation Officer, the youth and the youth's parents may enter into an informal agreement to give counsel and advice to the youth, the Children's Court Counselor shall read the child his rights according to the Indian Civil Rights act.
- B. This Informal Hearing process will be exercised based on Court Counselors discretion.
- C. Agreement To Be In Writing; such agreement must be in writing and signed by the youth and his parents or the person having legal custody of the youth.
- D. When Incriminating Statements are Admissible; an incriminating statement relating to any act or omission constituting delinquency made by the participant of the person giving counsel or advice may not be used against him in any proceeding under this title. This does not apply to the use of voluntary and reliable statements that are offered for impeachment purposes. Admissions made to the Children's Court Counselor may not be used against them or the counselor may not be made to testify against any child.
- E. Voluntary; all parties involved with hearing must be made aware of the voluntary status of this hearing. This section does not authorize the Children's Court Counselor to compel any person to appear at any conference or produce any papers.
- F. Disposition; the following dispositions may be imposed by this informal proceeding;
 - 1. Probation;
 - 2. Restitution upon approval of the Children's Court Judge; or
 - 3. House Arrest and assessment of Drug and Alcohol issues
 - 4. Community Service when appropriate and / or
 - 5. Counseling, evaluation and / or treatment
 - 6. Cultural Awareness

3.2 Formal Proceeding:

- A. Petition. A petition initiating proceedings alleging the youth to be a delinquent or in need of supervision shall be entitled "In the Matter of, a youth; and shall set forth with specificity the charge of an offense including the following:
 - 1. Name of Offense; and

2. state the facts constituting the offense in ordinary concise language and in such manner as to enable a person of common understanding to know what is intended;
3. state the time and place of the offense as definitely as possible;
4. the names and residence addresses of parents, guardian or spouse or if none of the parents guardian or spouse resides within the exterior boundaries of the Rocky Boys Indian reservation; the nearest adult relative residing nearest to the court;
5. whether the youth is in detention or shelter care;
6. A list of witnesses who will be used in proving the charges.

B. Court Date and Summons

1. Upon receipt of the complaint the court shall set a time and place within fourteen (14) calendar¹ days for the preliminary inquiry hearing. All subsequent hearings will be set and held within a reasonable amount of time of the date the matter was, unless there is good cause to continue the hearing, but in any event the hearing must be held as soon as possible and accorded preferential priority.
2. Summons. The presenting officer, upon filing the petition must have the youth and the person responsible for the youth personally served with a copy of the petition. The summons shall contain the date and the time and place for the youth to deny or admit the allegations in the petition.

C. Preliminary Inquiry

1. if a child is placed in detention or shelter care by Children's court Staff, the Children's Court shall hold a preliminary inquiry within twenty four (24) hours to determine whether probable cause exists to believe the child committed the alleged delinquent act; and if continued detention is necessary pending further proceedings.
2. If a child has been released to his parent, guardian or custodian, the children's court shall conduct a preliminary inquiry within a reasonable amount of time after receipt of a complaint to determine if probable cause exists.
3. Notice of the preliminary inquiry shall be given to the child and his parent, guardian or custodian as soon as the time for the inquiry has been established it shall include name of the court; the title of the proceedings; and a brief statement of the substance of the allegations against the child; and the date, time and place of the preliminary inquiry

¹ Amendment to Title VI Children's Protection Code Section 3.2(B) passed as a first reading on July 8, 2021, during a regular monthly Business Committee meeting, and was adopted by Resolution 117-21, on August 5, 2021.

a.)The notice shall be delivered by a Tribal Law Enforcement officer, or an appointee of the Children's Court

D. Transfer to Adult Court

1. The Presenting Officer may file a petition requesting the Children's Court to transfer the minor to Adult Tribal Court if the minor is fourteen years of age or older and is alleged to have committed an act that would have been considered a crime if committed by an adult.
2. The children's court shall conduct a hearing to determine whether jurisdiction of a minor should be transferred to adult court.
 - a. the transfer hearing shall be held within a reasonable time from when the petition to transfer is filed.
 - b. written notice of the transfer hearing shall be given to the minors' parent, guardian or custodian at least seventy two hours prior to the hearing.
 - c. right to counsel
 - i. The Children's Court shall inform the minor and his parents of their rights according to the Indian Civil Rights Act. a. right to counsel at their own expense.
 - d. the minor need not be a witness against, nor otherwise incriminate himself
3. Prior to the hearing, a study and report will be submitted in writing by the Presenting Officer and include;
 - a. the nature and seriousness of the offense with which the minor is charged.
 - b. the nature and condition of the minor as evidenced by his age, mental and physical condition, past record of offenses and responses to past Children's court efforts at rehabilitation.
- 4 The Children's court may transfer jurisdiction of the minor to adult court if the Children's court finds clear and convincing evidence that both of the following circumstances exist;
 - a. there are no reasonable prospects for rehabilitation of the minor through resources available to the children's court and
 - b. The offense allegedly committed by the minor evidences a patter of conduct which constitutes a substantial danger to the public.

E. Adjudicatory Hearing

The Children's Court shall conduct the adjudicatory hearing for the sole purpose of determining the guilt or innocence of the child. The hearing shall be private and closed.

a. .

3.3 Placement of Youth

The child shall be released to his parent, guardian or custodian and ordered to appear at the hearing on the date set by the court, however if it appears the youth needs to

be placed in a secure facility the court may endorse a warrant as specified under section 2, 2.1 or order continued detention if the youth is already in a secure facility. The court may release a child under this chapter to a relative or other responsible adult if the parent or guardian of the child consents to the release. The best interest of the child shall be the determining factor.

3.4 Entry of Plea

At this hearing the judge shall advise the youth of his rights existing under the law and determine whether the youth admits or denies the offense alleged in the petition. An adjudicatory hearing must be set immediately to determine whether the offense is supported beyond a reasonable doubt.

3.5 Recording of Formal Hearing

A formal hearing must be recorded verbatim by whatever means the court considers appropriate.

3.6 Proceedings Closed

The hearing shall be closed however; the proceedings may be open to the victim and the victim's immediate family at the judge's discretion.

3.7 Youths Presence Mandatory

The youth must be present with their parent or guardian at every formal hearing.

3.8 Trial by Judge

If the youth denies all offense alleged in the petition, the youth or person responsible for the youth shall receive an adjudicatory hearing

3.9 Application of Rules of Civil Procedure and Evidence

At the formal hearing the rules of evidence and rules of civil procedure are applicable.

SECTION 4. SENTENCING, HEARING & DISPOSTION

4.1 Sentencing Dispositional Hearing

- A. Sentencing Hearing Scheduled. If the youth is found to be a youth offender at a formal hearing or if such is adjudicated on the basis of a valid admission of the allegations, the court shall schedule a sentencing hearing.
- B. When Conducted. As soon as practical the court shall conduct a sentencing disposition hearing.
- C. Pre – Sentence Investigation & Report. Before the Dispositional Hearing the court shall direct that a pre-sentence investigation be made and a report be produced and submitted in writing by the Children's Court Counselor or a youth probation officer if such officer is employed by the Tribe. Such report must be furnished to the youth or youths counsel prior to the Dispositional

hearing and contain a detailed summary of the youth, the youth's family and the youth's environment and all relevant matters that address the need for care and / or rehabilitation. If the youth has been examined by a doctor the result of such examination shall be included in the report. The presiding judge shall have the authority in his/ her discretion to waive a pre disposition report if such action is deemed necessary and appropriate in the best interests of the child because of timelines or related issues.

4.2 Disposition

The court may enter its judgment making one or more of the following dispositions:

1. place the youth on probation;
2. Place the youth in an institution or with an agency designated by the Children's Court for not more than one year.
3. Require the youth to pay restitution. The court may review the following factors when determining whether the youth shall pay restitution: age, ability to pay, ability of the parents or person responsible for the youth to pay, amount of damage to the victim, and the legal remedies of the victim.
4. Community Service. In lieu of fines or fees
5. Cultural Awareness. To participate, observe, listen or otherwise interact with another person who is knowledgeable in the tradition and cultural activities / ceremonies of the respective tribe.

SECTION 5. PROBATION, PROBATION OFFICERS

5.1 Cause For Probation

When a juvenile is fitted to the care and custodian, the court may also assign the matter to a probation officer who shall routinely inquire to the juveniles welfare and who shall require from such custodian a periodical report if the court so orders. Such report shall set out in detail matters bearing on the juvenile's condition and welfare as well as progress that have been outlined in the original court order. The report shall be filed with the court.

5.2 No Limitations on Authority

Nothing in this chapter shall be construed as prohibiting an officer of the law from taking into custody a juvenile who is found violating a law or ordinance, who is reasonably believed to be a fugitive from his parents or from justice or whose surroundings are such as to endanger his / her health, morals or welfare.

5.3 Probation Officers

Probation Officers shall have the authority of peace officers they shall:

1. Look after the interests of delinquent juveniles of the reservations.
2. Make investigations and file petitions;
3. be present in court when cases are heard concerning juveniles and represent the interests of the court;

4. Assist in the collection of sums ordered paid of juveniles and in the execution of the judgments of the court and
5. furnish the court with information and assistance as it may require;
6. Routinely administer urinalysis tests as ordered by the court
7. Routinely conduct searches of probationer's person, sleeping quarters or other property in performance of their respective positions.
8. Shall be deputized and trained as to carry out the duties to the best of their ability to include training in use of force, basic detention procedures, protective spray, foam or gel, handcuffing procedures, arrest procedures and transportation of juvenile clients.

SECTION 6. PROBATION REVOCATION

- A. Violation of Probation. A youth on probation incident to an adjudication as a youth offender who violated the terms of the probation may be proceeded against in a probation revocation proceeding.
- B. Petition. A Petition shall be filed entitled "Petition for Revocation of Probation" by the Presenting Officer or Probation Officer. Petitions to revoke shall be subject to the same procedure as petitions alleging a youth to be an offender.